

EXHIBIT A

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK**

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| EASTERN PROFIT CORPORATION |) | |
| LIMITED |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 18-CV-2185 (LJL) |
| |) | |
| STRATEGIC VISION US, LLC |) | |
| |) | |
| Defendant. |) | |
| |) | |

SUR-REPLY IN OPPOSITION TO DEFENDANT’S MOTION *IN LIMINE*

Strategic Vision US, LLC (“Strategic”) asserts an affirmative fraud claim based on the premise that its principals are ardently anti-communist and would never do business with anyone who has ties to the Chinese Communist Party (“CCP”). At the same time, Strategic refuses to answer questions about whether its legal bills to pursue that very fraud claim are being paid by CCP-backed individuals or entities. Strategic cannot have it both ways.

Yet In its Reply in Support of its Motion *In Limine*, Strategic continues its attempt to do just that. Increasingly more desperate to avoid having to answer under oath whether its litigation funder(s) are backed by affiliates of the CCP—an admission that would gut its fraud claim—Strategic conjures up and then attempts to discredit a new evidentiary theory that Strategic incorrectly attributes to Eastern Profit Corporation Limited (“Eastern”). This new theory, however, is Strategic’s, not Eastern’s. The arguments that Strategic puts forth are inapplicable to Eastern’s actual evidentiary theories, and they are incorrect in any event.

More specifically, in its Reply, Strategic: (1) speculates that Eastern plans to introduce exhibits relating to the criminal pleas of two individuals to prove that those individuals are funding Strategic’s litigation; (2) argues that the Court already has found that the identity of

its funder(s) (which may well include those two individuals—Strategic won’t say) is irrelevant; (3) argues that even if the funders’ identity is “conditionally relevant,” Eastern will not be able to connect enough dots to get the exhibits into evidence; and (4) argues that even if Eastern can connect the evidentiary dots, Strategic has a First Amendment right not reveal the identity of its funders because doing so would chill litigation funding, and cause “parties like Strategic Vision [to] lose their ability to access the courts and defend themselves.” Reply Brief at 8.

Each of those contentions is wrong. The question of whether Strategic is being funded, directly or indirectly, by CCP backers goes directly to the heart of the fraud claim, and evidence on that point must come in.

I. ARGUMENT

A. Eastern Plans to Introduce the Broidy and Davis Documents to Show that the U.S. Government (and Broidy, Davis, and the CCP) Consider Guo Wengui a Dissident.

Eastern intends to introduce the charging documents and plea agreements for Elliott Broidy (PX 62, 71) and Nickie Mali Lum Davis (PX 60, 72), as well as a related press release (PX 61), primarily because the documents are evidence that the U.S. Department of Justice itself considers Guo Wengui—who is referred to in the documents as “PRC National A”—to be a “dissident of the PRC,” and thus refers to him as such. PX 72 at ¶ 13; *see also* PX 61 (referring to Guo as a “PRC Dissident”).¹ Moreover, according to the documents, “the government of the PRC,² including PRC Minister A and the President of the PRC, were seeking the removal of [Guo] from the United States back to the PRC.” PX 62 at ¶ 15. Davis and Broidy were federally indicted for—and recently pleaded guilty to, *inter alia*—agreeing to lobby high-ranking U.S. government

¹ Strategic concedes that “PRC National A” is Miles Guo. Reply at 4.

² PRC stands for People’s Republic of China.

officials on behalf of the CCP to arrange for Guo's removal from the United States and return to China. *See, e.g.*, PX 60, 71 & 72. Evidence that the CCP was working to secure the return of Guo to China goes to the fact that the CCP regarded Guo as an adversary, not a supporter, as does evidence that the U.S. Government has expressly classified him as a "dissident."

Eastern had not intended to introduce these exhibits to show that Broidy and/or Davis are paying Strategic's fees. However, given that Strategic has proactively raised the possibility that Broidy and/or Lum Davis are involved in Strategic's funding, and then **explicitly refused to deny their involvement**, Reply at 4 n.6, Eastern should be entitled to explore the subject at trial through examination of Strategic's witnesses.³

B. This Court Has Not Ruled that the Issue of Whether Strategic Is Being Funded By CCP Backers Is Irrelevant.

Strategic's characterization of Magistrate Freeman's ruling is inaccurate; she did not rule that the identity of Strategic's funders was irrelevant. Eastern respectfully refers the Court to the text of her transcript ruling for an accurate representation of her decision. Dec. 2, 2019 Telephone Conference Tr., at 76 (Attached as Exhibit 1). As noted in Eastern's Opposition Brief but conspicuously absent from Strategic's Reply, the Court decided that it need not make a definitive relevance ruling at the discovery stage because the parties entered into a stipulation that resolved the discovery dispute. The fact that Strategic is now apparently walking away from its stipulation—in which it attested "Strategic Vision US, LLC's legal fees in this action are not being paid by any person or entity that is or ever was a member of, associated with, or affiliated with the Chinese Communist Party or the People's Republic of China"—is telling. Opposition Brief, Ex. A.

³ Eastern does not seek a trial within a trial, as Strategic suggests. Eastern simply wants to know whether Strategic's fees are being paid, directly or indirectly, by CCP supporters/affiliates.

Our laws allow for litigation funding and alternate fee arrangements, and the fact that Strategic's fees are being paid by someone other than Strategic may not be remarkable standing alone. In the everyday case, the identity of a litigation funder might be "generally irrelevant" to the parties' claims or defenses. Reply at 2. But if the identity of Strategic's funder in this case belies the assertions underlying Strategic's fraud claim and the Stipulation it signed, that fact is undeniably relevant and related evidence is clearly probative and goes to both merits and credibility. See Opposition Brief at 5-6 (citing cases holding that identity of litigation funders is relevant). Exclusion of any such evidence would prevent Eastern from being able to defend itself against Strategic's claims.

C. **The Arguments in Strategic's Reply Do Not Refute the Admissibility of Evidence Regarding Strategic's Litigation Funder.**⁴

Strategic's Reply sets forth a Rube Goldberg web of supposed conditional evidentiary inferences regarding the Broidy and Davis exhibits that conflate the issue of whether Guo is a communist with the issue of whether CCP affiliates are directly or indirectly paying Strategic's fees. Eastern intends to use the Broidy and Davis documents primarily to go to the former issue, whereas Strategic's Motion *in Limine* goes to the latter issue.

Eastern does not subscribe to Strategic's overly complicated theory, which conflates the two issues. Eastern's evidentiary theory is simple: to succeed on its fraud claim, Strategic must prove (*inter alia*) that Guo is a CCP supporter *and* that Strategic would not associate with supporters of the CCP. Evidence going to the first issue includes the Broidy/Davis exhibits

⁴ Strategic's Reply could be read to suggest that Eastern bears the burden of proof. The "Eastern would need to prove" mantra that Strategic employs in its brief should not obfuscate that it is Eastern, not Strategic, who bears the burden of proof on the affirmative elements of its fraud claim. Eastern need not prove that Guo is a dissident or that Strategic is now contracting with the very type of people with whom it claims it would not contract. It is Strategic that must prove that Guo is a dissident and that the political affiliation of its business partners is a material fact on which it reasonably relied in entering the contract. If Eastern has evidence that tends to refute those facts, then it is entitled to present that evidence in defense of Strategic's fraud claim.

(which contain positions on Guo's political affiliation taken by the U.S. Government in official government documents, and admissions under penalty of perjury from criminal defendants regarding their meetings with CCP officials about Guo). Evidence going to the second issue includes any arrangements by Strategic to have its fees paid by people backed by or affiliated with the CCP. The two issues might end up being related, but the admissibility of evidence on one issue is not contingent on the admissibility of evidence on the other.⁵ Strategic's suggestion that whether or not the CCP and its allies are successful in deporting Guo is a fact necessary to the admission of this evidence on either issue, Reply at 5, is incorrect.

D. Having Used Political Affiliation as a Sword, Strategic Cannot Turn Political Affiliation Into a Shield By Invoking the First Amendment.

Strategic brought its fraud claim premised entirely on the supposed political affiliation of its principals. It now seeks to exclude evidence of its principals' political affiliation, hiding behind the First Amendment. Its argument is ridiculous on several levels.

As a threshold matter, the difficulty in attempting to define the political beliefs of Guo, Strategic, or Wallop and Waller highlights one of the many reasons Strategic's claim should fail on the merits. One's political beliefs are not black and white facts that can be proven true or false. Now faced with a challenge to its own political affiliation that it brought upon itself, Strategic apparently is starting to understand this logic. But Strategic must suffer the consequences of pursuing its claim. To the extent Strategic's current argument is "we were not okay with communist loyalists in December 2017 but we are ok with them now," Eastern must be able to explore that change of position on a "fact" that Strategic claims is material.

⁵ Even if Eastern had to lay a foundation in order to get any of its proffered exhibits into evidence, Eastern simply could do so by eliciting foundation testimony from witnesses. The fact that a foundation must be laid before an exhibit can come in does not preclude a party from attempting to lay that foundation.

Relatedly, Strategic did not employ funders because they “had the courage to come to **Strategic’s defense.**” Reply at 1. Rather, the evidence that Strategic is hiding may well show that it was the funders who employed Strategic to assist in the **funders’ offense.** Notably, before current counsel entered an appearance in this matter, and while Strategic was simply defending Eastern’s claims for the return of its \$1 million deposit, Strategic’s lawyers withdrew for nonpayment of fees. *See* Docket 102. Then suddenly, when current counsel entered its appearance in this case, not only was Strategic able to afford the defense of Eastern’s contract claims, but **Strategic for the first time asserted a fraud counterclaim against Eastern based on Guo’s political affiliation** and cranked up a scorched earth approach to discovery and litigation. Under such circumstances, the identity of Strategic’s funder goes not only to the merits of its fraud claim, but also to the bias of Strategic’s witnesses. *See* Opposition at 5-6.

