

MEMORANDUM

To: File

From: Matt Yogg

Date: April 7, 2019

Re: Contemporaneous Notes Taken During 4-3-2019 Meeting with AUSA's Thomas McKay and Nicolas Roos together with two FBI Agents at SDNY Offices

AUSA Thomas McKay did all of the questioning, which questions were directed at and answered by Robert Costello. Thomas Fitzpatrick, Esq. attended as counsel to Costello. Matthew Yogg attended to take notes and to assist Fitzpatrick in his representation of Costello.

Costello, Fitzpatrick, and Yogg went through security at roughly 9:45am, and were brought to the waiting room. At roughly 9:55am, McKay came into the waiting room and lead Costello, Fitzpatrick, and Yogg to conference room on 8th floor where the interview would be conducted. Interview formally began at roughly 10:05am.

- [McKay] - Before we begin, were you interested in entering into a proffer agreement?
- [Costello] - No, it's not necessary and besides you left my middle initial "J" out of the draft. Laughter in response.
- [McKay] - I'm going to run through a bit of a preamble
 - First off, it is very important to tell the truth
 - Mr. Cohen waived privilege
 - If privilege applies then say what and we'll talk through it
- [Costello] - Probably no privilege to raise here but ok, understood.
- [McKay] - Block out anything you may have read in the news
- [Costello] - That will be a bit hard, obviously I'm aware of the bullshit story that Lanny Davis planted about us and last night I saw an interview on MSNBC where Lanny Davis teased that Michael Cohen is about to announce new evidence in this case that has been found. The new evidence is the old evidence you and the FBI seized during the search and reviewed for almost a year before you gave a hard drive back to Cohen. Now he wants time to find the evidence the FBI "Missed"- laughter in response
- [McKay] - I will not comment on that
- Costello - you already did, I'm good at reading faces.
 - McKay-You produced documents that have been helpful
 - We're looking for you to provide the cliff notes

- [Costello]- before you start asking questions based upon the documents we have produced, let me first give you a narrative that you don't have about our initial meeting with Michael Cohen at the Regency Hotel on april 17- because that meeting sets the table and puts into context all that followed.
- - Jeff Citron knew Michael Cohen for over 10 years
 - Cohen and Citron were on Columbia Grammar School board for years
 - Until Cohen was removed for reasons you don't know
 - DHC has served as general counsel to CGS
 - Citron and Cohen also served on Board of Advisors of Sterling Bank
 - When news broke of raid, Citron sent email
 - If you want to meet Costello he worked as prosecutor
 - April 16, Cohen reached out. Next morning April 17, Cohen responded that he wanted to meet Costello
 - Citron said to Cohen, why not come down to office and we'll meet
 - Cohen said that he can't leave Regency because of all the reporters that follow him. If he came to DHC Office he would be followed by a posse
 - Cohen said:Would you guys mind coming up to me
 - That's what we did
 - Went up there to the Regency Hotel on Park Avenue at 2:30pm on April 17
 - Spoke with someone in the lobby
 - That person took us to second floor
 - Cohen came down to 2 and met us and we went up to a conference room
 - Cohen was agitated pacing back and forth
 - Then he looks out the window and pulls down all the shades
- [McKay] - Were your notes made contemporaneously?
- [Costello] - No I did these notes after the fact and after reviewing emails and texts
 - Now that he's got the window shade closed, Citron introduced Costello
- [McKay] - This was you Cohen and Citron?
- [Costello] - Yes, just the three of us.
 - Cohen thanked us for coming up
 - Then went into a long soliloquy
 - Said they raided everything, he was angry and looked like he hadn't slept in a week.
 - My business is ruined, my family life is ruined, nobody will talk to me

- Cohen then said, the weekend before, April 14-15, Cohen said he was up on the roof of the Hotel and was seriously considering jumping off the roof
- Costello initially thought Cohen was a being a drama queen, so he side glanced at Citron for his reaction since Citron knew this guy for more than ten years
- Citron thought he was serious, and said the same after the fact
- * ○ Cohen says he will never spend a day and jail, Never. I will do whatever I have to do but I will never spend a day in jail.
- Like a verbal tick, Cohen kept going back to it (sometimes would add "fucking" day in jail)
- Costello said Michael, do you understand that the Federal Government is putting that type of pressure on you to get you to crack, to get you to believe that the only path open to you is to cooperate with the Government, when you buy into that as you are currently doing , you are playing into your adversaries hands
- He kind of listened
- Then said he didn't understand why they would conduct a search, because I am cooperating
- I've cooperated with house, senate, and the special counsel's office. Costello noted that Michael forgot to tell us that he had perjured himself before the House.
- Cohen said the US Attorney could have just asked and I would have turned over everything
- Cohen said he couldn't believe that they want to put me in jail for a "fucking NDA"
- At that time Costello asked his exposure
- You understand that this conversation is privileged, but we need the truth
- If you lie to me my advice is worthless
- He said the only thing I did was the NDAs with Stormy Daniels and the McDougal lady
- Costello said there must be more than just Stormy Daniels.
- Costello said: I know how hard it is to get a search warrant on an attorney's office. Such a search cannot be approved by the US Attorney, the approval has to go through Main Justice.
- * ○ Costello said he knew the payment might be a campaign financing violation - which is usually a civil violation, and nearly every past Presidential Campaign has had campaign violations but those violations are not criminal and no search warrant would ever be authorized for a lawyer's office on that basis
- Costello said :There must be something more that they at least think you did
- * ○ Cohen says I swear to God, there is nothing. There is nothing in my past life prior to Trump that I did that was illegal

