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4 uncertified form. There WILL BE discrepancies in the form  
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9 finalized, and certified form.

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11

EXAMINATION

12

BY MR. LONEY:

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Q. So, as you know, you're under oath. This is  
important testimony for this case. Your recollection is one  
of the pieces of important testimony, so when I ask you a  
question, if you have no recollection, then of course you  
should say, "I don't recall," but if you do have a  
recollection and you say, "I don't recall," well, of course  
that's not truthful testimony.

20

21

We are being recorded by a court reporter, so we  
want to make verbal answers.

22

23

24

If you don't hear what I say, please let me know.  
If you don't understand what I say, please let me  
know.

25

If you notice something you previously said was

1           inaccurate or incomplete, feel free to stop the deposition  
2           and, you know, clarify or correct your answer.

3                        If you need a break that's okay.

4                        And if you answer a question I'll assume that  
5           you've heard it, understood it and given me your best  
6           recollection.

7                        Are those all clear instructions?

8           A.    Yes.

9           Q.    Okay.  Can you state your name, address, and phone  
10           number for the record, please?

11           A.    Douglas John Barnes, 5980 Northeast Arrowhead  
12           Drive, Kenmore, Washington, 98028.

13           Q.    I should ask you also, is there anything there  
14           that's private, or are you listed in the phone book?

15           A.    We are in the phone book.

16           Q.    Have you ever been deposed before?

17           A.    Yes.

18           Q.    In what context?

19           A.    Work related.

20           Q.    Okay.  Like construction type stuff?

21           A.    Yes, construction work.

22           Q.    How many preparation sessions did you have before  
23           coming here to be deposed?

24           A.    One.

25           Q.    Was that with your lawyer?

1 A. Yes.

2 Q. And who else attended that meeting?

3 A. People in this room and one other attorney,  
4 Darrell.

5 Q. And what documents did you review in preparing for  
6 your testimony today?

7 A. I reviewed these documents, my personal -- or my  
8 files from the Master Builders Association.

9 Q. And are those documents you brought for the  
10 subpoena?

11 A. Yes.

12 MR. LOWNEY: May I.

13 MR. HOLT: Yes, those are for you.

14 MR. LOWNEY: I'll just take a minute.

15 THE WITNESS: Okay.

16 (Pause in proceedings.)

17 Q. We can just go ahead and mark these as, I guess  
18 that would be -- we're just going consecutively from the  
19 last one.

20 MR. HOLT: That's fine.

21 MR. LOWNEY: So that packet can be Exhibit 7.

22 (Exhibit No. 7 marked.)

23 (Mark exhibits 7 through 13)

24 Q. So we've marked the documents you brought today as  
25 Exhibit 7 through 13. And are there other documents that

1 you reviewed before coming in today?

2 A. Yes.

3 Q. What else did you review?

4 A. An MBA -- a 2007 MBA notebook that had my minutes  
5 and various MBA-related documents.

6 MS. PAYTON: The notebook were all the  
7 minutes. I think they've already been produced in the other  
8 lawsuit.

9 MR. LOWNEY: Excuse me. And the other  
10 lawsuit?

11 MS. PAYTON: In the other lawsuit.

12 MR. LOWNEY: Yes. Okay.

13 Q. And what else did you review?

14 A. There were a couple of different e-mails or  
15 attachments that were related to those minutes.

16 Q. Okay. Related to the minutes that you've provided  
17 today?

18 A. Yes.

19 Q. So there are other documents that are related that  
20 weren't provided or that these are them?

21 MR. HOLT: No. Let's be clear about this.  
22 When you asked him about other documents he reviewed, he's  
23 producing all the documents that he's seen today, minus the  
24 stuff.

25 MS. PAYTON: We pulled out the relevant stuff

1 and copied it here when we were in the other conference, but  
2 we didn't copies those, you know, the minutes themselves.

3 MR. LOWNEY: Sure, because we already have  
4 them.

5 MS. PAYTON: I believe you do, yes.

6 Q. And did you review the Dino Rossi transcript?

7 A. No.

8 Q. What about the transcript from this morning?

9 A. No.

10 Q. Have you reviewed news about the case, this case?

11 A. Just certain articles.

12 Q. Yeah. And did you talk with anyone besides your  
13 lawyers and the people in this room in your preparation for  
14 this deposition?

15 A. No.

16 Q. Okay. And how did you conduct a search for  
17 documents to comply with the subpoena?

18 A. I looked in my office.

19 Q. And did you look on your personal computer?

20 A. Yes.

21 Q. Okay. How long did it take to look for those  
22 documents?

23 A. Oh, I did it various times. An hour plus.

24 Q. Okay. Can you describe your work history?

25 A. Since college?

1 Q. Sure, yes. Last 10, 15 years.

2 A. Okay. Just the last 10, 15 years, I was a  
3 principal over at InterCorp Real Estate Development Company  
4 here in Seattle from '93 to end of 2003. And then from 2004  
5 to present, I'm at #Centex Homes in Kirkland as the Northern  
6 Pacific Division president.

7 Q. And what's your job now? What do you do as the  
8 president for Centrex Homes?

9 A. Manage our housing operations throughout the  
10 Northwest.

11 MR. HOLT: It's Centex not Centrex.

12 MR. LOWNEY: Okay. Thanks.

13 Q. When did you first get involved in the BIAW or the  
14 Master Builders Association?

15 A. The Master Builders, I've been a member for a  
16 number of years, been actively involved as an officer the  
17 last four years. And BIAW, I've been -- during that three-,  
18 four-year period as an officer, for BIAW, I've also  
19 participated as a member of the Board of Directors for BIAW.

20 Q. And what have been your officer positions in the  
21 MBA?

22 A. Second vice president, first vice president,  
23 president, and now I'm past president. Each of those are  
24 kind of annual positions.

25 Q. And is that the standard way that you move up

1       there?

2             A.    Yes.

3             Q.    Okay.  And what about your positions with the  
4       BIAW?

5             A.    I'm just an at-large Board of Director member.  
6       And I've served on one committee, the Long-Range Planning  
7       Commission, last year.

8             Q.    And are you involved in the retro program at all?

9             A.    Our company, no.

10            Q.    Centex is not?

11            A.    No.  We self-insure.

12            Q.    And what about your previous --

13            A.    No.

14            Q.    -- employer?

15            A.    No.

16            Q.    Okay.  And are you involved with the retro from  
17       the BIAW or MBA side?

18            A.    To a limited degree.  I'm aware of the program.  
19       I'm not involved in its operations or management of the  
20       program.

21            Q.    Are you familiar with BIAW Member Services  
22       Corporation?

23            A.    No.

24            Q.    Have you heard of that?

25            A.    Not until recently.

1 Q. In what context did you hear of it recently?

2 MR. HOLT: I'll object, to the extent it  
3 covers attorney-client privilege.

4 Now, if you've heard of it outside of that  
5 context, you can answer the question.

6 A. I don't recall hearing it outside of our  
7 discussions.

8 Q. (By Mr. Lowney) That's fine.

9 Have you ever been involved with a political  
10 committee, or a PAC? That's how it's kind of used. The  
11 words are kind of interchangeable sometimes.

12 A. Not directly, no.

13 Q. How long political campaigns?

14 MR. HOLT: Object to the form.

15 Go ahead and answer.

16 A. Indirectly. Not a significant player.

17 Q. (By Mr. Lowney) Okay. And how often do you  
18 attend BIAW board meetings?

19 A. I typically attend the quarterly meetings.

20 Q. So you attend all of them at this point?

21 MR. HOLT: Object to the form; foundation.

22 A. I may have missed one over the last two years.  
23 I'd have to check my calendar, but I think -- I try to go to  
24 the board meetings on a quarterly basis.

25 Q. Sure. And I think I heard that the MBA will

1 reimburse your expenses for doing that, for attending as an  
2 officer; is that correct?

3 A. A certain amount.

4 Q. Oh, okay. And you went to the meeting at  
5 Semiahmoo that -- do you know what meeting I'm talking  
6 about? I guess it was in the summer of '07.

