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COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: JAMES JOSEPH MURRAY IV

Thursday, January 31, 2008

Washington, D.C.

The interview in the above matter was held at 2157
Lounge, Rayburn House Office Building, commencing at 10:08

a.m.

Appearances:

For COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

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Mr. Gordon. This is an interview of James Murray conducted by the House Committee on Oversight and Government Reform. This interview is part of the committee's investigation into allegations of steroid use by Major League Baseball players. Mr. Murray, thanks for joining us today. Could you please state your full name for the record?

Mr. Murray. James Joseph Murray IV.

Mr. Gordon. My name is Michael Gordon, and I am majority counsel for this interview. I am accompanied by Brian Cohen, Steve Glickman, Phil Schiliro, also with the majority staff. With the minority staff, please identify yourselves for the record.

Mr. Ausbrook. Keith Ausbrook.

Mr. Castor. Steve Castor.

Ms. Safavian. Jennifer Safavian.

Mr. Gordon. Before we start with the questions, I want to go over some standard instructions that we provide when we do these interviews. First I'm going to ask you questions regarding the subject matter of the committee's inquiry for up to an hour. When I'm finished, then the minority staff will have the opportunity to ask you questions for up to an hour and then there may be additional rounds of questioning after that, alternating between the

majority and minority staff until we're complete.

Mr. Murray. Okay.

Mr. Gordon. The reporter will take down everything you say and make a written record. It's important therefore to give verbal audible answers because the reporter can't record nods or gestures.

Mr. Murray. Right.

Mr. Gordon. You have the right to have an attorney present, and I see you brought a couple people with you today. Could your counsel please identify yourselves?

Mr. Finder. Lawrence Finder, from the law firm of Haynes and Boone?

Mr. Stanfield. James Stanfield, with the law firm of Haynes and Boone.

Mr. Gordon. You are required to answer questions from Congress truthfully. If you knowingly provide false testimony, you could be subject to criminal prosecutions for making false statements or related offenses. Do you understand that?

Mr. Murray. Yes.

Mr. Gordon. Is there any reason that you are unable to provide truthful answers in today's interview?

Mr. Murray. No.

Mr. Gordon. Before we start, is there anything you want to ask us?

Mr. Murray. Not really.

Mr. Finder. If he needs to go to the restroom, I have told him to feel free to bring that up.

Mr. Gordon. If ever you need a break.

Mr. Castor. Typically we do that on the hour.

Mr. Murray. Then it fits my schedule. That's fine.

Mr. Ausbrook. Or if you need a break for any other reason.

Mr. Murray. Thank you.

EXAMINATION

BY MR. GORDON:

Q I would like to ask you a few background questions. Where are you currently employed?

A Hendricks Sports Management.

Q And what's your job there?

A I'm an agent.

Q And how long have you been an agent at Hendricks?

A Since 2004.

Q And you know, generally speaking, what are your job responsibilities there as an agent?

A Various job responsibilities. I'm also a minority owner as well. I own [REDACTED] of the company. Anything from client servicing, which is a field where I specialize in, I guess you could say, to equipment deals, meaning if you see baseball players wearing Nike shoes or Wilson

gloves, I'm responsible right now for 100 players' equipment deals. Communicating with personnel with the teams, all Major League teams and all of our clients. Negotiating marketing contracts, that would be endorsements or appearances or autograph signings. I have been part of some contract negotiation with regards to arbitration and free agency, but never really led -- well, I'm sorry. I have done -- I have negotiated a couple free agent contracts, but nothing like you -- nothing that would be really reported in the paper, nothing of substantial interest.

Q Are you an attorney?

A No, I'm not.

Q What do you mean by client servicing or do you have direct contact with your clients?

A Yes.

Q And what kind of services do you facilitate for them?

A Well, like I said, really right now at this stage of my career and what our company provides is professional service. We pride ourselves on being professionals. So our company provides tax service. Our company provides marketing. Our company provides contract negotiation and working with -- or keeping communications with the team. So those are basic services. But to give you an example, you know a Minor League baseball player taking a 16-hour bus

ride someplace that needs someone to talk to, they talk to me. We're friendly as well. I want to know how they're doing, how they're feeling mentally and what not.

Q So let me ask you this, who do you report to? Who's your boss in the firm?

A Randy Hendricks.

Q And do you interact pretty regularly with him?

A Yes.

Q Also with Alan Hendricks?

A Yes.

Q Before you joined Hendricks in 2004, were you a sports agent?

A I'm not sure. I don't remember exactly when I was made an agent per se. Really all it is is a certification process with the Major League Baseball Players Union. It may have been 2003. I'm not sure.

Q But did you serve in a similar capacity at another firm before you joined Hendricks?

A I was with a firm called SFX Sports. And at SFX my responsibilities were -- I had more to do, but they weren't very important duties. I started out as an intern, which basically I did a lot of research and -- but at SFX we had -- this was a company that represented 1,000 professional athletes in all -- in every sport, so tennis, hockey, baseball, golf, every sport. And I worked in the

marketing department at SFX.

I'm sorry, do you want me to continue? Or --

Q No. That's fine. That's great. I appreciate that. That's fine for now. I want to jump back to your current position if I could. And the Hendricks firm represents Roger Clemens and Andy Pettitte, is that correct?

A Right.

Q And do you have a role in the representation of those two players?

A Yes, I have a role.

Q Do you -- can you describe what that is? What have you done? What's your function with respect to Mr. Clemens?

A Well, my specialty within our firm is marketing and any endorsement side or the off-the-field, meaning any kind of income off the field. So I do a lot of the marketing. I'm also -- I've gone to appearances with all of our players. So if they were to do an appearance I would go there, make sure everything runs smooth or count autographs if it was an appearance that required autographs.

I'm sorry. I kind of lost my train of thought.

Q Are those types of things you have done with Mr. Clemens?

A Yes.

Q Can you think of any other examples, interactions you have had with him as it relates to your job?

A There's a lot. I've interacted with him quite a bit. But most of my interaction with him is with regards to any kind of marketing he would do or appearances or I've even gone to a golf tournament with him.

Q So you spent a good -- is it fair to say you spent a good amount of time with Mr. Clemens?

A Sure.

Q Is the same generally true speaking of Mr. Pettitte?

A Sure.

Q Do you know whether the Hendricks firm ever represented Chuck Knoblauch?

A I believe Chuck Knoblauch was represented by SFX.

Q When you worked with SFX, did you ever work with Mr. Knoblauch?

A No.

Q Do you know who Brian McNamee is?

A Yes.

Q When did you meet him?

A I don't recall.

Q Give me a rough guess, a year, couple of years?

A A few years. Probably around 2003.

Q Do you remember how you met him?

A No, I don't.

Q How well do you know him?

A Not very well.

Q Well, since you met him around approximately 2003, how often do you speak with him? And in what context? What's the nature of your interactions with him?

A Well, he -- in doing equipment deals for players, players are given an allotment from those specific companies. So if you're a baseball player and you're signed up with Louisville Slugger, you get a Louisville Slugger glove and then you get a certain allotment of merchandise to use. So I can remember interacting with McNamee with regards to him wanting equipment from -- like Roger's Louisville Slugger deal. Or I can remember interacting with him with regards to booking a plane flight, which is also something that I did frequently for some of our clients, and their people that were associated with them.

Q So you would help Mr. McNamee with his travel arrangements when he was traveling with Mr. Clemens, is that the kind of thing you would do?

A Yes. Yes.

Q And you mentioned the equipment would be another reason why you'd have to interact with him or McNamee --

A I can't really remember specific occasions where that occurred but maybe it was through Roger or through Andy, hey, get this for McNamee or book this flight for McNamee.

Q Was your understanding that McNamee was Roger's

personal trainer?

A Yes.

Q And so he would contact you directly with requests like that?

A I can't remember.

Q With the travel --

Mr. Finder. Let him finish the question.

Mr. Murray. Sorry.

BY MR. GORDON:

Q Did he ever contact you directly with requests for assistance?

A I can't remember specifically.

Q Other than the travel type of thing you mentioned and equipment, any other types of issues that you would assist Mr. McNamee with or that you would talk to him about?

A He did from time to time send some e-mails that I couldn't really figure out.

Q Can you elaborate on that a little bit?

A Well, I remember in 2003 -- this isn't regards to the e-mail. This is with regards to some other interactions I've had. In 2003, I don't recall how it was brought to our attention but there was an advertisement in a -- it was either -- it was either an advertisement like a print advertisement itself or it was a magazine of some sort. And there was an advertisement that used Rogers Clemens -- a

picture of Rogers Clemens, Andy Pettitte and Brian McNamee, and it listed Brian McNamee as a Ph.D. I remember that. Part of my job as a marketer for baseball players was to secure endorsement deals that paid those baseball players for using their name or likeness. So I remember it being brought to my attention that this ad was being used. I remember getting involved somehow. I don't remember exactly how it occurred. But I remember ultimately we told -- or I told the president of the company that this picture cannot be used. And I believe that McNamee was on the board of this company or something. I can't recall exactly what the details were. So that's one specific --

Mr. Schiliro. This is when you were with SFX?

Mr. Murray. Yes. Yes.

BY MR. GORDON:

Q When you were with SFX, you had Rogers Clemens as a client at that time?

A Yes. I didn't personally. Our company represented Rogers Clemens at that time.

Q What were the years that you were with SFX?

A I believe I started in 2000, towards the end of 2000, like November of 2000 or September. I'm not really sure. I started as an intern. I was under their marketing umbrella. I believe I was with the marketing department until about 2003, when I was then brought under the baseball

department because I was working for a lot of the baseball agents that were there. There was -- I don't know. There had to be 50 agents within this one company of SFX that I interacted with. I didn't interact with the players as much as I interacted with the agents who then interacted with the players.

Q Who was -- so which of those agents do you know was responsible for Rogers Clemens at SFX?

A Randy Hendricks.

Q Do you know anything about the history of how SFX -- how Hendricks came to leave SFX and go to Hendricks Management? I mean are they the same company doing different -- with a different name or was there a merger or do you know the history there?

A Hendricks Sports Management sold the company to SFX. SFX was a company that went out and bought several different agencies, sports agencies. They also did entertainment and what not as well. So I don't remember the exact year. But Hendricks was sold to SFX. I was part of -- so Hendricks was sold to SFX as a company. Hendricks was a company for years before they were sold to SFX. I came in under a company called ISI, which was a marketing company. They didn't do contracts for players for their on-field activities. They did contracts for their off-field, like their deals with Pepsi Cola or shoe or glove -- I don't know

that we got into that stuff then. But -- so then Randy and Alan Hendricks, their contracts were up I believe at the end of 2003, and they left SFX to recreate Hendricks. And they asked me to be a part of their -- their revival, I guess, of their company. And I jumped at the opportunity because they're both the best in the business.

Q Okay. So is it -- is 2000 the first time in which you were working in a firm that was representing Clemens? Or did you have any prior experience before 2000 working with Clemens?

A No. No, I don't.

Q But as of 2000 and continuously since then you along with the Hendricks have been representing Clemens, is that right?

A I wouldn't -- well, no. I wouldn't say that's right.

Q How is that wrong?

A The company represented a thousand athletes. So I didn't know Rogers Clemens until -- I don't know when I even met Rogers Clemens. It probably wasn't even until late 2001. So I wouldn't say I would be representing Rogers Clemens. I was an intern. I didn't associate with many -- I worked on many athletes' off the field activities. But working on it would consist of calling, you know, 100 baseball card shops to try to get a player \$1,000 to go sign

baseball cards. I'm using baseball as an example, but it was with every sport.

Q So you were sort of the low man during your years at SFX and worked your way up?

A Right.

Q A bigger role now. But your personal experience with Rogers Clemens you think began around 2001 when you first met him?

A I first met him. But I don't know that I really interacted with him that much then.

Q And then how has that changed over time? Can you give me a sense of how that compares to this year and last year?

A We've done a lot together. I did several marketing deals for him. But again, under the umbrella of who I was working for.

Q Right. I guess this question is more about your directly interacting with Mr. Clemens. So I understand you might be working on matters that are important to him that, you know, either your current or your former employer working on it. But if we focus on let's say last calendar year, how often would you talk to Mr. Clemens? Is it once a month, once a week, more than that?

A It could be -- I could go 2 weeks without talking with him or I could talk to him every day for a week. It

depends on what was going on.

Q Have you ever personally worked out or trained with Brian McNamee?

A No.

Q Do you have any knowledge of the training services that he provides to Mr. Clemens?

A No, not really.

Q I mean, you've never witnessed it firsthand?

A I've seen them work out a couple of times.

Q Where is that?

A An example I could just -- I could recall is Sports Illustrated was doing an article on Roger, and I was there to kind of just make sure that the reporter got there and the pictures were taken. And sat there and watched the two of them work out. And I think there was another instance where Major League Baseball Productions did a kind of a behind the scenes on Roger's workout.

Q But it wasn't -- it sounds like it wasn't typical for you to accompany Clemens during his workout sessions with McNamee, is that right?

A No. Not at all.

Q Do you know how McNamee was paid? Do you know whether the Hendricks firm had any role in making payments to Mr. McNamee?

A No.

Q No, you don't know? Or no, the Hendricks firm didn't have a role?

A I don't know.

Q From your experience, is there anyone else at the Hendricks firm who would have had -- who has had more interaction with Brian McNamee than you have?

A Sure. With Brian McNamee?

Q Yeah. With Brian McNamee.

A No.

Q Do you know whether you would have been the only point of contact that McNamee reached out to within the Hendricks firm?

A I don't know.

EXAMINATION

BY MR. SCHILIRO:

Q When the change happened in 2003, 2004, how many people moved over to the new firm? It sounds like at least three of you.

A Yes.

Q Were there more than that?

A Yes.

Q How many more?

A I believe it was a support staff. I don't remember exactly how many people.

Q Basically three principals?

A And there was a CPA as well.

Mr. Finder. May I interject something? You said three principals. He wasn't a principal. He was an employee.

Mr. Schiliro. He wasn't there as an administrative staff or support role. He had a substantive role?

Mr. Finder. He became principal later. A small percentage. Feel free to ask him. I know I'm not testifying. I just wanted to clear it up.

EXAMINATION

BY MR. COHEN:

Q Do you know if McNamee had any contact with anyone else besides you at Hendricks?

A No.

Q You don't know?

A No, I don't know.

Q You are not aware of any contacts with individuals at Hendricks?

A No. I'm not aware. I don't recall.

BY MR. GORDON:

Q A little while ago you mentioned something about e-mails that you thought were unusual that you received from McNamee. Were these e-mails about that ad that you were talking about? Or was it about a different subject?

A I'm sorry. I got a little side tracked. It was e-mails like, I'm losing -- I can't remember exactly how

they came to me, whether it was from Andy or Roger. Like I'm losing clients. I want to sue the L.A. Times. It was all related -- it was somewhat related to some of the media that was brought out about -- I think it was about his -- the St. Petersburg incident, which I didn't know too much about. But I can't really recall specifically. Just like wanting things too. Because I did have the contacts with the equipment companies, it was always, hey, could you do this or could you do that? But I can't remember specifically if he ever asked me or if he asked Roger or Andy. Or if he asked -- I think it would only be Roger or Andy.

Q But you remember him complaining to you about losing clients?

A I don't remember him complaining specifically to me.

Q But you remember hearing about that complaint?

