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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF FLORIDA  
GAINSVILLE DIVISION

-----x  
KEVIN FOLTA, PhD, : Case No.  
Plaintiff, : 1:17-cv-246-MW-GRJ  
vs. :  
NEW YORK TIMES COMPANY, :  
And ERIC LIPTON, :  
Defendants.

-----x

VIDEO DEPOSITION OF ERIC F. LIPTON

Washington, DC  
Tuesday, September 25, 2018

REPORTED BY:  
DONALD R. THACKER  
VERITEXT LEGAL SOLUTIONS  
MID-ATLANTIC REGION  
1801 Market Street – Suite 1800  
Philadelphia, PA 19103

Page 2	<p>1 Video Deposition of Eric F. Lipton, called for                  2 examination pursuant to notice of deposition on Tuesday,                  3 September 25, 2018, in Washington, DC, at the law offices                  4 of Ballard Spahr, LLP, at 10:10 a.m., before Donald R.                  5 Thacker, a Notary Public within and for the District of                  6 Columbia, when were present on behalf of the respective                  7 parties:                  8 LANE R. JUBB, JR., ESQ.                  9 The Beasley Law Firm, LLC                  10 1125 Walnut Street                  11 Philadelphia, Pennsylvania 19107                  12 215-592-1000 215-592-8360                  13 Lane.jubb@beasleyfirm.com                  14 Amanda.applegate@beasleyfirm.com                  15 Attorneys for Plaintiff                  16                  17 CAROL LoCICERO, ESQ.                  18 MARK R. CARAMANICA, ESQ.                  19 Thomas &amp; LoCicero                  20 601 South Boulevard                  21 Tampa, Florida 33606                  22 813-984-3060 813-984-3070                  23                  24                  25 - continued -</p>	Page 4
Page 3	<p>1 APPEARANCES: (Continued)                  2                  3 AL-AMYN SULAR, ESQ.                  4 New York Times                  5 620 8th Avenue                  6 New York, New York 10018                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p>	Page 5

1 PROCEEDINGS  
 2 THE VIDEOGRAPHER: We are now on the record at  
 3 10:09 a.m., September 25th, 2018. Please note that the  
 4 microphones are sensitive and may pick up whispering,  
 5 private conversations and cellular interference. Please  
 6 turn off all cell phones or place on vibrate away from the  
 7 microphone as they can interfere with the audio. Audio and  
 8 video recording will continue to take place unless all  
 9 parties agree to go off of the record.  
 10 This is unit one of the video recorded  
 11 deposition of Mr. Eric Lipton taken by counsel for  
 12 plaintiff in the matter of Kevin Folta, Dr. Kevin Folta  
 13 versus the New York Times Company filed in the  
 14 United States District Court, Northern District of Florida,  
 15 Gainesville Division. Case No. 1:17-cv-246-MW-GRJ.  
 16 This deposition is being held at the offices of  
 17 Ballard Spahr located at 1909 K Street Northwest, 12th  
 18 Floor, Washington D.C. 20006.  
 19 My name is Eliza Spikes from the firm  
 20 of Veritext Court Reporters and Donald Thacker also from  
 21 the firm of Veritext. I am not authorized to administer an  
 22 oath, I am not related to any party and I am not interested  
 23 in the outcome.  
 24 Counsel who are present in the room and everyone  
 25 attending remotely will now state their appearances and

1 their information for the record. If there are any  
 2 objections to this proceeding, please state them at the  
 3 time of your appearance beginning with the party noticing  
 4 this proceeding.  
 5 MR. JUBB: Good morning, Lane Jubb and James  
 6 Beasley for the Plaintiff.  
 7 MS. LoCICERO: Carol LoCicero with Thomas &  
 8 LoCicero for the Defendants, and the only objection is  
 9 really not an objection, I don't think we are going to have  
 10 a problem with it, but I want to put on the record to make  
 11 it clear that this deposition and the video tape and the  
 12 information we learn here is for the purposes of litigation  
 13 only, and that to the extent that we need to designate it  
 14 confidential so that it won't be used outside the  
 15 proceeding we are going to do that.  
 16 THE VIDEOGRAPHER: Will the court reporter  
 17 please administer the oath.  
 18 Whereupon,  
 19 ERIC F. LIPTON  
 20 was called as a witness and, having first been duly sworn,  
 21 was examined and testified as follows:  
 22 MS. LoCICERO: The only issue we didn't get the  
 23 other appearances for the record.  
 24 MR. CARAMANICA: Mark Caramanica, Thomas &  
 25 LoCicero.

Page 6	<p>1 MR. SULAR: Al-Amyr Sular for the New York 2 Times. 3 EXAMINATION 4 BY MR. JUBB: 5 Q Mr. Lipton, good morning. We met briefly off 6 the record. My name is Lane Jubb, I represent the 7 Plaintiff in this case. I'm going to take your deposition 8 today; okay? 9 A Yes. 10 Q Have you had your deposition taken before? 11 A Yes. 12 Q When was that? 13 A When I was a young person in Philadelphia, and 14 my I family sued a company over a matter and I was deposed. 15 Q I am sorry to interrupt you. In that matter you 16 were not a defendant or had nothing to do with journalism 17 or anything like that? 18 A No. 19 Q I'm quite confident counsel explained to you the 20 rules of today's purpose, but I'll just go over a few of 21 them if that's okay with you. 22 The first is that I want to make sure that you 23 understand my questions, and so if I use a word wrong or 24 you don't understand it I just need you to tell me and I 25 will rephrase it.</p>	Page 8	<p>1 reporter? 2 A I covered the lobbying industry and beyond 3 lobbying, campaigns to influence public opinion. 4 Q In the 2015 timeframe -- let me back up. My 5 questions are all going to refer to that timeframe unless 6 otherwise stated; okay? 7 A Okay. 8 Q What was your role at the New York Times in 9 September of 2015 in terms of the specialty of journalism 10 that you practice? 11 A I was writing about campaigns to influence 12 public opinion and government. 13 Q Was there a practice group name for it or was 14 that just your personal description of it? 15 A It didn't really, it was just an area that I 16 covered. 17 Q Were there other journalists in that same 18 sub-umbrella, if will, of journalists at the time? 19 A Not in the Washington, no. 20 Q And the Washington Bureau, how many folks are at 21 that location for the Times? 22 A Approximately 90. 23 Q Where is that located? 24 A It is at 17th and I Streets, Northwest. 25 Q Have you always been at that location?</p>
Page 7	<p>1 (Brief interruption.) 2 Q I will repeat that last one. I want to make 3 sure you understand my questions. If you don't understand 4 it you just have to tell me and I'm happy to rephrase it; 5 okay? 6 A Yes. 7 Q And next is, and what was pointed out, we will 8 talk slow so that he can take down everything that we are 9 saying. And I would ask that you allow me to get my 10 question out before you answer, and I'll do my best to let 11 you get your full answer out before I interject. It's 12 going to appear conversational, we may step on each other 13 so I apologize in advance for that, but it's good for him 14 and it's good for us lawyers later when we read the 15 transcript; okay? 16 A Yes. 17 Q Otherwise I think we can probably go through 18 this and if there are any issues we'll look at them when 19 they come. 20 How long have you been with the New York Times? 21 A Nineteen years. 22 Q In that 19 years have you had the same -- 23 strike. Do you consider yourself a lobby reporter? 24 A Not currently. 25 Q As of the 2015 timeframe were you a lobby</p>	Page 9	<p>1 A Yes. 2 Q You mentioned you are from Philadelphia? 3 A Yes. 4 Q Did you ever work at any other newspaper before 5 the Times? 6 A Yes. 7 Q Which newspaper? 8 A I worked at the Valley News in Lebanon, New 9 Hampshire when I first graduated from college and then I 10 worked Hartford Curreant in Connecticut and at the 11 Washington Post. 12 Q It's my understanding that you won a couple of 13 awards; is that right? 14 A Yes. 15 Q Can you tell me about those? 16 A In 1992 I won a Pulitzer Prize for when I worked 17 for the Hartford Curreant for explanatory journalism, and in 18 2015 when I was at the Times, New York Times I won for 19 investigative reporting, and I was part of the team of 20 reporters in 2017 that won a Pulitzer Prize for Foreign 21 Reporting. 22 Q In 2015 you start said part of a team, were you 23 part of a team in 2015 or 2017? 24 A '17. 25 Q How many people were part of that team?</p>

<p style="text-align: right;">Page 10</p> <p>1 A There were I think 10, approximately 10 or 11</p> <p>2 reporters.</p> <p>3 Q Would you say you have 19 years of experience or</p> <p>4 would you say you have 30, 40, how long have you been a</p> <p>5 journalist?</p> <p>6 A Approximately 30 years.</p> <p>7 Q In that 30 years did you come to learn of this</p> <p>8 notion of a fair report privilege?</p> <p>9 MS. LoCICERO: Object to form.</p> <p>10 THE WITNESS: Fair report privilege, I don't</p> <p>11 know that term specifically, no.</p> <p>12 BY MR. JUBB:</p> <p>13 Q Am I correct that in 2015 you didn't know what</p> <p>14 the fair report privilege was?</p> <p>15 MS. LoCICERO: Object to form.</p> <p>16 THE WITNESS: I know what fairness means, and</p> <p>17 fairness is quite important to most reporters, but I don't</p> <p>18 know that specific term, that legal term.</p> <p>19 Q Put aside how you want to characterize it as a</p> <p>20 legal term, is it your testimony that at the Times, given</p> <p>21 your experience, you have never been familiar with the</p> <p>22 concept of fair report privilege?</p> <p>23 MS. LoCICERO: Object to form.</p> <p>24 THE WITNESS: I know fairness is a part of what</p> <p>25 I do and it is something I think about constantly.</p>	<p style="text-align: right;">Page 12</p> <p>1 I'm working on, and then perhaps follow up with the person</p> <p>2 to, you know, to listen to that idea.</p> <p>3 Q And depending on who it is do you consider the</p> <p>4 source of that information, and what I mean by that is,</p> <p>5 when someone contacts you with a story idea do you inquire</p> <p>6 into who this person is, what is their background, why are</p> <p>7 they contacting me, things like that?</p> <p>8 A I would ask perhaps where their funding comes</p> <p>9 from, that's something that I do inquire and evaluate, yes.</p> <p>10 Q Did you look at Mr. Ruskin's website?</p> <p>11 A I don't specifically recall that I did, but I</p> <p>12 probably did, yes. If he had a website at the time, I'm</p> <p>13 not sure that he actually had a website at that point.</p> <p>14 Q We have a couple e-mails and we can review them</p> <p>15 together if we need to, but would I be correct in assuming</p> <p>16 that the links that he provided to you in his</p> <p>17 correspondence, that you reviewed them?</p> <p>18 A In some cases I would have looked at links that</p> <p>19 he provided.</p> <p>20 Q And in terms of getting back to his website, you</p> <p>21 believe that you looked at it; correct?</p> <p>22 A I mean I'm pretty certain, yes, I looked at it.</p> <p>23 I think that, yes.</p> <p>24 Q Did you read his publication called CD Business?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q In 2015, September, you wrote an article about</p> <p>2 Dr. Folta; correct?</p> <p>3 A Yes.</p> <p>4 Q What was the date that you first put pen to</p> <p>5 paper?</p> <p>6 A I think it was in August of 2015. The story was</p> <p>7 in 2015; right?</p> <p>8 Q Yes, sir.</p> <p>9 A It was August of 2015 the best I recollect that</p> <p>10 I started writing.</p> <p>11 Q And am I correct that you were approached by --</p> <p>12 strike that. Am I correct that you were first contacted by</p> <p>13 Gary Rusking of U.S. Right to Know about writing your</p> <p>14 story?</p> <p>15 A It is correct that he first proposed the idea,</p> <p>16 yes.</p> <p>17 Q And that was March timeframe?</p> <p>18 A It was in the spring of that year, yes.</p> <p>19 Q In terms of how things worked at the Times in</p> <p>20 2015, would you often be receiving e-mails out of the blue</p> <p>21 from people asking you to write stories, was that common?</p> <p>22 A Yes, that's common.</p> <p>23 Q When that happens, what do you do?</p> <p>24 A I usually read the e-mail and consider the</p> <p>25 option and see if it's something that fits in the area that</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Did you read his publication called Spooky</p> <p>2 Business?</p> <p>3 A I don't recall reading either of those.</p> <p>4 Q Do you recall any conversations you had with</p> <p>5 Mr. Ruskin?</p> <p>6 A I recall that we, speaking with him in the</p> <p>7 spring of 2015 in which he proposed the idea of working on</p> <p>8 a story based on documents that he was collecting from the</p> <p>9 records, yes.</p> <p>10 Q And am I correct that you asked Mr. Ruskin to</p> <p>11 gather these documents and provide you a road map?</p> <p>12 A No, I didn't ask him that.</p> <p>13 Q Did he do that by himself?</p> <p>14 A He informed me that he was in the process of</p> <p>15 collecting documents, and I said that I would be happy to</p> <p>16 look at documents that he collected, the primary documents</p> <p>17 that he collected.</p> <p>18 Q And when he would -- I mean there is a bunch of</p> <p>19 correspondence, how often do you think he would reach out,</p> <p>20 on a weekly basis, couple times a week?</p> <p>21 A I mean I think that he told me that he was</p> <p>22 collecting documents and I said fine, if you collect</p> <p>23 documents I'd be happy to look at them. I also notified</p> <p>24 him that if he was going to collect documents on one side</p> <p>25 that I was going to collect them on the, around the organic</p>

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1 industry. And then basically as far as I recall we did not  
 2 communicate much until he had actually received documents.  
 3 Q In the 2015 timeframe am I correct you consider  
 4 yourself a specialist on journalism concerning lobbying?  
 5 A I wrote about efforts to move agendas, and  
 6 broadly speaking lobbying is one aspect of that.  
 7 Q What would you describe -- excuse me, strike  
 8 that. What is your definition of lobbying?  
 9 A I mean lobbying is attempting, tactics and  
 10 techniques to move agendas in Washington and nationally and  
 11 in states.  
 12 Q And in terms of the lobbying that you covered,  
 13 when you say agenda what do you mean by that?  
 14 A To either legislation or public opinion or  
 15 regulations, those are all the things that organizations  
 16 want to try to influence.  
 17 Q Is there a difference between in your mind a  
 18 designated certified lobbyist and someone who lobbyists  
 19 work with or are they all the same?  
 20 A There is different types of campaigns and  
 21 registered lobbyists are one aspect in a public opinion  
 22 influencing effort, it's one part of a campaign.  
 23 Q Based on your definition of a lobbyist can we  
 24 agree that Dr. Folta was not a lobbyist?  
 25 A He was not a registered lobbyist.

Page 15

1 Q And he wasn't a lobbyist in any sense of your  
 2 definition; correct?  
 3 A I mean he does, he plays a role, he is not a  
 4 registered lobbyist, is what I would say. He is not a  
 5 registered lobbyist.  
 6 Q Just getting back to my question, he is not a  
 7 lobbyist under any of your definition; is that correct?  
 8 A He is not a lobbyist, not a lobbyist.  
 9 Q Am I correct he is also not an executive of any  
 10 corporation?  
 11 A Not that I'm aware.  
 12 Q In 2015 am I correct that Dr. Folta was not a  
 13 tool of the industry?  
 14 A No, I mean I've never suggested that he was a  
 15 tool of the industry, and he is not, no.  
 16 Q He has never been a tool of the industry?  
 17 A I've never suggested he is a tool of the  
 18 industry, and I'm not aware that he is a tool of the  
 19 industry.  
 20 Q In the article itself, and we can get into it  
 21 soon, you did in the article say that Dr. Folta could be a  
 22 tool in the industry; did you write that?  
 23 MS. LoCICERO: Object to form.  
 24 THE WITNESS: I did not suggest that he could be  
 25 a tool in the industry.

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1 BY MR. JUBB:  
 2 Q Do you think -- I guess it's probably best if we  
 3 all looked at it in full context, he did the same so we are  
 4 at the same feature.  
 5 (Lipton Exhibit 1 identified.)  
 6 BY MR. JUBB:  
 7 Q Mr. Lipton, I have handed you with has been  
 8 marked as Lipton 1, which is the online version of your  
 9 article titled Food Industry Enlisted Academics in G.M.O.  
 10 Lobbying War, Emails Show, and the print date is May 30th,  
 11 2017. Does it appear to be a true and accurate copy of  
 12 that article you wrote?  
 13 A It does, yes.  
 14 Q Would you be so kind to turn to page 3 of 9 for  
 15 me?  
 16 A Yes.  
 17 Q In the middle of that page the paragraph reads,  
 18 But he also conceded in an interview that he could unfairly  
 19 be seen as a tool of industry, and his university now  
 20 intends to donate the Monsanto grant money to a food  
 21 pantry. "I can understand that perception 100 percent,"  
 22 close quote, he said, "and it bothers me a lot," close  
 23 quote. Did I read that correctly?  
 24 A Yes.  
 25 Q Do you think that -- strike that. Do you think

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1 a reasonable reader could read that page that you believe  
 2 Kevin is a tool of the industry?  
 3 MS. LoCICERO: Object to form.  
 4 THE WITNESS: I did not. I mean the question of  
 5 what does he think of the perception, that he could be seen  
 6 as a tool of the industry, that's what the question was,  
 7 and this is based on both himself using language and things  
 8 that I had read in which he described himself. He was  
 9 concerned about being considered a shill, that's another  
 10 word for a tool.  
 11 So he himself had raised the issue and I was  
 12 asking him, what is it like to be seen as a tool? I didn't  
 13 assert that he is a tool, and I've never assert that.  
 14 BY MR. JUBB:  
 15 Q Are you referring to a discussion that you had  
 16 with Dr. Folta before you wrote this article?  
 17 A No, there were blog posts in which the word  
 18 shill was used.  
 19 Q I see, but the word tool, whose word was that?  
 20 A A shill tool, I mean to me those are similar  
 21 words.  
 22 Q Did you ask Dr. Folta how it felt to be a tool  
 23 of the industry?  
 24 A Yes, that was a question I asked him, yes. No,  
 25 I asked him what it was like to be perceived as tool of the

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1 industry, I have never asserted that he is a tool of the  
 2 industry. I asked him what it is like to be perceived as,  
 3 that was my question.  
 4 Q I see. So if he said your words are how does it  
 5 feel to be a tool of the industry, you guys would have a  
 6 dispute as to that conversation?  
 7 A I guess, yes.  
 8 Q When you wrote seen as a tool of the industry,  
 9 what did you mean by tool of the industry?  
 10 A I meant that there was a perception that he  
 11 himself had articulated prior to our conversation, that he  
 12 was seen as someone who was acting on behalf of the  
 13 industry, and that was a perception that as something that  
 14 he and his colleagues had joked about in e-mails that I had  
 15 read.  
 16 And I was asking him, what is it like to be seen  
 17 in this light, and what is his reaction to that, does he  
 18 think that that's fair? It was an attempt to the question,  
 19 was this a fair question.  
 20 Q So what I'm trying to understand is what did you  
 21 mean by the tool of the industry rather than the context of  
 22 the conversation, and I'm now focused on what those words  
 23 mean; what did you mean by tool of the industry?  
 24 MS. LoCICERO: Object to form.  
 25 THE WITNESS: That means are you someone that

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1 would -- how does it feel to be perceived as someone who  
 2 acting at the industry's behest.  
 3 BY MR. JUBB:  
 4 Q Understanding that Dr. Folta is a scientist,  
 5 would you agree with me that if he is perceived as a tool  
 6 of the industry, that that would diminish his reputation  
 7 amongst his colleagues as an independent contractor?  
 8 MS. LoCICERO: Object to form.  
 9 THE WITNESS: Would you repeat question, what  
 10 was the question?  
 11 BY MR. JUBB:  
 12 Q Sure, let me back up. Can we agree that  
 13 independence of scientists is of most importance to  
 14 scientists?  
 15 A Yes.  
 16 Q And in light of that understanding could we  
 17 agree that calling a scientist a tool of the industry would  
 18 diminish his reputation or the visibility amongst his  
 19 scientific peers?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: I didn't call him a tool to the  
 22 industry, I didn't call him a tool, so your question is if  
 23 someone was a tool that could hurt their reputation if they  
 24 were a tool of the industry.  
 25 Q You mentioned that you got this phrase tool of

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1 the industry from an e-mail where they were referencing  
 2 skill; correct?  
 3 MS. LoCICERO: Object to form.  
 4 THE WITNESS: No, I mean I read a blog post  
 5 where there was a discussion, Folta discussing it, and  
 6 separately there was an e-mail that he was cc'd only in  
 7 which there was just a joke among the academics who were  
 8 working with the industry consultants about how we are all  
 9 skills, and they were joking about that.  
 10 BY MR. JUBB:  
 11 Q When you read that e-mail am I correct that that  
 12 e-mail was actually then sarcastically mocking what people  
 13 consider them, that they had been accused being skills?  
 14 A Yes, exactly the point, and that's why I asked  
 15 him the question.  
 16 Q But you made up tool of the industry; right?  
 17 A Skills and tools to me are parallels.  
 18 Q In that e-mail Dr. Folta didn't write that, did  
 19 he?  
 20 A He received that e-mail.  
 21 Q I see. And in your conversation with him is it  
 22 your testimony that he responded to you, I can understand  
 23 that perception 100 percent and it bothers me a lot?  
 24 A Yes.  
 25 Q Was there anything else about that response that

Page 21

1 he had that you omitted from the article?  
 2 A There were a few critics, he continued with  
 3 those thoughts. Those are the thoughts that are quoted in  
 4 the story.  
 5 Q What else did he say?  
 6 A I mean, do you have my notes --  
 7 Q I do. Do you remember what you said?  
 8 A I don't remember exact words, I would have to  
 9 refer to my notes.  
 10 Q When it comes to your notes how is it that you  
 11 write them down, are you dictating it, are you scribbling?  
 12 A I'm typing.  
 13 Q Typing. And then you review your notes before  
 14 writing the article; is that right?  
 15 A I mean after the interview is over I make  
 16 revisions immediately to the article to reflect the  
 17 conversation.  
 18 Q Do you revise your contemporaneous notes?  
 19 A Not generally I don't, no. I mean I might fill  
 20 in -- no, the answer is no, I don't. Generally they stay  
 21 in that state.  
 22 Q Am I correct that you do not believe you revised  
 23 any of your contemporaneous interview notes for purposes of  
 24 this article?  
 25 A I don't believe I did, no, I took the notes

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1 down and they stayed in that file.  
 2 (Lipton Exhibit 2 identified.)  
 3 BY MR. JUBB:  
 4 Q Mr. Lipton, I've handed you what I have marked  
 5 as Lipton 2, which is Bates-stamped EL11307 through 11311.  
 6 Have you seen this before?  
 7 A Yes.  
 8 Q Am I correct that these are your interview notes  
 9 from your conversation with Dr. Folta?  
 10 A Yes.  
 11 Q What does the triple X mean in the middle?  
 12 A That typically means that I'm going from one  
 13 interview to another, so it is a different, it is where I'm  
 14 starting a conversation with another party.  
 15 Q Could you please turn to the second page which  
 16 is 11308?  
 17 A Yes.  
 18 Q The top of the notes, I just want to make sure I  
 19 am reading it correctly because I know there are some typos  
 20 because you are probably typing pretty fast. If these  
 21 companies did not exist I would do exactly the same thing;  
 22 is that what you meant by your notes?  
 23 A Yes.  
 24 Q The companies have the final, what is that word,  
 25 fina?

Page 23

1 A Financial.  
 2 Q The companies have the financial and political  
 3 muscle to continue to create and use these products; did I  
 4 read that correctly?  
 5 A Yes.  
 6 Q I wish we could do more it; do you see that?  
 7 A Yes.  
 8 Q Then right below that it says, I can understand  
 9 that perception 100 percent and it bothers me a lot. I'm  
 10 not a big fan of corporations; do you see that?  
 11 A Yes.  
 12 Q Can we agree that nowhere in your notes does it  
 13 say that the perception he understands is being perceived  
 14 as a tool of the industry in the context of your notes?  
 15 A It's not written there, but my questions are not  
 16 written immediately above it but I know at the time I did  
 17 the interview what the question was.  
 18 Q And the full line of his response was I'm not a  
 19 big fan of corporations; right?  
 20 MS. LoCIERO: Object to form.  
 21 THE WITNESS: That's what it says in my notes.  
 22 BY MR. JUBB:  
 23 Q And you do not include that in the article?  
 24 A It's not in the quote in the article.  
 25 Q Can you tell me why not?

Page 24

1 A It's just, I mean there is a quote in the  
 2 article that reflected his point relative to the question  
 3 of how does it feel to be perceived as, and I can't address  
 4 exactly why any particular line from these notes is or  
 5 isn't included, it just isn't included, it just is or  
 6 isn't, I can't explicitly, other than there was a desire to  
 7 make sure that the story was fair, and we felt the story  
 8 was fair.  
 9 Q I see. And part of this story was that the  
 10 academics were working closely with industry; correct?  
 11 A Yes.  
 12 Q And part of the impression that a reasonable  
 13 reader would have is they are working together and they  
 14 like each other?  
 15 MS. LoCICERO: Object to form.  
 16 THE WITNESS: I can't really answer a question  
 17 about what readers' impressions would be, I mean I know  
 18 what the story says.  
 19 BY MR. JUBB:  
 20 Q And in terms of what the story says can we agree  
 21 that the words that you used, the substance that you were  
 22 trying to convey to the reader was that these academics are  
 23 working closely with the corporations and they are in this  
 24 inner circle; correct?  
 25 A I mean the story says and the e-mails

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1 demonstrated that these academics were working with  
 2 industry, individuals from the industry, yes.  
 3 Q And when Kevin said I'm not a big fan of  
 4 corporations, would that help your story or would it cut  
 5 against it?  
 6 MS. LoCICERO: Object to form.  
 7 THE WITNESS: Would it help the story? I mean  
 8 it wasn't a matter of -- it's not something that I really  
 9 contemplated to help or hurt the story. The question was  
 10 is the story fair, that was my commitment to make sure that  
 11 the story is fair.  
 12 Q In terms of the fairness that you were concerned  
 13 about, would it be fair for the reader to have an  
 14 impression that Kevin was happy with his relationship with  
 15 Monsanto and enjoying big corporations as opposed to not a  
 16 big fan of corporations?  
 17 MS. LoCICERO: Object to form.  
 18 THE WITNESS: Be fair, could you repeat that  
 19 question?  
 20 BY MR. JUBB:  
 21 Q Sure. In light of your goal that you wanted to  
 22 be fair, can we agree that the message you were trying to  
 23 give to the readers was that academics were working closely  
 24 with industry as part of this inner circle all mixed  
 25 together; right?

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1 MS. LoCICERO: Object to form.  
 2 THE WITNESS: No. I mean what, you know, that's  
 3 a different question. The academics were working with  
 4 individuals from the industry, that's correct, yes, the  
 5 e-mails demonstrate that.  
 6 BY MR. JUBB:  
 7 Q Well, did the e-mails demonstrate that the  
 8 academics were happy to work with Monsanto and were  
 9 supporting Monsanto and liked what they do?  
 10 A I mean the e-mails showed me that Kevin Folta,  
 11 yes, seemed to actually enjoy interacting with people from  
 12 the academic world, and from experts in the industry and  
 13 speaking about these issues, yes. He seemed enthusiastic.  
 14 Q Then when you actually talked to him he tells  
 15 you he is not a big fan of corporations and he is not  
 16 enthusiastic; correct?  
 17 A I didn't get that sense from this conversation.  
 18 Q You just wrote it down though?  
 19 MS. LoCICERO: Object to form.  
 20 THE WITNESS: Yeah, that -- we were not talking  
 21 about whether or not he enjoyed engaging with other  
 22 academics on the issue of genetically modified foods. When  
 23 we did discuss that in fact there was a great deal of  
 24 enthusiasm on his part about that role, and in other places  
 25 in the interview you can see that this is something that he

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1 actually really enjoyed and was enthusiastic about.  
 2 This is my job, I'm supposed to be sharing  
 3 science, and so, you know, this is something that he really  
 4 enjoyed, and that's also evident in the interview.  
 5 Q He enjoyed the science; correct?  
 6 A He enjoyed the sharing of the science.  
 7 Q If you go the 11309 which is the next entry, are  
 8 these notes from a separate conversation or from the same  
 9 conversation?  
 10 A As far as I can tell from these notes, this is a  
 11 second conversation that I had with him.  
 12 Q And do you see if the middle where it says I am  
 13 being torn apart in the online social media and everything  
 14 else in the most horrific ways, threats to my family; did I  
 15 read that correctly?  
 16 A Yes.  
 17 Q Did you have an understanding that he was  
 18 receiving threats to his family before publishing the  
 19 article?  
 20 A That he -- he says, my notes reflect that he  
 21 said that. I also had seen Jack Payne who was at the  
 22 University of Florida had written some similar assertions  
 23 in a blog posting that he had published before my story  
 24 appeared, so I have seen that, yes.  
 25 Q And to just clarify, am I correct that you had

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1 an understanding that he was receiving threats to his  
 2 family before you published your article?  
 3 A Yes, the notes reflect that, yes.  
 4 Q In light of that did you think that you had an  
 5 obligation to make sure everything was as accurate as  
 6 possible in light of his receiving these threats?  
 7 MS. LoCICERO: Object to form.  
 8 THE WITNESS: I mean my goal in every story that  
 9 I write is to make sure it is as accurate and as fair as  
 10 possible.  
 11 BY MR. JUBB:  
 12 Q Then I would like to go to the next page, which  
 13 is 11310. The quote that you wrote down was, I am  
 14 independent scientist, nobody tells me what to say, nobody  
 15 tells me what to think, I represent science when a company  
 16 allows me to do more science.  
 17 Is there any particular reason why following  
 18 these nobody tells me what to say, nobody tells me what  
 19 this think, quote, that you put in your article that you  
 20 did include the I represent science part of that full  
 21 quote?  
 22 A No, I can't explain why any particular language  
 23 was or wasn't used. I don't know that that's a full quote,  
 24 there is a period there. And so I might now several years  
 25 later, I don't recall the specifics, but that period right

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1 now would give me pause as to whether or not that was a  
 2 full sentence.  
 3 Q There is also a period between represent and  
 4 science; right?  
 5 A Right, that's what I'm saying, yes, right.  
 6 That's what I'm saying, but now it is three years later, so  
 7 right after the interview I would have a better  
 8 recollection of the specific words said at the time. But  
 9 looking at it now that period gives me pause as to whether  
 10 or not there are words left out.  
 11 Q So I guess there is an issue as to whether or  
 12 not you did omit that second part that says I represent  
 13 science; correct?  
 14 A Did I use that quote in the story?  
 15 Q You used nobody tells me what to say, nobody  
 16 tells me what to think.  
 17 A Okay. So you are asking why I didn't use I  
 18 represent science; that was your question?  
 19 Q Yes, sir.  
 20 A I don't recollect why I did or didn't use that.  
 21 Q Do you recollect why you picked nobody tells me  
 22 what to say, nobody tells me what to think, without any  
 23 other part of that line?  
 24 A I mean my goal was to make sure that his voice  
 25 was represented and that the story was fair and complete

<p style="text-align: right;">Page 30</p> <p>1 and accurate, and I picked quotes that I thought allowed                  2 him to articulate his point of view in a complete and fair                  3 and accurate way, that was my objective.                  4 Q Your objective was to make sure his words                  5 reflected accurately?                  6 A Yes, and completely and fairly, yes.                  7 Q Where he says I'm an unpaid volunteer teaching                  8 because the public needs to know?                  9 A I felt it was important to reflect his point of                  10 view to include quotes from him, the story included quotes.                  11 Any individual line here could or couldn't have been in the                  12 story and I can't explain why it was or wasn't, other than                  13 there was an objective to make sure the story was fair and                  14 complete.                  15 Q If you felt it was important to include quotes                  16 from him, why didn't you ask him for a quote?                  17 A I'm sorry, why didn't I ask him for a quote?                  18 MS. LoCICERO: Objection to form.                  19 BY MR. JUBB:                  20 Q If you felt it was important to include quotes                  21 from him, why didn't you ask him for a quote?                  22 A I'm sorry, what do you mean by that? There was                  23 an interview, that's how I get quotes. Can you explain                  24 your question a little bit more?                  25 Q Sure. You could contact Dr. Folta and say, I'm</p>	<p style="text-align: right;">Page 32</p> <p>1 and so I listened to his concerns, he articulated something                  2 else and then I thought that was worth adding so we added                  3 it.                  4 Q After the phone call you had with Kevin am I                  5 correct that he was upset about the questions that you were                  6 asking?                  7 A After the initial phone call?                  8 Q Yes, sir.                  9 A Yes, I think that he made that clear in an                  10 e-mail that he sent to me.                  11 Q And the e-mail you are referring to I believe is                  12 probably on the bottom of that page, Kevin wrote you and                  13 said, your use of the word tool was really off putting; do                  14 you see that?                  15 MS. LoCICERO: What are we referring to?                  16 MR. JUBB: It is on the bottom of 11310.                  17 THE WITNESS: Okay. Looks like I cut and pasted                  18 his e-mail into my notes, which is pretty common for                  19 something I would do.                  20 BY MR. JUBB:                  21 Q He says, after our conversation I didn't feel, I                  22 didn't like the feel of how this was being portrayed. Your                  23 use of the word quote "tool" close quote was really off                  24 putting. Did you read that before publishing the article?                  25 A Yes.</p>
<p style="text-align: right;">Page 31</p> <p>1 writing this piece, can you talk to him and say, I would                  2 like to include a quote from you, it's important to me, I                  3 think it's good for the story; what quote would you like to                  4 get?                  5 A That's not typically the way that I interview                  6 people, that's not the standard thing that I do.                  7 Q Well, after an article was published am I                  8 correct he contacted you and he was pretty upset; right?                  9 A That is correct.                  10 Q And you then added the phrase everything, I                  11 might be paraphrasing because I don't have it in front of                  12 me, every point I make is based on evidence; right?                  13 A Yes.                  14 Q Why didn't you ask him what he wanted as a quote                  15 and why he was upset?                  16 A Could you repeat the question?                  17 (The reporter read the record as requested.)                  18 BY MR. JUBB:                  19 Q I will ask the question again, I think that's                  20 not necessarily what I said. But knowing that he was upset                  21 and quotes from him were important to you, why did you not                  22 ask him, what would you like me to include as a quote from                  23 you to make it better?                  24 A I mean my objective is to be accurate and fair                  25 and complete, and also to listen to concerns that he had,</p>	<p style="text-align: right;">Page 33</p> <p>1 Q In light of the fact he wasn't comfortable with                  2 your use of the word tool, why did you then put the word,                  3 the phrase tool of the industry in the article, knowing                  4 that he was uncomfortable with that?                  5 A Again, the question that I asked him was about a                  6 perception, and even before I started on this article he                  7 himself was discussing a perception as being seen as a                  8 shill. So this was an important question for me to ask,                  9 and not only Dr. Folta but other colleagues of his were                  10 joking about that characterization, so this is an important                  11 question that needed to be addressed, that perception. So                  12 that was a question that I asked him, and I thought it was                  13 important to include in the story.                  14 Q In those e-mails that you are referring to,                  15 which comment on them joking about this notion of being a                  16 shill, that was written by some other scientist; correct?                  17 MS. LoCICERO: Object to form.                  18 THE WITNESS: That was written to Kevin Folta,                  19 yes, it was written to Kevin Folta.                  20 BY MR. JUBB:                  21 Q With a number of other people; correct?                  22 A It was an e-mail that was sent to Kevin Folta,                  23 that's correct.                  24 Q In that e-mail all those other scientists, did                  25 you talk about any of them there?</p>

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1 A I talked about many other scientists.  
 2 Q My question was a little different about the  
 3 e-mail that you said that Kevin was joking about being a  
 4 shill, your receiving an e-mail from a scientist presumably  
 5 out of the blue; right?  
 6 MS. LoCICERO: Object to form.  
 7 THE WITNESS: I'm sorry, I don't know the  
 8 exactly circumstances, but that e-mail was not out of the  
 9 blue, it was a conversation that was going on.  
 10 BY MR. JUBB:  
 11 Q Did Kevin respond to it?  
 12 A I didn't see a response.  
 13 Q Those other scientists, maybe we can pull it up,  
 14 your article was about him, and he never used that word,  
 15 you never responded; correct?  
 16 MS. LoCICERO: Object to form.  
 17 THE WITNESS: The article was not about him, it  
 18 was about academics working with the organics industry and  
 19 the biotech industry.  
 20 BY MR. JUBB:  
 21 Q On 11-31 of Lipton 2 that you have, when Kevin  
 22 wrote to you saying that quote, "I have been uneasy ever  
 23 since we spoke because I don't feel this is moving in an  
 24 accurate way." When you read that, knowing that he was  
 25 uncomfortable with the word tool, can you just give me an

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1 explanation as to why you used that phrase tool of the  
 2 industry knowing he was uncomfortable and he felt your  
 3 story was moving in an inaccurate way?  
 4 MS. LoCICERO: Object to form.  
 5 THE WITNESS: My obligation and responsibility  
 6 as a reporter is to be fair and accurate and complete, and  
 7 that's, you know, that's my imperative and that's what I  
 8 was concerned about, and I also wanted to make sure that I  
 9 was listening to him and considering his points and the  
 10 story reflected those points.  
 11 BY MR. JUBB:  
 12 Q So is it your testimony that you felt it was  
 13 fair to include the tool of the industry quote even though  
 14 he is saying that makes him uncomfortable and the story is  
 15 going in an inaccurate way that you thought was fair?  
 16 MS. LoCICERO: Object to form.  
 17 THE WITNESS: My commitment is to make sure the  
 18 story is accurate and fair and complete, and the story said  
 19 that he felt that or not he was unfairly being  
 20 characterized, the story specifically says that. But the  
 21 fact that a story might cause someone to be upset is  
 22 certainly not my goal but if it, you know, I do not, you  
 23 know, I write what I think needs to be written in order for  
 24 a story to be fair and accurate and complete.  
 25 BY MR. JUBB:

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1 Q Okay. And if that's important to you, and he is  
 2 telling you it's moving in an inaccurate way --  
 3 A I don't feel it is moving in an accurate way,  
 4 okay.  
 5 Q Would your goal be complete if you didn't say  
 6 what is inaccurate about this tool that you are  
 7 uncomfortable?  
 8 MS. LoCICERO: Object to form.  
 9 THE WITNESS: Again, my goal, my requirement at  
 10 that point would be, and particularly strong given his  
 11 concerns to make sure that the story was fair and accurate  
 12 and complete, and that would have an extra burden having  
 13 done an interview with someone who was concerned to make  
 14 sure that the story was fair and accurate and complete,  
 15 yes, I would agree with that.  
 16 (Lipton Exhibit 3 identified.)  
 17 MR. JUBB: Do you see any notes on this, Carol?  
 18 MS. LoCICERO: No, I think that's good.  
 19 THE WITNESS: Mine don't.  
 20 BY MR. JUBB:  
 21 Q Mr. Lipton, I have handed you what has been  
 22 marked as Lipton 3. Does this appear to be -- strike that.  
 23 It is also Bates-stamped EL4 through 5; correct?  
 24 A Yes.  
 25 Q And does this appear to be an accurate

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1 electronic, photo I guess, if you will, of the print  
 2 version of the article?  
 3 A It does.  
 4 Q Where is something like this stored?  
 5 A There is a program called a Parch that has all  
 6 of the PDFs of the original print newspaper. It is an  
 7 internal program at the Times.  
 8 Q It is called Parch?  
 9 A Yes.  
 10 Q And is that a program that was developed by the  
 11 Times or is that something that all publishers have?  
 12 A I'm not sure what the origin of it is.  
 13 Q P-A-R-C-H?  
 14 A C-H.  
 15 Q What does Parch allow you to do?  
 16 A It just allows you to look at the PDFs of the  
 17 original pages as published.  
 18 Q Does everyone have access to that or is that  
 19 just the folks at the Times?  
 20 A It is an internal program as far as I know.  
 21 Q Okay. And the print version of the article the  
 22 title is Emails Reveal Academic Ties In a Food War;  
 23 correct?  
 24 A Yes.  
 25 Q What would you call the phrase below that?

