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MAY 28, 2009

TESTIMONY OF ROBERT DVER

HEARING OFFICER KERRIGAN: BACK ON THE RECORD.

STATE YOUR FULL NAME.

MR. DVER: ROBERT DVER. D-V-E-R.

ROBERT DVER,

PRODUCED AS A WITNESS BY AND ON BEHALF OF THE CHARGING PARTY, AND

HAVING BEEN FIRST DULY SWORN BY THE HEARING OFFICER, WAS EXAMINED AND

TESTIFIED AS FOLLOWS:

HEARING OFFICER KERRIGAN: GO AHEAD.

MR. IPSEN: IF I MAY? AND AS I UNDERSTAND, I'LL BE THE ONLY PERSON

QUESTIONING MR. DVER.

DIRECT EXAMINATION

BY MR. IPSEN:

Q MR. DVER, HOW LONG HAVE YOU BEEN A DEPUTY DISTRICT ATTORNEY?

A 23 AND A HALF YEARS.

Q AND AT SOME POINT IN YOUR CAREER DID YOU GET A MANAGEMENT
ASSIGNMENT AS AN ASSISTANT HEAD DEPUTY OR A D.I.C. OR OTHER SUPERVISORIAL
ASSIGNMENT?

A YES.

Q AND WHEN WAS THAT?

A MY FIRST WAS AS ASSISTANT HEAD DEPUTY IN 2001.

1 Q WHERE WHAT WAS?

2 A C.T. 11.

3 Q AND WHAT ARE THE DUTIES OF AN ASSISTANT HEAD DEPUTY IN A NUTSHELL?

4 A IN A NUTSHELL, YOU'RE RESPONSIBLE FOR MAKING SURE THAT ALL THE TRIALS
5 ARE TAKEN CARE OF, ALL THE COURTS ARE STAFFED. YOU REVIEW CASE
6 SETTLEMENTS. YOU ADVISE THE LAWYERS ON TRIAL STRATEGIES AND HOW TO
7 RESOLVE CASES. YOU APPROVE PEOPLE'S TIME OFF. AND YOU CONSULT WITH THE
8 HEAD DEPUTY WHENEVER -- IN MY CASE SHE -- WHENEVER -- ON ALL SORTS OF
9 MATTERS.

10 Q WOULD THOSE MATTERS INCLUDE PERSONNEL MATTERS, CONFIDENTIAL-TYPE
11 MATTERS, DISCIPLINE MATTERS AND OTHER TYPE MATTERS?

12 A YES.

13 Q ALL RIGHT. SO WHILE STILL A GRADE FOUR IN PAY GRADE, YOU HAVE A
14 MANAGERIAL LEVEL -- IS IT FAIR TO CALL IT CLEARANCE TO SEE PERSONNEL FILES
15 AND BE PRIVY TO CONFIDENTIAL MATTERS?

16 MS. EVANS: OBJECTION. OVERBROAD.

17 HEARING OFFICER KERRIGAN: WHAT WAS THE OBJECTION?

18 MS. EVANS: OVERBROAD.

19 MR. IPSEN: TO THE EXTENT --

20 HEARING OFFICER KERRIGAN: OVERRULED. YOU MAY ANSWER THE QUESTION.

21 THE WITNESS: OKAY. I REVIEWED PEOPLE'S PERSONNEL FILES AND WOULD HELP MY
22 HELP DEPUTY WRITE, WHEN SHE ASKED ME TO, PEOPLE'S EVALUATIONS. IF THAT'S
23 WHAT YOU'RE GETTING AT.

ROUGH DRAFT

1 Q RIGHT. AND WOULD THAT BE FOR THEIR EVALUATIONS, EITHER PERFORMANCE
2 EVALUATION OR THEIR APPRAISAL OF PROMOTABILITY?

3 A I ALWAYS GET THOSE TWO CONFUSED. THE ANNUAL ONE -- WHATEVER YOU'RE
4 CALLING THE ANNUAL ONE -- THAT'S THE ONE THAT I WOULD HELP WITH. BUT THE
5 ONE WHERE PEOPLE ARE GOING FOR -- YOU KNOW, GOING FROM GRADE TWO TO
6 GRADE THREE OR GRADE THREE TO GRADE FOUR, I DIDN'T HAVE ANYTHING TO DO
7 WITH THAT. BUT THE ANNUAL REVIEW IS -- WHATEVER THAT ONE IS, THAT'S THE ONE
8 I WOULD -- I WROTE SOME OF THOSE OR HELPED BARBARA WITH SOME OF THOSE.