Along the same lines, when it comes to political affiliation, Strategic is the aggressor, not the party in need of defense. Eastern brought this contract case because it paid a \$1 million deposit for private investigative services, to people who turned out not to be private investigators, and got nothing in return. **It was Strategic—not Eastern—who then turned this case into a political dispute by bringing a fraud claim based on the theory that political affiliation is a material representation of fact upon which they reasonably relied in entering the contract. Having affirmatively put the political affiliation of its principles at issue, it cannot now claim that it has some First Amendment protection that allows it to hide its own affiliations that belie its claim.** “[W]hen a party puts its confidential communications directly at issue in litigation, any privilege — qualified or not — may be waived.” *In re Methyl Tertiary Butyle Ether (“MTBE”) Prods. Liab. Litig.*, 898 F. Supp. 2d. 603, 607 (S.D.N.Y. 2012) (applying the “at issue” doctrine in the context of the deliberative process privilege and noting that the

doctrine “serves to avoid the ‘inherent inequity in permitting [litigants] to use the privilege as a sword rather than a shield,’ which is the result whenever litigants are permitted to ‘divulge whatever information is favorable to [their] position and assert the privilege to preclude disclosure of detrimental facts’”); *see also HSH Nordbank AG N.Y. Branch v. Swerdlow*, 259 F.R.D. 64, 74 (S.D.N.Y. 2009) (stating that the at issue doctrine prohibits a party from using the attorney-client privilege as both a sword and shield.); *Schiller v. City of New York*, 245 F.R.D. 112, 120 (S.D.N.Y. 2007) (reasoning that because the Second Circuit had found the fairness/at issue doctrine applicable to the normally inviolate attorney-client privilege, that doctrine necessarily applies to the qualified journalist's privilege as well).

II. CONCLUSION

For the foregoing reasons and those stated in Eastern’s Opposition, Strategic’s Motion *In Limine* should be denied.

Dated: November 18, 2020

Respectfully submitted,

/s/ Joanna J. Cline

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EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
EASTERN PROFIT CORPORATION : Docket #18cv2185
LIMITED, : 1:18-cv-02185-JGK-DCF
Plaintiff, :
- against - :
STRATEGIC VISION US, LLC, et al., :
Defendants. : New York, New York
: December 2, 2019
----- : TELEPHONE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE DEBRA C. FREEMAN,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

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None

E X H I B I T S

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THE COURT: Hello, it's Judge Freeman.

MR. EDWARD GREIM: Good morning, Judge, you've got Eddie Greim and Jennifer Donnelly in Missouri here for Strategic Vision, and I've got the other two parties also on the line, I'll let them introduce themselves.

MS. JOANNA CLINE: Good morning, Your Honor, Joanna Cline and Chris Chuff at Pepper Hamilton for Eastern Profit.

THE COURT: Okay.

MS. ERIN TESKE: Good morning, Your Honor, Erin Teske and Mark Harmon here for Mr. Guo, nonparty.

THE COURT: Okay. Is there anyone else who represented any other nonparties?

MR. GREIM: Your Honor, there's nobody else, I'm the one who put the call together here, so it's just the three of us.

THE COURT: Because there is more than one thing going on now because in this case there always seems to be more than one thing going on. I had had a conference whenever that was with counsel for the party last week, and an issue came up that related to Mr. Guo's deposition so I said I wanted to continue the conference when Mr. Guo's attorney could be on the phone. But since then I've gotten this correspondence

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about a request for a stay and I guess, Ms. Teske, are you representing all of the nonparties who are making that motion?

MS. TESKE: Your Honor, we represent, we've represented nonparties, Golden Spring (New York), Karen Maistrello, Yvette Wang and Myles Kuok or Guo Wengui, all of whom have been affected by extensive nonparty discovery requests and we made that motion on their behalf.

THE COURT: Okay, so first of all, let me work backwards a little bit. It looks to me from Mr. Greim's opposition to the request for a stay that he is actually seeking to do very little more before accepting the close of discovery. It doesn't seem like he's seeking at this point substantial additional nonparty discovery; is that correct, Mr. Greim?

MR. GREIM: Yes, Your Honor, based on our call with you last week, we've got, you know, we're hoping to take the deposition of Mr. Guo on Wednesday and Mr. Bannon on Thursday, and subject to whether we can work out the issues with Google on these, and Twitter on these subpoenas, we're done. We're not going to go try to find ACA in Hong Kong or do whatever things, we're just, we want to try to get these topics from

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Mr. Guo because that seems to be the most efficient way to wrap this up.

THE COURT: So when you're talking, Ms. Teske, when you're talking about Golden Spring and Ms. Maistrello, and who am I forgetting, Yvette Wang, it doesn't seem like anything more is being sought from them.

MS. TESKE: Your Honor, my concern is with the subject to (indiscernible) the responses he wants from Mr. Kuok. And there has been, you know, Strategic has a proclivity for making a request on nonparties that are far in excess of any of the scope that they had bene permitted to date. And those, you know, subpoenas to Google, and Twitter, and AT&T, and T-Mobile and the subpoenas that are outstanding are very onerous and harassing of our clients. He's suggested that if he doesn't get the answers he wants from Mr. Kuok, that he wants another day from Golden Springs and I --

THE COURT: All right, all right, I can address that, let's take it in smaller pieces, okay? The deposition of Mr. Guo is supposed to go forward, I'm not sure why there's been a problem in having it go forward, there is an issue about topics to be covered, which is why I wanted to have counsel for Mr.

1
2 Guo on the phone before that deposition to make sure
3 that everybody is being able to speak on that topic,
4 be heard on that topic. But I am not envisioning, Mr.
5 Greim, that if you are not satisfied with Mr. Guo's
6 responses, that that opens the door to further
7 depositions.

8 MR. GREIM: Nor are we, Your Honor, honestly.
9 We just, at this point, if Mr. Guo, you know, can't
10 tell us about Golden Spring or says he doesn't know or
11 he's never heard of it, or whatever, at that point we,
12 I mean to me the relief we would get at that point
13 might be something like on summary judgment Golden
14 Spring can't come rolling in with all this information
15 that we, you know, that it never gave us in discovery.
16 But we've got to tie it off at some point and I think
17 that's how we would do it.

18 THE COURT: I think sooner would be better
19 than later to "tie it off." So, all right, so my view
20 on this is that Mr. Guo's deposition, continued
21 deposition should go forward, this should be the end
22 of it, there should not be another day after this. And
23 then that should not open the door to other
24 depositions from ACA or Golden Spring or anybody else.

25 Mr. Bannon is something that I have heard no

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2 squawking about, from his counsel I've had no motion
3 to quash a subpoena, I don't know what's going on with
4 discussions with his counsel, you are not representing
5 him, Ms. Teske, I gather, and so that seems to be
6 something I cannot address today and have no reason to
7 address because I haven't had any appropriate motion
8 practice in front of me should it be needed.

9 MR. GREIM: Your Honor, the only thing that we
10 seek from you, and it's actually pretty limited,
11 because there's really two pieces. One is, is it even
12 okay to do it on December 5th. The other thing is, I
13 suppose he could still file a motion to quash, but
14 he'd probably file that down in District of DC and
15 then he would raise, you know, whatever substantive
16 issues he has with the subpoena. But I thought that
17 what we might need from you is an okay that December
18 5th is not too late to take it. You're obviously not
19 ruling on whether, on any grounds to quash that he
20 might raise.

21 THE COURT: Well that's outside the discovery
22 period?

23 MR. GREIM: Correct, December 5th is outside
24 the discovery period, that period ended on Friday. He
25 was noticed to appear the previous Friday which I'm

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losing track of the dates, November 22nd.

THE COURT: Well how much notice did you give him?

MR. GREIM: We got word, another one of my trips to the airport we got word that he was not going to appear the following day, and so we're treating it as a no show, there's no motion to quash filed.

THE COURT: How much notice did you give him?

MR. GREIM: He was ultimately served the previous Thursday, so November the 14th. We've been trying to serve him for a month before that. And so what I told --

THE COURT: I'm sorry, you served him on the 14th with a return date for the deposition on the, on what date?

MR. GREIM: November 22nd, Friday, Your Honor.

THE COURT: Well that's, you know, eight days notice, generally, you know, reasonable notice is going to be at least ten for --

MR. GREIM: Sure, Your Honor, and I'd agree, I'd like to have had more notice, what we discussed with counsel was let's get on the phone with the Court, if you want to push it until after the discovery deadline, let's get on the phone and at

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2 least get approval to do that. And rather than doing
3 that, they emailed and said he would not be appearing,
4 they wanted more time to prep him and so because they
5 earlier mentioned December 5th as an available date,
6 you renoticed it for that date. I'd also tell you that
7 we spoke with his counsel that preceding week, both on
8 Monday and then on Thursday.

9 THE COURT: Well I'm not going to rule on this
10 based on your representations as to what opposing
11 counsel said. So if, and if there is a motion that's
12 in a different district then I shouldn't be ruling on
13 it in any event. And I'm not going to extend the
14 discovery deadline just based on, you know, what you
15 tell me were your efforts and why it couldn't have
16 been done sooner within the discovery period.

17 So, you know, I'm not going to do what you're
18 asking me to do right now, I'm not going to say
19 discovery is extended to and through December 5th, but
20 that's without prejudice for you to renew that
21 application with, you know, counsel for Mr. Bannon so
22 that I can hear what both sides have to say about the
23 diligent efforts that were made to obtain his
24 testimony before the discovery period and how you were
25 thwarted in your efforts to do so. And I'm not

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persuaded at this point that you were thwarted in your efforts to do so. So, you know, that you served him with sufficient time to make it reasonable, that the subpoena should be enforced, and again, it apparently was in a different district. So that's denied for now.

With respect to Mr. Guo, that deposition should go forward but it should not open the door to anything else. And so with respect to depositions, when that's over, the deposition phase of discovery should be no more, that should be it.

With respect to the subpoenas that are outstanding, you know, I thought at least certain subpoenas, they were very broad. But again, I'm not sure I actually have a motion to quash or a motion to compel or anything in front of me, and I think last time we spoke, I think you told me it was not in front of me.

MR. GREIM: Your Honor, actually you have a motion from Ms. Teske -- well, let's see, I better let her, what we decided on our last call was that she could contact them and say that it's not necessary to make any production while we work out --

THE COURT: That's correct. That's right.

MR. GREIM: And here's the thing, Your Honor,

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what Google and Twitter ultimately allow will kind of make or break this for us. we are still in talks with them, we removed the geographic tracking element on these subpoenas and I think we reported that to you last time.

THE COURT: Right, and I remember saying that I didn't understand why you were seeking the information about the IP addresses from which contact had been made because it seemed to me that that was another way to get geographical information. And you had said, no, no, we're not looking for geographical information.

MS. TESKE: Your Honor, it was more than the geographic information, too, I know that's precisely what we picked up on because it seems to be the most offensive component. But we're talking about three years of phone records and billing information, and none of the information that he's asked for is remotely relevant.

MR. GREIM: Your Honor, I mean we've got, we can argue that whatever is out there, I don't think it's a motion --

THE COURT: Wait, wait, wait, we had taken a look at the case law regarding when subpoenas for

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phone records and the like are upheld in civil litigations. And generally what we've seen is when there is something that's narrowly tailored to an issue in the case where you really can see that the effort is made to have it narrowly tailored, you know, there's a particular issue about a particular conversation that's at issue, you know, between two parties and there's a dispute about what took place, or when it took place or something like that, you know, and you're looking to have the records to try to confirm one way or another whether that conversation took place on that day in time. Something that is narrow and is clearly geared to something that's disputed or, you know, material to claims or defenses.

