

Volume I
Pages 1 to 214
Exhibits 193 - 214

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. Superior Court
Civil Action No.
2384CV00395-BLS2

-----x
BENJAMIN EDELMAN, :
Plaintiff, :
vs. :
PRESIDENT AND FELLOWS OF HARVARD :
COLLEGE, :
Defendant. :
-----x

DEPOSITION OF JEAN M. CUNNINGHAM, a witness called by counsel for the Plaintiff, taken pursuant to Rule 30 of the Massachusetts Rules of Civil Procedure before Carol H. Kusinitz, Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the Offices of Zalkind Duncan & Bernstein LLP, 65A Atlantic Avenue, Boston, Massachusetts, on Wednesday, June 18, 2025, commencing at 9:32 a.m.

PRESENT:

Zalkind Duncan & Bernstein LLP (by David A. Russcol, Esq.) 65A Atlantic Avenue, Boston, MA 02110, drusscol@zalkindlaw.com, 617.742.6020 - and -
Law Office of Ruth O'Meara-Costello (by Ruth O'Meara-Costello, Esq.) 875 Massachusetts Avenue, Suite 31, Cambridge, MA 02139, 617.658.4264, ruth@ruthcostellolaw.com, for the Plaintiff.

(Continued on Page 2)

<p style="text-align: right;">Page 22</p> <p>1 submitted his annual reports each year. I do not 2 open -- we have a faculty of roughly 250. I do not 3 review every submission each year.</p> <p>4 Q. Were any concerns raised in Mr. Edelman's 5 first few years at the School that his disclosures 6 of outside activities were inadequate?</p> <p>7 A. Not that I recall.</p> <p>8 Q. What other interactions do you recall 9 having with Mr. Edelman before 2014?</p> <p>10 A. At any given time at the School, there are 11 casual interactions. So we have faculty meetings 12 that happen four or five or six times during the 13 year, and so I might encounter him there.</p> <p>14 There are questions that arise. One of my 15 roles is to be, I call it, an air traffic 16 controller. So if people are not sure where to turn 17 on something, they will often come to the Dean's 18 Office and ask for advice.</p> <p>19 Or there may be issues that come to my 20 attention as people are working through various 21 issues and looking for guidance.</p> <p>22 Q. Do any interactions with Mr. Edelman before 23 2014 stick out in your mind as noteworthy?</p> <p>24 A. No.</p>	<p>1 Board at HBS, or FRB?</p> <p>2 A. Yes.</p> <p>3 Q. Have you worked with the FRB?</p> <p>4 A. Yes.</p> <p>5 Q. Have you worked with the FRB from its 6 inception?</p> <p>7 A. Yes.</p> <p>8 Q. Do you still work with the FRB?</p> <p>9 A. Yes.</p> <p>10 Q. Were you involved with FRB reviews of Mr. 11 Edelman in 2015 and 2017?</p> <p>12 A. Yes.</p> <p>13 Q. Were you involved in the creation of the 14 FRB?</p> <p>15 A. Yes.</p> <p>16 Q. Were you involved in creating the 17 Principles and Procedures that it would follow?</p> <p>18 A. I supported the faculty who were developing 19 it, yes.</p> <p>20 Q. Was the FRB created in 2015?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. Was the FRB created specifically to respond 23 to Mr. Edelman's situation?</p> <p>24 A. Specifically, no, but it was a factor.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. By the beginning of 2015, did you have an 2 opinion of Mr. Edelman as a faculty member?</p> <p>3 A. Part of my role is not to have opinions 4 about people. I need to be able to interact with 5 everybody.</p> <p>6 That said, Ben had a particular way of 7 doing things that was different, and so he was 8 distinctive in that regard.</p> <p>9 Q. Did your opinion of Mr. Edelman change 10 after that?</p> <p>11 MR. MURPHY: Objection.</p> <p>12 A. At times there were more complications than 13 others. We have some faculty members who consume 14 more time because of the work they do. And so it's 15 not good, bad or indifferent; it's just different.</p> <p>16 Q. So as of the beginning of 2015, would you 17 say you had a positive or negative impression of Mr. 18 Edelman, or neither?</p> <p>19 MR. MURPHY: Objection.</p> <p>20 A. I would say he was challenging.</p> <p>21 Q. Did that impression change after the 22 beginning of 2015?</p> <p>23 A. No.</p> <p>24 Q. Are you familiar with the Faculty Review</p>	<p style="text-align: right;">Page 25</p> <p>1 MR. RUSSCOL: Off the record. 2 (Discussion off the record)</p> <p>3 MR. RUSSCOL: Back on the record.</p> <p>4 I'd like to mark this document as Exhibit 5 193. 6 (Document marked as Plaintiff's 7 Exhibit 193 for identification)</p> <p>8 Q. Is this an email exchange between you and 9 Angela Crispi dated January 21, 2015?</p> <p>10 A. Yes.</p> <p>11 Q. And you wrote that you had spoken with 12 Nitin about launching a review process for Ben, 13 right?</p> <p>14 A. Yes.</p> <p>15 Q. "Nitin" there being Nitin Nohria, who was 16 Dean at the time?</p> <p>17 A. That's correct.</p> <p>18 Q. And "Ben" meaning Benjamin Edelman?</p> <p>19 A. Yes.</p> <p>20 Q. And this was in response to a discussion of 21 classroom projectors; is that right?</p> <p>22 A. (Reviewing document) Yes.</p> <p>23 Q. And your email to Dean Crispi mentions Mr. 24 Edelman's challenges as a colleague, right?</p>

7 (Pages 22 - 25)

<p>1 A. Yes.</p> <p>2 Q. But you indicated that Mr. Edelman was 3 being respectful in his email concerning classroom 4 projectors?</p> <p>5 A. That's what I wrote, yes.</p> <p>6 Q. What did you discuss with Dean Nohria about 7 launching a review process for Mr. Edelman?</p> <p>8 A. I don't know that I'm going to remember 9 that conversation.</p> <p>10 Q. Do you remember anything that Dean Nohria 11 said about that subject?</p> <p>12 A. No.</p> <p>13 Q. Did the review process that you referred to 14 here eventually become the FRB?</p> <p>15 MR. MURPHY: Objection.</p> <p>16 A. Without remembering the conversation, I 17 can't say specifically.</p> <p>18 Q. Was the FRB created a few months after this 19 email?</p> <p>20 A. I believe so, yes.</p> <p>21 Q. Was Mr. Edelman's situation a factor in the 22 creation of the FRB?</p> <p>23 A. Yes.</p> <p>24 MR. RUSSCOL: I'd like to mark this as</p>	Page 26	<p>1 A. (Reviewing document) It reads to me like 2 initial ideation about what a process might include.</p> <p>3 Q. Is it fair to say that it includes some 4 things that were eventually included in the FRB 5 process?</p> <p>6 A. Yes.</p> <p>7 Q. And under "Approach," Number 1 is 8 "Generally leverage the thought that has gone into 9 the process for responding to allegations of sexual 10 and gender-based harassment."</p> <p>11 Is that something that was discussed when 12 the FRB process was being formulated?</p> <p>13 A. If I remember correctly, it was at about 14 that time that the University had rolled out new 15 Title IX procedures that were much more 16 comprehensive than those that had been used in the 17 past, and so I would assume that this statement 18 reflects back on that process.</p> <p>19 Q. Do you recall that type of reflection on 20 those Title IX processes occurring as the FRB 21 process was being constructed?</p> <p>22 A. I'm not sure I understand that question. 23 I'm sorry.</p> <p>24 Q. You were part of the discussions of what</p>	Page 28
<p>1 Exhibit 194.</p> <p>2 (Document marked as Plaintiff's 3 Exhibit 194 for identification)</p> <p>4 Q. Is Exhibit 194 notes that you took related 5 to what eventually became the FRB process?</p> <p>6 A. (Reviewing document) I don't know. I 7 don't know if these are my notes or not.</p> <p>8 Q. Do you have any reason to believe they're 9 not your notes?</p> <p>10 MR. MURPHY: Objection.</p> <p>11 A. I don't know that I would refer to 12 myself -- so seeing the "Angela," "Jean," "Gabe" -- 13 so I don't know.</p> <p>14 Q. Is it possible that you had someone else's 15 notes in your file?</p> <p>16 MR. MURPHY: Objection.</p> <p>17 A. Yes.</p> <p>18 Q. Do you often maintain copies of other 19 people's notes on topics related to policies and 20 procedures?</p> <p>21 A. It's possible to walk away from a meeting 22 with materials that others had with them.</p> <p>23 Q. Does this document appear to be related to 24 the process that eventually became the FRB?</p>	Page 27	<p>1 the FRB process should look like, right?</p> <p>2 A. Yes.</p> <p>3 Q. In those discussions, did others bring up 4 the idea of reflecting on the new Title IX processes 5 in order to frame the FRB process?</p> <p>6 A. I think it was part of efforts to look for 7 best practices in conduct review matters.</p> <p>8 Q. But do you have a specific recollection of 9 that topic being discussed?</p> <p>10 A. Beyond this note, no.</p> <p>11 Q. Do you see at the top, under "Objectives," 12 Number 1 is "Respond to the Ben Edelman situation in 13 particular"?</p> <p>14 A. Yes, I see that.</p> <p>15 Q. Does that suggest to you that someone 16 involved with creating the FRB process believed it 17 was a response to the Ben Edelman situation in 18 particular?</p> <p>19 MR. MURPHY: Objection.</p> <p>20 A. I can't speak to what others were thinking.</p> <p>21 MR. RUSSCOL: I'd like to mark this as 22 Exhibit 195.</p> <p>23 (Document marked as Plaintiff's 24 Exhibit 195 for identification)</p>	Page 29