- Costello asked Cohen to talk about the Stormy Daniels facts
- Cohen talks about the \$130K
- Cohen said I got a HELOC
- Costello and Citron did not ask about the Heloc and did not know what paper work was submitted to the bank.
- *○ Costello noted that ironically, Cohen said he used the HELOC because he didn't want his wife to know what he was doing
- Costello said that in telling a narrative Cohen skips around a lot - not sure if it was nerves or just his nature
- Clearly before the Hotel meeting, Cohen was reading a lot of news regarding his case and others associated with Trump
- NYAG Schneiderman said he would prosecute any Trump person that was pardoned (Cy Vance, the Manhattan DA said same thing)
- That was clearly in Cohen's mind that day when he asked: "If I get a pardon or immunity does that save me from state law prosecution. Costello said he did not think so but wanted to do some research before making a definite statement.
- Costello said to Cohen that a campaign finance law violation doesn't really implicate state law and you have said that you did nothing more
- They then talked about immunity
- *○ Costello asked Cohen whether he had any information of value to the federal government
- *○ Cohen said he knew about inaugural money that went missing
- ***○ Costello asked whether the inaugural information implicated the President and Cohen said no, I don't even think he knows about it. Costello then asked Cohen if he had anything on the president and Cohen said no.
- Costello knew at that point that no immunity deal was possible
- Cohen then said you mentioned you got your start with the US Attorney's office with Giuliani, how well do you know him
- Costello said Giuliani was his mentor (Costello was Giuliani's student assistant)
- *○ At the time of this hotel meeting Giuliani was not part of Trump's legal team
- Cohen said:"I love Rudy,the "Big Guy", meaning the President was a huge fan. He has known Giuliani for years" Cohen went on to name drop many Trump people saying he knew them well for years
- *○ When Cohen said "I will never spend a day in jail" - in the next breath he would also complain about Jared and Ivanka
- (But would never say anything specific, kind of his MO)

- Name dropped as to everyone he knew in the administration
- Costello remembers telling Citron that he felt Cohen was bitter against Jared and Ivanka (he said Ivana but meant Ivanka) for them being in Washington in the limelight and not him
- Cohen toward s the end of the Regency Hotel meeting said he was talking with one other boutique firm with SDNY experience. He mentioned that the person in question was younger than Costello and had been a Chief of the Criminal Division
- Cohen added that: “ My talking to you does not exclude them, just as my talking them does not exclude you)
- Cohen said don’t worry I am putting together a team, to deal with the press, and to help
- DHC in keeping score for compensation purposes, values biz development more than the work that's done
- So that's why Jeff Citron was involved and was pushing for this, because Cohen was his business origination
- ~~***~~ ○ Cohen never even hinted about the things he was convicted of, the tax evasion the taxi medallions. In fact Costello said that Cohen’s indictment in this area came as a complete surprise both to him and to Giuliani. No one had any idea that Cohen had these personal criminal issues.
- Shortly after the hotel meeting, Costello sent email to Jaffe asking him to ask Bart Schwartz if he knew the names of recent Criminal Division Chiefs
- ~~***~~ ○ Costello after meeting tells Citron that Cohen is full of shit. Clearly Cohen was more involved than he stated because the US Attorney would not have been able to secure a search warrant for a lawyer’s office based upon what Cohen was admitting to. Costello told Citron that new clients often minimize their own involvement in the first meeting or two, but then hopefully admit to the truth. Cohen never did, he continued to lie to Costello and Citron form the first day they met him until the last day they communicated with him.
- Costello told Citron after they left the Hotel meeting that in most circumstances in a HELOC, Cohen would have had to submit a fraudulent statement about his intended use of the money. Such a false statement would be both a State and a federal crime of making a false statement to a bank or bank fraud.
- Costello told Citron that's what could have been why Cohen was so worried about a state prosecution. That is why Costello researched the issue on Westlaw the next day.
- Costello told Citron that in an immunity deal, the DAs office will not seek to prosecute you because a cooperating witness is on the same side, but that is not the case with a pardon, when the President is involved in the equation.