A Yes.

Q It may have been to you or it may have been through somebody else?

A Yes.

Q And what was the context of that? Why was he complaining about losing clients? Do you have an understanding?

A I don't really remember. I don't remember.

Q But you mentioned there were press reports. Are you

referring to press reports that linked him to steroids involvement?

A I don't know.

Q You mentioned the L.A. Times. I know that the L.A. Times has published reports that mentioned McNamee in 2006. Does that refresh your recollection about the context for these communications?

A No. It could have been. I don't know. I don't remember.

Q What do you remember him saying about the L.A. Times?

A He was going to sue the L.A. Times. I do remember him saying that.

Q But you don't --

A I don't remember what context, if it was an e-mail if it was a phone conversation. I don't know. I never knew what to think.

Q Do you have any recollection of when you got those e-mails?

A No.

Q Do you still have them?

A I'm sure someplace, yeah.

Q Have you seen them recently?

A No.

Mr. Finder. For your purposes, may I -- you may want

to inquire about whether it's on the company computer or if he has a personal computer. I'm assuming you are thinking about getting them later. If you want to ask about that.

BY MR. GORDON:

Q Do you know where they are located, where these e-mails from McNamee are located?

A I don't.

Q I'd like to ask you a few questions about conversations you may have had with Mr. McNamee about the subject of steroids or human growth hormone, which I'll also refer to here as HGH, and any other banned substance in baseball some players have been alleged to have used.

And my first to just get a sense, if I could, of a chronology of how many times such conversations took place. So I'll ask the general question first. Have you ever had a conversation with Brian McNamee about steroids, HGH or other illegal performance-enhancing drugs?

A Yes.

Q How many times have you discussed that with him?

A One.

Q And when was that?

A It was on -- it was during baseball's winter meetings when I was in Nashville.

Q What year was this?

A This past year. 2007. Sorry.

Q Do you remember the date?

A No, I don't remember the date.

Q We've received information about a conversation you had with him in early December. December 5, I believe. Does that sound accurate?

A Sounds accurate. Yeah. Beginning of December.

Q Other than that conversation, have you ever communicated with Brian McNamee about the subject of steroids or HGH?

A No. Not that I can recall.

Q According to information the committee received, Mr. McNamee said he met with you several years ago to discuss the topic of steroids, specifically Roger Clemens's use of steroids and the possibility that Clemens might have failed his 2003 Major League Baseball drug test. Are you aware of those statements that have been made about the possible meeting?

A Not specifically. But I read some things in the newspaper.

Q Have you ever had a meeting with McNamee before December 2007 in which he discussed Clemens's use of steroids?

A No.

Q McNamee said he met with you in a Starbucks store in Manhattan. Does that refresh your recollection at all? Did

you ever meet with McNamee in a coffee shop?

A Yes, I did.

Q When was that?

A I don't remember. I have no recollection of when that was.

Q Can you give me an approximate year?

A I know he said 2003 or 2004. I don't -- I don't recall. It could have been.

Q How many times have you met with him in a coffee shop in New York?

A That's the only time I can remember.

Q So just one time and you are not sure what year it was? You think it was 2006?

A No.

Q You think it was before that?

A Yes.

Q Do you think it was 2005?

A It could have been. I don't know. I don't remember.

Q So you have no idea what year it was in but you think it was before 2006?

A Yes.

Q You couldn't swear that it was before 2005. You're just not sure?

A I'm not sure, no.

Q Why did you meet with him? What was --

A My recollection of the meeting is he was asking for a job. And I remember him talking about making a percentage of players that he would train. He also brought up something about having knowledge to drug test results.

Q Can you tell me more about that? What was he talking about with respect to drug test results?

A I don't recall.

Q What do you recall him saying?

A I remember him saying something about drug test results, having knowledge of the drug test results. I don't recall -- I couldn't tell you when the conversation happened or -- I don't remember much about the conversation.

Q Did you -- did you understand what he meant when he said that?

A No.

Q Did you ask?

A I don't remember.

Q Was it your impression that he was talking about his own drug test he had taken or that someone else had taken?

A I don't remember.

Q Did he ever mention Rogers Clemens?

A No.

Q In connection with this drug test he was talking about?

A I don't recall him saying anything about Rogers Clemens.

Q Why was he raising that issue with you?

A I have no idea.

Q Did he ask you to do anything?

A Not that I remember.

Q Did he ask you to convey any information to anybody?

A Not that I remember.

Q So is it fair to say the full extent of your recollection about the conversation was that he said something about drug test results, but you don't remember any more of the substance of that conversation?

A It was about a job.

Q No. The job sounds like a sort of separate topic. Is that right? Are these linked in some way?

A That's what I remember about the meeting. So I would say that they're linked.

Q Okay. So he was asking you whether he could get a job at the Hendricks firm?

A I don't remember if it was the Hendricks firm or if it was SFX. It all depends on when it occurred.

Q And you don't remember where he was asking to be employed?

A No.

Q And what specifically was he asking for?

A A percentage. I remember him saying a percentage. In other words, and I'm just -- I don't remember him specifically saying this. But like a player signs a contract and our firm makes a percentage or the whole company makes a percentage. So if he worked that player or trained that player, he would make a certain percentage of that percentage. Which doesn't work in our business. We don't employ trainers.

Q Did you tell him that?

A I don't remember.

BY MR. SCHILIRO:

Q Why don't you tell us specifically everything you remember from the beginning of the conversation to the end of the conversation?

A I don't remember the conversation very well. I don't remember what time of year it was.

Q Just tell us everything you can remember of the conversation, the best to your recollection.

A I remember him bringing up --

Q Start from the beginning to the end.

A All right. I remember him talking about a job with our company. I remember him talking about a percentage and then I remember him talking about knowledge of drug test results. And that's all I remember.

Q You can't remember the transition from the one to

the other?

A No.

Mr. Schiliro. We'll go back to you, Mike.

BY MR. COHEN:

Q At the time you were working with SFX or were you working with Hendricks?

A At the time right now?

Q At the time you had the conversation with Mr. McNamee?

A I don't remember.

Q Were you -- when you were with SFX, were you based in New York?

A Yes.

Q So the meeting -- do you remember how this meeting was set up? Did Mr. McNamee call you and ask for the meeting or did you call him and ask for the meeting?

A I don't recall how the meeting was set up.

BY MR. GORDON:

Q This was out of the ordinary, right? You say this is the only meeting you ever had with him in New York. So for you to meet with him in New York was unusual. Is it fair to say he contacted you to set up the meeting?

A I don't recall.

Q You're aware of obviously the current controversy regarding illegal use of performance-enhancing drugs in

baseball?

A I'm sorry. Yes.

Q And you are aware that baseball's been testing for substances for the last several years, starting in 2003 with the survey test, is that correct?

A Yes.

Q So when someone talks to you, someone like McNamee talks to you about a failed drug test, does that trigger in your mind baseball's drug testing program? I mean, was that what you considered he was talking about?

A I don't remember what I thought.

Q But that wouldn't have set off alarm bells for you -- of concern about drug tests regarding Major League Baseball players, is that what you are saying? That topic wouldn't sort of cause you any concern if someone were to raise the idea of drug test results?

A At that time, I -- I don't know if it would. I don't -- I was --

Q You don't remember being concerned by that at the time. Is that right?

A No.

Q He mentioned knowledge of drug tests. But your recollection is that didn't cause you any concern or cause you to be curious about what he was talking about?

A I didn't know where he was coming from.

Q You didn't ask to learn more, is that right?

A Not that I recall, no.

Q Did you take any notes during this meeting with Mr. McNamee?

A I know he said I did. I may have. I don't remember specifically.

Q Have you looked for them?

A Yes.

Q Have you found anything?

A No.

Q In this meeting with Mr. McNamee were any other topics discussed other than his request for a job and his mention of knowledge of drug test results?

A Not that I remember.

Q Was Rogers Clemens discussed?

A Not that I remember.

Q Andy Pettitte?

A Not that I remember.

Q Did you report back to anyone in your company about this meeting you had had with Mr. McNamee?

A I talked to Randy Hendricks about it.

Q What did you tell him?

A I told him that McNamee was asking -- I don't remember specifically what I said. But I told him that McNamee was asking for a job and talked about a percentage

and he brought up something about knowledge of drug test results.

Q What did Randy say when you told him about McNamee's statement about drug test results?

A I don't remember specifically what he said but something to the effect like he's a nut or he's crazy, something like that. So --

Q Anything else?

A Not that I remember.

Q Did you talk to anybody else about this meeting with Mr. McNamee?

A Not that I remember.

Q So Randy Hendricks was the only person you discussed this meeting with?

A I believe so.

Q Did you ever discuss with anyone else what the topic of failed -- of knowledge of drug test results and McNamee and what he had told you about that?

A Not that I -- not that I remember, no.

Q Did you ever follow up with McNamee to understand better what he meant by knowledge of drug test results?

A Not that I recall.

Q Have you ever talked with McNamee at any time since then about drug test results?

A Not that I recall.

BY MR. SCHILIRO:

Q Wouldn't a failed drug test have an impact on marketing?

A A failed drug -- yeah, I would think it would.

Q So the nature of your work, that would be a relevant consideration as you are putting together contracts and deals for athletes if there was a failed drug test?

A Yes.

Q So in the normal course of doing your business, is that something you would pay attention to?

A Yes. Now?

Q Then.

A Back then I was doing very little in -- I was very low on the totem pole, whether I was with SFX or with Hendricks. So if -- from --

Q Just as a clarification there, when you moved with Hendricks, it wasn't a big firm anymore. There were only three people in a substantive position so it wasn't quite being as low on the totem pole as you were at the other company, would that be right?

A That's correct.

Q So in the position you had, if someone said something to you that could affect marketing, which is the area you are focused on, due diligence doing your job, that's something you would pay attention to normally?

A Yes.

Q Okay. But in this case you didn't?

A I'm not understanding your question.

Q In this case, you didn't?

A I didn't pay attention?

Q You had someone come to you and say something that you recall about a drug test. You've told us you can't remember specifically what. But it had to do with a failed drug test. And according to your testimony, it doesn't sound as if you did any follow up except mention it to Mr. Hendricks?

A Right.

Q You didn't pursue any other questions, you didn't do any other due diligence to try to find out more about the matter?

A No. Not that I remember.

Q From information the committee's received, Brian McNamee contends that he had a meeting with you in New York in which he discussed the 2003 drug test that Rogers Clemens took. And the fact that there's a chance he may have failed that test due to prior steroid use. Knowing that, does that refresh your recollection at all about what happened in this meeting with Mr. McNamee and why he might have been discussing knowledge of test results with you?

A No.

Q Mr. McNamee also said that at the time you asked several questions about what the source for Roger Clemens's steroids was or who the source was. Do you remember anything like that?

A No.

Q Did you ever discuss that with Mr. McNamee?

A No.

Q The source for Mr. Clemens's steroids?

A No. Not that I remember. But I think I would remember something like that.

Q He told you at the time that he identified someone named Kirk Radomski and this is at the time of the meeting with you. Did you ever discuss Kirk Radomski with Mr. McNamee?

A No.

Q Have you ever discussed Mr. Radomski at any time with Mr. McNamee?

A No. I'm sorry. I believe I -- yes, I have. In the conversation that we had in December.

Q At any other time have you discussed Mr. Radomski with Mr. McNamee?

A Not that I remember.

Q Okay.

BY MR. COHEN:

Q Did you ever discuss Mr. Radomski with anyone in the

Hendricks firm aside from the December 5 -- prior to the December conversation?

A Well, I remember reading Mr. Radomski's name in the newspaper. I can't remember specific conversations. But I remember reading it like this guy was in the Mets clubhouse years ago before I was probably in high school. So --

Q Okay. Prior to Radomski's name being in the papers with regard to that -- his prosecution, did you ever discuss Radomski with anyone in the Hendricks firm?

A No. Not that I remember.

Q I'd like to ask you a few questions about this conversation in December that you had with Mr. McNamee. If I understood you correctly, there was only one time in December that you've ever discussed Roger Clemens' steroid use with Mr. McNamee. Is that right? Just one occasion?

A Correct.

Q How did -- was this a phone call? Or was it a meeting?

A The conversation in December?

Q Yeah.

A It was a phone call.

Q And do you remember what the context was for it? How was that call initiated?

A I believe he sent me a text message saying to call him on a hard line or something like that.

Q Did the text message say anything else?

A I don't remember.

Q Have you seen that text message recently?

A No.

Q Do you still have it?

A I don't know.

Q So what happened next after you received the text message from Mr. McNamee?

A Well, I called him.

Q Okay. Just -- and then that's when the conversation occurred?

A Yes, I believe. I was -- just to give you a little idea of what -- where I was because I do remember I was in Nashville, and every year baseball -- everybody in baseball convenes for winter -- baseball's winter meeting. So it's really -- it's like my busiest of busy times of the year. All times of the year are busy for me. But Nashville is especially busy and I probably didn't get to sleep early the night before. So waking up and getting this text message, I don't remember the exact -- how it occurred and obviously the bombshell that he dropped when we talked kind of makes the morning a little even more hazy.

Q Okay. So you remember you were in Nashville when you called him back, is that right?

A Correct.

Q Did you call him the same day you got the message?

A I called him that morning.

Q And do you know what day that was, what day of the week it was?

A No, I don't.

Q What the date was?

A I believe it was around the early part of December.

Q Did you record this phone call?

A Yes.

Q Tell me how that came about?

A Well, again, late, late night, early morning kind of weird message from a guy that I always found shaky, I carry a -- something like that with me at all times.

Mr. Finder. He is indicating for the record.

Mr. Murray. Sorry. The recording. I don't know what it's called. A digital recorder. I use it -- I'm on the road quite a bit and I use it while I'm driving or if I have a deal that we're talking about that I want to know the terms, and that winter meeting specifically I was meeting with all the equipment companies, going back to my room recording things from -- going from meeting to meeting and what not. And it was sitting right there in front of me.

BY MR. COHEN:

Q What prompted you to want to record the meeting with Mr. McNamee?

A Well --

Q I mean the conversation with Mr. McNamee.

A The history. I don't know that we found out for certain, but there's a lot of indication that McNamee was a leak to the media with regards to some of our players and maybe injuries or signing with a certain team. I can't recall specific evidence. But he has -- for example, I don't know if this is a specific occasion and I'm not sure if I'm getting all the facts right. This is just an example. One -- one of our clients was about to sign with a team. And that client only told not even a handful of people. And I don't even know that I knew. And before our firm could call the team, the team was getting calls from a reporter from New York Newsday. So I didn't know what McNamee was calling about. It could have been with the media, it could have been wanting something, it could have been anything. Or what I was calling him about. But when he calls -- when he sends me a text saying call me from a hard line or something like that, I'm like, what is he up to? I had no idea what he was up to.

Q You had no idea what the subject matter of the conversation was going to be, you had no idea what he wanted to talk to you about, is that what you were saying?

A No. No.

Q But you were suspicious about him because of prior

conduct?

A Yes.

Q All right. Can you describe what prior conduct from Mr. McNamee caused you to have suspicions about him and wanting to record this call?

A Specifically going back to the marketing deal way back in whatever it was, 2003, the --

Q Let me ask you about that. He was involved with an advertisement, you thought he was somehow responsible or involved with an advertisement you thought was not in Roger's interest, is that right?