7 A. Yes, I attended that meeting.

8 Q. And that's where Dino Rossi was making his speech;  
9 do you recall that?

10 A. He did a presentation, yes.

11 Q. And do you recall seeing him at the meeting?

12 A. Yes.

13 Q. When did you see him?

14 A. Saw him just informally for a few minutes in kind  
15 of a social "Hello" type of thing, and then he did a  
16 presentation, Forward Washington, a PowerPoint.

17 Q. And who else was involved in the discussion, the  
18 informal discussion that you had with him?

19 A. I think it was just primarily myself, is all I  
20 remember, yeah.

21 Q. What did you talk about?

22 A. You know, I really don't recall. Just social  
23 pleasantries, nothing.

24 Q. And at that time were you president, in June of  
25 '07?

1           A.    I was president of the Master Builders  
2 Association, yes.

3           Q.    And so your pleasantries with Mr. Rossi were  
4 before his speech?

5           A.    Yes.

6           Q.    And then do you remember who introduced him?

7           A.    I believe Daimon Doyle.

8           Q.    Do you remember how Daimon Doyle introduced him?

9           A.    No.

10          Q.    Did you have any conversations with Mr. Rossi  
11 after his presentation?

12          A.    No.

13          Q.    Do you recall seeing him with in conversations  
14 with anyone else?

15          A.    No.

16          Q.    When did you first learn about BIAW's efforts to  
17 raise funds from local affiliates for the 2008 governor's  
18 race?

19                   MR. HOLT:  Object to the form; foundation.

20          Q.    You can go ahead.

21          A.    It would have been probably around April of 2007  
22 before a board meeting we were going to have with the Master  
23 Builders Association.

24          Q.    Okay.  And how long before that April -- there was  
25 the April 30th meeting.  Does that sound like the date we're

1 talking about?

2 A. Yes.

3 For the board meeting?

4 Q. Yes.

5 A. Yes.

6 Q. Exhibit 9 is your agenda for that MBA board  
7 meeting.

8 A. Yes, I recognize that.

9 Q. How long before this meeting was it that you  
10 learned of BIAW's efforts to raise funds from local  
11 affiliates for the 2008 governor's race?

12 A. I don't know an exact date. A couple of weeks --  
13 a couple weeks, I talked with our Executive Director.

14 Q. Mr. Sam Anderson?

15 A. Yes, sir.

16 Q. And did you learn about the BIAW's fund raising  
17 from Mr. Anderson or from someone else?

18 A. I believe, Mr. Anderson.

19 Q. Was there anyone else that told you about it  
20 before the April 30th meeting?

21 A. I invited Daimon and Brad. I mean, as president I  
22 invite the speakers.

23 Q. Okay.

24 A. And so I know what they're going to speak about,  
25 so I believe I spoke with Daimon before that meeting, the

1 April 30th meeting before he showed up, about it.

2 Q. And did you have discussions with other folks on  
3 the chair officers, the chair officers committee, before  
4 Mr. Doyle arrived on April 30th?

5 A. Yes.

6 MR. HOLT: Object to the form; vague.

7 Q. Can you describe the conversation that you had?

8 A. We meet one hour before the board meeting, and I  
9 don't recall the exact conversation, no.

10 Q. And looking at Exhibit 9, your April 30th agenda,  
11 April 30th, 2007, you have some notes on it. Are those the  
12 notes that you would take during the course of the meeting?

13 MR. HOLT: Take a look at it.

14 A. (Perusing.) Yes.

15 Q. That's your handwriting?

16 A. Yes.

17 Q. And where it says "BIAW update, Daimon Doyle," you  
18 have a couple of -- is that the place in the agenda where  
19 Mr. Doyle talked about MBA contributing to the BIAW's  
20 efforts in the 2008 governor's race?

21 A. Yes.

22 Q. And those three notes that you have, those were  
23 comments that were made about Mr. Doyle's request; is that  
24 correct?

25 A. No.

1 Q. Okay. What are those three comments?

2 A. Those were my thoughts while he was talking.

3 Q. I see. Okay. Thank you.

4 And they were: Need to understand how much it is.

5 And by that, you mean how much the retro -- the excess retro

6 payment would be that MBA was being asked for; is that

7 correct?

8 MR. HOLT: Object to the form; foundation.

9 A. Yes.

10 Q. And look --

11 MR. HOLT: Sorry.

12 MR. LONEY: That's fine.

13 (Witness conferring with counsel.)

14 Q. (By Mr. Loney) And when you said it's the

15 other -- the second comment was that it's a local election

16 year, and by that you're referring to potential MBA

17 electoral expenses in 2007; is that correct?

18 A. Yes. I wanted to make sure I understood the funds

19 we would need for our local King and Snohomish County races.

20 Q. And the third comment was the building exterior

21 fund, and by that are you referring to your understanding

22 that there were significant exterior repairs on your

23 building that would need to be paid for soon?

24 A. Yes. We were in the proposal process stage, and

25 we didn't know what those costs were.

1 Q. And Mr. Doyle was accompanied by somebody else; is  
2 that correct --

3 A. Yes.

4 Q. -- from BIAW, and that was Brad Spears?

5 A. Yes.

6 Q. Was there anyone else who came with them?

7 A. Yes.

8 Q. Who was that?

9 A. Kyle LaPierre.

10 Q. Who is that?

11 A. He was the second vice president. I think he  
12 was -- yeah, second vice president.

13 Q. You're going to have to help the court reporter  
14 with that spelling afterwards.

15 And was there anyone else that came with them?

16 A. I don't recall.

17 Q. Okay. And was Mr. Doyle the only one who spoke at  
18 the meeting?

19 A. No.

20 Q. They all spoke?

21 MR. HOLT: Object to the form; foundation.

22 Q. Who spoke from the --

23 A. I remember Daimon and then Brad Spears.

24 Q. And how did Daimon present his proposal to you?

25 A. He stood up and gave a presentation.

1 Q. In the April 30th minutes, and I can hand you a  
2 copy of them -- they are Exhibit 3. This is from the  
3 April 30th, 2007 minutes of the MBA meeting, and on page --  
4 well, it looks like it's the second page. It says, "Daimon  
5 then went on to explain the reason he was in attendance,  
6 which was to ask the Association to donate the excess  
7 proceeds of the ROII return to BIAW's election fund to  
8 support a gubernatorial candidate in 2008." Is that also  
9 your recollection of his request?

10 A. I don't recall the specifics, but he was there to  
11 ask for a donation of our -- of funds to support or to be  
12 involved in the governor's race.

13 Q. And did he give reasons why the MBA should be  
14 involved in that way?

15 A. Yes.

16 Q. What were his reasons?

17 A. The building industry needs to speak as one voice,  
18 and so we need to work through the BIAW, that we need a  
19 change in the State of Washington, both legislature and the  
20 governor, for small businesses. Those are the primary  
21 things I remember.

22 Q. Do you remember what Mr. Spears talked about?

23 A. Parts.

24 Q. What did he say, that you recall?

25 A. He challenged us fairly aggressive to step up, and

1 then had kind of a verbal chastising of one of our board  
2 officers. He kind of verbally --

3 Q. And that was Mr. John Day?

4 A. Yes.

5 Q. Yes. He testified about that this morning.

6 Why did Daimon Doyle think that it was  
7 important -- why did he say it was important for you to  
8 unify with the BIAW?

9 A. The builders need to be one voice.

10 Q. In their electoral activities?

11 A. Yes, so there was no conflicting viewpoints.

12 Q. And that specifically was also one voice in the  
13 governor's race in 2008?

14 A. It wasn't specified, no.

15 Q. And how did the board react to Mr. Doyle and  
16 Mr. Spears' request and comments.

17 A. Mixed. The message had mixed response to it. I  
18 think the style of the delivery was poor.

19 Q. Was there a certain -- did they feel that they you  
20 were somehow -- did they suggest that you were somehow  
21 obligated to participate, as opposed to it being a voluntary  
22 act?

23 MR. HOLT: Object to the form; foundation.

24 A. I can only speak for myself. Yes, it was more of:  
25 This is what we want you to do, rather than asking for us to

1 evaluate and participate.