- Citron when on the train that evening sends Cohen an email "thank you for meeting we'd like to help you out"
- [McKay] - You said that there had been news about state prosecutions and pardons, what exactly did he say
- [Costello] - He phrased it because he'd seen the stories in the paper and on the internet. I have the stories in my office if you need them. Costello then added that
 - Cohen has in his cellphone all of these cell numbers - everyone on NBC, CNN, MSNBC (Don Lemon, Rachel Maddow, Donnie Deutch, George Stephanopolous etc.)
 - Cohen told Costello: "they are friends of mine."
 - Costello responded: "Michael, are you really that big of a schmuck? They may have befriended you, but they are not your friends, they are reporters who are looking for a story...that's their job."
 - Maybe they were telling Cohen that he has to be concerned about State prosecution even if he received a pardon
 - When Cohen raised the issue of pardon, it was in the context of when he said "I want to know what my options are (pardon, immunity, cooperation)"
 - And said I want know about possible state law prosecutions.
- [McKay] - Typically, when a client approaches you, you're not talking about pardons
- [Costello] - Correct but typically, you're not dealing with client who was connected to the US President
- [McKay] - Did he (Cohen) indicate that he thought a pardon was possible?
- [Costello] - This is a difficult question to answer, because you are asking for another person's state of mind, but let me say this:
 - He (Cohen) knew that it was an option, based on the news coverage
 - And that's why I did research on this (I remember because of my Westlaw research which resulted in Westlaw sending me an email with the cases I wanted to read)
- [McKay] - Do you think he (Cohen) had any insight into whether he was promised a pardon?
- [Costello] - No, if I had to guess, I think he would have said a pardon is not a possibility because
 - Do you think a guy who thinks he's going to get a pardon, is going to seriously contemplate jumping off a building? Obviously not, you sit back and wait on the pardon, you don't kill yourself.

- Remember, on June 13 or 14, 2018, Costello gets a call from Giuliani, who says he has been speaking with Reverend Jerry Falwell Jr, who is a friend or friendly with Michael Cohen
- ** ○ Falwell and his wife Becky, had dinner with Cohen and Cohen was talking about suicide
- ** ○ Giuliani says if this is true, we need to get him some help. Note if they perceived Cohen as a threat would Giuliani have been trying to get help for Cohen.
- That's why there is a reference in a text message between Giuliani and Costello to Falwell
- Falwell was concerned enough to bring the message to Giuliani or Trump, and then it came to me
- (referring to Doc. No. 325) - these were May 3, 2018 notes taken when Michael Cohen came to office and Jeff joined thereafter
- (referring to Doc. No. 326) - these were notes re: discussion with Giuliani, Falwell discussed,)I guess his wife was there) Cohen mentioned the dinner but did not discuss the suicide talk - Costello said he had no way of knowing Becky (Wife's name)
- * • [McKay] - When Citron first meets with Cohen, were you in contact with Giuliani?
- [Costello] -No- I had not spoken with Giuliani in at least 6 months
 - Costello explained that when he would call Giuliani (at Greenberg Trauig), you had to go through gatekeeper, Eric Hatzimemos.
 - On April 19, 2018, when Giuliani was announced has joining Trump team, Costello reached out to former United States Attorney General Mike Mukasey to try to get to Giuliani
 - Costello had called Eric Hatzimemos first, but never got through
 - First conversation was at 10:30pm set up by Mike Mukasey when Rudy Giuliani called Costello
- [McKay] - How often did you meet with Giuliani?
- [Costello] - I consider myself a friend and I am friendly with him, but we don't go out to dinner, play golf, or drink.
- [McKay] (referring to Doc. No. 7) - first email what is that? A Cohen email to Citron and Costello marked "Attorney -Client Privileged" with an attachment, but there was no attachment.
- [Costello] - I think this was a mistake
- [McKay] - Did you bring a retainer to him at first meeting?
- [Costello] - No, you don't do that, we did not. The first meeting is a beauty contest to see if the prospective client wants to hire you.

- [McKay] - After first meeting what was your understanding of the relationship, were you retained?
- [Costello] (referring to Doc. No. 75) - email to son memorializing conversation
 - "I would be eternally grateful to have you on my team"
 - ✦○ Costello knew it was bullshit and said to the prosecutors;" "You think he still eternally grateful?"
 - Costello said he did not trust Cohen, he said in an early email in May of 2018 to Jeff Citron that we should not do anything for or with Cohen until retained.
- [McKay] (referring to Doc. No. 16) - "more reason to talk to Michael and talk about escape hatch," what was that?
- [Costello] - I was talking about the fact that the State could not prosecute Cohen under the then current state law for the same facts. So a pardon or immunity or a cooperation agreement would be an escape hatch. That was in the context of what was happening at the time in the media.
 - Jay Goldberg was on TV saying Cohen was going to cooperate
 - "Escape hatch" was talking about pardon, cooperation, etc. unencumbered by the threat of state prosecution
- [McKay] - At time of escape hatch did you have any knowledge about probability of getting pardon?
- [Costello] - None whatsoever, and at the time Rudy Giuliani wasn't even part of the ~~Trump~~ Legal Team and
 - If Dowd was counsel at the time, there was not a chance of getting Dowd to return call , as Costello had a very contentious relationship with John Dowd when Costello was representing people on the Yankees and Dowd was representing the Commissioner of Baseball.(the Yankee legal team caught Dowd changing a transcript of Leonard Kleinman)
- [McKay] (referring to Doc. No. 64) "all the more reason that Cohen should hire us, Giuliani relationship was helpful," what did you mean?
- [Costello] - When in joint defense agreement, makes it much easier to deal with people you know and you can therefore trust.
- [McKay] (referring to Doc. No. 81) - "Just spoke with Rudy, he was thrilled that I was on board" Apparently he did not have a great relationship with Steve Ryan.
- [Costello] - We've know each other for 45 years, the conversation could not have gone better
- [McKay] - What do you mean by could not have gone better