A It wasn't in Roger's interest because Roger or Andy in that case weren't -- they didn't give permission to use that photo. From the best of my recollection. And not only did they not give permission, yes, he was involved.

Q So his involvement with that caused you to be suspicious about Mr. McNamee, in other words?

A Yeah.

Q And in a way -- and did that -- did his involvement with that advertisement lead you to want to record the phone call, is that what you were saying?

A No. There were several things over the years.

Q I guess my question really is, what's motivating you to tape record a conversation?

A Well, I do it from time to time.

Q But you don't know what the topic is going to be. Can you just explain to me why you were motivated to record this particular conversation?

A I don't remember exactly what I was thinking about that morning. But between being at baseball winter meetings, there's all this media around and him having that connection that he had to the media, who knows what he was asking. He also threatened to sue our company -- I don't remember specifically why, but I remember he threatened to sue our company, and I believe it was around 2005. He was just always shaky.

Mr. Schiliro. Mike, could I just ask a question on that, on the shaky?

Mr. Gordon. Sure.

BY MR. SCHILIRO:

Q You described your role as an agent in this and I assume you are looking out for the best welfare of your clients as an agent, is that right?

Mr. Finder. You have to answer.

Mr. Murray. Yes. I'm sorry. Yes.

BY MR. SCHILIRO:

Q As a big part of what your agency does, you want to make sure your clients don't get in a difficult situation if they're long hanging around with the wrong people, if they're doing things they shouldn't be doing; that's usually

a concern of the agent?

A That's not my job.

Q Whose job would that be?

A Well, I don't know that we -- there's always --

Q Let me ask you the question this way. I don't want to get too far away from Mike's point. But you said repeatedly McNamee was shaky, at another point you said Mr. Hendricks said he was crazy. Could you just tell us the specific times you alert Mr. Clemens to this or Mr. Pettitte, where you brought it to their attention?

A I don't recall ever bringing it to their attention.

Q You thought Mr. McNamee had a close relationship with Mr. Clemens?

A Did I think that he had a close relationship?

Q He was his personal trainer, you watched them work out together?

A Yes.

Q You knew Mr. Clemens relied on him?

A Yes.

Q I assume you respect Mr. Clemens?

A Yes, I do.

Q Your personal assessment was Mr. McNamee was shaky. Your boss thought he was crazy. You had questions going back several years. Wouldn't it make sense for you to raise that with Mr. Clemens?

A I was not in the position to do that, no.

Q Were you in a position to raise it with Mr. Hendricks?

A Yes.

Q Did you do it with Mr. Hendricks?

A Did I --

Q Raise whether Mr. McNamee should have this association with Mr. Clemens based on the fact --

A No.

Q -- that you thought he was shaky?

A No.

Q Why wouldn't you do that?

A Because there's shaky people around a lot of our clients. There's -- we call them gravy trainers, people that want to be associated with an athlete. You never know what they want. You have to deal with family members or friends. There's a lot of shaky people. Especially in New York. I see it all the time with the Yankees' players.

Q Who is the highest profile client for your firm?

A Rogers Clemens.

Q And were there other shaky people around him?

A Oh, yeah.

Q Do you want to tell us about that?

A The specific people?

Q Did he have people that he had employed who were

shaky?

A No. I don't believe so. But I don't know.

Q So in your view, the only employee you knew was Mr. McNamee?

A I knew people that worked at Roger's house or -- it wasn't the only employee I knew. I knew people that worked at Roger's foundation.

Q And you thought they were shaky?

A No. Not specifically. But --

Q I want to go back to Mike's point. But I'm just trying to understand, Mr. McNamee had a close relationship with Mr. Clemens because he was his personal trainer?

A Right.

Q Your assessment was he was shaky?

A Correct.

Q That's not something you ever acted upon?

A No.

Q Thank you.

A Could I go back to that quickly? I'm still not -- I'm -- I do my job, like I do the marketing deals, I do some sort of client interaction with a lot of the Minor League players. But that's not something that I would -- I wouldn't tell Rogers Clemens, this guy's shaky, you shouldn't be hanging around with him. Because I'm 30 years old and Roger is what, 45 or so. I just wouldn't do that.

I wouldn't -- our clients hang out with -- with whoever they feel they hang out with. It's not part of my job. I don't feel like that's part of my responsibility.

BY MR. GORDON:

Q Is that something that would fall under Randy or Alan's responsibility in their job, looking out for Clemens's interests?

A I don't know specifically it would.

Q But you never -- you never approached them with the idea that they should talk to them about this, is that right?

A They should talk to them about this?

Q They should talk to Clemens about whether it was wise to have this association with McNamee?

A No, I don't recall ever raising that except for the conversation I had with Randy where he said he was nuts or something to that effect.

Q Is it unusual for you to tape a phone call?

A No.

Q Can you elaborate on that? What kind of phone calls do you usually record and why?

A It could be any phone call. It could be -- I'm talking to a player and I'm driving and that player's asking me to order him a pair of Nike shoes and giving me the model number, and I'm tape recording my half of the conversation.

It could be I'm working on a marketing deal or -- I don't believe I have ever recorded a conversation with a club because I never really had -- haven't had too many in-depth conversations with the club about a player contract. But I think where there's marketing deals, where there's all sorts of different things in it --

Q So in other words, you would record a conversation to help you remember details of a conversation you might otherwise forget?

A Exactly. I use it as a tool for work.

Q Have you ever recorded a conversation with Mr. McNamee before, before December of '07?

A No.

Q And you've spoken with him several times, is that right?

A I don't recall speaking with him several times. Over the years?

Q Yes.

A I don't recall how many times I spoke with him.

Q More than 10?

A Possibly.

Q Did you ever record any of those conversations?

A No. I only started using this recorder about a year and a half ago maybe.

Q So before a year and a half ago, you never recorded

any phone conversations?

A Not to my recollection.

Q In the last year and a half, how many times have you spoken with Mr. McNamee?

A I don't know.

Q More than 10, less than 10?

A Less than 10.

Q More than five?

A I don't know. I don't know exactly.

Q But you never recorded another conversation with him?

A No. I did not.

Q Although I assume that -- you have Mr. McNamee as being shaky in your words. Is that the view you've had for the last couple of years?

A Uh-huh.

Q But you never recorded any other conversation with him until December. But why is that?

A It was -- it was right there in front of me. And he sent me a text about call me on a hard line. I had no idea what he was up to.

Q Did you think you would need to remember the details of what he said to help assist your work? That was the reason you said you recorded other conversations. Was that motivating you?

A No.

Q To record Mr. McNamee?

A Not that I recall. But like I said, the media was all around. It was winter meetings. I don't remember if there was a -- something that one of our clients was going through contract wise or if Andy was signing with the Yankees, whatever. But I just -- he said, call me from a hard line. And I said, okay, well, I'll put it on speaker and I had the tape recorder right there. And when he told me what he told me I was shocked, I almost fell off the chair.

Q Why's that?

A Because he told me that Roger and Andy were going to be in the Mitchell Report.

Q And that surprised you?

A Yes.

Q Why's that? Why did it surprise you?

A Because I would have had no idea that Roger and Andy would be in the Mitchell Report.

Q Were you surprised because you had -- you're saying you had no idea Roger or Andy had used performance enhancing substances?

A Yes.

Q And that's why you were surprised?

A Yes.

Q You had no idea about that prior to that call from
McNamee?

A No.

Q So in other words, you didn't suspect that
Mr. McNamee was going to discuss the use of banned
substances in this conversation, and that was not the reason
why you recorded it, is that right?

A No. That's correct. I was bopping around winter
meetings and getting this phone call. I mean, I didn't
suspect anything. But who knows what he was up to.

BY MR. SCHILIRO:

Q You were aware at the time?

A Nashville, Tennessee.

Q No. You were aware in early December that the
Mitchell Report was going to be coming out, that was well
known, there was a lot of speculation on exactly the date in
December it would come out, and that this was going to be a
major development for baseball; you had some awareness of
that?

A Yes, I did.

Q And go back to Mike's question. When you started
recording the conversation, did you let Mr. McNamee know
that?

A Know that I was recording the conversation?

Q Yes.

A I did not.

Q And are you aware of the laws on recording conversations?

A No, I'm not.

Q You are not at all, even though you record conversations frequently?

A I've since been made aware of certain State laws.

Mr. Schiliro. Sorry, Mike.

BY MR. GORDON:

Q Prior to the December call with McNamee, did you have any knowledge of allegations that McNamee was involved with steroids?

A I'm sorry. Repeat that question.

Q Prior to December, did you have any knowledge that Mr. McNamee was alleged to be involved with steroids?

A No.

Q In 2006, there were press reports regarding what Jason Grimsley might have told Federal investigators about his own use and others. Do you recall that?

A Yes.

Q That was reported in the L.A. Times, which you mentioned earlier. And according to those press reports, Mr. Clemens and Mr. Pettitte were both linked to the use of banned substances. Do you recall that?

A Yes.

Q That was an important issue for his agents I would imagine. Is that fair to say?

A Yes.

Q And a major concern for Mr. Clemens, is that fair to say?

A I don't know if it was or not.

Q You don't -- you don't have any idea?

A I don't remember talking with them about it.

Q You don't have any idea whether allegations of steroids use was a big concern for Mr. Clemens?

A No.

Q Might have been, might not have been?

A Correct.

Q Were you aware at that time that news reports also said that Mr. Grimsley alleged that Mr. McNamee facilitated Mr. Grimsley in obtaining banned substances? Do you remember Mr. McNamee's name being in those press reports?

A Yes.

Q So as of December you -- it is fair to say that you were aware that there were prior allegations that McNamee had some involvement with steroids, is that right?

A Yes, there were allegations in the media -- what I read.

Q Okay. In his conversation with you that you recorded, Mr. McNamee said he was essentially -- wanted to

give Rogers Clemens and Andy Pettitte a heads up about their inclusion in the Mitchell Report. Is that fair to say?

A Uh-huh.

Mr. Finder. You have to answer yes or no.

Mr. Murray. Oh, yes. I'm sorry.

BY MR. GORDON:

Q And then he went on to provide information about Roger Clemens' use, which you said you were shocked by. Do you remember that?

A Yes.

Q Did you think he was telling the truth about Clemens' use of steroids?

A I did not know what to think.

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BY MR. GORDON:

Q Did you ever challenge him on the veracity of it at the time?

A During the conversation, I don't believe I did.

Q Why not?

A Like I said, it was like a bomb went off when he said this. It's something that, although it was reported that this Mitchell Report was coming out, I had no idea that it was going to involve any of our clients; and when he said this, my heart dropped, and it was like, "Holy cow."

Q What happened after this conversation with McNamee?

In other words, McNamee was trying to deliver a message to Clemens and Pettitte. At least that's what he said to you; is that right?

A Yes.

Q Was this warning about allegations of their use of banned substances conveyed to those two players?

A I don't know.

Q Well, what did you do with the information?

A I ran -- I walked very fast to Randy Hendricks' room and told him about the call that I received and let him listen to the tape recorder.

Q Did you tell anyone else about the call?

A Not that I recall.

Q So you got this surprising, shocking news from McNamee about Clemens and Pettitte, but Randy Hendricks was the only person you talked to about that information; is that right?

A I believe so.

Q What did Mr. Hendricks say when he learned what Mr. McNamee was saying?

A I don't remember exactly what he said. I can remember the look on his face, like being stunned.

Q Did you ask him whether he thought this was true?

A No.

Q Did he say anything one way or the other about that, whether, in fact, he believed that McNamee was telling the truth?

A Not that I remember.

Q Prior to the release of the Mitchell Report, Senator Mitchell and his staff contacted each of the players about whom he had received allegations, including Roger Clemens and Andy Pettitte, to let them know he had received information and to invite them to talk to the Mitchell investigators.

Do you recall that Mr. Clemens was notified in that way?

A No. I did not know.

Q Did you ever discuss that topic with Randy Hendricks or with anyone else in the firm?

A Not that I remember. But again, that's not something that I would be involved in.

Q Do you know whether Mr. Clemens was told about what you'd learned in that taped conversation with Mr. McNamee?

A Repeat the question. I'm sorry.

Q Do you know whether Mr. Clemens was informed of what Mr. McNamee was saying about his steroid use?

A I don't know.

Q You don't know.

Did you ever have any conversations with anybody about that, about whether Mr. Clemens was informed?

A Not that I remember.

Q Weren't you curious?

A Not really, no. This is -- I mean, it was like, "Holy cow."

Q Right. This was a big deal.

A Here is the tape recorder, Randy, and like I'm shocked, and I'm going to try to go on with my day and do my marketing deals, which are -- in the grand scheme of things, are way down here, and this is way up here.

Q Right. That was big deal, a huge deal; is that right?

A Yes.

Q And McNamee stated the reason for reaching out to you was so that Clemens would get a heads-up and that Pettitte would get a heads-up; is that right?

A Right.

Q But you never asked to find out whether that actually happened?

A No.

Q Okay.

Mr. Schiliro. I just have one follow-up.

BY MR. SCHILIRO:

Q Mike asked you before about when the reports surfaced about Mr. McNamee -- you remember that previously, in 2006 -- and there was speculation about Mr. Clemens and Mr. Pettitte and other players earlier than this.

Do you recall that conversation --

A Yes.

Q -- you just had?

This was when Mr. McNamee called you, and you said you didn't know what it would be about; and this was the time the Mitchell Report was out there, but you sort of didn't make the connection in your mind.

As you were having the conversation with Mr. McNamee, when did you recollect that previous conversation at the coffee shop about the drug tests? When did you start thinking about that and making the connection between those

two conversations?

A I didn't think about that until --

Q At all?

A No.

Q How many clients do you have in the firm right now?

A Approximately 100.

Q One hundred. How many of those clients did Mr. McNamee have a training relationship with?

A Two.

Q So, when you think back to the coffee shop conversation about drug tests, is there a context in your mind of your clients, since he only trains two of your clients?

A I'm not understanding your question. I'm sorry.

Q Out of the 100 clients you have, he had a training relationship with two clients.

A Correct.

Q So, when you think back to the coffee shop conversation about a failed drug test, do you make an assumption in your mind that this would relate to those two clients that you represent and that he trains? You didn't do that at the time?

A I don't remember what I did at the time.

Q And it didn't come back to you when you were on the phone call with him?

A No.

Q In coming here today, you had a chance to review your transcript that you tape-recorded?

A I have read through it.

Q And did you review other transcripts?

A No.

Q You didn't review any other transcripts that were recorded with Mr. McNamee?

A No.

Q Did you listen to the tape recording between Mr. Clemens and Mr. McNamee?

A On TV the day it was played.

Q Well, you haven't reviewed a transcript of that?

A No.

Q Were you aware that investigators talked to Mr. McNamee?

A Yes.

Q Are you aware there is a transcript of that? Are you aware that they recorded the conversation?

A I didn't know that.

Q You had no knowledge of that?

A No.

Q And how did you know that Mr. McNamee raised the coffee shop conversation with you?

A It was in the daily news.

Q That is the only basis that you're going by?

A I believe so.

Q Okay. Thank you.

Mr. Gordon. I'm going to let the minority staff ask questions now.

Ms. Safavian. Would you like to take a break?

Mr. Murray. It doesn't matter. If you guys want to take one.

Mr. Castor. Shannon likes us to move, so --

Ms. Safavian. Why don't we go off the record.