<p>1 drafted the Principles and Procedures?</p> <p>2 MR. MURPHY: Objection.</p> <p>3 A. My role was to staff the committee, and so</p> <p>4 the draft reflects the conversations that happened</p> <p>5 among the committee.</p> <p>6 MR. RUSSCOL: I'd like to mark this as the</p> <p>7 next exhibit.</p> <p>8 (Document marked as Plaintiff's</p> <p>9 Exhibit 200 for identification)</p> <p>10 Q. Is Exhibit 200 an email from Amy Edmondson</p> <p>11 on which you were copied in November 2015?</p> <p>12 A. Yes. It appears to be.</p> <p>13 Q. And does it relate to the FRB review of</p> <p>14 Professor Edelman in 2015?</p> <p>15 A. (Reviewing document) Yes.</p> <p>16 Q. And at the top of the document, does</p> <p>17 Professor Edmondson express that it's unfortunate</p> <p>18 that the FRB policies give Mr. Edelman a chance to</p> <p>19 respond?</p> <p>20 MR. MURPHY: Objection.</p> <p>21 A. That's what the sentence says.</p> <p>22 Q. What did you think when Professor Edmondson</p> <p>23 expressed it was unfortunate that the FRB policies</p> <p>24 gave Mr. Edelman a chance to respond?</p>	<p style="text-align: right;">Page 50</p> <p>1 MR. MURPHY: Objection.</p> <p>2 A. The policies and procedures speak to that,</p> <p>3 I believe, yes.</p> <p>4 Q. Now, returning to Exhibit 199, looking at</p> <p>5 Page 2 of the document in the bullet points in the</p> <p>6 middle of the page, the third bullet point indicates</p> <p>7 that the draft report "should include a summary of</p> <p>8 the evidence gathered," right?</p> <p>9 A. Yes.</p> <p>10 Q. Is there a difference between a summary of</p> <p>11 the evidence gathered and simply the evidence</p> <p>12 gathered?</p> <p>13 A. Yes.</p> <p>14 Q. What is the difference?</p> <p>15 A. "The evidence gathered" presumably would</p> <p>16 mean that all of the materials needed to be turned</p> <p>17 over to the respondent. That is not what happens in</p> <p>18 the process.</p> <p>19 Q. Why does that not happen in the process?</p> <p>20 A. One reason is to protect the</p> <p>21 confidentiality of those who participate in it.</p> <p>22 Q. Are there any other reasons?</p> <p>23 A. None that I would come up with offhand.</p> <p>24 That would be the primary consideration.</p>
<p>1 MR. MURPHY: Objection.</p> <p>2 A. I don't recall thinking about it at all.</p> <p>3 Q. Do you think Professor Edmondson was right</p> <p>4 that it was unfortunate?</p> <p>5 MR. MURPHY: Objection.</p> <p>6 A. I'm sorry, can you repeat the question.</p> <p>7 Q. Do you think Professor Edmondson was right</p> <p>8 that it was unfortunate that the FRB policies gave</p> <p>9 Mr. Edelman a chance to respond?</p> <p>10 MR. MURPHY: Objection.</p> <p>11 A. I don't want to comment on what she thought</p> <p>12 or what she didn't think.</p> <p>13 Q. Do you agree that it was unfortunate that</p> <p>14 the FRB policies gave Mr. Edelman a chance to</p> <p>15 respond?</p> <p>16 MR. MURPHY: Objection.</p> <p>17 A. What she thought was not relevant. The</p> <p>18 procedures outline what needs to happen, and that's</p> <p>19 what happened. What this document is speaking to is</p> <p>20 the concern about multiple back-and-forth.</p> <p>21 Q. And under the FRB process, if the FRB</p> <p>22 receives new information or allegations, does the</p> <p>23 faculty member get an opportunity to respond to</p> <p>24 that?</p>	<p style="text-align: right;">Page 51</p> <p>1 MR. RUSSCOL: I'd like to mark this as</p> <p>2 Exhibit 201.</p> <p>3 (Document marked as Plaintiff's</p> <p>4 Exhibit 201 for identification)</p> <p>5 Q. Is this a later draft of the Principles and</p> <p>6 Procedures than the one we saw in Exhibit 199?</p> <p>7 A. Yes, it looks to be.</p> <p>8 Q. Looking at the bottom of the document, it</p> <p>9 says, "Last revised 25 April 2015." Does that seem</p> <p>10 approximately right for when this draft was</p> <p>11 circulated?</p> <p>12 A. I'm sorry, where did you say that was?</p> <p>13 Q. At the very end of the document.</p> <p>14 A. Yes.</p> <p>15 Q. And is it fair to say that you made changes</p> <p>16 to the Principles and Procedures since the version</p> <p>17 reflected in Exhibit 199?</p> <p>18 MR. MURPHY: Objection.</p> <p>19 A. The two documents do not match. So, yes,</p> <p>20 changes were made.</p> <p>21 Q. And did you personally make some changes?</p> <p>22 A. I would typically be the keeper of the</p> <p>23 documents and would incorporate input from others.</p> <p>24 Q. And Exhibit 201 includes some comments from</p>

14 (Pages 50 - 53)

<p style="text-align: right;">Page 66</p> <p>1 the editing at that point. I would not have been 2 the person who drafted it. 3 Q. Does the Standing Committee that relates to 4 non-ladder faculty have a longer name? 5 A. I don't know. 6 Q. Do you know of other documents that uses 7 the two words "Standing Committee" alone to refer to 8 anything other than the Standing Committee for 9 ladder track faculty? 10 MR. MURPHY: Objection. 11 A. I don't know. 12 Q. In the summer of 2015, what would you 13 expect a ladder track faculty member to understand 14 the term "Standing Committee" to mean? 15 MR. MURPHY: Objection. 16 A. The Standing Committee was relatively new 17 at that time, and I believe a communication had gone 18 out to the faculty who were up for review explaining 19 its origin. 20 Q. Would tenure track faculty ever have any 21 reason to interact with the Standing Committee that 22 is relevant to non-ladder faculty? 23 A. No. 24 Q. Let me show you what has been previously</p>	<p style="text-align: right;">Page 68</p> <p>1 A. This communication was to faculty who were 2 submitting their promotion packages. That would be 3 ladder faculty, junior faculty members. So it 4 refers to the Standing Committee related to that 5 work. 6 MR. MURPHY: I think the witness is looking 7 at Exhibit 116. 8 Q. Sorry. I wasn't clear. Looking back at 9 Exhibit 26, and the reference to "Standing 10 Committee" in the "Notes on Promotions, Reviews, and 11 Reappointments" Section, "Standing Committee" in 12 that document doesn't -- isn't further qualified or 13 explained, is it? 14 A. It simply says "Standing Committee." 15 Q. And in retrospect, that term is ambiguous, 16 isn't it? 17 MR. MURPHY: Objection. 18 A. It may be. 19 Q. Now, referring, again, to Exhibit 116, 20 there's a reference to consultations with senior 21 faculty that led to the creation of the Standing 22 Committee. Do you see that? 23 A. A meeting of the senior faculty? Is that 24 what you're referring to?</p>
<p style="text-align: right;">Page 67</p> <p>1 marked as Exhibit 116. 2 Is this the communication just described to 3 inform faculty members of the Standing Committee and 4 its origin? 5 A. Yes. 6 Q. And this was done by an email from Paul 7 Healy on May 14, 2015, right? 8 A. Yes. 9 Q. Wouldn't it be reasonable for a tenure 10 track faculty member in the summer of 2015 to assume 11 that the Standing Committee that's referred to in 12 this email from Paul Healy is what "Standing 13 Committee" refers to? 14 MR. MURPHY: Objection. 15 A. I can't say what a faculty member would 16 assume. 17 Q. In retrospect is the use of the term 18 "Standing Committee" in the Principles and 19 Procedures document ambiguous? 20 MR. MURPHY: Objection. 21 A. I can't speak to that either. 22 Q. So looking at the phrase "Standing 23 Committee" in Exhibit 26, it doesn't specify which 24 Standing Committee it refers to, does it?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Well, at the beginning it says, "Youngme 2 and I have been doing extensive outreach across the 3 faculty." Do you see that? 4 A. Yes. 5 Q. Were you involved in outreach by Paul Healy 6 and Youngme Moon to the faculty that led to the 7 creation of the Standing Committee? 8 A. No. 9 Q. Do you know who was involved in that 10 outreach? 11 A. Beyond Youngme and Paul, no. 12 Q. Do you know anything about that process of 13 outreach or consultation with faculty? 14 A. I would have been aware that it was 15 happening, but not more than that. 16 Q. Do you have any sense of how long that 17 outreach took? 18 A. No. 19 Q. Do you know of any records of that 20 outreach? 21 A. No. 22 Q. Did the Dean's Office help in scheduling 23 that outreach? 24 A. I don't know.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. Would you know if anyone else in the Dean's 2 Office helped with scheduling that outreach?</p> <p>3 A. Typically the Dean's assistant schedules 4 meetings only when the Dean is also involved. So it 5 would be unusual to schedule on behalf of others.</p> <p>6 Q. In that 2015 time frame, did Paul Healy 7 typically schedule his own meetings, or did he rely 8 on staff to do so?</p> <p>9 A. I don't know.</p> <p>10 Q. Earlier you mentioned that you'd had a 11 discussion fairly early on in Mr. Edelman's career 12 at HBS about his outside activities. Do you recall 13 that?</p> <p>14 A. Yes.</p> <p>15 MR. RUSSCOL: I'd like to mark this as the 16 next exhibit.</p> <p>17 (Document marked as Plaintiff's 18 Exhibit 204 for identification)</p> <p>19 Q. I'll represent to you that these are Mr. 20 Edelman's notes of a conversation with you in 21 January 2008. Does it seem right to you that you 22 may have had a conversation with him in January 2008 23 about his outside activities?</p> <p>24 A. Yes. That's feasible.</p>	<p>1 happens. All faculty are required to report 2 annually on their outside activities. So that is 3 the expectation for faculty members at the School.</p> <p>4 Q. Is it common for HBS faculty members to 5 practice law?</p> <p>6 A. No.</p> <p>7 Q. Do you think there was a place on the 8 reporting form for disclosing law practice?</p> <p>9 A. There is a -- well, depending on the 10 version of the materials he used at the time -- 11 we've had both an online tool and at times an Excel 12 spreadsheet as a means for faculty to report. The 13 online tool had a drop-down menu and commonly used 14 categories included things like consulting, 15 teaching, board service. I do not believe that law 16 was one of the options on that drop-down menu.</p> <p>17 Q. So do you think you discussed with Mr. 18 Edelman that law practice may not have fit into that 19 form, so he can disclose it by a separate email to 20 the Dean?</p> <p>21 A. No. So all reporting is required annually. 22 The details of that may have been discussed at a 23 different time, but we would never suggest to a 24 faculty member that they wait before reporting their</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Now, looking at these notes, is there any 2 part of your discussion with him that you think he 3 got wrong?</p> <p>4 MR. MURPHY: Objection.</p> <p>5 A. (Reviewing document) I don't remember the 6 details of the full conversation.</p> <p>7 Q. So Mr. Edelman's notes say, "Service as 8 attorney, maybe email to Jay at some point, need not 9 be same time as this reporting."</p> <p>10 Do you know what he meant in recording 11 this?</p> <p>12 MR. MURPHY: Objection.</p> <p>13 A. No. I can't speak to what he meant.</p> <p>14 Q. Does that seem like a topic that you 15 discussed with him?</p> <p>16 A. It's likely, yes.</p> <p>17 Q. Who is Jay?</p> <p>18 A. Jay is Jay Light. He was the Dean at the 19 time.</p> <p>20 Q. Does that indicate that Mr. Edelman might 21 disclose his service as an attorney by emailing Dean 22 Light at some point?</p> <p>23 A. So the date of this memo is mid-January, 24 which is the time when reporting and planning</p>	<p>1 activities.</p> <p>2 Q. But do you think you discussed with Mr. 3 Edelman that if reporting that specific activity 4 didn't fit on that form, that he could disclose it 5 to the Dean separately from that form?</p> <p>6 MR. MURPHY: Objection.</p> <p>7 A. There is no way it would not have fit on 8 the form. There's an "Other" category that allows 9 faculty to fill in information.</p> <p>10 Q. Was there any policy in 2008 to guide a 11 junior faculty member at HBS who had a law practice 12 in terms of whether or how they had to disclose 13 outside activities related to that law practice?</p> <p>14 A. There is an Outside Activities policy.</p> <p>15 Q. Did the Outside Activities policy speak 16 specifically to law practice?</p> <p>17 A. No.</p> <p>18 Q. Was there any policy in 2008 saying a 19 faculty member needed to seek permission or get 20 approval to practice law as an outside activity?</p> <p>21 A. No.</p> <p>22 Q. Do you remember telling Mr. Edelman that 23 there was any requirement to disclose or seek 24 approval for his legal practice?</p>