- [Costello] - It meant that Giuliani seemed genuinely happy and I thought I might be able to do something good for Cohen. The Sleep well, you have friends in high places " line meant nothing more than what I actually said.

- This is how I speak, there is no hidden meaning, and it certainly does not mean dangling a pardon

- [McKay] - Phone records for 24 minutes what else do you talk about

- [Costello] - Past things going on, I don't speak to Giuliani that often

- [McKay] - And this was first time in 6 months

- [Costello] - Absolutely

- [McKay] (referring to Doc. No. 83) - backchannel communication, what is meant

- [Costello] - It was a back channel because our involvement was not announced, Giuliani used the phrase, so I repeated it, but I understood it to be just a channel, not secretive except because Cohen had not announced it - probably Cohen was doing the same thing with Guy Petrillo

- [McKay] - At this point in time Cohen has not mentioned criminal issues with his personal life

- ✖• [Costello] - No, at no point in time. He continued to lie about that up to July 2018.

- [McKay] - Has he said anything about perjury to house?

- ✖• [Costello] - No, He forgot to mention the perjury, he said he fully cooperated

- [McKay] - What has he said at this phase in time about his conduct with Stormy and McDougal that implicates the President?

- [Costello] - Tough to say

- [McKay] - When I say implicate, I don't mean criminally, necessarily

- [Costello] - First I don't think Cohen believed it (the unprotected sex with a porn actress), or that Trump did it. I don't believe it because I know from my times with Steinbrenner in his box, Trump often came to the games and Trump was a germaphobe. In those days, Trump would not shake hands with anyone. Based upon that, it is impossible for me to believe that Trump would have unprotected sex with Stormy Daniels as she has claimed. that's why I thought this Stormy Daniels deal was simply a cost of doing business for the rich and famous.

- [McKay] - Did he say anything about his dealings with President

- [Costello] - He did not say whether president did or did not direct him, he just talked about it as a course of business, more like the cost of doing business,

- Since this was our initial meeting, I didn't want to pry as it was a beauty contest

- [McKay] - When you talked to Rudy the first time, did you talk about how Cohen's interests overlapped with the president's interests

- [Costello] - I don't think we did, I know it the conversation was 24 minutes and we did talk about the good old days and the case in general terms
- ✖✖✖ ○ They (Giuliani and the President) were unconcerned about Cohen as an adversary
- [McKay] - Was there ever a point when talking to Giuliani that if Cohen cooperates, there's going to be issues
- [Costello] - No not really, did not view him as a threat-ever.
 - I was not surprised that they're not concerned, Cohen said he had no information against Trump as well. !!!
 - Giuliani did not seem to know of anything about the facts of Counts 1-7 (evasion of taxes, taxi medallions etc.)
 - Costello said: "I knew Cohen was leaving something out, but he never revealed to us what it was and he constantly denied that there was anything else."
 - (referring to Doc. No. 83) - Before this email was sent, there was a shorter phone call with Giuliani
 - At the same time as the emails and the phone calls there were all these people were speculating that Cohen hated Trump and Trump hated Cohen (with Jay Goldberg on TV)
 - Cohen said this is all "bullshit" - Cohen wanted to make sure the "Big Guy" (President Trump) knows that the stories were not true - Giuliani said he knows that
- [McKay] - "Everything that you told me to say" is just that?
- [Costello] - Yes
- [McKay] - "Friends in high places," what do you mean?
- [Costello] - I wanted him to calm down, you have friends in high places was to have Cohen step off the ledge because he had said that he was contemplating jumping off the roof of the hotel.
- [McKay] - "PS, very nice comments from the White House" - same day Trump tweeted Michael Cohen is a fine person
- [Costello] - It just means that they were giving him support on television
- [McKay] - Point being the President got the message?
- [Costello] - Yes
- [McKay] (referring to Doc. No. 88) - What is meant by no emails
- [Costello] - The "no more emails" line was written by Jeff Citron, a civil real estate deal lawyer who had no legal knowledge of any of the criminal allegations and frankly had watched too many movies. I responded by saying no worries, the emails are privileged and Michael Cohen specifically asked me to email him.
- [McKay] - Why would he say this