2 Q. Do you know how much money was being asked for at  
3 that time?

4 A. Sam Anderson had told me that approximately \$150-  
5 to \$200,000, is what I recall, at that time.

6 Q. And whose decision was it not to have a vote on  
7 that request at that board meeting?

8 A. It was my recommendation to the chair officers,  
9 which they supported, so it was my decision.

10 Q. Your decision that it would be -- that the vote  
11 would be put off to another day or forever, but not taken up  
12 on that day?

13 A. Okay. You said three things.

14 It would not be taken up on that day.

15 Q. That was your decision?

16 A. That was my decision.

17 Q. And why did you make that decision?

18 A. I strongly believed it would be voted down, and I  
19 didn't want to do that with the BIAW representation there.  
20 I did not want to vote it down in front of them.

21 Q. Why not?

22 A. We had a rift between BIAW and MBA. I was trying  
23 to find commonality rather than continuing to create a  
24 larger wedge between us. I just thought it was most  
25 appropriate if we could have more time. This was all too

1 quick.

2 Q. Some comments are reflected in these minutes that  
3 I'll -- do you still have those in front of you?

4 A. Yes.

5 Q. You can hold on to them. They are bulleted on the  
6 second page. One of the comments was -- well, I guess one  
7 of the comments is: "We tend to be a democratic  
8 organization. It would be hard to explain to members who  
9 are Democrats." Do you recall that comment being made?

10 A. Not specifically, no.

11 Q. Is that a truthful comment, in your understanding  
12 of the political makeup of MBA --

13 MR. MCGUIRE: Objection; calls for  
14 speculation.

15 Q. -- that you tend to be a democratic organization?

16 MR. HOLT: Join.

17 You can answer.

18 THE WITNESS: Do I respond?

19 MR. HOLT: Yes, absolutely.

20 A. We're a diverse group, and that's just my feeling.  
21 And I don't know what that diversity is, but we're a diverse  
22 group.

23 Q. Democrats, Republicans, Independents, that kind of  
24 diversity?

25 A. Yes.

1 Q. And there are Dino Rossi supporters and Christine  
2 Gregoire supporters on your board?

3 A. Yes.

4 Q. And in your membership?

5 A. Yes.

6 Q. Is it your understanding that many members join  
7 the MBA to participate in the #Retrospective Rating Program?

8 MR. MCGUIRE: Objection; calls for  
9 speculation.

10 MS. PAYTON: Object to the form.

11 A. I don't know the specific reason. It's a benefit  
12 that the MBA offers.

13 Q. (By Mr. Lowney) After these concerns were  
14 expressed during the April 30th meeting, how did Daimon  
15 Doyle and the other contingents from the BIAW react to your  
16 comments and the comments of others, as reflected here?

17 A. That day?

18 Q. Yes, on April 30th.

19 A. Daimon, very disappointed. I believe Brad was  
20 angry.

21 Q. Do you think they were -- did they seem surprised?

22 A. I don't know. I mean, I don't know how I can  
23 answer their emotion.

24 Q. Right. I was just saying, did they seem  
25 surprised, but maybe not.

1 A. Daimon seemed disappointed, yeah.

2 Q. Okay. And what effort did he make subsequent to  
3 that meeting to encourage the MBA to participate in their  
4 fund raising program?

5 MR. HOLT: Objection. When you say "he," who  
6 are you referring to?

7 MR. LOWNEY: Excuse me. Daimon Doyle.

8 A. Daimon continued to have contact with me, you  
9 know, over the subsequent months on their program.

10 Q. (By Mr. Lowney) And what would he say?

11 A. Let us know how the other associations were  
12 contributing, let us know the need to be, again, coming  
13 together as one, and letting us know that it was important  
14 if we were going to start to bridge this gap that we had  
15 between us, that this would be an important area to focus  
16 on.

17 Q. Which area do you mean?

18 A. Participating in their fund raising program.

19 Q. And for the governor's race, including in that?

20 A. Yes, including the governor's race.

21 Q. And so did you have any personal in-person  
22 contacts with Daimon Doyle about this after the April 30th  
23 meeting?

24 A. Nothing significant. Occasional discussions, like  
25 at Semiahmoo or a board meeting, but nothing significant.

1 Q. So the conversations you had were perhaps over the  
2 phone?

3 A. We did have a call or two over the phone.

4 Q. And would you say he was generally trying to  
5 encourage you to get the MBA to participate in their  
6 program?

7 A. I think Daimon again was trying to get us to be  
8 one with BIAW, and more than anything that was the theme, be  
9 one with BIAW; "We're doing this. You should be doing it  
10 with us."

11 Q. And did he have further -- did he further  
12 encourage you to make the commitment with the excess retro  
13 funds and to donate those to the political effort that --

14 A. No.

15 MR. HOLT: Hold on. Let him finish the  
16 question.

17 Q. -- that others had joined?

18 MR. HOLT: Object to the form; foundation.

19 Q. (By Mr. Lowney) You can go ahead.

20 MR. HOLT: Do you understand.

21 THE WITNESS: No, because I think there's two  
22 que-- I started to answer the first question. That was my  
23 fault.

24 Q. (By Mr. Lowney) Let me rephrase that.

25 MR. LOWNEY: Actually, can you read back the

1 first part of the question?

2 (Reporter read back as requested.)

3 Q. (By Mr. Lowney) Did he further encourage you to  
4 donate the excess proceeds of the ROII return to BIAW's  
5 election fund to support a gubernatorial candidate in 2008?

6 (Telephone interruption in  
7 proceedings.)

8 THE WITNESS: Can I ask you a question?

9 (Witness conferring with counsel.)

10 (Reporter read back last question  
11 as requested.)

12 A. Okay. Two points there. One, it wasn't a further  
13 encouragement of the source and everything that you're  
14 saying there. It was: We want you to be one and be part of  
15 this program. And that's what the emphasis was, in my mind.  
16 It wasn't in the specifics of, you know, exactly where the  
17 funds come from and how much, at that point in time. It  
18 was: I want you to be part of the program.

19 Q. When you say "the program," what do you mean?

20 A. This BIAW -- as you read in the minutes, the BIAW  
21 program to fund -- to support a governor candidate in 2008.

22 Q. Okay. And other than those conversations with  
23 Mr. Doyle, was there any other person at BIAW who encouraged  
24 you in that way?

25 A. Brad Spears.

1 Q. Did he make phone calls to you?

2 A. Limited.

3 Q. Like several times?

4 A. No, not several.

5 Q. Once?

6 A. We met once and had one phone call, and I think we  
7 kind of realized that was enough.

8 Q. Was there anyone else at BIAW who encouraged you  
9 in this way?

10 A. No. Tom McCabe and I had discussions.

11 Q. Where did those discussions occur?

12 A. We talked at the BIAW board meetings.

13 Q. Do you remember which board meeting?

14 A. I speak with him each board meeting.

15 Q. Okay. So the board meeting where you discussed  
16 this particular topic, was that at the Semiahmoo meeting or  
17 at a different one?

18 A. I don't recall specific discussions with him.

19 Q. Okay.

20 A. And again, when you use the word "encourage," it  
21 was more: Get on board with us, we need to be one. So I'm  
22 not sure what that word means.

23 Q. I meant encourage in that way that you're  
24 describing it. But coming on board, being one is --

25 A. Yes.

1 Q. And are you saying you don't recall which of the  
2 board meetings, or do you recall which board meeting?

3 A. I talk to him each board meeting, and I can't  
4 remember the specifics of each of our discussions at each  
5 one of them, yeah.

6 Q. But perhaps it was a theme of --

7 A. Yes.

8 Q. -- his communication with you?

9 A. Yes.

10 Q. My understanding was that 13 out of the 15 local  
11 associations had decided to come together with BIAW in this  
12 way, and you and Pierce County were the last two remaining.  
13 Is that your understanding as well?