<p>1 MR. MURPHY: Objection.</p> <p>2 A. The Outside Activities policy includes both</p> <p>3 philosophy and principles and indicates areas where</p> <p>4 the Dean's permission is required.</p> <p>5 Practicing law is not likely one of the</p> <p>6 categories to have been specifically called out. As</p> <p>7 you've indicated, it's unusual for faculty members</p> <p>8 to be practicing lawyers. But the philosophy</p> <p>9 articulates areas of potential concern and suggests</p> <p>10 seeking the advice of the Dean.</p> <p>11 Q. Referring back to these notes, they</p> <p>12 indicate asking about small clients that got less</p> <p>13 than one day of work, and his notes about your</p> <p>14 remarks say, "Group together, describe in general</p> <p>15 terms, total time among them."</p> <p>16 Do you remember that discussion?</p> <p>17 A. Yes.</p> <p>18 Q. Is that consistent with what you would have</p> <p>19 told him at the time?</p> <p>20 A. Yes.</p> <p>21 Q. At some point did you instruct Mr. Edelman</p> <p>22 that, for certain expert work, he needed to email</p> <p>23 Dean Light?</p> <p>24 A. So the specific policy requirement is that</p>	Page 74	Page 76
<p>1 expert witness testimony requires the advance</p> <p>2 approval of the Dean.</p> <p>3 Q. And at some point did you inform Mr.</p> <p>4 Edelman of that?</p> <p>5 A. That's written in the policy.</p> <p>6 Q. But at some point did you point that out to</p> <p>7 Mr. Edelman?</p> <p>8 A. I don't remember that specifically.</p> <p>9 Q. Did you ever tell Mr. Edelman to contact</p> <p>10 the Dean and then he failed to do so?</p> <p>11 MR. MURPHY: Objection.</p> <p>12 A. Not that I recall.</p> <p>13 Q. Did you and Mr. Edelman discuss the online</p> <p>14 reporting tool for outside activities as it stood in</p> <p>15 2008 for a few years afterwards?</p> <p>16 A. The tool specifically?</p> <p>17 Q. Yes.</p> <p>18 A. Not that I remember.</p> <p>19 Q. Do you remember him saying that it took a</p> <p>20 lot of clicks to submit one piece of information?</p> <p>21 A. I don't remember that, but it's possible.</p> <p>22 Q. Did Mr. Edelman describe the tool as</p> <p>23 burdensome for his particular situation?</p> <p>24 A. I don't remember that.</p>	Page 75	Page 77
<p>1 time frame arising out of [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 A. [REDACTED]</p> <p>4 Q. [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 A. [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 Q. [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 A. [REDACTED]</p> <p>14 Q. [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 A. [REDACTED]</p> <p>18 Q. [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 A. [REDACTED]</p> <p>23 Q. [REDACTED]</p> <p>24 [REDACTED]</p>		

<p style="text-align: right;">Page 82</p> <p>1 what could be included on the business card. 2 Q. To your recollection, was Mr. Edelman 3 unprofessional in how he dealt with the travel 4 issue?</p> <p>5 MR. MURPHY: Objection.</p> <p>6 A. What do you mean by "unprofessional"?</p> <p>7 Q. Was his behavior regarding the travel issue 8 inconsistent with HBS Community Values?</p> <p>9 A. I don't even -- I don't even know that 10 that's the relevant comparison. So if it's did he 11 treat others with -- did he respect -- now you're 12 going to quiz me on remembering the Community 13 Values. So integrity, respect, personal 14 accountability. So those are the three dimensions.</p> <p>15 I did not try to assess at that point. If 16 you're asking me to do that now, he was respectful 17 in his interaction with others, he followed personal 18 accountability, respect for the rights of others.</p> <p>19 Q. Was Mr. Edelman disrespectful in his 20 interactions with you around business cards?</p> <p>21 A. I don't believe that I interacted with him 22 directly on that question. I could be wrong. But, 23 again, I think this was a matter that was brought to 24 my attention, and I was interacting with a different</p>	<p style="text-align: right;">Page 84</p> <p>1 (Document marked as Plaintiff's 2 Exhibit 206 for identification)</p> <p>3 Q. So it had been about an hour and a half 4 after you had send the initial draft of allegations 5 for Mr. Edelman, you sent a new draft to the members 6 of the FRB that included Mr. Edelman's interactions 7 with staff and other colleagues, right?</p> <p>8 A. (Reviewing document) Yes.</p> <p>9 Q. Who added those things to the document?</p> <p>10 A. I presume that was me.</p> <p>11 Q. Did you discuss that addition with anyone?</p> <p>12 A. I don't remember.</p> <p>13 Q. Without discussing any -- the substance of 14 any communications with counsel, did you communicate 15 with an attorney between 3:01 p.m. and 4:24 p.m. on 16 July 31, 2015?</p> <p>17 A. I don't remember that.</p> <p>18 Q. Did the second version incorporate feedback 19 from Amy Edmondson?</p> <p>20 A. (Reviewing document) I don't remember that 21 either.</p> <p>22 Q. Well, the email, the little bit that's not 23 redacted, says, "After working with Amy."</p> <p>24 Does that indicate that you were working</p>
<p style="text-align: right;">Page 83</p> <p>1 staff member who was responsible for approving 2 changes.</p> <p>3 MR. RUSSCOL: I'd like to mark this as the 4 next exhibit.</p> <p>5 (Document marked as Plaintiff's 6 Exhibit 205 for identification)</p> <p>7 Q. So I'll represent to you that the second 8 page of this document is an attachment that was 9 attached to the first page.</p> <p>10 Does Exhibit 205 reflect an email that you 11 sent to Amy Edmondson with a draft of the FRB 12 allegation for Mr. Edelman in 2015?</p> <p>13 A. Yes.</p> <p>14 Q. So did you take the initial pass at 15 drafting the allegation for the FRB in 2015?</p> <p>16 A. Yes.</p> <p>17 Q. In looking at the second page of the 18 document, the initial draft only included the 19 Sichuan Garden and Blinkx matters; is that fair to 20 say?</p> <p>21 A. (Reviewing document) Yes.</p> <p>22 MR. RUSSCOL: I'd like to mark this as 23 Exhibit 206.</p> <p>24</p>	<p style="text-align: right;">Page 85</p> <p>1 with Professor Edmondson to revise your initial 2 draft?</p> <p>3 A. Yes.</p> <p>4 Q. So is it fair to say that, at least in some 5 part, the second draft incorporates feedback from 6 Professor Edmondson?</p> <p>7 MR. MURPHY: Objection.</p> <p>8 A. (Reviewing document) It reflects 9 interaction with her.</p> <p>10 Q. Were you involved in the School's response 11 to the Blinkx matter?</p> <p>12 A. Yes.</p> <p>13 Q. Were you significantly involved in the 14 School's response?</p> <p>15 A. Yes.</p> <p>16 Q. Is it fair to say you were in contact with 17 Mr. Edelman quite a bit while that controversy was 18 going on?</p> <p>19 A. Regularly, yes.</p> <p>20 Q. And you were also in contact with School 21 administration?</p> <p>22 A. Yes.</p> <p>23 Q. What was your impression of the Blinkx 24 incident and how Mr. Edelman handled it?</p>

22 (Pages 82 - 85)