- [Costello] - He watches too many TV shows
- [McKay] - No discussions with Cohen about not emailing?
- [Costello] - No, exactly the opposite, I note in my email back to Citron that Michael Cohen asked me to email him (Cohen) after I talked to Giuliani. The privilege was there

- ✖✖✖○ That's why I was so surprised by the waiver of the attorney client privilege. That may be the dumbest thing Michael Cohen ever did !!!
- Before I spoke with you (McKay) for the first time on Thursday March 7, 2019, I was preparing for hearing on another civil case, but I was getting inundated by calls regarding the false ABC story that we were conspiring to obstruct justice by telling Cohen to keep quiet in return for a promised pardon.
- Wednesday night, March 6, I received a call from Joe "LNU" of the WSJ at 11:30pm - I tell him the ABC and CNN stories are wrong but I can't say anything because of the attorney client privilege
- We went "off the record" and the WSJ asked can you tell me who leaked the story?
- I said it was almost definitely Michael Cohen and Lanny Davis - because of the legal bill and an email I recognized as having been from me to Cohen
- I said I was reasonably certain that he the WSJ reporter had Lanny Davis' cell, and told him to call Lanny and ask if there is waiver of AC privilege. if you get me the copy of the waiver, I will give you an exclusive right now.
- Costello said when you get Lanny on the phone, he's going to be evasive, etc. stay on the ball, he will try to change the question, he will try to change the subject. Finally demand that he answer yes or no as to whether there has been a waiver of the attorney client privilege.
- 10 minutes later WSJ reported called back, said that's exactly what happened he was evasive and tried to change subjects but finally I demanded a yes or no answer and Davis clearly perplexed refused to answer the question and then he changed topics by stating he was making a statement about Michael Cohen that Michael authorized an attorney to go to Rudy Giuliani and ask about a pardon. Costello asked if he made the statement orally or in writing and the reporter said in writing in an email. Costello then informed the WSJ reporter that he had a big story because Lanny Davis had just indicated his client Michael Cohen committed perjury again before the House because Cohen had testified that he had never asked for nor would he accept a pardon.

Cohen
PERJURY

- ✖✖✖✖ Costello said he took great glee in this because it was a payback for Lanny Davis putting out the false story of obstruction of justice which Costello said not only impugned his name but accused Costello, Citron Giuliani and Trump in a conspiracy to obstruct justice. Costello said the next time you have Lanny Davis in your office I want you to tell him that I did that to him to repay the false story he tried to float in the media.

- [McKay] (referring to Doc. No. 95) - 4/23/2018 email, how did this get to SDNY "the person you asked me (to speak to)" and Costello responded: Giuliani" . McKay asked: who said that this is where this type of case goes through. Costello said Giuliani.
- [Costello] - That's what Cohen wanted
 - I think he was thinking of the "fruit of the poisonous tree" doctrine
 - Cohen is clearly a bad lawyer, who did not know what he was dealing with
- [McKay] (referring to Doc. No. 95) - the "question of timing is premature," what is meant
- [Costello] - It was one of the options on the table at the time, Cohen wanted to find out if a pardon was on the table
 - I said Michael, that is way too premature
 - And if you're telling the truth, you have an election law violation (nothing)
 - And said I don't think anyone would entertain this (you haven't even been charged)
 - Don't want to be the schmuck who asks this type of question because it would make me look like I don't know what I'm doing
 - I am referencing a prior phone call with Giuliani
 - This is Costello saying, not Giuliani saying it
- [McKay] (referring to Doc. No. 322) - this 4/24 Memo, did you write on 4/24?
- [Costello] - Probably next day, but maybe same day
- [McKay] - What do you mean by end game strategy?
- [Costello] - If he was indicted, there may be a pardon available
 - A Pardon was "the 800 pound gorilla in the room". it was always there but someone at some point had to recognize that it was there.
 - I would be irresponsible for me not to at some point raise it
 - I did not want to raise it at the time, because there were no charges that Cohen was facing and he was claiming there were no other charges other than the election law violations
 - Costello thought it was insulting to ask at that time, because he thought no one in their right mind would be discussing pardons at this stage of the proceedings
- [McKay] - End game strategy
- [Costello] - I was certainly thinking pardon could be one of the options
 - Costello said that when he relented to Cohen and raised the issue of whether a pardon was on the table at some point, Giuliani went from a friendly tone to a curt tone and stated: "The President will not discuss pardons with anyone."
 - Kind of what I expected, I asked, and Rudy shot the idea down.