[Recess.]

EXAMINATION

BY MR. CASTOR:

Q We were talking about, before the break, the December 5 call you had that you tape-recorded --

A Yes.

Q -- with Mr. McNamee.

Walk us through exactly what you did again after the call. You hang up. You run to Randy Hendricks' room.

A Yes.

Q You play the tape recorder for him.

A Correct.

Q Do you remember what he said?

A No. I don't remember what he said.

Q What happened next?

A He was stunned, and he said, "I've got to deal with this," or something like that. I don't remember exactly what he said, and I left the room. But again, I don't remember specifics because it was such a -- it was like earth-shattering news to me.

Q Okay. You leave your room. What time was this call?

A I don't remember specifically.

Q Was it 6:00 p.m. Eastern time?

A I don't --

Q Was it in the morning?

A It was in the morning for sure.

Q Okay.

A I think I may have just gotten out of bed.

Q 6:00 a.m.? 7:00 a.m.? 8:00 a.m.?

A I don't remember.

Q What is your best guess?

A It was -- I was probably up late the night before. I can't see -- I don't think I would have been up before 7:00, which would have been 8:00 Eastern.

So, you know, maybe 8:00 Eastern, between 8:00 and 9:00 Eastern. I don't remember.

Q And you'd received a text message from Mr. McNamee --

A Yes.

Q -- inviting you to telephone him on a hard line?

A Yes.

Q And you received the text message when you woke up that morning?

A I believe so.

Q Do you remember when the text message came in? Was it while you were sleeping?

A Again, I don't remember specifics of the morning. If you'd ask me to guess, I would guess that it probably came through when I was sleeping or I just -- or maybe -- I don't know. I was brushing my teeth or something. I don't know.

Q What kind of device do you use to receive text messages?

A It's a BlackBerry Pearl.

Q And it was a text message as opposed to an e-mail?

A I'm fairly sure it was.

Q But on a BlackBerry, it's sort of hard to tell the difference.

A Right.

Q But on Mr. McNamee's end, he was using like a phone to text it in or -- does he have a BlackBerry that you know of?

A I don't know.

Q So you received the message. You don't remember

when. You placed the call back to Mr. McNamee.

You record it, correct?

A Correct. Sorry.

Q Did you take any notes on the call?

A I believe I was trying to take notes, but I think it was -- he was kind of rambling from what I -- the conversation that I read in the transcript.

So, yeah, I took notes.

Q Whenever I take notes, I always use one of these legal pads. My colleague sometimes uses a green book.

Do you have a particular go-to note-taking pad that you like to use?

A Not particularly. I do have something similar to yours.

Q Were the notes that you were taking that morning on a legal pad?

A I don't remember specifically.

Q In the background of the tape recording, there are papers ruffling around. Do you remember what papers you had near you?

A I had a ton of papers. It was, like I said, winter meetings where I'm trying to do all these different deals for 100 players, so I had, you know, Nike's pile here and Adidas' and Reebok's and whoever else's.

Q Okay. So you go down and talk to Randy Hendricks.

You play the call for him, and then you leave Randy Hendricks' room.

Throughout the rest of December 5th, did you have any more conversations with Randy Hendricks about the situation?

A Not that I recall.

Q Were you with Randy at all the rest of the day?

A Not that I recall. I think he flew home, but I'm not really sure.

He flew back to Houston. Sorry.

Q Did you have any idea what the next step was, from --

A No.

Q -- a Hendricks' perspective and, you know, the company's?

A No.

Q So Mr. Hendricks didn't tell you he was going to hire a lawyer or what the next step was?

A Not that I recall.

Q So, after December 5th, when is the next time you caucused on this topic with Mr. Hendricks or with Mr. Harden or with anyone else who has sort of been handling this crisis?

A I don't remember specifically. I did talk with Roger's lawyers.

Q And how many days after December 5 was that?

A I don't remember.

Q Where were you when you had the communication? Was it on the phone?

A On the phone.

Q Where were you?

A I don't remember.

Q Were you in a hotel?

A No. I was in my office.

Q In your office where?

A In Hoboken, New Jersey.

Q Is it a home office or do you have an office building?

A It's a small, like shared-office-space building.

Q Was this phone call with Rusty Harden's folks?

A Yes.

Q Was there just one phone call or how many phone calls have you had with the Rusty Harden team?

A I'm not really sure. I don't know. Maybe more than one, but I don't recall how many. Maybe two or three. I'm not sure.

Q I guess Harden's people went out and interviewed Mr. McNamee, and you helped broker that meeting, as I understand it.

A Correct.

Q Did Mr. Harden or his firm give you instructions on

how to broker that?

A Yes.

Q What did they tell you?

A They told me -- they asked me if I would be comfortable calling Brian to set up a meeting with some investigators who worked for us. I don't really remember much more of that conversation.

I asked them for legal advice with regards to me, and then I do remember calling Mr. McNamee and asking if he would meet with some people who worked for Roger.

Q And this was on --

A I don't remember if that's specifically what I said to him, though.

Q This is on December 11th that you eventually called McNamee?

A It could have been.

Q Was it the day before the meeting?

A I don't remember. Around there. I don't know specifically.

Q In your call with Mr. McNamee, what do you remember McNamee saying?

A Something like, Is this going to help Roger?

I don't remember exactly what he said but, Is this going to help Roger and Andy, and I said -- I don't remember what I said back to him.

He asked if they were lawyers, and I said no. I do remember that, and I remember him -- I don't remember specifically what he said, but it was okay for them to give him a call.

And that's it. I hung up.

Q The December 5 call with McNamee when you were in Nashville and the December 11 call, were those the only two calls you had with McNamee in the month of December?

A I believe so. I believe so.

Q On the December 11 call, did you have any substantive discussion about the Mitchell Report allegations that you can remember?

A Not that I remember, no.

Q Nothing about Jason Grimsley?

A I believe it was a brief conversation, so I was, again, still kind of frazzled from the December -- early December conversation, so I really wanted no part of talking with him or -- so I just asked him if he would do it. To my recollection, I asked him if he would meet -- or if he would take a phone call from people who worked for Roger, and he said, yes, and that's it.

Q Did McNamee give you his new address?

A I don't remember him doing that, no.

Q Did you supply Rusty Harden's folks with McNamee's home address? Like, how did they know where to go?

A I don't know.

Q Do you know where McNamee lives?

A Long Island.

Q Since you first met McNamee, is it your understanding that he has always lived on Long Island or does he move around a lot?

A I think he had an apartment in Manhattan for some time, but I don't know.

Q Going back to the Starbucks meeting with McNamee, was the Starbucks meeting in the Long Island region or was it in the Manhattan?

A I'm fairly sure it was at a Starbucks on [REDACTED] in Manhattan.

Q Do you know if this was near McNamee's place?

A No.

Q Do you know if it was near Roger's place?

A It was -- [REDACTED].

Q Did this Starbucks meeting happen before or after Roger went to the Astros?

A I don't remember when it happened.

Q What years was Roger on the Astros?

A I think his first year was 2004.

Q It was 3 years, right -- '04, '05, '06?

Then in '07, he was on the Yanks, right?

A Yes.

Q Did he keep his [REDACTED] residence the whole time?

A When he was playing on the Astros?

Q Yes.

A No.

Q Did he have his [REDACTED] residence during both stints with the Yankees?

A Meaning last year and before the Astros?

Q Right.

A No.

Q He had two stints with the Yankees, right?

A Right.

Q Okay.

A I'm sorry. It's hard to keep track sometimes with it, but --

Q No problem. He had two stints with the Yanks, right?

A Correct.

Q Okay. In the middle were the Astros, right?

A Correct.

Q In '04, '05, and '06, he's a Houston Astro, right?

A Correct.

Q In '07, he's back with the Yanks?

A Correct.

Q As to this Starbucks meeting, it's fair to say that it occurred when he was on the Yanks, right?

A I don't know. I don't know when it occurred.

Q But you said it was at a Starbucks at [REDACTED] you know, at or near Roger's residence, right?

A Right.

Q Do you know if Roger had his residence during '04, '05 and '06?

A No, I don't believe he did, but I don't know.

Q Okay. So it's more likely than not, when you had the meeting, it was when Roger was living in that residence, correct?

A I don't remember. In other words, I don't remember going upstairs to see Roger. I don't remember -- I don't know.

Q Where were you living at the time?

A Hoboken, New Jersey.

Q Did you take the PATH into Manhattan or did you drive?

A It all depends.

Q What time was this meeting at Starbucks?

A No idea.

Q How many times have you been to this Starbucks at [REDACTED]

A A lot.

Q How many times, roughly?

A I don't know. It was a good amount. More than 20. Well, yeah, more than 20.

Q How many times have you been to Roger's place at

[REDACTED]

A More than 20. I was pretty much in that Starbucks every time I was at Roger's place, that I remember.

Q What year did you start with SFX again?

A 2000.

Q And you said you met Clemens in '01, roughly?

A I believe so.

Q When is the first time you have a recollection of going to Roger Clemens' residence in Manhattan?

A What year? I don't --

Q Tell me anything you remember about the first time you went to Roger's residence.

A The first time I met him, it was like -- he was doing something for a car dealership. So I met him. The car dealership was going to let him use a lender car, and he was going to do some things for the car dealership. I don't remember if I met him -- all I remember is, Roger Clemens, that he's bigger than I thought he would be. I don't remember exactly.

Mr. Finder. I think the question was, when was the first time you remember meeting him at his residence, not

the first time when you met him.

Mr. Murray. Oh, I'm sorry. I don't remember the first time that I was in his residence.

BY MR. CASTOR:

Q But you said you've been there a lot, at the [REDACTED] residence?

A Correct.

Q When you say that, do you mean you've been to the building or you've been inside the residence?

A I would either wait for Roger downstairs or I would go up and get him. If he was doing like a media event or an appearance or -- I would go to Starbucks. I'd either wait downstairs for him or I'd go upstairs.

I'd go either into the little section of the apartment. You know, I don't --

Q Do you know if McNamee ever slept over at that apartment?

A No.

Q Okay. So when you met McNamee at this Starbucks -- and you're not sure if it was in '01, '02, '03, '04, '05, '06 or '07, this Starbucks meeting?

A I'm not sure, no.

Q Can you narrow it down at all? I mean, surely you would remember if Roger were on the Astros at the time.

A No, I don't think I would. I always -- there's

always a lot going on.

Like, it's not just Roger. It's all these other players, and I don't remember.

Q How many times have you been to a Starbucks with McNamee?

A I don't believe more than once, but I don't know.

Q So, to the best of your recollection, there was one meeting with McNamee at a Starbucks. It was at [REDACTED] in Manhattan?

A Correct.

Q You don't remember how you got there -- whether you drove a vehicle or whether you took the PATH train?

A No. If I was working -- if I was still at SFX, if my offices were in the city, I may have taken a cab.

But part of the reason for me to be in New York City was to have meetings all over New York City, so -- I've had hundreds of meetings; I've had meetings with people who wanted Roger to invest money with them, too, or things like that. So it's like -- it's not uncommon, but those meetings all, they -- like someone -- if someone came to me, like I said before, about gravy trainers and said, "I want Roger to invest money with me," well, that's not my department, you know. It's -- I wouldn't get involved with that, or I would just placate them and move on, but I had hundreds of meetings in the city.

Q How many meetings have you had with McNamee in total?

A I can't -- I don't know. Like sit-down meetings? I don't remember many more than that one or any more than that one.

Q I do mean "meeting" where maybe you took notes, where you sat at a table, perhaps.

A I don't remember more than one.

Q I want to try to capture all of your recollections about that Starbucks meeting. Do you remember if you were sitting down?

A No.

Q Do you remember how long it lasted?

A No. Excuse me.

Q Do you remember if you took notes?

A I remember -- I know he said it. I don't specifically remember taking notes, but I may have.

Q How do you know he said it?

A It was in the newspaper or it was on -- I don't know. I read it someplace or heard it someplace.

Q Do you remember what time of year it was?

A No.

Q Do you remember if it was during the baseball season?

A No.

Q Do you remember if Roger Clemens was in town during the meeting?

A No.

Q Do you remember if you talked to Roger about the meeting?

A No.

Q Have you had a lot of conversations with Roger about Mr. McNamee?

A No.

Q Have you had any?

A We've had -- yeah, we've had conversations, maybe not about Mr. McNamee, but like -- like in November, Roger called me about getting Bruce Springsteen tickets at Madison Square Garden, and that's something that -- when I was at SFX and working my way up the business, it's like, okay, a client needs something.

It was more at SFX we did this. We don't do this for all of our clients now. If a client needs something, I'll take care of it no matter how it -- going to get tickets to Bruce Springsteen is a tough thing to do. So, if a client wants to go see Bruce Springsteen, I'm going to make sure he's with Bruce Springsteen and getting good seats.

So I asked Roger -- I told Roger. I said, "These tickets, who are these for?" And he didn't tell me at first. I don't know why, but he didn't tell me at first.

And then I told him the price. I said, you know, "These tickets are going for like \$5,000 or something -- and I don't remember if that was specifically what I said -- and he's like, "What?" You know, he couldn't believe it, and I said, "Who are they for? If they're for you, it's different," because if it's him going, then celebrities like to be around celebrities, so maybe call Bruce's management company.

But they were for McNamee, and this was this past November.

So different things like that. Yeah, we've had conversations about McNamee.

Q You said what you do remember about the Starbucks meeting was that it was at Starbucks. It was at [REDACTED]

[REDACTED] McNamee wanted a job?

A Uh-huh.

Q He wanted some sort of compensation arrangement --

A Percentage.

Q -- tied to a percentage?

Do you have any idea how many players McNamee works with on a training basis?

A No.

Q No idea? You have no idea?

A No.

Q So it could be Roger, Andy and the rest of the

Yankees, for all you know?

A Right. Yes.

Q Like this business arrangement he was asking you about or trying to get the Hendricks' firm to get involved with, was that Roger and Andy only or was it an initiative to open up a business with more than the players he was training at the time?

A Well, I don't remember specifically, but I believe it was like a percentage of any client that he worked with, which I was like -- I mean, we don't do that for our clients. There are agencies that have trainers on staff or -- but that's not what our company is built on.

Our company is built on professionalism. Our company is built on doing taxes properly, doing marketing properly, contract negotiations. It's not -- we don't have a trainer.

Plus, who'd -- I mean, a percentage? I don't get paid a percentage for -- even if I go recruit the number one player in the country right now and he gets drafted next year and our company gets paid a certain percentage, I don't get a percentage. It doesn't work that way.

Q Do you know whether Roger had McNamee call you? Do you know if Roger was involved with any of this?

A I don't recall.

Q Do you know whether it was discussed between McNamee and Clemens at all?

A No.

Q So you don't have a recollection of closing the loop with Roger about what McNamee was proposing and why it wasn't feasible?

A No.

Q Do you remember where this whole concept went after the Starbucks meeting?

A The whole concept of --

Q The whole concept of his getting a percentage, this whole idea that McNamee was floating with you.

A Right. Well --

Q Where did it go?

A I talked to Randy Hendricks about it.

Q But you knew Randy was going to say, "Look, this isn't a good idea"?

A I had a feeling. But I don't remember what I remember about what he was going to say or --

Q Fair enough.

So you communicated with Randy, and Randy presumably shot it down --

A Right.

Q -- in short order?

A Yes.