What you have is extremely broad and it's unclear to me even why you are looking for the information you are looking for. You did not really lay out for me an explanation of relevance of all of these things you're looking for. Now that said, if you are in the process of negotiating, I always encourage negotiation, but if Ms. Teske represents anybody who has standing to object because it's there records and she thinks that it would reveal personal information about them in some manner, you should include her in

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your discussions, and you shouldn't simply negotiate with Google.

MR. GREIM: But, Your Honor, what we want to first do is see whether we can even overcome the issues that Google and others have raised and then our intent frankly was to go back to Ms. Teske and say, well, here's where we are, what do you think about this. I don't know about three-way phone calls on this. I mean I don't know if the Court's suggesting that, but certainly we'd have to come back to Ms. Teske. We're just trying to work with in-house counsel at Google and I get kind of confused here. I think one of them is actually part of Google, I don't know this as well as I should.

THE COURT: Well, look, if I'm going to need to resolve this, and I think what you told me last time was that they were not producing because it was, I've given the direction that they not produce until things were sorted out, until I had ruled, and it was not at that time in front of me to rule, maybe what I was thinking at the time was I didn't have Ms. Teske present. But in any event, I remember thinking that was being tabled.

So the fact of the matter is, if there is

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2 going to be a dispute about it, then the party that is
3 seeking the discovery has the burden to show relevance
4 in the first instance and you are going to have to do
5 a lot more than you did to demonstrate why the kinds
6 of records you are seeking are relevant to any claim
7 or defense that's been asserted in this case. Because
8 just to say I want all the phone records because I
9 think, I don't know, if I go through them maybe I'll
10 find something, is not sufficient. You're going to
11 have to explain why these materials that you are
12 seeking are appropriate for production in this case.

13 MR. GREIM: Your Honor, we recognize that, and
14 we just, frankly, we will do that at the appropriate
15 time if we can get to that stage, and it may be that
16 we don't, but I think we're coming to a conclusion
17 here one way or the other, and we'll be prepared to
18 make our showing to you.

19 THE COURT: Well I might just cut the whole
20 thing off altogether before you burden Google with
21 ongoing conversations about what can they do and what
22 will they do. Because if it's not something where you
23 can make a showing of relevance in the first instance,
24 why are you even putting them to that burden of having
25 those discussion with you? Can you give me a basic

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explanation as to why you're seeking all of these records from numerous providers, right? It's LinkedIn, and Google, and YouTube, and AT&T, right, and Verizon maybe, I mean I can't remember exactly but I think there are at least five providers.

MR. GREIM: Your Honor, here's the couple of basic points and they're different for each one. And I'm not the, I don't have my little chart in front of me here but I'll do my best. So for Google and I think YouTube is one of those, it's going to be important. There are some things that are on the internet, videos of Guo, or recordings that Guo says are not his. And being able to trace those back and show that actually those are his accounts, and we know that one of these channels from the objection letter I think that came from Ms. Teske, they admit that one of those channels is actually Guo's. One of the three that I think we're seeking.

THE COURT: Well then you don't need the information on the one because you have an admission.

MR. GREIM: Well but they don't say which one it is.

THE COURT: All right, well if you have a particular video that you can show has some relevance and you're trying to show this video is on an account that is

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controlled by Mr. Guo and you can show that that has some relevance, then I would think you could have a very tailored request for ownership or control or whatever registration information for the particular account for the particular video at the time that that video was uploaded. But the way you've framed the request is not like that, it's very much broader, if I recall.

MR. GREIM: And then the other piece of this is, I think we'll be able to see that there are, you know, you would not expect lots of phone calls, unprotected phone calls during the time period here from Guo or Golden Spring back to the mainland.

THE COURT: Well then if you're looking for a certain country code or something like that, you're not looking for all phone records, you're looking for calls within a certain timeframe to certain people or certain, a certain part of the world or something at a minimum.

MS. TESKE: Why in the world would that be an expectation that would be relevant to this case?

MR. GREIM: Well, we've heard --

MS. TESKE: He has family in China.

MR. GREIM: Yeah, but we've heard some testimony about what people actually do, what dissidents actually do when they call back to family or associates in China, and

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discussions over an open phone line are not one of them.

And so --

MS. TESKE: Says who, Eddie?

THE COURT: I'm sorry, I didn't hear, Ms. Teske, what?

MS. TESKE: He said we have testimony to this effect, who is setting the standard here for what a dissident does and doesn't, and why isn't communicating with family or friends that he has in a country in which he grew up and spent his life typical behavior for a person?

MR. GREIM: I will say this testimony comes from a witness that, I mean frankly, Your Honor, this is a separate issue that I wanted to get to on this call later, but we had a witness testify on Tuesday of last week and the only people in the room were myself, my client representative and Ms. Cline for Eastern Profit, there were no other corporate representatives there. And Mr. Guo knew of the deposition, of course, and then has gone on YouTube, has posted several videos on the internet starting the day afterwards, attacking the witness, discussing what the witness' testimony was and trying to refute it, and making threats against the witness. And frankly, I don't feel

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comfortable discussing more about what the witness said on the phone with the Court, not with Guo's counsel on the line.

MS. TESKE: Your Honor, this is the first I'm hearing of any of this and, you know, I obviously cannot, this issue cannot be properly addressed if we can't have a candid conversation on it, so --

MR. GREIM: Well I can represent to the Court that it will be our position, based on witness testimony, that dissidents do not call back on unprotected phone lines. You should not see lots of phone calls back to the mainland.

MS. TESKE: And this is based on one nonparty's opinion?

MR. GREIM: Well I'm going to stop there because I am afraid where this is going to lead.

THE COURT: All right.

MR. GREIM: And I don't want to take --

THE COURT: Okay, everybody stop. Everybody stop. Ms. Teske is an officer of the Court, she has ethical obligations, okay. Saying that you are not comfortable describing the subject of testimony to someone who is an officer of the Court leads to a question of what are you concerned that she would do

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2 with this information and why would you be concerned
3 that she would do such a thing. I don't understand
4 that and I'm assuming you are able to have a candid
5 conversation with counsel, but you can do that offline
6 as part of your discussions about this subpoena.

7 All right, now number two, I'm not going to
8 make a determination as to what is or is not
9 appropriate for dissidents to do or what dissidents
10 typically do or do not do or anything of that nature.
11 I have no idea, all right. Parties are developing
12 their claims and are developing their defenses, and
13 they're going to rise and fall on whatever evidence
14 they can put together. Within reason they can have
15 discovery on it, if it starts to get unreasonable I
16 cut it off. At this point Mr. Greim has indicate din
17 his letter of November 27th, and I quote, "we are in
18 the final lap of discovery." I accept that, you are
19 in the final lap of discovery, in fact, discovery is
20 closed. Anything that is left is going to be
21 something that was duly requested, appropriately
22 requested during the discovery periods and has not
23 happened yet through no fault of your own, otherwise
24 discovery is done.

25 So my ruling with respect to Mr. Bannon is I

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have no persuasive showing at this point as to why something didn't happen within the discovery period, and only didn't happen through circumstances outside your control, that they couldn't have been reasonably anticipated and that there were diligent efforts made to accomplish it within the discovery period. So as far as I'm concerned, as of now that's out.

Mr. Guo's continued deposition was duly requested within the period, I've already ruled on it. I've already said it should go forward, and it should go forward. The subpoenas were served within the discovery period, there was some noise about some of them that, you know, has not been resolved, I was told that there are some negotiations going on. Negotiations are what should happen, but if there's a nonparty that has expressed a privacy interest and, therefore, a standing to challenge them, that party, that nonparty's counsel should be in the loop in discussions. I don't care how you go about it, I don't care whether you have two-way conversations, three-way conversations, I am telling you that the subpoenas, as drafted, were extremely broad and there is going to have to be a particularized showing of relevance if I have to rule on this if you cannot work it out between

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2 you.

3 I'm going to give you a narrow window of time
4 to try to work it out between and among the interested
5 people and entities. If you can't work it out you'll
6 tell me how close you got and what remains, and I'll
7 rule. And I will tell you now, Mr. Greim, I am going
8 to rule against you if it's not narrowly tailored to
9 something the subpoenas, as framed, looked extremely
10 broad and overly so. But Ms. Teske, I'm going to tell
11 you now that I am not going to buy into any party or
12 nonparty's view of what the underlying truth of
13 anything is. I'm not going to be persuaded that this
14 witness is particularly knowledgeable, I'm not going
15 to persuaded this witness is not particularly
16 knowledgeable, if there's a line where I can follow
17 the reasoning and it is an arguable defense, or at
18 least I understand it, I'll allow some leeway in
19 discovery within reason.

20 So if there is some way to focus records on
21 important phone calls that have been identified or
22 something of that nature, I may allow that. If it's
23 something that is just give me all your phone records
24 for all these years, I probably would disallow that.
25 And so you should talk in good faith to see if you can

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come up with something on these outstanding subpoenas where there has been a motion duly made in front of me to see if you can work out your differences, if not, you put your narrowed differences in front of me.

I'm going to move on to Mr. Guo's deposition and the issue that we dealt with last week which had to do with ACA. I had previously ruled that I was not persuaded, that evidence about whether money could be moved in or out of Hong Kong was sufficiently relevant to the claims or defenses, that there was a sufficient, you know, nexus to defendant's defense in this case, to make that discovery proportionate to the needs of the case, and I had said forget it because you are not going there.

Then we had some changed circumstances. As I understand it, there was testimony by a, was it a 30(B)(6) witness for Eastern Profit, was that right, who testified about money in or assets in Hong Kong of Mr. Guo and, perhaps it's Eastern Profit, I cannot quite recall, being frozen and --

MS. TESKE: Sorry, Your Honor, I don't, I just want to make sure that we're clear because that's not my understanding. My understanding is that she testified that's Eastern's money.

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THE COURT: Eastern Profit's money?

MR. GREIM: Yes, Your Honor, that's right.

She said that because it's Eastern's dissident's activities, it's assets were frozen.

THE COURT: Okay.

MS. TESKE: Pursuant to a Hong Kong court order.