14 A. I also believe Jefferson County, along with Pierce  
15 County and King.

16 Q. So would it be fair to say that they were  
17 continuing to work on you, hopeful that you might come  
18 around?

19 A. Again, I'm not sure I fully understand "work on."

20 Q. Unifying in the way that you've described.

21 A. It was a common theme of our discussions.

22 Q. Are there any other documents that you're aware of  
23 that would reflect the BIAW's effort to get MBA to come  
24 together with it on this program?

25 MR. HOLT: Object to the form.

1 MR. MCGUIRE: Calls for speculation.

2 MR. HOLT: You can answer.

3 A. I'm not sure. I don't know.

4 Q. (By Mr. Lowney) Okay.

5 A. I don't know.

6 Q. Okay. And turning to the call --

7 Have you ever received a call from Dino Rossi?

8 A. Yes.

9 Q. When was the first call you received from Dino  
10 Rossi?

11 A. In my lifetime?

12 Q. Yes.

13 A. I believe he called me once when he was back -- a  
14 legislature back in Issaquah, and I don't know the year.

15 Q. How about the first time in 2007?

16 A. Yes, I recall a call.

17 Q. Was there just one call or more than one call?

18 A. More than one.

19 Q. Do you remember when the first of those calls  
20 occurred?

21 A. I don't know the exact date. But, yeah, it would  
22 have been in the earlier -- first half of '07, I think.

23 Q. Where would it be in comparison to the April 30th  
24 board meeting, before or after?

25 A. After.

1 Q. And I'm going to -- well, at your May 21st, 2007  
2 chair officers meeting minutes, you discussed receiving a  
3 call from Dino Rossi. Is that the call that you're  
4 referring to now?

5 MR. HOLT: Before you answer, if you need to  
6 review those minutes or any document to refresh your  
7 recollection, please do so, but if you can answer without  
8 that, please answer the question.

9 A. The specific day we're talking about, I would need  
10 to review that document real quick.

11 Q. Sure.

12 MR. HOLT: Because I don't want you to  
13 speculate as to what the document might say.

14 Q. (By Mr. Lowney) That is marked as Exhibit 4, the  
15 May 21st, 2007, MBA chair officers meeting minutes, and it's  
16 that last paragraph on that first page.

17 A. (Perusing.) Yes, this would have been that first  
18 call I was just referring to.

19 Q. Okay. And how long was that conversation that you  
20 had with Mr. Rossi, in minutes, approximately?

21 A. Five to ten.

22 Q. And are you aware of Mr. Rossi's account of your  
23 phone call?

24 MR. HOLT: Object to the form; foundation.  
25 Are you asking whether he knows if Mr. Rossi is aware of the

1 call? I don't think I understand.

2 MR. LOWNEY: No. His interpretation of the  
3 call.

4 Q. (By Mr. Lowney) Are you aware of Mr. Rossi's  
5 interpretation of the call?

6 A. I've not read Mr. Rossi's transcript, if that's  
7 what you're asking.

8 Q. Or press accounts of his statements?

9 A. No, I'm not -- I don't understand what Dino  
10 thought of that call, I guess is what I'm trying to say.

11 Q. Okay. And what was --

12 MR. HOLT: Just a second.

13 (Witness conferring with counsel.)

14 MR. HOLT: Thanks.

15 Q. (By Mr. Lowney) Do you want to add something to  
16 that?

17 A. No.

18 MR. HOLT: No.

19 MR. LOWNEY: If it's okay, after the line of  
20 questioning is over or after the question and answer, that  
21 would be a better time to --

22 MR. HOLT: I understand. You got two words  
23 out, and I'm sorry I didn't get a chance to lean over and  
24 speak to him beforehand, but you didn't the question out, so  
25 it wasn't between a question and an answer. But please

1 proceed.

2 Q. (By Mr. Lowney) And what happened on the call?

3 A. Dino called me to talk about, I call it a wedge  
4 that was between us, the Master Builders Association and  
5 BIAW, and what that meant about us as organizations.

6 Q. And did he tell you who asked him to call you?

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

8 Q. Do you remember anything --

9 So, what did Mr. Rossi say?

10 A. I recall that the discussion was about, you know:  
11 We have some issues, and we talked through: Why do we have  
12 issues, some of those issues between us. I explained from  
13 my point of view, you know, my perceptions of the situation,  
14 and that was the discussion we had.

15 Q. And what else did you discuss on that phone call?

16 MR. HOLT: Object to the form; foundation. I  
17 think he just said what he discussed on the phone call.

18 Q. Anything else?

19 A. We got into specifics on some of the issues.

20 Q. Okay. Which issues?

21 A. We talked about our philosophical differences  
22 towards political climate. We're in Snohomish and King  
23 County, and our community, as well as our board and so on,  
24 we have a very diverse, I guess, position. BIAW takes, in  
25 our mind, a much stronger line. We wanted to temper that,

1 and we felt that there needed to be a middle road.

2 Q. And what other issues did you speak with him  
3 about?

4 A. Brief --

5 MR. HOLT: Same objection.

6 Go ahead.

7 A. Discussed the latest wedge with BIAW's approach to  
8 us on this funding for the governor's race.

9 Q. And what did he say about that particular issue?

10 A. Mr. Rossi didn't have specific -- he listened and  
11 talked with me about what our differences were. There was  
12 no real: Okay, here's a conclusion, here's an answer,  
13 here's a -- it was more just listening: What are the issues  
14 that you have?

15 Q. And how did you describe this latest wedge issue  
16 to Mr. Rossi?

17 A. I said it was another example of BIAW - kind of  
18 "my way or the highway" is how I typically described it -  
19 and that I had two or three major objections with what they  
20 were trying to do and that it was way too early; there's no  
21 need for us to even be having this discussion at this point  
22 in time. And that was the extent of that.

23 Q. And what do you mean, "it was too early"?

24 A. They were trying to raise funds for an election  
25 that was going to happen 15, 18 months from now. We have

1 the business of the MBA to run between that time. A lot  
2 happens in political environments. It was way too early for  
3 us to take a stand of just contributing money to BIAW to use  
4 as they see fit, especially when we have a major expense  
5 that we have to deal with in the summer, several-  
6 million-dollar expense, and there was no need to be coming  
7 to those kind of decisions now, yet once again that was  
8 being used by BIAW to join the forces.

9 Q. And you said there were several issues. What were  
10 the other issues that you expressed?

11 A. The first is that it was too early.

12 The second was that we had additional expenditures  
13 to go through, specifically our building exterior. I was  
14 quite concerned about that. We had a several-million-dollar  
15 project involving the skin and the windows and water  
16 leakage. I was very concerned as to what those numbers were  
17 going to come in and wanted to know those numbers before we  
18 committed anything operationally.

19 And then the third issue was the aspect of the  
20 excess funds. I didn't think that we needed to identify a  
21 specific funding source for something like this. If we  
22 wanted to contribute to a local political race or whatever,  
23 we would designate that funding source at that point in  
24 time. There's no need to earmark funds in our budget.

25 Q. And yet this is what BIAW was essentially asking

1 you to do, was earmark funds for the governor's race?

2 MR. MCGUIRE: Objection. It mischaracterizes  
3 his testimony.

4 A. Yeah, I don't think that's what I'm saying. I'm  
5 saying it wasn't necessary for us to take -- at this point  
6 in time, to get that specific about funds and exactly where  
7 they're coming from, how much, all that. It's way too  
8 early.

9 Q. Right. And you said that Mr. Rossi listened to  
10 those concerns. Did he have any response to them?

11 A. Nothing that brought you to a conclusion. It was  
12 listening to our points and also highlighting certain  
13 characteristics of the BIAW and what MBA has done  
14 successfully in the past.

15 Q. Like, give me an example. What did he say  
16 regarding that?

17 A. We talked about that we both -- commonality. We  
18 both really support small business, we both of course are  
19 here to promote our industry in the Puget -- well, us in the  
20 Puget Sound region, them on a statewide basis. So we  
21 talked -- again, it wasn't a lengthy con-- it wasn't an  
22 extremely lengthy conversation.

23 Q. And that was the first call. You said that you  
24 had several call -- you had two calls with him or more than  
25 two?