<p style="text-align: right;">Page 86</p> <p>1 A. So it garnered public attention first. It 2 came to our notice through a media article and 3 outreach from a reporter, which is never a great way 4 to find out about something involving faculty 5 members.</p> <p>6 And the primary concern was around the 7 disclosure and whether or not Professor Edelman had 8 appropriately disclosed the nature of the 9 relationship he had with the individuals who had 10 hired him and what their role was with using that 11 information.</p> <p>12 He was responsive to outreach, and so 13 engaged fully in the process, and we had some -- 14 "disagreements" may be too strong of a word, but we 15 had some back-and-forth about each of our actions 16 throughout that process.</p> <p>17 Q. And you mentioned that Mr. Edelman was 18 responsive. Did you recommend that he make changes 19 to his disclosure in his article?</p> <p>20 A. Yes.</p> <p>21 Q. Did he make the changes that you asked for?</p> <p>22 A. Yes.</p> <p>23 Q. So is it fair to say that you had some 24 firsthand knowledge of how the Blinkx situation</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. And also in contact with School 2 administrators?</p> <p>3 A. Yes.</p> <p>4 Q. What was your impression of the Sichuan 5 Garden incident and how Mr. Edelman handled that?</p> <p>6 A. It also garnered significant public 7 attention at the time. I recall acknowledging that 8 it yielded the highest number of emails and outreach 9 to the Dean ever in response to the actions of one 10 of our faculty members. It did not reflect well on 11 the School, and many people were called upon to 12 speak on behalf of their colleague.</p> <p>13 Q. And did you have an impression about how 14 Mr. Edelman handled it after the initial controversy 15 developed?</p> <p>16 A. Yes.</p> <p>17 Q. What was that impression?</p> <p>18 A. That he sought the advice and input of 19 others, but it was not clear whether he understood 20 the issue at heart and why it had garnered the 21 response that it did.</p> <p>22 Q. What were you not sure that he understood?</p> <p>23 A. The difference between being right and the 24 approach he took with the restaurant owner.</p>
<p style="text-align: right;">Page 87</p> <p>1 developed?</p> <p>2 A. Yes.</p> <p>3 Q. Did you share that firsthand knowledge with 4 the FRB?</p> <p>5 A. I was not interviewed by the FRB, for 6 example. Much of what unfolded was very much in the 7 public domain, and so there were ample media 8 articles and other pieces that provided the 9 background for that.</p> <p>10 Q. Did anyone on the FRB ask for your 11 perspective on the Blinkx situation?</p> <p>12 A. Not that I remember.</p> <p>13 Q. Did you provide your perspective on the 14 Blinkx matter in any FRB meetings?</p> <p>15 A. Not that I remember.</p> <p>16 Q. Were you involved in the School's response 17 to the Sichuan Garden matter?</p> <p>18 A. Yes.</p> <p>19 Q. Significantly involved?</p> <p>20 A. Yes.</p> <p>21 Q. And, again, you were in contact with Mr. 22 Edelman quite a bit while that controversy was going 23 on; is that fair to say?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Was it your impression that Mr. Edelman 2 eventually understood why the approach he took to 3 Sichuan Garden was not wise?</p> <p>4 A. Say that question again. Sorry.</p> <p>5 Q. Was it your impression that Mr. Edelman 6 eventually understood why the approach he took to 7 Sichuan Garden was not wise?</p> <p>8 A. I never reflected on that question.</p> <p>9 Q. Is it fair to say that you have some 10 firsthand knowledge of how Mr. Edelman handled the 11 Sichuan Garden situation?</p> <p>12 A. Yes.</p> <p>13 Q. Did you share that firsthand knowledge with 14 the FRB?</p> <p>15 A. To the extent that I had been on email 16 exchanges, those emails were shared with the FRB. 17 But I did not speak to them about my experience 18 personally, no.</p> <p>19 Q. Did you provide the FRB with all of the 20 emails from the Sichuan Garden situation?</p> <p>21 MR. MURPHY: Objection.</p> <p>22 A. Probably not.</p> <p>23 Q. How did you choose which emails to provide 24 to the FRB?</p>

<p>1 A. Based on my understanding of relevance.</p> <p>2 Q. So you chose the emails that you thought</p> <p>3 were most relevant?</p> <p>4 A. I chose an exchange that appeared to be</p> <p>5 relevant, yes.</p> <p>6 Q. But there are other exchanges that you</p> <p>7 didn't provide to the FRB?</p> <p>8 A. There were many exchanges with the people</p> <p>9 who had reached out to ask about the situation. So,</p> <p>10 no, I did not provide all of those.</p> <p>11 Q. Did you provide all of your emails with</p> <p>12 Professor Edelman to the FRB?</p> <p>13 A. I don't think so.</p> <p>14 Q. Did Paul Healy send you quotes from the</p> <p>15 letters from Mr. Edelman's tenure review that</p> <p>16 related to subjects that the FRB was considering in</p> <p>17 2015?</p> <p>18 A. Say that again. Send me quotes from?</p> <p>19 Q. From the letters that were sent to the</p> <p>20 Subcommittee for Professor Edelman's tenure review</p> <p>21 that related to subjects that the FRB was</p> <p>22 considering?</p> <p>23 MR. MURPHY: Objection.</p> <p>24 A. I know that those letters exist. I don't</p>	Page 90	<p>1 was only sent to part of the FRB and not to the</p> <p>2 rest?</p> <p>3 MR. MURPHY: Objection.</p> <p>4 A. I would not recall that.</p> <p>5 Q. Earlier we discussed the requirement in the</p> <p>6 Principles and Procedures that the faculty member</p> <p>7 have an opportunity to review the evidence gathered.</p> <p>8 Do you recall that?</p> <p>9 MR. MURPHY: Objection.</p> <p>10 A. Yes.</p> <p>11 Q. Did you feel that the FRB complied with</p> <p>12 that requirement in 2015?</p> <p>13 A. Yes.</p> <p>14 Q. Did you think that that rule worked well in</p> <p>15 2015?</p> <p>16 A. I didn't have a judgment about it one way</p> <p>17 or the other.</p> <p>18 Q. Did you feel that the FRB complied with</p> <p>19 that requirement in 2017?</p> <p>20 A. Yes.</p> <p>21 Q. In 2015, did the FRB gather any evidence</p> <p>22 other than what it attached to the exhibits for the</p> <p>23 draft report?</p> <p>24 A. Yes.</p>	Page 92
<p>1 know if they were sent to me or sent to Amy.</p> <p>2 Q. I'm going to show you what has been</p> <p>3 previously marked as Exhibit 47.</p> <p>4 So you see that the bottom part of this</p> <p>5 document is an email you sent to Amy Edmondson with</p> <p>6 a file "Edelman Letter Quotes"?</p> <p>7 A. Yes.</p> <p>8 Q. Does that refresh your recollection about</p> <p>9 whether you received quotes from the letters sent to</p> <p>10 the Subcommittee for Mr. Edelman?</p> <p>11 A. Yes.</p> <p>12 Q. And did you send those quotes to Amy</p> <p>13 Edmondson?</p> <p>14 A. Yes.</p> <p>15 Q. Why did you not send those quotes to the</p> <p>16 entire FRB?</p> <p>17 A. I don't remember the context for this</p> <p>18 exchange.</p> <p>19 Q. Are you aware that Professor Edmondson did</p> <p>20 not send the letter quotes to the entire rest of the</p> <p>21 FRB?</p> <p>22 MR. MURPHY: Objection.</p> <p>23 A. I can't speak to whether she did or not.</p> <p>24 Q. Can you think of any other evidence that</p>	Page 91	<p>1 Q. Did the FRB gather additional emails that</p> <p>2 weren't attached as exhibits?</p> <p>3 A. I don't know.</p> <p>4 Q. Did the FRB interview witnesses and take</p> <p>5 notes on what they said in 2015?</p> <p>6 A. Yes.</p> <p>7 Q. And as we just saw, did the FRB receive</p> <p>8 quotes from Mr. Edelman's letter writers?</p> <p>9 A. Amy did. I can't speak to whether others</p> <p>10 did or not.</p> <p>11 Q. Did you understand the FRB statement --</p> <p>12 strike that.</p> <p>13 Did you understand the Principles and</p> <p>14 Procedures to require sharing all that evidence with</p> <p>15 Mr. Edelman?</p> <p>16 A. No.</p> <p>17 MR. MURPHY: Objection.</p> <p>18 Q. Why not?</p> <p>19 A. As we discussed earlier, privacy and</p> <p>20 confidentiality were also considerations.</p> <p>21 Q. Who made the determination of whether</p> <p>22 privacy and confidentiality considerations prevented</p> <p>23 sharing particular pieces of evidence with Mr.</p> <p>24 Edelman?</p>	Page 93

24 (Pages 90 - 93)

<p>1 A. I don't recall an explicit discussion 2 during the meetings, but the principle had been 3 discussed a number of times that staff in 4 particular, but also those more junior, not just to 5 Professor Edelman or to any respondent or 6 complainant, may not feel comfortable speaking of or 7 participating in the process if they could be 8 identified. 9 So that was one of the driving 10 considerations in the privacy and confidentiality in 11 drafting the policy and procedures. 12 Q. Did the FRB interview Mr. Edelman in 2015? 13 A. Yes. 14 Q. Were there notes of that interview? 15 A. Yes. 16 Q. Were those notes provided to Mr. Edelman? 17 A. No. 18 Q. Were there any privacy or confidentiality 19 reason why those notes shouldn't have been shared 20 with him? 21 A. He was a participant in the meeting. It 22 wasn't deemed necessary. And we were not taking 23 transcripts, for example. 24 Q. Wouldn't sharing the notes of that</p>	<p>Page 94</p> <p>1 egregious, persistent or pervasive misconduct since 2 October 2015? 3 A. Not that I'm aware of. 4 Q. I'm showing you what's been previously 5 marked as Exhibit 51. Is this a letter to Mr. 6 Edelman informing him of the FRB case in 2017? 7 MR. MURPHY: Objection. 8 A. (Reviewing document) Yes. 9 Q. Does this letter contain an allegation of 10 misconduct? 11 A. (Reviewing document) No. 12 Q. Who decided that the American Airlines 13 lawsuit should be part of the 2017 FRB report? 14 A. If I recall correctly, the topic first 15 arose in one of Ben's submissions. It was then 16 discussed when he met with the FRB. 17 Q. And then who made the decision that it 18 should be part of what the FRB included in its final 19 report? 20 A. I can't speak to which individual, but do 21 remember that the FRB found it concerning. 22 Q. How many times did the FRB meet in 2017? 23 A. I'm not sure the exact number. 24 Q. Did you take notes at each meeting of the</p>
<p>1 interview have given him an opportunity to correct 2 something if he believed that it was inaccurate or 3 misunderstood? 4 MR. MURPHY: Objection. 5 A. He had the opportunity to respond to the 6 draft report. 7 Q. Did the FRB include the perspectives of Mr. 8 Edelman's letter writers in its 2015 report? 9 A. I don't know. 10 Q. How did it come to be that there was an FRB 11 case for Mr. Edelman in 2017? 12 A. It had been the expectation after the 2015 13 that the two-year delay would provide an opportunity 14 for the FRB to convene again and evaluate whether 15 there had been progress over those two years. 16 Q. At what point did you form that 17 understanding or expectation? 18 A. 2015. 19 Q. Did you communicate to Mr. Edelman that the 20 FRB was going to reconvene in 2017 in 2015? 21 A. I was not part of the conversation with 22 Professor Edelman at that time. 23 Q. As of the spring of 2017, had there been 24 any allegations that Mr. Edelman had engaged in</p>	<p>Page 95</p> <p>Page 97</p> <p>1 FRB? 2 A. I typically did, yes. 3 Q. Do you recall any FRB meetings where you 4 did not take notes? 5 A. Not offhand, no. 6 Q. Were you present for all of the meetings of 7 the FRB? 8 A. I believe so. 9 Q. Did the FRB meet in June 2017 once Stu 10 Gilson joined? 11 A. Yes. 12 Q. Did FRB meet again before its report was 13 finalized? 14 A. Yes. 15 Q. When did it meet? 16 A. I'm not going to remember the dates. 17 Q. So did the FRB meet to interview Mr. 18 Edelman in August 2017? 19 A. That sounds correct, yes. 20 Q. And did it meet to interview Max Bazerman 21 in October 2017? 22 A. That also sounds correct. 23 Q. Other than that initial meeting and those 24 two meetings, were there any other meetings of the</p>