- [McKay] - This quote, sum and substance what Giuliani said
- [Costello] - Yes, and I knew that this was inappropriate to ask
- [McKay] - "Tell Michael he's at the top of the list"
- [Costello] - It's a love fest, nothing to do with pardons.
 - Steve Ryan was apparently the person who Lanny Davis asked to approach for a pardon
- [McKay] - Why didn't you make a memo to file re: that conversation but you did a memo for other one
- [Costello] - Because it wasn't a big deal at the time. If Cohen was telling the truth then nothing of substance to worry about, if it involved personal stuff before his connection to Donald Trump, then no pardon would happen
- [McKay] - Did you report back to Cohen?
- [Costello] - Yes, not the curtness, just the response
- [McKay] - How did he react?
- [Costello] - Didn't appear to be big deal. I certainly didn't think it was at the time, and I didn't have info as to what he was going to be charged with
- [McKay] (referring to Doc. No. 323) - what were those notes?
- [Costello] - It was a very early conversation with Giuliani, on issues such as whether Jeff Sessions was involved or had recused himself, etc. That the AAG Rosenstein had authorized the Cohen case to the SDNY.
- [McKay] - Notes of memo with conversation with Giuliani?
- [Costello] - Looks like it
- [McKay] - Same with Doc. No. 324?
- [Costello] - Yes, I believe it is the same conversation
- [McKay] - Is your reference to "Mc G" Don McGahn?
- [Costello] - I don't know, I can't read my writing. It could be but I am not sure.
- [McKay] - What about Doc. No. 325?
- [Costello] - Those are notes I took when Michael Cohen came to the DHC offices on May 3, 2018. There is a reference to a lawyer of Stormy Daniels, Keith Davidson
 - Cohen was very aggravated that day when he told Costello: "those bastards at the SDNY tried to subpoena my college, high school, and law school records"
 - Cohen said "what the fuck does any of this have to do with my high school records?" The prosecutors both smiled but refused to comment.
- [McKay] - Below high school stuff, the "ZBT"

- [Costello] - No idea, sometimes my notes merge but maybe Cohen was making reference to his college fraternity.
- ✖ ○ Costello then said that below that I do see: “Boss (President Trump)- love him and his Family. Absolutely will never put him in jeopardy-ever”
- Costello was growing increasingly frustrated with Cohen
- On May 3 - Cohen wanted Costello to go down to the lobby to bring him in so he did not have to sign in.
- Jeff was buzzed by Costello’s secretary
- Citron came down with a retainer for Cohen.
- Cohen told Costello and Citron that he's under financial pressure, because he was paying McDermott Will
- The claimed payment of legal fees was a lie. Later Costello found out from Giuliani that McDermott Will's bill was being paid by a D & O insurance policy
- Later on, after Cohen retained Petrillo, he wanted Costello to mention to Giuliani and the President that Cohen would be applying to the Aeon Insurance D & O Policy to seek payment for Petrillo and he did not want the President to oppose that.
- Cohen took the DHC retainer and said he would review it and return to DHC the next day, but he never did and he never signed it
- [McKay] - So at this time he was still not telling you about other crimes
- [Costello] - No, he never told us about the crimes you charged in Counts one through seven. I was surprised when the charges were filed and he agreed to plead guilty
 - He did mention the taxi medallions at one point in time, but not any criminality with respect to them - It’s in an email in there some place, addressed to Art Hazlitt, a friend of mine from my club who is a partner at Gibson Dunn. His Father in law once owned a huge amount of medallions.
 - Costello thinks it the conversation had to do with the fact that their value was plummeting
- [McKay] - Do you remember Giuliani’s television appearance where he said the president had paid back Cohen. Did you know Giuliani was going to say that before hand?
- [Costello] - No, did not get it ahead of time
- [McKay] - Entry on the bill for May 3 says telephone call, does that mean you talked to Giuliani?
- [Costello] - No this is in error, we did not talk
- [McKay] - Did you talk to him after the fact?
- [Costello] - I'm sure I did.