9 Q ALL RIGHT. AND HOW LONG WERE YOU THE ASSISTANT HEAD DEPUTY?

10 A FOUR YEARS.

11 Q AND THEN AFTER THAT WHAT ASSIGNMENT DID YOU --

12 A I WAS NAMED THE ASSISTANT HEAD DEPUTY IN SAN FERNANDO.

13 Q WAS IT THE SAME TYPE OF DUTIES THERE?

14 A I THINK, YES. BUT YOUR DUTIES WERE -- WELL, THERE WERE TWO
15 DIFFERENCES. ONE, IN A BRANCH, YOU HAVE MORE RESPONSIBILITIES THAN IN
16 CENTRAL BECAUSE YOU'RE DOING THE FILING. YOU'RE RESPONSIBLE FOR THE FILING,
17 THE ARRAIGNMENT COURT, THE D.A. INVESTIGATORS, SO AT THE BRANCH YOU HAVE
18 THOSE, WHERE THOSE RESPONSIBILITIES ARE DIVIDED IN CENTRAL. ON THE OTHER
19 HAND, I HAD LESS RESPONSIBILITIES IN SAN FERNANDO THAN IN C.T. 11, BECAUSE THE
20 HEAD DEPUTY DID MORE THINGS IN SAN FERNANDO AND THEREFORE I DID LESS.

21 Q SO THE POSITION OF ASSISTANT HEAD VARIES DEPENDING ON THE DESIRES OF
22 THE HEAD DEPUTY AND JUST THEIR PERSONAL INVOLVEMENT IN OTHER WORDS?

23 A ABSOLUTELY.

ROUGH DRAFT

1 Q BUT IT CAN INCLUDE SITTING IN ON DISCIPLINE MATTERS WITH THE HEAD
2 DEPUTY?

3 A YES.

4 Q AND IT CAN INCLUDE SITTING IN A GRIEVANCE HEARINGS WITH THE HEAD
5 DEPUTY?

6 A I NEVER SAT IN ON A GRIEVANCE HEARING I'M SURE IT COULD, BUT I NEVER SAT
7 IN ON ONE.

8 Q AFTER THAT ASSIGNMENT, WHAT ASSIGNMENT DID YOU HAVE?

9 A I WAS TRANSFERRED DOWNTOWN AND I WAS THE ASSISTANT HEAD DEPUTY IN
10 THE TRAINING DIVISION. I WAS IN SAN FERNANDO FOR A YEAR AND THEN I
11 ASSISTANT IN THE TRAINING UNIT.

12 Q AND THAT WAS A SIMILAR MANAGEMENT OR SUPERVISORY-TYPE ASSIGNMENT
13 IN THAT WHILE YOU WERE STILL A GRADE FOUR; IS THAT CORRECT?

14 A CORRECT.

15 Q AND IS THAT, AS THE SUPERVISORIAL-LEVEL ASSIGNMENT OF AN ASSISTANT
16 HEAD VIEWED WITHIN THE OFFICE AS A STEPPING STONE TO A GRADE-FIVE
17 MANAGERIAL POSITION?