THE COURT: Right, I understand that, that Eastern's, that, no, not pursuant to a Hong Kong court order, that the -- no, but by recollection is of the conference that we had was although there was this Hong Kong court order, the witness testified that the freezing of assets had to do with dissident, someone's dissident status, presumably Mr. Guo. And that it was only going to be freed up, I can't quite remember but it had to do with something beyond this order of the Hong Kong court. The testimony was read to me on the phone in the last conference and it seemed me that Eastern's witness, who Eastern's counsel said had misspoken, but that was the testimony, so I can't take counsel's word for it that the testimony was in error. That Eastern Profit's witness had said that dissident activities can result and did result in money being tied up in Hong Kong. And that --

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MS. TESKE: Your Honor, I haven't seen that transcript, so I guess (indiscernible) and I can't respond to that.

THE COURT: Does anybody have it handy?

MR. GREIM: I do, Your Honor.

THE COURT: Can you read that again, because it was that testimony that made me slightly, at least, rethink my prior ruling with respect to the relevance of whether ACA could move money for Eastern or perhaps for Mr. Guo.

MR. GREIM: Your Honor, I would say Ms. Teske was present at the deposition, but let me find it here, I've got it. I've got it pulled up, I just need to go back to my old letter to get back to the right spot.

THE COURT: In any event, while you're looking for that, based on that testimony, which seemed to me to be a changed circumstance because it seemed to me to be contrary to what had been represented in prior, one or more prior phone conferences about whether money could be freely moved out of Hong Kong regardless of dissident status or involvement with dissidents, I was more inclined to allow some evidence regarding ACA. But on the other hand, it seemed

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likely futile to try to press on compelling ACA to appear for testimony, because I was not persuaded that the service on Ms. Maistrello was adequate service on ACA, I was, it was very unclear how another witness could be compelled to come here to give testimony. It seemed like it was, you know, as we walked through the various issues it seemed to me that the burdens and the difficulties, practical and otherwise, of trying to compel ACA testimony outweighed going down that path. But I also thought that some limited questions on that topic could be posed to Mr. Guo even though I had previously said otherwise, and that's why I wanted Mr. Guo's counsel on the phone before that deposition happened. Because I didn't want that ruling to be sprung on counsel after I had previously in writing said something otherwise.

Did you find the testimony?

MR. GREIM: Your Honor, I am sorry, I have not found it yet, I've got an electronic version up here and I'm trying to.

MS. TESKE: Eddie, would you mind just sending me a copy?

MR. GREIM: I'll do that.

THE COURT: Hold on, I had counsel or Eastern

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Profit on that last call and you had it at your fingertips, is that the same counsel I have today?

MS. CLINE: Yes, Your Honor, I'm here, I have the transcript in front of me, I'm just not sure that my view of it and Mr. Greim's view are the same.

THE COURT: Well I think you're the one who read it last time.

MR. GREIM: I'm the one who read it last time I think.

MR. GREIM: Yes, I went to the, I cited, I've got a letter for the Court where I cited about four or five places in this transcript and I was trying to find that letter and for some reason it's not saved in our pleadings file.

THE COURT: I'm sorry, so you have many letters to the Court --

MR. GREIM: I know.

THE COURT: And perhaps --

MR. GREIM: Everybody has seen my, I laid out my argument in that, in a reply letter that responded to Ms. Cline's letter on this. And I'm sending the condensed transcript to Ms. Teske, who was there, let's see here, so she can have it in front of her. Okay, Erin, I sent it to you, I just typed in Strat Vision for the subject line.

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Hopefully that is gleaning its way to you if you truly don't have it.

MS. TESKE: Thank you, no, I truly don't have it.

MR. GREIM: Okay, I'm searching for the term mainland, I sent Jennifer back, we may have misfiled this letter that I'm relying on, it may be in our correspondence file.

THE COURT: I'm sorry, do you remember the, I'm looking at my collection of letters from you. Was it shortly after a deposition, can you place a date?

MR. GREIM: Yes, it would have just been last week, it's a very recent letter, Your Honor. And I'm just, it will be after the 19th. I usually have all these printed off sitting in front of me --

THE COURT: Hold on, I'll go onto the docket and I'll pull up correspondence. I'm sorry, the deposition was the 19th?

MR. GREIM: I'm sorry, Jennifer, oh, here it is. Okay, do you know what docket, it was on the 22nd, November 22nd, so with that information --

THE COURT: Well I have on the 22nd there were four letters filed. There was one from Joanna Cline, there was one from Mr. Greim, there's one, oh, that's

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not a letter, that's an order. There is one that's a response to --

MR. GREIM: I'm sorry, Your Honor, it was on the 25th.

THE COURT: The 25th, okay, I have a motion to --

MR. GREIM: Okay, here we go, it's docket number 206.

THE COURT: Okay.

MR. GREIM: And I've got a, thank you, Jennifer for that.

THE COURT: Do you see, well the one I have is redacted on the docket.

MR. GREIM: I know, I know, but I've got, I will forward it, I will just forward it to -- I can give you the cite.

THE COURT: I just would like you to read the portion of the transcript that you said changed everything. That's all I'm looking for.

MR. GREIM: I know. I know. Sorry. Okay, we'll start with 73. This is page 73-20 to 74-8. Just getting there here. Okay, this is the beginning here. I said, I started to ask, let's start off at line 11, I said "if the contract had not been

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terminated and Strategic Vision had given Eastern Profit what it wanted, how was it every going to repay the loan to ACA or even make interest payments?
Answer: If they're not liars, we were not cheated, they're professional qualified investigation company, we're talking about if that is the scenario." And then "Question: How is Eastern Profit going to repay Strategic or ACA? Answer: Which means if this contract with Strategic Vision, let's say, let's imagine work out, right, succeed by the end, right, okay, Eastern Profit has bank account and I heard there are assets. The bank account was frozen by Chinese Communist Party in Hong Kong. Eastern believes that the corrupted CCP are taken down, there are assets, nobody can take them. So the bank account will be unfrozen and Eastern Profit will get back to their normal business." That's the end of the first answer. Then I said, "which is what?" And the answer was, "I heard again, this is my obtained knowledge, like investment." So that's the first one but then there are more.

The next place is page 196 --

MS. TESKE: That doesn't suggest to me that it was frozen under any other circumstances than the Hong

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Kong order --

THE COURT: If you'll please let Mr. Greim finished reading from the transcript, thank you.

MS. TESKE: Sorry.

MR. GREIM: Okay, page 196-9, "what was Eastern's plan for publicizing and using the information that Strategic Vision as supposed to obtain? Answer: Of course to send this criminal person or criminal Chinese Communist Party officials into jail and to, including Eastern Profit, the company, their assets back. Question: So Eastern Profit believes that the public outcry resulting from publicity would cause its assets to be unfrozen in Hong Kong? Answer: There are some words I don't understand in your sentence? Archive, what's that, what's your question," and we went back and forth here for a second.

So then we went on to page 197,1 "so Eastern Profit's plan was that the public reaction to its publicizing this information would cause its assets to be unfrozen in Hong Kong? Answer: Eastern Profit believes to disclosure this corrupted Chinese official, bring the justice to Chinese people and itself also. We'll be able to help all the Chinese

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people and itself including unfrozen Eastern itself assets and back to normal business which Eastern was conducting before their bank account were frozen."

Okay, then there's more. Let's see, this is page 202. "Question: What was Eastern Profit's specific plan to use the research results to unfreeze it's Hong Kong assets? Ms. Cline: Objection to form. Mischaracterizes testimony beyond the scope of the agreement regarding the scope of the deposition. You can answer. Answer: I'm happy to tell you. I remember on my name list there are two persons, one is called Meng Kiong Ju (phonetic), he was the head or spearhead of entire China Police Court," it says persecutor, I think she said prosecutor, "almost, most of the law enforcement, he's the head of that, the most powerful person, one of the most powerful person in China. Question: And so you hoped -- Answer: Let me finish." And then I, we finally got her to keep going. I said, "I thought you were finished with the sentence when a few seconds ticked by, go on ahead. Answer:" now we're on page 203. "So clearly if Eastern's previous directors, current directors, they were all persecuted by this corrupted Chinese official. So (indiscernible) disclosure of this

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Chinese official, his legal assets, his crimes, et cetera, to bring the justice to China. And it should be a natural understanding to Eastern and all the Chinese people who are persecuted by this bad official. If this official is completely removed, sent to jail, and they will be able to get their justice back including, you know the relationship between Hong Kong and Beijing, right, you don't need me to explain that, that will naturally bring justice to Hong Kong for Eastern Profit to release his assets which were illegally frozen. Question: In Hong Kong? Answer: Correct."

And then I went on: "And this Mr. Meng is a CCT for, I'm sorry, PRC official? Answer: He is Chinese Community Party official, yes." Then we went on and talked about another guy, I said: "So that's one person, you said there was a second person, who was that? Answer: The second person is Sun Li Juong (phonetic). Question: Okay, go ahead. Answer: I'm finished." And then I said, "I'm sorry, that time you were done, okay. What was the plan with respect to him, how was that going to unfreeze the assets? Answer: A similar plan. Question: Anyone else in your list of 15 names that were going to help unfreeze

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the Eastern Profit assets in Hong Kong? Ms. Cline:
Objection to form. Answer: Everyone. Question: Okay,
how were ACA assets able to flow out of Hong Kong?
Objection: Beyond the scope. And then we did not
probe further.

MS. TESKE: Your Honor, may I be heard on
that?

THE COURT: Go ahead.

MS. TESKE: So there's never been, we've never
disputed that there was a Hong Kong order freezing
Eastern's assets. And nothing that she testified to
suggests that it was frozen pursuant to anything else
and that they were, you know, she's suggesting that
they thought the Chinese government was influencing
the Hong Kong court to impose that order. But that's
never been in dispute and that doesn't change
anything.

MR. GREIM: Well, Your Honor, I'm sorry, Erin,
are you finished?

THE COURT: Go ahead.

MS. TESKE: Yeah, for now.

MR. GREIM: Okay, I mean nor have we said that
the Chinese Communist Party even in China somehow goes
in and freezes assets without using the legal system.

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2 Of course, they always do in China and in Hong Kong.
3 But the point is that we were saying that they are
4 able to influence the legal system in Hong Kong, and
5 the other side says, no, they are not able to do so.
6 But now Eastern Profit says here is why our assets are
7 frozen. It's because of these corrupt CCP officials.
8 And, in fact, Eastern Profit goes even further and
9 they say we were never even going to be able to repay
10 this loan from ACA unless the research results, you
11 know, yielded pay dirt and we were able to, you know,
12 remove the corrupt officials in China, then we would
13 get our assets unfrozen in Hong Kong. So it's now
14 gone all the way over to not just the sort of side
15 dispute, if you viewed it that way about whether they
16 can remove things from China, now Eastern Profit says
17 that's the entire reason for the contract, that's the
18 only way Eastern Profit was ever going to be able to
19 pay back ACA. And they go further on that, just to be
20 clear, I didn't cite this information, but they said
21 we're sharing the results of the research with ACA.
22 And by the way, we are dissidents over here, Eastern
23 Profit. So they connected all of the dots at this
24 point and they have now claimed that it's the mainland
25 "corrupt CCP officials" who have caused their assets

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to be frozen in Hong Kong. And I think that if they've got that power to do this with Eastern Profit and this other long list of Guo entities, why did they leave ACA off and why is that money able to flow freely to all of these other projects?