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1 A The subhead.  
 2 Q The subheading, what is the purpose of the  
 3 subheading?  
 4 A It is a further elaboration on what the story is  
 5 about.  
 6 Q And can we agree that at no time did Kevin Folta  
 7 lobby in exchange for a grant?  
 8 MS. LoCICERO: Object to form.  
 9 THE WITNESS: He was not a registered lobbyist  
 10 and he was not lobbying. He was not acting as a registered  
 11 lobbyist for the companies, that's correct.  
 12 BY MR. JUBB:  
 13 Q I believe your testimony before in the record is  
 14 going to say what it's going to say, I thought it was he is  
 15 not a lobbyist?  
 16 A He is not a lobbyist, that's correct.  
 17 Q Can we also agree in light of my last question  
 18 at no time did he lobby in exchange for a grant?  
 19 A I -- he has asserted to me that none of his  
 20 actions were taken in exchange for a grant or a gift, yes.  
 21 Q And you based off your review of everything, you  
 22 agreed with that; right?  
 23 A Based on my -- I'm sorry, I'm not agreeing or  
 24 disagreeing. I just -- this is what he asserted to me.  
 25 Q And so when you wrote this article, is it your

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1 testimony that the byline, Industry Swaps Grants for  
 2 Lobbying Clout, you didn't consider whether or not Kevin  
 3 was actually lobbying in exchange for grants before you  
 4 wrote that?  
 5 A No, what the subhead says is that the industry  
 6 was engaged in a lobbying and public relations and public  
 7 policy campaign, and it was giving money as part of an  
 8 advocacy campaign and to influence public opinion. That's  
 9 what it's saying.  
 10 Q Well, sir, words matter in the selection of a  
 11 title; correct?  
 12 A Right.  
 13 Q And you picked these words; right?  
 14 A I mean the story uses these words, this is --  
 15 these words were on the story, I didn't particularly pick  
 16 these words as a headline.  
 17 Q And this story that these words depict, I  
 18 understand that to mean that this is supposed to describe  
 19 the story; right?  
 20 A That is correct.  
 21 Q And in the story that you have told underneath  
 22 that byline with those words Industry Swaps Grants for  
 23 Lobbying Clout, that byline, can we agree that at no point  
 24 did Dr. Folta lobby in exchange for a grant?  
 25 A Dr. Folta is not a registered lobbyist. He did

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1 play a part in an advocacy campaign, and he was asked to  
 2 come to Washington by the biotech industry and to speak  
 3 with staffers and to speak with reporters. He was asked  
 4 to -- his costs for travel to go to Pennsylvania, to  
 5 Hawaii, those are all instances in which he participated in  
 6 an advocacy campaign and the e-mails show that.  
 7 So he was not a lobbyist but he was  
 8 participating in an advocacy campaign, yes, and in some of  
 9 those instances his costs were covered, his travels were  
 10 covered.  
 11 Q Well, break that down a little bit. Do you know  
 12 what the consequences would be for a professor to lobby if  
 13 they are not a registered lobbyist in this specialty of  
 14 yours?  
 15 MS. LoCICERO: Object to form.  
 16 THE WITNESS: He was not -- again, I think we  
 17 are getting back and forth over the term lobby. He was  
 18 not a registered lobbyist, I would agree with that  
 19 completely, he was not a registered lobbyist. Maybe we are  
 20 defining the term lobby a little differently.  
 21 Q When you used the word lobbying here what did  
 22 you mean?  
 23 A The lobbying is, there are many aspects to  
 24 lobbying. There are third-party advocates who are part of  
 25 a lobbying effort who are completely independent as

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1 entities and they are third-party advocates, they are  
 2 surrogates. Lobbying now days is much more complicated  
 3 than simply registered lobbyist. In Washington if you  
 4 simply have a registered lobbyist you are going to lose.  
 5 You need a lot of other aspects of any public advocacy  
 6 campaign.  
 7 So the term lobbying is a broad term that means  
 8 much more than simply registered lobbyist. So that  
 9 includes surrogates and third-party advocates. He was a  
 10 third-party advocate is what I was talking about, and  
 11 that's part of a lobbying campaign.  
 12 Q Would you agree me that a reasonable reader  
 13 could read that and believe that you meant specifically  
 14 lobbying the way that a registered lobbyist would?  
 15 A I'm sorry, that's not what I said and that's not  
 16 what I meant. Lobbying again is a broad term which I use  
 17 in all of my stories.  
 18 Q But could a reasonable reader, do all people  
 19 know about your broad category of lobbying?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: I don't know.  
 22 BY MR. JUBB:  
 23 Q Does that mean that a reasonable reader could  
 24 read this and believe that lobbying meant a registered  
 25 lobbyist?

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1 MS. LoCICERO: Object to form.  
 2 THE WITNESS: This headline first of all is the  
 3 top of a story that discusses activities involving both the  
 4 organic industry and the biotech industry, and so it  
 5 applies to a broad number of people. That headline is not  
 6 specifically about Kevin Folta, and secondly, this headline  
 7 says the industry took an action. It doesn't talk about  
 8 Kevin Folta, it talks about the industry. And the industry  
 9 clearly was trying to influence public opinion, and it was  
 10 taking actions, and the e-mails show that. The e-mails  
 11 show that the industry saw the academics as white hats,  
 12 third-party advocates, that could be an effective  
 13 communications tool or effective communication voice in  
 14 their public advocacy campaign, and the e-mail showed that.  
 15 So the industry was giving grants in an effort as of the  
 16 public advocacy campaign.  
 17 Q Do you remember my question?  
 18 A Your question was do I think that the public  
 19 would interpret that word to apply to him.  
 20 Q That wasn't my question.  
 21 A Right.  
 22 Q My question was would the public interpret that  
 23 word lobbying to mean a certified lobbyist?  
 24 MS. LoCICERO: Object to form.  
 25 THE WITNESS: No. No, I think that the industry

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1 swaps grants for lobbying clout. The lobbying that it is  
 2 referring to is referring to the lobbying, an industry  
 3 effort to lobby, that's how I would read that subhead.  
 4 BY MR. JUBB:  
 5 Q Industry swaps, grants; what did you mean by  
 6 swap?  
 7 A It means that they were distributing money in an  
 8 effort to try to affect public perception and public  
 9 policy.  
 10 Q When we swap it's a trade; correct?  
 11 MS. LoCICERO: Object to form.  
 12 THE WITNESS: I think to address the question  
 13 the best thing to do is to look at the grant application  
 14 that Kevin Folta gave to Monsanto as an example of that.  
 15 Q I see. When the word swap is used, if we swap  
 16 ties, we trade ties; correct?  
 17 A That's -- the swap is to exchange.  
 18 Q Okay. And based off of this byline that you  
 19 chose, the industry is exchanging grants for lobbying  
 20 clout; correct?  
 21 MS. LoCICERO: Object to form; that is not his  
 22 testimony.  
 23 THE WITNESS: I mean it is a subhead, and the  
 24 industry is -- it says, the words say the industry swaps  
 25 grants for lobbying clout, that's what the words say.

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1 BY MR. JUBB:  
 2 Q Correct me if I'm wrong, industry, that would be  
 3 Monsanto to food, agricultural companies; correct?  
 4 A Or organic companies.  
 5 Q Were organic companies, that they are trading  
 6 grants for lobbying clout; correct?  
 7 A They are trading or swapping grants for lobbying  
 8 clout, yes.  
 9 Q Could a reasonable reader read that subheading  
 10 that you selected and take that to mean that industry has a  
 11 -- strike that.  
 12 Could a reasonable reader read that to mean that  
 13 the industry is giving out grants in consideration for  
 14 lobbying?  
 15 MS. LoCICERO: Object to form.  
 16 THE WITNESS: I mean I think the words, if they  
 17 are swapping grants for lobbying clout the industry was  
 18 attempting to influence public opinion, both the organic  
 19 industry and the biotech industry. One of their strategies  
 20 was to engage with academics to try to elevate their  
 21 voices, and that was a form of public policy advocacy and  
 22 that is what the subhead means.  
 23 BY MR. JUBB:  
 24 Q Could a reasonable reader read that to mean that  
 25 if you lobby I will give you a grant?

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1 MS. LoCICERO: Object to form.  
 2 THE WITNESS: I mean I have -- I explained what  
 3 it means is that the industry, both the organic industry  
 4 and the non-profit industry, were giving funding in an  
 5 effort to influence public opinion. That's it. And they  
 6 thought that by giving funding they could elevate the  
 7 voices of the people that they funded.  
 8 Q That doesn't say this at all. That says  
 9 industry trades grants for lobbying clout; correct?  
 10 MS. LoCICERO: Object to form.  
 11 THE WITNESS: It says industry swaps grants for  
 12 lobbying clout, right.  
 13 BY MR. JUBB:  
 14 Q It doesn't say anything about they are trying to  
 15 persuade public opinion and getting close. It says that  
 16 they are in exchange for a grant they are getting lobbying  
 17 clout; correct?  
 18 MS. LoCICERO: Object to form.  
 19 THE WITNESS: It says the industry swaps grants  
 20 for lobbying clout.  
 21 Q Yes.  
 22 A That's what it says.  
 23 Q I give you an apple and you give me a banana.  
 24 MS. LoCICERO: Object to form.  
 25 THE WITNESS: It doesn't. I mean I don't

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1 think it -- it talks about the industry as swapping grants  
 2 for lobbying clout, I mean that's what it says. I'm not  
 3 clear what it is you're trying to get me to concede.  
 4 BY MR. JUBB:  
 5 Q Would you agree with me that not everybody would  
 6 read the words that you have chosen in this article the way  
 7 that you are now telling me, what you meant it to be?  
 8 MS. LoCICERO: Object to form.  
 9 THE WITNESS: Industry swaps grants for lobbying  
 10 clout, the industry swaps for lobbying clout. The  
 11 objective, this is a story about an organic industry and  
 12 biotech industry that are trying to influence public  
 13 opinion. They are both concerned about how the public  
 14 perceives genetically modified foods. The organic industry  
 15 wants them to be seen in a bad light, the genetically  
 16 modified industry wants them to continue in a good light.  
 17 As part of the effort to try to influence  
 18 opinion they are distributing funds to elevate voices of  
 19 academics, and they are swapping grants for lobbying clout,  
 20 that is what the subhead says.  
 21 BY MR. JUBB:  
 22 Q Okay. And can you tell me what Dr. Folka did  
 23 that you consider to be lobbying after he got the grant?  
 24 MS. LoCICERO: Object to form.  
 25 BY MR. JUBB:

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1 Q What you call a grant?  
 2 A I mean Dr. Folta played a part in a public  
 3 advocacy campaign that at times received reimbursements for  
 4 travel costs from industry players. And he also  
 5 participated at the e-mail show in strategizing over ways  
 6 to deal with the debate relating to labeling. E-mails  
 7 showed him consulting through conversations with  
 8 representatives of the industry to discuss how best to  
 9 respond to efforts to get legislation passed in individual  
 10 states, and in Washington relative to labeling.  
 11 So that's what the e-mail showed. So I don't --  
 12 he was not acting as a registered lobbyist, the story was  
 13 never circulated as a registered lobbyist, but he did play  
 14 a part in a public advocacy campaign and the e-mails  
 15 demonstrated that very clearly.  
 16 Q Your subheading, does that imply that the grants  
 17 came before the lobbying?  
 18 MS. LoCICERO: Object to form.  
 19 THE WITNESS: I didn't say he was lobbying, he  
 20 was not a registered lobbyist.  
 21 BY MR. JUBB:  
 22 Q What about the clout part?  
 23 A I'm sorry, could you ask that question again?  
 24 Q Your subheading implies that the industry gave a  
 25 grant and then the academics would give them the lobbying

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1 clout?  
 2 MS. LoCICERO: Object to form.  
 3 THE WITNESS: It is correct that in this case  
 4 that there is a grant of \$25,000 or a gift, depending on  
 5 how you defined it. And then subsequent to that Kevin  
 6 Folta participated in efforts in Pennsylvania and also in  
 7 Washington, in which he spoke publicly with funding  
 8 provided through industry groups in which he advocated  
 9 positions that the industry supported. And those were  
 10 subsequent, and they were funded in part by the industry,  
 11 that travel.  
 12 BY MR. JUBB:  
 13 Q Just to be clear, your interpretation of those  
 14 e-mails that you reviewed, was that Dr. Folta received a  
 15 grant and then performed lobbying; is that correct?  
 16 A No, not lobbying. He did public advocacy and he  
 17 wrote a grant proposal in which he discussed explicitly how  
 18 he could do public advocacy, and then he received the money  
 19 and then he did public advocacy.  
 20 Q Did you know what the difference was between a  
 21 grant and a gift?  
 22 A I know the difference between a grant and a  
 23 gift.  
 24 Q Did you know that before you published the  
 25 article?

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1 A I know the difference between the words grant  
 2 and a gift, yes.  
 3 Q What is the difference?  
 4 A A grant is money that is given in exchange for  
 5 something, a gift is given without necessarily an  
 6 expectation of a return.  
 7 Q Can we agree that there was no expectation of a  
 8 return for this \$25,000?  
 9 A I mean the grant application that was submitted  
 10 to Monsanto talked about things that Kevin Folta was going  
 11 to do to keep Monsanto up to date on his efforts, and he  
 12 also talked about a return on investment in an e-mail that  
 13 he wrote to Monsanto. And Monsanto described in both a  
 14 letter that it sent to him as a grant and then in an e-mail  
 15 that it sent to me shortly before publication a grant, but  
 16 I understand the difference between grant and a gift, but  
 17 whether or not that was a grant or a gift is an open  
 18 question to me.  
 19 Q Were there any deliverables associated with this  
 20 \$25,000 from Monsanto?  
 21 A You could help me with producing the grant  
 22 application and the e-mails associated to it?  
 23 (Lipton Exhibit 4 identified.)  
 24 BY MR. JUBB:  
 25 Q This is the biotechnology -- strike that.

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1 What I have handed you is Lipton 4, it is 1, 2,  
 2 3, 4, 5, 6, 7, 8, 9 pages of the biotechnology proposal;  
 3 correct?  
 4 A Yes.  
 5 Q Did you read this before writing your article?  
 6 A I did, yes.  
 7 Q Okay.  
 8 A There is an associated e-mail which he sent; do  
 9 you have that as well?  
 10 Q I probably do but let's just focus on my  
 11 questions, okay?  
 12 A Okay.  
 13 Q When you read this did you read this to be that  
 14 Kevin was actually going to be doing what they told him to  
 15 do in exchange for \$25,000?  
 16 MS. LoCICERO: Object to form.  
 17 THE WITNESS: I read this as something that he  
 18 submitted to Monsanto in an effort to get funding for his  
 19 effort.  
 20 BY MR. JUBB:  
 21 Q Okay. Was he going to be receiving any  
 22 compensation?  
 23 MS. LoCICERO: Object to form.  
 24 THE WITNESS: The goal of this was to cover  
 25 travel costs as I understood it, and associated costs, not

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1 personal compensation. And this -- yeah.  
 2 BY MR. JUBB:  
 3 Q Does that mean he wasn't going to be receiving a  
 4 penny?  
 5 MS. LoCICERO: Object to form.  
 6 BY MR. JUBB:  
 7 Q Compensation?  
 8 A It meant he was not going to be personally  
 9 receiving compensation, but it would be covering costs  
 10 associated with this effort.  
 11 Q Does that mean he was receiving --  
 12 MS. LoCICERO: Object to form.  
 13 THE WITNESS: Technically speaking he incurred  
 14 costs and then he would be compensated for those costs,  
 15 that's how I interpreted this.  
 16 BY MR. JUBB:  
 17 Q What were the deliverables?  
 18 A The deliverables are describing here the, what  
 19 the topics of his training would be in which I talks about,  
 20 for example, what are some of the products in the industry  
 21 pipelines and what are the problems they could solve, what  
 22 are some of the products generated in academic labs that  
 23 could solve major world issues?  
 24 Those are some of the deliverables that he was  
 25 talking about providing as part of this. And if you pause

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1 I'll look at, I'll give you some other examples.  
 2 Also the pipeline, what is next, this is on page  
 3 3994 at the bottom, what are some of the products in the  
 4 industry pipelines and what problems could they solve, what  
 5 are some of the products generated in the academic labs  
 6 that could solve major world issues that are not candidates  
 7 for deregulation or commercialization?  
 8 So here he is detailing things that he would be  
 9 talking about in a three-hour program in training sessions  
 10 that he was going to be providing, engaging the public and  
 11 in training the trainers. So those are some of the things.  
 12 Then the e-mails that were associated to this  
 13 that he sent to Monsanto also helps me understand issues  
 14 relating to deliverables.  
 15 Q I see. Can we agree, though, that -- where does  
 16 the word lobby appear in here?  
 17 A He is not -- this is not lobbying, this is  
 18 public advocacy.  
 19 Q This isn't lobbying under any of the definitions  
 20 that you describe; right?  
 21 MS. LoCICERO: Object to form.  
 22 THE WITNESS: This is a form of advocacy, this  
 23 is a classic example of third-party advocacy to me.  
 24 BY MR. JUBB:  
 25 Q He is not speaking to any government officials;

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1 is he?  
 2 A I mean he is speaking to academics who work at  
 3 state universities. I mean advocacy is a matter of public  
 4 opinion. I mean, again I have a broader definition of the  
 5 term lobbying, and lobbying is not just registered  
 6 lobbyist, it means trying to influence public opinion,  
 7 government officials, private people. I mean it's  
 8 advocacy, and that's what lobbying is now days.  
 9 Q Since you have a broader definition of lobbying  
 10 can we agree then that others don't have that broad  
 11 definition of lobbying; correct?  
 12 MS. LoCICERO: Object to form.  
 13 THE WITNESS: For a number of years now I have  
 14 been writing about how lobbying, that's what I regularly am  
 15 writing about, lobbying is not simply registered lobbying,  
 16 it is attempting to influence public opinion to a variety  
 17 of tactics.  
 18 BY MR. JUBB:  
 19 Q Well, would just writing an article, were you  
 20 trying to influence public opinion in writing of your  
 21 article?  
 22 A I try to deconstruct public advocacy campaigns  
 23 and explain how they work.  
 24 Q Were you trying to influence a public opinion in  
 25 your article?

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1 A No, I was -- my story was about how the organics  
 2 and the biotech industry were both using third-party  
 3 advocates to influence public opinion.  
 4 MS. LoCICERO: Lane, would you inform me when  
 5 you have a five-minute break.  
 6 BY MR. JUBB: Yeah, sure.  
 7 Q Mr. Lipton, I'm looking back at Lipton 1, which  
 8 is the online version of the article. At the top, the  
 9 first full paragraph, the use by both sides of third-party  
 10 scientists and a supposedly unbiased research, helps  
 11 explain why the American public is often confused as a  
 12 process of conflicting information; did I read that  
 13 correctly?  
 14 A I'm sorry, which paragraph were you reading?  
 15 Q First full paragraph at the top, and I'm  
 16 starting --  
 17 A Oh, okay, I'm on the wrong page, I'm sorry, I  
 18 was on the first page. Okay. Okay, go ahead.  
 19 Q The use by both sides of a third-party scientist  
 20 in a supposedly unbiased research helps explain why the  
 21 American public is often confused about the process of  
 22 collecting information; did you write that?  
 23 A I wrote much of that sentence, yes, uh-huh.  
 24 Q Who else wrote that?  
 25 A I mean my editors and I essentially both write

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1 things together, go back and forth.  
 2 Q Did you have any information available to you in  
 3 September of 2015 to believe that Dr. Folta's research was  
 4 somehow biased?  
 5 MS. LoCICERO: Object to form.  
 6 THE WITNESS: The story explicitly says that  
 7 there is no evidence that his research is influenced by any  
 8 financial assistance from the industry, the story  
 9 explicitly says that.  
 10 BY MR. JUBB:  
 11 Q Where do you see that?  
 12 A One second. There is no evidence that academic  
 13 work was compromised, and that is one place where it says  
 14 that.  
 15 Q Which page are you referring to?  
 16 A On page 3 of 9, there is no evidence that  
 17 academic work was compromised.  
 18 Q Wasn't that after you said that you made  
 19 additional requests for e-mail records of academics that  
 20 were tied to the organic industry?  
 21 MS. LoCICERO: Object to form.  
 22 THE WITNESS: That's a broad sentence that  
 23 applies to everyone mentioned in the story.  
 24 BY MR. JUBB:  
 25 Q And equally true for the statement and their

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1 supposedly unbiased research, that applies to everyone in  
 2 the story; correct?  
 3 A Yes, that's a broad statement, it is not  
 4 specifically around Kevin Folta.  
 5 Q Can we agree, sir, that when you say there is no  
 6 evidence that academic work was compromised following --  
 7 strike that.  
 8 If you are saying that there is no evidence of  
 9 academic work that was compromised, and you are saying that  
 10 that refers to Dr. Folta, can we agree then that this  
 11 statement that you put close to the top calling the  
 12 research supposedly unbiased, that has no purpose then?  
 13 MS. LoCICERO: Object to form.  
 14 THE WITNESS: The meaning of that sentence there  
 15 is that academics are seen as experts and authorities, and  
 16 they have a certain implied independence which is essential  
 17 to their role as academics. And part of the reason why  
 18 they are so attractive to the organic industry, and to the  
 19 biotech industry, because they have a perception of being  
 20 authorities and independent.  
 21 So there is a, they have a supposed unbiased  
 22 status, and that's what makes them so attractive as  
 23 third-party advocates. And the e-mails from Monsanto  
 24 discuss in the industry about white hats and third-party  
 25 advocates. So that's what it means by their supposedly

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1 unbiased research, they have a supposedly unbiased place in  
 2 the debate that is attractive to the organics industry and  
 3 to the biotech industry.  
 4 Q Okay. But here you say that they are using  
 5 third-party scientists for their supposedly unbiased  
 6 research and that's why the American public is confused  
 7 about what to believe; correct?  
 8 MS. LoCICERO: Object to form.  
 9 THE WITNESS: What it says is that both sides  
 10 are using third-party scientists, i.e. academics and  
 11 scientists for their supposedly unbiased research, which  
 12 means that these are people are experts and authorities in  
 13 independent organizations. And that's what it says, and  
 14 that's why they are attractive to the organics industry and  
 15 to the biotech industry, because they are third-party  
 16 scientists who are experts and authorities in their own  
 17 fields.  
 18 BY MR. JUBB:  
 19 Q Can we agree when you say their supposedly  
 20 unbiased research that someone could read that and believe  
 21 that you have information to suggest it is biased?  
 22 MS. LoCICERO: Object to form.  
 23 THE WITNESS: I mean the story says not very  
 24 much later that there is no evidence that the academic work  
 25 was compromised. But it does say there that the reason

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1 that the third-party scientists are attractive is because  
 2 of their supposedly unbiased research. That's what the  
 3 story says and that's exactly why, if you were to look at  
 4 the e-mails from Monsanto and from biotech, they talk about  
 5 third-party white hats, and that means these are  
 6 independent arbiters of knowledge and their supposedly  
 7 unbiased research is the reason that they have supposedly  
 8 unbiased research is the reason that they are so attractive  
 9 as third-party advocates.  
 10 BY MR. JUBB:  
 11 Q You've got to focus on my question. I really am  
 12 not going to be too long with everybody's time.  
 13 A Yeah, fine, I was just trying to address your  
 14 question.  
 15 Q Let's just focus on the paragraph of the  
 16 readers' sheet first before we move down the tape ten  
 17 paragraphs or so. Can we agree you have no evidence to  
 18 suggest that Dr. Folta's research was somehow swayed in any  
 19 way in favor of industry?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: There is no evidence that his  
 22 academic work was compromised, that is correct.  
 23 BY MR. JUBB:  
 24 Q Okay. Now going down to where you say there is  
 25 no evidence that academic work was compromised, but the

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1 e-mails show how academics have shifted from researchers to  
 2 active lobbying and corporate public relations on page 3 of  
 3 9. Can we agree that read in context with the sentence  
 4 above it, referring to the e-mails you are requesting from  
 5 the organics industry can lead a reader to believe that you  
 6 are referring to the organic examples?  
 7 MS. LoCICERO: Object to form.  
 8 THE WITNESS: No, that's a broad sentence that  
 9 comes after a paragraph that starts with Monsanto and the  
 10 biotech, so I don't think that's a fair reading.  
 11 BY MR. JUBB:  
 12 Q It doesn't come after that at all, it comes  
 13 after the sentence that says New York Times separately  
 14 requested some of these documents, then made additional  
 15 requests in several states for e-mail records of academics  
 16 with ties to the organics industry. There is no evidence  
 17 that academic work was compromised, but the e-mails show  
 18 how academics have shifted from researchers to actors in  
 19 lobbying and corporate public relations campaign. Can we  
 20 agree that it's referring to the organics industry from  
 21 e-mails you requested?  
 22 MS. LoCICERO: Object to form.  
 23 THE WITNESS: I disagree with that reading. I  
 24 don't think that's an accurate reading of the story.  
 25 BY MR. JUBB:

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1 Q Can a reader read that and believe that you are  
 2 referring to the organics industry considering the fact  
 3 that before you were referring back to supposedly unbiased  
 4 research?  
 5 MS. LoCICERO: Object to the form.  
 6 THE WITNESS: I think that would be an incorrect  
 7 reading and I don't see how that would be read that way.  
 8 BY MR. JUBB:  
 9 Q Could we agree, sir, that the fact that you are  
 10 talking about a scientist having supposedly unbiased  
 11 research that would diminish their reputation of scientists  
 12 views?  
 13 MS. LoCICERO: Object to form.  
 14 THE WITNESS: That if someone was biased then it  
 15 could affect their reputation if someone was biased, I  
 16 would agree with that.  
 17 BY MR. JUBB:  
 18 Q And it would suggest a scientist of distrust,  
 19 correct?  
 20 A If someone is biased it would be bad for their  
 21 reputation.  
 22 MR. JUBB: Now is a good time for five minutes.  
 23 THE VIDEOGRAPHER: This is the end of unit No.  
 24 1 of the record of the meeting. We are breaking at  
 25 11:25 a.m.

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1 (11:25 a.m. -- recess -- 11:39 a.m.)  
 2 THE VIDEOGRAPHER: This is unit No. 2, we are  
 3 back on the record at 11:39.  
 4 BY MR. JUBB:  
 5 Q Mr. Lipton, just to clarify, the oath that you  
 6 took to tell the truth in the beginning is the same oath  
 7 that carries over past the break; okay?  
 8 A Fine.  
 9 Q In the article that you wrote that Dr. Folta was  
 10 brought in for the gloss of impartiality; did you write  
 11 that?  
 12 MS. LoCICERO: Object to form.  
 13 THE WITNESS: Sorry, that's not what the story  
 14 says.  
 15 BY MR. JUBB:  
 16 Q Well, you are referring to the second paragraph  
 17 of the story; correct?  
 18 A I think that's what you are referring to, yes.  
 19 Q So it says, so Monsanto, the world's largest  
 20 seed company, and its industry partners retooled their  
 21 lobbying and public relations strategy to spotlight a  
 22 rarified group of advocates: Academics, brought in for the  
 23 gloss of impartiality and weight of authority that come  
 24 with the professors' pedigree; did I read your words  
 25 correctly?

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1 A Yes.

2 Q And Monsanto, can we agree that this paragraph

3 is referring to Dr. Folta?

4 A It is referring to him and other academics that

5 Monsanto engaged with, that is correct.

6 Q Can we agree that for a scientist it would be

7 important to be impartial; correct?

8 MS. LoCICERO: Objection to form.

9 THE WITNESS: Scientists' impartiality to

10 scientists is important, yes.

11 BY MR. JUBB:

12 Q If a scientist is perceived to be not impartial

13 that would logically mean that they would be reputationally

14 diminished in the eyes of their colleagues; correct?

15 MS. LoCICERO: Objection to from.

16 THE WITNESS: I would say the impartiality is

17 important to scientists, yes, that's correct.

18 BY MR. JUBB:

19 Q Did you have any information that Dr. Folta was

20 anything but impartial in those documents before you before

21 writing this?

22 A This story says that there is no evidence that

23 academic work was compromised, and that refers to Dr. Folta

24 as well as the academics that are discussed in the story.

25 Q In terms of the gloss of impartiality though,

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1 why not just broaden for impartiality?

2 A Can you clarify that question?

3 Q What did you mean by gloss?

4 A The story means that academics are experts and

5 authorities in their field, and they work at institutions

6 that are separate from the companies. And so they are not

7 part of Monsanto or part of Stonyfield and other organic

8 companies. They are experts, and they are independent, and

9 that means that they have a gloss of impartiality because

10 they are perceived as being independent, and that's why

11 they are attractive.

12 If a professor's research or scientists have a

13 big white hat in this debate and support in their state and

14 politicians and producers of the quote says, from the

15 vice-president of Ketchum that works in the plastics

16 industry, so they have a gloss of impartiality that is

17 attractive to the industry, and that's what the word gloss

18 means there.

19 Q Can we agree that gloss as well can mean that it

20 is a concealer?

21 MS. LoCICERO: Objection to form.

22 THE WITNESS: Gloss is an appearance of, that's

23 what it means there.

24 BY MR. JUBB:

25 Q You could have the appearance of a shiny new car

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1 but still be driving a lemon; correct?

2 MS. LoCICERO: Object to form.

3 THE WITNESS: The story says that there is no

4 evidence that academic work was compromised, and that

5 refers to Dr. Folta and to the rest of the people that

6 received funding from Monsanto, and also to the people from

7 the organics industry. That's what the story says quite

8 clearly.

9 Q Just focus on my question. You have said that

10 three or four times. You are going to have all the time to

11 say that in front of the jury.

12 A Okay.

13 Q I'm talking about the gloss of impartiality;

14 okay?

15 A Right.

16 Q So we can dispute the context of that other line

17 with respect to the organic industry that it comes right

18 after, but with respect to this paragraph, the gloss of

19 impartiality, would you agree with me that gloss is also

20 considered shiny concealer?

21 MS. LoCICERO: Hold on just a second. He can

22 explain his answers as well. So, I'd rather not have a

23 real --

24 MR. JUBB: He is not responsive.

25 MS. LoCICERO: Excuse me. I know you had a

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1 setup there and I just wanted to make sure it is clear that

2 he can respond or clarify his answers as well. So we will

3 be objecting to the form of that question.

4 THE WITNESS: The gloss of impartiality, it's

5 just like the weight of authority. I mean, third-party

6 advocates have a gloss of impartiality that is attractive

7 to organizations they are trying to move against, and

8 that's what the story says and that's what the story means.

9 And this is a story about third-party advocates

10 and the role that they play in moving agendas. And

11 third-party advocates have impartiality and authority that

12 creates a gloss of impartiality, that's quite important,

13 and that's what the story is suggesting, that's why it says

14 gloss of impartiality.

15 BY MR. JUBB:

16 Q Gloss of impartiality means the appearance of

17 impartiality; correct?

18 A It's an appearance of impartiality, yes.

19 Q If someone read this paragraph, the second

20 paragraph that you wrote, could they interpret this to mean

21 that there is an appearance of impartiality but in

22 fact they are partial?

23 MS. LoCICERO: Object to the form.

24 THE WITNESS: All I can say is what the story

25 says, what the words say and what the words mean, is that

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1 the industry sought people who were perceived as impartial  
 2 and have a weight of authority and enlisted them to play a  
 3 role in public advocacy, that's what the story says.  
 4 So perceived as, have an appearance of, a gloss  
 5 of, those are all similar ways of saying the same thing.  
 6 That's what the story says and that's what it means.  
 7 Q I see. So they are not brought in for  
 8 impartiality?  
 9 MS. LoCICERO: Objection to form.  
 10 THE WITNESS: They are brought in for  
 11 appearance, an impression, a gloss of impartiality, that's  
 12 what the story says and that's what the story means. I  
 13 can't answer the question in any other way, I mean.  
 14 BY MR. JUBB:  
 15 Q I understand what you are saying, I understand  
 16 what you want to say. My question is a little bit  
 17 different. The gloss of impartiality, the reason you put  
 18 those words is you're saying they were brought in for the  
 19 appearance of impartiality; correct?  
 20 A Yes, for an appearance of impartiality, correct.  
 21 Q Not for impartiality; correct?  
 22 MS. LoCICERO: Object to form.  
 23 THE WITNESS: They were brought in for an  
 24 appearance of impartiality, that's what the story says. I  
 25 mean they have an appearance of impartiality, that's the

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1 objective. I mean again, professors, research scientists  
 2 have a big white hat in this debate. That language, I mean  
 3 it couldn't be more on point to demonstrate that. They are  
 4 perceived as having a big white hat which means they are an  
 5 impartial, they are an impartial voice, and that's what the  
 6 story is about.  
 7 BY MR. JUBB:  
 8 Q So they are an impartial voice?  
 9 A They appear to be an impartial voice, yes.  
 10 Q Would you agree with me that Dr. Folta is an  
 11 impartial voice?  
 12 A The story examines the question of what happens  
 13 when an individual who is an academic then has a financial  
 14 relationship with the organics industry or the biotech  
 15 industry and what effect does that have, and that's what  
 16 the story is about.  
 17 Q Would you be so kind as to read back my last  
 18 question.  
 19 (The requested portion of the record was read.)  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: Impartial voice? What I can say  
 22 is that there is no evidence that Dr. Folta's research has  
 23 been compromised.  
 24 BY MR. JUBB:  
 25 Q Does that mean it's been influenced?

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1 A Currently, that's a very difficult question for  
 2 me to answer. I have no evidence that his academic work  
 3 has been compromised.  
 4 Q What about his message, is he impartial in his  
 5 message?  
 6 MS. LoCICERO: Are you talking anytime in the  
 7 world?  
 8 BY MR. JUBB:  
 9 Q No, I'm talking about the material that you  
 10 reviewed for purposes of writing this article, whatever  
 11 they were, and the interviews that you conducted, your own  
 12 independent research. Is Dr. Folta impartial in these  
 13 conferences, speaking engagements, research. I'm not just  
 14 talking about research.  
 15 A I mean Dr. Folta more recently for example has  
 16 received funding from Behr, a big biotech company. He also  
 17 is an expert witness in litigation, and at the time he was  
 18 receiving support from, at the time I wrote this story he  
 19 was receiving support from the biotech industry to cover  
 20 costs associated with travel for his story.  
 21 He also appeared at events in testifying, so all  
 22 I can say is that there is no evidence that his academic  
 23 work was compromised. I can say that with authority.  
 24 I can't really answer the question as to  
 25 complete impartiality, that's a very difficult question.