18 A YES.

19 MS. EVANS: OBJECTION. LACKS FOUNDATION. CALLS FOR SPECULATION.

20 HEARING OFFICER KERRIGAN: IT'S BEEN ANSWERED. ASK THE NEXT QUESTION.

21 BY MR. IPSEN

22 Q AND AFTER THAT ASSIGNMENT IN THE TRAINING -- WHAT WAS THE TRAINING
23 DIVISION? THAT INVOLVED WHAT TYPE OF WORK?

ROUGH DRAFT

1 A WE WERE RESPONSIBLE FOR TRAINING NEW HIRES, THAT WAS OUR MAIN
2 ASSIGNMENT. DURING THE THREE YEARS I WAS THERE, WE HIRED WELL OVER 200
3 PEOPLE. WE WERE RESPONSIBLE FOR WHAT'S CALLED THE GRADE-TWO SCHOOL.
4 THAT'S WHERE AFTER ONE YEAR YOU COME BACK FOR A WEEK LONG TRAINING
5 COLLEGE. AND THEN WE DID INDIVIDUAL COLLEGES ON SPECIFIC TOPICS SUCH AS
6 MAYBE ONE WAS HOMICIDE SCHOOL OR GANG SCHOOL. SOME OF THE THOSE
7 COLLEGES WERE DAY LONG, SOME WERE TWO-DAYS LONG, SOME WERE THREE-DAYS
8 LONG. WE WERE ALSO RESPONSIBLE FOR THE SATURDAY SEMINARS. AND I'D SAY
9 BASICALLY THAT WAS IT.

10 Q WHILE THERE, WAS ONE OF THE OTHER TRAINING DEPUTIES HYATT SELIGMAN?

11 A HYATT SELIGMAN WAS THERE WHEN I GOT THERE. HE WAS TRANSFERRED OUT
12 TO DEPARTMENT 95. AND THEN HE WAS SUBSEQUENTLY TRANSFERRED BACK TO THE
13 TRAINING DIVISION.

14 Q WHERE YOU WORKED WITH HIM WHILE YOU WERE AN ASSISTANT HEAD?

15 A YES.

16 Q AND YOU WERE TECHNICALLY ONE OF HIS SUPERVISORS, YOURSELF AND THE
17 HEAD DEPUTY WERE IN A SUPERVISORIAL POSITION?

18 A IT WASN'T TECHNICALLY. I WAS HIS SUPERVISOR. I WAS HIS DIRECT
19 SUPERVISOR.

20 Q WERE YOU AWARE THAT MR. SELIGMAN WAS ON THE CONTRACT NEGOTIATION
21 TEAM FOR THE ASSOCIATION OF DEPUTY DISTRICT ATTORNEYS?

22 A YES.

23 Q AND WERE YOU AWARE THAT HE ALSO THEN JOINED THE A.D.D.A. BOARD AS A
24 DIRECTOR?

ROUGH DRAFT

1 A YES.

2 Q THE WORK YOU DID, WOULD YOU CUSTOMARILY WORK TOGETHER
3 FREQUENTLY IN TRAINING AND CONDUCTING CLASSES AND INTERACT?

4 A YES.

5 Q AND FOR ALL THE NEW DEPUTIES COMING INTO THE OFFICE, IS IT FAIR TO SAY
6 THEY GO THROUGH TRAINING AND GET TO KNOW YOU AND ALL THE OTHER PEOPLE
7 TRAINING D.A.'S?

8 A YES.

9 Q OKAY. ON A PRETTY MUCH DAY-TO-DAY BASIS FOR A FAIRLY LONG PERIOD OF
10 TIME?

11 A THE NEW HIRE CLASS IS ONE MONTH, FOUR WEEKS. IT'S VERY INTENSE.
12 THERE'S A TREMENDOUS BOND BETWEEN THE TRAINERS AND THE NEW HIRES.

13 Q AND DID YOU FEEL THAT -- DID THAT EXIST WITH A NUMBER OF TRAINERS OR
14 JUST YOURSELF OR MR. SELIGMAN?

15 A CERTAINLY MYSELF, CERTAINLY WITH HYATT WHEN JARED MOSES WAS THERE,
16 WHEN GREG GOEHEY WAS THERE. THAT WOULD BE TRUE OF THOSE GUYS.

17 Q THEY'RE VERY YOUNG EAGER PEOPLE, HAPPY TO BE PART OF THE OFFICE AND
18 THEY HAVE THAT BOND WITH THEIR TRAINING PERSON.