- [McKay] (referring to Doc. No. 105) - what was this referring to?
- [Costello] - He was supposed to return to DHC that day, May 4, with retainer but didn't, I knew then that we were getting jerked around
- [McKay] (referring to Doc. No. 106) - "Rudy Press tours," what is meant by that
- [Costello] - Cohen was complaining about Giuliani going on TV, constantly doing so. Cohen always said Rudy was screwing things up without saying how he was screwing things up. He just liked to complain. In previous paragraph, I was complaining about him(Cohen) , slow-playing us with the retainer, I thought Steve Ryan was the cause of Cohen slow playing us, because I didn't think it would be Cohen himself
 - Costello asked Giuliani to reach out to Steve Ryan - Costello not trying to take his business - Costello wanted to make the relationship good so we could all work together
- [McKay] - Did Cohen ever say why Giuliani announced reimbursement at that time?
- [Costello] - No, very non-specific about these things, Costello said why not have a meeting and get everyone on the same page
- [McKay] - Why was Rudy talking to Asterino?
- [Costello] - Astorino, the former Westchester County Executive, and a Republican, was hired by DHC, as a lobbyist and astorino was going to be on CNN talking about the Cohen search.
 - I wanted Rudy to talk to Ryan, because I thought Ryan was telling Cohen not to sign DHC's retainer, but in hindsight, I think I was wrong about that
- [McKay] (referring to Doc. No. 150 - This is an email dated May 15
- [Costello] - Email when Giuliani said that Trump Organization had insurance thqat paid the McDermott Will & Emery bills
 - Costello told Citron that Cohen's been lying to us about having financial difficulties because he was paying other legal bills
 - Cohen is complaining about Giuliani, Cohen thinks if Costello and Giuliani agree on anything, it is Giuliani controlling Costello which is not the case
 - Giuliani never gave Costello any instruction at any point - and if he ever did, he would never have agreed to simply follow an instruction but that never happened
 - I was left to guess what Cohen was complaining about.
- [McKay] (referring to call log on May 27) - this was a 90 minute call between Cohen and Costello - at that point in time, there had been some tension, surprised to get this call?
- Costello - yes I was surprised but Cohen called Costello' s cell on Memorial Day weekend when Costello was in Westhampton Cohen asked a lot of questions about an article he was reading claiming the Government was investigating Cohen for " acts of concealment and bank fraud". Cohen was trying to figure out what that meant. This is all covered in the Costello email to Citron of May 29 -document DHC 00174

- McKay references Doc. 174 Costello telling Cohen Giuliani called him and he did not call Giuliani
- [Costello] - Giuliani called me, I'll show you and took screen shot
- [McKay] - Why did you feel like you needed to show that Giuliani called you
- [Costello] - Cohen was insisting that I called Giuliani and I said Giuliani called me, back and forth, so I sent the email with the screen shot of the incoming and outgoing calls to prove my point to Cohen.
 - Cohen called another time asking if Costello leaked the story about McDermott withdrawing,
 - Then there was another tough guy call. Costello said you get one pass because you are under a lot of pressure but don't ever do it again
- [McKay] - What was subject matter of 90 minute call?
- [Costello] - On Tuesday after the Memorial Day weekend, I sent Jeff Citron a memo
 - Referred to Doc. No. 174 (read by Costello in part)
- [McKay] - Second to last sentence "Cohen brought up again the idea of meeting"
- [Costello] - This was a meeting to get everyone on the same page (Steve Ryan, Giuliani, Costello, and Cohen)
- [McKay] - Was pardon ever uttered again?
- [Costello] - No, the word pardon was never uttered again, by Giuliani, Cohen, or Costello
- [McKay] (Referring to Doc. No. 186) - who is the friend?
- [Costello] - That was Giuliani
 - Referring to June 13 call, if I remember, Cohen got another call from someone else and he said he had to take that.
 - Not Us like he hung up or anything
- [McKay] - What does "you have the opportunity to do as you wish" mean
- [Costello] - It means that you have the ability to go forward as you want, not necessarily legal counsel
 - But he never did that, very frustrating
- [McKay] (referring to Doc. No. 326) - after Giuliani had mentioned suicide comments
 - Notes below, he's claiming that SDNY- you guys have nothing on him financially
 - "Muller/Russia, Steele Dossier" used to start the Cohen investigation, means fruit of poisonous tree
 - "California USA baseball thing" Prague thing - Cohen said he was at USC that day with his son talking to the baseball coach.
 - "Weightlifter" not sure what that means

- [McKay] (referring to Doc. No. 357) - Text messages between Costello and Giuliani re Petrillo
- [Costello] - Told Giuliani I think he's talking to another lawyer
 - Giuliani said I think I heard who it was, but I don't remember
 - Cohen felt that Giuliani and Trump were throwing him under the bus
 - Costello send Ingham Angle link where Giuliani was saying nice stuff
 - Cohen responds by sending clip but also includes Guy Petrillo as cc
 - One June 19, Cohen calls Costello and discusses retaining Guy Petrillo
 - Asked if Petrillo said not to retain Costello, and Cohen said "not exactly"
 - Cohen claims Petrillo said he was concerned about Costello relationship with Giuliani
 - Asked if Cohen knew anything about Petrillo, did you do due diligence?
 - Costello researches it and tells Cohen that Petrillo has a bunch of upsetting relationships (relationship with Comey)
 - Trump and Comey don't get along, does he really want to sign on with someone that is friends with him
 - Costello says he understands the anger that Comey, Kelly and Fitzgerald have toward Trump because if someone commutes the sentence of a defendant in a case that you prosecuted (a big case) you would naturally resent that and Trump did that with scooter Libby, Blagoyovich and Martha Stewart
- [McKay] - At this point in time, Cohen has only told you about campaign finance issues, why would it matter to you who reps Cohen?
- [Costello] - Because I was pissed off at Petrillo, just as I was pissed at Steve Ryan
- [McKay] - Why would it matter to Giuliani?
- [Costello] - I was venting to Giuliani, he probably didn't care because 90% of people don't care about your troubles and the other 10% are happy you have them- quoting Lou Holtz, Notre Dame Football Coach.
- [McKay] (referring to Doc. No. 207) - can you describe?
- [Costello] - This was when I was trying to catch LIRR, Cohen calls, said there are reports on the internet that he has changed attorneys, its Petrillo, memo to Citron describes conversation in detail. We talked further - then at 8pm, after Costello exited the LIRR, Costello called Giuliani to tell him same
 - Reports on the internet to the effect that Cohen is going bankrupt due to legal fees
 - Giuliani reminds Costello that he knows that that's not true
- [McKay] - Did you ever discuss who was going to pay Petrillo

