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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

15 JOHN C. EASTMAN

16 Plaintiff,

17 vs.

18 BENNIE G. THOMPSON, *et al.*,

19 Defendants.

20 Case No. 8:22-cv-00099-DOC-DFM

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25 **Exhibit T**
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4 SELECT COMMITTEE TO INVESTIGATE THE
5 JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.

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12 INTERVIEW OF: RICHARD PETER DONOGHUE

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Friday, October 1, 2021

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Washington, D.C.

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20 The interview in the above matter was held via Webex, commencing at 10:02 a.m.

21 Present: Representatives Schiff, Lofgren, Murphy, Raskin, and Cheney.

1 ahead and interview the witnesses. Ultimately, they did. I think they interviewed
2 about a dozen witnesses who were at the facility that night. The interviews of the
3 witnesses, the review of the video ultimately revealed that there was nothing nefarious.
4 There was no evidence on the video that fraudulent ballots were smuggled into the
5 facility.

6 The observers did leave early, but that was more a matter of confusion about how
7 late the ballot counting would go on that night, and it didn't seem like there was anything
8 nefarious it to.

9 So, ultimately, in this particular example, we were able to determine that the
10 allegations were not well founded, and this is one of the examples that fed into AG Barr's
11 view that he announced publicly that there was not evidence that there was fraud
12 sufficient to change the outcome of the election.

13 Q I see. So the FBI looked into it, essentially found the allegation about fraud
14 was unfounded and that the integrity of the ballots at the State Farm Arena was not
15 infected with fraud?

16 A Correct.

17 Q Okay. Similar allegation arises in Michigan, if you could turn to exhibit 3.

18 A Yes. I have it.

19 Q Moving forward about a week, this is December the 14th. There's an email
20 from Molly Michael to Jeff Rosen, and it attaches some talking points from Antrim
21 County, Michigan. Do you recall getting this forwarded to you, Mr. Donoghue, and
22 being familiar with both the allegation and then the subsequent investigation of the
23 issues in Antrim County?

24 A I don't believe that DAG Rosen forwarded this email to me, but I did have the
25 report itself separately. And what happened in this situation was I believe, on the 13th

1 of December, which was Sunday, pursuant to some civil litigation that was going on in
2 Michigan, this group, Allied Security Operations Group, made public this report of theirs.

3 Just to back it up a minute, Antrim County in Michigan had some litigation that
4 was in State court. The Department was not involved in that whatsoever. We had no
5 involvement. But, pursuant to that State litigation, a judge allowed the plaintiffs and
6 their experts to look at the voting machines in Antrim County, and those were Dominion
7 voting machines. Dominion is widely used around the country, both their hardware and
8 their software.

9 Q And, just to stop you for a minute, this State litigation is brought -- initiated
10 by former President Trump and his -- others acting on his behalf, essentially making an
11 allegation that those ballots were somehow infected, unreliable, and that's playing out in
12 State court?

13 A I don't believe so. I think this was brought by a private citizen. I don't
14 think this was brought by the campaign. But whether that was someone who was in
15 some way allied with the President's campaign, I don't know, but from my recollection,
16 there was a private citizen who was challenging, if not the Presidential election, maybe
17 something else on that ballot.

18 But, regardless, a State court judge said that the plaintiffs could go in, look at the
19 hardware, look at the software, and do their own analysis. And, supposedly, that's what
20 produced this report from Allied Security Operations Group. That came out on Sunday,
21 the 13th. I believe this was attached to some sort of application in the State court
22 proceeding, and so it became public. It was all over the internet. There was a lot of
23 talk about it.

24 The allegation here essentially was that this forensic review indicated that the
25 Dominion machines produced a 68-percent error rate. Now, obviously, if the Dominion

1 machines produced a 68-percent error rate, we had a huge problem with the election.

2 So this came to us on Monday. I was certainly aware of it Monday. I might
3 have been aware of it on Sunday as well when it first hit the news because I was trying to
4 track these things. When Jeff Rosen received this email from the President's secretary, I
5 was up on the fifth floor in Attorney General Barr's office. So I didn't get this from DAG
6 Rosen.

7 As I was leaving AG Barr's office around 5 p.m., close to 5 p.m., he brought this up.
8 I don't know if we discussed it earlier in the day as well, but he brought it up, and he said:
9 Are you aware of this report out of Michigan?

10 I said: Yes. I hadn't read the report, but I'd seen the headlines.

11 And he said, essentially: Make sure the U.S. attorneys are aware of it. Make
12 sure we're on top of this thing. Make sure we're taking a look at it.

13 And so, as I left his office, his secretary, Theresa Watson sits right outside his door.
14 He said something to the effect of "Theresa has copies of the report."

15 So, as I left his office, I said to Theresa: Do you have copies of this Michigan
16 report?

17 She said: Yes. I have them on my computer.

18 I said: Great. Can you just send them to the U.S. attorneys in Michigan so they
19 have them.

20 And so you see that on tab 4. That's Theresa sending it out, correctly noting that
21 it was pursuant to my instructions because I wanted to make sure that the U.S. attorneys
22 in Michigan had their report, and they were aware of the allegations.

