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

15 JOHN C. EASTMAN

16 Plaintiff,

17 vs.

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

19 Defendants.

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

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

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11 DEPOSITION OF: MARC SHORT

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Wednesday, January 26, 2022

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Washington, D.C.

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20 The deposition in the above matter was held in Room 5480, O'Neill House Office
21 Building, commencing at 10:13 a.m.

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Present: Representatives Lofgren, Schiff, Raskin, Aguilar, Murphy, Cheney and
Kinzinger.

1 Appearances:

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5 For the SELECT COMMITTEE TO INVESTIGATE

6 THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

7

8 KATIE ABRAMS, STAFF ASSOCIATE

9 KRISTIN AMERLING, DEPUTY STAFF DIRECTOR & CHIEF COUNSEL

10 RICHARD R. BRUNO, ADMIN ASSISTANT AND SCHEDULER

11 STEPHEN WARD DEVINE, SENIOR LEGISLATIVE COUNSEL

12 SADALLAH A. FARAH, RESEARCHER

13 DANIEL A. GEORGE, SENIOR INVESTIGATIVE COUNSEL

14 TIMOTHY HEAPHY, CHIEF INVESTIGATIVE COUNSEL

15 CASEY ERIN LUCIER, INVESTIGATIVE COUNSEL

16 JOE MAHER, DETAILEE, DEPARTMENT OF HOMELAND SECURITY

17 EVAN B. MAULDIN, CHIEF CLERK

18 GRANT SAUNDERS, STAFF ASSOCIATE

19 SAMANTHA STILES, ADMINISTRATIVE OFFICER

20 JOHN F. WOOD, SENIOR INVESTIGATIVE COUNSEL

21 AND OF COUNSEL TO THE VICE CHAIR

22

23

24 For MARC SHORT:

25

- 1 EMMET FLOOD
- 2 RICHARD CLEARY
- 3 Williams & Connolly LLP
- 4 725 Twelfth Street, N.W.
- 5 Washington, D.C. 20005

1 A There was a phone call from the President, and the Vice President excused
2 himself to take that call upstairs in his residence.

3 Q I see. All right. Let me turn to page -- to exhibit 30 in your binder and the
4 second page of that. This is a Presidential call log from the White House switchboard.
5 And at the very top of page 2, it indicates that, at 9:02 a.m., the President instructed the
6 operator to call back with the Vice President. And then, a couple of lines down, it
7 indicates at 9:15 the operator informed the President that a message was left for the Vice
8 President at 9:15.

9 Do you remember any discussion, Mr. Short, early during your time at the
10 residence that the President wanted to reach Vice President Pence?

11 A No. The only -- the only recollection I have is at some point during our
12 meeting a military aide knocked on the door and said the President was holding for the
13 Vice President, at which point he excused himself to take the call.

14 Q I see. And you said he went upstairs, so he was out of your earshot.

15 A Correct.

16 Q Okay. After he -- how long did the conversation -- or how long was he
17 gone?

18 A My best guess would be 15, 20 minutes.

19 Q Upon his return, did he share any details of the conversation with you?

20 A No.

21 Mr. Flood. Take your time. That was a yes or no, and you answered it.

22 BY MR. HEAPHY:

23 Q What was his demeanor when he returned?

24 A I think that the Vice President was focused on what we had to do as our
25 office that day. And so it was finishing, finalizing the letter and moving forward

1 A Correct.

2 Q Well, on the third page of that document, at the very top, at 11:17, it
3 indicates: The President talked on a phone call to an unidentified person.

4 Reconstructing the testimony from other witnesses, that seems to us to be the
5 time in which he spoke to the Vice President. Does that roughly coincide with your
6 sense of the timing?

7 A I would -- that would make sense to me.

8 Q Okay. And that's the call that you described for which you were not
9 present?

10 A Correct.

11 Q Okay. Just to sort of complete this, the next tab is No. 34. This is another
12 White House document that indicates at the very top in handwriting: 11:20 call with
13 VPOTUS.

14 Again, is that consistent, roughly, with the timing, your understanding of when
15 that phone call between the President and the Vice President took place?

16 A No, it makes sense.

17 Q Okay. Now, I understand that you weren't on the call, but I just want to
18 read you something that was quoted in Bob Woodward's book "Peril," that he indicated
19 in "Peril" that the President said: If you don't do it, I picked the wrong man 4 years ago.
20 The President said: You're going to wimp out. He reportedly said to the Vice
21 President: You can be a hero, or you can be a pussy.

22 Do those -- do you have any recollection of having the Vice President recount to
23 you those words from the President?

24 A No.

25 Q In your involvement, Mr. Short, in discussing these issues and understanding

1 Vice President did not think he had that authority and would not execute a discussion to
2 unilaterally reject electors.

3 And, at that point, there seemed to be a pivot to say, well, maybe you'd entertain
4 the notion of just sending them back. And I recognize there were other lawyers who
5 had argued that earlier.

6 But it was my opinion that the President's viewpoint shifted somewhere toward
7 the end of this time period. So those tweets that you referenced, John, are a revised
8 appeal to the Vice President. Instead of rejecting them, would you send them back to
9 the States.

10 Q And then Mr. Heaphy asked you about some quotes that have been publicly
11 reported from what President Trump allegedly said to the Vice President in that phone
12 call on the morning of the 6th. And I know you said that the Vice President at that time
13 did not tell you about the conversation they had, but did Vice President Pence ever later,
14 after these reports came out, such as the books, did Vice President Pence ever tell you
15 whether those reports about that phone call were accurate?

16 A I never felt the need to ask specifics on that, and I don't think he ever felt the
17 need to divulge specifics on that conversation.

18 Q So, no, he didn't tell you whether it was accurate?

19 A He has not specified the accuracy on that call.

20 BY MR. HEAPHY:

21 Q But just to pick up on that, Mr. Short, was it your impression that the Vice
22 President had directly conveyed his position on these issues to the President, not just to
23 the world through a Dear Colleague Letter, but directly to President Trump?

24 A Many times.

25 Q And had been consistent in conveying his position to the President?

1 A Very consistent.

2 Mr. Heaphy. Okay. All right. Any other questions on the letter?

3 BY MR. HEAPHY:

4 Q Okay. Then I want to move on into the day.

5 Now that you're in the Capitol, it looks like the President began his speech on the
6 Ellipse at about noon. Then, at about 12:30, the President's supporters begin to
7 assemble at the Capitol. While he's still speaking, there's a crowd gathering at the
8 Capitol. At almost exactly 1 o'clock, Mr. Short, from video, Senators and the Vice
9 President are entering the House Chamber where the joint session is convened.

10 The Vice President shortly after 1 o'clock opens, and he reads a script about
11 ascertainment. There's been a lot of discussion about this. And I actually want to play
12 for you a clip of what the Vice President said at the beginning of the joint session and
13 compare it to what other Vice Presidents have said at the beginning of the session.

14 So, if we could turn to the screen, we've got a clip that I want to ask you some
15 questions about after.

16 [Video played.]

17 BY MR. HEAPHY:

18 Q All right. So, obviously, Vice President Pence in 2021 alters, amplifies, adds
19 language to the script that had been read by Vice Presidents reaching back 20 or 30 years.
20 Tell us about the decision, the purposeful decision by Vice President Pence to add that
21 language to the ascertainment script.

22 A Well, I should say that these scripts were coordinated with the
23 Parliamentarian to make sure they were in accord with regular -- whatever the House and
24 Senate rules require. But the predominant reason was that the Vice President wanted
25 to be as transparent as possible because, to the previous exhibit you asked me to look at,