1 A. Two other calls.

2 Q. Okay. What was the second call that you had with  
3 him?

4 A. Second -- both of the other two would have been in  
5 '08, and one of them was where I was talking to him about  
6 that the MBA had endorsed Mr. Rossi and his campaign and we  
7 had done a formal -- through our board endorsement, and that  
8 we were looking forward to supporting him this fall.

9 Q. And what was the final conversation?

10 A. To talk to me -- again, this would have been after  
11 the second call. There had been a third call to talk to me  
12 about personal contributions (in?)and the community I'm in.

13 Q. What did he ask specifically about that?

14 A. Oh, I don't know if I recall. I mentioned a fund  
15 raiser that I may be attending, asking if he was going to be  
16 there, and we just talked in those terms. I don't ...

17 Q. That's okay.

18 A. Yeah.

19 Q. And, as a good candidate, did he ask you to make a  
20 donation, or had you already made a donation at that point?

21 A. I had not made a donation at that point.

22 Q. Have you since then?

23 A. I have not personally, no.

24 Q. And moving back to the first call, after you  
25 talked with Mr. Rossi, did you report the call to anyone?

1 A. The first call?

2 Q. Yes, the call in --

3 A. Yes.

4 Q. -- May of 2007.

5 A. Yes.

6 Q. Who did you report it to?

7 A. Our chair officers and Sam Anderson.

8 Q. When did you report it to them?

9 A. I don't recall. It would have -- soon after the  
10 call.

11 Q. Do you recall when the phone call from Mr. Rossi  
12 occurred?

13 MR. HOLT: The first one?

14 MR. LONEY: The first one, sorry. All of  
15 these are about the first one.

16 A. Not the specific, no.

17 Q. (By Mr. Loney) So after Mr. Rossi called,  
18 shortly thereafter you called Sam Anderson and told him  
19 about the call, reported the call?

20 A. I don't know when I would have reported to him.

21 Q. You recall having a conversation with Mr. Anderson  
22 about it, though?

23 A. I remember generalities with Sam and with our  
24 chair officers, individuals that make up our chair officers,  
25 as well as our chair officers.

1           Q.    Now, I know that you talked about it at the  
2           May 21st meeting, as the minutes reflect in that exhibit,  
3           which was Exhibit 4, so what I'm referring to is discussions  
4           you had between the call from Mr. Rossi and that May 21st  
5           meeting.  Is that when you had these discussions that you're  
6           talking about?

7           A.    I believe so.

8           Q.    And at that point, did anybody else tell you that  
9           they had also received a call from Mr. Rossi?

10          A.    I was unaware of anyone else receiving a call.

11          Q.    Okay.  Was the first time you learned that other  
12          people had received a call, was that at the May 21st  
13          meeting?

14          A.    I still don't recall who, if anyone else, did.

15          Q.    Okay.  Well, when you talked with other officers  
16          and Mr. Anderson, how did you describe -- what did you tell  
17          them about your call with Mr. Rossi?

18          A.    I really don't recall.  I didn't see it as an  
19          overly significant event.

20                        It was -- Mr. Rossi was asking about our rift.  
21          The rift was becoming pretty common knowledge, I think,  
22          between the other associations, and we discussed it more in  
23          the context of our relationship with BIAW and the other  
24          local associations, not the fact that Mr. Rossi called in  
25          that regard.

1 Q. Did you talk with anybody, outside of the chair  
2 officers and Sam Anderson, about your discussion with  
3 Mr. Rossi?

4 A. I don't recall right now.

5 Q. Did anybody else tell you that they had received a  
6 call from Mr. Rossi?

7 A. The other individual -- and I don't know about the  
8 time frames; that's the part. IT would be John Day I know  
9 spoke with Mr. Rossi over certain times, but I don't know  
10 the exact time frame, how that fits into the specific  
11 question you're asking me.

12 Q. Right. Well, in these meeting minutes, and I'll  
13 quote it -- and this is the Exhibit 4. #It says, "John  
14 stated that he reiterated the Board's sentiment to Rossi,  
15 stating that it was too early and the association had  
16 building issues that need to be resolved." Does that  
17 refresh your recollection at all about discussions you might  
18 have had with John Day about his conversations with Dino  
19 Rossi?

20 MR. HOLT: Can we see that particular  
21 paragraph?

22 MR. LONEY: Oh, yes. Sorry.

23 MR. HOLT: Which paragraph was it?

24 MR. LONEY: That was final one.

25 A. I don't recall John specifically stating that he

1 had talked with him at all in that. That discussion in the  
2 minutes is consistent with the general theme of where we  
3 were with BIAW at that point in time.

4 Q. And have you talked with John Day about that any  
5 since then?

6 A. No.

7 Q. And forgive me; I forgot the answer to this, but  
8 did you hear that any other BIAW affiliates had contact with  
9 Mr. Rossi during this approximately three-month period  
10 around April/May?

11 A. No.

12 Q. So you don't recall about Mr. Rossi making similar  
13 phone calls to Pierce County, MBA, or meeting with them?

14 A. No.

15 Q. Okay. Or Jefferson County or any of the other  
16 affiliates; is that right?

17 A. I don't know, no.

18 Q. And then you had a lunch with Mr. Rossi; is that  
19 correct?

20 A. I did not.

21 Q. Oh, you did not attend the lunch?

22 A. No, I did not have lunch with Mr. Rossi.

23 Q. Do you remember the lunch being reported to you?

24 A. I remember John Day setting it up. I was a past  
25 president at that point in time, and I do not recall the

1 details of their lunch.

2 Q. Okay. Do you remember why John Day set up the  
3 lunch?

4 A. I believe that John, when he -- when I was unable  
5 to attend -- I was out of town, and my recollection of the  
6 lunch was to -- we supported Mr. Rossi in 2004, and we  
7 wanted to indicate and talk about support for him in 2008,  
8 if he would, you know ...

9 Q. Run?

10 A. Yeah, go forward.

11 Q. And do you recall anybody telling you what  
12 Mr. Rossi said about the possibility of him running?

13 A. No, I don't.

14 Q. And did you have any conversations with him, with  
15 Mr. Rossi, about support from MBA for his run in '08?

16 A. I did in that second conversation in '08 once we  
17 had endorsed him, yes.

18 Q. Right. After he declared a candidate?

19 A. And after MBA had endorsed him in our meeting.

20 Q. Did you have any conversations with him prior to  
21 October of 2007?

22 A. Not on that -- no, not on that topic.

23 Q. And during the conversation that you had with  
24 Mr. Rossi in May of '07, did he talk at all about whether or  
25 not he was going to run for office?

1 A. No, he did not.

2 Q. Did you ask him?

3 A. No.

4 Q. And has the MBA decided to support any independent  
5 expenditures in the governor's race?

6 MR. HOLT: Object to the form. You're  
7 speaking of this governor's race or just in general?

8 Q. Sorry. 2008 governor's race?

9 A. I'm sorry. What was the question again?

10 MR. LOWNEY: Can you read that back for me?

11 (Reporter read back as requested.)

12 MS. PAYTON: Object to the form of the  
13 question.

14 MR. HOLT: Object to the form.

15 Q. (By Mr. Lowney) There's enough objections that  
16 I'll rephrase it.

17 A. I'm not sure I understand, yeah.

18 Q. Has the MBA given any money to any independent  
19 expenditures in the 2008 governor's race?

20 MS. PAYTON: Same objection.

21 MR. HOLT: If you know what that means, you  
22 can answer it.

23 A. I don't know. I'm not sure, because I'm not sure  
24 I understand fully the question.

25 Q. (By Mr. Lowney) Okay. Is that because you don't

1 know what an independent expenditure is? Should I explain  
2 that?

3 A. I have a basic understanding of that. I'm not  
4 sure, though, the context of that.

5 THE WITNESS: I guess I have a question for  
6 you, Dirk, because I'm not sure.

7 MR. HOLT: If you just don't understand the  
8 question, you can ask him to rephrase it or try to put in  
9 another way so --

10 THE WITNESS: Yeah. Could you put it in other  
11 words?

12 Q. (By Mr. Lowney) Has any MBA money, to your  
13 knowledge, gone to influence voters in the 2008 governor's  
14 race?