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1 Q Okay. Did you mean to convey that to the  
 2 readers?  
 3 A I didn't intend or not intend to convey it, I  
 4 didn't address that question explicitly. All I said is  
 5 what I knew for sure, which is there is no evidence that  
 6 his academic work has been compromised.  
 7 Q What did this imply to a reader, sir?  
 8 MS. LoCICERO: Objection.  
 9 BY MR. JUBB:  
 10 Q You just said you had no evidence that Dr. Folta  
 11 was acting partially.  
 12 MS. LoCICERO: Objection; that's not what he  
 13 said.  
 14 THE WITNESS: I didn't say that.  
 15 BY MR. JUBB:  
 16 Q Do you have any evidence that Dr. Folta was  
 17 acting partially when you wrote this article?  
 18 A I cannot say, I have no evidence that his  
 19 academic work was compromised, that's correct. And what  
 20 this sentence does not say, that his work was biased. This  
 21 sentence says that the biotech industry was recruiting  
 22 people who had an appearance of impartiality because of  
 23 their standing as independent academics and experts, and  
 24 that's the reason that they were attractive to the biotech  
 25 industry. That's what the sentence says, that is all it

<p style="text-align: right;">Page 70</p> <p>1 says. It does not say that these people themselves were                  2 biased, it says they have an appearance of impartiality.                  3 Q When you wrote your article am I correct that                  4 you considered the competence of the words that you chose;                  5 correct?                  6 MS. LoCICERO: Object to form.                  7 THE WITNESS: I'm very careful with the words                  8 that I use in my stories, and my accuracy and fairness is                  9 always the most important thing to me, I'm a very careful                  10 reporter.                  11 BY MR. JUBB:                  12 Q So you really thought about the use of the word                  13 gloss and impartiality; right?                  14 A Every word in the story is reflected upon to                  15 make sure that it is accurate and fair.                  16 Q So in writing your article did you intend to                  17 relay any message to any reader that Dr. Folta was somehow                  18 not impartial?                  19 A I intended to address how companies, this is a                  20 story about how biotech companies and organic industries                  21 are trying to influence public opinion, that's what the                  22 story is about. And professors became part of an advocacy                  23 campaign, that's what the story is about.                  24 So did I intend to imply that he was --                  25 Q Let me clean it up for you. I'm not asking you</p>	<p style="text-align: right;">Page 72</p> <p>1 that I didn't believe to be true. And I've never                  2 specifically said I thought his actions or his work was                  3 biased.                  4 This paragraph is speaking generally about all                  5 of the academics and how they were approached because of an                  6 appearance of impartiality, that's what the sentence is                  7 about. The sentence does not say the companies approached                  8 people who were known to be, you know, biased, it doesn't                  9 say that.                  10 BY MR. JUBB:                  11 Q Well, in context they are brought in for the                  12 gloss of impartiality with their supposedly unbiased                  13 research?                  14 MS. LoCICERO: Objection to form.                  15 THE WITNESS: Both of those terms relate to a                  16 perception of why academics are important players in                  17 advocacy campaigns. Both of those terms relate to the role                  18 that academics play in advocacy efforts.                  19 If you spend a fair amount of time in Washington                  20 there are many companies that recruit academics for this                  21 exact purpose, the appearance of impartiality and the                  22 supposed unbiased nature of their research.                  23 Google, I mean I could spend an hour listing all                  24 the companies that spend a lot of money enlisting                  25 academics.</p>
<p style="text-align: right;">Page 71</p> <p>1 what the story is about, I'm probably not going to ask you                  2 that for the rest of the deposition.                  3 A Right.                  4 Q So you don't have to tell me what you said about                  5 it. I'm asking you whether or not you intended to relay to                  6 the readers of your article that Dr. Folta was not                  7 impartial?                  8 A All I can say is that the story, I'm sorry to                  9 repeat myself, but all I can say is that the story                  10 explicitly said that there was no evidence that his                  11 academic work was compromised, and it says that clearly,                  12 that academic work of any of these experts was compromised.                  13 And so as to whether or not I was attempting to                  14 imply partiality or impartiality, I just wrote the facts in                  15 a fair way, and then laid them out in the e-mails which                  16 were attached to the story for anyone to read were there.                  17 Q Sir, would it be fair to say that Dr. Folta was                  18 not -- strike that. Would it be fair to imply that Dr.                  19 Folta was not impartial when you had no evidence of that?                  20 MS. LoCICERO: Object to form.                  21 THE WITNESS: Would it be fair to imply? I mean                  22 I would not assert something that I had no evidence for,                  23 that's correct. But I did not say in the story that Dr.                  24 Folta was biased or that his research was biased, I never                  25 asserted that, but I would never say something in a story</p>	<p style="text-align: right;">Page 73</p> <p>1 Q This article goes to a lot more people just in                  2 the D.C. area; right?                  3 A Yes. These journals are from Northwest Florida                  4 and they are going to be reading this; correct?                  5 MS. LoCICERO: Object to form.                  6 THE WITNESS: Yes.                  7 BY MR. JUBB:                  8 Q And when they read this they are going to see                  9 that Dr. Folta, Professor at the University of Florida, you                  10 wrote was brought in for the appearance of impartiality                  11 with his supposedly unbiased research?                  12 MS. LoCICERO: Object to form.                  13 BY MR. JUBB:                  14 Q They are going read that?                  15 A Academics are recruited because they have an                  16 appearance of impartiality, and because of their supposedly                  17 unbiased research, that's correct. That's why academics,                  18 professors, researchers and scientists have a big white                  19 hat.                  20 Q What does the white hat mean when you read that?                  21 A That means that they are sort of like a UN                  22 soldier, they have the equivalence of a status of like a                  23 peacekeeper, they have an appearance of impartiality.                  24 Q And at any point in time during your preparation                  25 for this article and in writing the article did you intend</p>

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1 to relay to the potential readers that Dr. Folta was  
 2 anything but impartial?  
 3 A He had -- I mean he was, the story says it, I'm  
 4 sorry, the story says -- I'm sorry, the story says  
 5 explicitly that there is no evidence that his academic work  
 6 was compromised.  
 7 Q Does that mean your intentions with this story  
 8 were to make sure people knew Dr. Folta was impartial?  
 9 MS. LoCICERO: Object to form.  
 10 THE WITNESS: I don't address the question in  
 11 the story as to whether or not Dr. Folta is impartial or  
 12 not. I mean it examines the fact that he is an academic  
 13 who does research, that he communicated with companies and  
 14 sought funding from a company. He received funding, and  
 15 then he did a form of advocacy that followed that funding.  
 16 And then that's what the story examines, and I  
 17 don't address whether or not he is impartial or partial.  
 18 That's a very subjective term and I probably would not  
 19 attempt to answer.  
 20 I mean all I know is that I have no evidence  
 21 that his academic research was compromised, and if he was  
 22 appealing to the companies because he had an appearance of  
 23 impartiality, as was Charles Benbrook, as was Bruce Chassy,  
 24 and the Mississippi State University, Smith.  
 25 BY MR. JUBB:

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1 Q We can talk about them in a little bit, but when  
 2 the folks in Northern Florida read your article and they  
 3 see that Dr. Folta was brought in for the gloss of  
 4 impartiality with his supposedly unbiased research, and it  
 5 being seen as a tool of the industry, is that a fair  
 6 perception of him that those readers are going to have?  
 7 MS. LoCICERO: Object to form.  
 8 THE WITNESS: Yeah, you have just pulled  
 9 together threads of things that the story doesn't say.  
 10 BY MR. JUBB:  
 11 Q I see. So when your readers read this article  
 12 do they read the full thing in context?  
 13 A I who hope so. I mean they read the story and  
 14 the facts that are laid out. The story asks the question  
 15 of Dr. Folta about how does it feel to be perceived as a  
 16 shill or tool of the industry, which again is a term that I  
 17 did not create, he used himself before I ever spoke with  
 18 him. And so it seemed like a reasonable thing to ask him,  
 19 and a necessary thing to ask him. And then the story  
 20 discusses how industry players saw academics for their  
 21 gloss of impartiality.  
 22 Q So am I correct then that if there was an  
 23 implication that Dr. Folta was somehow not impartial that  
 24 would be a false implication; correct?  
 25 MS. LoCICERO: Object to form.

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1 THE WITNESS: I don't -- would that be a false,  
 2 again, I don't address the question of impartiality in this  
 3 story.  
 4 BY MR. JUBB:  
 5 Q The question is a little bit different. When  
 6 you wrote this article you said that you spent all of your  
 7 time focussing on these words and making sure that they are  
 8 fair and accurate; correct?  
 9 A Yes.  
 10 Q You focusing on that because you want to be  
 11 truthful; correct?  
 12 A Yes.  
 13 Q And in order to be truthful you have to know  
 14 what is false; right?  
 15 A I mean impartiality is a very difficult word,  
 16 that is a matter of perspective.  
 17 Q So a reasonable person reading your article  
 18 could take that to mean that Dr. Folta was not impartial;  
 19 right?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: I did quoted documents and I  
 22 described a series of facts. And then it says the question  
 23 of impartiality is something that I don't explicitly assert  
 24 one way or the other.  
 25 (Lipton Exhibit 5 is identified.)

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1 BY MR. JUBB:  
 2 Q I want to talk a little bit more about the gloss  
 3 of impartiality. What I have marked as Lipton 5,  
 4 EL0011279, is this an e-mail from you to Gary Ruskin on the  
 5 bottom of that?  
 6 A Yes.  
 7 Q You say here that you intentionally attempt to  
 8 minimize your reliance on his group, given the funding, and  
 9 you wanted to create some distance between his cause and  
 10 your story, you wrote that; right?  
 11 A Yes.  
 12 Q Is that so that you can have a gloss of  
 13 impartiality of your article?  
 14 MS. LoCICERO: Object to form.  
 15 BY MR. JUBB:  
 16 Q The appearance of impartiality of your article?  
 17 MS. LoCICERO: Same objection.  
 18 THE WITNESS: I knew from the start when Gary  
 19 Ruskin first contacted me and he, I asked him and he told  
 20 me it was funded by the organic industry, that he is an  
 21 advocate, and I'm not an advocate, I'm writing about public  
 22 policy campaigns, and my work with him was in no way to be  
 23 part of any advocacy effort.  
 24 So I received primary documents and I sought  
 25 primary documents from the organic industry as well, and if

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1 I had sufficient primary documents that I reviewed very  
 2 carefully myself I wrote a story.  
 3 Q Would that be because there would be an  
 4 appearance of partiality if folks knew that Gary Ruskin was  
 5 giving you a roadmap to the documents?  
 6 MS. LoCICERO: Object to form.  
 7 THE WITNESS: Gary Ruskin would not have given  
 8 me -- he was reading documents, and he was sending me his  
 9 take on documents, and I was separately reading documents  
 10 and making my own judgments. And I am not a vehicle for  
 11 any advocacy group, and I am, my job is to reveal new  
 12 information and write stories about it.  
 13 Q You actually asked him to find certain documents  
 14 within that FOIA request for you to use; correct?  
 15 A I frequently am engaging with -- yes, I am  
 16 frequently engaging with third parties and I will, I'm  
 17 happy to receive summaries of materials from them. But I  
 18 separately read everything and make my own judgments as to  
 19 what to include or exclude from the story.  
 20 Q But you didn't want the readers to know that?  
 21 MS. LoCICERO: Object to form.  
 22 THE WITNESS: The story mentions his group and  
 23 the fact that they had done an open records request, but  
 24 this is not a story about how the biotech industry, you  
 25 know, secretly recruited academics. It's a story about how

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1 -- true, the organics industry and the biotech industry.  
 2 And so this is not a story that is being a gift to any  
 3 advocate.  
 4 Q The e-mail that you sent to Mr. Ruskin which was  
 5 Lipton 5, was there an e-mail sent to you before you wrote  
 6 that?  
 7 A I'm not sure. If you have it then you can  
 8 provide it to me.  
 9 Q Here we go. So this document which was Lipton  
 10 5; correct, EL 11279, where it is actually at the top from  
 11 Gary Ruskin to Eric Lipton, and he says, that's fine,  
 12 thanks for the heads up.  
 13 But your initial e-mail which is under that,  
 14 that's where you say you are going to create some distance;  
 15 correct?  
 16 MS. LoCICERO: Object to form.  
 17 THE WITNESS: I mean the words said that I  
 18 wanted to create some distance, yes.  
 19 BY MR. JUBB:  
 20 Q What did you mean when said you are getting a  
 21 very good ride?  
 22 A That meant that the story was going to get good  
 23 play. That meant that the, you know, the story was going  
 24 to get good play in the paper and online.  
 25 Q Did you just reach out to Gary Ruskin out of the

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1 blue to tell him?  
 2 A I mean he had, this is the case that he is the  
 3 person that had originally suggested that this is a topic  
 4 that I examine. So it is quite normal for me to then  
 5 notify him that the story was about to run, and that's what  
 6 I was essentially doing here.  
 7 Q We can go through and mark these if you want.  
 8 How many e-mails do you think Gary Ruskin sent you with  
 9 information for you to use in your article, more or less  
 10 than 50?  
 11 MS. LoCICERO: Object to form.  
 12 THE WITNESS: I'm not sure. I'm not sure of the  
 13 number, but it was quite a number, yes.  
 14 BY MR. JUBB:  
 15 Q And do you think that in order to be fair and  
 16 impartial and not have a gloss of impartiality, the reader  
 17 would like to know that you were actually using him to  
 18 upgrade this?  
 19 MS. LoCICERO: Object to form.  
 20 THE WITNESS: Yes, but that was not using him  
 21 and I'm make making independent judgments about material  
 22 that I include or exclude. And I mean part of my work is  
 23 to engage with outside parties who present information to  
 24 me, and I evaluate that information and make judgments  
 25 about it. And Gary was, Gary Ruskin was a very

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1 enthusiastic third-party that was presenting me  
 2 information, and I received it and then I read it, and I  
 3 made decisions about the substance of the material myself.  
 4 BY MR. JUBB:  
 5 Q And that was that third-party advocacy you refer  
 6 to as lobbying; correct?  
 7 MS. LoCICERO: Object to form.  
 8 THE WITNESS: Gary Ruskin is a third-party  
 9 advocate, yes.  
 10 BY MR. JUBB:  
 11 Q He gave you this material as a advocate;  
 12 correct?  
 13 MS. LoCICERO: Object to form.  
 14 THE WITNESS: He is an advocate, Gary Ruskin is  
 15 an advocate, yes.  
 16 BY MR. JUBB:  
 17 Q You in let's say the 50 or so back and forth  
 18 correspondence, he was directing you on where to go at  
 19 times in the documents he was sending you?  
 20 A I mean he was pointing out things that he  
 21 thought were relevant, and I was evaluating these things  
 22 myself, and at times I disagreed with him and many times I  
 23 didn't include things in the story. Again, he was  
 24 providing me with an abbreviated, you know, version of what  
 25 was in the documents.

<p style="text-align: right;">Page 82</p> <p>1 This is a story about documents. The driving                  2 factor in the story are documents that are primary                  3 documents. The reason that I decided to accept the                  4 materials from him is because he was providing me primary                  5 documents and those had a value.                  6 I take documents from, you know, conservative                  7 groups, from industry groups, from organic groups and                  8 liberal groups. I accept documents from all parties and I                  9 get them frequently, and they are often coming to me with                  10 suggestions as to what I should write, but that doesn't                  11 influence what I do write. What influences what I write is                  12 the content of the documents.                  13 Q Meaning you review them yourself and you looked                  14 at every single document; correct?                  15 A Every single page of the Kevin Folta e-mails,                  16 the Benbrook e-mails, the Chassy e-mails, yes, I read                  17 through those, yes.                  18 Q You had full knowledge of what those e-mails                  19 said; correct?                  20 A I read through them all, yes.                  21 Q You had full knowledge of their context as well;                  22 correct?                  23 A I don't know if I had full knowledge, I read                  24 through all of those e-mails.                  25 Q When you discuss the e-mails and you say they</p>	<p style="text-align: right;">Page 84</p> <p>1 thousands of things, there are tens of thousands of pages                  2 of documents here, so my job -- or thousands at least, my                  3 job was to identify the most relevant ones and then to                  4 explain the context.                  5 Q Do you think it is fair to pick out the ones                  6 that you find to be relevant, 170 pages or so of the                  7 thousands and thousands that you have described you looked                  8 at; is that fair?                  9 A That's my job, yes, it is fair.                  10 Q I see. And in terms of reviewing those e-mails,                  11 in the article you said that there's thousands that show                  12 this relationship between academics and industry; correct?                  13 A Yes.                  14 Q Were there thousands that showed that or were                  15 there just the hundreds that you posted online?                  16 A I mean cumulative there were thousands, yes,                  17 uh-huh. I only attempted to post selected documents online                  18 because there is only so much, you know, that a reader                  19 would attempt to go through online.                  20 Q And you made that decision as to which selected                  21 e-mails to post; is that correct?                  22 A Yes.                  23 Q Can you tell me why that, why it wouldn't be                  24 fair to call that cherry picking?                  25 MS. LoCICERO: Object to the form.</p>
<p style="text-align: right;">Page 83</p> <p>1 are important, would it be a good thing to have a full                  2 knowledge of the context of the way the statements are made                  3 within those e-mails that you are going to put on the                  4 Sunday New York Times?                  5 MS. LoCICERO: Object to form.                  6 THE WITNESS: I had sufficient understanding of                  7 each of the e-mails that I isolated to focus on. The ones                  8 that I decided to focus on I had sufficient understanding                  9 of the context to use them.                  10 BY MR. JUBB:                  11 Q Okay. So you had full awareness of the context                  12 of the e-mails; correct?                  13 MS. LoCICERO: Object to form.                  14 THE WITNESS: I read through all of the e-mails                  15 and I made decisions about which ones I wanted to focus on.                  16 And then the ones I wanted to focus on, then it became my                  17 burden to make sure that I fully understood the context of                  18 that e-mail. And then I would make sure, that's why it                  19 took a fair amount of time to complete the stories, then it                  20 would be up to me to evaluate the context.                  21 BY MR. JUBB:                  22 Q Because you picked out the ones you thought were                  23 important to the article; correct?                  24 A My job as a reporter is to help, you know,                  25 make -- draw out the most relevant things. There's</p>	<p style="text-align: right;">Page 85</p> <p>1 THE WITNESS: I mean to me the goal is to take                  2 the most relevant and representative things, and to then                  3 extract them and discuss their context.                  4 BY MR. JUBB:                  5 Q Do you feel that with the 178 that you posted                  6 online that that was the full context of conversations that                  7 were going on?                  8 A I mean my story was about how organic industry                  9 and the biotech industry were trying to enlist academics to                  10 influence public opinion. So I sought the e-mails that                  11 identified that activity, and those were the e-mails that I                  12 sought to extract and to share.                  13 Q Did you begin to write your article before                  14 submitting your FOIA request to Florida?                  15 A Yes, before I submitted the FOIA request, yes.                  16 Q How far of the article did you complete before                  17 you submitted that FOIA request?                  18 A I think I had, I mean I had already had the                  19 documents because Gary Ruskin from U S Right to Know had                  20 provided me a copy of the documents. I wanted to have a                  21 copy directly from the university, and so I -- and to make                  22 it part of the making sure that this was a true. These                  23 were true documents that were released.                  24 So I had already thoroughly read the documents,                  25 but I went through the process of requesting them directly</p>

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1 from the university towards the end of the process.  
 2 Q Did you consider those documents to be official  
 3 government business?  
 4 A They were documents that were released as a  
 5 result of an open records request.  
 6 Q Did you consider them to be government  
 7 documents?  
 8 A Yes. I mean they are, yes, essentially, yes.  
 9 Q What do you define as a government official?  
 10 A I mean I wouldn't traditionally consider a -- I  
 11 mean I don't -- in effect a university professor at a  
 12 public university is a public official.  
 13 Q When you wrote this article did you consider Dr.  
 14 Folta to be a government official as a professor at the  
 15 University of Florida?  
 16 A He is a public official by being a professor at  
 17 a state university.  
 18 Q Would the janitor employed by University of  
 19 Florida also be a government official?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: I mean yeah, a janitor would be an  
 22 employee of the state university.  
 23 BY MR. JUBB:  
 24 Q What is the difference a janitor employed by a  
 25 state university and a teacher?

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1 A I mean they are all essentially, you know, they  
 2 are state, they are funded by the state and they work for  
 3 state institutions.  
 4 Q So if the janitor had an e-mail account would  
 5 you feel that those would be government official documents?  
 6 MS. LoCICERO: Object to form.  
 7 THE WITNESS: If the janitor had an e-mail  
 8 account and I was e-mailing using his University of Florida  
 9 e-mail account, then we would have the right to ask for  
 10 documents.  
 11 BY MR. JUBB:  
 12 Q So the North Florida janitor, you submitted a  
 13 FOIA request, is that how it would work in September of  
 14 2015 at the New York Times looking back?  
 15 MS. LoCICERO: Object to the form.  
 16 THE WITNESS: I'm sorry, what?  
 17 BY MR. JUBB:  
 18 Q Is that how the New York Times as of 2015 would  
 19 consider the FOIA request to work for the e-mails of a  
 20 janitor at a public university?  
 21 MS. LoCICERO: Object to the form.  
 22 THE WITNESS: There is no reason for me, if  
 23 there was a reason that I felt compelled to examine  
 24 the correspondence of a janitor that was relevant and there  
 25 was a public interest in it, then I wouldn't be hesitant to

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1 do an open records request. But there is no reason for me  
 2 that I'm aware of to do such a public records request.  
 3 BY MR. JUBB:  
 4 Q We can go back to the article, Exhibit 1. On  
 5 page 2, the third paragraph from the top, but even some of  
 6 the academics who have accepted special quote "unrestricted  
 7 grants" close quotes, were taking industry-funded trips to  
 8 help push corporate agendas on Capital Hill, they may  
 9 regret they would be caught up in this nasty food fight?  
 10 Am I correct that this sentence you intended to refer to  
 11 Dr. Folta?  
 12 A I mean this sentence most explicitly refers to  
 13 Charles Benbrook, and it was probably written to refer to  
 14 the academics in the story writ large. So I'm not, these  
 15 are not words that were explicitly said by Kevin Folta  
 16 regret being caught up in this nasty food fight.  
 17 Q You are looking at the wrong spot.  
 18 A I'm sorry.  
 19 Q I'm talking about the paragraph that starts, but  
 20 even some of the academics who have accepted quote  
 21 "unrestricted grants," close quote --  
 22 A Right.  
 23 Q Taking industry-funded trips that push corporate  
 24 agenda on Capital Hill say they regret being caught up in  
 25 this nasty food fight?

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1 A Right.  
 2 Q Was that paragraph intended to describe Dr.  
 3 Folta?  
 4 A It was intended to describe academics that were  
 5 discussed in the story in general.  
 6 Q So the answer to my question is yes?  
 7 A It would include Dr. Folta, yes.  
 8 Q Did you understand what an unrestricted grant  
 9 was when you wrote this story?  
 10 A I understand what an unrestricted grant is, yes.  
 11 Q Why did you put it in quotes?  
 12 A It was clear to me that that term was the  
 13 subject of some debate, and so I put it into quotes.  
 14 Q What was the debate?  
 15 A What represented a grant and not a grant, and  
 16 also the word unrestricted was particularly important. In  
 17 the Bruce Chassy e-mails there was the discussion of  
 18 unrestricted grants in particular that he was getting, and  
 19 I thought that the thing that was particularly relevant to  
 20 me had to do with grants that were being given specifically  
 21 for academic research on particular topics versus grants  
 22 that were being given just for general purposes, and I saw  
 23 that with Bruce Chassy for example. And then also in the  
 24 letter from Monsanto they describe the grant that had been  
 25 given to Dr. Folta as an unrestricted grant. And also

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1 actually the Monsanto executive in the e-mail sent to me  
 2 immediately prior to publication described it as an  
 3 unrestricted grant.  
 4 Q Did you write unrestricted grants to relay the  
 5 implication of meaning that this was somehow unlimited  
 6 funds?  
 7 MS. LoCICERO: Object to form.  
 8 THE WITNESS: No.  
 9 BY MR. JUBB:  
 10 Q Do you think the public in general has an  
 11 understanding of what unrestricted grant means?  
 12 A I mean the word being not restricted, that means  
 13 it is not, that's what I think an average person would read  
 14 about it. It's not subject to a specific purpose, it's not  
 15 like for studying the effects of smoking on lung cancer, if  
 16 you take ten cigarettes a day, that would be a restricted  
 17 grant, this is an unrestricted grant.  
 18 Q Meaning there's no strings attached; right?  
 19 A That means it's for a broad purpose.  
 20 Q There are no deliverables with an unrestricted  
 21 grant; correct?  
 22 MS. LoCICERO: Object to form.  
 23 THE WITNESS: Unrestricted grant, no, that  
 24 doesn't mean there are no deliverables. It means that the  
 25 use of the money is not subject to a narrow restriction.

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1 that's how I would read this one.  
 2 BY MR. JUBB:  
 3 Q Meaning you could take the money -- strike that.  
 4 Would you agree with me that the unrestricted grant is  
 5 equivalent to a gift?  
 6 MS. LoCICERO: Object to form.  
 7 THE WITNESS: I don't, I just use the word  
 8 unrestricted grant, I put it in quotes, and I put it in  
 9 quotes because it actually had been used in e-mails that I  
 10 saw, and that was my effort to try to just use the words  
 11 that others had used, and then I was not sort of taking a  
 12 position on it. I was just sort of using the language that  
 13 had been used in the e-mails that I read.  
 14 BY MR. JUBB:  
 15 Q Yes. And then the unrestricted grant you  
 16 actually had that explained to you of what -- strike that.  
 17 The words unrestricted grant, you actually had that  
 18 explained to you by not only Dr. Folta but also the folks  
 19 over at Monsanto as well as to what that means, that it is  
 20 equitable to a gift; correct?  
 21 MS. LoCICERO: Object to form.  
 22 THE WITNESS: I mean Monsanto again repeatedly  
 23 used the word grant in e-mails, Charla Lord from Monsanto  
 24 to me, and there was never a debate as far as I can  
 25 recollect about gift, it was also a grant from the e-mails

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1 that I received from Monsanto and in the letter that I got  
 2 from Monsanto as well, either I got from the University of  
 3 Florida that was awarding the money to the University of  
 4 Florida and to Kevin Folta in response to his application  
 5 in the use of the word unrestricted grant.  
 6 That's all I was doing was replicating the  
 7 language that had been used in e-mails and that was the  
 8 most accurate and fair way to portray it.  
 9 BY MR. JUBB:  
 10 Q And is it your testimony that you put it in  
 11 quotes because it is in those e-mails and you felt that was  
 12 fair; is that right?  
 13 A Yes.  
 14 Q After you read the e-mails you made phone calls  
 15 and did interviews; correct?  
 16 A Yes.  
 17 Q You sent e-mails to other third-parties; did you  
 18 not?  
 19 A Yes.  
 20 Q One of those third-parties was Monsanto;  
 21 correct?  
 22 A Yes.  
 23 Q One of them was Florida?  
 24 A Yes, I did communicate with the University of  
 25 Florida.

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1 Q One of them was Dr. Folta himself; right?  
 2 A Yes.  
 3 Q And all three of those people told you that an  
 4 unrestricted grant was equivalent to a gift; correct?  
 5 A I don't specifically recollect all of them  
 6 telling me that.  
 7 Q But you knew it was a gift after you read the  
 8 e-mail?  
 9 MS. LoCICERO: Object to form.  
 10 THE WITNESS: After I read what e-mails?  
 11 BY MR. JUBB:  
 12 Q After the e-mail that you were referring to that  
 13 you put it in quotes "unrestricted grant," you knew it  
 14 wasn't a grant, it was a gift?  
 15 MS. LoCICERO: Object to form.  
 16 THE WITNESS: No, I don't necessarily know that.  
 17 All I know is that the letter from Monsanto said  
 18 unrestricted grant, and the e-mail from Charla Lord  
 19 described it as a grant too, and that was immediately prior  
 20 to publication.  
 21 Q Would it be appropriate to quote something that  
 22 you see in an e-mail that could be misleading if you know  
 23 that it's inaccurate the way it's used in the e-mail?  
 24 A I mean the most reliable thing for me as a  
 25 reporter is to quote documents and to then bring citations

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1 back to those documents. And I would much rather quote a  
 2 document that is black and white and then put it into my  
 3 document viewer. That's what I did with the unrestricted  
 4 grant letter from Monsanto to University of Florida and  
 5 Kevin Folta.  
 6 Q Did you ask Dr. Folta if there are documents  
 7 that support his contention that this was a gift? Eric,  
 8 this wasn't a grant, did you ask him for those, or for the  
 9 readers to it?  
 10 A I'm sorry, I don't specifically recall if I  
 11 asked him for that, I don't. Do you have the e-mail  
 12 correspondence in which this is discussed?  
 13 Q I do. We are up to Lipton 6 now, I believe,  
 14 Don.  
 15 (Lipton Exhibit 6 identified.)  
 16 BY MR. JUBB:  
 17 Q Mr. Lipton, I have handed you what has been  
 18 marked as Lipton 6, which is EL 9516 through 9524; does  
 19 this appear to be e-mail correspondence between you and Ms.  
 20 Lord of Monsanto?  
 21 A Yes.  
 22 Q And on the second page there is actually a  
 23 heading titled unrestricted grants at the university; do  
 24 you see that?  
 25 A Yes.

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1 Q Did she explain to you what an unrestricted  
 2 grant was?  
 3 A One second. I'm going to take a chance to read  
 4 this, please.  
 5 Q Sure. And if you like I can just point you to  
 6 what I'm referring to.  
 7 A Yes, I would rather just read the full context.  
 8 It will only take me a minute.  
 9 Q Take your time.  
 10 MR. JUBB: Could we go off the video?  
 11 THE VIDEOGRAPHER: We going off the record at  
 12 12:21 p.m.  
 13 (12:21 p.m. -- recess -- 12:22 p.m.)  
 14 THE VIDEOGRAPHER: We are going back on the  
 15 record at 12:22.  
 16 BY MR. JUBB:  
 17 Q Mr. Lipton, I am referring to 9517 of Lipton 6.  
 18 A 9517, correct, I'm looking at that.  
 19 Q The one towards the bottom, it says regarding  
 20 Dr. Folta; do you see that?  
 21 A Yes, I do.  
 22 Q Do you see where they say, we funded Dr. Folta's  
 23 proposal to an unrestricted grant to the University of  
 24 Florida with no strings attached which means we cannot make  
 25 any formal requirement on how the funds are used nor the

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1 content of his program; do you see that?  
 2 A I do.  
 3 Q Do you think that in the context of your article  
 4 that it was relayed to readers that there was no formal  
 5 requirements on how the funds are used and no strings  
 6 attached?  
 7 MS. LoCICERO: Object to form.  
 8 THE WITNESS: I mean what is clear to me is the  
 9 word unrestricted grant on an e-mail that was sent on  
 10 September 2nd of 2015, and those are the words that I used  
 11 in the story. And so that -- let's see, and the story  
 12 doesn't explicitly assert that there were formal  
 13 requirements or how the funds are used.  
 14 Q If you go down to Dr. Chassy's heading do you  
 15 see where it says we provided several gifts parentheses (or  
 16 unrestricted grants) parentheses, to the University; do you  
 17 see that?  
 18 A Yes.  
 19 Q At the time you wrote this article did you know  
 20 that unrestricted grant is the equivalent to a gift?  
 21 MS. LoCICERO: Object to form.  
 22 THE WITNESS: I just chose to use the word  
 23 unrestricted grant and to put quotes around it because it  
 24 was clear to me that there was significance to that  
 25 language, and that it had been used by Monsanto repeatedly,

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1 so I stuck to their language.  
 2 BY MR. JUBB:  
 3 Q Did you want the reader to understand that  
 4 language?  
 5 A I wanted the readers to have the exact language  
 6 that had been communicated to me by Monsanto, and that was  
 7 the most accurate language that I could use.  
 8 Q My question was a little different. Did you  
 9 want them to understand what unrestricted gift meant?  
 10 A Unrestricted grant, I --  
 11 Q Did you want them to understand what  
 12 unrestricted grant meant?  
 13 A Yes, I did want them to understand, I want  
 14 people to understand every word in my story.  
 15 Q And since you wanted them to understand that  
 16 unrestricted grant was equivalent to a gift, do you think  
 17 that that was relayed in the context of the subheading that  
 18 these grants were exchanged for lobbying clout?  
 19 MS. LoCICERO: Object to form.  
 20 THE WITNESS: I think that it's fair to say that  
 21 the organic industry and the biotech industry was  
 22 attempting to influence public opinion, and part of their  
 23 goal was to distribute funds that would do that. And I  
 24 think that that is consistent with saying that Dr. Folta  
 25 and Dr. Chassy were getting unrestricted grants.