19 MS. EVANS: OBJECTION. RELEVANCE.

20 MR. IPSEN: IT'S MY LAST QUESTION AND I WAS JUST ASKING --

21 HEARING OFFICER KERRIGAN: I'M SORRY?

22 MR. IPSEN: I THINK THE SIGNIFICANCE OF THE POSITION IN THE OFFICE OF TRAINING
23 IS --

24 HEARING OFFICER KERRIGAN: OKAY. ANSWER THE QUESTION.

ROUGH DRAFT

1 THE WITNESS: I'M SORRY?

2 BY MR. IPSEN:

3 Q AS A RESULT OF THE EAGERNESS OF THESE INCOMING DEPUTY D.A.'S AND
4 THEIR PRIDE OF BEING IN THE OFFICE THAT BOND WAS STRENGTHENED WITH YOU
5 AND PEOPLE LIKE MR. SELIGMAN WHO WERE THEIR FIRST CONTACTS IN THE OFFICE?

6 A ABSOLUTELY.

7 Q ALL RIGHT. ARE YOU STILL IN THAT POSITION?

8 A NO.

9 Q OKAY. WHEN WERE YOU TRANSFERRED?

10 A I WAS TRANSFERRED ABOUT SIX WEEKS AGO.

11 Q ALL RIGHT. AND WERE YOU TRANSFERRED TO AN ANOTHER SUPERVISORIAL OR
12 MANAGEMENT-LEVEL POSITION OR TO A DIFFERENT POSITION?

13 A I WAS TAKEN OUT OF MANAGEMENT. I WAS TRANSFERRED TO PASADENA AS A
14 LINE DEPUTY.

15 Q AND WAS THIS SOMETHING YOU EXPECTED?

16 A NO.

17 Q WAS THIS SOMETHING REQUESTED IN YOUR P.E. FORM?

18 A NO.

19 Q DID YOU HAVE YOUR NAME IN SEEKING TO BE PROMOTED TO GRADE FIVE FULL
20 MANAGEMENT?

21 A YES.

22 Q HAD ANY EVALUATIONS BEEN DONE -- AND I'LL ALLOW YOU TO ANSWER THE
23 QUESTION IF YOU WANT TO OR NOT, IF YOU DO NOT WANT TO -- HAVE YOU BEEN
24 RATED IN ANY WAY WITH REGARDS TO THAT PROCESS?

1 A WELL, I WAS IN --

2 HEARING OFFICER KERRIGAN: I'M SORRY. I DON'T UNDERSTAND THE QUESTION.

3 BY MR. IPSEN:

4 Q ARE THERE RATINGS THAT D.A.'S GET WHEN THEY'RE SEEKING TO BE

5 PROMOTED TO GRADE FIVE?

6 MS. EVANS: IS THIS RELEVANT?

7 HEARING OFFICER KERRIGAN: I DON'T KNOW WHAT THE WITNESS IS BEING CALLED

8 FOR.

9 MS. EVANS: I DON'T KNOW EITHER.

10 MR. IPSEN: GIVE ME A COUPLE OF MINUTES AND I'LL BE THERE.

11 HEARING OFFICER KERRIGAN: GO AHEAD.

12 THE WITNESS: I THINK THE ANSWER TO YOUR QUESTION IS, I WAS -- TO BECOME A

13 GRADE FIVE, YOU TAKE A TEST AND THEN YOU'RE BANDED. AND I WAS IN BAND ONE.

14 AND WITH RESPECT TO THE REST OF MY EVALUATIONS -- UNTIL THEY CHANGED THE

15 RULES WITH THE NEW EVALUATION -- I WAS ALWAYS RATED OUTSTANDING.

16 Q DID YOU FEEL YOU WERE OUTSTANDING DEPUTY?

17 A YES.

18 Q DID YOU FEEL YOU MERITED BEING IN BAND ONE?

19 A YES.

20 Q DID YOU FEEL YOU WOULD HAVE MADE A GOOD GRADE FIVE SUPERVISOR IN

21 THIS OFFICE?

22 MS. EVANS: RELEVANCE.

23 HEARING OFFICER KERRIGAN: I THINK I'M A SUPER ATTORNEY TOO.

24 MR. IPSEN: I'M DONE WITH THAT AREA OF QUESTIONING.

ROUGH DRAFT

1 HEARING OFFICER KERRIGAN: ALL RIGHT. MOVE ON.

2 BY MR. IPSEN:

3 Q YOUR TRANSFER TO A NON-SUPERVISORY LEVEL OCCURRED, WHEN DID IT
4 OCCUR IN PROXIMITY TO THE TRANSFER OF HYATT SELIGMAN? WAS IT THE SAME
5 LIST?