15 MS. PAYTON: Object to the form.

16 A. Yes.

17 Q. (By Mr. Lowney) And describe that for me.

18 A. I believe that the MBA has made contributions to  
19 the RGA, which is active in the State of Washington.

20 Q. And by "RGA," you mean the #Republican Governors  
21 Association?

22 A. Yes.

23 Q. Do you know how much money has been donated by the  
24 MBA?

25 A. No, I don't know the exact amount.

1 Q. Does \$500,000 sound correct?

2 A. I'm not sure.

3 Q. Let me show you a document and see if it refreshes  
4 your recollection.

5 (Exhibit No. 14 marked.)

6 Q. (By Mr. Lowney) So this is No. 14. This is the  
7 Board of Directors minutes from the MBA from November 17,  
8 2007.

9 A. Oh, okay.

10 Q. And if you look under the "Budget" on page 2, the  
11 first section, the first starred paragraph talked about a  
12 half-a-million dollars being budgeted for the governor's  
13 race.

14 A. Okay.

15 Q. Does this refresh your recollection of the amount  
16 of the donation to the RGA?

17 A. You keep -- your question relates to a donation.  
18 This is about a budget, a line item approval.

19 Q. Correct. And I'm wondering if it refreshes your  
20 recollection on the amount of the contribution to the RGA.

21 A. I believe our RGA contribution, or donation as you  
22 say, is less than this. The exact amount, I don't know what  
23 it is. I'd have to check because I know -- it wasn't made  
24 in one payment, and I don't recall the exact amounts that  
25 have been paid out here over the -- just recently.

1           Q.    This November 19th budgeting discussion, did that  
2           make -- did this reflect the budgeting decision that  
3           ultimately funded the contributions to the RGA?

4           A.    No.    This was simply a request from the AHC for an  
5           additional \$400,000.  I, sitting here right now, don't know  
6           what got in the final budget.

7           Q.    Okay.  And do you know when the decision was made  
8           to make a contribution to the RGA?

9           A.    Rough time frame would have been the second half  
10          of year '08, I believe.

11          Q.    And I noted that there were some discussions in  
12          here where it said, still on Exhibit 14, during the budget  
13          discussion for putting \$500,000 towards the governor's race,  
14          which may not reflect the actual contribution; I've heard  
15          you say that.  But it said, "No money will be distributed  
16          until after the 2008 legislative session is over and no  
17          money will be sent to the BIAW."

18                 At that time, at that meeting, were you making the  
19          decision that your contribution to the governor's race would  
20          go through another entity, such as the RGA, instead of the  
21          BIAW?

22          A.    If and when we took action as a board to accept  
23          this budget request and make it a line item at that amount,  
24          and if and when we decided then to spend those funds, we  
25          were going to do it independently of BIAW, and that may have

1 gone to the governor's race, it may have gone to other  
2 political issues that arose between the time that this  
3 budget request was proposed and the time we take action as a  
4 board.

5 Q. Right. Other than the contribution to the RGA,  
6 have you made other contributions to spending in the 2008  
7 governor's race?

8 MR. HOLT: Object to the form. I assume when  
9 you say "you," you're referring to the MBA?

10 MR. LOWNEY: Yes.

11 A. Not that I'm aware of.

12 Q. (By Mr. Lowney) Okay. Why did you choose the  
13 RGA?

14 A. Oh, wait a minute.

15 Q. Okay.

16 A. Wait a minute. There was one fund raiser that Sam  
17 Anderson went to and had a check that -- it was like a  
18 thousand dollars that he may have given. I don't know what  
19 happened. It was -- and then he had to check with BIAW, and  
20 they may have pulled that check back. I was aware of that.

21 Q. Because the MBA and BIAW share a contribution  
22 limit?

23 A. Yes. I believe we have a \$2,800 limit.

24 Q. Do you know of Mr. Rossi having contact with the  
25 BIAW or BIAW staff and officers during the course of these

1 four months around May of 2007?

2 A. I do not.

3 Q. When Mr. Rossi called you, did he tell you -- and  
4 when he called you in 2007, did he tell you who asked him to  
5 call you?

6 A. I don't remember.

7 Q. Did that ever come up in your discussions with  
8 other people?

9 A. No.

10 Q. Do you know of any other contacts between  
11 Mr. Rossi and the MBA in 2007 before he declared, other than  
12 what we've spoken about today?

13 A. Not that I'm aware of.

14 Q. Are you familiar with any contacts between --

15 A. Oh, wait.

16 Q. Go ahead.

17 A. #Skamania. What was the date of the Skamania  
18 board meeting?

19 Q. There was a board meeting at Skamania Lodge. I  
20 don't have those minutes in front of me, I don't believe, so  
21 I don't --

22 A. Was he a candidate then or not?

23 Q. I don't recall, but maybe --

24 A. I spoke with him at that meeting.

25 Q. Okay. What did you speak with him about?



1 contacts"? Do you mean individual or just like MBA member  
2 or BIAW member? What do you mean?

3 MR. LOWNEY: Any of the above.

4 A. Yes, I had contact with them.

5 Q. (By Mr. Lowney) What was the contact?

6 MR. MCGUIRE: Objection; outside the scope.

7 MR. HOLT: You can answer.

8 A. Phone call.

9 Q. (By Mr. Lowney) And who did you talk with?

10 MS. PAYTON: Same objection.

11 MR. LOWNEY: No. Relevancy or -- it will be  
12 preserved.

13 MS. PAYTON: Well, no, that's not really my  
14 issue. This is a very limited deposition, and I have  
15 definitely been lenient about allowing you a lot of leeway  
16 to go beyond the Court's order, and at some point we will  
17 just hit a limit on that. Go ahead and ask the question,  
18 but I hope that we'll move off this quickly.

19 MR. LOWNEY: Yes.

20 THE WITNESS: Do I answer?

21 MR. HOLT: Yes.

22 A. A name? Nick ... I don't recall --

23 Q. (By Mr. Lowney) What was the general nature of  
24 the conversation?

25 MR. MCGUIRE: Same objection.

1 MS. PAYTON: Same objection. I'm very  
2 concerned that we're getting really far afield. We're  
3 getting very close to the time limit we've set for this,  
4 so --

5 MR. LOWNEY: Well, I'm trying to move through  
6 it.

7 MS. PAYTON: How can this possibly be within  
8 the scope of the Court's order?

9 A. Basically, after the board decided to endorse, we  
10 were looking for avenues or ways that we could  
11 potentially -- if we were going to financially support  
12 Mr. Rossi after the board's endorsement, how we might do  
13 that. I made a phone call to the RGA, got some contacts  
14 there, and passed that on, I believe to Joe Schwab, who took  
15 over any correspondence we might have had.

16 Q. Okay. And after that, any conversations would  
17 have been between Joe and the RGA?

18 A. I don't know.

19 MS. PAYTON: Same objection.

20 A. I don't know.

21 MR. LOWNEY: If you could mark this, please.

22 (Exhibit No. 15 marked.)

23 (Off-the-record discussion.)

24 Q. (By Mr. Lowney) I guess my question is, is this  
25 the meeting that you were describing earlier? Is this the

1 minutes to that board meeting?

2 A. Yes.

3 Q. The Semiahmoo?

4 A. I believe so.

5 Q. And I'm going to hand you ...

6 (Exhibit No. 16 marked.)

7 Q. (By Mr. Lowney) Actually, this may have been one  
8 of the e-mails that you provided to me, as well as me  
9 bringing it. Does that look familiar to you? It's a --

10 A. Yeah.

11 Q. -- message from Sam Anderson to you and others on  
12 April 27 2007.

13 A. Yes.

14 Q. And the final paragraph says, "Strategically, the  
15 Board will be asked by Daimon Doyle to take any excess of  
16 ROII funds for 2007 the MBA will receive beyond what we  
17 budgeted and put them into a pot to fund the next governor's  
18 race. Doug and I already decided that the Board would not  
19 be asked to decide that question, until we know the amount  
20 involved and they are fully aware of other '07 needs for the  
21 money. I think that in addition to '07 spending for local  
22 elections, the Board should know that we have a looming  
23 expense for the building of over \$1.5 million." Does this  
24 accurately represent your thinking about that issue at the  
25 time?