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1 (Lipton Exhibit 7 identified.)  
 2 BY MR. JUBB:  
 3 Q I have handed you what has been marked as Lipton  
 4 7, which is EL 9494 and 94 and 95. Does this appear to be  
 5 an e-mail from Ms. Lord of Monsanto to you?  
 6 A Yes.  
 7 Q As of August 27th when she is responding to you,  
 8 do you see where the in top paragraph she says, we funded  
 9 Dr. Folta's proposal through a grant to the University of  
 10 Florida. An unrestricted grant to a university is much  
 11 like a gift: It can have no strings attached. A grant of  
 12 this nature is important to the academics to ensure their  
 13 independence and limit any formal requirements that might  
 14 otherwise attach to their outreach efforts. However, it is  
 15 important to note that unrestricted grants remain subject  
 16 to all university policies and procedures and are  
 17 administered by the University. Did you read that once she  
 18 sent it to you?  
 19 A Yes.  
 20 Q Did you consider the context of your article in  
 21 using the phrase unrestricted grant, did you intend for the  
 22 reader to understand that it is much like a gift with no  
 23 strings attached, designed to ensure independence?  
 24 MS. LoCICERO: Object to form.  
 25 THE WITNESS: I used the words unrestricted

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1 grants, and that -- I also, in addition to reading this and  
 2 reading the other e-mail I also read the e-mail in which  
 3 Dr. Folta said he would get Monsanto a return on investment  
 4 relative to his grant application. And so that was part of  
 5 the information that I weighed as I wrote this story.  
 6 BY MR. JUBB:  
 7 Q And in your 30 years of doing this, you read  
 8 that e-mail as Dr. Folta saying I promise a solid return on  
 9 your investment as opposed to a simple thank you from a  
 10 nice guy; right?  
 11 MS. LoCICERO: Object to form.  
 12 THE WITNESS: I read it for the words that he  
 13 said, that he promised them a return on their investment.  
 14 BY MR. JUBB:  
 15 Q What was their return?  
 16 A I mean that was money, the return on investment,  
 17 that means when you give, you invest money in something and  
 18 you get a return in exchange for that investment, that's  
 19 what a return on investment is.  
 20 Q Was there return in this case, sir?  
 21 MS. LoCICERO: Object to form.  
 22 THE WITNESS: The return was outreach, that if  
 23 you look at the proposal it was going to discuss products  
 24 that were in the pipeline, and in a public setting with  
 25 both academics and the public, and that he promised a

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1 return on investment.  
 2 BY MR. JUBB:  
 3 Q The title says that he got that grant for  
 4 lobbying clout; is that correct?  
 5 MS. LoCICERO: Object to form.  
 6 THE WITNESS: The story does not say anything  
 7 about him getting a grant for lobbying clout, no.  
 8 BY MR. JUBB:  
 9 Q Were those your words or was it somebody else at  
 10 the Times that came up with that subheading?  
 11 A I don't write heads or subheads, at least at  
 12 that point. The system has changed a bit since then, but  
 13 at that point I was not involved with writing them. I  
 14 reviewed them but I didn't write them.  
 15 Q Do you know who did?  
 16 A I'm not certain.  
 17 Q Do you have a reasonable belief as to who that  
 18 was?  
 19 A Typically a copy editor, that's the job of the  
 20 copy editor, or the slot is another type of a copy editor.  
 21 Q Does that mean somebody at the Times read your  
 22 article and came up with the subheading e-mails reveal  
 23 industry swapping grants for lobbying clout?  
 24 A Yes, I think in this case it was either the copy  
 25 editor or the slot that came up with that language based on

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1 reading the story and then it's my job to read behind that  
 2 copy editor or slot to make sure I'm comfortable with it.  
 3 Q Does that mean that another reasonable reader  
 4 read your article and interpreted it to mean that  
 5 industries such as Monsanto was swapping grants with Kevin  
 6 Folta for lobbying clout?  
 7 MS. LoCICERO: Object to form.  
 8 THE WITNESS: That's not what the subhead says.  
 9 It says that the industry was swapping grants for lobbying  
 10 clout, which is the industry was trying to influence public  
 11 opinion, and that's what the subhead says, and that's what  
 12 the sorry was about.  
 13 BY MR. JUBB:  
 14 Q On page three on Lipton 1, the online version of  
 15 the article, Monsanto and its industry partners have also  
 16 passed out an undisclosed amount in special grants to  
 17 scientists like Kevin Folta, the Chairman of the  
 18 Horticultural Sciences Department at the University of  
 19 Florida, to help with bio technical outreach and to travel  
 20 around the country to defend genetically modified foods.  
 21 Did I read your words correctly?  
 22 A Yes.  
 23 Q Could a reader read this paragraph that you  
 24 wrote and believe undisclosed amounts in special grants to  
 25 mean that Kevin had received a special grant, not a regular

<p style="text-align: right;">Page 102</p> <p>1 grant, a special grant that he did not disclose?</p> <p>2 MS. LoCICERO: Object to form.</p> <p>3 THE WITNESS: I mean it says that the industry</p> <p>4 has passed out undisclosed amounts in special grants, and</p> <p>5 at the time that the \$25,000 was given by Monsanto it had</p> <p>6 not been disclosed publicly.</p> <p>7 And so that was an example of an undisclosed</p> <p>8 special grant. It was not a, to me the word special has to</p> <p>9 do with typically companies give grants for research, and</p> <p>10 then the scientist does the research and then there is a</p> <p>11 publication of the research, and the research in</p> <p>12 publication says funding for this research was provided by</p> <p>13 X company. So a special grant is more like this, where</p> <p>14 it's an unrestricted grant, so that's what I meant.</p> <p>15 BY MR. JUBB:</p> <p>16 Q Could a reader interpret this as Dr. Folta</p> <p>17 receiving a grant that had deliverables?</p> <p>18 MS. LoCICERO: Object to form.</p> <p>19 THE WITNESS: It doesn't say that. It's an</p> <p>20 undisclosed amount in special grants, that's what it says,</p> <p>21 but I can't answer as to how every person is going to</p> <p>22 interpret it, but the words say an undisclosed amount in</p> <p>23 special grants, which that was accurate. When he got the</p> <p>24 Monsanto \$25,000 it had not been disclosed, and it was a</p> <p>25 special grant. Those are accurate words and that's what it</p>	<p style="text-align: right;">Page 104</p> <p>1 the way you just described that for purposes of research</p> <p>2 you would disclose the funding?</p> <p>3 MS. LoCICERO: Object to the form.</p> <p>4 THE WITNESS: I mean the words, I meant the</p> <p>5 words to mean what they say, which is that Monsanto has</p> <p>6 given out an undisclosed amount in special grants to</p> <p>7 scientists like Kevin Folta. That was an example, that's</p> <p>8 what the words meant to say and that's what they say.</p> <p>9 I don't know how much Monsanto has given out to</p> <p>10 scientists like Kevin Folta, Bruce Chassy or others who</p> <p>11 were getting -- the e-mails themselves describe it as</p> <p>12 unrestricted grants, I don't know the total, Monsanto</p> <p>13 didn't tell me.</p> <p>14 So all I know is that I kept seeing that</p> <p>15 terminology in the e-mails, and so I wrote, therefore, that</p> <p>16 Monsanto and its industry partners have passed out an</p> <p>17 undisclosed amount of special grants to scientists like</p> <p>18 Kevin Folta, and that's what the words meant to say.</p> <p>19 Q At this time that you wrote this did you know</p> <p>20 that that \$25,000 had actually gone to the University of</p> <p>21 Florida?</p> <p>22 MS. LoCICERO: Object to form.</p> <p>23 THE WITNESS: I mean the money had gone --</p> <p>24 Kevin Folta submitted a grant application, the money was</p> <p>25 given to -- the grant application, I guess, yes, I knew</p>
<p style="text-align: right;">Page 103</p> <p>1 meant to say, and that's all that it meant to say.</p> <p>2 BY MR. JUBB:</p> <p>3 Q What was your understanding of the disclosure</p> <p>4 requirement for grants?</p> <p>5 MS. LoCICERO: Object to form.</p> <p>6 THE WITNESS: I'm not sure that I -- I mean what</p> <p>7 was my understanding at the University of Florida?</p> <p>8 BY MR. JUBB:</p> <p>9 Q When you wrote the article to say that it was</p> <p>10 undisclosed, I imagine that you would have to know where to</p> <p>11 look to know if it was disclosed or not; correct?</p> <p>12 A I had looked for any public disclosure of that</p> <p>13 grant prior to when it was disclosed to other media prior</p> <p>14 to the publication of our story. I think it was in Nature</p> <p>15 magazine was the first public mention of it, and I had not</p> <p>16 found any disclosure. So typically, as I said when there</p> <p>17 is an academic publication in a peer reviewed journal,</p> <p>18 typically that journal includes a disclosure of a grant</p> <p>19 from a private party. And that's the way that I usually</p> <p>20 would find out about funding is through that.</p> <p>21 And I didn't see any public posting on the</p> <p>22 Internet or on Kevin Folta's website of this grant or the</p> <p>23 same thing with Bruce Chassy, there was monies that he was</p> <p>24 receiving that I didn't see full disclosure of.</p> <p>25 Q Did you intend for the readers to interpret this</p>	<p style="text-align: right;">Page 105</p> <p>1 that it had gone, it had been awarded to Kevin Folta and</p> <p>2 then given to the University of Florida.</p> <p>3 BY MR. JUBB:</p> <p>4 Q You felt that was a grant application?</p> <p>5 A It was an application for funding from Monsanto.</p> <p>6 Q There is a difference between a grant</p> <p>7 application and just a proposal; correct?</p> <p>8 A A grant application, he submitted a proposal. I</p> <p>9 mean let me strike that word, and I will use the word</p> <p>10 proposal, he submitted a proposal to Monsanto.</p> <p>11 Q And Monsanto, the letter you are referring to, I</p> <p>12 believe it was, I forget the date, but that was the letter</p> <p>13 that said this is an unrestricted grant for XYZ; correct?</p> <p>14 A \$25,000, yes.</p> <p>15 Q When you talked to Dr. Folta did you ask him</p> <p>16 where that money went?</p> <p>17 A I'm having a hard time remembering explicitly,</p> <p>18 but I think I knew that it had gone to the University of</p> <p>19 Florida.</p> <p>20 Q And he told you in that conversation that when</p> <p>21 they sent that he contacted them and said I can't accept</p> <p>22 this; correct?</p> <p>23 A I don't recall that specifically, no.</p> <p>24 Q And what if that -- strike that. Is there</p> <p>25 difference in your mind between a \$25,000 gift to the</p>

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1 University of Florida with no strings attached and a  
 2 \$25,000 grant to a professor?  
 3 MS. LoCICERO: Object to form. I think we have  
 4 gone through this quite a bit so far.  
 5 THE WITNESS: I mean it was clear to me in the  
 6 proposal that he submitted to Monsanto that \$25,000,  
 7 regardless of whether or not it was going to be deposited  
 8 with the University of Florida or given to him, was there  
 9 to reimburse costs that Kevin Folta incurred in advocating  
 10 for biotechnology. And that was -- and so it actually was  
 11 not that important to me.  
 12 It was not asserting that it was going to him  
 13 personally. What was important is that this money was  
 14 pursued to support his advocacy work about biotechnology.  
 15 BY MR. JUBB:  
 16 Q Can we agree that at no point in time did Dr.  
 17 Folta receive any compensation?  
 18 MS. LoCICERO: Objection to form.  
 19 THE WITNESS: No personal compensation.  
 20 BY MR. JUBB:  
 21 Q And the time that he had spent previously before  
 22 your article, that was all volunteered time; correct?  
 23 MS. LoCICERO: Asked and answered.  
 24 THE WITNESS: Yeah, that's my understanding,  
 25 yes.

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1 BY MR. JUBB:  
 2 Q And the undisclosed amount in special grants,  
 3 what evidence did you have that that \$25,000 was not  
 4 disclosed?  
 5 MS. LoCICERO: Object to form.  
 6 THE WITNESS: I mean there was an e-mail  
 7 exchange between Dr. Folta and Monsanto in which he  
 8 specifically discussed that depending on the way that the  
 9 grant was given that there wouldn't need to be disclosure  
 10 of the grant publicly.  
 11 Q Is that because it wasn't a grant?  
 12 A You have asked my question. The question you  
 13 asked was what was the reason for me to think it hadn't  
 14 been disclosed? There was correspondence which I read in  
 15 which he discussed, he said, well, if you give it to me  
 16 this way then it won't present conflict of interest issues  
 17 and it doesn't need to be disclosed.  
 18 And then I also searched for any disclosure of  
 19 that and I didn't find it, and so, therefore, it was to me  
 20 there was no public disclosure of that prior to the  
 21 announcement that it's being returned to, you know, the  
 22 food pantry. So --  
 23 Q At the time though, when Dr. Folta explained to  
 24 you that this was a gift with no strings attached wouldn't  
 25 that be the reason why there is not the same disclosure

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1 requirements?  
 2 MS. LoCICERO: Object to form.  
 3 THE WITNESS: I mean I -- again, to me what was  
 4 relevant was that he submitted a proposal, he got the money  
 5 and then he began to execute on the proposal, and that was  
 6 what the story said.  
 7 BY MR. JUBB:  
 8 Q The photographs that were selected for the  
 9 article, did you have involvement with picking those out?  
 10 A I helped the photo editor get the photos.  
 11 Q Did you also help the person in charge of  
 12 putting captions underneath them?  
 13 A I did help the photo editor pick quotes to be  
 14 used, yes.  
 15 Q And do you recall why you selected those quotes?  
 16 A I mean generally when I'm looking for like pull  
 17 out quotes I look for the most, you know, helpful, and like  
 18 the quote that characterizes what I'm writing about most  
 19 articulately, and also the quote that a person could  
 20 understand without other context, and so that would be what  
 21 I would look for.  
 22 Q And with the goal of a person understanding  
 23 those quotes without any further context, putting the skunk  
 24 quote by Benbrook next to Dr. Folta's picture, is it your  
 25 testimony that that didn't require any further context?

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1 MS. LoCICERO: Object to form, that's not how it  
 2 appears.  
 3 THE WITNESS: I mean that Benbrook was speaking  
 4 and those were his words, and that was seen to me like a  
 5 relevant commentary that he offered about himself and  
 6 others in the academic world, and so it was a quote that  
 7 was put into the paper. I actually didn't -- I don't have  
 8 a -- the paper selected the actual layout, but I thought  
 9 that was a fine quote to use to, Dr. Benbrook, you know,  
 10 said it and we used it.  
 11 BY MR. JUBB:  
 12 Q Is it your testimony that Dr. Benbrook's quote  
 13 about skunks was him referring to himself?  
 14 A I think he was implying that, yeah, in part  
 15 himself, yes. I think that's what made the quote  
 16 particularly meaningful to me was he was sort of conceding  
 17 that it was -- that he was a part of this whole process.  
 18 Q And so believing that he was actually referring  
 19 to himself when he said this in the context of the article  
 20 on page 2 of 9 where he says, if you spend enough time with  
 21 skunks you start to smell like one, said Charles Benbrook.  
 22 In the context of the paragraph above that, could someone  
 23 read that to believe it's referring to Dr. Folta?  
 24 A I mean the --  
 25 MS. LoCICERO: Object to form. Go ahead.

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1 THE WITNESS: This says they regret, this quote  
 2 speaks for itself, those are his words, and the quote  
 3 doesn't -- it speaks in general terms regarding academics  
 4 who are funded by the organic industry and academics funded  
 5 by the biotech industry in general terms.  
 6 BY MR. JUBB:  
 7 Q In the context of the article where you describe  
 8 it as a war between both sides, but then you have a picture  
 9 of Dr. Folta next to a picture next to a picture of Dr.  
 10 Benbrook, and he is saying, as part of this war if you  
 11 spend enough time with skunks you start to smell like one.  
 12 Could a person look at that and say he is referring to Dr.  
 13 Folta as a skunk?  
 14 MS. LoCICERO: Object to form.  
 15 THE WITNESS: Yeah, I mean it's not my job, he  
 16 said those words and that was a perfectly appropriate quote  
 17 to include in the story, and he was speaking broadly about  
 18 people who are receiving grants or gifts from the organics  
 19 industry and the biotech industry.  
 20 I mean, I didn't ask him, excuse me, Dr.  
 21 Benbrook, are you are referring to Dr. Kevin Folta when you  
 22 said that? I didn't ask him that question, I asked him to  
 23 comment on that and he did, and I included that quote, and  
 24 that's as much as what he said.  
 25 Q If you want to be fair and accurate for the

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1 readers don't you think they would want to know if he is  
 2 referring to himself as opposed to Dr. Folta?  
 3 A Well, actually the sentence prior to the quote  
 4 says they regret being caught up, so I think that any  
 5 reasonable reader would see that this is that Benbrook is  
 6 actually referring in part to himself.  
 7 Q I see, but can we agree that according to you in  
 8 the article, you actually say that it was Dr. Folta who  
 9 regrets being unfairly considered a tool in the industry?  
 10 A I mean you are talking about a separate question  
 11 and a separate part of the story. And what I had seen  
 12 prior to publication of the story was Dr. Folta himself  
 13 discussing the shill terminology, and his colleague in the  
 14 e-mail joking we are all shills. So I did ask Dr. Folta  
 15 what do you think about the perception that you are a shill  
 16 or a tool, I think I used the word tool, and then he  
 17 responded to that and I quoted his response.  
 18 Q Well, we can disagree on that, but I'm talking  
 19 about this skunk paragraph.  
 20 A Okay.  
 21 Q In the context of the whole article where  
 22 immediately preceding it it's referring to an academic who  
 23 has accepted special unrestricted grants, we have already  
 24 been over that, that is referring to Dr. Folta; correct?  
 25 A It refers to quite a number of parties including

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1 potential -- yes, including Dr. Folta, yes.  
 2 Q Okay. And regret being caught up in the nasty  
 3 food fight?  
 4 A I'm sorry, you didn't read, you said or taken  
 5 industry on a trip, I'm sorry, you didn't say or taking an  
 6 industry-funded trip, you missed that part.  
 7 Q That would be Dr. Folta too, according to you?  
 8 A That clearly would be Dr. Folta, yes.  
 9 Q And saying they regret being caught up in this  
 10 nasty food fight. And then you say that Dr. Folta regrets  
 11 being unfairly seen as a tool of the industry and it  
 12 bothers me a lot, and you wrote him quoting that?  
 13 MS. LoCICERO: Object to the form.  
 14 THE WITNESS: Could you repeat your question, I  
 15 lost your point.  
 16 BY MR. JUBB:  
 17 Q Sure. In the context of the article, big  
 18 picture, would it be fair for someone to interpret Dr.  
 19 Benbrook saying if you spend enough time with skunks you  
 20 start to smell like one as referring to Dr. Folta, could  
 21 you see how someone would get that impression?  
 22 MS. LoCICERO: Object to form.  
 23 THE WITNESS: I don't think the story asserts  
 24 that, so I'm not going to attempt to interpret readers. It  
 25 says what it says, and it is Dr. Benbrook's words and he

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1 spoke them and I quoted them accurately.  
 2 BY MR. JUBB:  
 3 Q In the article you also talk about Dr. Shaw;  
 4 correct?  
 5 A Yes, that's correct.  
 6 Q And Dr. Shaw has received \$880,000 worth of  
 7 research grants; is that right?  
 8 A At least, yes, that's correct.  
 9 Q At least. And that was actually for research as  
 10 opposed to reimbursements; correct?  
 11 A That's correct.  
 12 Q Can you tell me why it was that you put Dr.  
 13 Folta's photo and made him your kingpin in the article as  
 14 opposed to Dr. Shaw when Dr. Folta has \$25,000 in  
 15 reimbursements, no compensation, nothing for research, and  
 16 Dr. Shaw has at least \$880,000 in research funding?  
 17 MS. LoCICERO: Object to form.  
 18 THE WITNESS: I mean first I would say a kingpin  
 19 is a word I would never use, it's an inappropriate word to  
 20 describe the story. And so I think that the reason that  
 21 Dr. Folta was featured prominently in the story was the  
 22 e-mails, and the e-mails showed me a level of communication  
 23 between him and Monsanto and him and Ketchum and him and  
 24 bio that I did not see with Dr. Shaw.  
 25 BY MR. JUBB:

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<p>1 Q So you actually went to Dr. Folta's e-mails                  2 first; correct?                  3 A I think I did see Dr. Folta's e-mails first,                  4 yes.                  5 Q Did you look through Dr. Shaw's e-mails?                  6 A I did I did see Dr. Folta's e-mails first, yes.                  7 Q Did you prepare the article before having Dr.                  8 Shaw's article -- strike that.                  9 Did you prepare the article before having Dr.                  10 Shaw's e-mails?                  11 A I mean the article is not complete before I had                  12 Dr. Shaw's e-mails, but I did start writing an article                  13 perhaps before I had them.                  14 (Lipton Exhibit 8 identified.)                  15 BY MR. JUBB:                  16 Q Mr. Lipton, I have handed you what I have marked                  17 as Lipton 8 which is 11355. I said that you characterized                  18 Dr. Folta as a kingpin in your article, he didn't like that                  19 word, you refer to him as probably the most important                  20 player in the story; did you not?                  21 A Yes, that's correct.                  22 Q Okay. Can we call him the most important player                  23 in the story, the words that you used as opposed to                  24 kingpin, would that be better?                  25 A That would be fair, uh-huh.</p>	<p>1 Folta being the most important player in your own words,                  2 and he is going to get an unrestricted undisclosed amount                  3 of special grants as opposed to Dr. Shaw who you are saying                  4 has \$880,000 worth of research grants; do you think they                  5 would believe he would be getting more?                  6 MS. LoCICERO: Object to the form.                  7 THE WITNESS: I'm sorry, who was getting more?                  8 BY MR. JUBB:                  9 Q Dr. Folta getting more money.                  10 A Would you repeat the question?                  11 Q I'm happy to. If someone were to read your                  12 article -- strike that.                  13 Could a reasonable reader read your article and                  14 interpret Dr. Folta as being someone who has received more                  15 than \$880,000 when you are saying he has received special                  16 undisclosed, unrestricted grants as opposed to Dr. Shaw who                  17 you are saying has received \$880,000 and is not presented                  18 as the most important player?                  19 MS. LoCICERO: Object to form.                  20 THE WITNESS: This is not a story about that                  21 academic research funded by corporations, and I don't cover                  22 academic research. I was writing a story about a public                  23 policy and attempts to influence public opinion.                  24 And so the actual amount of the money was not,                  25 you know, the focus of the story. It was financial</p>
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<p>1 Q Now, why was it in your mind that Dr. Folta was                  2 the most important player in a story about industry                  3 swapping grants for lobbying clout when has gotten 25 in                  4 reimbursements, potentially reimbursements, because that                  5 never actually happened, to \$880,000 in actual grants for                  6 research; how is he the important player?                  7 MS. LoCICERO: Object to form.                  8 THE WITNESS: This is a story about how the                  9 organics industry and the biotech industry was engaging                  10 with professors from academic institutions to try to                  11 influence public opinion, this is not a story about                  12 academic research and corporate funding for academic                  13 research.                  14 And so when I was evaluating what to write the                  15 story about I was looking for e-mail correspondence that                  16 showed me engagement between the academics and the                  17 corporations and the organic companies in which they were                  18 discussing ways in which to influence public opinion.                  19 It was very clear to me that the e-mails with                  20 Dr. Folta showed a particularly large amount of engagement                  21 with Monsanto and with Ketchum and with Bio, the trade                  22 association. So that was why the e-mails sort of compelled                  23 me to focus on Dr. Folta as a particularly important                  24 player.                  25 Q I see. When the readers of your article saw Dr.</p>	<p>1 connections between companies and advocacy, and that's what                  2 I was focused on.                  3 BY MR. JUBB:                  4 Q Who has the largest financial connection between                  5 companies and advocacy, Dr. Folta or Dr. Shaw?                  6 MS. LoCICERO: Object to the form.                  7 THE WITNESS: Being advocacy I don't know the                  8 answer to that question. I don't know how much money Dr.                  9 Shaw has received in special grants or gifts that are not                  10 part of academic research, I actually didn't see any                  11 evidence. I saw Bruce Chassy getting special grants or                  12 gifts for advocacy, I didn't see Dr. Shaw getting any such                  13 money.                  14 BY MR. JUBB:                  15 Q Perhaps I misspoke, was it Dr. Chassy who                  16 received an \$880,000 research grant? I thought it was Dr.                  17 Shaw.                  18 A Dr. Shaw was the lead researcher that received                  19 \$880,000 for research.                  20 Q Okay.                  21 A Not a special grant or gift for advocacy, which                  22 Dr. Chassy and Dr. Folta were particularly, they were the                  23 ones that I saw evidence that they were getting that. I                  24 didn't see that with Dr Shaw.                  25 Q I see. I thought in the beginning of the</p>

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<p>1 article you said that industry was retooling their lobbying                  2 campaign by publishing articles under the name of                  3 academics; did you say that?                  4 MS. LoCICERO: Object to form.                  5 THE WITNESS: I'm sorry, I don't think -- what                  6 paragraph are you referring to? That's not what I said, if                  7 you want to restate it.                  8 Q Okay. I'm sorry, it is on page 2 of 9, on the                  9 other side the biotech industry had published dozens of                  10 articles under the name of prominent academics that in some                  11 cases were drafted by industry consultants.                  12 A I'm sorry, on page 2 --                  13 Q At the bottom.                  14 A Okay.                  15 Q So part of the article was that the biotech                  16 industry was publishing dozens of articles as part of their                  17 lobbying campaign?                  18 A Right.                  19 Q As part of their lobbying campaign; correct?                  20 A Yes.                  21 Q Okay. Now, Dr. Shaw is publishing articles that                  22 are funded by industry in the amount of \$880,000. Can we                  23 agree that fits what you are talking about here?                  24 MS. LoCICERO: Object to form.                  25 THE WITNESS: I'm sorry, but I think you are</p>	<p>1 at universities, they write peer-reviewed articles;                  2 correct?                  3 A They sometimes write peer-reviewed articles,                  4 yes.                  5 Q And you discussed Dr. Shaw getting \$880,000 for                  6 one of his articles as part of research; correct?                  7 A Dr. Shaw received \$880,000 for assessing the                  8 long term viability of Roundup ready technology as a                  9 foundation for cropping systems. It was the Monsanto                  10 Agricultural's Products Company that gave that.                  11 That funding was to Dr. Shaw as the leader of a                  12 network of academics that were studying phosphate-resistant                  13 cropping systems in the United States, and so that's what                  14 the \$880,000 was.                  15 Q And he wrote on it?                  16 A He did publish a peer-reviewed article that                  17 related to that study, yes.                  18 Q Okay. And that was part, according to you, of                  19 the industry's PR campaign to point to articles published                  20 by unbiased research?                  21 MS. LoCICERO: Object to form.                  22 THE WITNESS: No, that's not. No, it is                  23 something different.                  24 BY MR. JUBB:                  25 Q So if somebody were to read this article as</p>
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<p>1 misreading or misinterpreting this. This bears referring                  2 to G.M.O. answers, and G.M.O answers was an advocacy effort                  3 and a public outreach effort. So this is referring to                  4 G.M.O. answers, and this is pretty high in the story. We                  5 are going to go back to G.M.O. later in the story, but I'm                  6 not referring in this paragraph here to traditional                  7 academic research, I'm referring here to G.M.O. answers.                  8 Q In fact the word G.M.O. answers doesn't appear                  9 anywhere near that; correct? It says dozens of published                  10 articles; right?                  11 MS. LoCICERO: That's not the full quote, but --                  12 THE WITNESS: I mean this is -- when we write                  13 stories often at the top of the story you summarize things                  14 that are going to come later and then you go back to them                  15 and explain them in more detail, and that's what that                  16 sentence represents.                  17 BY MR. JUBB:                  18 Q Could someone read this line as suggesting that                  19 the biotech industry has published dozens of period                  20 articles?                  21 MS. LoCICERO: Object to form.                  22 THE WITNESS: I mean that's not what it says.                  23 It doesn't say peer-reviewed articles.                  24 BY MR. JUBB:                  25 Q Well, in the context of talking about professors</p>	<p>1 implying that professors Dr. Folta and Dr. Shaw were                  2 writing peer-reviewed articles that were funded by industry                  3 as part of their campaign, that would be an incorrect                  4 interpretation; correct?                  5 MS. LoCICERO: Object to form.                  6 THE WITNESS: This story is not about research                  7 grants provided by industry to do traditional academic                  8 research. This is a story about advocacy, and the funding                  9 that is focused on in the story was about advocacy. And                  10 Dr. Shaw was in the story because after they funded his                  11 research they approached him and asked him to intervene                  12 with the U.S. Department of Agriculture, so he had a                  13 financial relationship with Monsanto and Behr and with                  14 other companies, and then they asked him to intervene with                  15 the USDA as they were seeking USDA approval for dicamba and                  16 for some of their G.M.O. seeds, so therefore that was                  17 relevant.                  18 So he was therefore no longer just being a                  19 peer-reviewed academic, he now was becoming a part of an                  20 advocacy effort. So that was sufficiently close to what                  21 was occurring relative to Dr. Folta and Dr. Benbrook and                  22 Dr. Chassy that I thought it was relevant to include in the                  23 story.                  24 Q Did you just say this article wasn't about                  25 grants?</p>

<p style="text-align: right;">Page 122</p> <p>1 A This article is about advocacy -- sorry.</p> <p>2 MS. LoCICERO: Object to form.</p> <p>3 THE WITNESS: This article is about advocates.</p> <p>4 It was not about traditional research grants, it was about</p> <p>5 advocacy. This was an article about advocacy by the</p> <p>6 industry, the organic industry and the biotech industries,</p> <p>7 to try to influence public opinion. And part of it</p> <p>8 includes grants that were relating to professors who played</p> <p>9 a role in that advocacy.</p> <p>10 BY MR. JUBB:</p> <p>11 Q This article according to the title that</p> <p>12 somebody else in the New York Times wrote has everything to</p> <p>13 do with grants; right?</p> <p>14 A Grants in some form, yes, uh-huh.</p> <p>15 (Discussion off the record.)</p> <p>16 THE VIDEOGRAPHER: We are off the record -- oh,</p> <p>17 okay, fine.</p> <p>18 BY MR. JUBB:</p> <p>19 Q If this is about advocacy, this article that you</p> <p>20 say, who do you think was a bigger advocate, Dr. Shaw or</p> <p>21 Dr. Folta?</p> <p>22 A I'm, I mean that's a judgment call that I'm not</p> <p>23 -- I mean I found the interactions with Dr. Folta and</p> <p>24 Monsanto and Dr. Chassy among others to be particularly</p> <p>25 interesting. The story was focused on the role that</p>	<p style="text-align: right;">Page 124</p> <p>1 and then after that funding he was asked to play a role in</p> <p>2 advocating for USDA approval. It would be relevant</p> <p>3 information to know that, but I don't know that there was</p> <p>4 a, you know, a --</p> <p>5 Q I have it right here. Monsanto wanted Dr. Shaw,</p> <p>6 whom the company has supported over the last decade with at</p> <p>7 least \$880,000 in research grants for projects he helped</p> <p>8 oversee, to refute these arguments the e-mails show?</p> <p>9 A That's correct.</p> <p>10 Q And in that June 2013 e-mail from then</p> <p>11 Monsanto's head of Weed Resistance Program, your voice not</p> <p>12 only counts from the standpoint of presenting</p> <p>13 scientifically based viewpoints but also to a degree from a</p> <p>14 numbers standpoint; correct?</p> <p>15 A That's correct, that's what the words say.</p> <p>16 Q This exactly is what industry swaps grants for</p> <p>17 lobbying clout would be about that type of reference to Dr.</p> <p>18 Shaw and not a \$25,000 gift to the University of Florida</p> <p>19 for reimbursement of doughnuts and bagels for workshops?</p> <p>20 MS. LoCICERO: Object to form.</p> <p>21 THE WITNESS: Yes, I'm sorry, doughnuts and</p> <p>22 bagels, are you being sarcastic?</p> <p>23 BY MR. JUBB:</p> <p>24 Q No. Did you actually ask him what the funds</p> <p>25 were for?</p>
<p style="text-align: right;">Page 123</p> <p>1 academics play in public advocacy. And so I did not find</p> <p>2 much correspondence relative to Dr. Shaw in terms of</p> <p>3 advocacy. Most of the correspondence with Dr. Shaw was</p> <p>4 simply about academic research, but other than this appeal</p> <p>5 to him to play a role in the USDA approval of dicamba and</p> <p>6 the related seeds.</p> <p>7 So if you were to ask me of who played a bigger</p> <p>8 role, I would say Dr. Folta did than Dr. Shaw.</p> <p>9 Q That's because you didn't find much of that in</p> <p>10 his e-mails; is that correct?</p> <p>11 A I didn't find a great deal of explicit advocacy</p> <p>12 work in Dr. Shaw's e-mails.</p> <p>13 Q Wasn't there a reference, you can look at the</p> <p>14 text of your article, I thought that you wrote that in one</p> <p>15 instance the funder of Dr. Shaw reminded him that they had</p> <p>16 given him a grant and that's why he needed to perform some</p> <p>17 form of lobbying?</p> <p>18 MS. LoCICERO: Object to form.</p> <p>19 THE WITNESS: No, I don't recall that, no.</p> <p>20 BY MR. JUBB:</p> <p>21 Q Did you say that at all in the comments of the</p> <p>22 e-mails that you attached to the article?</p> <p>23 A If you want to show me I could recall it better.</p> <p>24 I did -- I'm sure I noted in the dossier as we call it,</p> <p>25 that Dr. Shaw had received significant funding from them</p>	<p style="text-align: right;">Page 125</p> <p>1 A They were to cover travel costs, at least</p> <p>2 according to the proposal.</p> <p>3 Q And in the proposal there's like food and thumb</p> <p>4 drives, and projectors and things like that; right?</p> <p>5 A I mean this, those two paragraphs are in the</p> <p>6 story and they are relevant, and I'm really glad that they</p> <p>7 are there because it's relevant. And so I think that it is</p> <p>8 correct because they are relevant examples of the industry</p> <p>9 funding research, and then asking a researcher to</p> <p>10 participate in advocacy.</p> <p>11 Q Where do you see that with Dr. Folta, that he</p> <p>12 was asked to do research in exchange for a grant or asked</p> <p>13 to advocate in exchange for a grant?</p> <p>14 MS. LoCICERO: Asked and answered.</p> <p>15 BY MR. JUBB:</p> <p>16 Q Where did you see that?</p> <p>17 A What I saw was Dr. Folta, that Monsanto engaged</p> <p>18 with Dr. Folta, for example they asked him to engage in the</p> <p>19 -- this is before the grant, with the Elle magazine again</p> <p>20 to intervene after an Elle magazine article had been</p> <p>21 written, and it became clear that there was a back and</p> <p>22 forth going on between Dr. Folta and Monsanto, and he</p> <p>23 approached them with a proposal for funding.</p> <p>24 And then subsequent to getting that \$25,000 in</p> <p>25 funding the biotech industry asked him to go to</p>

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1 Pennsylvania to testify, and his costs for that trip was  
 2 covered in part. He also came to Washington at the request  
 3 of the industry, and that was subsequent. And now I'm not  
 4 saying that was a quid pro quo, but it was chronologically  
 5 subsequent.  
 6 Q It's your testimony that he went to Pennsylvania  
 7 after receiving money for the grant?  
 8 A Pennsylvania -- he, yes.  
 9 Q So if the evidence was actually that Dr. Folta  
 10 was asked by Pennsylvania representative to appear in  
 11 Harrisburg before there was ever any \$25,000 from Monsanto,  
 12 that wouldn't be that chronological order you are talking  
 13 about; correct?  
 14 MS. LoCICERO: Object to the form.  
 15 THE WITNESS: All I'm saying is that the costs  
 16 for that trip were covered in part by the biotech industry.  
 17 BY MR. JUBB:  
 18 Q Is there a difference between the cost -- let me  
 19 ask you this. What according to you should he have done?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: Yes, that's too broad of a  
 22 question.  
 23 BY MR. JUBB:  
 24 Q I thought the news worthiness of this was that  
 25 he was receiving reimbursements from industry. So I'm

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1 asking what would be the non-use for the version?  
 2 MS. LoCICERO: Object to form.  
 3 BY MR. JUBB:  
 4 Q He is not getting paid to go; right?  
 5 A He was not personally paid to go, that's  
 6 correct.  
 7 Q And he wasn't going to receive any  
 8 reimbursements for going; correct?  
 9 A There were associated costs that were to be  
 10 reimbursed from the industry, that's correct.  
 11 Q But you are saying they were going to be  
 12 reimbursed from the industry. Can we agree if there was no  
 13 reimbursement, it was actually an organization, not an  
 14 industry such as Monsanto, can we agree that he would  
 15 actually be paying all of those costs out of his pocket?  
 16 MS. LoCICERO: Object to form.  
 17 THE WITNESS: I'm not certain, I don't know if  
 18 he would have gone or not. That's a hypothetical I can't  
 19 answer.  
 20 BY MR. JUBB:  
 21 Q Did he tell you that in his conversation, that  
 22 he was actually losing money by travel?  
 23 A I think I do recall him saying this about  
 24 Hawaii, I think he said that it cost him money.  
 25 Q Can we agree --

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1 A Yes, coming back from Hawaii, right, I lost  
 2 money by going there, coming back plane ticket. Okay, so  
 3 what was your question?  
 4 Q So my question was, we got a little bit off  
 5 course. My initial question was can we agree that if he  
 6 traveled to Pennsylvania before ever receiving any \$25,000  
 7 through Florida from Monsanto's gift that that would  
 8 chronologically not be sound for a quid pro quo?  
 9 MS. LoCICERO: Object to form.  
 10 THE WITNESS: Well, I don't imply there is a  
 11 quid pro quo, so I'm not sure what your question is. I'm,  
 12 not asserting that there is a quid pro quo in the story, so  
 13 maybe you want to rephrase the question.  
 14 BY MR. JUBB:  
 15 Q So is it your testimony that when you wrote this  
 16 article you didn't want to give the impression that there  
 17 was a quid pro quo; is that right?  
 18 A I did not assert that Kevin Folta was doing  
 19 things directly in exchange for money. What I asserted was  
 20 that the industry was giving money in an effort to  
 21 influence public policy, and they were swapping money in an  
 22 effort to have an advocacy effort, that's correct.  
 23 Now, there can be two things, believe it or not,  
 24 there can be two simultaneous things happen that are  
 25 dislocated, so the industry can be making donations in an

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1 effort to influence public policy. An individual can be  
 2 accepting donations and acting of his own volition and  
 3 think that he is acting independently but the industry is  
 4 still accomplishing its goal of influencing public policy  
 5 by making donations, and those two things can be happening  
 6 at the same time.  
 7 This is a story about the industry trying to  
 8 influence public opinion in which it is funding the work of  
 9 the organics industry and the biotech industry of some of  
 10 those scholars who are playing a role of public policy.  
 11 Q Dr. Folta had none of his work funded; correct?  
 12 MS. LoCICERO: Object to form.  
 13 THE WITNESS: Meaning travel and associated  
 14 costs broadly speaking.  
 15 BY MR. JUBB:  
 16 Q That's what you meant by reimbursement?  
 17 A Yes.  
 18 Q Do you think that everybody got that who read  
 19 this, you didn't mean actually getting paid or just  
 20 refunded, you meant the reimbursement?  
 21 MS. LoCICERO: Object to form.  
 22 THE WITNESS: The story says explicitly that  
 23 there is no evidence that the academic research was  
 24 compromised, and the story also says that Kevin Folta was  
 25 not personally compensated for his work. Those things are