Q Did you get back to McNamee or did you just hope it would go away?

A I don't remember.

Q Did McNamee ever bring it back up with you again?

A Not that I recall, no.

Q So it's possible you blew it off or hoped it was never going to be raised again, and it never was?

A It's possible. Yeah, I guess it's possible.

Q You called McNamee a "gravy trainer." I imagine -- is it fair to say you have to deal with a lot of gravy trainers?

A A lot of gravy trainers.

Q Is it fair to say that guys like Roger Clemens and Andy Pettitte may try to blow someone off by having them call you?

A Yeah, it's fair to say.

Q How do gravy trainers get to you?

If that's a bad word, let me use a different one.

A I don't really know another one. It's like the HBO show, Entourage. It goes on in every sport, I'm sure.

Q But I'm saying, How do they get to you? How do they get your phone number?

A I believe -- if we're referring to McNamee, I believe he got my phone number because I may have set up an interview or something like that, so -- but most, no. Most people that I described before, they wouldn't have my phone number. Some of them would.

It could be I'm with a client, and there's someone that's his gravy trainer who's with him and, "Hey, let me get your number because, when I come to New York, I'll call you," or something like that. All right. Just what I need is another person calling me, but okay. Yeah, here's my number, so --

Q But McNamee wasn't so close with Roger that you could feel free to blow him off or how did that work?

A I don't -- I don't --

Q Well, the people who are close to Roger. I imagine there are some people who are very important to Roger --

A Yeah.

Q -- and if they asked you for a favor, you would want to get back to them. You'd want to be in touch with Roger. You'd want to be in touch with the Hendricks' people. You'd want to do whatever you needed to do.

A Yeah.

Q Do you remember if there were any other topics raised, other than this business percentage conversation and the drug test topic?

A No, I don't.

Q Do you remember how long you were at Starbucks with McNamee?

A No, I don't.

Ms. Safavian. Just a couple of follow-up questions on

this meeting with McNamee at the Starbucks.

EXAMINATION

BY MS. SAFAVIAN:

Q You mentioned that after you met with him, you spoke with Randy Hendricks about your meeting with him?

A Correct.

Q Do you know if Randy Hendricks thereafter ever spoke or met with McNamee about that meeting?

A No, I don't.

Q You don't know if you had any follow-up questions to him about this knowledge of drug test results?

A No, I don't.

Q Earlier, when we were trying to figure out the time frame of when this meeting might have occurred, you had -- I think you didn't know if you were with SFX at the time or with the Hendricks firm; is that correct?

A Correct.

Q Well, if this happened when you were still with SFX, would it have made sense for you to have gone to Randy Hendricks about the conversation you had with McNamee?

A Yes.

Q It would have, still?

A Yes.

Q Why is that?

A Because he was Roger's account manager, per se.

Q And so you associated McNamee with Clemens?

A Well, yeah.

Q Because you said the conversation with McNamee had nothing to do with Clemens, so I don't understand why --

A Well, McNamee was Clemens' and Pettitte's trainer, so -- and Randy was Roger's and Andy's account manager.

Q So regardless of what McNamee was going to raise with you --

A Plus, Randy was my boss. Sorry.

Q He was your boss while you were at SFX?

A Yes.

Q He was who you reported to?

A I reported to a lot of people, but he was -- he was the boss.

Q If the main reason he was talking to you was about training more players and getting a percentage, if you were still at SFX, would there not have been somebody else more in charge at SFX that you would have gone to and asked about such a proposal?

A No.

Q No? So this line of questions does not help you to distinguish the time period as to when this happened, as to whether you were with SFX or with Hendricks?

A No, it does not.

Q You don't recall speaking with anyone else besides Randy Hendricks about this conversation?

A No, I do not.

BY MR. CASTOR:

Q When did Hendricks leave SFX?

A I believe it was January of 2004.

Q Where were you living then?

A Hoboken, New Jersey.

Q Have you always lived in Hoboken?

A No.

Q During your association with Mr. Clemens?

A Yeah, I believe so.

Q So, in '01, you were living in Hoboken?

A I don't remember when I moved to Hoboken. I was living with my parents out of college for a couple of years. I don't remember exactly when I moved.

Q How many residences has Roger had in New York that you were aware of in Manhattan?

A That he owned or --

Q That he lived at.

A The one on [REDACTED] and then he rented -- excuse me. He rented a house last year for the half season or three-quarter season that he played.

Q So, last year, he wasn't at [REDACTED]

A No.

Q In '04, '05 and '06, did you ever go to [REDACTED]

A Maybe.

Q I forget what you said, but did he still keep the [REDACTED] place when he was on the Astros?

A No, I don't believe he did. I don't know.

No, I -- I don't believe he did.

Q So you believe he had the place at [REDACTED] in '01, when you first met him, '02 and '03?

A I believe so.

Q Do you ever remember going to the Starbucks at [REDACTED] when Roger wasn't living in that building?

A Not that I can remember. There's a possibility I would have, though. I have friends that live up there on the Upper East Side, and -- I'm in the city.

Q Where did Andy live when he was on the Yankees?

A Andy lived in Westchester.

Q For the first stint with the Yankees?

A Up in that neck of the woods, yes.

Q But Andy never lived in Manhattan?

A No.

Q So your best guess would probably be that you went to this Starbucks when Roger was living --

A It could be or --

Q -- or you don't have a best guess?

A I don't have a best guess.

Q When you would drive into Manhattan, would you use your own car or would you use a rental car typically --

A Well --

Q -- to pick Roger up for an event --

A Oh.

Q -- when you're on Roger Clemens-related business?

A I would use my own car.

Q Where would you park it if you were going to the [REDACTED] residence to see Roger?

A There's a -- there was a garage down the street.

Q So you'd arrange your own parking. You didn't have like a parking pass --

A No.

Q -- for [REDACTED]

A No. I don't even know that I had a car. I didn't have a car for a while while I was living in Hoboken. I don't remember when I got one.

Q To your knowledge, the Hendricks people, they pay McNamee for some things, right?

A I don't know.

Q You don't know?

A No. I don't believe so.

Q So you think not?

A I don't believe so.

Q Do you know if McNamee could call Anna Shaheen for money?

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

Q Do you know Anna Shaheen?

A Sure.

Q She is with the Hendricks firm?

A Yes.

Q Is she in charge of the foundation books, Roger Clemens Foundation books?

A First off, let me back up a second.

Q Okay.

A I'm not sure exactly what Anna's role is right now with the firm. I know that she is teaching. I don't know if she specifically handles the books for the foundation.

So, no, I don't really know exactly what Anna does.

Q To that end, you don't know whether McNamee could get money by calling her?

A I don't know. I doubt it.

Q Because McNamee has raised that. He has said that he could get money from Shaheen. So you don't know anything about that?

A Not that I remember.

Q The meeting that you brokered between Rusty Harden's folks and McNamee on December 11th -- you brokered the

meeting on December 11th, as I understand it. The meeting eventually occurred the next day, December 12th.

Did you tell McNamee who from Rusty's firm was coming?

A I don't remember if I did or not.

Q Did you know who was going to be interviewing him?

A I don't remember if I did or not.

Q Did you speak with the individual from Rusty's firm that was going to be conducting the interview with McNamee?

A I don't remember if I did or not.

I know that what -- what I do know about it is that I was told that they were not lawyers, they were investigators; and I just remember that.

Q Do you know who did the meeting with McNamee?

A No.

Q Do you know Jim Yarbrough?

A I've heard his name.

Q Billy Belk?

A I've heard his name.

Q Have you met either of those two fellows?

A Not that I'm aware of.

Q Have you ever had a phone call with them? I guess the answer is "no." Is that the best of your recollection?

A I don't remember having a phone call with them, no.

Q Did anyone on the Rusty Harden side of things tell you that these investigators were going to be

surreptitiously tape-recording the McNamee interview?

A No. I'm sorry. I don't mean to -- I'm sorry. I didn't mean to --

Q So you did not know that Rusty's people were going to be tape-recording the meeting with McNamee?

A No.

Q They didn't tell you that?

A I don't believe so. I don't remember if they did or not, but I don't believe so.

Q When did you first find out it was tape-recorded?

A I'm not sure.

Q Do you remember how you found out? Was it in the newspaper --

A It could have been.

Q -- or was it from the Hendricks side of things?

A I don't remember.

Q Nobody has ever shown you a copy of the transcript of that interview?

A Shown me a copy? No.

Q So you've never seen the transcript?

A No.

Q Have you ever had a meeting with Rusty's people about what was said during that interview?

A Not that I -- I had meetings with Roger's lawyers, but nothing I could remember specifically.

Q Did they bring up the Starbucks meeting?

A I don't remember who first brought it up. I don't know if it was -- I don't remember.

Q Let's go back to the 2006 Grimsley matter. There was an LA Times story that wrote about the Grimsley affidavit, and they said they had sources -- and correct me if I'm wrong -- that Clemens and Pettitte were named in the Grimsley affidavit. Is that fair to say?

A From what I remember about it, I believe so. I don't remember if I've ever read the article. I think I -- you know, you kind of -- just like I never read the Mitchell Report. You just get it from all the overflow media.

Q Do you have any knowledge of whether the Hendricks people had -- was this viewed as a crisis on the Hendricks side of things that Roger was named potentially in this Grimsley affidavit?

A I don't believe so.

Q So you don't know if Mr. Hendricks had a PR strategy for dealing with this crisis?

A No.

Q Is it fair to say it was a crisis? Maybe that's a bad word.

A I don't remember if it was a crisis or not. I mean, I know certainly, if you're asking my opinion of that kind of press, it's not good press, for sure.

Q Right. That's of concern to individuals who represent Clemens and Pettitte, right?

A Correct.

Q Do you have any recollection of whether any due diligence or in-house investigating was done by the Hendricks people to find out what was the source of this information being reported in the LA Times?

A I vaguely remember -- I think it was -- it might have been like a follow-up story that Randy talked with someone and -- I don't remember. I don't remember the details of it.

Basically, I think, Randy talked with someone who said that -- who confirmed that their names were not in it or who -- I don't know. I don't remember.

Q Fair enough.

McNamee raised drug test results, the possibility of not good news flowing from drug test results in the LA Times article.

Can you remember any other times from Hendricks' perspective that the topic of drug tests was discussed in relation to Clemens or to Pettitte or to any other of your clients?

RPTS McKENZIE

DCMN ROSEN

[12:09 p.m.]

A No.

Q When did you first hear about Kirk Radomski?

A I believe I read about him first in the newspaper.

Q And do you remember when that was? Was that a good deal of time before the Mitchell Report came out? Or was that last year?

A When you say a good deal of time, I would think that it was several months. I don't remember when. I mean, I didn't take it -- it was -- like I said, like they show the picture of him, and he had his 80s hairdo, and you know I was kind of like, oh, the Mets can't be happy. Or something. I remember thinking about that.

Q You've never met Radomski?

A No.

Q Do you have a recollection of McNamee mentioning to you anything about Radomski?

A No.

Q Or anything about this Mets guy who was mixed up with the feds for steroids?

A No.

Q So McNamee never told you this Radomski guy was a weightlifter type?

A Not to my recollection.

Q You never asked McNamee whether this Kirk fellow was a doctor?

A No. Not that I remember any of that.

Q On one of the transcripts, McNamee -- and I think it was in the call with you, but if not, correct me. Said that he'd been trying to reach Clemens and Pettit about the Mitchell Report news. Is that something you remember where McNamee was --

A Trying to give a heads up? You know I read through the transcript, but I don't remember him specifically saying that. Or maybe -- yes.

Q To the best of your recollection?

A Now I do remember him saying something to that effect that I'm trying to reach out to Roger or Andy, something to that effect.

Q McNamee had direct access to these guys, right?

A Yeah.

Q He knew their phone numbers and how to get a hold of them generally, right?

A Yes.

Q Do you ever have a recollection of McNamee calling you because he couldn't get ahold of one of these guys?

A Yes.

Q Okay. So that did happen from time to time?

A I can remember at least one time.

Q And what can you remember about that one time?

A I don't remember when it was, but, hey, if you talk to Roger, I'm trying to get a hold of him. Or hey, have you talked to Andy? I'm trying to get a hold of him, or something like that. I don't remember specifically what it was about.

Q And was that unusual that that happens?

A Not really because -- just judging from hearing certain things, he was kind of like a pain in the neck sometimes for both of them, for both Roger and Andy. Like I said before, he's always wanting something or he's always --

Q How else was he a pain in the neck? You said that he may have engineered this marketing advertisement, you know, without going through the proper channels and had a photograph of Pettit, Clemens and himself, correct?

A Right.

Q What other sort of pain-in-the-neck vignettes can you share with us?

A Well, the media, the tie with the writer. That's certainly not a good thing at all. You know, I could remember he -- I can remember he contacted one of the equipment companies. I think it was Under Armour and wanted to order a whole bunch of stuff. Or I don't remember exactly how it was. But Roger was doing some things with

Under Armour, and McNamee contacted the person from Under Armour directly, and the person from Under Armour contacted me and said hey, are Roger still working out -- or is Roger and Andy still working out with McNamee? And I think I responded, I don't know because I didn't know. He said, well, I don't know, he's crazy. Something about he's sending me e-mails asking for stuff but yet not asking for anything. And I don't remember if all this was specific, but it's something that I do remember. You know the St. Johns -- the St. Johns event that Roger did in January of 07 as well it was like Roger -- it was McNamee wanting a job with St. Johns or trying to get a job at St. Johns.

And personnel from St. Johns asked if McNamee could get Roger to come to a banquet, like their benefit banquet. And long story short, McNamee played on Roger's heart strings and got Roger to go fly to New York and I believe it was in the wintertime and do this banquet, which Roger could do a thousand banquets if he wanted to.

But this was last year, and I can remember him doing that. I don't want to say that's a pain-in-the-neck thing, but it's not something that -- it always seems like he wanted something. And I'm sorry I can't give specific examples. I'm trying as best I can. So you know, he needed a job at St. Johns. Or he, you know -- I could remember also he sent an e-mail to Roger or Andy or somebody that he

lost out on two primo -- and I don't remember specifically what he said. But he lost out on training two really good prospects because of some bad publicity that he got.

Q When you had to remedy the situation with the advertisement, where McNamee was without proper authorization, using Roger, Andy's likeness, did you have a conversation with him about, you can't do that?

A I don't remember if I did. I believe I talked to the president of the company or something.

Q Is that how the situation was resolved?

A I believe so.

Q I mean it is fair to say that McNamee may not have appreciated the right steps that one goes about to get Roger in a newspaper or some other type of advertisement, right?

A Is it fair to say that he doesn't appreciate --

Q The right way to do that sort of thing?

A I don't know.

Q Well, you can appreciate being in the profession. But there's a, you know, series of steps that occurs before Roger's likeness is utilized, correct?

A Right.

Q If Roger's going to endorse something and be in advertisements, presumably folks at your firm take care of a number of steps in that process, whether there's a contract or other sort of financial agreements, correct?

A Correct.

Q And it is fair to say McNamee probably doesn't have a very good understanding of all the right ways to go through that process.

A I don't know. I have no idea what he knows or doesn't know about the process.

Q So you never tried to explain that to him when, you know, it appears that he was, you know, improperly using Roger or Andy's likeness for a newspaper ad or magazine article?

A I don't remember doing it, but I may have. I may have explained that to him.