1                   MR. HOLT: Object to the form. It's from Sam  
2 Anderson, not from Doug Barnes.

3                   A. Yes. You use the word "accurately." From my  
4 recollection, this is the general theme of where we were at  
5 before Daimon and Brad showed up for the board meeting.

6   (Exhibit No. 17 marked.)

7                   Q. (By Mr. Lowney) These are the chair officers  
8 meeting minutes from June 18th, 2007.

9                   A. Okay.

10                  Q. Looking at the third paragraph, it says, "A  
11 discussion of the ROII money was held. MBA has not received  
12 the exact amount of their funds from BIAW. It was decided  
13 that a decision would be made in September about putting  
14 money in a campaign through BIAW - without tying it to ROII  
15 funds." Does this also accurately represent your  
16 recollection of the meeting?

17                  MR. HOLT: Same objection as the last one.

18                  A. Again, I'd have to answer it the same way. You  
19 say "accurately." This was the general theme. We do not  
20 meet in July and August, so whether we made a decision or  
21 not in September, we were going to put it off until the next  
22 meeting, is what we were trying to say.

23                                        So does this accurately reflect it? No, it  
24 doesn't accurately, in my mind, reflect what I feel we were  
25 trying to do, which is: The next time we meet, we'll start

1 to take this up again.

2 Q. Okay. And it says, "Monday the 25th, Doug, John  
3 and Sam plan to have lunch with Dino Rossi at the Bellevue  
4 Club. Dino is trying to decide whether he wants to be a  
5 candidate for governor, and wants to know what kind of  
6 support he will have." Does that accurately represent your  
7 recollection of the discussion at the meeting?

8 A. No.

9 Q. And you ended up -- you were planning to have  
10 lunch, but you couldn't. You had to go out of town, and you  
11 couldn't make it?

12 A. Correct, I did not attend the lunch.

13 Q. And what did you understand the meeting to say  
14 that's different from that second sentence?

15 MS. PAYTON: Object --

16 MR. HOLT: I'm sorry. What did he understand  
17 was supposed to be the meeting or what happened at the  
18 meeting?

19 Q. (By Mr. Lowney) Why is this second sentence --  
20 how is it inaccurate?

21 A. I don't know. You asked me if -- accurately, and  
22 I don't know. So, no, it doesn't in my mind accurately  
23 reflect what -- I don't -- I didn't attend the meeting, I  
24 didn't go to the preplanning of the meeting. I don't know.

25 Q. You're right. That was an ambiguous question from

1 me. I'm sorry.

2 I'm talking about the discussion at the June 18th  
3 meeting that these minutes reflect, not the lunch meeting.  
4 I understand you weren't at the lunch meeting. Do these  
5 minutes accurately reflect the discussion at the June 18th,  
6 2007 meeting?

7 MR. HOLT: Regarding that particular paragraph  
8 or --

9 MR. LOWNEY: That sentence.

10 A. That sentence? I don't recall the first part of  
11 the sentence.

12 The second part of the sentence, we supported  
13 Mr. Rossi in 2004, and I believe at that time, as chair  
14 officers, we were looking to see if we would have the op-- I  
15 guess, would we be supporting him in the future, is what we  
16 were talking about.

17 Q. And what do you recall the discussion -- what else  
18 do you recall from this discussion?

19 A. I really don't. I didn't attend the --

20 Q. No. The June 18th discussion.

21 A. Oh. I just don't.

22 Q. Do you have any recollection of the BIAW assisting  
23 to pay off debts incurred in connection with Dino Rossi's  
24 election contest in 2005?

25 MR. McGUIRE: Objection; outside the scope.

1           A.    I don't.

2           Q.    You can go ahead.

3           A.    No, I don't recall any or know any.

4           Q.    One of the documents you gave me was the  
5           September 17th, 2007 agenda for the chair officers meeting,  
6           and it's been marked as Exhibit 8.  Why did you provide that  
7           document?

8           A.    I just brought all my documents.

9                       MR. HOLT:  To the extent that it's  
10           attorney-client privileged, as to why this document was  
11           pulled out, you were produced what was responsive to your  
12           subpoena.

13                      MR. LOWNEY:  Okay.  That's fine.

14           Q.    (By Mr. Lowney)  Did you have conversations with  
15           other local affiliates about BIAW's efforts to raise funds  
16           for the 2008 governor's election?

17                      MR. HOLT:  Forgive me.  Could you repeat that,  
18           please?

19   (Reporter read back as requested.)

20                      MR. HOLT:  Is there a particular time frame  
21           involved here that you're interested in?

22                      MR. LOWNEY:  No.

23                      MR. HOLT:  Okay.  It's a very broad question.  
24           Object to the form.

25           A.    I believe, at a BIAW board meeting, I did talk

1 with Pierce County.

2 Q. (By Mr. Lowney) Okay. And who at Pierce County  
3 did you talk to?

4 A. It would have been Tom.

5 Q. Do you know what his position is there?

6 A. He was a former president.

7 Q. So it was sort of a president-to-president  
8 conversation?

9 A. In passing.

10 Q. And what did he say? Do you recall anything about  
11 the conversation?

12 A. I don't recall any significance of the  
13 conversation, no.

14 Q. Is that the only conversation you had like --

15 A. Other than that Pierce County wasn't on board with  
16 the BIAW program.

17 Q. Okay. And he didn't mention talking with Dino  
18 Rossi about this issue?

19 A. No, no.

20 Q. Okay. Have you ever learned of Rossi's strategy  
21 for winning in 2008?

22 A. No.

23 MR. LOWNEY: I think you were very helpful.  
24 Thank you very much. I appreciate your testimony, and I  
25 don't have any further questions.

1

2

EXAMINATION

3

BY MR. MCGUIRE:

4

Q. Mr. Barnes, I have a few follow-up questions. My name is Rob Maguire, and I represent BIAW, the defendant in the lawsuit. Thanks for being here today. I know you had a busy schedule and squeezed us in.

5

6

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8

Mr. Lowney was just asking you some questions about Exhibit 17. Do you still have those in front of you? Those are the minutes from the MBA chair officers meeting from June 18m 2007.

10

11

12

A. Yes.

13

14

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17

18

Q. First he was directing you to the third paragraph, which refers to a discussion involving ROII money that was held, and: "MBA has not received the exact amount of their funds from BIAW," and there was a discussion about deferring a decision until September. Do you see that part of the document?

19

A. Yes.

20

21

22

Q. I think you testified that that wasn't an accurate representation of what happened at the meeting; is that correct?

23

A. Yes.

24

Q. Are the minutes sometimes not accurate?

25

A. I say accurate from my point of view and what I

1 recall from that meeting. You know, it may have been -- we  
2 may have used the words that it will -- you know, "a  
3 decision will be made in September." In my mind that, to  
4 me, was: We don't meet -- we'll take it up at the next  
5 meeting. So I don't mean to say that the minutes aren't  
6 accurate. This is my perception and interpretation of those  
7 minutes, and what I heard happened in the meeting.

8 Q. People attending the meeting can have perceptions  
9 of what occurred that are different than what's in the  
10 minutes?

11 A. Yes.

12 Q. And are the meeting minutes intended to be a  
13 precise recitation of every word that's said in a chair  
14 officers meeting?

15 A. I don't view it as such, no. It documents the  
16 general themes of what we discussed for future reference.

17 Q. Mr. Lowney also asked you some questions about a  
18 telephone call that occurred between you and Mr. Rossi  
19 sometime between April and late May of 2007. Do you  
20 remember that telephone call?

21 A. Yes.

22 Q. And in that telephone call, as I understand it,  
23 you talked about a wedge that existed between BIAW and MBA,  
24 and the latest wedge involved this approach by Brad Spears  
25 and Daimon Doyle to MBA; is that right?

1 A. Yes.

2 Q. In the course of that conversation, did Mr. Rossi  
3 ever indicate that he was a candidate for the governorship  
4 in 2008?