<p style="text-align: right;">Page 130</p> <p>1 stated clearly in the story.</p> <p>2 THE VIDEOGRAPHER: This is the end of Unit 2, we</p> <p>3 are off the record at 1:07.</p> <p>4 (1:07 p.m. -- lunch recess -- 1:40 p.m.)</p> <p>5 THE VIDEOGRAPHER: This is the beginning of Unit</p> <p>6 No. 3, we are back on the record at 1:40.</p> <p>7 (Lipton Exhibit 9 identified.)</p> <p>8 THE WITNESS: Could I get Exhibit 1 back in case</p> <p>9 I have to refer to it?</p> <p>10 MS. LoCICERO: Yes.</p> <p>11 BY MR. JUBB:</p> <p>12 Q Mr. Lipton, do you have Lipton 9 in front of</p> <p>13 you?</p> <p>14 A Yes.</p> <p>15 Q For the record, this is EL11401 through 11405.</p> <p>16 A Yes.</p> <p>17 Q At the top the subject is trying to reach you</p> <p>18 from Mike Tackett with an e-mail dated September 5th, at</p> <p>19 11:29; am I correct?</p> <p>20 A Yes.</p> <p>21 Q And Mike Tackett, who is he?</p> <p>22 A He at the time was my editor.</p> <p>23 Q Does he still work for the Times?</p> <p>24 A Yes, he does.</p> <p>25 Q Is he no longer your editor?</p>	<p style="text-align: right;">Page 132</p> <p>1 insert this point he makes to the effect that every point I</p> <p>2 make is based on evidence. Otherwise he is upset and there</p> <p>3 is not much we can do. And you asked for his thoughts.</p> <p>4 Did you speak with Mr. Tackett other than what is in this</p> <p>5 e-mail about what you could do that Kevin would have said?</p> <p>6 A I don't recall that we actually verbally</p> <p>7 communicated on this.</p> <p>8 Q Do you recall any discussions not specifically</p> <p>9 it related to this e-mail but discussions with Mr. Tackett?</p> <p>10 A No, I don't recall. You mean after the article</p> <p>11 was posted?</p> <p>12 Q Yes, sir.</p> <p>13 A I mean I have no recall of a specific</p> <p>14 conversation. I mean the fact that there is litigation</p> <p>15 filed, I presume we would have said, oh, litigation was</p> <p>16 filed.</p> <p>17 Q Okay. And do you have any recollection of</p> <p>18 speaking with Mr. Tackett about the article before it was</p> <p>19 published, other than what we can see from correspondence?</p> <p>20 A Yes, we would certainly have communicated about</p> <p>21 the article before it was published.</p> <p>22 Q Do you have any independent recollection of the</p> <p>23 conversation you had with Mr. Tackett?</p> <p>24 A No, I mean other than that I briefed him on what</p> <p>25 I'm working on, and tell him the topic and where the</p>
<p style="text-align: right;">Page 131</p> <p>1 A He is no longer my supervisor.</p> <p>2 Q Did Mr. Tackett work with you in publishing this</p> <p>3 article?</p> <p>4 A He did.</p> <p>5 Q Can you tell me what his role is?</p> <p>6 A He was my direct supervisor, and he was also the</p> <p>7 editor or the story.</p> <p>8 Q Does he have involvement with independently</p> <p>9 reviewing e-mails that you reviewed?</p> <p>10 A He may have seen some of the e-mails but it's</p> <p>11 not his role to review all the e-mails, no.</p> <p>12 Q Okay. So I think you answered my question but</p> <p>13 please correct me if I am wrong. In terms of his review of</p> <p>14 your article does he do any confirmation, if you will, of</p> <p>15 what you are claiming the documents say in order to make</p> <p>16 sure it is accurate?</p> <p>17 A I mean he would have seen the document viewer</p> <p>18 which had the documents in it.</p> <p>19 Q Now, in this e-mail if you look, trying to kind</p> <p>20 of go down to the bottom here, it says it is actually an</p> <p>21 e-mail from Kevin to you cc'ing his supervisor Jack Payne;</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q And then you wrote at 11:55 on September 5th to</p> <p>25 Mr. Tackett, I am happy to inset, I believe you meant</p>	<p style="text-align: right;">Page 133</p> <p>1 progress is on it, and when I'm approximately going to be</p> <p>2 done with it, that kind of thing.</p> <p>3 Q The response from Mr. Tackett was, yes, that's a</p> <p>4 good idea. And you responded at 12:27 p.m. on September</p> <p>5 5th, which is a Sunday, Have done that, it is going up</p> <p>6 online now and will be in print editions for all but First</p> <p>7 Edition; do you see that?</p> <p>8 A Yes, it's the Saturday.</p> <p>9 Q Saturday, excuse me. Did this mean that the</p> <p>10 First Print Editions on Sunday morning did not include this</p> <p>11 statement, every point I make is based on evidence?</p> <p>12 A Yeah, the Sunday paper. Only on Saturday the</p> <p>13 deadline is extremely early, so it's approximately 11:00</p> <p>14 a.m. on Saturday that the cutoff for the first print</p> <p>15 edition is.</p> <p>16 Q How many editions do you print as part of the</p> <p>17 First Edition?</p> <p>18 A I'm not sure, don't know.</p> <p>19 Q Could you give a reasonable estimate for me?</p> <p>20 A I'm sorry, I don't know.</p> <p>21 Q Should I ask Mr. Tackett?</p> <p>22 A I don't think he would know either.</p> <p>23 Q Who is the person at the time that I could ask</p> <p>24 and would give me an answer that is based off of knowledge</p> <p>25 and experience as to how many papers went out in the First</p>

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1 Edition of this Sunday New York Times that did not include  
 2 this quote, every point I make is based on evidence?  
 3 A There would be a production person in New York  
 4 that could answer that question.  
 5 Q Do you know the approximate circulation for the  
 6 New York Times as of 2015?  
 7 A I don't, no.  
 8 Q Any way you could give my a reasonable  
 9 estimation as to how many New York Times Sunday papers get  
 10 circulated?  
 11 A It is more than a million in total print  
 12 publication, I don't know what the actual number is.  
 13 Q And am I correct that the article was actually  
 14 posted online on Saturday as well?  
 15 A Yeah, that's my understanding, yes. I think it  
 16 was posted on Saturday, yes.  
 17 Q Do you know how long --strike that. Am I  
 18 correct that there was a period of time where this article  
 19 appeared online and did not contain that statement every  
 20 point I make is based on evidence?  
 21 A Yeah, there would be a period, and I'm not sure  
 22 exactly what time this story posted. It's possible in the  
 23 materials that you have that you know that answer, but I  
 24 don't know exactly when it posted.  
 25 Q Is there any way you can tell based off of how

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1 things work in the ordinary course of business September  
 2 2015 when an online version of the Sunday version would be  
 3 posted on Saturday?  
 4 A It's not possible, every story is different. It  
 5 all depends on when they decide to post it.  
 6 Q When they get -- strike that. Am I correct that  
 7 the electronic New York Times, the electronic version in  
 8 2015, does that get sent out by e-mail in the form of a PDF  
 9 or is it a link that they are allowed access to on a link  
 10 set?  
 11 A I'm not understanding your question.  
 12 Q Sure. I'll give you an example. Sometimes  
 13 newspapers can appear in a PDF format. The Legal  
 14 Intelligencer where I live comes in a PDF format. You can  
 15 also have a link to a website to the Legal Intelligencer  
 16 website that has those articles. In 2015, but that is a  
 17 background, in September of 2015 did the New York Times  
 18 circulate PDFs of the print newspaper or did it circulate a  
 19 copy of a link to the New York Times website.  
 20 A I'm not sure. The New York Times usually does  
 21 not circulate PDFs. It does the website and then there is  
 22 the print paper. Then you can go online and get the Final  
 23 Edition PDF, but if you search through the website you can  
 24 find the place where you can say I would like to look at  
 25 the front page, for example, and get a PDF of that, and

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1 that is usually the Final Edition.  
 2 Q Meaning what we have here as Lipton 3 you could  
 3 go online --  
 4 A Similar to that, yes. Not the exact, the top,  
 5 the coding on the top usually isn't there.  
 6 Q So if somebody wanted to find this Sunday New  
 7 York Times in print version it would be publicly accessible  
 8 on the New York Times website?  
 9 A I'm not sure if currently it is, but on the day  
 10 you can usually say, you can usually get something that  
 11 says see the print edition. And then if you follow it, it  
 12 is hard to find, then you can get to a place where it says  
 13 see the front page and you can usually click on that and  
 14 get that on the day of.  
 15 Q Getting back to Lipton 9, can you tell me why  
 16 you added every point I make is based on evidence?  
 17 A I mean it was clear that through this e-mail  
 18 that Dr. Folta was upset about the article, and it was  
 19 clear that he was making points that he felt needed to be  
 20 made to express his point of view. And there is, you know,  
 21 one point here was that was in all capital letters, and so  
 22 it seems that it was appropriate to include that additional  
 23 comment into the story, because that was why he presumably  
 24 was sending me the e-mail, was he wanted additional points  
 25 to be made.

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1 So having received this e-mail I thought that it  
 2 was appropriate to supplement the story by adding this. I  
 3 mean the story had already said from the first version of  
 4 it posted online in the first version, that there is no  
 5 evidence -- there is no evidence that academic work was  
 6 compromised. It says that on Exhibit 1, page 3. And so  
 7 the language here from Dr. Folta is in the capital letters  
 8 EVERY POINT I MAKE IS BASED ON EVIDENCE.  
 9 I mean that to me essentially says the same  
 10 thing, but I thought that it would be appropriate to  
 11 supplement the story by adding that, because he felt it was  
 12 important. So I told my boss maybe we could add this, and  
 13 he said that sounds like a good idea, and so we did it.  
 14 Q Was there anything else about Dr. Folta's e-mail  
 15 to you that you felt he was expressing himself fairly and  
 16 was making any accurate or valid points?  
 17 A I mean, you know, I thought, my reaction was  
 18 that that was a point that we could and should include  
 19 because it was important to him. And I thought that for  
 20 the most part the other points that he made were points  
 21 that -- let me just look at it, let me read it more  
 22 closely.  
 23 I mean, you know, with any story there is a  
 24 limit to the number of quotes that I then can include and  
 25 it's our job to try to pick the quotes that allow for an

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1 individual to fairly articulate and completely sort of  
 2 offer their point of view, fairly and accurately.  
 3 And so we could not have, I mean we could not  
 4 have published all of this. I mean one thing that I did do  
 5 was, for example, Kevin, Dr. Folta, wrote a blog post about  
 6 his reaction to the story, and I did a Tweet in which I  
 7 directed people that follow me to his blog post so that  
 8 they could see his full commentary about the story.  
 9 Additionally Dr. Payne from the University of  
 10 Florida wrote a letter. There was, you know, wrote a piece  
 11 explaining his concerns, and we published that letter as  
 12 part of the story.  
 13 So the document cloud was also a vehicle that we  
 14 used to further elaborate, but, you know, we enhanced the  
 15 story with one of the quotes, and my boss read it and we  
 16 decided that that was sufficient to address it.  
 17 Q And when you decided to add it to the article  
 18 you added it to page 3 of 9 in the online version which is  
 19 Lipton 1, the third full paragraph, Dr. Folta said he had  
 20 joined the campaign to publicly defend genetically modified  
 21 technologies because he believed they are safe, and that it  
 22 is his job to share his expertise. Quote, "Nobody tells me  
 23 what to say and nobody tells me what to think," quote, he  
 24 said adding, Every point I make is based on evidence. Is  
 25 that where you inserted it?

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1 A Yes, that's correct.  
 2 Q And immediately following that you wrote, but he  
 3 also conceded in an interview that we could unfairly be  
 4 seen as a tool of the industry; correct?  
 5 A That's what it says, that is correct.  
 6 Q Do you know why you wanted to insert it there  
 7 before the tool of the industry comment?  
 8 A We inserted it there because this was the first  
 9 opportunity that we had in the story to get Dr. Folta's  
 10 voice into the story. So that was the first opportunity we  
 11 had to include a quote from Dr. Folta, because we had not  
 12 introduced Dr. Folta by name until a couple paragraphs  
 13 above it, so you couldn't really quote him until he had  
 14 been introduced as who he was. So that was the first  
 15 opportunity that we had that insert that supplemental point  
 16 into the story.  
 17 Q Am I correct that you selected the quotes to  
 18 place underneath these photographs on the print version of  
 19 the article?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: I did make suggestions as to pull  
 22 quotes that the paper could use, that's correct, yes.  
 23 BY MR. JUBB:  
 24 Q And did the person in charge of putting those  
 25 quotes underneath the quote photos take your suggestions?

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1 A I think that she did, yes.  
 2 Q Was the article in any way intended to convey to  
 3 the reader that the science that Dr. Folta was speaking on  
 4 was somehow biased or impartial?  
 5 A Biased or impartial?  
 6 Q Partial, excuse me.  
 7 MS. LoCICERO: Object to form.  
 8 BY MR. JUBB:  
 9 Q Was the article in any way intended to convey to  
 10 the reader that Dr. Folta's research or his discussions,  
 11 the substance of his discussions were in any way suspect?  
 12 MS. LoCICERO: Object to form.  
 13 THE WITNESS: I mean the story says that there  
 14 is no evidence that the academic work was compromised, and  
 15 that is a general statement that applies to all of the  
 16 academics that were mentioned in the story. So the story  
 17 does not intend to imply or imply that his research was  
 18 compromised by anything.  
 19 BY MR. JUBB:  
 20 Q And am I correct that it was, would it be  
 21 improper to imply that somehow his research was somehow  
 22 compromised when you had no evidence of that; correct?  
 23 MS. LoCICERO: Object to form.  
 24 THE WITNESS: The story was that there is no  
 25 evidence that the academic work was compromised, it says

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1 that clearly, and that applies to all of the professors who  
 2 were mentioned in the story.  
 3 (Lipton Exhibit 10 identified.  
 4 BY MR. JUBB:  
 5 Q Mr. Lipton, I have handed you what has been  
 6 marked as Lipton 10 for identification purposes. It is EL  
 7 21. This appears to be a Tweet from you on September 6th  
 8 at 7:51 a.m.; correct?  
 9 A Yes, that's correct.  
 10 Q Your Twitter handle is EricliptonNYT?  
 11 A Correct.  
 12 Q And that blue checkmark next to it means it has  
 13 been verified?  
 14 A That's right.  
 15 Q And you wrote with a link to your article,  
 16 Academics in GMO Food War Sticking to Our Science- hyphen,  
 17 Just With Help From Monsanto and Stonyfield; do you see  
 18 that?  
 19 A Yes.  
 20 Q How many Twitter followers do you have?  
 21 MS. LoCICERO: Today?  
 22 BY MR. JUBB:  
 23 Q Great clarification question. How many Twitter  
 24 followers did you have in 2015?  
 25 A I had about 4,000, maybe less.

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<p>1 Q But you are Tweeting out a link to your article;</p> <p>2 correct?</p> <p>3 A Yes.</p> <p>4 Q And when you say they are sticking to their</p> <p>5 science just with the help from Monsanto and Stonyfield,</p> <p>6 what did you mean by that?</p> <p>7 A I'm just reading the quote that is underneath</p> <p>8 it. I think that the quote is that -- the quote is</p> <p>9 discussing from Dr. Bruce Chassy that the funding from the</p> <p>10 organic industry or from the biotech industry helps elevate</p> <p>11 the message that the professors are offering, and so the</p> <p>12 academics are sticking to their science but in order to</p> <p>13 sort of help elevate their voice and to communicate more</p> <p>14 broadly they have help from the organic industry or from</p> <p>15 the biotech industry, and that's what the quote says, and</p> <p>16 that's what the Tweet introduces it with.</p> <p>17 Q When you wrote this Tweet did you consider that</p> <p>18 someone would interpret this to mean that the only reason</p> <p>19 they are sticking with their science is from the help of</p> <p>20 Monsanto or Stonyfield?</p> <p>21 MS. LoCICERO: Object to form.</p> <p>22 THE WITNESS: I think that what is important in</p> <p>23 looking at this Tweet is the context for this quote. The</p> <p>24 introduction is elaborating on the pull quote, and the pull</p> <p>25 quote discusses how funding from the organic industry or</p>	<p>1 BY MR. JUBB:</p> <p>2 Q Mr. Lipton, I have handed you what has been</p> <p>3 marked as Lipton 11, which is EL14. This again is a Tweet</p> <p>4 from you; correct?</p> <p>5 A Yes.</p> <p>6 Q On September 6th, 7:55; right?</p> <p>7 A Yes.</p> <p>8 Q And your Tweet with a link to your article,</p> <p>9 Monsanto business as usual; what did you mean by that?</p> <p>10 A What I meant was that Monsanto distributes money</p> <p>11 to academics and in some cases unrestricted grants to</p> <p>12 academics that are advocating, that are doing research that</p> <p>13 is consistent with supporting the use of G.M.O.s.</p> <p>14 Q And at this point you understood that an</p> <p>15 unrestricted grant isn't actually a grant, it was lingo</p> <p>16 that was used on the e-mails that was unclarified?</p> <p>17 MS. LoCICERO: Object to form.</p> <p>18 THE WITNESS: Again, I was trying to be careful</p> <p>19 and again here you will notice that I use the words</p> <p>20 unrestricted grants in quotes because that's the language</p> <p>21 that Charla Lord, a Monsanto employee had used in e-mails</p> <p>22 to me, and Monsanto had used in its letter to Dr. Folta,</p> <p>23 and that there has also been used for a strap to Dr.</p> <p>24 Chassy, and so I was sticking in that language, and that's</p> <p>25 as much as I was doing was sticking to that language there.</p>
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<p>1 the biotech industry helps elevate voices. And the reason</p> <p>2 that the organic industry and the biotech industry funds</p> <p>3 academics is that they are third-party advocates that can</p> <p>4 communicate in a way that is helpful to the industries.</p> <p>5 So the academics are sticking to their science</p> <p>6 with the help of Monsanto or Stonyfield, i.e., the biotech</p> <p>7 or organic industry, and so that's the context and I think</p> <p>8 it's quite clear here.</p> <p>9 Q That context says just with the help?</p> <p>10 A Right.</p> <p>11 Q And it's speaking to our science facetiously,</p> <p>12 meaning we are sticking with our science just with the help</p> <p>13 from Monsanto?</p> <p>14 MS. LoCICERO: Object to form.</p> <p>15 THE WITNESS: I mean again, I think the reading</p> <p>16 -- I'm looking at the quote and I'm looking at the language</p> <p>17 above it. All that I would attempt to do is to read the</p> <p>18 quote and then to think about the context and therefore</p> <p>19 it's clear to me.</p> <p>20 BY MR. JUBB:</p> <p>21 Q When you Tweet out your articles do you think</p> <p>22 about the words that you use?</p> <p>23 A I do try to be careful with the words I use,</p> <p>24 yes, it's important.</p> <p>25 (Lipton Exhibit 11 identified.)</p>	<p>1 Q Is this referring to Dr. Folta?</p> <p>2 A This is referring broadly to Monsanto in terms</p> <p>3 of academics that it supports through unrestricted grants.</p> <p>4 Q Does that mean that you were referring to Dr.</p> <p>5 Folta?</p> <p>6 A He was among those, yes.</p> <p>7 Q You were promoting Monsanto's cause; correct?</p> <p>8 A Promoting, yes, that's what it says.</p> <p>9 Q What was Monsanto's cause?</p> <p>10 A Monsanto's cause was that genetically modified</p> <p>11 seeds are good for society and that they are safe and that</p> <p>12 they have an important role in agriculture.</p> <p>13 Q I thought their cause was important payoffs.</p> <p>14 Those efforts have helped produce important payoffs; wasn't</p> <p>15 that their cause?</p> <p>16 MS. LoCICERO: Object to form.</p> <p>17 THE WITNESS: You know, sir, their cause,</p> <p>18 broadly speaking Monsanto is trying to help bring about a</p> <p>19 change in public perceptions about G.M.O.s in society. And</p> <p>20 their objective is to encourage people to be comfortable</p> <p>21 with eating foods that have used genetically modified</p> <p>22 seeds, and that's their cause.</p> <p>23 Q Could a reasonable reader interpret your Tweet</p> <p>24 to mean that Monsanto's business as usual was actually</p> <p>25 referring to the cause of profits, and that professors are</p>

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1 helping them with profits?  
 2 MS. LoCICERO: Objection to form.  
 3 BY MR. JUBB:  
 4 Q Could anyone interpret it that way?  
 5 A Again, I think it is best to look at the quote  
 6 that is here. I mean their cause is to promote the use of  
 7 genetically modified foods to help agriculture and that's  
 8 their cause. I mean any company is seeking to be  
 9 profitable, but I think that the reasonable person would  
 10 interpret this as to promoting their cause, i.e., their  
 11 technologies, and I think that is a reasonable reading of  
 12 this, that was the intent.  
 13 BY MR. JUBB:  
 14 Q You thought about that Tweet, those words before  
 15 Tweeting?  
 16 A I do attempt to be careful about my Tweets. It  
 17 is important that the Tweets, we're held to the same  
 18 standard with our Tweets as we are to our articles, even  
 19 though it is essentially a private account, but it is our  
 20 job to make sure our Tweets are reflective of the facts.  
 21 Q This was not a private account, was it?  
 22 A Well, it's a private account, I mean I set up  
 23 this account.  
 24 Q If it is publically accessible anyway?  
 25 A I mean private in the sense that, yeah.

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1 (Lipton Exhibit 12 identified.)  
 2 BY MR. JUBB:  
 3 Q In other words, sir, someone can actually look  
 4 at your Twitter profile without being one of your  
 5 followers; correct?  
 6 A Yes.  
 7 Q So if somebody wanted to see what you were  
 8 talking about in terms of the article that you published or  
 9 wanted to look you up after reading the article, they could  
 10 look and see these Tweets; right?  
 11 A Yes.  
 12 Q I have handed you what has been marked Exhibit  
 13 12, which is EL 6, again this is another Tweet from you on  
 14 September 6, Monsanto Searches for quote "Third Party"  
 15 close quote, Academic Players to Push Lobbying Agenda  
 16 and Finds Them.  
 17 A That's correct.  
 18 Q Okay. Can we agree that with this tweet you are  
 19 actually saying Monsanto is finding the academic players,  
 20 that's referring to Dr. Folta; correct?  
 21 A No, this is referring to academics in general,  
 22 and one of them is Dr. Folta.  
 23 Q To push the lobbying agenda, do you see that?  
 24 A To push the company's lobbying agenda, yes.  
 25 Q And find them; correct?

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1 A Yes.  
 2 Q And am I correct that you wanted the reader to  
 3 understand that Monsanto was searching for a professor to  
 4 push its lobbying agenda and found them, and one of them  
 5 was Dr. Folta; correct?  
 6 A Essentially, yes, that's fine.  
 7 Q Why is Third Party in quotes?  
 8 A Because, I'm sorry, if you look below it you  
 9 will see This is a great 3rd party, do you see that 3rd  
 10 party --  
 11 Q I do.  
 12 A -- in the full quotes because that reflects that  
 13 full quote.  
 14 Q That didn't in any way mean to imply that they  
 15 were not somehow not a third party; correct?  
 16 MS. LoCICERO: Object to form.  
 17 THE WITNESS: I mean, I get it that quote, third  
 18 party is right there in the quote, so that's what I was  
 19 doing was quoting that language.  
 20 BY MR. JUBB:  
 21 Q My question is a little bit different. Would  
 22 you agree with me that Dr. Folta was a third party?  
 23 A Yes, he was a third party, yes.  
 24 Q And he was pushing the lobbying agenda; correct?  
 25 A No, I mean, Monsanto was seeking to push its

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1 lobbying agenda, and it was seeking to do that through  
 2 third parties. So again this gets back to sort of an  
 3 earlier question where I was asserting that you can be  
 4 doing, two things can be happening simultaneously even  
 5 though there's different intentions.  
 6 Monsanto was seeking to influence public  
 7 opinion. Part of its lobbying tools, broadly speaking, was  
 8 to engage with third-party actors who could advocate  
 9 arguments that reflected its agenda.  
 10 So they could, they could successfully do that  
 11 even though the third-party was just speaking to articulate  
 12 things that that person believed and not acting in their  
 13 minds as a lobbyist. Those two things could be true.  
 14 Q In other words, the scientists don't even know  
 15 that they are advocating for Monsanto; is that right?  
 16 MS. LoCICERO: Objection to form.  
 17 THE WITNESS: I mean, the answer to that I think  
 18 goes back to what Dr. Bruce Chassy said, which is that the  
 19 funding helps elevate their voices and allows them to reach  
 20 a broader audience. So Monsanto was searching for  
 21 third-party academic players to push it's agenda, and I  
 22 think from Monsanto's perspective when the quote here says  
 23 this is a great third-party approach developing the  
 24 advocacy that we are looking to develop. I think that  
 25 pretty much captures it, and those are the words of Michael

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1 Lohuis, who is the director of Cross Biometrics at  
 2 Monsanto.  
 3 Q Put aside the fact the quote from Mike Lohuis,  
 4 could we agree that that is a single sentence in a broader  
 5 context of the e-mail?  
 6 A Those are his words, I think we can agree those  
 7 are his words. I think he was referring to Dr. Folta's  
 8 proposal in this place, he is referring to Dr. Folta's  
 9 specific proposal to Monsanto for financial assistance.  
 10 Q And in the article on page 3 of 9 you have that  
 11 quote, this is a great third-party approach to develop the  
 12 advocacy that we are looking to develop.  
 13 A Right.  
 14 Q And that was in the context of an undisclosed  
 15 amount in special grants; correct?  
 16 MS. LoCICERO: Object to form.  
 17 BY MR. JUBB:  
 18 Q That paragraph immediately preceding it.  
 19 A Where do you see the -- okay, that was with  
 20 respect to Dr. Folta's proposal that he submitted to  
 21 Monsanto for financial assistance for his biotechnology  
 22 talks for an unrestricted grant that Monsanto apparently  
 23 gave to him.  
 24 Q Did you say a few minutes ago that Monsanto was  
 25 able to find an academic that was actually advocating for

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1 their agenda?  
 2 MS. LoCICERO: Object to form.  
 3 BY MR. JUBB:  
 4 Q We can go back and look at your testimony. I  
 5 thought you said that, I wrote it down.  
 6 A Yeah, I guess my point is that two things can be  
 7 happening. They can see it as an advocate was the person  
 8 can see it, they are simply speaking about their research.  
 9 Those two things can be true and simultaneous.  
 10 Q Does that mean that readers can understand that  
 11 to mean two different things as well?  
 12 MS. LoCICERO: Object to form.  
 13 THE WITNESS: I'm just pausing because I want to  
 14 find the language that -- the goal of the biotech and  
 15 organic companies was to find third-party advocates who  
 16 could have the gloss of impartiality to articulate  
 17 arguments that the biotech and organic industry wanted  
 18 articulated, that was their goal.  
 19 Frequently they funded those people and then  
 20 subsequently often those people spoke in ways that was  
 21 beneficial to their agenda.  
 22 BY MR. JUBB:  
 23 Q Did you mean to relay to the readers of your  
 24 article that Dr. Folta was advocating for Monsanto?  
 25 A He was advocating for technologies, and then

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1 separately at times Dr. Folta did in fact specifically  
 2 mention Monsanto products. He joked about how he would  
 3 drink Roundup, and it was so safe he would actually drink  
 4 it. So there were times in which he discussed specific  
 5 Monsanto products, but for the most part he was advocating  
 6 technology that was consistent with Monsanto's agenda.  
 7 Q Where did you get that from?  
 8 A I saw that in a posting.  
 9 Q You saw that outside of the FOIA documents; is  
 10 that right?  
 11 A Yes.  
 12 Q You did your own research on Dr. Folta?  
 13 A Yes, I would have done searches on him, yeah.  
 14 Q Would that be something that you maintained as  
 15 part of your production file for this?  
 16 A Not necessarily, no.  
 17 Q Did you have research that didn't make it into  
 18 the file?  
 19 A I would read things on the Internet when I did  
 20 research, yes.  
 21 Q When you say you researched it, you actually saw  
 22 a blog; is it?  
 23 A Yes, I remember seeing something to that effect,  
 24 yes, where he was talking about drinking Roundup, that  
 25 mentioned specific product.

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1 Q What other independent investigations did you do  
 2 outside of reviewing those e-mails?  
 3 A I mean the e-mails are really critical primary  
 4 documents to me, and I find e-mails in knowledge stories  
 5 that I do to be really essential because they are the  
 6 person's own words, and so I also did do Internet searches  
 7 to look for disclosures in terms of funding, and also the  
 8 universities in terms of disclosures of funding for  
 9 different parties. And I read blog posts that people  
 10 wrote, that was part of what I did.  
 11 Q Did you ask Dr. Folta whether or not he was an  
 12 advocate for Monsanto's products?  
 13 A Yes, he did say that he was advocating  
 14 technology and not Monsanto products.  
 15 Q Okay. And in your article can we agree that you  
 16 said that he was promoting products?  
 17 MS. LoCICERO: Object to form.  
 18 THE WITNESS: I'm sorry, where does it say that  
 19 he was promoting products?  
 20 Q Let me ask you this, I just don't see it right  
 21 here. Do you believe that you have stated that Dr. Folta  
 22 was traveling the country on behalf of Monsanto to promote  
 23 their products?  
 24 MS. LoCICERO: Object to form.  
 25 THE WITNESS: No, I don't. I think that what he

Page 154	<p>1 was saying was he was promoting industry technology, and</p> <p>2 the industry products, not Monsanto's products but industry</p> <p>3 technologies end product. In his own grant proposal he</p> <p>4 discusses, you know, I'm sorry, one second -- Exhibit 4 on</p> <p>5 page 003997 it says the pipeline, what's next? What are</p> <p>6 some or the products in industry pipelines and what</p> <p>7 problems could they solve? He says I'm also --</p> <p>8 Q Did you want to keep reading?</p> <p>9 A Yes, there is --</p> <p>10 Q Do you want to keep reading after that?</p> <p>11 A Yeah, there's -- what are some of the products</p> <p>12 generated in academic labs that could solve major</p> <p>13 world issues yet are not candidates for deregulation or</p> <p>14 commercialization?</p> <p>15 Q Is he referring to products or is he referring</p> <p>16 to technologies that scientists are coming up with?</p> <p>17 MS. LoCICERO: Object to form.</p> <p>18 THE WITNESS: He says products.</p> <p>19 BY MR. JUBB:</p> <p>20 Q When you read it in context what do you as a</p> <p>21 journalist of 30 years interpret that to mean?</p> <p>22 A Products.</p> <p>23 Q Like a salesman; right?</p> <p>24 A I read it as the product, the word is products.</p> <p>25 Q Okay.</p>	Page 156	<p>1 industries products. So I think that language is justified</p> <p>2 by the proposal.</p> <p>3 Q Do you think the average reader understands</p> <p>4 products to mean technologies formulated in the lab?</p> <p>5 MS. LoCICERO: Object to form.</p> <p>6 THE WITNESS: Again I was using the words from</p> <p>7 the document itself.</p> <p>8 BY MR. JUBB:</p> <p>9 Q I understand what you mean. Do you think people</p> <p>10 could misinterpret that?</p> <p>11 MS. LoCICERO: Object to form.</p> <p>12 THE WITNESS: My job is to make sure my story is</p> <p>13 accurate and fair, and that it communicates the information</p> <p>14 in an accurate and fair way and complete, and my goal is to</p> <p>15 make sure people are properly informed. So I think that my</p> <p>16 summary of this document is a very fair and accurate</p> <p>17 summary.</p> <p>18 (Lipton Exhibit 13 identified.)</p> <p>19 BY MR. JUBB:</p> <p>20 Q Mr. Lipton, this is another tweet from you, date</p> <p>21 of the tweet is October 2nd; do you see that?</p> <p>22 A Yes.</p> <p>23 Q You say, take a look at my Monsanto and</p> <p>24 university professors folo on my piece regarding GMO</p> <p>25 wars-finding more games. Did you say that?</p>
Page 155	<p>1 A Separately he talks on page 003994 of Exhibit 4,</p> <p>2 he says the pipeline, what's next? What are some of the</p> <p>3 products in the industry pipeline and what problems could</p> <p>4 they solve? You know, what are some of the products</p> <p>5 generated in academic labs? Products generated in academic</p> <p>6 labs, so that means could solve major world issues that are</p> <p>7 not yet candidates for deregulation or commercialization.</p> <p>8 Q What does commercialization mean?</p> <p>9 A It means sale.</p> <p>10 Q When you read this did you read it to mean</p> <p>11 products for something you could buy off the shelf?</p> <p>12 A Products to me reads a technology that is turned</p> <p>13 into a commodity that can be sold. And often there are</p> <p>14 commodities that have been developed but then are awaiting</p> <p>15 regulatory approval, like dicamba and a related, some</p> <p>16 genetically modified tea.</p> <p>17 So that I see in this proposal he was offering</p> <p>18 to work on the pipeline in terms of helping people. What</p> <p>19 are some of the products identified, products in the</p> <p>20 industry pipeline? So this me, that is a fair, that is why</p> <p>21 it was fair to use the language in the story that I used.</p> <p>22 Q Products?</p> <p>23 A Which is that in August 2014 Monsanto decided to</p> <p>24 prove Dr. Folta's grant to allow him to travel more</p> <p>25 extensively to give talks on the genetically modified foods</p>	Page 157	<p>1 A Yes, those are the words that are there, that's</p> <p>2 correct.</p> <p>3 Q What are the dangers you are referring to?</p> <p>4 A I had written a story about how the organic</p> <p>5 industry and biotech industry engage at times in private</p> <p>6 with academics who they see have become third-party white</p> <p>7 hats to enlist them and to engage with them to advocate</p> <p>8 positions that are consistent with their corporate</p> <p>9 strategies.</p> <p>10 And so at times those, the engagement is not</p> <p>11 always public. And, you know, sometimes they approach the</p> <p>12 academics and they ask them to intervene, but then the</p> <p>13 average person doesn't know that the academic is actually</p> <p>14 intervening directly in response to a request from the</p> <p>15 industry player.</p> <p>16 And so that's, that to me is a shorthand, that</p> <p>17 is a game when an academic does something directly at the</p> <p>18 request of an industry player, and at the same time that</p> <p>19 industry player and academic had some kind of a financial</p> <p>20 relationship. I think that would be fair to characterize</p> <p>21 that as a game.</p> <p>22 Q So in this tweet you don't mention anything</p> <p>23 about organics, the more games are referenced to Monsanto</p> <p>24 and university professors, fair?</p> <p>25 A In this case, yes, that's what it says, yes. I</p>

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1 guess that's what -- I don't recall the specifics of this  
 2 article, but perhaps that is more of the article is  
 3 focusing on Monsanto.  
 4 I chose, because actually this was quite  
 5 important to me, I'm not an advocate for the genetically  
 6 modified food industry or for the organic food industry. I  
 7 eat genetically modified foods, I eat organic foods. I  
 8 insisted if I was going to do this story that I had to  
 9 discuss both the organic industry and genetically modified  
 10 industry and perhaps some other Jones article was only  
 11 focused on half. I think that would have been unfair, so I  
 12 wouldn't have written that article.  
 13 Q Let's talk a little bit more about the both  
 14 sides part that you wanted to create. For purposes of the  
 15 article you wanted to juxtaposition between organic and  
 16 I'll call them pro-GMO groups; correct?  
 17 A I want a take down in both those sides, yes.  
 18 Q For organic and I will call them pro-GMO groups;  
 19 right?  
 20 A I wanted to examine both sides, yes.  
 21 Q In doing both sides am I correct that  
 22 Mr. Benbrook was the person that you chose to highlight  
 23 from the organic industry?  
 24 A I didn't chose to highlight him. I did a number  
 25 of requests for e-mail correspondence and his was the most

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1 compelling.  
 2 Q And with his being the most compelling, am I  
 3 correct that his salary was funded entirely by the organic  
 4 industry?  
 5 A His organization that he created at Washington  
 6 State receives a grant and I think that all of the grants  
 7 that it had received at the time of the story were organic  
 8 industry grants, yes.  
 9 Q And he actually published articles with full  
 10 funding from the organic industry that they helped him  
 11 write; correct?  
 12 A I don't know that they helped him write these  
 13 articles, but it is correct that he, I mean he began with  
 14 the more traditional, he got financial assistance, and then  
 15 he did academic research and that academic research was  
 16 funded by the organic industry.  
 17 Q Am I also correct that his grants from the  
 18 organic industry salary actually came close to about a  
 19 million bucks?  
 20 A His salary, I don't -- no, I don't think that's  
 21 right.  
 22 Q Was he paid anything from Washington State?  
 23 A I'm sure there were costs associated with his  
 24 program. I don't know, I wouldn't -- I don't know that his  
 25 salary was -- I have no idea what his salary was. Salary

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1 is something you personally receive, and I don't know what  
 2 his salary was.  
 3 Q Am I correct that the reason that he went to  
 4 Washington State was because that would give the guise of  
 5 impartiality associated with the university?  
 6 MS. LoCICERO: Objection to form.  
 7 BY MR. JUBB:  
 8 Q He actually said that to you; didn't he?  
 9 A He did. He recognized being associated with an  
 10 academic institution was going to give him better stature  
 11 and more of an independent appearance, yes. So that's  
 12 another one of the examples that I was referring to as the  
 13 gloss of impartiality.  
 14 Q Then you compared him to Dr. Folta; correct?  
 15 MS. LoCICERO: Object to form.  
 16 THE WITNESS: Those are two professors that are  
 17 in the story, and both of them did receive different types  
 18 of funding, but both of them did receive funding and both  
 19 of them were advocating on behalf of respective industries,  
 20 or they were advocating positions -- I would strike that.  
 21 They were both advocating positions that reflected agendas  
 22 of those respective industries, they were not actually  
 23 advocating on their behalf.  
 24 Q Didn't you put in your article that Monsanto  
 25 turned to Dr. Folta for the same reasons that the organic

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1 industry turned to Dr. Benbrook?  
 2 A I think that is correct that both of them are  
 3 academics who have again this third-party white hat, and  
 4 again that's why academics are attractive to both the  
 5 organics industry and the biotech industry, yes, I think  
 6 that is correct.  
 7 Q In that comparison between Dr. Folta and Dr.  
 8 Benbrook where Dr. Folta uses \$25,000 that was donated to  
 9 the University of Florida for reimbursement, the 25,000 to  
 10 his fully funded research from the organic industry where  
 11 he is just volunteering his time at Washington State to get  
 12 that gloss of impartiality; is that fair?  
 13 MS. LoCICERO: Object to form.  
 14 THE WITNESS: Yeah, my story is not attempting  
 15 to be fair. I'm sorry, I did not mean to put words in my  
 16 mouth.  
 17 BY MR. JUBB:  
 18 Q Be fair?  
 19 MS. LoCICERO: Come on, Mike.  
 20 THE WITNESS: You don't need to put words in my  
 21 mouth, but my story is not attempting to really compare  
 22 them. It is just discussing two people as examples of  
 23 people who were engaged with different industry sectors who  
 24 were thought to have, you know, arguments articulated  
 25 through third-party, through third-parties who have a gloss

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1 of impartiality.  
 2 BY MR. JUBB:  
 3 Q And Dr. Folta, he had some of the gloss of  
 4 impartiality; correct?  
 5 A Dr. Folta is among the people that that  
 6 terminology describes. And that is not in attempting to  
 7 impinge the research because I have no evidence that Dr.  
 8 Folta's research has been compromised in any way, or any of  
 9 the other academics. But the reason that these academics  
 10 were appealing to the organics industry and the biotech  
 11 industry is because they had an appearance of impartiality  
 12 that came from them being experts in their field, and also  
 13 being associated with academic institutions, and that's why  
 14 they had a particular value.  
 15 Q My question was just a little bit different. Do  
 16 you think that a comparison -- let me back up. Could a  
 17 reader look at your article and see a comparison the way  
 18 you have presented it that you are trying to compare Dr.  
 19 Folta to Dr. Benbrook?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: I can only speak to what I wrote.  
 22 There are multiple examples in the story and I offer  
 23 multiple examples. I'm not comparing, you know, one person  
 24 to another person, I'm just offering different examples.  
 25 BY MR. JUBB:

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1 Q I have asked you many different times about what  
 2 your readers might interpret your work to mean, and I don't  
 3 think that you have provided me an answer to that one way  
 4 or another, but you have told me what the stories are  
 5 about. Am I correct, based off of how you responded to my  
 6 questions, that when you write this you are not considering  
 7 what people would interpret your works to mean?  
 8 MS. LoCICERO: Objection to form.  
 9 THE WITNESS: No, I think it is important that  
 10 my stories be accurate and fair and complete, and that I  
 11 choose my words carefully to try to avoid inaccuracies and  
 12 unfairness. And so I, you know, that's my goal.  
 13 BY MR. JUBB:  
 14 Q Okay. Do you consider how your words could be  
 15 interpreted by your potential readers?  
 16 A I mean I do attempt to avoid creating inaccurate  
 17 impressions.  
 18 Q And do you believe that in preparation of  
 19 publishing this article that you considered what a  
 20 potential reader would interpret to be a comparison of Dr.  
 21 Folta to Dr. Benbrook's?  
 22 MS. LoCICERO: Object to form.  
 23 BY MR. JUBB:  
 24 Q Would you consider that reader making a  
 25 comparison?