MS. TESKE: Okay, and so now we've actually come back to how this all started in the first place was because Strategic wanted to show that if ACA's assets weren't frozen and if Guo's weren't then he wasn't a dissident. And that's actually very different than the conversation we're having now --

THE COURT: Wait, wait, wait, wait, I'm sorry, you're talking a little fast for me to follow that.

MS. TESKE: Sorry.

THE COURT: Try that again more slowly.

MS. TESKE: Sure. So the last time we talked about this and the reason this conversation initially took place is that Strategic argued that Mr. Kuok was not a dissident if he had access to funds in Hong Kong. And Strategic has never been able to show that that is true. What it's saying now is that, and it's never been disputed, that the Chinese government has influence over Hong Kong Politics and that Hong Kong did eventually freeze Eastern's assets, and, in fact,

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eventually froze Mr. Kuok's, but the fact that they didn't freeze somebody's doesn't suggest that they're not a dissident.

THE COURT: Well Mr. Greim had argued last week that to his understanding, based on various and assorted things, that the theory that he's piecing together, and please correct me if I've got this wrong, Mr. Greim, because my memory may not be quite right, that Mr. Guo would hold himself out as a dissident but that was sort of a public persona, and behind the scenes he was actually not a dissident and was close to the Communist Party in China which understood that he, for whatever useful purposes, was holding himself out as a dissident but they were behind the scenes making sure that he was able to get to money through ACA which was essentially controlled by the Communist Party so that even if his assets were frozen because that's what would happen to a true dissident, the assets would end up frozen in Hong Kong as well as in mainland China, Mr. Guo was still able to move money through ACA because ACA would, that would be the means by which he would still be able to function and get money with the blessing of the Communist Party and with the control of the Communist

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Party. Am I remembering that more or less correctly?

MR. GREIM: Yes, Your Honor.

THE COURT: Okay, so the issue was not whether Mr. Guo's assets were frozen because he really was a dissident or for some other reason, the issue had to do with ACA's control and ACA's role here. And the testimony that seemed different from Eastern Profit's representative from a 30(B)(6) witness was that, oh, yes, he can't move money out of Hong Kong, his assets are frozen in Hong Kong, all because of the Chinese government, whereas my prior recollection was that no one had ever said, Mr. Greim had never shown, there was never really an issue about movement of money out of Hong Kong, that the Chinese government didn't control movement of money out of Hong Kong, this was all complete red herring because there had not been any showing that there was any restriction because of the Communist Party on money flowing in and out of Hong Kong. And therefore, if there was no restriction, what do we care about ACA, there is no restriction to begin with coming from the Communist Party. If there is a restriction coming from the Communist Party in China of money moving in and out of Hong Kong if you are a dissident, which is what ACA, I'm sorry, Eastern Profit's witness seemed to signal from that

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testimony, then what does it mean if he can still get money through ACA and how do those pieces connect if ACA is, in fact, as Mr. Greim has suggested, controlled by someone who is aligned with the Communist Party.

It's a little bit, it's a little bit conspiracy theory-ish, but maybe that is exactly what the theory is, that it is alleged conspiracy between Mr. Guo and the Communist Party in China to have it appear on the surface that he is a dissident and behind the scenes help him get money out through a communist controlled organization. Now I don't know if that's true, not true, but there seemed to be enough there to allow a few questions of Mr. Guo regarding what does he know about the ownership and control of ACA, if anything? Were his assets, in fact, frozen in Hong Kong, and if so, what is his understanding as to why? And how did it come to be if his assets were frozen that he was able to move money through ACA if, in fact, he was able to move money through ACA? Beyond that, I'm not expecting a whole lot. But I thought that given this change it was worth revisiting my prior ruling where we did not have that testimony informing that prior ruling.

MR. HARMON: Your Honor, this is Mark Harmon, I'm here with Ms. Erin Teske on behalf of the

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2 nonparties participating in this call. So the
3 original argument, and I think Ms. Teske was making
4 this point, the original argument that was being made
5 to support the interrogation of witnesses regarding
6 ACA was that Hong Kong, China would never allow a
7 dissident to move money out of China, and the
8 submissions regarding that issue were to the point
9 that the Chinese Government doesn't have the right to
10 freeze assets, itself, in Hong Kong. That in order to
11 freeze assets in Hong Kong, it has to be an order from
12 the government in Hong Kong. And since there was no
13 order in place against ACA, there was no prohibition
14 on monies moving from ACA out of Hong Kong.

15 So we've moved away from the initial theory
16 that just because it can move money, it must not be a
17 dissident. So the question of whether the timing of
18 the (indiscernible) is somehow material to this broad
19 analysis that Strategic Vision was trying to adopt. So
20 we do know that the Hong Kong government did impose
21 orders freezing the assets of Eastern and we do know that
22 the Hong Kong government did impose orders freezing the
23 assets of Mr. Kuok. So on the basis that Hong Kong froze
24 the assets, do we conclude that the Eastern and Mr. Kuok
25 are indeed dissidents because their assets were frozen,

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or do we conclude that the government, that ACA is not a dissident on that basis, or simply that the Hong Kong government hadn't gotten around to freezing ACA's assets?

THE COURT: I think that the answers to those questions might turn on answers to questions about, that Mr. Greim is trying to get at relating to who controls ACA, what exactly is ACA. Is ACA an independent entity or is it controlled and in the pocket of the Chinese government in China, again, facts about which I have no actual knowledge. But the concept, as I understand it, the concept as I understand it is fairly straightforward even though it seems quite convoluted at first glance. And that is that Mr. Greim has articulated the theory that there is control by the Communist Party in China over assets of dissidents in Hong Kong, by whatever means, directly or indirectly through the courts, by whatever means, if you are a known dissident China will do things to make sure that you cannot move your money, that it will be frozen, including in Hong Kong, a fact that had been challenged earlier by at least plaintiff, and I think also by counsel of Mr. Guo saying that that had not been established. But in any event, the concept is, if you are a dissident, your assets will end up frozen in Hong Kong. So if Mr. Guo is a dissident, his assets

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will end of frozen in Hong Kong, sort of period, full stop right there for a moment.

And at first there was a question as to whether his assets were, in fact, frozen in Hong Kong, and I was led to believe that they were not, there was really no issue with getting money in and out of Hong Kong, even if you're a dissident, and it was just, as I said, just a red herring because China didn't have that reach into Hong Kong.

Now if China does have that kind of reach and if assets are frozen, the Mr. Greim's further theory is then he should not be able to get money out of Hong Kong, period, because the Communist Party will insure that that is so. And then he will not be able to get money out directly or indirectly through some other entity because eyes are everywhere and they'll know. Yet he was allegedly able to, he and Eastern Profit were able to get money from ACA, which Mr. Greim said is not surprising because ACA is actually controlled by the Communist Party and that call signals that something is up with his dissident status. That you have appearances and you have reality.

So I don't know if any of that is legitimate, if any of that is true, if any of that is actually

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provable, but it seemed to me that there was enough there from a combination of the information Mr. Greim was putting forward from various and assorted sources, including Eastern Profit's lawyer, not lawyer, witness, sorry, that there was enough, and it was interesting to me that on the last call counsel for Eastern Profit kept saying that he thought the witness had misspoken and it was not correct, but we have testimony from a 30(B)(6) witness who said something and it is what it is, and, you know, we can go from there a little bit. I thought it was worth allowing Mr. Guo to be asked some questions about the ownership and control of ACA, if he knows, and, you know, some questions about whether he is able to, he and Eastern Profit if he knows, are able to receive money through ACA, coupled with ownership and control of ACA.

Now, Mr. Greim, you have in your letter a whole list of topics you want to be able to ask Mr. Guo about, about ACA, but I think the critical one was ownership and control of ACA, if he actually has knowledge about that.

MR. GREIM: That's right, that's really topic number one.

THE COURT: And I think that's what we had

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2 talked about as not only topic number one but as
3 topics, you know, maybe the topic and there may have
4 been, you know, something about movement of money that
5 may have been somewhat related. But this is not meant
6 to substitute for a deposition of ACA in all regards.
7 You really, as I recall, wanted to try to pin down who
8 controlled ACA, and thought maybe Mr. Guo would know
9 that, and if he doesn't know it, he doesn't know it,
10 if he can't speak to it, he can't speak to it.

11 MR. GREIM: Right. Okay, Your Honor, we will
12 keep it to, number one, ownership and control of ACA,
13 and number two, his ability to receive money through
14 ACA.

15 THE COURT: Okay, so I think if it's just that
16 and it stays there, I think there's enough here to
17 allow that in discovery and I think that we are, in
18 fact, very close to the end of discovery, all right, I
19 do not intend to extend the deadline. The Steve Bannon
20 thing, you can come back to me if you have more to
21 show about the efforts that were made and with respect
22 to the subpoenas, you are going to be conferring in
23 light of my guidance and seeing if you can resolve
24 these issues. If you can't, you come back to me with
25 something more narrow.

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MR. GREIM: Your Honor, one other --

MR. HARMON: Your Honor, this is Mark Harmon, your explanation of Mr. Greim's theory leads me, and his subsequent comments, to two questions. Number one, I hear that the concept is that ACA is actually an entity controlled by the Chinese Communist Party as a means for getting money to Mr. Guo. Other than Mr. Grime's conspiratorial suspicions, can I ask whether he has a good faith belief based upon evidence that he has that supports the notion that ACA is actually an entity through which the Chinese Communist party gets money to Mr. Guo?

THE COURT: Well Mr. Greim did come forward with something on our last call that you were not on, that was at least something along those lines, and again, my memory may fail. Mr. Greim.

MR. GREIM: Your Honor, I'll go through that again. So what we've been able to find is that, first of all, the person who on paper controls ACA is a man named William Gee (phonetic). And this information has been produced in party discovery but it's William Gee. And we've been able to find some information about William Gee's background and his current activities. So number one, he had been at an entity

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2 called Macquarie Capital Investment or Advisors, I
3 don't have all my old notes in front of me here but
4 I'll do my best, and he purportedly stepped down from
5 Macquarie, which is a major investment bank and
6 securities firm out of Australia. He had been the
7 head of the Greater China Desk there which was
8 responsibility for the mainland and Hong Kong.