5 A. No.

6 Q. Did he ever indicate in the course of that  
7 conversation that he intended to run for governor at any  
8 time in 2008?

9 A. No.

10 Q. Did he ask you to have MBA donate money to BIAW to  
11 support his candidacy in 2008?

12 A. No.

13 Q. Prior to October 11, 2007, did Mr. Rossi ever tell  
14 you that he was going to be a candidate for governor in  
15 2008?

16 A. No.

17 Q. Did he ever give you any indication prior to  
18 October 11, 2007, that he intended to run for governor in  
19 2008?

20 A. No.

21 Q. Do you have any information whatsoever to suggest  
22 that prior to October 11, 2007, Mr. Rossi was a candidate  
23 for governor in 2008, the 2008 election?

24 A. Sorry. Could you say that one more time again?

25 Q. Sure. Let me back up and start from the

1 beginning. Do you have any information whatsoever that  
2 prior to October 11, 2007, Dino Rossi was going to be a  
3 candidate for governor in the 2008 race?

4 A. No.

5 Q. Did Mr. Rossi ever encourage MBA to raise for or  
6 give money to BIAW or any entity affiliated with BIAW to  
7 promote a Rossi candidacy in 2008?

8 A. No.

9 Q. Did Mr. Rossi ever give approval or give consent  
10 to MBA raising money for or giving money to BIAW or any  
11 entity affiliated with BIAW to support his candidacy for  
12 2008 governorship?

13 A. Not that I'm aware.

14 Q. Did Mr. Rossi ever tell you to have MBA or BIAW  
15 run specific advertisements to promote a Rossi candidacy in  
16 2008?

17 A. No.

18 Q. Did Mr. Rossi ever tell you to have MBA or BIAW  
19 purchase commercial advertisement space or broadcast time to  
20 promote a Rossi candidacy in 2008?

21 A. No.

22 Q. And did MBA ever give any money to BIAW or any  
23 entity affiliated with BIAW to support a Rossi candidacy in  
24 2008?

25 A. Not that I'm aware of.

1 Q. Did MBA run any advertisements itself in support  
2 of a Rossi candidacy in 2008?

3 A. Not that I'm aware of.

4 Q. Now, you're an officer in MBA; is that right?

5 A. Yes.

6 Q. And for the last few years, you've also been a  
7 BIAW board member?

8 A. Yes.

9 Q. How many people are on BIAW's board?

10 A. I don't know the number, but it's several hundred  
11 plus.

12 Q. As an individual board member, do you have the  
13 authority to bind BIAW?

14 A. As an individual?

15 Q. Yes.

16 A. I don't, no.

17 Q. Do you have the authority, as an individual board  
18 member, to act on BIAW's behalf?

19 A. I don't, no.

20 Q. Or to speak for BIAW?

21 A. No.

22 Q. Do you know whether BIAW, BIAW Member Services  
23 Corporation, and ChangePAC or It's Time For a Change are  
24 separate legal entities or have some kind of relationship?

25 A. Could you start that sentence --

1 Q. Sure. Let me break it down. Do you know what  
2 BIAW Member Services Corporation is?

3 A. No.

4 Q. Do you know what It's Time For a Change is?

5 A. No. I don't know what its purpose and objectives  
6 are, no. I've heard the name.

7 Q. Do you know what ChangePAC is?

8 A. Again, I've heard the name. I don't know what its  
9 purpose, mission, or objective is, no.

10 Q. Do you know whether there's any legal relationship  
11 between any of those entities, #ChangePac, It's Time For a  
12 Change --

13 A. No, I wouldn't know the legal structure,  
14 organizational structure.

15 Q. How about the relationship between a local  
16 association and a state home builders association, like BIAW  
17 and Master Builders Association? Does BIAW have control  
18 over MBA?

19 A. No.

20 Q. You're laughing.

21 A. Yes.

22 Q. Why are you laughing?

23 A. I think that's been demonstrated here over the  
24 last couple of years. We have different philosophies and we  
25 operate differently.

1 Q. Is that part of the wedge issue?

2 A. That is our wedge.

3 Q. Is there some perception amongst the MBA  
4 leadership that BIAW tries to control them?

5 A. One could say that, yes.

6 Q. And MBA is resistant to that control?

7 A. Yes, we have been resistant to the "my way or the  
8 highway" type of philosophy, yes.

9 Q. And has there also been over the last couple of  
10 years an effort by some people, and it sounds like including  
11 yourself, to try and mend the rift or bridge the gap between  
12 the two groups, BIAW and Master Builders Association?

13 A. Yes.

14 Q. Was that effort going on throughout 2007?

15 A. Yes.

16 Q. And has that been successful?

17 A. No.

18 Q. There's still a rift today?

19 A. Yes.

20 Q. Incidentally, as a member of the BIAW board, are  
21 you paid anything?

22 A. No.

23 Q. That's a volunteer board?

24 A. Yes.

25 Q. And MBA makes its own decisions about who it's

1 going to endorse for particular elections?

2 A. Yes. We do communicate with BIAW on all  
3 endorsements and contributions that we make because we do  
4 have certain guidelines, and I don't know the specifics of  
5 them, but certain cont-- or donation limits.

6 Q. I see. So when MBA decides to donate to a  
7 particular candidate, do you check with the BIAW to make  
8 sure that you don't exceed the combined contribution cap?

9 A. Yes, we attempt to do that.

10 Q. Is that the type of communication you were talking  
11 about?

12 A. Yes.

13 Q. Does MBA, though, decide who it will endorse for a  
14 particular elective office, or does BIAW tell them who they  
15 have to endorse?

16 A. MBA decides who it will endorse. We do bring in  
17 BIAW's input into that process.

18 Q. I'm trying to understand the endorsement process a  
19 little bit. Who votes on an endorsement by MBA?

20 A. The AHC committee is a committee, the Affordable  
21 Housing Council, and that committee puts together  
22 recommendations for endorsements and also puts together  
23 recommendations for what that endorsement might entail,  
24 financial contribution or what.

25 It also puts any recommendations into place if

1 we're going to do some polling or any of those types of soft  
2 cost types of items. They will make the recommendations,  
3 and anything then that's significant or that exceeds line  
4 budget items has to go to the board. So the board will  
5 approve a budget, a line item, and then shoot that out to  
6 whatever council. In this case, we're talking about a  
7 political endorsement. That would be the AHC.

8 Q. The endorsement itself of a political candidate  
9 for office, in particular here Dino Rossi, who votes on  
10 whether to endorse Dino Rossi or Christine Gregoire?

11 A. Actually, our endorsement there we brought to the  
12 board. That has such high visibility that we brought that  
13 to the board. We had open discussion on it and then a vote,  
14 and the board voted to endorse Dino Rossi for governor for  
15 2008. And then chair officers get together and go back to  
16 the board to talk about: Okay, what does that endorsement  
17 then represent?

18 Q. How many members are on the MBA board?

19 A. I believe there's 30.

20 Q. So 30 MBA members participated in the decision of  
21 whether the organization would endorse Dino Rossi?

22 A. Correct.

23 Q. And that endorsement occurred in --

24 A. Let me go back. All 30 may not have been there,  
25 but we had a quorum at that board meeting. I don't know the

1 specific count.

2 Q. They're the elected representatives of the  
3 membership and authorized to make decisions on behalf of the  
4 membership?

5 A. Yes. And plenty of notice was given that that was  
6 going to be a topic so that you would talk amongst the  
7 membership. It wasn't an "agenda item of the day" type of  
8 thing.

9 Q. When did the endorsement discussion and vote  
10 occur?

11 A. I don't recall the exact time. I'd have to look  
12 it up in the minutes.

13 Q. Was it in 2008?

14 A. Oh, yes, yes. And it would have been, I want to  
15 say mid -- or late spring, yeah, in that time frame. I'd  
16 have to look it up.

17 MR. MCGUIRE: Thank you, Mr. Barnes. Those  
18 are all the questions I have for you today.

19 MR. LOWNEY: I don't have any further  
20 questions. Thank you.

21

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