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1 A There was no intention to create any comparison.  
 2 I mean the goal of the story was to state a series of  
 3 anecdotes. There was no judgement of individual people  
 4 worse or better, it's it simply was a collection of  
 5 examples that demonstrated the trend that was worthy of  
 6 public examination. And there is no ranking of these  
 7 examples, they are simply a series examples.  
 8 Q In terms of your bio in this case am I correct  
 9 -- strike that.  
 10 Do you keep handwritten notes?  
 11 A I tend to not keep very many, I keep almost no  
 12 handwritten notes, except if I am in the field I can't be  
 13 typing while I'm walking.  
 14 Q I didn't see any handwritten notes produced in  
 15 this case; were there any as part of your file?  
 16 A I don't think there were, I try not to.  
 17 Q Do you have hard copy files? So for example you  
 18 have your electronic files in the system that you type up.  
 19 Do you also contemporaneously with creating those files  
 20 have an original copy that you maintain?  
 21 A No.  
 22 Q Is there a document retention system that the  
 23 Times uses for purposes of these articles?  
 24 A I mean I have my stuff on a computer and  
 25 everything that I do is, almost everything I do is also on

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1 Google Cloud for purposes of backing up my material and  
 2 also being able to access it depending if I'm at home or at  
 3 work. So it's all, you know, but I don't keep printed  
 4 copies of things or other copies that I'm aware of. I mean  
 5 before I moved to Google Cloud I did do more backing up of  
 6 my stuff so that I wouldn't lose things, but now I rely on  
 7 Google Cloud for that.  
 8 Q I recall your testimony being that there can be  
 9 two things happening simultaneously?  
 10 A Uh-huh.  
 11 Q What are those two things?  
 12 MS. LoCICERO: Object to form. I'm not sure  
 13 what --  
 14 BY MR. JUBB:  
 15 Q You understood my question; right?  
 16 A Yes. I think that a company can be attempting  
 17 to influence public opinion and engaging with third-party  
 18 advocates, and that I think happens a great deal in  
 19 Washington. And at the same time those third-party  
 20 advocates are simply speaking the truth that they consider  
 21 the truth. For example there are disease groups that are  
 22 seeking to find, you know, to do research to help cure  
 23 relatives or themselves. And often pharmaceutical  
 24 companies make donations to those groups, and those are  
 25 relationships that we write about, and we often examine the

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1 relationship between the pharmaceutical company and the  
 2 nonprofit disease groups.  
 3 So I think that those two things can be true.  
 4 The person who is a volunteer at that organization that  
 5 promotes a particular health problem can be speaking  
 6 truthfully and passionately at the same time as the  
 7 pharmaceutical company that is funding their travel is  
 8 turning to that person as a third-party advocate. I think  
 9 those two things can be true, and I think that happens  
 10 quite often in Washington.  
 11 Q Did you consider that concept of two realities,  
 12 simultaneous realities that you just described, before  
 13 writing your article?  
 14 A That's what the story is about, actually. That  
 15 is part of what the story is about is that phenomenon.  
 16 Q Can you show me where in your article you  
 17 discuss the reality that these scientists are doing their  
 18 job testifying truthfully and that they are not doing  
 19 anything wrong?  
 20 MS. LoCICERO: Object to form.  
 21 THE WITNESS: The story says that there is no  
 22 evidence that the academic work was compromised. The story  
 23 also that quotes Dr. Folta saying nobody tells me what to  
 24 say, nobody tells me what to do. It was supplemented after  
 25 the First Edition of the print version, and online that

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1 every point I make is based on evidence. And so I mean, I  
 2 think that that point is actually made. I'm trying to find  
 3 other examples.  
 4 You know, I think that Gary Hirschberg from  
 5 Stonyfield Farms started talking about that, that I'm a  
 6 business guy and not a scientist, so of course it helps to  
 7 have academic scientists explain it. So I think that that  
 8 is sort of, I think this is a story about how the  
 9 food industry enlists academics in the GMO lobbying war,  
 10 that's what the online headline says. So I think that,  
 11 yeah, that's what the story is about.  
 12 Q Would you say that this story reflects the two  
 13 realities?  
 14 MS. LoCICERO: Object to form.  
 15 THE WITNESS: Yeah, I think that the story says  
 16 that Dr. Folta says that his work has not been influenced  
 17 by the financial support, yes.  
 18 BY MR. JUBB:  
 19 Q And when he reached out to you telling you about  
 20 the threats he received and his family, and the hate that  
 21 he was received since your article, do you think those  
 22 readers interpret that second reality to exist too?  
 23 MS. LoCICERO: Object to form.  
 24 THE WITNESS: I mean unfortunately for Dr. Folta  
 25 this is quite unfortunate. Dr. Payne, before my article

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1 was published, was talking about how Dr. Folta was the  
 2 target and his family of threats and derogatory things. So  
 3 I mean I think that these were, you know, a criticism that  
 4 Dr. Folta was facing prior to the publication of my article  
 5 and that is quite unfortunate.  
 6 BY MR. JUBB:  
 7 Q Is it your testimony that the criticism he was  
 8 receiving from Twitter from like Nature magazine or  
 9 whatever, was the same as potential backlash from the New  
 10 York Times article?  
 11 MS. LoCICERO: Object to form.  
 12 THE WITNESS: All I'm saying is that Dr. Payne  
 13 discussed that the negative commentary that was coming to  
 14 Dr. Folta before my story was published. So there was no,  
 15 I mean that was occurring prior to anything I wrote, and  
 16 that is unfortunate.  
 17 BY MR. JUBB:  
 18 Q Do you know whether or not Mr. Ruskin has  
 19 re-tweeted your article calling these scientists that you  
 20 talk about paid tools for the industry and paid skills?  
 21 Would that mean that they didn't understand the reality  
 22 that you were talking about?  
 23 MS. LoCICERO: Object to form.  
 24 THE WITNESS: Yeah, I mean there are all kinds  
 25 of things on social media that I don't write that I have no

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1 control over or endorse. There is quite a number of things  
 2 in social media that are out of my control, and I'm not  
 3 going to attempt to defend or -- you know.  
 4 BY MR. JUBB:  
 5 Q Okay. Based on what you know from the records  
 6 you have seen, is Dr. Folta a good scientist?  
 7 A I mean I don't -- all I say in the story is that  
 8 there is no evidence that the academic work was  
 9 compromised, and that refers to Dr. Folta as well all the  
 10 academics in the stories. So I actually, I personally  
 11 can't pass judgment on Dr. Folta and his science. I don't  
 12 know his science thoroughly.  
 13 All I can say is that there is no evidence that  
 14 his academic work has been compromised as along with the  
 15 other academics in the story, that's all I can say.  
 16 Q I understand your answer to be that if someone  
 17 were to accuse him of being a paid shill, that wouldn't be  
 18 fair?  
 19 MS. LoCICERO: Object to form.  
 20 THE WITNESS: I -- I know -- all I know is that  
 21 there is no evidence that Dr. Folta or the rest of the  
 22 academics in this story, there is no evidence that their  
 23 academic work was compromised. I know that, that I have  
 24 seen no evidence of that. And this shill word is a word  
 25 that he used that I then asked him about how it feels, and

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1 I have never asserted that Dr. Shaw is a shill or a tool,  
 2 that's something I had never asserted and I have never  
 3 asserted that. I asked him what it was like to be  
 4 perceived that way, and he told me that it's something that  
 5 he did not like.  
 6 MR. JUBB: Done.  
 7 MS. LoCICERO: Okay, give us a few minutes and I  
 8 can tell if you if there is any redirect.  
 9 (Brief recess.)  
 10 THE VIDEOGRAPHER: Off the record at 2:37.  
 11 (Whereupon, at 2:37 p.m., the deposition was concluded.)  
 12  
 13  
 14  
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 17  
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1 CERTIFICATE OF NOTARY PUBLIC & REPORTER  
 2  
 3 I, DONALD THACKER, the officer before whom the foregoing  
 4 deposition was taken, do hereby certify that the witness  
 5 whose testimony appears in the foregoing deposition was  
 6 duly sworn; that the testimony of said witness was taken in  
 7 shorthand and thereafter reduced to typewriting by me or  
 8 under my direction; that said deposition is a true record  
 9 of the testimony given by said witness; that I am neither  
 10 counsel for, related to, nor employed by any of the parties  
 11 to the action in which this deposition was taken; and,  
 12 further, that I am not a relative or employee of any  
 13 attorney or counsel employed by the parties hereto, nor  
 14 financially or otherwise interested in the outcome of this  
 15 action.  
 16  
 17  
 18 -----  
 19 Notary Public in and for the  
 20 District of Columbia  
 21 My Commission Expires: January 14, 2019  
 22  
 23  
 24  
 25

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1 C O N T E N T S  
 2 WITNESS EXAMINATION  
 3 ERIC LIPTON  
 4 By Mr. Jubb 5  
 5  
 6  
 7 E X H I B I T S  
 8  
 9 EXHIBIT NUMBER IDENTIFIED  
 10 Lipton Exhibit 1 - The Article 16  
 11 Lipton Exhibit 2 - e-mails 22  
 12 Lipton Exhibit 3 - NYT 9/6/15 Front Page 36  
 13 Lipton Exhibit 4 - Dr. Folta Article Bio-Talk 49  
 14 Lipton Exhibit 5 - G. Ruskin 9/4/15 e-mail 76  
 15 Lipton Exhibit 6 - Charla Lord 9/2/15 e-mail 94  
 16 Lipton Exhibit 7 - Charla Lord 8/27/15 e-mail 98  
 17 Lipton Exhibit 8 - Lipton Updated photo assmt. 114  
 18 Lipton Exhibit 9 - Mike Tackett 9/2/15 e-mail 130  
 19 Lipton Exhibit 10 - Lipton 9/6/15 e-mail 141  
 20 Lipton Exhibit 11 - Lipton 9/6/15 e-mail 143  
 21 Lipton Exhibit 12 - Lipton 9/6/15 e-mail 147  
 22 Lipton Exhibit 13 - Lipton 10/2/15 e-mail 156  
 23  
 24  
 25

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1 Folta, Kevin PH.D v. The New York Times Company  
 2 Eric Lipton  
 3 INSTRUCTIONS TO THE WITNESS  
 4 Please read your deposition over  
 5 carefully and make any necessary corrections.  
 6 You should state the reason in the  
 7 appropriate space on the errata sheet for any  
 8 corrections that are made.  
 9 After doing so, please sign the errata  
 10 sheet and date it.  
 11 You are signing same subject to the  
 12 changes you have noted on the errata sheet,  
 13 which will be attached to your deposition.  
 14 It is imperative that you return the  
 15 original errata sheet to the deposing  
 16 attorney within thirty (30) days of receipt  
 17 of the deposition transcript by you. If you  
 18 fail to do so, the deposition transcript may  
 19 be deemed to be accurate and may be used in  
 20 court.  
 21  
 22  
 23  
 24 3016925  
 25

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1 Folta, Kevin PH.D v. The New York Times Company  
 2 Eric Lipton  
 3 E R R A T A  
 4 -----  
 5 PAGE LINE CHANGE  
 6 -----  
 7 Reason: \_\_\_\_\_  
 8 -----  
 9 Reason: \_\_\_\_\_  
 10 -----  
 11 Reason: \_\_\_\_\_  
 12 -----  
 13 Reason: \_\_\_\_\_  
 14 -----  
 15 Reason: \_\_\_\_\_  
 16 -----  
 17 Reason: \_\_\_\_\_  
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 19 Reason: \_\_\_\_\_  
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 21 Reason: \_\_\_\_\_  
 22 -----  
 23 Reason: \_\_\_\_\_  
 24 3016925  
 25

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1 Folta, Kevin PH.D v. The New York Times Company  
 2 Eric Lipton  
 3 ACKNOWLEDGMENT OF DEPONENT  
 4 I, \_\_\_\_\_, do  
 5 hereby certify that I have read the foregoing  
 6 pages and that the same is a correct  
 7 transcription of the answers given by  
 8 me to the questions therein propounded,  
 9 except for the corrections or changes in form  
 10 or substance, if any, noted in the attached  
 11 Errata Sheet.  
 12  
 13 \_\_\_\_\_  
 14 DATE SIGNATURE  
 15  
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 24 3016925  
 25

[&amp; - 9]

Page 1

<b>&amp;</b>	<b>12th</b> 4:17	<b>2019</b> 172:21	<b>40</b> 10:4
<b>&amp;</b> 2:19 5:7,24 172:1	<b>13</b> 156:18 171:22	<b>21</b> 141:7	<b>49</b> 171:13
<b>0</b>	<b>130</b> 171:18	<b>215-592-1000</b> 2:12	<b>5</b>
<b>003994</b> 155:1	<b>14</b> 172:21	<b>215-592-8360</b> 2:12	<b>5</b> 36:23 50:2 76:25 77:3 79:5,10 171:4,14
<b>003997</b> 154:5	<b>141</b> 171:19	<b>22</b> 171:11	<b>50</b> 80:10 81:17
<b>1</b>	<b>143</b> 171:20	<b>246</b> 1:7 4:15	<b>5th</b> 130:18 131:24 133:5
<b>1</b> 16:5,8 50:1 54:7 60:24 88:4 101:14 130:8 137:6 138:19 171:10	<b>147</b> 171:21	<b>25</b> 1:17 2:3 115:3	<b>6</b>
<b>10</b> 10:1,1 141:3,6 171:19	<b>156</b> 171:22	<b>25,000</b> 48:4 49:8 49:20 50:15 102:5 102:24 104:20 105:14,25 106:2,6 107:3 113:14 124:18 125:24 126:11 128:6 161:8,9	<b>6</b> 50:2 94:13,15,18 95:17 147:13,14 171:15
<b>10/2/15</b> 171:22	<b>16</b> 171:10	<b>25th</b> 4:3	<b>601</b> 2:20
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Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

the deposition wholly or partly, on motion under rule 1.330(d)(4).

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Exhibit 1  
to Deposition of Eric Lipton

5/30/2017

**The New York Times** | <https://nyti.ms/1KRWOiu>

U.S.

# Food Industry Enlisted Academics in G.M.O. Lobbying War, Emails Show

By ERIC LIPTON SEPT. 5, 2015

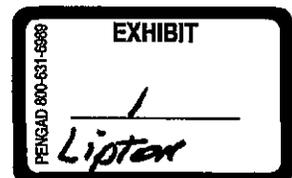
WASHINGTON — At Monsanto, sales of genetically modified seeds were steadily rising. But executives at the company’s St. Louis headquarters were privately worried about attacks on the safety of their products.

So Monsanto, the world’s largest seed company, and its industry partners retooled their lobbying and public relations strategy to spotlight a rarefied group of advocates: academics, brought in for the gloss of impartiality and weight of authority that come with a professor’s pedigree.

“Professors/researchers/scientists have a big white hat in this debate and support in their states, from politicians to producers,” Bill Mashek, a vice president at Ketchum, a public relations firm hired by the biotechnology industry, said in an email to a University of Florida professor. “Keep it up!”

And the industry has.

Corporations have poured money into universities to fund research for decades, but now, the debate over bioengineered foods has escalated into a billion-dollar food industry war. Companies like Monsanto are squaring off against major organic firms



like Stonyfield Farm, the yogurt company, and both sides have aggressively recruited academic researchers, emails obtained through open records laws show.

The emails provide a rare view into the strategy and tactics of a lobbying campaign that has transformed ivory tower elites into powerful players. The use by both sides of third-party scientists, and their supposedly unbiased research, helps explain why the American public is often confused as it processes the conflicting information.

The push has intensified as the Senate prepares to take up industry-backed legislation this fall, already passed by the House, that would ban states from adopting laws that require the disclosure of food produced with genetically modified ingredients.

The efforts have helped produce important payoffs, including the approval by federal regulators of new genetically modified seeds after academic experts intervened with the United States Department of Agriculture on the industry's behalf, the emails show.

Charla Lord, a Monsanto spokeswoman, said the company's longstanding partnership with academics helped demystify the science. "It is in the public interest for academics to weigh in credibly, not only to consumers but to stakeholders like lawmakers and regulators as well," she said.

But even some of the academics who have accepted special "unrestricted grants" or taken industry-funded trips to help push corporate agendas on Capitol Hill say they regret being caught up in this nasty food fight.

"If you spend enough time with skunks, you start to smell like one," said Charles M. Benbrook, who until recently held a post at Washington State University. The organic foods industry funded his research there and paid for his trips to Washington, where he helped lobby for labels on foods with genetically modified ingredients.

On the other side, the biotech industry has published dozens of articles, under the names of prominent academics, that in some cases were drafted by industry consultants.

Monsanto and its industry partners have also passed out an undisclosed amount in special grants to scientists like Kevin Folta, the chairman of the horticultural sciences department at the University of Florida, to help with “biotechnology outreach” and to travel around the country to defend genetically modified foods.

“This is a great 3rd-party approach to developing the advocacy that we’re looking to develop,” Michael Lohuis, the director of crop biometrics at Monsanto, wrote last year in an email as the company considered giving Dr. Folta an unrestricted grant.

Dr. Folta said that he had joined the campaign to publicly defend genetically modified technologies because he believes they are safe, and that it is his job to share his expertise. “Nobody tells me what to say, and nobody tells me what to think,” he said, adding, “Every point I make is based on evidence.”

But he also conceded in an interview that he could unfairly be seen as a tool of industry, and his university now intends to donate the Monsanto grant money to a food pantry. “I can understand that perception 100 percent,” he said, “and it bothers me a lot.”

### **Players in a Safety Debate**

The moves by Monsanto, in an alliance with the Biotechnology Industry Organization and the Grocery Manufacturers Association, are detailed in thousands of pages of emails that were at first requested by the nonprofit group U.S. Right to Know, which receives funding from the organic foods industry.

The New York Times separately requested some of these documents, then made additional requests in several states for email records of academics with ties to the organics industry.

There is no evidence that academic work was compromised, but the emails show how academics have shifted from researchers to actors in lobbying and corporate public relations campaigns.

The fight between the competing academics is not focused on questions about the safety of genetically engineered seeds themselves. The sides are fighting mainly

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over the safety of herbicides used in so-called genetically modified organism, or G.M.O., crops. The organic food proponents argue that herbicide use has surged, and that some of these herbicides may be unsafe. The biotech companies say that data relating to herbicide use on genetically engineered crops is being misinterpreted — and that these new crops, more resistant to pests and disease, are helping to feed the world.

So far, the anti-G.M.O. community has been winning the public relations war. Major brands like Chipotle and original Cheerios have moved to reduce or eliminate their use of genetically engineered ingredients, based in part on a marketing judgment that this is what the American public wants. That poses a threat to companies like Monsanto, which had \$15.9 billion in global sales last year.

“Misinformation campaign in ag biotech area is more than overwhelming,” Yong Gao, then Monsanto’s global regulatory policy director, explained in an April 2013 email to Dr. Folta as the company started to work closely with him. “It is really hurting the progress in translating science and knowledge into ag productivity.”

Dr. Folta is among the most aggressive and prolific biotech proponents, although until his emails were released last month, he had not publicly acknowledged the extent of his ties to Monsanto.

He has a doctorate in molecular biology and has been doing research on the genomics of small fruit crops for more than a decade. Monsanto executives approached Dr. Folta in the spring of 2013 after they read a blog post he had written defending industry technology.

“We really appreciate independent scientists working to educate the public,” Keith Reding, a microbiologist who helps Monsanto manage its relations with regulatory agencies, wrote in an April 2013 email to Dr. Folta.

A few weeks later, the Council for Biotechnology Information — controlled by BASF, Bayer, Dow Chemical, DuPont and Monsanto — asked Dr. Folta and other prominent academics if they would participate in a new website, GMO Answers, which was established to combat perceived misinformation about their products.

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The plan was to provide the academics with questions from the public, such as, “Do GMOs cause cancer?”

“This is a new way to build trust, dialogue and support for biotech in agriculture that will help explain in an independent voice what GMOs are,” an executive at Ketchum wrote to Dr. Folta.

But Ketchum did more than provide questions. On several occasions, it also gave Dr. Folta draft answers, which he then used nearly verbatim, a step that he now says was a mistake.

“It was absolutely not the right thing,” he said, adding that he now insists that he write his own responses.

Kate Hall, a spokeswoman for the biotechnology council, said that the scholars were free to revise the scripted responses, and that the group offered these draft answers in only a few dozen cases, compared with the nearly 1,000 responses on GMO Answers to date.

Dr. Folta, the emails show, soon became part of an inner circle of industry consultants, lobbyists and executives who devised strategy on how to block state efforts to mandate G.M.O. labeling and, most recently, on how to get Congress to pass legislation that would pre-empt any state from taking such a step.

While Dr. Folta was not personally compensated, biotech companies paid for his trips to testify in Pennsylvania and Hawaii. “I should state upfront that I have not been compensated for any testimony,” he said at a public hearing in Hawaii, before adding, “The technology is safe and is used because it helps farmers compete.”

Dr. Folta routinely gave updates on his travels — and his face-to-face encounters with opponents of genetically modified crops — to the industry executives who were funding his efforts.

“Your email made my day!” wrote Cathleen Enright, an executive vice president of the Biotechnology Industry Organization, after Dr. Folta gave her a written update on the October 2014 legislative hearing in Pennsylvania. “Please send all receipts to us whenever you get around to it. No rush.”

In August 2014, Monsanto decided to approve Dr. Folta's grant for \$25,000 to allow him to travel more extensively to give talks on the genetically modified food industry's products.

"I am grateful for this opportunity and promise a solid return on the investment," Dr. Folta wrote in an email to one Monsanto executive.

Dr. Folta is one of many academics the biotech industry has approached to help it defend or promote its products, the emails show.

The company, in late 2011, gave a grant for an undisclosed amount to Bruce M. Chassy, a professor emeritus at the University of Illinois, to support "biotechnology outreach and education activities," his emails show.

In the same email in which Dr. Chassy negotiated the release of the grant funds, he discussed with a Monsanto executive a monthslong effort to persuade the Environmental Protection Agency to abandon its proposal to tighten the regulation of pesticides used on insect-resistant seeds.

"Is there a coordinated plan to maintain pressure and emphasis on EPA's evolving regulations?" Eric Sachs, the chief of Monsanto's global scientific affairs group, wrote in a related email to Dr. Chassy. "Have you considered having a small group of scientists request a meeting with Lisa Jackson," referring to the E.P.A. administrator at the time.

In an interview, Dr. Chassy said he had initiated the fight against the E.P.A. plan before Monsanto pressed him. But he conceded that the money he had received from the company had helped to elevate his voice through travel, a website he created and other means.

"What industry does is when they find people saying things they like, they make it possible for your voice to be heard in more places and more loudly," he said.

Dr. Chassy eventually set up a meeting at the E.P.A., with the help of an industry lobbyist, and the agency ultimately dropped the proposal.

In 2013, Monsanto also asked David R. Shaw, the vice president for research and economic development at Mississippi State University, to intervene with the Department of Agriculture to help persuade the agency to approve a new type of genetically modified soybean and cottonseed designed by Monsanto.

Organic farmers argued against this move, convinced that approval of the new seeds would lead to an increase in potentially harmful herbicide use. Monsanto wanted Dr. Shaw, whom the company has supported over the last decade with at least \$880,000 in research grants for projects he helped oversee, to refute these arguments, the emails show.

“Our Regulatory Affairs and Government Affairs groups feel it is important that USDA hear from folks like you on the key issues since there is a high probability that many negative voices will be heard during these calls,” said a June 2013 email from John K. Soteris, then Monsanto’s head of weed resistance programs. “Your voice not only counts from the standpoint of presenting scientifically based viewpoints but also to a degree from a numbers standpoint.”

Dow Chemical made a similar pitch this year, with one company executive first reminding Dr. Shaw in an email about the industry’s financial support for the university. Then the executive asked Dr. Shaw to intervene with the Agriculture Department to urge it to approve Dow’s new genetically modified cottonseed, which was designed to be treated with a Dow-produced herbicide.

Dow’s and Monsanto’s requests to the Agriculture Department have since been approved. Dr. Shaw declined to comment. But a university spokesman, Sid Salter, described Dr. Shaw as “a highly ethical researcher.”

### **Why Not ‘Mommy Farmers’?**

At times, the scientists themselves questioned whether they were the best advocates for the companies.

“What the situation requires is a suite of TV spots featuring attractive young women, preferably mommy farmers, explaining why biotech derived foods are the safest & greenest in the history of ag and worthy of support,” wrote L. Val Giddings,

a senior fellow at Information Technology & Innovation Foundation, a nonprofit food policy research group in Washington, in an October 2014 email to a Monsanto lobbyist. The company was debating how to defeat labeling campaigns last year in Colorado and Oregon.

Dr. Folta, included in the email chain, agreed.

“We can’t fight emotion with lists of scientists,” Dr. Folta wrote to Lisa Drake, the Monsanto lobbyist. “It needs a connection to farming mothers.”

But Ms. Drake flatly rejected their arguments. Monsanto had already run television ads with mothers who were farmers. They fell flat.

“Doesn’t poll as well as credible third party scientist,” she said. “I know hard to believe, but I have seen the poll results myself, and that is why the campaigns work the way they do.”

Emails and other documents obtained by The Times from Washington State, where Dr. Benbrook served until earlier this year, show how the opponents of genetically modified foods have used their own creative tactics, although their spending on lobbying and public relations amounts to a tiny fraction of that of biosciences companies.

The organic foods industry has a direct financial interest to raise consumer concerns, because federal law requires that any product labeled organic in the United States be free of ingredients produced from genetically modified seeds. So if consumers move away from G.M.O.-based sources, they sometimes switch to organic alternatives.

Like the biotech companies, organic industry executives believed they could have more influence if they pushed their message through academics.

“I am a business guy, not a scientist,” said Gary Hirshberg, the chairman and former president of Stonyfield Farm, which produces organic yogurt, who leads an industry lobbying effort called Just Label It. “So of course it helps to have an academic scientist explain it.”

That is why Dr. Benbrook, who had served as chief scientist at the Organic Center, a group funded by the organic foods industry, resigned his job and sought a university appointment, he said.

“I was working for an organization affiliated and funded by the industry, and people were just not listening,” he said.

At Washington State, Dr. Benbrook was supported by many of the same financial backers, including Organic Valley, Whole Foods, Stonyfield and United Natural Foods Inc. The companies stayed closely involved in his research and advocacy, helping him push reporters to write about his studies, including one concluding that organic milk, produced without any G.M.O.-produced feed for the cows, had greater nutritional value.

At least twice, Mr. Hirshberg’s group also paid for Dr. Benbrook to go to Washington so he could help lobby against a federal ban on G.M.O. labels. And his research suggesting that herbicide use in G.M.O. crops has surged has been a central part of the organic industry’s argument for mandatory labels.

Dr. Benbrook, whose research post at Washington State was not renewed this year, said the organic companies had turned to him for the same reasons Monsanto and others support the University of Florida or Dr. Folta directly.

“They want to influence the public,” he said. “They could conduct those studies on their own and put this information on their website. But nobody would believe them. There is a friggin’ war going on around this stuff. And everyone is looking to gain as much leverage as they can.”

A version of this article appears in print on September 6, 2015, on Page A1 of the New York edition with the headline: Emails Reveal Academic Ties in a Food War.

Exhibit 2  
to Deposition of Eric Lipton

David Shaw, University of Miss, Monsanto reached out to him, gave him talking points, sent him draft letter, asked him to help get others to sign it and submit to USDA. Shaw was happy to help. And companies were appreciative.

Phone: 662/325-3570

Monsanto Agricultural Products Company "Assessing Long-Term Viability of Roundup Ready Technology as a Foundation for Cropping Systems" Investigator: D. R. Shaw Funding: \$880,000  
**Benchmark study on glyphosate-resistant cropping systems in the United States. Part 5: Effects of glyphosate-based weed management programs on farm-level profitability<sup>†</sup>**

Article first published online: 2 MAY 2011

<http://onlinelibrary.wiley.com/doi/10.1002/ps.2177/full>

[http://www.research.msstate.edu/divisions/shaw\\_cv.pdf](http://www.research.msstate.edu/divisions/shaw_cv.pdf)

XXX

Folta:

I am an ind scientist who talks about the science and under the science. It is not their science. It is my science.

This is a tech I understand extremely well.

It is not so much

Somehow because I have an understanding

They

It is kind of like AT&T

It has nothing to do

It is not

They are not driving the conversation. This is a conversation I have been having for 30 years. They realized here is a person who articulates what we are doing.

I am a mouthpiece for the tech. And they use that technology. I don't represent the company, I represent the technology.

How do I get things that I do in the laboratory or tech I understand to help my farmers faster.

The fact that there are people putting significant political hurdles in place to stop this tech or curtail it.

if it means I can work with them to train them to be better speakers or communicators.

I understand the concept. Looks like they paid to cover by expense him to come up here to talk.

I am a

Staffer was Crop Scientist of America.

Maybe I have. If I thi

Is this a way where an industry can say, we are going to find the people who best suit to advocate our causes, that is ok, if your cause are good and just. If they are using me—

They are taking someone who tells the truth about science

I do think because I stand for the science behind this.

This is some one

There are 10,000 of me in this country.



If these companies did not exist, it would do exactly the same thing.

The companies have the financial and political muscle to continue to create and use these products.  
I wish we could do more of it.

I can understand that perception 100 percent. And it bothers me a lot. I am not a big fan of corporations.

Yes, should have disclosed it more.  
Going forward I am going to be really careful about that.  
Came back from Hawaii, put plane tickets on line. I lost money by going there.  
Going forward I absolutely am going to be super

"It was absolutely not the right thing."  
It is not the way I operate normally.  
There is one thing right there.  
If they are asking me for an independent answer. I will give you an independent answer.

Donations do not impact him.  
It is great that companies support science. I am all for it. It is fantastic. But I call them as I see them.  
They fund us because we tell them the truth and we give them an independent answer.

Lab, independent grants. Never for research.

University going to talk to American Soybean. Talk about science communication. How can better community to public. How do they communicate that. Heading to Lake Tahoe. They are covering his cost. American Soybean Association.

That is my job, I am supposed to be sharing science.

The most pursued person is a scientist who is a mother.

I know I never did anything wrong. I always told the truth.  
If the world is going to hang me out that I will take it.  
I am doing the right thing and time will

Charla Lord  
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(314) 694-6397

2013: worried about mischaracterizations of Genetic modified crops. Organized effort to engage more academics.

Working with Bio on GMO answers  
WebMD  
Trip to DC to meet with journalists  
Coalition for Safe and Affordable Food then approaches him about helping with legislative roll out  
Also work with Val Giddings, Lisa Drake for example, reaching out to them asking them if they would be willing to sign letter  
scientist Oct 2014  
Working with  
Saw added line to GMO

Specific questions

Realization needed third party scholars  
Should you be drafting answers  
Should you have disclosed role in paying for trips  
Do you have expectations that donations will mean support  
How much do you spend on academic research and donations to academic institutions

Do you

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Hawaii  
Pennsylvania  
Missouri  
Washington, to meet with House Science

++ GMO answers drafted script. You made changes. But they did original drafting  
++ That they enlisted you for GMO answers. Then for help in legislative push.  
++ Biofortified; funding from industry  
++ You said that you got no funding  
++ Trip to DC, saw you had been talking to Coalition for Safe Affordable Food

I have been doing my job as I am supposed to be doing my job and I have told the truth the whole time.

Isn't my job as a scientist to take any opp I can take to tell the truth about the facts as they are framed by the peer review lit

**My job is to tell the truth about scien.** If someone wants to sponsor my plane ticket

**I am there to talk about the peer reviewed**

If someone wants to go somewhere and say two plus two is four, I am good to do that. It does not mean

If the indust wants more truth tellers to participate in public dialogue.

If this

**30 year career as an indep scientist.**

**I am being torn apart in the online social media and everything else, in the most horrific ways. Threats to my family.**

They are not lying. Their science is perfectly fine and it is perfectly in line what we as a scientific community.

**I am scitist who tells the truth about the literatures.**

I should bet he person who is going bfore congress and is talking to decision makers, I am an indep broker of that.

We need somebody to go to bat for us, we are taking a beating by the liers. **Get an indep sicient who knows the liert to talk about the scienst. That is what I am doing.**

Heracides or pesticides.

Yes herbacides use has increasd. Because friendly heracide. Being used more and more. Insecticide cut 50 to 90 percent.

Pesticide: herbicides and insecticide fungacide.

Herbicide increase in number of pounds.

Folks who are against tech will mix terms together.

We are supposed to be interacting with companies. **If the companies are doing something bad, I call them on it.**

**I am independent scientist. NO body tells me what to say NO body tells me what to think. I represent Science.** When a company allows me to do more science

That is not them owning me. That is facilitating me in doing what I do. **There is no body who is going to steer my message.**

**I don't have a university budget or a state budget or any way to talk about science in a public forum.**

**Because I am independent, I am more valuable.**

In

**If Monsanto, Dow and the rest of them disappeared tomorrow, my message would be the same.**

I want more people to be fed more nutritious food, with less environmental impact.

Reject it.

**There is almost nothing more insulting you can say to somebody.**

**Never got a penny from the companies. Dedicated entire career to public science.**

It is destroying our ability to disseminate science to the people who need to understand it.

The public has been scared to death Every person they can scare away from conventional food, is another dollar in our pocket. When you use an emotional factless, hearsay, internet bogus campaign to scare people away from your product, the first thing the industry should do is say we are going to mount an equally.

**I am unpaid volunteer teaching, because the public needs to know.**

**Resistance is a problem, and a problem I talk about.**

**Donation to university no deliverables expected.**

**BY design independent scientists as lobbyists of companies because they tell the truth. I see this as a really really dangerous characterization.**

Hi Eric,

UF tells me that NYT called about getting a photo, etc. Any chance of getting a preemptive copy of what is going to be said?

This is important. **After our conversation, I didn't like the feel of how this was being portrayed. Your use of the word, "Tool" was really off putting.**

It is my job to integrate with industry. Who is the best person for them to work with, other than an actual independent scientist?