25 (Pages 94 - 97)

<p>1 period related to the FRB?</p> <p>2 A. Yes.</p> <p>3 Q. Did you delete any emails related to the</p> <p>4 FRB?</p> <p>5 A. Not that I remember.</p> <p>6 Q. Do you remember any particular words or</p> <p>7 phrases that would have been used in the emails that</p> <p>8 attached interview notes from FRB members?</p> <p>9 A. I don't know what you mean, no.</p> <p>10 Q. If you wanted to -- if you wanted to search</p> <p>11 your email and find emails where FRB members sent</p> <p>12 you their interview notes, how would you find them?</p> <p>13 A. I would typically use date as my first</p> <p>14 lens, assuming that it had been done following a</p> <p>15 meeting, and would check by date or I would check by</p> <p>16 one of the FRB member names to look and see what</p> <p>17 emails had come through from them.</p> <p>18 Q. Did you have a large volume of emails with</p> <p>19 the FRB members other than related to the FRB in the</p> <p>20 2017 time frame?</p> <p>21 A. So Angela and I exchange emails pretty</p> <p>22 regularly. With the others, not so much.</p> <p>23 Q. Is it possible that you received the</p> <p>24 interview notes from one or more FRB members in</p>	Page 102	<p>1 Q. Would they have been in one of those Black</p> <p>2 n' Red notebooks that you mentioned?</p> <p>3 MR. MURPHY: Objection.</p> <p>4 A. It's possible.</p> <p>5 Q. If they weren't in one of those notebooks,</p> <p>6 where would they be?</p> <p>7 A. I don't know.</p> <p>8 Q. Is there somewhere on your computer where</p> <p>9 your files related to the FRB review of Mr. Edelman</p> <p>10 are stored?</p> <p>11 A. I have a few different folders related to</p> <p>12 Professor Edelman. So there's an FRB folder, and</p> <p>13 then there's typically a general faculty folder, but</p> <p>14 they should have been in the FRB folder.</p> <p>15 Q. At any point in the last three years, did</p> <p>16 you look in your FRB folder for documents related to</p> <p>17 Mr. Edelman?</p> <p>18 A. Yes.</p> <p>19 Q. Do you remember seeing notes of the FRB's</p> <p>20 2017 interview with Mr. Edelman?</p> <p>21 A. No.</p> <p>22 Q. Do you remember whether anyone else was</p> <p>23 taking notes of the interview of Mr. Edelman?</p> <p>24 A. I don't remember, no.</p>	Page 104
<p>1 person?</p> <p>2 A. Yes.</p> <p>3 Q. To your knowledge, as of the time that the</p> <p>4 FRB issued its final report in 2017, did any of the</p> <p>5 FRB members have one another's interview notes?</p> <p>6 A. I have no way of knowing that.</p> <p>7 Q. Did you send the interview notes to the FRB</p> <p>8 members?</p> <p>9 A. Not that I remember.</p> <p>10 Q. Did you do anything to help the FRB members</p> <p>11 prepare for interviewing Mr. Edelman in 2017?</p> <p>12 A. I don't remember specifically.</p> <p>13 Q. Did you suggest questions that the FRB</p> <p>14 members could ask?</p> <p>15 A. Typically there would be a discussion or</p> <p>16 starting point of questions that might be covered,</p> <p>17 but I don't know for certain in this particular</p> <p>18 case.</p> <p>19 Q. Did you take notes of the interview with</p> <p>20 Mr. Edelman in 2017?</p> <p>21 A. I think so, yes.</p> <p>22 Q. Do you know of any reason why those notes</p> <p>23 would not still be in existence?</p> <p>24 A. No.</p>	Page 103	<p>1 Q. Did you ask anyone else to take notes?</p> <p>2 A. No.</p> <p>3 Q. I'd like to show you what's been previously</p> <p>4 marked as Exhibit 121.</p> <p>5 Have you seen this document before?</p> <p>6 A. Yes.</p> <p>7 Q. Was it shared with you in 2017?</p> <p>8 A. I don't think so.</p> <p>9 Q. When have you seen it?</p> <p>10 A. As part of the preparation for today.</p> <p>11 Q. Do you see that there are three questions</p> <p>12 that are numbered in this document?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall those three questions being</p> <p>15 asked of Mr. Edelman during his interview?</p> <p>16 A. Not specifically, no.</p> <p>17 MR. RUSSCOL: I'd like to mark this as the</p> <p>18 next exhibit.</p> <p>19 (Document marked as Plaintiff's</p> <p>20 Exhibit 207 for identification)</p> <p>21 Q. Does this reflect an email that you got</p> <p>22 from Amy Edmondson and an email that you sent to Rae</p> <p>23 Mucciarone in July 2017?</p> <p>24 A. Yes.</p>	Page 105

<p style="text-align: right;">Page 110</p> <p>1 MR. MURPHY: Objection.</p> <p>2 A. I came down in the camp of the willingness</p> <p>3 of people to participate and the ability to keep</p> <p>4 them not identifiable being more important.</p> <p>5 Q. Did you discuss with anyone on the FRB</p> <p>6 whether any witnesses expressed that they were</p> <p>7 unwilling to talk unless they were anonymous?</p> <p>8 A. Sorry, say the question again.</p> <p>9 Q. Are you aware whether any witnesses</p> <p>10 expressed to any FRB members that they wouldn't talk</p> <p>11 unless they were anonymous?</p> <p>12 MR. MURPHY: Objection.</p> <p>13 A. I don't know specifically, no.</p> <p>14 Q. Was that topic discussed among the FRB?</p> <p>15 A. I believe it did come up as a concern for</p> <p>16 the staff members who would be interviewed.</p> <p>17 Q. What about the faculty?</p> <p>18 A. Faculty tend to be less concerned.</p> <p>19 Q. Do you know if any faculty members</p> <p>20 specifically asked that they be anonymous in the</p> <p>21 report?</p> <p>22 A. I don't know.</p> <p>23 Q. How did you approach writing the first</p> <p>24 draft of the FRB's 2017 report?</p>	<p style="text-align: right;">Page 112</p> <p>1 selection of comments reflected the weight of the</p> <p>2 evidence that the FRB had gathered?</p> <p>3 A. The first draft was a starting point, and</p> <p>4 so it was meant to be representative. And then you</p> <p>5 rely on the editing process and input from others to</p> <p>6 assess that.</p> <p>7 Q. Did you intend to include at least one</p> <p>8 comment from every witness?</p> <p>9 A. No.</p> <p>10 Q. How did you decide which witnesses would be</p> <p>11 quoted more than once?</p> <p>12 A. I don't recall giving particular thought to</p> <p>13 the number of comments chosen from each individual.</p> <p>14 There were broader themes identified, and so it was</p> <p>15 looking for comments that were representative of</p> <p>16 those themes.</p> <p>17 Q. I'd like to show you what's been previously</p> <p>18 marked as Exhibit 63.</p> <p>19 A. (Reviewing document).</p> <p>20 Q. Is this the initial draft of the 2017 FRB</p> <p>21 report that you prepared?</p> <p>22 A. I can't tell simply by looking. There were</p> <p>23 many versions.</p> <p>24 Q. I'll represent to you that we believe this</p>
<p style="text-align: right;">Page 111</p> <p>1 A. I had meeting notes, I had recollection of</p> <p>2 the discussions, and I had the interview notes, and</p> <p>3 I used the three of those as a starting point.</p> <p>4 Q. And what did you set out to include in the</p> <p>5 initial draft?</p> <p>6 A. I don't -- can you be more specific.</p> <p>7 Q. What elements did you want to include in</p> <p>8 the draft?</p> <p>9 MR. MURPHY: Objection.</p> <p>10 A. I don't typically think about it in that</p> <p>11 way. If the objective is to -- the charge of the</p> <p>12 FRB had been identified, and so the report was meant</p> <p>13 to be responsive to its task.</p> <p>14 Q. Did you select comments to include in the</p> <p>15 initial draft report?</p> <p>16 A. Yes.</p> <p>17 Q. How did you decide which comments to</p> <p>18 include?</p> <p>19 A. There were comments that were both</p> <p>20 favorable to Professor Edelman and those that</p> <p>21 expressed concern. And so it was a matter of going</p> <p>22 through the interview notes to find examples that</p> <p>23 were indicative of both.</p> <p>24 Q. What did you do to make sure that the</p>	<p style="text-align: right;">Page 113</p> <p>1 to be the first draft.</p> <p>2 Did you try to ensure that this draft</p> <p>3 accurately captured the feedback that the FRB</p> <p>4 received?</p> <p>5 A. I tried to ensure that it accurately</p> <p>6 captured the feedback that the FRB received and</p> <p>7 their emerging view.</p> <p>8 Q. And you wanted it to be an accurate summary</p> <p>9 of the evidence, right?</p> <p>10 A. I wanted it to reflect the evidence, yes.</p> <p>11 Q. Starting on Page 3 of the document, under</p> <p>12 "Recent Activities," is it fair to say that there</p> <p>13 are two sections of overall positive comments from</p> <p>14 Mr. Edelman's colleagues in the NOM unit?</p> <p>15 A. Sorry, say that again?</p> <p>16 Q. Is it fair to say that there are two</p> <p>17 sections of positive comments from Mr. Edelman's</p> <p>18 colleagues in the NOM unit on that page?</p> <p>19 A. Yes.</p> <p>20 Q. And then, on the next page, there's a</p> <p>21 continuation of NOM feedback, and then two sections</p> <p>22 of positive comments from non-NOM colleagues and</p> <p>23 staff, right?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 138</p> <p>1 [REDACTED] has two comments. He says, "So strong in 2 his critiques it generates discomfort among exec ed. 3 students," and "He's less respectful... than 4 virtually all of us faculty are." And then further 5 on, "He is fundamentally disrespectful to 6 institutions," which is different, I realize. But 7 if you're looking for the word, there it is. 8 (Reviewing document) That's it.</p> <p>9 Q. Now, referring to Page 4, with Professor 10 [REDACTED] notes, about a third of the way down, 11 doesn't it say, "Community Standards - Respect has 12 always been shown"?</p> <p>13 A. Yes.</p> <p>14 Q. And below that, it does say, "He's less 15 respectful," but then isn't that clarified by 16 "lacking charm, "than virtually all of us faculty 17 are"?</p> <p>18 A. That is a qualifier there, yes.</p> <p>19 Q. So it doesn't indicate clearly that 20 [REDACTED] experiences Mr. Edelman's 21 interactions as disrespectful, does it?</p> <p>22 A. I don't know that I can make that 23 statement. These are a shorthand of notes from 24 [REDACTED].</p>	<p style="text-align: right;">Page 140</p> <p>1 A. At the moment, no. 2 Q. Did you discuss that question with Paul 3 Healy? 4 A. I don't remember. 5 Q. Is it fair to say -- and you can refer to 6 Exhibit 45 if you need to -- that all the exhibits 7 to the report were either correspondence between the 8 FRB and Mr. Edelman or public documents? 9 A. (Reviewing document) Yes. 10 Q. Why did you take that approach? 11 A. It reflected the structure of the report. 12 Q. Did you consider including any interview 13 notes? 14 A. No. 15 Q. Did you consider including notes of the 16 interview with Professor Edelman? 17 A. No. 18 Q. Why not? 19 A. He had ample opportunity to provide 20 responses, and his voice was well represented in the 21 document. 22 Q. Did you think it was relevant for the 23 Appointments Committee to be able to see what the 24 FRB had recorded that Mr. Edelman said in the</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. Referring to Exhibit 67. 2 A. Okay. 3 Q. Now, given the people who were interviewed, 4 is it your understanding that these are Dean 5 Crispi's notes? 6 A. Yes. 7 Q. Based on these notes, did she interview 8 [REDACTED]? 9 MR. MURPHY: Objection. 10 A. If she did interview him, the notes are not 11 included here. 12 Q. Did you decide what exhibits to include 13 with the final report? 14 A. I think so, yes. 15 Q. How did you decide that? 16 A. Some of them are relevant to provide 17 sufficient detail on the actual letters and 18 correspondence that were sent back and forth, and 19 some of them reflected the conversations in the FRB. 20 Q. Did you discuss with Professor Edmondson 21 which exhibits to include? 22 A. In some cases, yes. 23 Q. Do you recall any exhibit that you 24 particularly discussed with Professor Edmondson?</p>	<p style="text-align: right;">Page 141</p> <p>1 interview? 2 A. The FRB did not record what Professor 3 Edelman said. There was no transcript. There was 4 no verbatim copy of remarks that was captured. 5 Q. But there were some notes taken of the 6 interview, weren't there? 7 A. I believe so, yes. 8 Q. And is there a reason why those notes could 9 not be included with the report? 10 MR. MURPHY: Objection. 11 A. They were not viewed as relevant. He had, 12 again, ample opportunity to provide input to the 13 Committee, and all of the submissions that he 14 provided were included. 15 Q. Were the notes of Mr. Edelman's interview 16 part of the evidence that the FRB gathered? 17 MR. MURPHY: Objection. 18 A. I don't know that that would be considered 19 evidence or not. It was an interview, and he was 20 present for it. So it was not evidence that was 21 otherwise unavailable to him. 22 Q. But it was evidence of things that were 23 said in the process of the FRB's investigation, 24 wasn't it?</p>