- [Costello] - Yes, during the long conversation on June 23, 2018, Cohen asked me to talk to Giuliani and ultimately to Trump about Cohen applying to Aeon Insurance, under the D & O policy to pay the legal fees and Cohen did not want “the big guy” to oppose Cohen’s request.
 - Cohen had this mindset that his money that he had would have to last the rest of his lifetime because no one would ever do business with him in the future.
- [McKay] - (referring to Doc. No. 219) - can you describe this reference to Tom Arnold
- [Costello] - This was Friday June 22, a good friend had taken me to Bobby Vans (highly recommend the Lemon Pepper Shrimp)
 - Costello received a call from Rudy, story about Tom Arnold, something about Arnold saying that He and Michael Cohen were going to bring Trump down. Giuliani said the president did not know what to make of this and he asked that Costello reach out to Cohen to find out what was going on.
 - Tom Arnold sat in Regency Hotel, sat in Lobby, asked Cohen if he could take a selfie with Cohen - no substance to any conversation
 - After that, Arnold starts tweeting and goes on talk show claiming that he and Michael Cohen were going to bring Trump down.
 - Costello returns to his office, reads the story in the link sent by Giuliani and then texts Cohen that - the President has seen this story about Tom Arnold please call (2:55pm)
 - With no response to the earlier text message, Costello calls Cohen at 4:30pm
 - Costello getting annoyed - obviously a big deal, Costello had a golf tournament next day
 - Cohen responds at 9:55 pm - arrived home at 8:30 pm and took the wife out to dinner, says he’ll talk to Costello tomorrow
 - After golf tournament, Cohen and Costello long conversation, thirty minutes, then Costello had to go to bathroom, then Cohen called back and they spoke for another 60 minutes
 - Cohen says Tom Arnold story is BS, trying to sell TV show
 - Cohen sends text messages between him and Arnold, Cohen wants Costello to send to Giuliani
 - Costello thought it was better to sit down with Giuliani
 - Following Thursday, after Giuliani returns from South America they meet at the Havana Club on top of 666 Fifth Avenue.
 - Costello read the memo to Giuliani, then gave him the memo at end
- [McKay] (referring to Doc. No. 327) - this is a memo of conversation with Cohen on Saturday which was typed up Monday.

- [Costello] - Yes, had attachments with text messages, etc. from Tom Arnold showing that he stepped over line
- [McKay] - Just you and Giuliani?
- [Costello] - Yes (initially had a female and male driver or something like that, but sat at other table)
 - He asked, is Cohen a smart guy? Costello responded that he thinks he is, which makes him dangerous
- [McKay] - What was Giuliani's response
- [Costello] - he agreed
- [McKay] (referring to Doc. No. 236) - Is this a reference to meeting with Giuliani?
- [Costello] - Yes
- [McKay] (referring to Doc. No. 240) - you send that link to Giuliani
- [Costello] - Yes
- [McKay] - Did you know at that point that Cohen was going to be on Stephanopoulos?
- [Costello] - No
- [McKay] - That he retained Lanny Davis?
- [Costello] - No but I knew he was in the picture
- [McKay] - Why did Citron send the link?
- [Costello] - Because it was big news
- [McKay] - Did you speak to Giuliani about it?
- [Costello] - I called him to tell him about it, then I emailed it thereafter
- [McKay] (referring to Doc. No. 370) - suspects that program was being promoted and Giuliani saw it, so that's why he texted it.
- ~~***~~ • [McKay] (referring to Doc. No. 254) - you're saying that Cohan was lying here
- [Costello] - Yes I knew that for a fact, and that's why I said it
 - This is the beginning of the story that he released to the papers
- [McKay] - When he says I told you I did not want or need any backchannel communications, this was a lie?
- [Costello] - Yes!
- [McKay] - Did you have an attorney client relationship?
- [Costello] - Yes, I told him that on day 1
 - And I was trying to correct his lies
 - He asked me to see whether a pardon was on the table

Interview concludes at roughly 1:20pm. Costello tells McKay to let him know if he needs anything further and McKay tells Costello to contact him if he remembers anything else.