9 And so our first point was that someone who is
10 given that sort of position in a major entity like
11 Macquarie is not going to be somebody who is a
12 dissident or who has issues with the regime. But at
13 any rate, he allegedly stepped down from that entity
14 to take control of what was then described as Mr.
15 Guo's fund which was ACA at I believe the end of 2014.
16 This is just before Guo came to the US. However, it
17 wasn't, it's not clear and there are sources that
18 indicate he stayed on at Macquarie.

19 At any rate, one other thing that William Gee
20 did was he was an economic advisor to many
21 municipalities on the mainland and he continued in
22 that role after the time that Guo was claiming to be a
23 dissident, after the time Guo came to the US and his
24 assets were being frozen. And then finally, even
25 today, he serves on, I'm going to get the initials and

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2 the name probably wrong here, but on the Chong King
3 Hong Kong Patriotic Cooperation Committee and I
4 believe the initials are about five letters, CPBCC or
5 something to that effect. And that these patriotic
6 committees are not, you know, these are not pro
7 protestors, these are the coalitions of businessmen
8 that China uses to sort of make its wishes known, make
9 its policy wishes known, both in cities within the
10 mainland but also within China. And so he is openly
11 associated with this patriotic group in Hong Kong
12 which is a Beijing agent in Hong Kong, and he would
13 not, no way would you be a dissident or anything other
14 than directly tied to the PRC and CCP if you are
15 member of one of these committees. And it's in the
16 open.

17 The other things we pointed to are the fact,
18 to tie back in with Guo, that Eastern Profit, Golden
19 Spring, Hong Kong, China Golden Spring, which controls
20 Golden Spring (New York), your client, and ACA, all
21 shared an office, two different offices in Hong Kong.
22 One was in Guo's actual residence, waterfront
23 residence, the other one was on the 49th floor of the
24 Bank of China Tower in Hong Kong, downtown, which is
25 owned by the Bank of China, state owned entity. And

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Guo specifically warned in one of his broadcasts that the Chinese were trying to use their Bank of China offices outside the mainland as places to conduct espionage and to work out of. So very bizarre that Eastern Profit, ACA and Golden Spring Hong Kong would all share an office in the Bank of China Tower in Hong Kong. So that's just, that's from my memory but that's part of what we showed.

THE COURT: I believe that I said -- hold on a minute, I believe I said in light of those representations that Mr. Greim should be able to ask Mr. Guo if he knows Mr. Gee and knows anything about him.

MR. HARMON: So my concern is that when you say, Your Honor, that Mr. Guo should answer questions about the control and ownership of ACA, that at the deposition the questioning is going to be consistent with Mr. Greim's past examinations which engage in a far flung review of all of the or attempt to review any financial transaction between ACA and Mr. Guo even unrelated to this case, unrelated to Eastern Profit's.

THE COURT: I'm giving Mr. Greim leave to ask questions about whether Mr. Guo has knowledge or information about who owns or controls ACA. And if he

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knows Mr. Gee and knows anything about him. I'm not, that doesn't mean, Mr. Greim, you know, you're going over transactions and the like. Understood?

MR. GREIM: Well, Your Honor, the second piece you'd mentioned before though was whether Guo was able to receive money through ACA. And we've alleged he got, you know, a million dollars from ACA just I think two years ago.

THE COURT: All right, I don't know what that paper trail looks like, I don't know on Mr. Guo's side, I don't know what transactions you're concerned about or concerned that Mr. Greim might put in front of the witness. Are you talking about transactions where Mr. Guo or Eastern Profit received money from ACA?

MR. GREIM: Yes, or where he directed money. So we know he directed \$100,000 to a witness in this matter from ACA. We know that he directed money to Strategic Vision from ACA. I don't actually have a large number, and I bet I'm not going to get a large number of answers, but if ACA is the one funding Guo's operation, I want to know about that.

MR. HARMON: Your Honor, that's exactly my concern. Mr. Guo has already sat for seven hour

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depositions and every time that we go back or talk about giving an arm, the request is for the arm and the leg. So it should, it should be enough to ask whether Mr. Guo owns and controls ACA, whether he knows Mr. Gee and whether or not he was responsible in any way for the payment by ACA to Strategic Vision in this case, it's a million dollars. If Mr. Greim's theory is correct, it's correct on the basis of that payment. He doesn't need to examine any other transactions.

THE COURT: Hold on. Did we talk previously about the length of this continued deposition?

MR. GREIM: No, we didn't, other than that I didn't think I could go for a full day given the topics that I've got.

THE COURT: How long do you anticipate, what's your best estimate of what you would like to do?

MR. GREIM: I'd like to take about four hours, but I've got an asterisk which is the final issue we raised about Golden Spring.

THE COURT: I'm sorry, what final issue you raised about Golden Spring?

MR. GREIM: Well I was going to get to this earlier, but you'll see in our November 27th letter we

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point out to you that Golden, remember we had to split Golden Spring and Eastern Profit depositions and so Golden Spring ended up producing its witness on a separate date. We had Court approved topics, the witness they produced was a paralegal who worked for Golden Spring. She had taken one hour of the night before to prepare for it, and we didn't get answers to many, many questions within the Court approved topics. So what I was proposing in my November 27th letter is that let's just have Mr. Guo -- now on the one hand I would like to have Yvette Wang come in because she's the one that has the information. On the other hand, she acts as Guo's assistant and since we've already got Guo coming back can we cut off an extra day, another trip probably, and just have Mr. Guo testify on these missing topics from Golden Spring.

MR. HARMON: I thought we were wrapping things up and that the only thing that was left was discussion with Mr. Guo afterwards, and the other nonparties were not going to be harassed further. And every time we continue a conversation it grows and grows.

THE COURT: Okay, stop please. Mr. Guo's deposition, as far as I'm concerned, no more

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2 depositions with the, as you put it, Mr. Greim,
3 asterisk regarding Steve Bannon because I don't know
4 what to make of that. Right now it's a no and I'm not
5 having Ms. Wang back, we're not going there, okay, so
6 I'm not going to hear about things growing and
7 growing. The only question I have on the table right
8 now is length of time for Mr. Guo's deposition because
9 I think the way to deal with this is not to try to
10 micromanage the questions on the topics that I'm
11 allowing, but rather to say he can have this much time
12 and that will be that.

13 MR. GREIM: Well then, Your Honor, in that
14 case I've laid out, I'm not, I apologize if this is a
15 surprise to anyone, but we laid out our objection
16 regarding Golden Spring in our November 27th letter and
17 my thought was we would actually save a lot of time by
18 just trying it with Mr. Guo and having him testify on
19 topics one, two and three from Golden Spring.

20 And so, Your Honor, the reason I mentioned
21 this in your question about timing was that if I could
22 cover Golden Spring with Mr. Guo, as well, if I could
23 cover topics one, two and three from our notice, which
24 are not objected to with Mr. Guo, then I think I could
25 do the whole Guo thing in five hours.

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THE COURT: What are the topics, in particular?

MR. GREIM: Okay, topic one was Golden Spring (New York) search for and production of document requests approved by the Court.

THE COURT: I'm sorry, I'm sorry, you think Mr. Guo is going to be able to answer questions about Golden Spring's search for documents?

MR. GREIM: Well, Your Honor, we believe that Guo controls Golden Spring and maybe, you know, at best he can tell us what documents they actually have. That's my last, I mean I'm sort of compromising here a bit because I think Yvette Wang does know the answer but I don't want to juggle yet another person. But that's topic one.

Topic two was the ownership, management, governance and structure of Golden Spring between January 1, 2017, and July 1, 2019. The witness had not information on the duties of Golden Spring's officers or directors, including Yvette Wang and Guo Chong (phonetic), Guo's son and the sole director, including who gives directions to whom.

And then topic three is the last one, and that was Golden Spring (New York)'s dealings with Eastern

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2 and Guo between January 1, 2017, and July 1, 2019,
3 related to negotiation, execution and performance of
4 the contract at issue. And my July 27th letter has a
5 long list of questions for the witness who just had an
6 hour and was a paralegal, didn't know, just did not
7 know what was going on. These were topics approved by
8 the Court and they never changed.

9 MR. HARMON: Your Honor, Mr. Guo has sat for a
10 full day deposition on everything having to do with
11 his relationship with this case, with Eastern Profit,
12 with the contract, with dealings with Golden Spring
13 regarding the contract, all of that's been covered.
14 To sit him down again for a limited examination on who
15 the owners of ACA are, if he knows, is he able to move
16 money without going into the details from ACA, and
17 questions about Golden Spring should not require five
18 hours of testimony. He's got a limited, Mr. Greim
19 should have a very limited scope and I think that Mr.
20 Kuok, because he was required to return for three
21 hours, has got to be more time than necessary if you
22 are doing a targeted deposition.

23 MR. GREIM: But, Your Honor, I think what Mr.
24 Harmon left out was the Court's prior order which
25 relates to his discussions with or negotiations with

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2 CCP officials in the six months before the contract
3 was signed --

4 THE COURT: Right, hold on a second. Hold on
5 a second. This business about ACA, which should be
6 very limited, is new and additive to what I had
7 previously said Mr. Guo should come back for a
8 deposition for. This is not supposed to be the only
9 topic, this was, I'm adding, I'm allowing Mr. Greim to
10 add on a few questions about ACA at this deposition
11 where I previously said no on that particular topic.
12 That's all this current ruling is. The other topics
13 with respect to a transcript of some YouTube video and
14 conversations he's had with people over a certain
15 period of time which I tried to limit and then I
16 backed off of that limitation slightly to say the
17 video could be included, I didn't mean to exclude it
18 when it was, you know, shortly before the period
19 that's justified, I was trying to say six months is a
20 limiting principle, but I bent slightly on that. but
21 all of that was supposed to be part of this continued
22 deposition.

23 So with respect to Golden Spring though and
24 communications with Golden Spring about the contract
25 and all of that, that I don't think is anything where

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you had not had an opportunity before to depose Mr. Guo and where he, you know, did not already give testimony. So I don't understand why you need to go through that as a new topic, that shouldn't be something new, that should have been on the agenda last time.

MR. GREIM: Well, Your Honor, we wanted, obviously we wanted Golden Spring's testimony. When we, I mean and I can't remember all the instructions not to answer that we had before --

THE COURT: With Mr. Guo?

MR. GREIM: I'm sorry?

THE COURT: You mean with Mr. Guo?

MR. GREIM: Yes, with Mr. Guo.

THE COURT: But were there instructions not to answer about communications with Golden Spring related to the contract?