<p style="text-align: right;">Page 142</p> <p>1 MR. MURPHY: Objection.</p> <p>2 A. It was part of the work of the FRB.</p> <p>3 Q. And the interviews were part of the process</p> <p>4 of gathering evidence, right?</p> <p>5 A. The interviews are part of the process of</p> <p>6 gathering information.</p> <p>7 Q. And the notes of the interviews that the</p> <p>8 FRB conducted are what you and the FRB members</p> <p>9 relied on in crafting the report; isn't that true?</p> <p>10 A. They were one source of information.</p> <p>11 Q. Why wasn't all of the evidence that the FRB</p> <p>12 gathered included as attachments to the report?</p> <p>13 MR. MURPHY: Objection.</p> <p>14 A. Because there was no expectation that it</p> <p>15 would, and to protect the confidentiality of the</p> <p>16 individuals who participated in the interviews.</p> <p>17 Q. Was there any confidentiality concern</p> <p>18 related to Mr. Edelman's own interview?</p> <p>19 MR. MURPHY: Objection.</p> <p>20 A. No.</p> <p>21 Q. Are you familiar with the processes that</p> <p>22 HBS uses to investigate allegations of sexual</p> <p>23 misconduct?</p> <p>24 A. Those are not --</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Did you consider alternative ways to</p> <p>2 protect interview subjects' privacy, such as</p> <p>3 redacting names but giving some substantive context?</p> <p>4 A. It's very hard in a community as small as</p> <p>5 ours to deidentify information, particularly given</p> <p>6 the limited interview list that he had provided.</p> <p>7 Q. In 2017, did the FRB gather any evidence</p> <p>8 other than what it attached as exhibits to the</p> <p>9 report?</p> <p>10 A. There were email exchanges among the</p> <p>11 members of the FRB. There were articles that were</p> <p>12 shared. I don't think all of it found its way into</p> <p>13 the final report.</p> <p>14 Q. Did the FRB in 2017 gather additional</p> <p>15 emails that it didn't attach as exhibits?</p> <p>16 A. "Gather additional emails"? What do you</p> <p>17 mean?</p> <p>18 Q. Emails not just within the FRB. Emails</p> <p>19 from others.</p> <p>20 A. There were -- I'm not sure of the right way</p> <p>21 to phrase this. So there were other issues that</p> <p>22 arose during that time that intersected with the</p> <p>23 FRB. I'm not sure if that qualifies as gathering.</p> <p>24 Q. What issues are you referring to?</p>
<p style="text-align: right;">Page 143</p> <p>1 MR. MURPHY: Objection.</p> <p>2 A. Yes, I am. And they are not HBS processes;</p> <p>3 they are University-wide processes.</p> <p>4 Q. In those investigations, doesn't Harvard</p> <p>5 provide the accused with all the evidence against</p> <p>6 them?</p> <p>7 MR. MURPHY: Objection.</p> <p>8 A. I don't know that the interview transcripts</p> <p>9 are provided. I'm not positive. I don't know.</p> <p>10 Q. In a sexual misconduct investigation, does</p> <p>11 Harvard provide the accused with the names of</p> <p>12 witnesses?</p> <p>13 A. I don't know.</p> <p>14 Q. What were the confidentiality and privacy</p> <p>15 concerns that made including the interview notes not</p> <p>16 an option?</p> <p>17 MR. MURPHY: Objection.</p> <p>18 A. The concern that individuals would not feel</p> <p>19 comfortable speaking their true thoughts and</p> <p>20 opinions for fear of retribution and retaliation.</p> <p>21 Q. Did anyone ever raise the concern that Mr.</p> <p>22 Edelman retaliated against them?</p> <p>23 MR. MURPHY: Objection.</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 145</p> <p>1 A. We had a faculty member reach out with a</p> <p>2 concern about an email -- not an email, but an</p> <p>3 article that they had read. So that would be one</p> <p>4 example. That's one that comes to mind.</p> <p>5 Q. And was that email from a faculty member</p> <p>6 shared with Mr. Edelman?</p> <p>7 A. No, I do not believe so.</p> <p>8 Q. In 2017, did the FRB interview witnesses</p> <p>9 and take notes on what they said?</p> <p>10 MR. MURPHY: Objection.</p> <p>11 A. Sorry. Say that again. In 2017?</p> <p>12 Q. Did the FRB interview witnesses and take</p> <p>13 notes on what they said?</p> <p>14 A. They interviewed witnesses, and they took</p> <p>15 notes from their conversations.</p> <p>16 Q. When the Principles and Procedures said</p> <p>17 that the evidence gathered needs to be provided to a</p> <p>18 faculty member, did you understand that to require</p> <p>19 sharing this evidence with Mr. Edelman?</p> <p>20 MR. MURPHY: Objection.</p> <p>21 A. No.</p> <p>22 Q. Why not?</p> <p>23 MR. MURPHY: Objection.</p> <p>24 A. Because of the stipulation about privacy</p>