Q Was that handled by somebody else at your firm?

A I don't remember how -- exactly how it went down or how -- what occurred. But --

Q I mean, surely, this is the type of thing that happens with some frequency, you know, when you're working for an agency that represents you know SFX, had thousands of clients, the Hendricks firm has 100 baseball players, correct?

A Uh-huh. Right now.

Q Surely you deal with situations like this enough that you know how to go about sorting it out, correct?

A I don't remember dealing with it that much, but yeah.

Q I mean, it sounds like it was resolved without getting lawyers involved, is that fair to say?

A Yes.

Q Called the company up and they realized maybe the mistake or maybe they couldn't get away with doing it, so they pulled the ad, right?

A I believe that's how it happened.

Q Do you have a recollection of any of the Hendricks lawyers getting involved to do that?

A No.

Q When Roger was on the Astros in '04, '05 and '06, what were your typical contacts with him?

A I don't know if I could even -- there was no typical -- I would call in and check in every once in a while. You know if I didn't talk to him, I would call and say, hey, what's going on? How you feel or what. A lot of things I did for Roger was like booking flights for family members or for McNamee at times or for whoever or maybe getting a hotel room someplace. And that really continues to this day. Same thing with Andy and a few other of our clients. I don't remember, maybe if Roger had to do an appearance or something, I'd talk to him about that or we had an endorsement deal for him.

Q Do you have an office in Houston?

A Yes.

Q Do you have a residence in Houston?

A No.

Q Where do you stay when you go to Houston?

A All over.

Q Hotels?

A Hotels.

Q Do you ever stay at somebody's house?

A Yeah.

Q However had a residence in Houston?

A No.

Q Have you met a gentleman by the name of Lanny
Brewer?

A No.

Q Have you had any meetings or conversations with any
lawyers from Roger's D.C.-based law firm that's helping him,
the Covington law firm?

A No. No. Not that I'm aware of.

Q Have you ever had any conversations since December
2007 about how difficult it will be to prove the allegations
in the Mitchell Report?

A Could you repeat that question?

Q Have you ever had any conversations since December
2007 about how difficult it will be to prove the allegations
in the Mitchell Report, specifically, in regard to
Mr. Clemens?

A Not that I'm aware of, no. Not that I can remember.

Q Have you had any in person communications with
Mr. Clemens since December 2007 --

A No.

Q -- about the Mitchell Report?

A No.

Q So you haven't been to his house since December
2007? Have you been to his house in Houston?

Mr. Finder. You have to answer.

Mr. Murray. Sorry. Yes, I have.

BY MR. CASTOR:

Q You've been to his house in Houston?

A Yes.

Q Have you been to his house since the Mitchell Report
came out in December?

A No.

Mr. Finder. Wait until the gentleman finishes his
question.

BY MR. CASTOR:

Q Ever had a conversation with Clemens about B12
shots?

A Not that I remember.

Q Have you ever been involved with obtaining
over-the-counter supplements for Roger, GNC-type stuff?

A Not that I remember. I doubt it.

Q So he didn't have you order that?

A No.

Q A company called Invite associated with Hickey chemists?

A That's the -- that's the deal I was referring to.

Q Oh, is that the magazine article?

A Yes. I'm sorry. I thought I mentioned that.

Q I don't know if you did or not. Have you ever met Jose Canseco?

A No, I don't think so. I may have met Jose Canseco. I don't --

Ms. Safavian. Just a few more follow-up questions, and I think we're done.

BY MS. SAFAVIAN:

Q First of all, following up on some of the last questions that Steve just asked you about, the B12 injections. I think you said you never spoke with Roger Clemens about B12?

A I don't remember ever speaking with Rogers Clemens about B12, no.

Q Do you remember speaking with him about any type of injections he may have received or was taking?

A Yes.

Q What would those have been?

A Well, I don't remember specifically with Roger but

players tell or I've heard from players before getting like a cortisone injection and I'm sure Roger's told me about getting a cortisone injection before.

Q Do you have a specific recollection about him telling you of getting such an injection?

A No. It's very common for players to get -- especially pitchers -- to get cortisone injections. From my standpoint, it's like, how's your shoulder feeling? It's real cranky today. I just got a shot so hopefully that will -- this anti-inflammatory or this cortisone injection will get it out. So --

Q So players would just have casual conversation with you about getting such shots, cortisone shots?

A Yes.

Q Did you have a conversation -- ever have a conversation with a team physician or a trainer about a certain player?

A No.

Q Getting any type of injection?

A No.

Mr. Finder. Wait until she finishes the question.

Mr. Murray. I'm sorry. No.

BY MS. SAFAVIAN:

Q So you don't know of any specific -- you are not aware of any specific instance where Roger Clemens received

any type of injection?

A No.

Q How about Andy Pettit?

A The same with Andy. I remember when he was going through elbow problems that we may have had a conversation about him getting a shot or --

Q Do you know what type of shot he would have taken at that time?

A It was -- I think it was cortisone.

Q And given your relationship with the players and in particular, I'm speaking of Rogers Clemens and Andy Pettit here, do you have any discussions with them or interactions with them about other health conditions or problems they might be having?

A If it's, my arm's killing me or my hamstring's killing me, then you know then I'm sure I've talked to them about all that kind of stuff.

Q Do you have any specific recollection of any such conversation with Rogers Clemens?

A No.

Q Or any other health problem or concern that he had?

A I mean, no. Players are -- players are hurt pretty often. Like it's not uncommon for someone to say, oh, my knee's killing me or my hamstring's killing me. So no, it happens all the time.

Q And are you or the firm made aware, say if one of your players has to go and get certain tests taken, like if they have to go in and get an MRI or some other further exam because of something that might have happened while they were playing a game?

A Are we made aware?

Q Uh-huh.

A Not by -- I wouldn't be made aware. The player would have to say -- I believe the player would have to say, hey, I'm going to get an MRI or it would happen in conversation. But I don't think there's anything that's like structured, this player's going to get an MRI. The agent has to be notified.

Q So that is not something that you're regularly informed about?

A Most players that I talk to would tell me if they were getting an MRI or not.

Q Do you know if Rogers Clemens ever received an MRI?

A I'm sure he has but I don't know specifically. I mean MRIs are like -- in baseball it happens -- I'm sure guys have had tons of them. So --

Q And how would you describe Roger Clemens's relationship with McNamee?

A I wasn't really around the two of them much. You know, if I was around, it was like at the end of a workout

and so say Roger was doing the workout and then I would meet Roger or -- and go do an appearance or something like that. McNamee doesn't have much of a personality. Roger's got a really vibrant personality. He's a fun guy to be around. McNamee's always kind of unhappy. So I don't -- I don't know that there was much of a relationship. I don't --

Q Would you consider it to be more of an employer-employee type relationship? Would you consider them to be friends?

A Well, Roger treats most people he's around like they're a friend. But I don't think they would -- like I don't think there was any social activity really other than -- I don't think they did much together. I don't know. I don't really know for sure.

Q Did Rogers Clemens ever describe his relationship to you that he had with Mr. McNamee?

A Not that I can remember.

Q And then just a couple of follow-up questions going back to the conversation you had with McNamee in December. You mentioned that it was a very busy time for you because you were in Nashville, this was the winter meeting. You had a lot going on, correct?

A Correct.

Q So I was curious, if it was such as busy time for you, why did you feel the need to call him back as soon as

you did?

A Because you never knew what he was up to. It was like, call me from a hard line or something like that. I don't -- I don't remember.

Q So would you say it was more curiosity on your part that caused you to call him back?

A I don't know what I was thinking that morning. I'm sorry for not letting you finish the question.

Q That's all right. And before you returned his call, did you tell anyone that you were going to be calling him?

A Not -- no not that I remember.

Q You don't recall telling Randy Hendricks, I got this strange message from McNamee and I'm going to call him back?

A I don't remember, no.

Q And you also mentioned earlier that you considered McNamee to be kind of a shaky person I think that was your word, shaky person and you gave an example of -- you thought that perhaps he leaked things to the media. In the example you gave --

Mr. Finder. You can't just shake your head?

Mr. Murray. I'm sorry. Yes. I almost had you before. Sorry.

BY MS. SAFAVIAN:

Q The example that you gave before about a player -- about the media knowing about a player who's going to sign

with a team and contact that team, I was curious, how would McNamee even know about such an instance?

A I don't remember specifically, but I believe he was staying at the player's house.

Q The player that you are talking about?

A Yes.

Q Can you tell us who that player was?

A I believe it was Andy Pettit.

Q So he was staying with Andy?

A But again, I don't remember the specific story. I remember there was other things that leaked about Andy's elbow acting up on him or something, like injuries that not many people would know. I wouldn't even know half the time and they would be in the newspaper. So yeah, there was definitely -- another thing is that the New York media is absolutely brutal. They crucify everybody. There was an article -- I don't remember exactly when it came out. But it was from this specific writer out of the same newspaper who seemed to have information on a lot of different things that only a few people would have information on with regards to either Roger or Andy. And it was like, I think, a top 10 list or something. And it was like bash the Mets, bash the Yankees, bash the Giants, bash this player, bash that player, and then, the Mets should hire Brian McNamee because he is the greatest trainer ever. And I'm

paraphrasing there. So it's like, come on.

Q Did you ever ask McNamee if he was the source of those leaks?

A I didn't.

Q Did anyone?

A I think -- I don't remember. But I think -- I think someone did.

Q Somebody at the Hendricks firm?

A No. I think either Roger or Andy.

Q And why do you think that?

A Just something that I remember about it. I kind of remember him vehemently denying it.

Q To you?

A No. To whichever player asked him.

Q And did you ever raise these concerns that you had with Andy Pettit or Roger Clemens?

A I didn't, no.

Q You did not?

A No, I did not.

Q And after the phone call you had with McNamee in December, you said you went to Randy Hendricks's room. Do you recall about how long the two of you were together?

A Randy and I?

Q Yeah.

A I don't remember specifically. But I believe it was

like however long that conversation took, plus me walking into his room and me -- in 2 minutes after the conversation ended or the tape recorder ended I was leaving his room. So it was like, like I don't remember exactly what he said but I've got to deal with this or something like that. And I said okay. And I left.

Q Did Randy ask you to do anything?

A No.

Q So there wasn't like --

A I don't believe he did.

Q So there wasn't a list of things that needed to be taken care of and you were assigned something to do?

A Huh-uh.

Q And you were asked earlier if you knew whether or not Rogers Clemens was informed of this phone call that you had with McNamee. And I believe you said you didn't know. Is that correct?

A Yes, that's correct. I don't remember if he was or not.

Q How about Andy --

A I'm sure he was but --

Q Why are you sure he was?

A Because I thought he came out and said something that he was.

Q But nobody ever told you that I've --

A That they called Roger?

Q Correct.

A No. Not that I remember.

Q How about Andy Pettit? Do you know whether or not he was informed of the phone call?

A No. I don't remember if he was or not.

Q And earlier on -- and you mentioned this once or twice, that you sometimes would make plane reservations or flights for McNamee. Who would pay for those flights?

A It would be on Roger's credit card or Andy's credit card. I can't remember specifically.

Q So you would sometimes make those flights for McNamee at Roger's request or Andy's request?

A Yes.

Q And is that how you would know to do it? Or would McNamee contact you and ask you --

A He might have at one point.

Q But normal course would be --

A Roger or Andy.

BY MR. AUSBROOK:

Q Thank you for your indulgence. I'm going to ask a couple of questions. You mentioned that you were not aware -- that you were not aware that Roger injected B12. Are you aware that other players injected B1 have you ever heard players talking talk about injecting B12?

A Not that I remember. I had a girlfriend in high school in who used to have B12 injections.

Q Do you know what they're for?

A I think it was because she didn't have enough energy or something like that.

Q But you've never had baseball players injecting B12?

A I believe I've heard about it before but I can't remember specifically why.

Q But did you hear it was widespread or some players do it or you just don't know?

A I can't remember specifically why.

Mr. Gordon. Would you like to take a break?

[Recess.]

BY MR. GORDON:

Q I wanted to go back to the December 5 conversation you had with Brian McNamee. I think you described it as a bombshell, right?

A For lack of a better -- I don't remember what I -- what it was that day. But it was like a -- yeah, it was like the major, major thing that happened, let's put it that way.

Q Is it fair to say this was the biggest crisis that's ever happened in your professional career?

A I don't really know how to answer that question.

Q Well, can you think of another incident that you

dealt with in your professional career that registers as a greater concern or crisis than this incident?

A No, I can't. But I mean it's all relative too. So something that happened in -- when I was first starting out might have been a huge crisis that I just don't remember now. But yes, it's a pretty -- I don't -- yes.

Q Fair to say it's the biggest -- I mean, Mr. Clemens is, you know, the most prominent client you've ever had, is that right?

A Our company has ever had.

Q And you personally?

A Yes. But yes.

Q And allegations of -- that he cheated or illegally used drugs are enormously important you would think, enormously important to him and his career and to your interests representing him, is fair to say right?

A Yes, it's somewhat fair to say that.

Q Right. So when you heard McNamee make these allegations of Clemens's use, you immediately went to report them to Randy Hendricks, is that right?

A Correct.

Q And you previously said Randy Hendricks said something to the effect that he had to handle this or take care of this, is that right?

A I believe that's what he said.

Q What else do you remember about that conversation?

A It wasn't much of a conversation. The conversation between Randy and I in his room?

Q Uh-huh. Uh-huh.

A I don't remember much of the conversation at all. It was like, all right, -- and I'm just kind of thinking about maybe what he said or what I kind of remember what he said. But, like, I have to handle this. And I'm like, okay. And I'm gone. And I'm going to do the other thousand things I have to do that day. Of course, this was on my mind. But I had a lot to do that day. I have a lot to do every day.

Q Did you talk with Randy ever about this again, about McNamee's allegations?

A Yes.

Q When was that? I mean, let's say how many times have you talked to him about it, a lot or just a few?

A What's a lot and what's a few?

Q Well, you tell me how many conversations you've had with him, and I'll follow up.

A I don't know, five, six.

Q Okay.

A But we were talking about a lot of other things too. We have recruiting going on, we have -- so I don't know how specific it was to this or you know.

Q Well, I'm asking you about conversations about this topic, of McNamee's allegations that Roger used steroids.

A So does a conversation count where if Randy was to say something was in the newspaper about -- like someone wrote some article, and I'm just using it -- does that count as a conversation about this topic?

Q Yeah. If it was about this topic and you discussed it with Randy, then that is what I'm driving at?

A So probably -- I don't know, 10 times but -- okay. Sorry.

Q Okay. And this is a huge public fight over credibility between McNamee saying one thing and Clemens saying another. I mean you know that, right?

A Uh-huh. Yes.

Q And so there are a lot of questions raised about who's telling the truth. This must have crossed your mind as well, right? Who's telling the truth?

A Yes. Sorry.

Q Did you discuss that with Randy Hendricks?

A Not that I remember, no. I mean -- no.

Q You never discussed with Mr. Hendricks whether Mr. Clemens was telling the truth?

A I don't think there was any question if Randy's mind that Roger was -- I'm speculating here. But I don't think there's any question in his mind. And I don't --

Q Have you ever talked about these allegations that McNamee had made regarding Mr. Clemens with anyone else in the Hendricks firm other than handy Hendricks?

A No.