6 A YES.

7 Q AND HYATT SELIGMAN WAS TRANSFERRED FROM TRAINING TO WHAT
8 LOCATION?

9 A HE WAS TRANSFERRED TO LONG BEACH.

10 Q DO YOU KNOW FROM WHAT HE SAID IF THIS WAS AN EXPECTED OR REQUESTED
11 TRANSFER ON HIS PART?

12 MS. EVANS: OBJECTION. LEADING.

13 HEARING OFFICER KERRIGAN: CALL HIM AS A WITNESS. THIS KIND OF HEARSAY IS
14 NOT VERY HELPFUL.

15 BY MR. IPSEN:

16 Q AS HIS SUPERVISOR, WOULD YOU HAVE BEEN AWARE IF HE WAS SEEKING TO BE
17 TRANSFERRED OUT OF THE TRAINING UNIT?

18 A I KNOW HYATT WAS NOT SEEKING A TRANSFER TO LONG BEACH. I KNOW
19 HYATT LOVED BEING IN THE TRAINING DIVISION.

20 Q WERE YOU SURPRISED BY YOUR TRANSFER?

21 A YES.

22 Q DID HE APPEAR TO BE SURPRISED BY HIS TRANSFER?

23 A YES.

24 Q WERE YOU TOLD BY MANAGEMENT THE REASON FOR YOUR TRANSFER?

1 A NO.

2 Q WERE YOU TOLD BY ANY PERSON IN MANAGEMENT THE REASON FOR YOUR
3 TRANSFER WHETHER OFFICIALLY OR UNOFFICIALLY?

4 A UNOFFICIALLY.

5 Q AND WHAT WERE YOU TOLD WAS THE REASON FOR YOUR TRANSFER?

6 A WELL, UNOFFICIALLY --

7 HEARING OFFICER KERRIGAN: LET'S GET THE NAMES OF THE PEOPLE HE TALKED TO
8 AND THE TIMES OF THE CONVERSATIONS. AND THEN PIN IT DOWN THAT WAY.

9 MR. IPSEN: MAY I DO THAT IMMEDIATELY AFTER ASKING WHAT HE WAS TOLD?

10 MS. EVANS: NO. WE NEED FOUNDATION FIRST.

11 HEARING OFFICER KERRIGAN: LAY A FOUNDATION.

12 BY MR. IPSEN:

13 Q WHAT LEVEL PERSON TOLD YOU "UNOFFICIALLY" THE REASON FOR YOUR
14 TRANSFER? WAS THIS A PERSON IN EXECUTIVE MANAGEMENT?