I know the facts, it is my job to inform companies, politicians, etc. That is what I should be doing, and I'm glad they are listening to me. I speak from a vast peer-reviewed literature, and that is the right thing to do.

Basically, this whole FOIA thing has me ready to quit science. I've done nothing wrong, I've been nothing but a solid public scientist for 30 years. I've always told the truth. This is character assassination across the web, and I'm exhausted from defending myself. The people that wanted me out of a scientific discussion are likely going to get their way.

I've been uneasy ever since we spoke because I don't feel this is moving in an accurate way. It would be nice to know what is coming so at least I'm not blindsided.

Thanks,

Kevin

**Kevin M. Folta**  
**Professor and Chairman**  
**Horticultural Sciences Department**  
**Plant Molecular and Cellular Biology Program and**  
**Plant Innovation Program**  
**University of Florida**  
**Gainesville, FL 32611**

[352-273-4812](tel:352-273-4812)

Exhibit 3  
to Deposition of Eric Lipton

CMYK

Nxxx,2015-09-06,A,001,Bs-BK,E2

"All the News That's Fit to Print"

# The New York Times

Late Edition

Today, sunny, warm, high 85. Tonight, patchy clouds, low 68. Tomorrow, plenty of sunshine, very warm for early September, high 85. Weather map is on Page 28.

VOL. CLXIV . . . No. 56,981

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NEW YORK, SUNDAY, SEPTEMBER 6, 2015

80 beyond the greater New York metropolitan area.

\$5.00

## CLINTON RELYING ON TAKING SOUTH TO THWART RIVALS

### FOCUS ON SUPER TUESDAY

After Lessons of 2008, a Push to Wrap Up Nomination Early

By PATRICK HEALY and AMY CHOZICK

Hillary Rodham Clinton's presidential campaign is methodically building a political firewall across the South in hopes of effectively locking up the Democratic nomination. March regardless of any early setbacks in the Iowa caucuses and the New Hampshire primary.

Mrs. Clinton's advisers, struck by the strength of Senator Bernie Sanders in those two states, have been assuring worried supporters that victories and superdelegate support in Southern states will help make her the inevitable nominee faster than many Democrats expect. They point to her popularity with black and Hispanic voters, as well as her policy stances and the relationships that she and her husband, former President Bill Clinton, have cultivated. Mrs. Clinton was similarly confident at this point eight years ago, before Barack Obama and his superior organizers began piling up delegates, including in many Southern states.

In interviews, advisers said the campaign was increasingly deterring staff members and money to win the South Carolina primary on Feb. 27 while laying the groundwork to sweep Alabama, Arkansas, Georgia, Oklahoma, Tennessee, Texas and Virginia on March 3. Those Super Tuesday states are high priority, and on maps in the offices of Mrs. Clinton's senior aides in Brooklyn.

The eight primaries will deliver several hundred delegates for Mrs. Clinton, advisers believe, toward the goal of more than 2,000 needed to clinch the Democratic nomination. The campaign is harrying superdelegates in

Continued on Page 20

## Emails Reveal Academic Ties In a Food War

### Industry Swaps Grants for Lobbying Clout

By ERIC LIPTON

WASHINGTON — At Monsanto, sales of genetically modified seeds were steadily rising. But executives at the company's St. Louis headquarters were privately worried about attacks on the safety of their products.

So Monsanto, the world's largest seed company, and its industry partners retooled their lobbying and public relations strategy to spotlight a rarefied group of advocates: academics, through open records laws, impartiality and weight of authority that come with a professor's pedigree.

"Professors/researchers/scientists have a big white hat in this debate and support in their states, from politicians to producers," Bill Masthek, a vice president at Ketchum, a public relations firm hired by the biotechnology industry, said in an email to a University of Florida professor. "Keep it up!"

And the industry has. Corporations have poured money into universities to fund research for decades, but now, the debate over bioengineered foods has escalated into a billion-dollar food industry war. Companies like Monsanto are squaring off against major organic firms like Stonyfield Farm, the yogurt company, and both sides have aggressively recruited academic researchers, emails obtained under open records laws show.

The emails provide a rare view into the strategy and tactics of a lobbying campaign that has transformed ivory tower elites into powerful players. The use by both sides of third-party scientists, and their supposedly unbiased research, helps explain why the American public is often confused as it processes the conflicting information.

The push has intensified as the industry prepares to take up industry-backed legislation this fall, already passed by the House,

Continued on Page 18



Migrants arriving to cheer in Munich on Saturday at the city's main railway station after an arduous journey through Europe.

## Germany Welcomes Thousands of Weary Migrants

This article is by Katrin Bennhold, Steven Erlanger and Alison Smale

MUNICH — Germans waving welcome signs in German, English and Arabic came to the train station here Saturday to greet the first group of what is expected to be about 6,000 migrants to arrive in Germany by early Sunday, after an arduous and emotional journey through Hungary and Austria.

Germans applauded and volunteers offered hot tea, food and toys as about 450 migrants arrived on a special train service from Austria, finally reaching Germany, which had held out an open hand to them.

"Thank you, Germany!" said one woman from the Kurdish part of northern Iraq who said she had been on the road for a month and a half with her two



children. A German volunteer, Silvia Reinschmidt, who runs a local school, could not stay at home. "I said to myself, I have to do something," she said as she handed out warm drinks.

By Saturday evening, about 6,000 migrants had arrived here, and another 1,800 were expected to arrive in trains overnight, according to the German police.

### A Desperate Flight

Some are fleeing brutal wars. Others, economic misery. For eyewitness dispatches of their perilous journeys, follow Alessandra Hartrich as she travels across Europe with the migrants (Page 6). Also, in The New York Times Magazine, Paolo Pellegrin and Scott Anderson document an encounter with two boats carrying 733 people adrift in the Mediterranean.

Austrian border by a Hungarian government that gave up trying to stop them and instead decided to help them travel in safety. That help was temporary, however, as Hungary found itself struggling to cope with a new influx of migrants.

The arrival in Germany of the migrants was the culmination of 10 days of tragedy and emotion that at last caught the world's attention, as war and chaos in Syria and elsewhere in the Middle East set off one of the largest migrations since World War II.

The standoff in Hungary seemed to encapsulate the long and often deadly journeys that hundreds of thousands of people have made to try to reach some semblance of peace, security and prosperity in a Europe that, for the most part, did not much want them.

Even as the thousands made it

Continued on Page 15

## On the Trail of a Mentally Ill Brother, Lost in Brooklyn

By KIM BARKER

Ever since they were children, Aukejshia Boyce-Gaskins made sure to look out for her younger half brother, Birshon Daley.

Their mother, addicted to crack cocaine, dumped them with their great-grandmother when Ms. Boyce-Gaskins was 19 and her brother was 2. Ms. Boyce-Gaskins helped raise Mr. Daley in a small town in Georgia, even taking him in after she graduated from high school. Eventually, she sent him to live with his father in Brooklyn. But then came his diagnosis of paranoid schizophrenia. His father died. Almost three years ago, he disappeared.

His sister was frantic. Was he on the streets? In a homeless shelter? In a mental hospital?

She asked a relative to check Mr. Daley's old haunts, like the barber shop where he used to sweep for spare change. She scoured the Internet, plugging his name into Google again and again. But Mr. Daley was nowhere.

"I had to put it in the back of my soul, but it's always been eating at me," said Ms. Boyce-Gaskins, 42, who runs a nonprofit center for disadvantaged youths in Atlanta. "My mom charged me with the responsibility of making sure he was O.K. I've been in havoc, spiritually."

On a recent Tuesday morning, Ms. Boyce-Gaskins again woke up thinking



Birshon Daley, 34, who has schizophrenia, on the street in Brooklyn in August.

about her brother. This time, she was shocked by what Google delivered: Mr. Daley, now 34, had been featured in a May 30 investigation by The New York Times into cramped, unregulated rooming houses known as three-quarter houses.

The homes, seen as somewhere between regulated halfway houses and actual homes, had multiplied in recent years

across New York City, catering to poor people recovering from substance abuse, homeless people who wanted to avoid shelters and people with mental illnesses like Mr. Daley. Their rent was usually paid by the \$215 monthly housing allowance for people on public assistance, or by about

Continued on Page 24

## Francis Is Coming to America After Avoiding It for 78 Years

By LAURIE GOODSTEIN

During his first private meeting with Pope Francis in the Vatican two years ago, Cardinal Timothy M. Dolan said, the pope took out an atlas with a map of the United States and asked Cardinal Dolan, the archbishop of New York, to point out the various regions and cities and talk about how they differed.

Francis seemed to recognize that he had some homework to do: When he travels this month to Washington, New York and Philadelphia, the visit will be his first to the United States. Both of his most recent predecessors, Benedict XVI and John Paul II, traveled to the United States before rising to the papacy. Other Catholic prelates from around the world have come for fund-raising, speaking engagements or global Catholic events, like World Youth Day in Denver in 1993.

But Francis, a former archbishop of Buenos Aires, had been clear of the United States, which has the world's fourth-largest Roman Catholic population. Something of a homebody, preferring to hang out with the poor than

the rich and powerful, he has waited until 78 to visit the economic giant that likes to think of itself as the center of everything.

"He's a little nervous about coming," Cardinal Dolan said at an interfaith event in New York in May. "Not that he lacks any confidence in the reception of friendship that he knows he'll get, but he readily admits he has never been to the United States."

Those who have known Francis, both before and after he became pope, say the reasons for

Continued on Page 27



A mural of Pope Francis on a building in Manhattan.

### NATIONAL 16-27

#### A Divide Over Emissions

California's campaign against emissions pits not only a well-financed oil industry against environmentalists, but also Democrats against Democrats. PAGE 18

#### Jailed Clerk Shakes Up Party

The same-sex marriage debate in Kentucky exposed divisions in the Republican Party and may generate a burst of religious-exemption legislation. PAGE 18

### INTERNATIONAL 4-15

#### Quandary in Guatemala

Having ousted a president, Guatemalans choose a new one Sunday. But with little faith in the candidates, activists hope to keep a movement going. PAGE 4

### SPORTSUNDAY

#### Their Courts of Origin

Tennis's biggest stars sometimes come from humble roots, as seen in a tour of the courts where they started playing, and dreaming, as children. PAGE 8

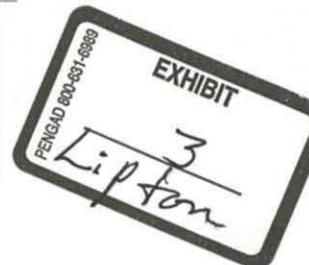
### SUNDAY REVIEW

#### Frank Bruni

PAGES 0 514 753 4

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THE NEW YORK TIMES NATIONAL SUNDAY, SEPTEMBER 6, 2015



TOM GANNON/ISTOCK

# Emails Reveal Financial Ties Between Food Industry and Academics

From Page 1

that would ban states from adopting laws that require the disclosure of food produced with genetically modified ingredients.

The efforts have helped produce important payoffs, including the approval by federal regulators of new genetically modified seeds after academic experts intervened with the United States Department of Agriculture on the industry's behalf, the emails show.

Chris Lord, a Monsanto spokesman, said the company's longstanding partnership with academics helped demystify the science. "It is in the public interest for academics to weigh in credibly, not only to consumers but to stakeholders like lawmakers and regulators as well," he said.

But even some of the academics who have accepted special "unrestricted grants" or taken industry-funded trips to help push corporate agendas on Capitol Hill say they regret being caught up in this nasty food fight.

"If you spend enough time with skunks, you start to smell like one," said Charles M. Benbrook, who until recently held a post at Washington State University. The organic foods industry funded his research there and paid for his trips to Washington, where he helped lobby for labels on foods with genetically modified ingredients.

On the other side, the biotech industry has published dozens of articles, under the names of prominent academics, that in some cases were drafted by industry consultants.

Monsanto and its industry partners have also passed out an undisclosed amount in special grants to scientists like Kevin Folta, the chairman of the horticultural sciences department at the University of Florida, to help with "biotechnology outreach" and to travel around the country to defend genetically modified foods.

"This is a great first-party approach to developing the advocacy that we're looking to develop," Michael Lohaus, the director of crop biometrics at Monsanto, wrote last year in an email as the company considered giving Dr. Folta an unrestricted grant.

Dr. Folta said that he had joined the campaign to publicly defend genetically modified technologies because he believes they are safe, and that it is his job to share his expertise. "Nobody tells me what to say, and nobody tells me what to think," he said, adding, "Every point I make is based on evidence."

But he also conceded in an interview that he could unfairly be seen as a tool of industry, and his university now intends to donate the Monsanto grant money to a food pantry. "I can understand that perception 100 percent," he said, "and it bothers me a lot."

## Players in a Safety Debate

The moves by Monsanto, in an alliance with the Biotechnology Industry Organization and the Grocery Manufacturers Association, are detailed in thousands of pages of emails that were at first requested by the nonprofit group U.S. Right to Know, which receives funding from the organic foods industry. The New York Times separately requested some of these documents, then made additional requests in several states in the organic industry.

There is no evidence that academic work was compromised, but the emails show how academics shied from researchers to actors in lobbying and corporate public relations campaigns.

The fight between the competing academics is not focused on questions about the safety of genetically engineered seeds themselves. The sides are fighting mainly over the safety of herbicides used in so-called genetically modified organisms, or G.M.O.s, crops. The organic food proponents argue that herbicide use has surged, and that some of these herbicides may be unsafe. The biotech companies say that data relating to herbicide use on genetically engineered crops is being misinterpreted — and that these new crops, more resistant to pests and disease, are helping to feed the world.

So far, the anti-G.M.O. community has been winning the public relations war. Major brands like Chipotle and Original Cheddar have moved to reduce or eliminate their use of genetically engineered ingredients, based in part on a marketing judgment that this is what the American public wants. That poses a threat to companies like Monsanto, which had \$15.9 billion in global sales last year.

"Misinformation campaign in ag biotech area is more than overwhelming," Yong Gao, then Monsanto's global regulatory policy director, explained in an April 2013 email to Dr. Folta as the company started to work closely with him. "It is really hurting the progress in translating science and knowledge into ag productivity."

Dr. Folta is among the most aggressive and prolific biotech proponents, although until his emails were released last month, he had not publicly acknowledged the extent of his ties to Monsanto.

He has a doctorate in molecular biology and has been doing research on the genomes of small fruit crops for more than a decade. Monsanto executives approached Dr. Folta in the spring of 2013 after they read a blog post he had written defending industry technology.

"We really appreciate independent scientists working to educate the public," Keith Reeling, a microbiologist who



TOM GANNON/ISTOCK

Monsanto soybeans, top, and a soybean chopper that allows Monsanto to analyze seed genetics. Monsanto and its industry partners have relied on academics to push their case for genetically modified crops.



FLORA JOHNS/UNIVERSITY OF FLORIDA

CHARLES M. BENBROOK

"Nobody tells me what to say, and nobody tells me what to think."

KEVIN FOLTA

An aggressive biotech proponent with financial ties to Monsanto

"If you spend enough time with skunks, you start to smell like one."

CHARLES M. BENBROOK

A proponent of labels on G.M.O. foods, backed by the organic industry

helps Monsanto manage its relations with regulatory agencies, wrote in an April 2013 email to Dr. Folta.

A few weeks later, the Council for Biotechnology Information — controlled by BASF, Bayer, Dow Chemical, DuPont and Monsanto — asked Dr. Folta and other prominent academics if they would participate in a new website, G.M.O. Answers, which was established to combat perceived misinformation about their products. The plan was to provide the academics with questions from the public, such as, "Do G.M.O.s cause cancer?"

"This is a new way to build trust, dialogue and support for biotech in agriculture that will help explain in an independent voice what G.M.O.s are," an executive at Ketchum wrote to Dr. Folta.

But Ketchum did more than provide questions. On several occasions, it also gave Dr. Folta draft answers, which he then used nearly verbatim, a step that he now says was a mistake.

"It was absolutely not the right thing," he said, adding that he now insists that he write his own responses.

Kate Hall, a spokeswoman for the biotechnology council, said that the scholars were free to revise the scripted responses, and that the group offered these draft answers in only a few dozen cases, compared with the nearly 1,000 responses on G.M.O. Answers to date.

Dr. Folta, the emails show, soon became part of an inner circle of industry consultants, lobbyists and executives who devised strategy on how to block state efforts to mandate G.M.O. labeling and, most recently, on how to get Congress to pass legislation that would preempt any state from taking such a step.

While Dr. Folta was not personally compensated, biotech companies paid for his trips to testify in Pennsylvania and Hawaii. "I should state upfront that I have not been compensated for any testimony," he said at a public hearing in Hawaii, before adding, "The technology is safe and it is used because it helps farmers compete."

Dr. Folta routinely gave updates on his travels — and his face-to-face encounters with opponents of genetically modified crops — to the industry executives who were funding his efforts.

"Your email made my day," wrote Catherine Wright, an executive vice president of the Biotechnology Industry Organization, after Dr. Folta gave her a

written update on the October 2014 legislative hearing in Pennsylvania. "Please send all receipts to us whenever you get around to it. No rush."

In August 2014, Monsanto decided to approve Dr. Folta's grant for \$25,000 to allow him to travel more extensively to give talks on the genetically modified food industry's products.

"I am grateful for this opportunity and promise a solid return on the investment," Dr. Folta wrote in an email to one Monsanto executive.

Dr. Folta is one of many academics the biotech industry has approached to help it defend or promote its products, the emails show.

The company, in late 2011, gave a grant for an undisclosed amount to Bruce M. Chassy, a professor emeritus at the University of Illinois, to support "biotechnology outreach and education activities," his emails show.

In the same email in which Dr. Chassy negotiated the release of the grant funds, he discussed with a Monsanto executive a monitoring effort to persuade the Environmental Protection Agency to abandon its proposal to tighten the regulation of pesticides used on insect-resistant crops.

"Is there a coordinated plan to maintain pressure and emphasis on EPA's evolving regulations?" Eric Sachs, the chief of Monsanto's global scientific affairs group, wrote in a related email to Dr. Chassy. "Have you considered having a small group of scientists request a meeting with Lisa Jackson, referring to the E.P.A. administrator at the time."

In an interview, Dr. Chassy said he had initiated the fight against the E.P.A. plan before Monsanto pressed him. But he conceded that the money he had received from the company had helped to elevate his voice through travel, a website he created and other means.

"What industry does is when they find people saying things they like, they make it possible for your voice to be heard in more places and more loudly," he said.

Dr. Chassy eventually set up a meeting in the E.P.A., with the help of an industry lobby, and the agency ultimately dropped the proposal.

In 2013, Monsanto also asked David R. Shaw, the vice president for research and economic development at Mississippi State University, to intervene with the Department of Agriculture to help

persuade the agency to approve a new type of genetically modified soybean and cottonseed designed by Monsanto.

Organic farmers argued against this move, convinced that approval of the new seeds would lead to an increase in potentially harmful herbicide use. Monsanto wanted Dr. Shaw, whom the company has supported over the last decade with at least \$88,000 in research grants for projects he helped oversee, to refute these arguments, the emails show.

"Our Regulatory Affairs and Government Affairs groups feel it is important that USDA hear from folks like you on the key issues since there is a high probability that many negative voices will be heard during these calls," said a June 2013 email from John K. Sorensen, then Monsanto's head of weed resistance programs. "Your voice not only counts from the standpoint of presenting scientifically based viewpoints but also to a degree from a numbers standpoint."

Dow Chemical made a similar pitch this year, with one company executive first reminding Dr. Shaw in an email about the industry's financial support for the university. Then the executive asked Dr. Shaw to intervene with the Agriculture Department to urge it to approve Dow's new genetically modified cottonseed, which was designed to be treated with a Dow-produced herbicide.

Dow's and Monsanto's requests to the Agriculture Department have since been approved. Dr. Shaw declined to comment. But a university spokesman, Sid Saiter, described Dr. Shaw as "a highly ethical researcher."

## Why Not 'Mommy Farmers'?

At times, the scientists themselves questioned whether they were the best advocates for the companies.

"What the situation requires is a suite of TV spots featuring attractive young women, preferably mommy farmers, explaining why biotech derived foods are the safest & greenest in the history of ag and worthy of support," wrote L. Val Giddings, a senior fellow at Informatics Technology & Innovation Foundation, a nonprofit food policy research group in Washington, in an October 2014 email to a Monsanto lobbyist.

The company was debating how to defeat labeling campaigns last year in Colorado and Oregon.

Dr. Folta, included in the email chain, agreed.

"We can't fight emotion with lists of scientists," Dr. Folta wrote to Lisa Drake, the Monsanto lobbyist. "It needs a connection to farming mothers."

But Ms. Drake flatly rejected their arguments. Monsanto had already run television ads with mothers who were farmers. They fell flat.

"Doesn't feel as well as credible third party scientist," she said. "I know hard to believe, but I have seen the poll results myself, and that is why the campaigns work the way they do."

Emails and other documents obtained by The Times from Washington State, where Dr. Benbrook served until earlier this year, show how the opponents of genetically modified foods have used their own creative tactics, although their spending on lobbying and public relations amounts to a tiny fraction of that of biotechnology companies.

The organic foods industry has a direct financial interest to raise consumer concerns, because federal law requires that any product labeled organic in the United States be free of ingredients produced from genetically modified seeds. So if consumers move away from G.M.O.-based sources, they sometimes switch to organic alternatives.

Like the biotech companies, organic industry executives believed they could have more influence if they pushed their message through academics.

"I am a business guy, not a scientist," said Gary Hirschberg, the chairman and former president of Stonyfield Farm, which produces organic yogurt, who leads an industry lobbying effort called Just Label It. "So of course it helps to have an academic scientist explain it."

"That is why Dr. Benbrook, who had served as chief scientist at the Organic Center, a group funded by the organic foods industry to raise the job and sought a university appointment, he said.

"I was working for an organization affiliated and funded by the industry, and people were just not listening," he said.

At Washington State, Dr. Benbrook was supported by many of the same financial backers, including Organic Valley, Whole Foods, Stonyfield and United Natural Foods Inc. The companies stayed closely involved in his research and advocacy, helping him push reporters to write about his studies, including one concluding that organic milk, produced without any G.M.O.-produced feed for the cows, had greater nutritional value.

At least twice, Mr. Hirschberg's group also paid for Dr. Benbrook to go to Washington so he could help lobby against a federal ban on G.M.O. labels. And his research suggesting that herbicide use in G.M.O. crops has surged has been a central part of the organic industry's argument for mandatory labels.

"Dr. Benbrook, whose research post at Washington State was not renewed this year, said the organic companies had turned to him for the same reasons: Monsanto and others support the University of Florida or Dr. Folta directly.

"They want to influence the public," he said. "They could conduct those studies on their own and put this information on their website. But nobody would believe them. There is a 'frigate' war going on around this stuff. And everyone is looking to gain as much leverage as they can."

Exhibit 4  
to Deposition of Eric Lipton

## Bio·talk·knowledge·y : Training Scientists How to Teach Concepts in Transgenic Crop Improvement

Kevin M. Folta Ph.D. Professor and Chairman, Horticultural Sciences Department, University of Florida, Gainesville, FL 32611

### Rationale and Justification

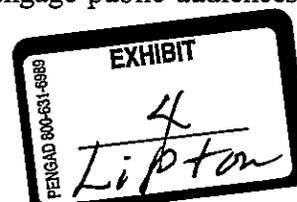
While transgenic crop varieties have been undeniably advantageous to farmers and hold tremendous potential for future advances, the general population does not understand the realistic benefits and limitations to the technology. Recent surveys by the University of Florida PIE Center report that while a small percentage of Americans stands firmly against the technology, the vast majority has no knowledge of it, and no opinion about it. However, the fearful narratives from activist websites are highly influential and compel those without a firm opinion to adopt “cautious” food choices. These fear-based narratives and practices are fueled by deceptive rhetoric or language designed to promote non-transgenic food choices. Crop improvement though transgenic technology was deployed without a preemptive education program, presenting a perfect storm for public misunderstanding and rejection of the technology.

The effect of this relationship is fear and undue cynicism about transgenic crop technology, the companies that develop it, and the farmers that deploy it. Safe food products with no plausible means of harm become stigmatized. Technologies useful to farmers in the developing world are arrested in slow-moving pipelines. Activists promote strict adherence to precaution, and the well fed in the industrialized world manipulate public perception and manufacture risk to advance their agendas.

Activist control of public perception has many casualties, including limiting options for farmers, decreased use of farm inputs, and food security domestically and abroad. There is a strong push for clunky and unnecessary food labeling efforts that are destined to increase food costs and limit product choices.

***One solution is education, followed by enhancing effective communication of complex scientific food topics.*** While those professed to stopping biotechnology at all costs are not likely to change, we can influence the vast general public that is still clearly forming an opinion.

Over the last 12 years I have been visiting public forums to discuss how the process works, what are the actual risks, and what are the benefits to four central clientele: the farmer, the consumer, the needy and the environment. It took twelve years of listening and talking, for fearless integration with the strongest dissenting voices, to understand the failures of technology adoption by the general public. ***It is not about the science. It is about how the science is communicated.*** Using this starting point, the activities in this proposal seek to teach scientists how to engage public audiences about transgenic crop technology.



EL 003993

## **Project Plan**

There is a three-tiered solution to this biotech communications problem. The proposal will fund monthly one-day excursions for Kevin Folta to visit a major domestic university campus. During the day, the activity will be to train the trainers. The 3-hour program will provide a strong discussion and guidelines about how to teach concepts in biotechnology- providing both content and presentation skills. After the training, participants will be invited to participate in a public presentation on transgenic crop improvement later that day. Coupling training and application will allow participants an opportunity to test what they have learned, build confidence, and encourage sustained efforts in teaching biotechnology in public forums. The other central activity is a Biotechnology Communication Conference at the University of Florida.

**AIM 1. Train the Trainers.** The first step is to provide at least one presentation per month at a major agriculture campus to teach faculty, staff and students how to most effectively communicate topics in biotechnology. Folta will visit one location per month for a training session and then and outreach activity the same day. The locations have been determined based on current interest- several universities have contacted Folta to provide such a training session. The closer, and more cost-flexible locations have been listed last in this plan to enable effective budgeting.

*All funding will be used, so cost savings translate into more training sessions.*

The basic plan is to provide this information in a half-day activity.

**A. Content.** Participants will learn about transgenic crop improvement in several major areas.

**Basic nuts and bolts.** First they will learn which crops are engineered and how the transgenes work. The focus will be restricted to existing technologies in insect resistance, herbicide resistance and viral resistance. (40 min)

**Common myths and responses.** Participants will learn the typical arguments posed by those positioned against biotechnology. They will then learn the actual information and where to find additional resources, including the primary literature. (30 min)

**Basics of Regulation.** It is critical to understand the fundamentals of the regulatory process. These concepts will be discussed briefly (20 min)

**The pipeline.** What's next? What are some of the products in industry pipelines and what problems could they solve? What are some of the products generated in academic labs that could solve major world issues- yet are not candidates for deregulation or commercialization? (20 min)

**B. Presentation.** Participants will learn how to effectively engage public audiences and share information.

**Understanding risk and public perception.** Essentially a psychology lesson about how the public responds to risk. It is essential to understand how the average non-scientist makes decisions in order to be effective at persuasion. (20 min)

**How to persuade.** This section will be a basic primer on rhetoric and argument as applied to biotechnology. Concepts such as logos, ethos and pathos will be discussed in the context of biotechnology. How is a concept viewed as sterile or threatening to the public presented most effectively? (30 min)

**C. The Importance of Social Media.** (20 min)

**AIM 2. Engage the Public.** After the training session there will be a same-day public forum on biotechnology. Faculty, staff, and especially students will be invited to participate in a local public discussion. The presentation will be led by Folta, but parts will involve individual presenters from the earlier activity, especially favoring student and postdoc presenters.

We will strategically orchestrate a meeting through local a local food co-op, organic group or a campus organization. This will be arranged principally by the local students and postdocs participating in the training forum.

The format will be a one-hour prepared presentation followed by an “Ask Me Anything” and it will be a transparent and honest discussion of biotechnology. The goal is to provide a starting point, an introduction to scientists (some local) that can and will address their questions and concerns at that time and going forward.

These presentations typically discuss:

- How plants are improved genetically by humans, comparing and contrasting traditional breeding, mutation breeding, polyploid inductions and transgenics.
- What are the current transgenic plants available?
- How do you make a transgenic plant?
- What are the mechanisms? What are the strengths and limitations?
- What is regulation like and how do we know the products are safe?
- What are the next generation of plant products?

**Breakout Session.** We will use this platform to then create some one-on-one breakout time with interested members from the public meeting. While visiting campuses small groups of influential individuals with dissenting opinions (maybe 3-5) will be invited to social discussions over coffee or appetizers at a venue of their choosing. The goal is to provide a comfortable conversation and inroads into reframing the discussion. *In the past, these discussions have been extremely effective.* When engaging a group with scientific information, strong personalities associated with scientific denial tend to provide great contrast, and influence the general tone of the conversation. *In my estimation, these are the most powerful and influential opportunities.*

These breakout sessions also will allow student and postdoc presenters to make local contacts, as well as learn how to effectively work with difficult personalities.

**AIM 3. On-Campus Training at UF.** An expanded version of the program will be presented at the University of Florida and will be open to students, faculty and other academics. The two-day program will feature talks on biotechnology and science communication from experts at UF and several others brought in from the outside, including industry representatives, journalist experts in science communication (e.g. Tamar Haskel, Amy Harmon), and experts in public risk perception and psychology (e.g. Dan Kahan). We also may draw from the UF School of Journalism, where Drs. Joe Keys and Ann Christiano have shown enthusiasm about participating in such efforts.

The program will be a two-day, 9 am- 5pm event. A catered buffet-style dinner will be provided. Lunch will not be provided, but time will be available.

**The general plan will follow the same course as the off-campus sessions presented in AIM I- *only expanded and presented by outside experts.***

**A. Content.** Participants will learn about transgenic crop improvement in several major areas, approximately 1-2 hours each:

- **Basic nuts and bolts.** First they will learn which crops are engineered and how the transgenes work. The focus will be restricted to existing technologies in insect resistance, herbicide resistance and viral resistance.
- **Common myths and responses.** Participants will learn the typical arguments posed by those positioned against biotechnology. They will then learn the actual information and where to find additional resources, including the primary literature.
- **Basics of Regulation.** It is critical to understand the fundamentals of the regulatory process. These concepts will be discussed in detail.

- **The pipeline.** What's next? What are some of the products in industry pipelines and what problems could they solve? What are some of the products generated in academic labs that could solve major world issues- yet are not candidates for deregulation or commercialization?

**B. Presentation.** Participants will learn how to effectively engage public audiences and share information.

- **Understanding risk and public perception.** Essentially a psychology lesson about how the public responds to perceived risk. It is essential to understand how the average non-scientist makes decisions in order to be effective at persuasion.
- **How to persuade.** This section will be a basic primer on rhetoric and argument as applied to biotechnology. Concepts such as logos, ethos and pathos will be discussed in the context of biotechnology. How is a concept viewed as sterile or threatening to the public presented most effectively?

**C. The Importance of Social Media.** Claiming space and effective public engagement.

**D. Student/postdoc Participation.** There will be a competitive opportunity for six Ph.D. students or postdocs interested in the topic of transgenic technology and science communication. Their participant costs, airfare and lodging, will be covered by this funding. The competition will be a simple essay as to the importance of the training to their long-term endeavors in science.

We will strongly encourage participation from students in the Plant Molecular and Cellular Biology program ([pmcb.ifas.ufl.edu](http://pmcb.ifas.ufl.edu)). This is a graduate program where at least a subset of the students and postdocs will be eager to participate. I would anticipate about 30-40 participants.

**E. Wider Participation.** The conference will be open to any student or postdoc, or faculty member, that wishes to attend. There will be no cost to attend, but they will need to cover their own transportation and lodging costs, and pre-registration will be necessary. *We will promote participation by county extension agents and local farmers.*

**The preliminary schedule for the 2014-2015 effort is:**

**September 2014-** Los Angeles, CA Meet with journalist Cara Santa Maria for the 'Talk Nerdy' podcast. She has wanted to do a show on GMO and there have not been resources to do it. The podcast has wide listenership. It is possible this effort will be a live recording with public Q&A.

**November 2014-** N.C. State, Raleigh, NC

I was contacted by from Agronomy requesting that I assist in teaching I will be in town for a biotechnology conference and will have no major costs to funding provided.

**December 2014-** University of California- Davis

**January 2015-** University of California San Diego; plus a session at the Plant Animal Genome Conference

**February 2015-** Michigan State University or Oregon State University

**March 2015-** University of Hawaii, Manoa HI

I was invited by Dr. Anja Weiscorsek to visit their campus and provide on-site discussion. I have close ties with the Hawaii Crop Improvement Association and they will likely provide opportunities and funding for intra-island travel and discussion at Farmer Forms.

**April 2015-** University of Wisconsin, Madison WI.

I have spoken with Dr. Rick Amasino about providing a discussion for students, faculty and staff about biotechnology communications. A session will be provided on campus, and discussion will be arranged at Willy St. Co-op, an organic foods co-op in town.

**May 2015-** Washington State University, Pullman, WI

**June 2015-** Purdue University, Lafayette, IN. \*includes farmer forum\*

**July 2015-** On-campus training event at University of Florida

**August 2015-** Cornell University

**September 2015-** Auburn University, Auburn AL

**October 2015-** University of Georgia

**Other Notes:**

**Assessment**

We will need to gauge the effectiveness of the program. There will be two questionnaires, one presented before and after each public seminar. The data will be assessed and used to strengthen next efforts

**Social Media Presence**

Funds will be used to build and promote a Biotalknowledgey website at [www.biotalknowledgey.com](http://www.biotalknowledgey.com) that describes and promotes the activities of these events.

A twitter account has been established at @biotalknowledge

**Accountability and Deliverables**

A report of metrics, such as number of participants in public forums and in the training sessions will be provided.

A report of expenses and how funds were used will be provided to the funding agency on a quarterly basis.

Video presentations from the UF forum will be placed online using YouTube, as well as via the **Bio·talk·knowledge·y** website. Video or audio from the individual forums will also be presented online as available.

**Budget- (\$25,000)**

There is no salary compensation for Folta. The work is voluntary, and part of the expectations of his role as a public scientist.

**1. Off-Campus Training. (\$12,600)** The plan is \$1000 per off-campus training session. This is the average cost, based on my minimal costs of:

- Economy-class air fare (<\$600)
- Cheap hotel (<\$100/night)
- Potential rental car (state contract rate is <\$50/day)
- Reasonable per diem for meals (<\$50?)

This budget should, on average, leave discretionary funds built for \$200-400/session, earmarked for:

- Purchasing light break refreshments (coffee, soda, water, etc)
- Rental costs for space for public dialog session if necessary
- Purchasing refreshments at the public event
- Meeting one-on-one with participants and public as necessary. These small-group sessions have been shown to be the optimal opportunities to connect with those not sharing enthusiasm for biotechnology.
- Promotion. Local paper ads, etc = \$600

**2. Two-Day Biotechnology Communications Training at University of Florida (UF). (\$11,400)**

- Transportation, lodging and per diem for four keynote speakers (\$1000 ea, \$4000 total)
- Airfare and lodging allowance for six Ph.D. students or postdocs (\$800; \$4,800 total)

(Airfare to Gainesville, FL is more expensive than other cities, but usually is around \$500-600. Lodging at *The Lodge at Gainesville* is about \$100 per night, including breakfast, so two nights would be included for each paid participant)

- Rental fee for Emerson Alumni Hall (~\$200/day; \$400 total)
- Refreshments for breaks (~\$200/day)
- Professional recording from UF/IFAS communications (~\$500)
- Dinner for <75 participants, catered at \$20 ea= \$1500

**3. Miscellaneous Items (\$1000)**

- Dedicated projector for use in these activities- \$800

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- Domain name and server space for website (several years purchased up front, email accounts, etc)- \$200

### **Total Budget**

The total budget is \$25,000. If funded directly to the program as a SHARE contribution (essentially unrestricted funds) it is not subject to IDC and is not in a “conflict-of-interest” account. In other words, SHARE contributions are not publicly noted. This eliminates the potential concern of the funding organization influencing the message.

Exhibit 5  
to Deposition of Eric Lipton

**Subject:** Re: Story slated to go online Sat. Run in Sunday's paper  
**From:** Gary Ruskin <gary@usrtk.org>  
**To:** "Lipton, Eric" <lipton@nytimes.com>  
**Time:** Friday, September 4, 2015 2:49:41 PM GMT-05:00

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That's fine. Thanks for the heads up.

On Fri, Sep 4, 2015 at 12:45 PM, Lipton, Eric <lipton@nytimes.com> wrote:  
Getting a very good ride.

I mention your group in passing. But I intentionally attempt to minimize my reliance on your group, given the funding. I also separately requested, and received, some of the same emails you have already gotten, directly from the universities, as again, I wanted to create some distance between your cause and my story.