Q So with all the people you work with --

A Not that I remember. But again, if it's like a newspaper article or something that's in the -- something that's publicly known, you know, there's been conversation. Another -- just to give you a little kind of background, I don't know how it works here meaning in Washington, but I'm sure if something goes on in Washington, then all you guys are talking about it at some point during the day or you know if it's a major event. So I deal in baseball. And I talk to people all day long about baseball. So if someone mentions it or brings it up, yeah, it's been brought up for sure. I haven't commented on it or really said much on it. But -- and that's been going on for the last past, I mean, for the last few weeks or month has been an absolute whirlwind and I have a million things to do.

Q Just to be clear so you understand my questions, if I ask you about any conversations about a topic, I am including trivial passing conversations that you might not consider important.

A Okay.

Q And then we can talk more about the substance of

them. But I certainly need to capture any conversation about a topic if that's the nature of a question and I'm not limiting it to a certain type of conversation. Is that fair?

A Okay. Yes.

Q Have you ever discussed with anyone whether McNamee was going to change his story or should change his story?

A No.

Q Have you ever talked with anyone about whether Mr. Clemens was going to change his story or should change his story?

A No.

Q I want to go back to a topic I asked you about before to see if you can help me understand what you were thinking and why you decided to tape the phone call you had with McNamee in early December. You've had other conversations with him including, as you were talking about earlier, recent conversations where he's asking for something, is that right? He calls you with a request for travel arrangements or some other matter?

A That hasn't --

Mr. Finder. Let him finish the question.

BY MR. GORDON:

Q Is that right? Have you had conversations with McNamee in recent months or in the past year on other

topics?

A No.

Q So this is the only call -- the December call is the only call -- the only conversation you had with McNamee in 2007, is that what you're saying?

A To the best of my recollection. But then again, no. I'm sorry. I did talk with McNamee in January of 2007 because that was the banquet that Roger attended.

Q So he called you?

A No. I saw him in person. He may have called me before that to ask where he was sitting or I don't know.

Q Okay. Do you remember any other times that he's called you prior to the December 2007 phone call?

A I can't pull a specific conversation or time. I can't -- I can't remember. Are you saying in 2007?

Q Before your December call with him, have you had conversations with him on the phone before December 2007?

A I'm sure I have but --

Q And I think your testimony before was you never recorded any of those earlier conversations.

A No. That's correct.

Q And in December he gave you notice that he wanted to talk but you didn't know the subject matter of what he wanted to talk to you about, is that right?

A Correct.

Q And you decided that this conversation was the one you needed to record, is that right?

A Correct.

Q And why?

A Again, I was sitting at a desk. I had papers all over the place. He said to call me from a hard line. I don't -- I didn't know what he was going to ask me about, media-related stuff or what or -- so I said you know -- and I do it from time to time with conversations I've had with other people.

Q But you'd never done that before with Mr. McNamee?

A No. But I didn't have that thing -- the recorder for -- I don't know if I had it for a year, a year and a half. I don't know. I don't use it all the time. I don't record every conversation that I'm going to be on for sure. But if it's there and it's convenient and I was using it that week because I was during winter meetings and a lot flying at me and a lot going on, yeah, I used it.

Q Well, the way you described it earlier, you had a work purpose for recording conversations, to remember details and the like.

A Uh-huh.

Q Is that why you were recording the McNamee conversation because you thought you might want to need to refer back to it for your work to remember certain details?

A Yeah. It could be have been. I don't know what I was thinking that morning when I was -- when I was recording that. I use it as a work tool for sure. But when I get a strange e-mail from a guy that I think is shaky, who knows what the heck he's going to say. I had no idea he was going to say what he said.

Q You mentioned that you've spoken with Clemens's attorney, Rusty Harden recently, is that right?

A I've spoken with Roger's lawyers, yes.

Q My question really is, have you spoken with Rusty Harden about these allegations regarding Clemens?

A Yes.

Q And when did that happen?

A I was in Houston. It may have been a couple weeks ago.

Q Was it a phone call or a meeting?

A A meeting.

Q So you met in Houston. Where did you meet?

A Rusty Harden's offices.

Q And who was there?

A Some of the lawyers that work for him. Randy Hendricks and Rusty came in at the end. And then there was a subsequent time as well that I was at the office, at Rusty's office that I met him. But I really didn't get into much in-depth conversation.

Q So in the meeting, it was Rusty Harden, Randy Hendricks, you, and there were other people as well. Do you know the names of the other people who were there?

A Andy.

Q Andy --

Mr. Finder. For the record, Rusty Harden has an associate attorney named Andy Drumheller?

Mr. Murray. Andy Drumheller.

BY MR. GORDON:

Q Another lawyer with Rusty's firm?

A And another lawyer with Rusty's firm.

Q Anyone else?

A Andy and another lawyer with Rusty's firm.

Q You don't remember that person's name?

A I believe it was Terry.

Q And you say you think this happened a couple weeks ago, this would be in January 2008?

A Yes. I'm pretty -- yeah, I'm pretty sure.

Q And what was the purpose of the meeting?

A To tell them what I knew or what I recalled.

Q So did they set up the meeting and invite you to meet with them?

A Yes. Not only that is that I wanted to really know where I -- legally where I stood as well. Like what's my -- I wanted legal advice as well.

Q Did you retain Rusty Harden as your attorney?

A No, I did not.

Q How long was the meeting?

A An hour maybe. Maybe a half -- between a half-hour and an hour.

Q And can you give me a sense of what was discussed at the meeting, what was the nature of the discussion?

Mr. Finder. I'm going to pose an objection here for this reason: Even though he didn't hire Rusty, and I frankly don't know the substance of the conversation was, if he was asking him legal advice about any liability he might have, whether or not he retained him, that would come under attorney/client privilege, even if Rusty didn't engage or even if Jim didn't engage Rusty. So to the extent the conversation has to do with Mr. Murray asking Mr. Harden about any liability Mr. Murray may have, I would pose an objection. Anything else I think is fair game.

BY MR. GORDON:

Q Well, for a moment then, let's put aside that category of discussions that your counsel just mentioned, any time when you are seeking legal advice from Harden. My question is more about discussions about, your knowledge of the allegations of Clemens's drug use. Was that discussed during this meeting?

A Yes.

Q And was the meeting with McNamee in New York City that we talked about earlier today discussed in that meeting?

A No, I don't believe it was.

Q They didn't ask you whether you'd ever met with McNamee or ever discussed Clemens's alleged steroid use at any time before December of 2007?

A I'm not really sure, no. I'm not -- no.

Q And did you volunteer that information? Did you tell them about that meeting?

A Depends which meeting. Like I said, there's two meetings, and I believe at one of them we talked about that conversation. At the other one, I don't believe we did.

Q So the first meeting you've described is a half-hour or an hour with the number of people. When was the second meeting?

A Not too long ago.

Q When was it?

A Last week or the week before maybe.

Mr. Finder. Let me make one point of clarification about the second meeting. That's where I met my client. So to the extent it's a conversation between he and I, I would object to going into that. If it's -- if there's other people there or if you were there before I met you, then I have no objection.

BY MR. GORDON:

Q Well, let me ask the questions, and if they tread into an area that you or your counsel have a concern about, you can raise that.

What did you tell Rusty Harden or these other folks at either meeting, about your meeting with Brian McNamee in New York City?

A I don't really remember talking with them about it. I think that it was similar to what I said today.

Q You don't remember talking about it or you've talked about it in a way similar to the way you talked about it today?

A We talked about it in a way similar as we did today. But I don't remember the specifics of what we talked about. It could have been, hey, yeah, he's talking but in the newspaper, that you had a meeting at Starbucks. And I didn't really talk to Rusty's group. I don't really remember talking with Rusty's group about that meeting at Starbucks. I'm sorry. Let me clarify that. Going into detail about that meeting at Starbucks.

Q You think it was discussed but you don't remember the details?

A Exactly.

Q Did you tell them that McNamee told you that he had knowledge about drug tests?

A I believe I did.

Q Did you tell them anything more about that meeting with McNamee?

A I believe I told them it was about a job but I'm not sure exactly.

Q Did anyone in those meetings discuss -- discuss whether Mr. McNamee was telling the truth?

A Not to my recollection.

Q Did that topic come up?

A No, not to my recollection, no.

Q Did anyone discuss whether Mr. Clemens was telling the truth?

A No, not to my recollection.

Q I assume the purpose of these meetings is for them to gather information so they can understand what's going on. We've got a public dispute over what happened between two people. But you're saying that despite that contact, they weren't really discussing which one of them was telling the truth?

A Here's the thing, these -- like I say, these past few weeks have definitely been a whirlwind for me. So if it didn't have to do with me personally, I wasn't really paying attention to what they were discussing. With regards to me personally, I believe we talked a little bit about the Starbucks meeting. I don't remember specifics about the

conversation. But I knew I was getting a lawyer and I'd be talking to the lawyer more about what I remember.

Q Did you tell them about any other conversations you'd had with McNamee about steroids, other than the New York meeting where you mentioned a drug test?

A The December call too?

Q Yep. You discussed that one?

A I don't remember if I discussed that one but --

Q Did you discuss any others other than the December call and your earlier meeting with Mr. McNamee, any other occasions in which you discussed the topic of steroids?

A No.

Q Did you discuss whether you had any documents or e-mails or text messages or any other material that might be relevant to this whole issue?

A Yes.

Q And what did you tell them?

A I'm sorry. We didn't discuss it. I gave e-mail -- I printed e-mail and gave it to Roger's lawyers.

Q What e-mail did you give them?

A I did a search for Brian McNamee or whatever I did the search for, printed them out.

Q Where did you search, your work computer?

A Yes.

Q And what did you find?

A I didn't read through them.

Q How much did you gather?

A I don't know. This much.

Q Approximately how many e-mails?

A I mean, how many pages are in this book?

Q Are you saying it's about an inch thick, give or take of?

A I think so.

Q Of documents when you printed it out? And these were all e-mails in your computer?

A Correct.

Q Were they all e-mails where the communication was between you and Mr. McNamee?

A I don't know. It could have --

Q Well, what were you searching for? How did you do your search?

A Search Brian McNamee or if it was Mac. Print. Here you go.

Mr. Cohen. To clarify, there's different ways of searching. You can search just e-mail with someone in the subject line, sent to, sent from. You can search the body of an e-mail.

Mr. Murray. All right. Well, how I have it on my e-mail is that there's a little search thing, and I remember just searching in that little -- putting his name in that

little search bar.

Mr. Cohen. Okay.

BY MR. GORDON:

Q Did you review these e-mails before you provided them to Mr. Harden?

A Did -- no.

Q You didn't look at them?

A I mean just looking at it like this, but -- I didn't read through every single e-mail, no.

Q Did you read through some of them?

A I don't remember reading through any of them. I remember printing it out and saying, here you go.

Q Do you remember any e-mail communications that related to Mr. McNamee's allegations of steroid use by Mr. Clemens?

A No.

Q Any e-mails that related to use of steroids or HGH by Mr. Pettit?

A No.

Q Any e-mail that related to your meeting with Mr. McNamee in New York City? Do you remember anything like that?

A No.

Q Other than printouts of e-mails, did you provide any other documents to Mr. Harden?

A No.

Q This may have been asked before. But on the subject of documents, do you know whether you took notes during your meeting with Mr. McNamee in New York City?

A I don't know for sure.

Q Have you attempted to find out by searching for them?

A Yes.

Q Where did you search?

A My office.

Q And what did you find?

A Nothing.

Q Is there anyplace else that you could search or plan to search where these notes might be?

A No.

Q So you basically concluded that you don't have them?

A Yes.

Q But you're not sure if you ever created them?

A Not for sure.

Q Did you ever take notes during your December call with Mr. McNamee?

A I believe I did.

Q And have you found those notes?

A No.

Q Have you looked for them?

A Yes. I don't know what I did with those notes.

Q Where have you searched for them?

A Same place.

Q In your office? Is there anyplace you haven't searched where those notes might be?

A Well, no. No. I don't put --

Q There is no place you intend to search that you haven't searched yet?

A No.

Q Do you remember throwing them out?

A No.

Q Do you have a recording of your December call with Mr. McNamee?

A No.

Q Did you ever save it or provide it to anyone?

A Yes. I gave it to Randy Hendricks that day.

Q Okay. But you've never received a copy back?

A No.

Q You gave him your only copy of that recording?

A Yes.

Mr. Finder. Just for clarification, did you give him a copy of the recording or the recorder?

Mr. Murray. I gave him the whole recorder.

BY MR. GORDON:

Q Are you aware of any other documents that you have

relating to Mr. McNamee's allegations that Rogers Clemens used steroids?

A Like newspapers or --

Q Let's put aside published reports. Any documents that you received or created?

A No.

Q Other than media accounts?

A I'm sorry. No.

Q Do you know whether Mr. Pettit was informed of what Mr. McNamee told you in December?

A Do I know? No.

Q Did you ask? Did anyone say anything about that one way or the other?

A Not that I remember, no.

RPTS SCOTT

DCMN MAYER.

BY MR. GORDON:

Q I guess this might have been asked already, but just to be clear, have you ever personally discussed with Roger Clemens the subject of steroids?

A Not that I remember.

Q Have you ever discussed human growth hormones with Roger Clemens?

A Not that I remember.

Q Have you ever discussed any other --

A If it was in the newspaper or something like that, maybe, but I don't remember those conversations either.

Q In the week after you got the call from Brian McNamee in early December, did you ever talk to Roger Clemens?

A I don't think I did.

You know what? I did do that. I did talk to him.

Q Did you mention what McNamee had told you?

A No.

Q Why not?

A Because -- because it's not my place. It wasn't my place. I knew -- I mean, at that point, I think it was after the report came out, and Roger has got a lot on his plate. Roger is asking me to do something, and I'm not

going to talk about it with him. I'm just not -- it wasn't my place to do so. I can't help him in any way by doing it, so --

Q Did you ever talk to anybody about whether you should talk to Clemens about it?

A No.

Q No one ever told you don't talk to him about it, right?

A No.

BY MR. COHEN:

Q Did you ever talk to Clemens about the Major League Baseball testing policy?

A Not that I recall.

Q Did you ever talk to anyone within -- was there any discussion within Hendricks Sports Management of the Major League Baseball testing policy?

A Not that I recall. The Major League Baseball testing policy -- as an agent, I believe I received an e-mail with the policy, so I don't remember talking about it then.

Q Okay. Did you ever discuss it with Mr. Pettitte?

A Not that I recall. I doubt it.

Q Did you ever discuss it -- you have about 100 other clients, including Pettitte?

A Yes.

Q Did you ever discuss this with any of your other clients?

A I may have, but I can't remember any kind of specific conversations that I had.

BY MR. GORDON:

Q Andy Pettitte said publicly that he did, in fact, use HGH. Are you aware of that, that he said that?

A Yes, I am.

Q Do you have any knowledge of Andy Pettitte's use of HGH or of any other banned substance, other than what you learned from that public statement?

A No.

Q Do you have any knowledge about whether the allegation in the Mitchell Report that Chuck Knoblauch used HGH is true?

A No.

BY MR. COHEN:

Q You had specifically mentioned that Pettitte had his elbow injury --

A Uh-huh.

Q -- and that there was some discussion between you and him or between Mr. Pettitte and others at the agency; is that correct?

A Well, yes.

Q Could you discuss whether there was any -- did

Pettitte discuss with members of the firm his taking any medication? Did he discuss receiving any injections of any kind?