<p style="text-align: right;">Page 146</p> <p>1 and confidentiality. The document is a full 2 document, not a single line. 3 Q. Did the FRB consider sharing that evidence 4 with Mr. Edelman? 5 MR. MURPHY: Objection. 6 A. No. 7 Q. Was it ever discussed whether or not to 8 share any of that evidence with Mr. Edelman? 9 MR. MURPHY: Objection. 10 A. Not that I remember. 11 Q. Would that evidence have been helpful to 12 Mr. Edelman in responding to the FRB's report? 13 MR. MURPHY: Objection. 14 A. I can't speak to what he would have found 15 helpful or not. 16 Q. Who made the determination of what was a 17 part of the 2017 FRB review? 18 A. Can you be more specific? 19 Q. Well, you mentioned that additional issues 20 came up that were related to the FRB. Who decided 21 which of those things would be in scope for the FRB? 22 A. To my recollection, the issues that were 23 covered were ones that unfolded in the conversations 24 between Professor Edelman and the Committee. So,</p>	<p style="text-align: right;">Page 148</p> <p>1 with that email from a faculty member that you were 2 referencing a few minutes ago? 3 A. (Reviewing document) Yes. 4 Q. And was that an email from [REDACTED] 5 [REDACTED] 6 A. Yes. 7 Q. And this email exchange relates to concerns 8 about a Wall Street Journal article that mentions 9 Mr. Edelman being paid by Microsoft, right? 10 A. It does. 11 Q. And looking at the first page, did you 12 write to Paul Healy that "It seems related to but 13 also in a sense outside the purview of the current 14 FRB mandate"?</p> <p>15 A. That is a sentence there, yes. 16 Q. What did you mean by that? 17 A. (Reviewing document) It's hard to remember 18 exactly what I was thinking at the time, and I don't 19 know that I can offer more than what I've written 20 here. 21 Q. Well, in the second paragraph you wrote, 22 "It's in effect an allegation of wrongdoing," right? 23 A. I did write that, yes. 24 Q. What did you mean by that?</p>
<p style="text-align: right;">Page 147</p> <p>1 for example, the American Airlines case was one that 2 he himself had raised in his statement and discussed 3 during the interview. 4 Q. Was there any point at which it would be 5 too late to add additional material? 6 A. Once the report was finalized, the process 7 is considered complete. 8 Q. So if someone had come forward with an 9 additional allegation against Mr. Edelman the day 10 before the report was finalized, would that have 11 been considered as part of the FRB process? 12 MR. MURPHY: Objection. 13 A. I don't know the answer. It would depend. 14 Q. Did the FRB need to tell Mr. Edelman with 15 what allegations were being investigated at a 16 certain point? 17 MR. MURPHY: Objection. 18 A. I think the commitment in the process and 19 procedures is that the Respondent, Professor 20 Edelman, will have the ability to provide a response 21 to the concerns. 22 Q. I'm going to show you what's been 23 previously marked as Exhibit 56. 24 Now, is this an email chain that started</p>	<p style="text-align: right;">Page 149</p> <p>1 A. [REDACTED] email raised concerns. He uses 2 language like "exposé." So he seemed to be implying 3 that wrongdoing had occurred. 4 Q. Was [REDACTED] email in effect an 5 allegation that Mr. Edelman might have violated the 6 Conflict of Interest policy? 7 A. I can't say what he thought it might have 8 been. 9 Q. Well, what did you understand it as? 10 A. I saw it as in the conflict of interest 11 arena, because it relates to outside work, academic 12 research, research for pay. 13 Q. And did you talk with Professor Edmondson 14 about that? 15 A. It looks as though I did. 16 Q. What did she say about whether it was in 17 scope of current FRB work? 18 A. I don't remember. 19 Q. In the third paragraph, you wrote that you 20 weren't sure -- you weren't clear whether it really 21 fell within the scope of the current FRB work to be, 22 in a sense, considering new allegations, right? 23 A. I wrote that, yes. 24 Q. Was your understanding of FRB work at that</p>

<p style="text-align: right;">Page 154</p> <p>1 7.</p> <p>2 A. Yes.</p> <p>3 Q. Who decided that those things should be</p> <p>4 included in the report?</p> <p>5 A. I don't remember.</p> <p>6 Q. Did any member of the FRB tell you why</p> <p>7 those things were included in the report?</p> <p>8 A. Throughout the process, I think the</p> <p>9 question of judgment was one that people came back</p> <p>10 to repeatedly.</p> <p>11 Q. Are you aware of Paul Healy instructing</p> <p>12 that these areas be included in the FRB case?</p> <p>13 A. No.</p> <p>14 Q. Are you aware of Dean Nohria giving that</p> <p>15 instruction?</p> <p>16 A. I don't think so, no.</p> <p>17 Q. Was there an addendum to the 2017 FRB</p> <p>18 report?</p> <p>19 MR. MURPHY: Can we go off the record for a</p> <p>20 second.</p> <p>21 (Discussion off the record)</p> <p>22 (Recess)</p> <p>23 BY MR. RUSSCOL:</p> <p>24 Q. So before the break, we were discussing</p>	<p style="text-align: right;">Page 156</p> <p>1 was?</p> <p>2 A. No.</p> <p>3 Q. Did you discuss that with anyone other than</p> <p>4 Professor Edmondson?</p> <p>5 A. This indicates it was done with Nitin's</p> <p>6 approval, so there may have been a conversation with</p> <p>7 him, and given that Paul was part of the initial</p> <p>8 exchange, there may have been a conversation with</p> <p>9 him as well.</p> <p>10 Q. Do you remember anything that Paul Healy or</p> <p>11 Nitin Nohria said about this subject?</p> <p>12 A. No.</p> <p>13 Q. Was there an addendum to the 2017 FRB</p> <p>14 report?</p> <p>15 A. Yes.</p> <p>16 Q. Did you write the first draft of that</p> <p>17 addendum?</p> <p>18 A. I assume that I did, yes.</p> <p>19 Q. How did you approach writing that addendum?</p> <p>20 A. As with the other materials, it's done</p> <p>21 based on the information available. So it's</p> <p>22 whatever is reflected in the feedback of the FRB and</p> <p>23 the input of the FRB.</p> <p>24 Q. And the addendum was prepared after</p>
<p style="text-align: right;">Page 155</p> <p>1 Exhibit 56, an email that you sent to Paul Healy on</p> <p>2 August 24, 2017. And that related to Conflict of</p> <p>3 Interest and Outside Activities; is that fair to</p> <p>4 say?</p> <p>5 A. Yes.</p> <p>6 Q. I'm showing you what's been previously</p> <p>7 marked as Exhibit 38. And Exhibit 38 is an email</p> <p>8 from Professor Edmondson asking Mr. Edelman for</p> <p>9 additional information on his outside activities,</p> <p>10 right?</p> <p>11 A. (Reviewing document) Yes.</p> <p>12 Q. Were you involved in any conversations</p> <p>13 about whether or how to include outside activities</p> <p>14 in the FRB review in between your August 24th email</p> <p>15 to Paul Healy and this September 1st email from</p> <p>16 Professor Edmondson?</p> <p>17 A. I don't remember that.</p> <p>18 Q. Did you draft this email from Professor</p> <p>19 Edmondson?</p> <p>20 A. It's quite possible.</p> <p>21 Q. Did you receive any direction on that?</p> <p>22 A. Typically I would have, yes, through a</p> <p>23 conversation or some other exchange.</p> <p>24 Q. But you don't specifically recall what that</p>	<p style="text-align: right;">Page 157</p> <p>1 Professor Edelman submitted his reply to the draft</p> <p>2 report, right?</p> <p>3 A. That's what it indicates, yes.</p> <p>4 Q. Did Mr. Edelman's reply make any points</p> <p>5 that you found persuasive?</p> <p>6 A. I would say, again, that that's not my role</p> <p>7 to determine.</p> <p>8 Q. Did you believe that any of the points that</p> <p>9 he made required changes to the report?</p> <p>10 A. That's also not my role to determine.</p> <p>11 Q. Did you believe he identified any</p> <p>12 inaccuracies in the report?</p> <p>13 A. He believed he identified inaccuracies,</p> <p>14 yes.</p> <p>15 Q. Did you believe that he had identified any</p> <p>16 inaccuracies?</p> <p>17 A. I didn't consider them at the time.</p> <p>18 Q. So I'm showing you what's been previously</p> <p>19 marked as Exhibit 77. Sorry, this one is the</p> <p>20 original. Let me switch that.</p> <p>21 A. (Reviewing document)</p> <p>22 Q. This is a draft of the addendum to the FRB</p> <p>23 report, right?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 166</p> <p>1 A. By saying that "Ensure that faculty members 2 provide sufficient information... so that readers 3 can make that judgment themselves," that speaks to 4 "directly related." It calls for erring on the side 5 of disclosure.</p> <p>6 Q. But it's framed as the FRB's understanding 7 of the intent of the policy, right?</p> <p>8 A. Yes.</p> <p>9 Q. It's not expressing what the policy 10 actually says, is it?</p> <p>11 MR. MURPHY: Objection.</p> <p>12 A. The policy does two things, which is to 13 outline definitions and then also speak to the 14 underlying philosophy, and both of those things are 15 important in that document. The philosophy speaks 16 to the intent.</p> <p>17 Q. And the FRB's addendum doesn't address the 18 definition question, right?</p> <p>19 A. The definition question? I'm sorry.</p> <p>20 Q. The question of whether the definition of 21 "directly related" required disclosures.</p> <p>22 A. Because I think their broader focus was not 23 on the answer to that specific question, but on his 24 judgment in making the decision that he did.</p>	<p style="text-align: right;">Page 168</p> <p>1 by his publications regarding Google?</p> <p>2 MR. MURPHY: Objection.</p> <p>3 A. That was not their mandate.</p> <p>4 Q. So is the answer no?</p> <p>5 MR. MURPHY: Objection.</p> <p>6 A. I don't think it's relevant.</p> <p>7 Q. Is that what the FRB did?</p> <p>8 MR. MURPHY: Objection.</p> <p>9 A. What do you mean by that?</p> <p>10 Q. Did the FRB make a determination that Mr. 11 Edelman violated the Conflict of Interest policy?</p> <p>12 MR. MURPHY: Objection.</p> <p>13 A. No. They assessed whether he used good 14 judgment in applying the policy on his work.</p> <p>15 Q. Do you recall that the final report 16 described Mr. Edelman's disclosures as inconsistent 17 regarding Google?</p> <p>18 A. Yes.</p> <p>19 Q. And in his reply, did Mr. Edelman try to 20 explain how his disclosures had been consistent and, 21 in his view, consistent with the Conflict of 22 Interest policy?</p> <p>23 A. Are you referring to the October 5th 24 document still? If you're referring to Page 37, the</p>
<p style="text-align: right;">Page 167</p> <p>1 Q. So the FRB didn't think it was relevant 2 whether or not Mr. Edelman had violated the Conflict 3 of Interest policy by failing to make disclosures?</p> <p>4 MR. MURPHY: Objection.</p> <p>5 A. Can you say the sentence again, please.</p> <p>6 Q. So the FRB didn't think it was relevant 7 whether or not Professor Edelman had violated the 8 Conflict of Interest policy by failing to make 9 disclosures that they considered adequate?</p> <p>10 MR. MURPHY: Objection.</p> <p>11 A. I'm not sure that's how they would have 12 framed the question.</p> <p>13 Q. If the FRB thought that Mr. Edelman was 14 wrong about the application of the Conflict of 15 Interest policy and the definition of "directly 16 related," why didn't it explain why?</p> <p>17 MR. MURPHY: Objection.</p> <p>18 A. That had been one of the issues under 19 discussion in 2015 as well. So the job was not to 20 try and rearticulate what constitutes "directly 21 related." Their assessment was whether or not it 22 was testing his judgment.</p> <p>23 Q. Did the FRB in 2017 make finding that Mr. 24 Edelman had violated the Conflict of Interest policy</p>	<p style="text-align: right;">Page 169</p> <p>1 paragraph there, I believe that what you're 2 referring to is his explanation.</p> <p>3 Q. Yes. Did the FRB respond to his 4 explanation for why he believed his disclosures had 5 been consistent?</p> <p>6 A. No.</p> <p>7 Q. Why not?</p> <p>8 A. I think they viewed that their perspective 9 was different, and that by including Professor 10 Edelman's description and their own work, they would 11 leave it for others to assess.</p> <p>12 Q. As we discussed earlier, did Mr. Edelman 13 point out that one of the articles that the FRB 14 cited as relating to the Bazerman lawsuit was 15 actually not related to the Bazerman lawsuit and 16 preceded it by two years?</p> <p>17 A. I'm sorry, the first part of that sentence 18 again?</p> <p>19 Professor Edelman pointed that out, yes, he 20 did.</p> <p>21 Q. Why didn't the FRB revise its report to 22 remove or better explain that reference to that 23 article?</p> <p>24 A. Again, because I think the response from</p>