23 Q Yeah.

24 A I think --

25 Q I just want to make sure for the record I'm clear, so exhibit 4 -- you are,

1 again, anticipating exactly where I'm going -- you take this report, the ASOG report, and
2 ask that it be sent to the two U.S. attorneys for the two districts in Michigan for them to
3 evaluate and potentially pursue. Is that right?

4 A Correct. And, again, I was upstairs on the fifth floor. So I wasn't even
5 aware that DAG Rosen had received this from the White House down on the fourth floor
6 2 minutes prior.

7 Q Okay.

8 A But this report was everywhere and obviously was something we were going
9 to have to look at because if there was any possibility that there was a significant error
10 rate with the Dominion machines then that would create a lot of issues for the election.

11 Q Yeah. So tell us then whether or not this was investigated and what
12 conclusion was drawn.

13 A So AG Barr asked -- and I don't remember if this was on the 14th when I was
14 upstairs, or it was the following morning or at some other point, but somewhere in this
15 time period, AG Barr wanted Department of Homeland Security to take a look at the
16 Allied report.

17 And the reason is, within Department of Homeland Security they have an agency
18 called CISA, C-I-S-A, which is the cyber infrastructure -- I'm sorry, Cyber and Infrastructure
19 Security Agency, and they have expertise in election hardware and software. They
20 provide support and assistance to States and localities in using and qualifying election
21 hardware and software. So they're the Federal government's experts in this.

22 AG Barr wanted them to take a look at this report and to report back to him as to
23 whether there could be any truth to this. Obviously, on its face, a 68-percent error rate
24 is very, very unlikely. Hard to believe that that's true, but he wanted them to take a look
25 at it and give them his feedback.

1 They did that. They sent several people over within a day or two to brief the AG
2 and others on what their conclusions were with regard to the Allied report. I was there
3 for that briefing. I think there were maybe four people that came over from CISA.
4 They briefed Attorney General Barr, Deputy Attorney General Rosen, Director Wray, I
5 believe Deputy Director Bowdich, myself, and there were probably two or three other
6 people in the room.

7 We went up. We heard them out. And they said essentially that the Allied
8 report was untrustworthy, that it drew erroneous conclusions for a variety of reasons,
9 one of which I remember being that they were using the wrong version of software, that
10 the Allied group was using a version of software that was not actually being used in
11 Antrim County. There were other explanations as to why this 68 percent error rate was
12 not correct.

13 And so Attorney General Barr asked and produced what he called a white paper
14 explaining why the Allied report was wrong. They ultimately produced something, I
15 think it was on December 18th, that was forwarded to me by Ken Cuccinelli at DHS. I
16 forwarded that to Theresa, AG Barr's secretary, and asked her to provide it to AG Barr.

17 But the outcome of all of this was that CISA looked at it, and they concluded that
18 the Allied report was wrong. And, in fact, again, pursuant to that State litigation that
19 was underway, there was a hand recount done in Antrim County. And so the hand
20 recount removes the software, removes the hardware from the equation, and the hand
21 recount was almost identical to the machine count. And so, for us, that made it clear
22 that the Allied report was wrong and that the Dominion voting machines and Dominion
23 voting software was reliable and producing reliable results.

24 Q Exhibit 5 in your binder, if you could take a look, is that the white paper -- it
25 starts with an email from Ken Cuccinelli to you, but is attached this very -- this one-page

1 document. And is that, Mr. Donoghue, the white paper that Attorney General Barr
2 asked the Homeland Security folks to produce?

3 A Right. I think Attorney General Barr in asking for a white paper was hoping
4 for something more substantive and detailed, but they produced this one-pager with
5 these bullet points, which was sufficient and made the point.

6 Q And, looking at the report, it says at the top: Those records were reviewed
7 yesterday and recounted by hand. This verification, independent of the software and
8 hardware systems in question, returned results that indicates the consistency of the
9 systems, with a 12-vote difference from the previous final tally. That reflects what you
10 said earlier about the fact that hand recount confirmed that the accuracy -- essential
11 veracity of the machine count?

12 A Correct. And although it changed, I believe, 12 votes, when you added
13 them all up within Antrim, I believe it was actually only a one-vote swing ultimately.
14 There were different election districts, and so, when you compiled all the election
15 districts, yes, there was a difference of 12 votes, but in the end, they canceled each other
16 out to the extent that there was only a one-vote difference, and there were about 15,000
17 votes cast in the county.

18 Q Yeah. So you went from initially an ASOG report that suggested, oh, a
19 68-percent error rate, we may have a real problem, to a hand recount that actually
20 confirmed within 1 vote out of 15,000, the results were accurate?

21 A Right. And I did the math, and that's an error rate of .0063 percent, which
22 is well within the tolerance for election equipment.