A Just to clarify, there were several elbow -- several elbow injuries, so it wasn't just one.

But I don't know that Andy Pettitte talked with anybody else at our firm about getting a cortisone injection or about getting some sort of injection, but like I said before, it is somewhat common that players talk about getting -- I don't even know the names of some of the medication, but -- the painkillers or the cortisone or anti-inflammatories. I mean, these are all terms I'm somewhat familiar with.

Would I know if that bottle of water is, you know, some sort of painkiller or whatever? No. I don't really know what they look like, but I've heard.

BY MR. GORDON:

Q When you met with Harden in either of the two instances that you mentioned, did you tell him McNamee had told you several years ago that he had knowledge of drug test results?

A I don't remember if I did or not.

Q Okay. I think you answered this, and if you have, I apologize for asking it again. Have you ever talked to Clemens about Vitamin B-12 injections?

A No, not that I remember.

Q Have you ever discussed with anyone in the Hendricks firm whether Clemens received B-12 injections?

A Not that I remember.

Q Other than with your attorneys, have you discussed with anyone the possibility that you might have to answer questions from Congress about this?

A Yes.

Q Who have you talked to?

A My parents and my fiancée.

Q Other than your attorney, have you talked to anybody about what you should say in response to questions from Congress?

A No.

Q Do you have any information regarding the result of Roger Clemens' 2003 Major League Baseball drug test?

A Do I have any information about the result?

Q Yes.

A No.

Q You have no idea one way or another? You never heard whether it was positive or negative?

A No.

Mr. Gordon. Do you guys have more?

Mr. Cohen. I have a couple more.

Mr. Gordon. Sorry.

BY MR. COHEN:

Q Just to help clarify your position in the firm, there are three principals; is that correct?

A There's two -- define "principal" for me if you don't mind.

Q Maybe --

Mr. Finder. Maybe you should use the word "owners."

BY MR. COHEN:

Q How many owners? Maybe that's a better word.

A There are seven owners.

Q And they are? Can you walk me through who they are?

A There are five young, [REDACTED] shareholders and Alan and Randy Hendricks.

Q So you're one of seven owners of the firm?

A Let me just make sure -- five, six, seven. Yes.

Q Okay. How many total people work for the firm?

A Less than 20. Yeah, less than 20.

Q Okay. Are you a financially responsible party to the extent the firm is sued for one reason or another, for example? Are you a financially responsible party as an owner of the firm, as a co-part owner of the firm?

A I'm not really sure.

Q Mr. McNamee, aside from Mr. Pettitte and Mr. Clemens, has he acted as a trainer or been involved with any of the other clients since 2000 or 2001, to your

knowledge?

A Not that I'm aware of.

Q So does it help, perhaps, refresh your memory of the Starbucks conversation at all when he discussed having some knowledge of drug test results? Could that discussion have been about anybody -- would he have been having that discussion with you about anybody besides Mr. Pettitte or Mr. Clemens?

A I don't remember, but I think that if it was -- if it was something -- where he said it was something about our clients, I would have done what I did in Nashville and would have immediately alerted Randy Hendricks.

BY MR. GORDON:

Q In other words, your best recollection is that McNamee, who trained two prominent clients for your firm -- if he mentioned drug test results, that wouldn't cause you any concern or to be curious about that or to relate that to your own clients? It would have been only if he provided those names; is that what you're saying?

A I think, if I would have heard our clients' names, I -- it would have set off -- I would have remembered. Let's put it that way.

Q But you don't remember hearing the names. You only remember him saying, "I have knowledge of drug test results"; is that right?

A Correct.

Q That information would not have prompted you to inquire or to take any other action. Is that what you're saying?

A Well, I did talk with Randy about it, but it wasn't like it was -- like I said, like a four-alarm fire, whatever you want to -- so --

Q In retrospect, knowing what you know now, that McNamee is saying that he supplied Roger Clemens with banned substances and that he has said, according to press reports, that he had a conversation with you about that during this meeting, in retrospect, does that make sense? Do you think it's possible that that's what he was telling you?

A I'm not going to speculate on that. No. I think that if he mentioned -- could you repeat your question?

Q In retrospect, now that you know today that McNamee is saying, well, I talked to him about drug test results and I was talking to him about Clemens, now, knowing that, do you think it's possible that, in fact, that is what he told you back then? Does that refresh your recollection in any way?

A No, it doesn't.

BY MR. COHEN:

Q You mentioned you had gone back after the meeting at the Starbucks, and you mentioned to Randy Hendricks both the

information that Mr. McNamee was searching for a job and that there was some discussion of drug testing results?

A Yes.

Q This was via conversation or via e-mail or both?

A I remember talking to him about it, so it was by conversation. Whether it was a phone call or an in-person conversation, I'm not -- I'm not sure.

Q Do you remember what his response was?

A Yeah. I mean, it was kind of like, "Is this guy nuts?" or "Is," you know, "this guy's nuts?" or which --

Q Was that his response with regard to the question of looking for a job or his response to the information about drug testing results?

A I believe it was about drug testing results because I remember -- vaguely remember saying like, "What does this mean?" or something like that, so --

Q So it sounds like you may be remembering a little bit more. You said, "What does this mean?" What were you referring to as "this" when you said, "What does this mean?"

A About McNamee's having knowledge of drug test results.

BY MR. GORDON:

Q What did you tell him? What did you think it meant?

A What did I think it meant?

Q Yes.

A I don't remember.

Q Did you think he --

A Oh, I'm sorry.

Q In other words, Randy Hendricks was saying, well, what does this drug test mean? What is this information he's saying? Knowledge of drug test results, what does that mean?

Is that what you're saying, he asked that question?

A No. I asked that question.

Q You asked that question?

A Yeah.

Q And who were you talking to?

A To Randy.

Q And what did he say?

A He said, "He's a nut," or something to that effect, and then I went on with whatever else I had to do.

Q Had you ever talked to McNamee about drug tests in any other context like a drug test you had taken or a drug test McNamee had taken?

A Not that I remember. I don't think so.

Mr. Finder. I'm sorry. Did you say a drug test he had taken?

Mr. Gordon. Yeah.

BY MR. GORDON:

Q You never discussed drug testing in any other

context with McNamee other than this one conversation?

A Not that I remember and -- no, not that I remember.

Q But you're saying, when he referred to knowledge of drug test results, you didn't really have any idea what that could have referred to. You weren't sure; is that right?

A That's right.

Q He's the trainer for the most prominent client -- another really prominent client of your firm and clients who are subject to testing as part of their Major League Baseball responsibilities. But when he mentioned knowledge of drug tests to you, that didn't trigger or you didn't make a link to the fact that those drug tests could have been the drug tests of Roger Clemens and Andy Pettitte or of any of his training clients, who were also your clients?

A No, not that I remember.

Mr. Gordon. I'll turn it over to the minority.

Mr. Castor. Just a couple.

BY MR. CASTOR:

Q Do you know who at the Hendricks firm is the contact with the union for Roger and Andy?

A I believe -- no, I don't know.

Q It's not you?

A If Donald Fehr needed to call Roger's agent, Donald Fehr would call Randy Hendricks.

Q As we understand it with the Mitchell Report, they

sent notice to the players' union, advising them of the names of the players who were going to be in the Mitchell Report. At that point in time, the union, as we understand it, reached out to the agents.

Presumably, they reached out to the Hendricks firm. Do you have any knowledge of that?

A No.

Q Has anyone from the union ever reached out to you --

A No. Well, with regards to -- I'm sorry.

Q -- with regards to Roger or Andy?

A No.

Q So Michael Weiner has never called you?

A No.

Q Gene Orza?

A No, not that I remember. I think Gene and I may have talked years ago about Roger doing some sort of promotional -- but they called Randy first.

Q The Starbucks meeting with McNamee at [REDACTED] you're pretty sure about that?

A Pretty sure.

Q Do you have any recollections of any other meetings at any other Starbucks with McNamee?

A No.

Q So, to the best of your recollection, there was one meeting with McNamee at one Starbucks, and it was at 90th

and 1st?

A To the best of my recollection, yes.

Q Do you remember how that meeting was arranged?

A No.

Q Do you remember, when you arrived at the Starbucks, whether McNamee was already inside?

A No.

Q Do you remember if McNamee was in your vehicle that day, heading up to the Starbucks?

A I don't remember if I had a vehicle that day. I don't know.

Q Has McNamee ever been in your car?

A Not that I can remember.

Q You never gave him a ride in it?

A I don't think so.

Q So you don't know who picked the location?

A No. No.

Q Did you ever use the Starbucks location at [REDACTED] as a good spot to meet people generally?

A Yeah. Well, I think I've met friends there before, but not necessarily for a business meeting. I don't remember specifically. I know I've been there before quite a few times, aside from Roger or McNamee, so --

Q When is the last time you were at that Starbucks?

A I don't know. Probably a couple years ago.

Q You said you don't recall whether you were sitting down at a table with McNamee when you met with him, but it was a meeting, right? I mean you talked about a job, correct?

A Correct.

Q You talked about this drug test thing, correct?

A Correct.

Q So, a little more likely than not, you were sitting down -- correct? Or you really don't know?

A I really don't know. I mean, Starbucks is pretty convenient in that they have those standing tables, too, so I don't know.

Q Does the Starbucks at [REDACTED] have standing tables?

A I don't remember if it does.

Q Major League Baseball didn't start doing drug tests until 2003, right?

A I believe that's the case.

Q Did Clemens ever take a drug test before 2003, to your knowledge?

A I don't know. I'm sorry. I don't know.

Mr. Gordon. Mr. Murray, thank you very much for coming today. We appreciate your cooperation and spending so much time with us.

Mr. Murray. Thank you.

Mr. Gordon. That concludes the interview.

Mr. Castor. You can go off the record, Shannon.

[Whereupon, at 1:30 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

ERRATA SHEET

FOR DEPOSITION OF JAMES JOSEPH MURRAY IV

| <u>PAGE</u> | <u>LINE</u> | <u>CORRECTION</u> |
|--------------------|--------------------|--|
| 3 | 21 | Change "16151 I STREET, SUITE 800" to "1221 McKinney, Suite 2100." Change noted by witness. |
| 3 | 22 | Change "Washington, D.C. 20036-5610" to "Houston, TX 77010-2007." Change noted by witness. |
| 4 | 1-3 | Change "One Houston Center 1221 McKinney Street, Suite 2100 Houston, Texas 77010-2007" to "1651 I Street, Suite 800 Washington, D.C. 20036-5610" |
| 8 | 25 | Add "," after "know." Change noted by witness. |
| 12 | 23 | Change "hey, get this for McNamee or book this flight for McNamee." to " "Hey, get this for McNamee" or "book this flight for McNamee." " Change noted by witness. |
| 21 | 1 | Add "," after "Like." Change noted by witness. |
| 21 | 2 | Put in quotations "I'm losing clients. I want to sue the L.A. Times." Change noted by witness. |
| 21 | 8-9 | Put in quotations "hey, could you do this or could you do that?" Change noted by witness. |
| 39 | 19-20 | Put in quotations "what is he up to?" Change noted by witness. |
| 58 | 25 | Change "daily news" to "Daily News." Change noted by witness. |
| 63 | 20 | Change "Harden" to "Hardin." Change noted by witness. |
| 64 | 14 | Change "Harden" to "Hardin." Change noted by witness. |
| 64 | 17 | Change "Harden" to "Hardin." Change noted by witness. |
| 64 | 21 | Change "Harden" to "Hardin." Change noted by witness. |
| 64 | 25 | Change "Harden" to "Hardin." Change noted by witness. |

| | | |
|-----|-----|--|
| 66 | 24 | Change “Harden” to “Hardin.” Change noted by witness. |
| 85 | 24 | Change “Harden” to “Hardin.” Change noted by witness. |
| 91 | 7 | Change “Pettit” to “Pettitte.” Change noted by witness. |
| 92 | 3-4 | Put in quotations “hey, if you talk to Roger, I’m trying to get a hold of him.” Change noted by witness. |
| 92 | 4-5 | Put in quotations “hey, have you talked to Andy? I’m trying to get a hold of him.” Change noted by witness. |
| 92 | 16 | Change “Pettit” to “Pettitte.” Change noted by witness. |
| 92 | 16 | Add “,” after “Pettitte.” Change noted by witness. |
| 93 | 3 | Add “,” after “said.” Change noted by witness. |
| 93 | 3-4 | Put in quotations “hey, are Roger still working out – or is Roger and Andy still working out with McNamee.” Change noted by witness. |
| 93 | 5 | Put in quotations “I don’t know.” Change noted by witness. |
| 93 | 6 | Put in quotations “I don’t know, he’s crazy.” Change noted by witness. |
| 93 | 6-8 | Put in quotations “he’s sending me e-mails asking for stuff but yet not asking for anything.” Change noted by witness. |
| 101 | 3 | Change “Pettit” to “Pettitte.” Change noted by witness. |
| 101 | 11 | Change “Pettit” to “Pettitte.” Change noted by witness. |
| 103 | 20 | Change “dime” to “time.” Change noted by witness. |
| 104 | 3 | Put in quotations “call me from a hard line.” Change noted by witness. |
| 105 | 8 | Change “Pettit” to “Pettitte.” Change noted by witness. |
| 106 | 16 | Change “Pettit” to “Pettitte.” Change noted by witness. |
| 107 | 5 | Put in quotations “I’ve got to deal with this.” Change noted by witness. |

| | | |
|-----|-------|---|
| 107 | 6 | Put in quotations "okay." Change noted by witness. |
| 108 | 4 | Change "Pettit" to "Pettitte." Change noted by witness. |
| 108 | 24 | Change "B1" to "B12." Change noted by witness. |
| 111 | 8 | Put in quotations "I have to handle this." Change noted by witness. |
| 111 | 9 | Put in quotations "okay." Change noted by witness. |
| 112 | 23 | Change "if" to "in." Change noted by witness. |
| 113 | 3 | Change "handy" to "Randy." Change noted by witness. |
| 113 | 10 | Add "," after "here." Change noted by witness. |
| 117 | 8 | Change "Harden" to "Hardin." Change noted by witness. |
| 117 | 11 | Change "Harden" to "Hardin." Change noted by witness. |
| 117 | 19 | Change "Harden" to "Hardin." Change noted by witness. |
| 118 | 1 | Change "Harden" to "Hardin." Change noted by witness. |
| 118 | 6 | Change "Harden" to "Hardin." Change noted by witness. |
| 119 | 1 | Change "Harden" to "Hardin." Change noted by witness. |
| 119 | 15 | Change "Harden" to "Hardin." Change noted by witness. |
| 119 | 21 | Change "Harden" to "Hardin." Change noted by witness. |
| 121 | 5 | Change "Harden" to "Hardin." Change noted by witness. |
| 121 | 15-16 | Put in quotations "hey, yeah, he's talking but in the newspaper, that you had a meeting at Starbucks." Change noted by witness. |
| 125 | 5 | Change "Harden" to "Hardin." Change noted by witness. |
| 125 | 18 | Change "Pettit" to "Pettitte." Change noted by witness. |
| 125 | 25 | Change "Harden" to "Hardin." Change noted by witness. |
| 128 | 9 | Change "Pettit" to "Pettitte." Change noted by witness. |

Change "Harden" to "Hardin." Change noted by witness.