15 A YES.

16 Q WHAT DID THEY TELL YOU THE REASON FOR YOUR TRANSFER WAS?

17 HEARING OFFICER KERRIGAN: WAIT A MINUTE. WE DON'T KNOW WHO THE PERSON
18 WAS OR WHEN THE CONVERSATION TOOK PLACE.

19 BY MR. IPSEN:

20 Q DID THE CONVERSATION TAKE PLACE AFTER YOUR TRANSFER?

21 A YES.

22 MS. EVANS: WHO AND WHEN?

23 THE WITNESS: I WAS CALLED BY -- TO DIRECTLY ANSWER YOUR QUESTION, WHAT I

24 THINK YOU'RE ASKING IS, I WAS CALLED BY JOHN PAUL BERNARDY. HE TOLD ME:

ROUGH DRAFT

1 YOU'RE BEING TRANSFERRED. HE SAID: YOU HAVE A CHOICE OF GOING TO CENTRAL
2 OR TO PASADENA. I SAID: HOW LONG DO I HAVE TO MAKE THAT DECISION? HE SAID:
3 YOU HAVE 24 HOURS. I CALLED MY FRIEND, JACKIE LACEY, WHO IS THE -- WHO HAS
4 BEEN A FRIEND OF MINE FOR YEARS -- AND SHE IS AN A.D.A. I ASKED HER IF SHE
5 KNEW WHO WAS GOING TO BE THE HEAD DEPUTY IN CENTRAL OR PASADENA
6 BECAUSE THERE WERE A LOT OF TRANSFERS GOING ON AND I WANTED TO KNOW
7 BEFORE I MADE THE DECISION WHO I WOULD BE WORKING FOR. SHE TOLD ME WHO
8 THE NAMES WERE. AND THEN I SAID: JACKIE WHAT HAPPENED? AND SHE SAID:
9 PEOPLE TOOK WHAT YOU DID AT THE SATURDAY SEMINAR VERY SERIOUSLY. AND
10 MANAGEMENT FEELS YOUR PRESENTATION SHOWED THAT YOU WERE NOT
11 MANAGEMENT MATERIAL. YOU DIDN'T HAVE -- I BELIEVE SHE SAID -- THE DISCRETION
12 OR THE DECISION-MAKING ABILITY -- I FORGET HER WORDS -- TO STAY IN
13 MANAGEMENT.

14 Q DID YOU ACCEPT THAT AS A REASON FOR YOUR TRANSFER?

15 A NO.

16 Q DID YOU -- WHEN YOU SAY THAT SHE HAD BEEN A FRIEND FOR SOME TIME, THIS
17 WAS MORE THIS THAN JUST A FEW YEARS?

18 A JACKIE LACEY AND I HAVE KNOWN EACH OTHER FOR NEARLY 20 YEARS.

19 Q AND YOU HAD A VERY CLOSE RELATIONSHIP?

20 A YES.

21 Q BOTH FRIENDSHIP AND PROFESSIONAL RESPECT?

22 A YES.

ROUGH DRAFT

1 Q DID YOU -- DESPITE THE FACT YOU WERE A GRADE FOUR AND SHE WAS AN
2 ASSISTANT -- DID YOU FEEL COMFORTABLE PRESSING HER FOR THE REAL REASON
3 FOR YOUR TRANSFER?

4 A NO.

5 Q DID YOU PRESS HER ANY WAY?

6 A NO.

7 Q DID SHE GIVE YOU ANOTHER REASON FOR YOUR TRANSFER?

8 A NO.

9 Q DID YOU SPEAK WITH ANY OTHER PERSON REGARDING THE REASON FOR YOUR
10 TRANSFER?

11 A NO.

12 Q DID YOU SPEAK WITH MR. COOLEY REGARDING THE REASON FOR YOUR
13 TRANSFER?

14 A NO.

15 Q MR. COOLEY MADE NO STATEMENT TO YOU REGARDING THE REASON FOR
16 YOUR TRANSFER?

17 A I KNEW WHY I WAS BEING TRANSFERRED, STEVE.

18 Q WHY WERE YOU BEING TRANSFERRED?

19 A I WAS BEING TRANSFERRED BECAUSE OF MY RELATIONSHIP WITH YOU AND THE
20 UNION.

21 Q WHAT DO YOU MEAN?

22 A I'M ASSUMING THAT SORT OF THE OFF-THE-RECORD CONVERSATIONS ARE FAIR
23 GAME HERE? I MEAN, I HAD CONFIDENTIAL, WHAT I WOULD CONSIDER, YOU KNOW,
24 CONFIDENTIAL CONVERSATIONS WITH PEOPLE WHO COMMUNICATED THINGS TO ME

ROUGH DRAFT

1 THAT MADE ME AWARE OF WHAT WAS, IN MY OPINION, WHAT WAS GOING ON. AND IF
2 I'M COMPELLED TO STATE THOSE CONVERSATIONS, THEN I WILL.

3 HEARING OFFICER KERRIGAN: THERE'S NO QUESTION PENDING.

4 BY MR. IPSEN:

5 Q DID YOU ASK TO TESTIFY TODAY?

6 A NO.

7 Q HAVE YOU HAD ANY CONTACT WITH -- HAVE YOU AND I SPOKEN PRIOR TO
8 TODAY ABOUT YOUR TESTIFYING?

9 A I FOUND OUT I WAS TESTIFYING YESTERDAY WHEN I GOT AN E-MAIL FROM
10 JULIE.

11 Q HAVE YOU SPOKEN ABOUT THE CONTENTS OF ANYTHING -- EITHER WHAT WE
12 DISCUSSED OR WHAT I'M ABOUT TO ASK YOU ABOUT WITH ANY A.D.D.A. BOARD
13 MEMBER?