MR. GREIM: Your Honor, my recollection, and I've got to go back through, is that there is a mixture of, he was able to give some testimony but, for example, when we asked, you know, what Yvette Wang's role was with Golden Spring, the answer was he wasn't sure but I think he said she was too pretty to be in charge. And there was some, he dodged the

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2 question --

3 THE COURT: Well look, no, I'm not revisiting
4 rulings wholesale, okay, I already ruled with respect
5 to a continuation of Mr. Guo's deposition, yes, he
6 should come back and here are the particular topics
7 and they were fairly narrow. The only thing that I am
8 now doing is I am opening that window a slight bit
9 more to include some questions about ACA's ownership
10 and control and his ability to move money through ACA
11 from Hong Kong. That's it, that's all that I am doing
12 on that front. With respect to Golden Spring's
13 witness not being able to answer questions, if they're
14 already the types of areas that would have been
15 covered in your prior deposition of Guo, then they
16 were covered in your prior deposition of Guo. And the
17 rules say you get seven hours and I'm not making an
18 exception to have you go back over old ground, right,
19 you can have the topics that I previously said. If
20 there is a particular topic for Golden Spring where
21 you did not get adequate testimony and you want to
22 move to have somebody come back and answer, you're
23 going to have to show that it was relevant, that it
24 was approved by the Court if it was put before me
25 before, or else it was not disputed by the parties or

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2 by Golden Spring's counsel, that there was a complete
3 refusal or failure to answer these questions and that
4 they're, you know, totally different from questions
5 you would have envisioned before asking Mr. Guo. And
6 you would have had no reason to ask him at his prior
7 deposition and, you know, it couldn't have been
8 anticipated before to put them before Mr. Guo and now,
9 you know, you're really stuck and in a bind and have
10 nowhere else to turn.

11 I'm not inclined to have another Golden Spring
12 witness back. Maybe if there's a concrete question
13 that could be written, you know, or an answer could be
14 provided in writing, you could say to Golden Spring's
15 counsel, you know, here's the concrete question where
16 the witness didn't have knowledge, can you please
17 provide us a sworn answer from somebody. And deal
18 with it that way, and counsel for Golden Spring take a
19 fair look at the transcript, if you produced a witness
20 who supposedly had knowledge on certain topics who
21 didn't have knowledge on the topics, then see if you
22 can make it right by, you know, by providing answers
23 to particular questions that were posed where the
24 person should have had knowledge and didn't. But this
25 is not a wholesale revisiting of Mr. Guo's continued

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deposition, it's already a continuation.

MR. GREIM: Okay, fair enough, Your Honor, we thought, I mean frankly I thought this would be faster to do it this way, but we will, we laid out in our letter where we think Golden Spring fell short. I was somewhat abbreviated there, I just wanted to get it out to you and --

THE COURT: Look, you're going to have to show me on any particular Golden Spring Question that was asked, one, it's a question that's calling for relevant information, two, it was either approved by the Court, agreed by the parties or, you know, if it was never the subject of discussion but it's within one of the topics, there's a good reason why it's fair game. That the question really wasn't answered, couldn't be answered by this witness, you've got to show a good faith conference with counsel to try to work out that issue. I just, I don't think Mr. Guo is necessarily the way to go about this.

MR. GREIM: Okay. Okay, Your Honor, we'll take it back, we will --

THE COURT: I expect you to be at the end of discovery. I do not want the dribs and drabs to, you know, the trickle of things to turn into another

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2 stream of all kinds of things coming down the pike. I
3 don't expect five letters per day on the docket, I
4 don't expect, you know, new deposition requests, I
5 don't expect, you know, more subpoena activity than
6 has already been put in front of me, right, you've got
7 to hold yourself to it, when you say you're at the
8 end, it's got to be at the end.

9 MR. GREIM: Your Honor, I mean, look, we
10 wanted to be done two months ago, and we are
11 frustrated on the Golden Spring front because we had
12 this witness who came in and, frankly, didn't know
13 much, and I didn't expect --

14 THE COURT: All right, well counsel for Golden
15 Spring, you know, confer in good faith about that, you
16 know what the topics were, if the witness was not
17 prepared to testify on certain topics where the
18 witness was supposed to testify, see what you can do
19 to make that right assuming, you know, it's focused,
20 it's narrow, it can be dealt with with a relatively
21 straightforward answer and see if you can work that
22 out. I'm not going to stay discovery as to nonparties,
23 I don't see that there is that much left and I think
24 you just need to get to the end of it. I don't want
25 anything left over should there be a denial of a

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motion.

All right, and there is one more issue out there that I'm aware of which has to do with the request for who is paying defendant's fees, where I know I've gotten some more briefing, is that fully briefed now?

MR. GREIM: We think it is, we're ready to argue it.

MR. HARMON: Your Honor, before we move onto that stuff, could we be shown some (indiscernible) --

THE COURT: I'm sorry, could we what?

MR. HARMON: I am aware that Mr. Greim is going to be allowed to question about meetings that Mr. Kuok had with representatives of the Chinese government, but even considering that topic and the limited topics that you permitted Mr. Greim to add on and considering that he's already been subjected to a seven hour deposition, a targeted deposition of the continued deposition of Mr. Guo should not take more than three hours and I think there should be time limitation.

MR. GREIM: Your Honor, I would simply say it takes a very long time, this is a witness where we have a translator and occasionally we have it checked

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2 by a check translator. If you look, for example, at
3 the seven hour deposition that we took before, and
4 again, I will say much of that was blocked, you will
5 see that it doesn't take up that many pages because of
6 the time that it takes to have the translator
7 translate my question, the answer, and then any of the
8 objections or instructions not to answer. And so I,
9 with a different witness I actually might agree it
10 would take less than that time but I know what it's
11 like with this witness and I just know that it's going
12 to end up happening.

13 THE COURT: What time are you starting the
14 deposition in the morning?

15 MR. GREIM: I think ten o'clock, Your Honor.

16 MR. HARMON: Your Honor, that is another
17 problem, I have alternate dates to provide, but Mr.
18 Guo is not available tomorrow.

19 THE COURT: I expect him to be deposed
20 tomorrow, why is he not available? I've had it with
21 Mr. Guo being directed to appear and then finding to
22 that he's just not, he just can't do it, because he's
23 been directed to do it. Where is he going to be
24 tomorrow?

25 MR. HARMON: I don't have the, I'm sorry, it's

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2 Wednesday, I don't have the details on where he is
3 going to be.

4 THE COURT: Why is he not available? Tell him
5 I expect him to appear, let's move on. Four hours,
6 four hours total I expect him to appear.

7 With respect to the issue -- first of all,
8 other than the issue of who is paying defendant's
9 counsel's bills, is there any other issue that remains
10 outstanding for me at the moment other than things
11 we've talked about already?

12 MR. GREIM: Your Honor, I was going to raise,
13 we kind of moved quickly from Bannon but it sounds to
14 me like I need to get his counsel on the phone with
15 you for permission to appear on the 5th.

16 THE COURT: Well I am not -- okay, with
17 respect to Mr. Bannon let me see if I can clarify.
18 All right, an application to compel Mr. Bannon to
19 appear, if you are making such an application, is
20 denied. As far as I'm concerned, it's outside of the
21 discovery period, I've had no showing of diligence and
22 why it was impossible to make this happen during the
23 discovery period assuming he really is a witness with
24 relevant knowledge for information. So right now it's
25 just denied. It's denied without prejudice to renew

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2 upon an appropriate showing. And part of the reason
3 that I'm not persuaded is because I suspect there are
4 two sides to the story of the efforts that were made
5 to secure his testimony, how much notice was given,
6 when the discussions started, when you could have
7 subpoenaed him for the first time, you know, whether
8 he was dodging service or not, and so on. And I'm just
9 not going to simply take your word for it. So it's
10 denied without prejudice and if you can make a better
11 showing as to, you know, what has happened, I will
12 allow Mr. Bannon's counsel to be heard on the topic.
13 And so you should alert Mr. Bannon's counsel that if
14 you are going to renew the application and he wishes
15 to be heard, I will hear him or her as the case may
16 be. If he or she does not wish to be heard and you
17 have a full application about all of the efforts that
18 were made with the timing, here's the subpoena, here's
19 when it was served, here's when we tried to serve it,
20 here's the effort we made to serve it, here's the
21 conversation we had, here's how he made it so
22 difficult, and we couldn't possibly have done it on
23 reasonable notice within the discovery period and I'm
24 persuaded, and Mr. Bannon's counsel has been given an
25 opportunity to be heard and doesn't wish to be heard,

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then I'll decide it on a renewed application based on what you tell me alone, as long as it's clear that he's been given the opportunity, her or she, and does not wish to take me up on it.

Now if an application is made in another district to quash a subpoena, it's in another district, and so be it.

MR. GREIM: Okay.

THE COURT: For that matter, take a look at the rules regarding applications to enforce subpoenas which are usually enforceable only by contempt, and whether that needs to be made in the district where the subpoena was served also. Because if, in fact --

MR. GREIM: Your Honor, I guess my point, it's not clear to me, I don't have a motion to quash, it's not clear to me that there is one coming but it sounds like what you're telling us is the ball is in our court truly to, well, first of all --

THE COURT: What I'm saying is you've asked me for one thing right now and that is to extend the discovery period for the purpose of this deposition and the answer is no. I will not do that absent a better showing as to why the discovery period should be extended. If you want to do that I'm going to give

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Mr. Bannon's counsel an opportunity to be heard on the topic of whether the discovery period should be extended to allow for this deposition. It may be that substantive argument regarding whether the deposition should happen or not is not going to be made in this district.

MR. GREIM: Right. Okay, very good, we'll march ahead on that and I think that's all the clarification we need.

THE COURT: Is there any other issue out there that I have not at least touched on besides the, who's paying the bills? No? I don't think we need nonparties' counsel for that, is that right?

MS. TESKE: No, I think we're signing off now, thank you, Your Honor.

THE COURT: Okay. So feel free to drop off the call, assuming that doesn't affect our conference call. All right, so on that topic, who do we now have on the call, do we just have counsel for the parties?

MR. GREIM: Yes, Mr. Greim and Ms. Donnelli for Strategic Vision.

MR. CHUFF: And this is Chris Chuff from Pepper Hamilton for Eastern Profit.

THE COURT: Okay. So this is a somewhat unusual request, then again, there have been lots of

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somewhat unusual requests in this case, who wants to be heard first?

MR. CHUFF: So Your Honor, we think that this request, we believe that this is really a contract claim. Eastern Profit is seeking a million dollars --

THE COURT: Wait, who is speaking here?

MR. CHUFF: I'm sorry, this is Chris Chuff from Pepper Hamilton.

THE COURT: Okay.