23 Q And certainly insufficient to cast doubt on the overall results of the Michigan
24 election?

25 A Correct.

1 Q All right. Now, did this come up -- between the time that you were -- that
2 you talked to Attorney General Barr about the report and when you got the white paper
3 from Homeland Security, did this come up in a meeting with the President in the Oval
4 Office on December the 15th?

5 A Yes, it did.

6 Q All right. So let's talk for a minute about that meeting. At this point,
7 December 15th, Attorney General Barr is still in place, correct? He's announced that
8 he's resigning, but he has not yet resigned?

9 A That's right.

10 Q How did it end up that you went to a meeting at the White House on
11 December the 15th? Tell us the circumstances that gave rise to that meeting.

12 A I don't remember exactly how it was first communicated to me. I'm pretty
13 sure it came from the DAG himself, that he came next door and said, you and I need to go
14 over to the White House this afternoon. We had to get a COVID test in advance. So
15 that was part of the procedures. We had to get over there in time to get a COVID test at
16 the Executive Building next door. I forget what time the meeting was. It was
17 mid-afternoon of some sort. And we traveled over there together. And DAG Rosen
18 and I participated in the meeting in the Oval Office with a number of other people, and
19 the Antrim County reports and allegation were discussed.

20 Q Who else was present, Mr. Donoghue, at that meeting?

21 A I believe it was chief of staff, Mr. Meadows, White House Counsel Pat
22 Cipillone, I think Deputy White House Counsel Pat Philbin was there, DAG Rosen, myself,
23 someone from DHS named Chad Mizelle. I forget what his position was at that point.

24 Shortly after the meeting started, the chief of staff said that he had to work on
25 something else, and he excused himself and he left. Also, shortly after the meeting

1 started, Ken Cuccinelli from DHS showed up.

2 Q Okay.

3 A So there was swap-out there, but I think that was everyone in that meeting.

4 Q Okay. And, at this point, Mr. Donoghue, had DHS, the unit -- I don't recall
5 the acronym, the unit that examined the machines, had they done that work, or was that
6 work in progress at this time?

7 A I think it was in progress at this point.

8 Q All right. Tell us about the discussion. What did the President say about
9 the ASOG report or Antrim County, Michigan?

10 A So the President obviously was very much aware of the report. He was
11 saying: Do you guys know about the tripped cord? Have you heard about this? This
12 is a disaster. This is unbelievable, a 68-percent error rate. How could this be? He
13 was going on about the Dominion machines and the Dominion software. He correctly
14 noted that this stuff was widely used across the United States.

15 And, at that point, the hand recount had not been completed, and we did not
16 have the feedback from CISA, C-I-S-A. And so we essentially said to him, Mr. President,
17 we are aware of it. Yes. We all agree that, if there's a 68-percent error rate with
18 Dominion voting machines, that we have a huge problem on our hands. But let's not
19 jump to conclusions. Let's find out if this is accurate.

20 And, in a way, luckily, the hand recount had already been ordered and I think was
21 already underway. And so I recall Ken Cuccinelli saying: Look, there's a hand recount
22 underway. It's going to take 48 or 72 hours. When that's done, we will know because
23 that's the gold standard, and we'll compare the hand recount results to what the machine
24 said, and we'll know what the error rate really is. And, if it's 68 percent, you know, then
25 we'll figure it out. But, right now, let's not get ahead of ourselves.

1 And DAG Rosen and I were essentially saying the same thing: Let's not get ahead
2 of ourselves. We're aware of the report, and just sort of wait to see what the results of
3 the hand recount are. And the President accepted that. He was fine with that, but he
4 was clearly very worked up about this claim that there was a 68-percent error rate.

5 Q I see. So you and DAG Rosen explained to him: We're looking at it.
6 We're going to -- this hand recount is going on, and CISA is looking at it, and we'll see,
7 right. We'll look into this claim of a 68-percent error rate?

8 A That's right.

9 Q Okay. Did he raise any other election-related issues during that meeting?

10 A He may have. I don't specifically remember, and I didn't take notes in that
11 meeting. Throughout this time period, from the 15th through January 3rd, the
12 President raised a number of these issues. And, when he would raise them, it was
13 generally in the context of, are you guys aware of this? Did you hear about the
14 Michigan report? Did you hear about this in Pennsylvania? Did you hear about that in
15 Georgia? And we would generally just say, "Yes, sir, we're aware of it, thank you," just
16 to check the block that, yes, we were aware without giving much detail in terms of what,
17 if anything, we were doing about it.

18 So he may have raised other things, but if he did, it certainly was secondary to
19 Antrim County because this was the crux of the conversation. A report had been issued.
20 The report claimed 68-percent error rate. That obviously had implications far beyond
21 Antrim County, far beyond Michigan, and we needed to just find out if this could be true
22 or not.

23 Q I see. So the main topic of conversation, perhaps not exclusive but main,
24 was this ASOG report and the allegations coming from Michigan?

25 A Right.