Eric Lipton  
*The New York Times*  
Washington Bureau  
202 862 0448 office  
202 370 7951 mobile  
lipton@nytimes.com

---  
Gary Ruskin  
Co-Director  
U.S. Right to Know  
gary@usrtk.org  
(415) 944-7350  
@garyruskin



Exhibit 6  
to Deposition of Eric Lipton

Redacted

----- Forwarded message -----

From: **LORD, CHARLA MARIE [AG/1000]** <[charla.marie.lord@monsanto.com](mailto:charla.marie.lord@monsanto.com)>  
Date: Wed, Sep 2, 2015 at 1:09 PM  
Subject: RE: Follow up questions  
To: "Lipton, Eric" <[lipton@nytimes.com](mailto:lipton@nytimes.com)>

Eric

I'm going to break down your first question into different parts to be sure we address it completely.

**Our Interactions with Academics on Outreach Programs:**

Within agriculture, the relationships between the public and private sector are critical and have existed for decades. We see public-private collaborations as essential to the advancement of science, as well as to educating and sometimes correcting misinformation the public has about plant biotechnology. It is part of the public sector's role to have knowledge within their discipline and to communicate that knowledge to the public; in fact, it is one element in the consideration of professors for tenure. They serve a very important and well-defined role in serving the greater public good.

At Monsanto, we communicate and exchange ideas with dozens of public sector scientists on matters of common interest. The vast majority of those relationships do not involve any funding; they are about exchanging scientific information, sharing different perspectives, and ultimately enabling complementary efforts where our common interests align.

For example, both public and private sector scientists in the field of agriculture have a mutual interest in regulatory systems that are predictable, risk based and enable delivery of innovative solutions to farmers around the world. It is in the public interest for academics to weigh in credibly, not only to consumers but, to stakeholders like lawmakers and regulators, as well. In these instances, we may work with academic experts who share our science-based views to advocate for supportive policies, regulation and laws that are based on the principles of sound science.

As you noted, in the case of Dr. David Shaw: We did communicate with Dr. Shaw about the USDA's safety assessment of dicamba-tolerant crops. At that time, USDA was inviting comments from the public, which is a normal part of their process for obtaining information before making a decision whether to allow a new herbicide-tolerant crop for agricultural use. USDA seeks comments from a wide range of interested individuals and groups, including public sector weed scientists that are knowledgeable about the product. We are supportive of that process, and we reach out broadly to stakeholders to make them aware of the government's request for input. Dr. John Soteres was a weed scientist on the scientific outreach team at Monsanto, and he interacted regularly with academics including Dr.

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Shaw through the professional society – Weed Science Society of America (WSSA). He would have reached out to Dr. Shaw and other weed scientists (as would other members of the Society) to request they submit letters based on their own expertise. Monsanto and many others in the public sector also made comments to USDA in support of the product, and these are all on the public record.

As you noted, in the case of Dr. Bruce Chassy: We did communicate with Dr. Chassy about EPA's request for input on their draft proposal to make changes to the data requirements for different forms of GM crops. Elements of the proposed rule changes were of interest to the public and private sector, particularly changes that potentially would increase the time and cost of product approval without improving the quality or rigor of the risk assessment.

Dr. Chassy and Dr. Nina Fedoroff were preparing comments to EPA on behalf of the public sector and reached out to Dr. Eric Sachs for input. Dr. Sachs was working separately with the private sector to submit comments on behalf of industry. This is a good example of public and private sector experts sharing information that is relevant to both parties and that would help the EPA to take informed actions when amending their regulatory process. The comments provided to EPA by Dr. Fedoroff/Dr. Chassy and by the industry are available and on the public record. The academics also published an op-ed in a journal entitled, *EPA's Proposed Biotech Policy Turns a Deaf Ear to Science*. It is important to note that EPA elected not to take further action at the time and has not finalized their proposed rule to date.

#### **Unrestricted Grants to Universities:**

Biotech outreach programs exist at numerous universities nationwide, such as University of California Davis, Iowa State University, University of Illinois, University of Missouri, George Mason University, North Carolina State University, and Michigan State, to name a few. Monsanto on occasion has provided grants to fund outreach programs by academics like Dr. Kevin Folta and Dr. Chassy through unrestricted grants to their respective universities. We do this because public sources of funding are too often limited, and university outreach programs can increase consumer awareness and knowledge about agriculture and GMOs.

Similarly, we support fellowships for graduate students, enable scientists to travel and participate in scientific conferences, provide grants to scientific conferences to help cover meeting expenses, speaker travel, auditorium fees, and other costs. In all of these cases where money is involved, recipients typically document and in some cases acknowledge our support of their programs.

Specifically, you mentioned that we funded several people: Dr. Folta, Dr. Chassy, Dr. Shaw and Dr. Fedoroff. To clarify, we did provide unrestricted grants to the University of Illinois and the University of Florida for outreach programs, but we did not provide similar grants to Dr. Shaw or Dr. Fedoroff. (NOTE: We are still looking into the email you sent which appears to be coming from our tech development or field teams. We will provide an update quickly confirming this was not for outreach programs.)

Regarding Dr. Folta, as we mentioned, we are a strong advocate for science and science education, and we were supportive of his outreach program because it was designed to increase awareness and understanding of science and technology. We funded Dr. Folta's proposal through an unrestricted grant to the University of Florida with no strings attached – which means we cannot make any formal requirements on how the funds are used nor the content of his program. Last week, the University of Florida and Dr. Folta decided to use the funds to support a campus food pantry instead of outreach. While the overall situation is unfortunate, we are supportive of Dr. Folta's and the University's decision. We often support nonprofit organizations that help with critical community needs such as food security, and we are glad these funds are going to a good cause.

Regarding Dr. Chassy, then Assistant Dean for Biotechnology Outreach, Monsanto provided support for the university's biotechnology outreach program. We provided several gifts (or unrestricted grants) to the University primarily to help fund domestic and international travel associated with biotechnology outreach to scientists, policy makers and the public. These engagements are important because many audiences want to learn from and ask questions of public sector experts that have experience and have published scientific articles on a range of topics related to GM crop food safety and environmental impacts.

#### **Our Expectation of Academics:**

There is no expectation that any academic will act on information or a request from Monsanto. As we mentioned, Lisa Drake's email to Dr. Folta is a great example of the process. Lisa flagged an idea in which she thought he may be interested, and it appears that he wasn't. That is not a unique situation. There was no expectation that he would engage.

**Our Disclosure of Grants:**

We are always willing to disclose any grant or gift that we provide. We follow the guidance for gifts, grants, research agreements, etc., that is provided by the universities that we fund. While each university handles it differently based on the situation, they typically report funding through their internal reporting mechanisms and often the listings are available on their foundation or public websites.

At times, we may work with a university to issue a press release, which was the case in these press releases from August, May, and March of this year. These press releases are by their nature public, of course. And, of course, this information also can be requested through the more formal Freedom of Information Act process. We fully stand by our professional relationships and collaborations, and have shared information about how we collaborate with academics and universities on our web site.

Last, if you would like us to respond to questions about any specific emails, please let me know. We are willing to work with our colleagues to get background on the discussion and provide you with context.

Thanks. Charla

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**From:** Lipton, Eric [mailto:[lipton@nytimes.com](mailto:lipton@nytimes.com)]  
**Sent:** Wednesday, September 02, 2015 9:48 AM  
**To:** LORD, CHARLA MARIE [AG/1000]  
**Subject:** Re: Follow up questions

Eric Lipton

*The New York Times*

Washington Bureau

202 862 0448 office

202 370 7951 mobile

lipton@nytimes.com

On Wed, Sep 2, 2015 at 10:14 AM, LORD, CHARLA MARIE [AG/1000]  
<[charla.marie.lord@monsanto.com](mailto:charla.marie.lord@monsanto.com)> wrote:

Eric,

Regarding c) Is it appropriate to be giving this kind of support and then calling someone one David Shaw, on GMO

Answers (which you help support, but do not run, I understand) an independent scientist? You do not pay him for these answers, but you have given him unrestricted grants for the purpose of public outreach. Are you being "transparent"?

Can you please send any emails regarding unrestricted grants to Dr. Shaw? Dr. Soteres has retired, and I am unable to follow up with him directly. I have not found any unrestricted grants that we provided to him.

Regarding your question about independent scientists on GMO Answers: GMO Answers defines experts as independent when they are not employed by the Council for Biotechnology Information, BIO, GMO Answers, GMO Answers' Funders (BASF, Bayer CropScience, Dow AgroSciences, DuPont, Monsanto Company and Syngenta) or any companies or organizations related to these entities (such as a public relations firm or a foundation).

To maintain credibility as an independent expert, scientists whose research or other efforts receive funding from one of these sources above or other private organizations should follow disclosure policies. Most academic institutions have strict disclosure policies you can find on their websites. Further, if a scientist does not follow the rigor of proper processes to keep his/her research objective and in any way fabricates or falsifies data or manipulates the reporting of that data, his/her career may be damaged.

Admittedly, some people are skeptical of any corporate funds being used to underwrite scientific research - that is why disclosure and transparency are important to maintain the public's trust.

Thanks. Charla

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**From:** LORD, CHARLA MARIE [AG/1000]  
**Sent:** Tuesday, September 01, 2015 6:24 PM  
**To:** 'Lipton, Eric'  
**Subject:** RE: Follow up questions

Eric,

I have been able to gain information on your questions about WebMD that I think will be very helpful in providing context to Lisa Drake's email.

**Email Excerpt:**

"Over the past six months, we have worked hard through third parties to insert fresh and current material on Web MDs website relating to biotechnology health and safety, especially since before that, the material popping up on relation to the topic dredged up highly negative input from Organic Consumers Association and other anti-GMO critics."

**Clarification:**

In summer 2014, a colleague flagged a very unbalanced WebMD posting for Lisa Drake. As a result, Lisa initiated a discussion about WebMD and how it works at an internal meeting. While the question was important, it was not timely (from the standpoint that it wasn't a new article) and our internal discussion evolved slowly over a few months. In the end, we decided it might be best to raise the issue with a few industry trade associations and ask them to consider pursuing balanced articles on behalf of the industry.

"Third parties" refers to our industry associations - not bloggers or freelance writers. We did not provide any

funding to Paturel, nor are we aware of whether or by whom she was compensated. She contacted us in late November for an interview, and we participated; her article ran in December. Other than Monsanto commercial advertising which has been placed in WebMD, we have not paid anyone to produce material for WebMD. This was never a "program" and there is not / was not a budget.

**Email Excerpt:**

"... we understand another way to improve the resources on the website is through bloggers to the website. It is a fairly simple process and I would appreciate your consideration of submitting a blog on the safety and health of biotech to WebMD, if at all possible? The instructions for how to do such a thing are below, and I would be grateful for your consideration of this request."

**Clarification:**

In our discussions with the industry, we learned about WebMD's process to work with bloggers. In January, Lisa shared those instructions and Paturel's recent article with several academics in hopes that they may be interested in becoming bloggers on WebMD to bring balance. (That is the email that you shared from Lisa to Kevin Folta.)

This is a great example of our interaction with academics and stakeholders though; We just did a quick online search and it does not look like Dr. Folta or any of the other stakeholders that Lisa reached out to ever chose to pursue a blog with WebMD. Oftentimes, we may flag ideas for people who are experts, and they often disregard the request or just say no. There is no expectation that they will engage.

Eric, we are very willing to look into any questions you may have about emails such as this to provide context. Please don't hesitate to ask more questions if needed.

Thanks.

Charla

---

**From:** Lipton, Eric [<mailto:lipton@nytimes.com>]  
**Sent:** Tuesday, September 01, 2015 12:34 PM  
**To:** LORD, CHARLA MARIE [AG/1000]  
**Subject:** Re: Follow up questions

I need any response you want to offer by tomorrow (Wednesday) at 10 a.m.

Regarding the positions of the Monsanto staff I refer to, Eric Sachs, for example, as the chief of Monsanto's global scientific affairs group, is an executive at the company, in the common use of the term. This term does not mean member of the executive committee. But it means a senior company employee, which he and several of these others are.

Eric Lipton

*The New York Times*

Washington Bureau

202 862 0448 office

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On Tue, Sep 1, 2015 at 1:21 PM, LORD, CHARLA MARIE [AG/1000]  
<[charla.marie.lord@monsanto.com](mailto:charla.marie.lord@monsanto.com)> wrote:

Eric,

I received your email and have sent out requests for the information to all involved. Please know that this week is Farm Progress so I am hopeful everyone will see their emails and get back to me this afternoon or overnight. If that happens, I can work on filling in any holes then respond back to you by EOB Wednesday. I will let you know of any delays at getting everything back to you. However, what is your drop dead deadline?

Also, is your story focus the same? Are you still taking a side by side look at the relationships between those in agriculture and in academics, and then comparing them to similar relationships between those opposed to plant biotechnology and other scholars? You said you were also talking to those at other ag companies. However, since these questions focused on very specific emails and are very Monsanto focused I wanted to check. As I mentioned before, we would be happy to have you speak to someone at Monsanto about the bigger picture including the importance of and our commitment to public/private partnerships and collaboration.

Eric, I also wanted to clarify your reference to "Monsanto executives" in regard to the emails you've mentioned. None of the people involved in the emails you've highlighted so far is a Monsanto executive. They are all Monsanto employees but none are at the level of executive. Please let me know if you need any person's official title or placement in our organization.

Thanks.

Charla

---

**From:** Lipton, Eric [mailto:[lipton@nytimes.com](mailto:lipton@nytimes.com)]  
**Sent:** Tuesday, September 01, 2015 10:29 AM  
**To:** LORD, CHARLA MARIE [AG/1000]  
**Subject:** Follow up questions

Hello Charla

I had two additional questions.

**Question One)**

I see in an extensive set of email correspondence that covers a period of 2011 through 2015 that Monsanto gave "unrestricted grants" to certain professors, who Monsanto executives also corresponded regularly with and asked these academics to intervene with the federal government, such as David Shaw of Mississippi State with the USDA on Public Comment Period - Dicamba Support (primarily John Soteres), or Bruce Chassy (before his retirement) regarding challenging the EPA's plan with Nina Federoff' to regulate transgenic crops (primarily Eric Sachs, who repeatedly urged Dr. Chassy on in terms of using academics to put

pressure on the EPA), or with Kevin Folta (primarily Eric Sachs, Keith Reding and Lisa Drake). Part of the reason that these grants were given, according to correspondence detailing the grants in certain cases, was not for specific research projects. But for outreach efforts.

- a) Do you disclose these unrestricted grants, in a public way. If not why not.
- b) Is there an expectation that these academics who get this special support will act on requests by Monsanto to intervene with federal and state authorities to defend the transgenic technology or to advocate for it, such as these academics were frequently asked to do by Monsanto executives in the emails.
- c) Is it appropriate to be giving this kind of support and then calling someone one David Shaw, on GMO Answers (which you help support, but do not run, I understand) an independent scientist. You do not pay him for these answers, but you have given him unrestricted grants for the purpose of public outreach. Are you being "transparent"

**Question Two)**

Lisa Drake discusses an effort to get more balanced coverage through WebMD and how she had engaged third parties to prepare written entries for the site. She attached this as an example of the effort. See the attachment. How much did you pay this freelance writer to prepare this material. Have you paid a number of freelance writers to produce material that is more balanced? If so, how much was the budget for this kind of work in 2014?

Eric Lipton

*The New York Times*

Washington Bureau

202 862 0448 office

202 370 7951 mobile

lipton@nytimes.com

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Exhibit 7  
to Deposition of Eric Lipton

**Subject:** Monsanto query  
**From:** "LORD, CHARLA MARIE [AG/1000]" <charla.marie.lord@monsanto.com>  
**To:** "Lipton, Eric" <lipton@nytimes.com>  
**Time:** Thursday, August 27, 2015 5:08:38 PM GMT-05:00

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Eric,

Thanks for taking my call. We were happy to support Dr. Folta's outreach program to increase understanding of biotechnology, because we always have been a strong advocate for science and science education, and we are supportive of programs that increase awareness and understanding of science and technology. We funded Dr. Folta's proposal through an unrestricted grant to the University of Florida. An unrestricted grant to a university is much like a gift: it can have no strings attached. A grant of this nature is important to the academics to ensure their independence and limit any formal requirements that might otherwise attach to their outreach efforts. However, it is important to note that unrestricted grants remain subject to all university policies and procedures and are administered by the university.

Within agriculture, the relationships between the public and private sector are critical and have existed for decades. We see public-private collaborations as essential to the advancement of science, innovation and agriculture. For many scientists in the public sector, their passion is to teach science, to explain what is known or unknown, to talk about the risks and benefits, and to unmask half-truths and critical conclusions that are built on limited data or controversial methods. It is part of their role to have knowledge within their discipline and to communicate that knowledge to the public; in fact, it is one element in the consideration of professors for tenure. They serve a very important and well-defined role in serving the greater public good.

The program that Dr. Folta developed is an example of a great program for public-private collaboration. He was already doing it - just on a smaller scale. The challenge he faced is that it would cost money to expand, and that is how the private sector could help.

We fully stand by our professional relationships and collaborations, and have shared information about how we collaborate with academics and universities on our web site.

Regarding your thoughts about misinformation, you are correct. There is a lot of misinformation generated by groups who oppose agriculture and biotechnology. The misinformation is not only limited to the science - there is a lot of misinformation about Monsanto as well. Misinformation is affecting the entire sector, and it is in the public interest for academics to weigh in credibly and point out where the information is incorrect - not only to consumers but to stakeholders like lawmakers and regulators as well. For example, we may work with academic experts who share our science-based views to advocate for supportive policies, regulation and laws that are based on the principles of sound science.

**How much has Monsanto or trade associations that you are associated with donated in the last three years to BioFortified and to the Genetic Literacy Project?**

You can check with Kate Hall, but we are not aware that CBI has provided any funding to BioFortified or Genetic Literacy Project. We also do not fund BioFortified or Genetic Literacy Project.

**Should we have been more transparent about payment for travel for the academics / financing these scholars?**

We follow the guidance for gifts, grants, research agreements, etc. that is provided by the universities that we fund. While each university handles it differently based on the situation, they typically report funding through their internal reporting mechanisms and often the listings are available on their public websites. (A search of the University of Florida's website generated this list of research grants for example.) Other times, we may work with a university to issue a press release. And, of course, this information also can be requested through the more formal Freedom of Information Act process.

**The University of Florida lists Monsanto as a "gold donor" to the U of Florida foundation (2013-14). Does that lead to an expectation that their academics will be supportive of GMOs and our products?**

I have not been able to secure information to address your mention of Monsanto as a "gold donor." Regarding the second part of your question though, of course not; gifts and grants are not given with any expectations regarding support of particular products or conclusions.



Talk to you soon. Charla

Charla Lord  
Corporate Engagement - Monsanto Company  
314-694-2993  
[discover.monsanto.com](http://discover.monsanto.com)

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Exhibit 8  
to Deposition of Eric Lipton

**Subject:** UPDATED Photo assignment for piece about GMO food fight. Slated to run next week.  
Benebrook is back in Oregon  
**From:** "Lipton, Eric" <lipton@nytimes.com>  
**To:** Crista Chapman <crista.chapman@nytimes.com>  
**Time:** Thursday, August 27, 2015 4:56:44 PM GMT 05:00

---

Attached is a lengthy piece I have written, 2,400 words, that is slated to run next week.  
I wanted to go over possible photos.

Photo options:

ONE) A photo of Monsanto, in some fashion. Either an executive there, or its Headquarters?

**TWO)**

**Dr. Kevin Folta**

I have attached high resolution photo of him distributed for newspaper use by University of Florida. Unlikely he would agree to a photo. **He is probably the most important player in the story.**

**THREE)**

**Dr. David Shaw of Mississippi State**

[http://www.web.ur.msstate.edu/web/memo/photos/2013\\_06\\_17.jpg](http://www.web.ur.msstate.edu/web/memo/photos/2013_06_17.jpg)

He has not responded to a request for comment. Not clear if he would agree to a photo.

Perhaps we could use a photo from his public university, as it is a state school and the photos are therefore gov. property.

**FOUR)**

**Dr. Charles Benebrook.** of Enterprise, Oregon

He is available for us to take a photo, but in a hard to reach place.

Charles Benbrook  
Benbrook Consulting Services  
90063 Troy Road  
Enterprise, Oregon 97828  
Main: [541-828-7918](tel:541-828-7918)  
Cell: [208-290-8707](tel:208-290-8707) (works only on travel)

Sure, but I am way off the beaten path, and there is a 70,000 acre forest fire still going. My place in NE OR is on the southern edge of the Grizzley Complex fire. The day we had the long phone conversation when I was in Italy, my family was evacuating the house and moving the animals from our barn. The fire did not move up-river, the house and barn are fine, and the rabbits are back in their barn enjoying the music I play 24-7 for them. Still lots of smoke, fire moving north and west. At the peak, there were 740 firefighters 1/2 mile away, in the tiny town of Troy, OR.

Back to the task at hand -- if you want to send someone, Delta to Lewiston, ID from Salt Lake, or Alaska from Seattle to Lewiston, ID. We are about 65 miles south of the airport; I need to provide directions. Maybe you want some forest fire pictures too?

Alternative, my neighbor is a very good photographer with top-notch equipment; he would be glad to do a shoot, email you the photos. Save a ton of \$\$\$. Your call.

Eager to see how the story turned out, although pretty worried to. Being caste as the "organic Folta" just doesn't sit well with me, for reasons I hope you understand.

Eric Lipton  
*The New York Times*  
Washington Bureau  
[202 862 0448](tel:202-862-0448) office  
[202 370 7951](tel:202-370-7951) mobile  
[lipton@nytimes.com](mailto:lipton@nytimes.com)



Exhibit 9  
to Deposition of Eric Lipton

**Subject:** Re: Trying to reach you  
**From:** "Tackett, Mike" <mike.tackett@nytimes.com>  
**To:** "Lipton, Eric" <lipton@nytimes.com>  
**Time:** Saturday, September 5, 2015 11:29:41 AM GMT 05:00

that's fair. And so is the story, by the way

On Sat, Sep 5, 2015 at 12:27 PM, Lipton, Eric <lipton@nytimes.com> wrote:  
Have done that. It is gong up online now and will be in print editions for all but first edition.

Eric Lipton  
*The New York Times*  
Washington Bureau  
202 862 0448 office  
202 370 7951 mobile  
lipton@nytimes.com

On Sat, Sep 5, 2015 at 12:24 PM, Tackett, Mike <mike.tackett@nytimes.com> wrote:  
yes, that's a good idea

On Sat, Sep 5, 2015 at 11:55 AM, Lipton, Eric <lipton@nytimes.com> wrote:  
FYI...  
I am happy to inset this point he makes...To the effect that...  
EVERY POINT I MAKE IS BASED ON EVIDENCE  
Otherwise, he is upset and there is not much we can do.

Thoughts.

Forwarded message  
From: **Folta, Kevin M.** <kfolta@ufl.edu>  
Date: Sat, Sep 5, 2015 at 11:50 AM  
Subject: Re: Trying to reach you  
To: "Lipton, Eric" <lipton@nytimes.com>  
Cc: "Payne,Jack M" <jackpayne@ufl.edu>

Eric,

Super disappointed. That article paints me in a way that is not fair, it is wrong, and your selective cherry picking of quotes to derive a false narrative is disgusting.

You realize that you have now given me a credibility death sentence. You string together quotes in a way to paint a story that is not accurate, these are a tiny fraction of my emails, nothing to do with the 200 other non-industry things I've done in the last two years.

Nowhere in your article does it say that



EVERY POINT I MAKE IS BASED ON EVIDENCE! I tell the truth. I promote science.

If scientists stop talking about science, then who will? Who will? Who should be allowed to discuss this? Who in your mind is appropriate to talk about it?

I did nothing wrong. Any scientist in vaccines, evolution, or climate would do exactly the same thing-- using industry/external support to talk to politicians, industry and consumers.

My wish is to make this attack on science and reason a complete and total backfire on your and the NYT. This is disgusting character assassination of a scientist that JUST DID HIS JOB.

And yes, I'm grateful for companies supporting science. If NYT would do it I would appreciate it. Guess what? The story is exactly the same.

Sincerely,

Kevin

Kevin M. Folta  
Professor and Chairman  
Horticultural Sciences Department  
Plant Molecular and Cellular Biology Program and  
Plant Innovation Program  
University of Florida  
Gainesville, FL 32611

352-273-4812

*"Don't tell me what can't be done. Tell me what needs to be done, and let me do it." – Norman Borlaug.*

Illumination (blog) <http://kfolta.blogspot.com>  
Twitter @kevinfolta  
Podcast: [www.talkingbiotechpodcast.com](http://www.talkingbiotechpodcast.com)

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**From:** Lipton, Eric <[lipton@nytimes.com](mailto:lipton@nytimes.com)>  
**Sent:** Friday, September 4, 2015 7:42 AM  
**To:** Folta, Kevin M.  
**Subject:** Re: Trying to reach you

Yes. That works. Eric

Eric Lipton NYT

On Sep 4, 2015 12:28 AM, "Folta, Kevin M." <[kfolta@ufl.edu](mailto:kfolta@ufl.edu)> wrote:

Can we try 9AM EST? Thanks for getting back to me.

kf

Kevin M. Folta  
Professor and Chairman  
Horticultural Sciences Department  
Plant Molecular and Cellular Biology Program and  
Plant Innovation Program  
University of Florida  
Gainesville, FL 32611

352-273-4812

*"Don't tell me what can't be done. Tell me what needs to be done, and let me do it." – Norman Borlaug.*

Illumination (blog) <http://kfolta.blogspot.com>  
Twitter @kevinfolta  
Podcast: [www.talkingbiotechpodcast.com](http://www.talkingbiotechpodcast.com)

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**From:** Lipton, Eric <[lipton@nytimes.com](mailto:lipton@nytimes.com)>  
**Sent:** Thursday, September 3, 2015 9:39 PM  
**To:** Folta, Kevin M.  
**Subject:** Re: Trying to reach you

Hi Kevin

I can follow up with you tomorrow (Friday) via phone.  
What time would work for you

Eric

Eric Lipton  
*The New York Times*  
Washington Bureau  
202 862 0448 office  
202 370 7951 mobile  
[lipton@nytimes.com](mailto:lipton@nytimes.com)

On Thu, Sep 3, 2015 at 8:38 PM, Folta, Kevin M. <[kfolta@ufl.edu](mailto:kfolta@ufl.edu)> wrote:

Hi Eric,

UF tells me that NYT called about getting a photo, etc. Any chance of getting a preemptive copy of what is going to be said?

This is important. After our conversation, I didn't like the feel of how this was being portrayed. Your use of the word, "Tool" was really off putting.

It is my job to integrate with industry. Who is the best person for them to work with, other than an actual independent scientist? I know the facts, it is my job to inform companies, politicians, etc. That is what I should be doing, and I'm glad they are listening to me. I speak from a vast peer-

reviewed literature, and that is the right thing to do.

Basically, this whole FOIA thing has me ready to quit science. I've done nothing wrong, I've been nothing but a solid public scientist for 30 years. I've always told the truth. This is character assassination across the web, and I'm exhausted from defending myself. The people that wanted me out of a scientific discussion are likely going to get their way.

I've been uneasy ever since we spoke because I don't feel this is moving in an accurate way. It would be nice to know what is coming so at least I'm not blindsided.

Thanks,

Kevin

Kevin M. Folta  
Professor and Chairman  
Horticultural Sciences Department  
Plant Molecular and Cellular Biology Program and  
Plant Innovation Program  
University of Florida  
Gainesville, FL 32611

352-273-4812

*"Don't tell me what can't be done. Tell me what needs to be done, and let me do it." – Norman Borlaug.*

Illumination (blog) <http://kfolta.blogspot.com>  
Twitter @kevinfolta  
Podcast: [www.talkingbiotechpodcast.com](http://www.talkingbiotechpodcast.com)

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**From:** Lipton, Eric <[lipton@nytimes.com](mailto:lipton@nytimes.com)>  
**Sent:** Wednesday, August 26, 2015 12:43 PM  
**To:** Folta, Kevin M.  
**Subject:** Trying to reach you

Hello Professor Folta

I am working on a piece related to the debate over transgenic (GMO) technologies that I wanted to speak with you about. Tried your office and they said you were traveling.

As part of my reporting, I asked for and received from University of Florida the emails that had been collected as a result of the open records request.

Can you let me know when you might have a bit of time to speak. It could be Thursday if that is better for you or in the evening. Please let me know.

Thanks in advance

Eric

202 862 0448

Eric Lipton

*The New York Times*

Washington Bureau

202 862 0448 office

202 370 7951 mobile

lipton@nytimes.com

**Exhibit 10**  
**to Deposition of Eric Lipton**

**Eric Lipton** @EricLiptonNYT

Academics in GMO Food War Sticking to Our Science--Just with Help From Monsanto//Stonyfield  
[nytimes.com/2015/09/06/us/](https://nytimes.com/2015/09/06/us/) ...

“What industry does is when they find people saying things they like, they make it possible for your voice to be heard in more places and more loudly.”

**DR. BRUCE M. CHASSY**  
 Former professor at the University of Illinois, worked with Monsanto

7:51 AM - 6 Sep 2015

13 Retweets 9 Likes

**Ernest Koe** @ernestkoe · 6 Sep 2015  
 Replying to @EricLiptonNYT  
 @EricLiptonNYT @\_beccaharrison Academics in Rocket Science Sticking to Our Science—Just with Help From SpaceX/Virgin. What's your point?

**@realDonaldTrump** @SocraticGadfly · 6 Sep 2015  
 Replying to @EricLiptonNYT  
 @EricLiptonNYT I give you credit for partially noting organics is his biz as is

EL 000021



**Exhibit 11**  
**to Deposition of Eric Lipton**

**Eric Lipton** @EricLiptonNYT

Monsanto Business As Usual: "Unrestricted Grants" to Pro GMO Professors Who Promote its Cause

[nytimes.com/2015/09/06/us/](https://nytimes.com/2015/09/06/us/) ...

“It is in the public interest for academics to weigh in credibly, not only to consumers but, to stakeholders like lawmakers and regulators, as well.”

**CHARLA LORD**  
A Monsanto spokeswoman

7:55 AM - 6 Sep 2015

46 Retweets 19 Likes

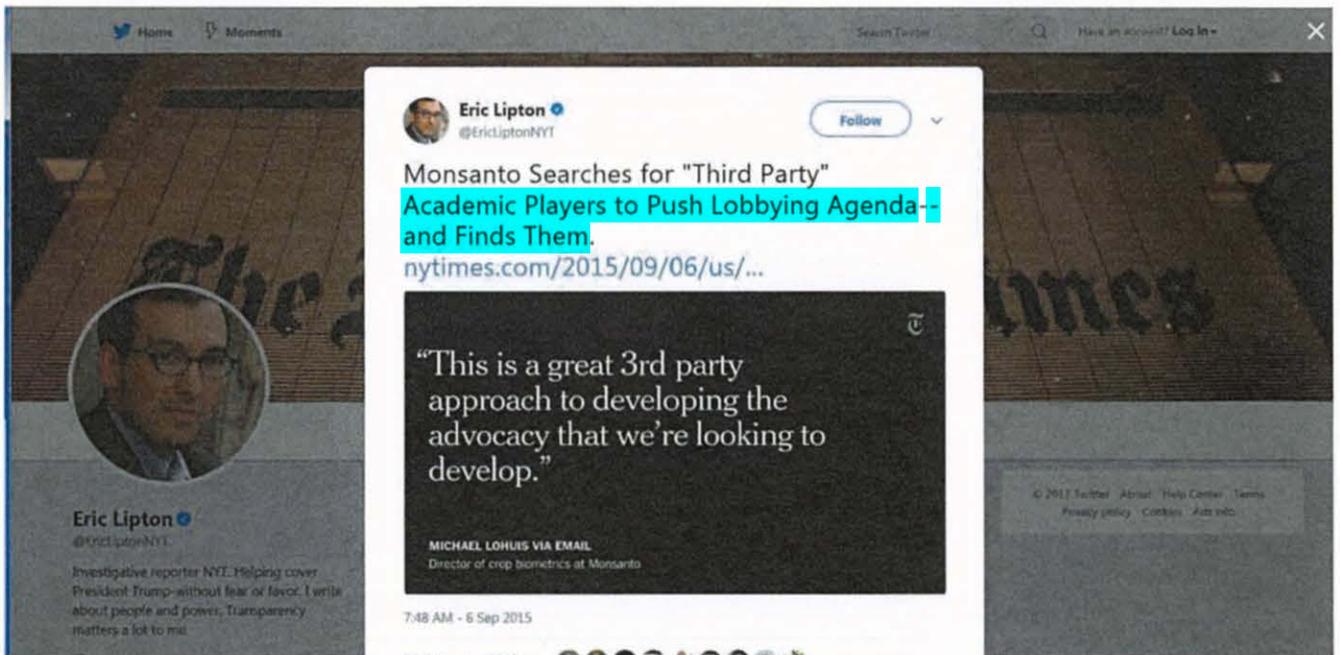
**nicovanderlem** @nieklem · 7 Sep 2015  
Replying to @EricLiptonNYT  
@EricLiptonNYT @voedselenders The world according to Monsanto 😞. Terrible company!

**Vertigrow Products** @VertigrowUSA · 9 Sep 2015  
Replying to @EricLiptonNYT  
@EricLiptonNYT @rodee55 Beware the FDA-Agricultural complex...

EL 000014



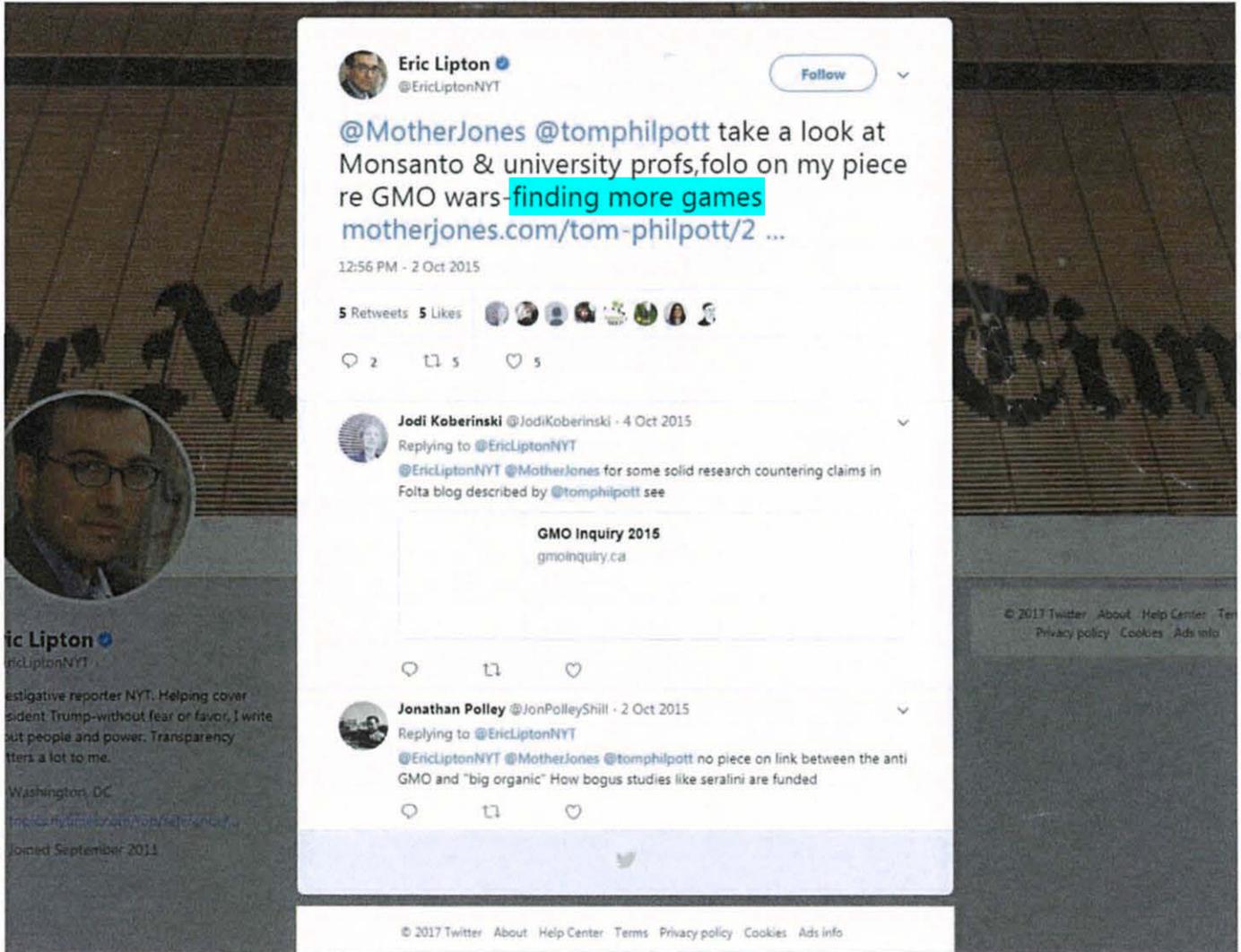
**Exhibit 12**  
**to Deposition of Eric Lipton**



EL 000006



Exhibit 13  
to Deposition of Eric Lipton



EL 000038

EXHIBIT  
 13  
 Lipton  
 PENGAD 800-681-6888