<p style="text-align: right;">Page 206</p> <p>1 report in 2017?</p> <p>2 A. Yes.</p> <p>3 Q. What was that input?</p> <p>4 A. I think we looked at one of these emails</p> <p>5 already, with Amy reporting back on two changes he</p> <p>6 wanted to recommend.</p> <p>7 Q. What changes do you remember Dean Nohria</p> <p>8 asking for in 2017?</p> <p>9 A. So, from earlier today, one related to the</p> <p>10 final paragraph, and, sorry, but I've already</p> <p>11 forgotten the first.</p> <p>12 Q. Did the FRB ultimately acknowledge that</p> <p>13 Dean Nohria had input into the report?</p> <p>14 MR. MURPHY: Objection.</p> <p>15 A. I don't know what you mean by "acknowledge" in that context.</p> <p>16 Q. Did the FRB's report or addendum indicate</p> <p>17 that it incorporated feedback from Dean Nohria?</p> <p>18 A. No.</p> <p>19 MR. RUSSCOL: Mark that as the next</p> <p>20 exhibit, please.</p> <p>21 (Document marked as Plaintiff's</p> <p>22 Exhibit 214 for identification)</p> <p>23 Q. Is this email correspondence between you</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. So it was intentionally not described as</p> <p>2 feedback from Dean Nohria or Dean Healy, but sitting</p> <p>3 here today, you don't remember why?</p> <p>4 MR. MURPHY: Objection.</p> <p>5 A. If they were deemed to be nonsubstantive,</p> <p>6 my belief would be that it didn't seem relevant.</p> <p>7 MR. MURPHY: We've been going like an hour</p> <p>8 and 45 minutes, David. Can we take a break?</p> <p>9 MR. RUSSCOL: Yes. Let's take a break.</p> <p>10 We're close to done.</p> <p>11 (Recess)</p> <p>12 BY MR. RUSSCOL:</p> <p>13 Q. In 2015, what sources of information did</p> <p>14 the FRB rely on?</p> <p>15 A. The interviews, information that was</p> <p>16 publicly available -- I think, for better or worse,</p> <p>17 many people had experience of both the Blinkx and</p> <p>18 Sichuan Garden situation -- and information from</p> <p>19 Professor Edelman. I think those were the primary</p> <p>20 sources. Interviews, I think I mentioned those.</p> <p>21 Q. Can you think of any other sources of</p> <p>22 information that the FRB relied on in 2015?</p> <p>23 A. Not off the top of my head, no.</p> <p>24 Q. In 2017, what sources of information did</p>
<p style="text-align: right;">Page 207</p> <p>1 and the FRB members about the final FRB report?</p> <p>2 A. (Reviewing document) Yes.</p> <p>3 Q. And in the middle of the page, you wrote to</p> <p>4 the FRB that "the modifications reflects some after-</p> <p>5 submission suggestions from Nitin and Paul,"</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Did Paul Healy provide feedback on the</p> <p>9 final report before the addendum was finalized?</p> <p>10 A. I don't remember.</p> <p>11 Q. Did Dean Nohria provide feedback at that</p> <p>12 stage?</p> <p>13 A. I don't remember that either.</p> <p>14 Q. Why was -- why were the changes</p> <p>15 intentionally not described at reflecting</p> <p>16 suggestions from Dean Nohria and Dean Healy?</p> <p>17 MR. MURPHY: Objection.</p> <p>18 A. I don't know.</p> <p>19 Q. Did you discuss that with other FRB</p> <p>20 members?</p> <p>21 A. Not that I remember.</p> <p>22 Q. Were those instructions that you were given</p> <p>23 from Dean Nohria or Dean Healy?</p> <p>24 A. I don't remember that either.</p>	<p style="text-align: right;">Page 209</p> <p>1 the FRB rely on?</p> <p>2 A. The materials provided by Professor Edelman</p> <p>3 were a key component of it, the discussions that</p> <p>4 they had with faculty and staff were a key component</p> <p>5 of it, and as we've discussed, some of it was</p> <p>6 information that emerged along the way.</p> <p>7 Q. Meaning the email from [REDACTED] and</p> <p>8 the Microsoft-related issues that --</p> <p>9 A. That would be one example. The deeper dive</p> <p>10 into the American Airlines -- yeah.</p> <p>11 Q. And when you say "discussions with faculty</p> <p>12 and staff," does that refer to the interviews that</p> <p>13 the FRB members conducted?</p> <p>14 A. Yes.</p> <p>15 Q. Were there any other sources of information</p> <p>16 the FRB relied on in 2017?</p> <p>17 A. Not that I'm remembering.</p> <p>18 Q. Going back to the Principles and Procedures</p> <p>19 document and the reference to providing the evidence</p> <p>20 gathered to the faculty member under review, what's</p> <p>21 your understanding of what the FRB was required to</p> <p>22 share with the faculty member under that provision?</p> <p>23 A. I think it would be information that had</p> <p>24 been determined relevant to the findings. But as</p>

<p style="text-align: right;">Page 210</p> <p>1 outlined in that initial document, I always viewed 2 that to be in summary form.</p> <p>3 Q. As we went through this morning, the 4 initial draft of the Principles and Procedures 5 referred to the draft report having a summary of the 6 evidence gathered, right?</p> <p>7 A. Yes.</p> <p>8 Q. And the word "summary" was removed in the 9 drafting process, right?</p> <p>10 A. Yes.</p> <p>11 Q. But you still understood it as requiring 12 only a summary; is that your testimony?</p> <p>13 A. Balanced against the privacy and 14 confidentiality, yes.</p> <p>15 MR. RUSSCOL: I don't have any further 16 questions.</p> <p>17 MR. MURPHY: Nothing for me, thank you.</p> <p>18 THE COURT REPORTER: Mr. Murphy, do you 19 need a copy of the transcript?</p> <p>20 MR. MURPHY: Yes, please. Normal delivery. 21 (Whereupon the deposition was 22 concluded at 5:16 p.m.)</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 212</p> <p>1 Martin F. Murphy, Esq. 2 mfmurphy@manatt.com 3 June 30, 2025</p> <p>4 RE: Edelman, Benjamin v. President And Fellows Of Harvard College, Et Al</p> <p>5 6/18/2025, Jean M. Cunningham (#7309653)</p> <p>6 The above-referenced transcript is available for 7 review.</p> <p>8 Within the applicable timeframe, the witness should 9 read the testimony to verify its accuracy. If there are 10 any changes, the witness should note those with the 11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of 13 Deponent and Errata and return to the deposing attorney. 14 Copies should be sent to all counsel, and to Veritext at 15 cs-ny@veritext.com 16 Return completed errata within 30 days from 17 receipt of testimony. 18 If the witness fails to do so within the time 19 allotted, the transcript may be used as if signed.</p> <p>20</p> <p>21</p> <p>22 Yours, 23 Veritext Legal Solutions</p> <p>24</p>
<p style="text-align: right;">Page 211</p> <p>1 COMMONWEALTH OF MASSACHUSETTS) 2 SUFFOLK, SS.) 3 I, Carol H. Kusinitz, RPR and Notary Public in 4 and for the Commonwealth of Massachusetts, do hereby 5 certify that there came before me on the 18th day of 6 June, 2025, at 9:32 a.m., the person hereinbefore 7 named, who was by me duly sworn to testify to the 8 truth and nothing but the truth of her knowledge 9 touching and concerning the matters in controversy 10 in this cause; that she was thereupon examined upon 11 her oath, and her examination reduced to typewriting 12 under my direction; and that the deposition is a 13 true record of the testimony given by the witness. 14 I further certify that I am neither attorney or 15 counsel for, nor related to or employed by, any 16 attorney or counsel employed by the parties hereto 17 or financially interested in the action. 18 In witness whereof, I have hereunto set my hand 19 and affixed my notarial seal this 25th day of June, 2025. 20</p> <p>21 <i>Carol H. Kusinitz</i> 22 Notary Public 23 Commission expires 5/20/27</p>	<p style="text-align: right;">Page 213</p> <p>1 Edelman, Benjamin v. President And Fellows Of Harvard College 2 Jean M. Cunningham (#7309653) 3 E R R A T A S H E E T 4 PAGE ____ LINE ____ CHANGE _____ 5 _____ 6 REASON _____ 7 PAGE ____ LINE ____ CHANGE _____ 8 _____ 9 REASON _____ 10 PAGE ____ LINE ____ CHANGE _____ 11 _____ 12 REASON _____ 13 PAGE ____ LINE ____ CHANGE _____ 14 _____ 15 REASON _____ 16 PAGE ____ LINE ____ CHANGE _____ 17 _____ 18 REASON _____ 19 PAGE ____ LINE ____ CHANGE _____ 20 _____ 21 REASON _____ 22 _____ 23 _____ 24 Jean M. Cunningham Date</p>

54 (Pages 210 - 213)