MR. CHUFF: And so we view this as a contract claim. Eastern Profit is seeking the return of a million dollar deposit under the contract, Strategic Vision is seeking roughly \$1.5 million dollars under the contract. It's (indiscernible) claim for which the claimed damages are less than \$500,000, is a complete sideshow, but curiously all of Strategic Vision's discovery efforts are focused there. And we need to be able to defend ourselves if Strategic Vision is going to continue to probe into this area. So what's what our motion to compel is intended to do.

As part of Strategic Vision's star claim, Strategic Vision is claiming that contrary to Mr. Guo's representations that he is a Chinese dissident and opposes the Chinese Communist Party, Mr. Guo is

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2 actually affiliated with the Chinese Communist Party
3 and that Strategic Vision would have never entered
4 into the contract with Eastern had it known that to be
5 the case. Now if an affiliate of the Chinese
6 Communist Party is paying Strategic Vision's
7 litigation bills, then Strategic Vision's star claim
8 falls apart. That fact would show that the Chinese
9 Communist Party views Mr. Guo as an opponent, not an
10 ally, and therefore corroborating the truthfulness of
11 his alleged representation that he opposes the CCP.
12 And it also shows that Strategic Vision is willing to
13 associate with affiliates of the CCP, contrary to its
14 claim that it's not. And so it goes to two direct
15 elements of Strategic Visions fraud counterclaim of
16 the falsity of Mr. Guo's alleged statements that he's
17 a dissident and opposes the CCP and the reliance
18 elements, because it refutes Strategic Vision's
19 allegation that it would never associate with the
20 Chinese Communist Party.

21 THE COURT: And what is the basis for your
22 belief or reasonable suspicion here that the bills are
23 being paid by the Chinese Communist Party in some
24 manner or someone affiliated with it?

25 MR. CHUFF: So the first and foremost is

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during our meet and confer regarding this motion to compel, I asked opposing counsel to stipulate that their bills are not being paid by an affiliate of the Chinese Communist Party and they refused.

THE COURT: Okay, a refusal to stipulate is not evidence that something is true.

MR. CHUFF: Right, no, agreed. But it is circumstantial --

THE COURT: But what led you to make the application in the first place, what led you to ask for the stipulation in the first place?

MR. CHUFF: Right, right, so two things. First, Strategic Vision's prior two sets of lawyers withdrew because Strategic Vision could not pay their legal bills. Then all of a sudden in June, 2017, Graves Garrett enters its appearance (indiscernible) and stuff like that and is apparently being paid. And so, first of all, we know that someone with the financial wherewithal has decided to pay Strategic Vision's bill.

But second, and more importantly, we believe that person is Bruno Wu who is a registered foreign agent of the Chinese Communist Party and we know that because he had to file a registration statement

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pursuant to the Foreign Agents Registration Act of 1938 evidencing that fact.

THE COURT: I'm sorry, and what makes you think he's the one paying the bills?

MR. CHUFF: Right, I'm sorry, I'm getting there now. So Bruno Wu sued Mr. Guo in New York State Court for defamation in March, 2018. In that case, Bruno Wu was represented by the law firm Arkin Solbakken. Fast forward to August, 2019, Mr. Guo sues Strategic Vision and others (indiscernible) for defamation in New York State Court. And in that case Strategic Vision was, we think not coincidentally, represented by the same law firm as Bruno Wu, Arkin Solbakken. And so it's all of these things that give us we think a good faith basis to believe that Strategic Vision's legal bills are being paid by someone affiliated with the CCP, particularly Bruno Wu.

THE COURT: I'm sorry, this person was an adversary of Mr. Guo in some other litigation?

MR. CHUFF: Right, Bruno Wu sued Mr. Guo in New York State Court for defamation in March, 2018, and in that case he's represented by the law firm Arkin Solbakken.

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THE COURT: What was the defamation claim about, just out of curiosity?

MR. CHUFF: You know, I actually don't have the details in front of me, Your Honor, and I wasn't, I'm not prepared to I guess get into the details of it.

THE COURT: Okay, so because somehow Strategic Vision seems to have suddenly found money to pay counsel, your assumption is that the way that they found money to pay counsel is from this person who has been an adversary of Mr. Guo because there's a coincidence with respect to law firms. And because this person is a registered foreign agent you draw from that that this person is, that, I'm sorry, that it must be that strategic vision is being paid by a Chinese communist party agent?

MR. CHUFF: That's right, Your Honor. And again, if we're applying the goose and gander approach, I mean the defendant has been given some latitude to (indiscernible) things that we think are completely unproportional and have nothing to do with this case, and we think that this is much closer, much more closely tied to elements of a claim than anything that they're pursuing.

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THE COURT: So you just want to know, you don't want to see all the bills or anything, you just want to know is this particular person funding the defense?

MR. CHUFF: We want a name, Your Honor, we want just a name, that's it.

THE COURT: You just want to know if this person who you think is funding the defense, you want to know if he is, in fact, funding the defense?

MR. CHUFF: Right, exactly. Now if some other affiliate of the CCP is funding the defense, we'd want to know that, too, but just the name, name or names.

THE COURT: All right, so let me hear from Mr. Greim on this because I will say that I've spent a long time sort of winding my way through your various potentially supportable conspiracy theories, just because something is a conspiracy theory doesn't necessarily mean it's wrong, if there is, in fact, a conspiracy, but trying to work my way through the various ins and outs of why you should be suspicious of a certain person because of affiliations and so on and so forth, and it is true that the argument was made by Strategic Vision that had you but known that Mr. Guo was not a dissident but, in fact, was in

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league with the CCP, Communist Party in China, you would never have entered into the contract, would never have, you know, sullied the entity's reputation through that association, and so on. So why is this not just as discoverable as the sorts of things that you've been looking for?

MR. GREIM: Your Honor, a couple of things, I'll answer that question but I've got to, as soon as I answer that I want to come back to these two prongs that Mr. Chuff gave here. Because I think one of them we may just have a misunderstanding between the parties, because I hit mute and quickly conferred with my co-counsel to make sure I wasn't missing something. Btu let me answer your first question here.

THE COURT: I don't know what you're talking about, do you want to explain?

MR. GREIM: Yeah, okay, I'm sorry, I'll start with that. So first of all, we don't believe that during any meet and confer we refused to stipulate that we're not being paid by the Chinese Communist Party or some affiliate thereof. We can add in Bruno Wu or some affiliate of him. We absolutely would stipulate to that. We somewhat, I guess I would say, resent a little bit that we would need to, but we

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2 would. And as an officer of the court, I mean I'll
3 say it right now that, and I think I've said that in
4 our letter response, as well, we are not being paid by
5 this Bruno Wu or any other affiliate or pass through
6 or, you know, friend of a friend of Bruno Wu, however
7 you want to call it. We're not being paid by any of
8 those individuals or entities, or associations. And
9 we're not being paid by the Chinese Communist Party or
10 some friend of the CCP that they set up to make
11 payments, however you want to define it, we are not.
12 And I frankly did not recognize that that was a point
13 that could have avoided this entire thing because
14 we're absolutely not.

15 And I would also say on this other point
16 regarding this firm Arkin S Solbakken, I actually
17 have, I will say I have personal knowledge of how it
18 is that they were slotted in to represent my client in
19 this other defamation claim that Mr. Guo filed against
20 Strategic Vision and actually me, individually. I'm
21 actually a defendant in that case. And it does appear
22 that this firm also represents Bruno Wu. I don't think
23 it's a conflict for them to be doing that. But
24 absolutely, I mean I have knowledge about how they
25 were retained and it has nothing to do with Bruno Wu.

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So I'll make those representations for what they're worth.

But to go back to the relevance issue, as well, this is a very, what we are trying to do on our side is we are showing what Guo was actually doing at the time of the contract, you know, immediately before and immediately afterwards. We can show the genesis of this ACA fund, we can trace the whole thing through. We've got a lot of factual backing for that. Whether you agree with our conclusion or not we have many, many data points out there and did before we even filed the counterclaim.

What they're trying to say is that it's our conduct in the litigation that's probative, and that is a very different thing. They're trying to take our conduct here and the fact that we're fighting hard, trying to finally pull all this together as a coherent claim and they're saying that really that is the thing that makes this suspicious. And by the way, if you're being paid now, you must be okay with the communists, you must not have much of a problem with them, and then we can extrapolate back in time to what you would have been willing to do when you negotiated with Mr. Guo.

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2 But of course, and I'm going to be very
3 careful about how I say this, but there are several
4 extra bridges to jump here, to cross, when you try to
5 draw conclusions about what somebody does once they've
6 actually been sued. Not just in this litigation but
7 have been sued for defamation. I mean it does not, in
8 other words, what a party is willing to do now that
9 they are on the line in this case, that everything is
10 on the line, does not translate back to what they are
11 willing to do when they entered into the contract.

12 THE COURT: But, wait a minute. Maybe we
13 don't need to go to points B, C and D if you can reach
14 a resolution of this with point A. Maybe there is
15 some willingness to stipulate and maybe in light of
16 the willingness to stipulate the motion can be
17 withdrawn. What say you on plaintiff's side?

18 MR. CHUFF: Yes, Your Honor, so if they're
19 willing to stipulate that they're not currently being
20 paid by anyone associated with the Chinese Communist
21 Party, associated, affiliated, and also that they do
22 not have a fee arrangement to be paid by anyone
23 affiliated or associated with the Chinese Communist
24 Party and we do think that this resolves the issue.

25 THE COURT: Hold on, Mr. Greim, do you think

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you can work out a stipulation along those lines?

MR. GREIM: Yes, in those exact words or something similar we will make out a stipulation, and I mean if it's good enough I will accept the words he just used.

MR. CHUFF: We'll give it some thought but I assume that (indiscernible).

THE COURT: All right, so I'm going to consider this a nonissue because you are going to work it out by stipulation. You know, I will say on points B, C and D, even though we don't need to get there, that I think it went to the question of reputational harm. If there was a claim for that. I think that was where I was seeing the potential relevance. For us to be seen as doing something involving the Communist Party would hurt our business. But I don't really think I need to dwell on that or give it further analysis.

All right, I think we are going to be adjourned. And as far as I'm concerned, you get the four hours for Mr. Guo, you're going to have further talk about the pending subpoenas to see if you can work them out, if not you're going to come back to me with something more narrow, and I think that's going

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to be that unless you end up making a persuasive argument that discovery should be reopened for Mr. Bannon's deposition, assuming that it's not quashed by another district. All right?

MR. GREIM: Thank you, Your Honor.

THE COURT: Okay, take care, everybody.

MR. CHUFF: Thanks, Your Honor.

(Whereupon the matter is adjourned.)

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C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, Eastern Profit Corporation Limited versus Strategic Vision US, LLC, et al., Docket #18cv2185, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: December 6, 2019