14 A WELL, I DON'T KNOW WHAT YOU'RE ABOUT TO ASK ME SO...

15 Q WELL, THE REASONS FOR YOUR TRANSFER WERE AS I UNDERSTAND, YOU SAY
16 IN CONFIDENTIAL COMMUNICATIONS. DO YOU MEAN WITH PEOPLE WHO ARE
17 FRIENDS THAT YOU PROMISED AS A FRIEND WOULD REMAIN CONFIDENTIAL?
18 CONFIDENCES PEOPLE HAD IN YOU THAT THE THINGS THEY WOULD TELL YOU, YOU
19 WOULD NOT REVEAL THEM?

20 A RIGHT.

21 Q AND DO YOU KEEP YOUR COMMITMENTS WHEN YOU PROMISE SOMEONE YOU
22 WILL NOT REVEAL IT?

23 A I TRY TO, YEAH. OF COURSE.

ROUGH DRAFT

1 Q IF COMPELLED IN A TESTIMONIAL SITUATION WHERE YOU ARE OBLIGATED TO
2 TESTIFY TRUTHFULLY, IS THAT THE TYPE OF THING YOU WOULD DO?

3 A OF COURSE.

4 Q AND IF -- IN THIS ADMINISTRATIVE HEARING, THERE'S NO PRIVILEGE THAT
5 OUTWEIGHS YOUR PROMISE TO A FRIEND THAT YOU WILL NOT RELAY WHAT YOU
6 WERE TOLD, ARE YOU WILLING TO DO THAT?

7 A IF THOSE ARE THE RULES, THEN I WILL TESTIFY TRUTHFULLY.

8 Q OKAY. AND WERE YOU TOLD BY A PERSON IN A MANAGEMENT-LEVEL -- IN A
9 PERSONAL CONFIDENTIAL SITUATION -- THE REASON FOR YOUR TRANSFER?

10 MS. EVANS: OBJECTION. LACKS FOUNDATION.

11 HEARING OFFICER KERRIGAN: LET'S LAY A FOUNDATION FOR THIS CONVERSATION.

12 BY MR. IPSEN:

13 Q WHO WAS THE PERSON YOU HAD A PERSONAL, CONFIDENTIAL RELATIONSHIP
14 WITH AND YOU HAD A CONVERSATION THAT EXPLAINED THE REASON FOR YOUR
15 TRANSFER?

16 A BOTH JACKIE LACEY AND STEVE COOLEY.

17 Q WERE YOUR CONFIDENCES WITH BOTH OF THESE PEOPLE THE TYPE OF
18 CONFIDENCE THAT BUT FOR BEING LEGALLY COMPELLED TO ANSWER THE QUESTION
19 YOU WOULD KEEP?

20 A YES.

21 Q AND DO YOU CONSIDER BOTH OF THESE PEOPLE FRIENDS?

22 A I CERTAINLY DID.

23 Q WHEN WAS THE CONVERSATION YOU HAD WITH JACKIE LACEY?

ROUGH DRAFT

1 A THERE'S NO ONE CONVERSATION THAT I CAN REMEMBER WITH JACKIE. THERE
2 WERE SEVERAL WHERE I HAD BEEN -- WHERE SHE WAS BASICALLY WARNING ME
3 THAT IT WAS BAD FOR MY CAREER TO BE SEEN WITH YOU, TO TALK TO YOU, TO
4 ASSOCIATE WITH THE UNION. AND SHE WAS CLEARLY SPEAKING ON -- NOT FROM HER
5 POINT OF VIEW -- SHE WAS WARNING ME AS A FRIEND. SHE WAS MY SUPERVISOR
6 TECHNICALLY BUT SHE WAS SPEAKING TO ME AS A FRIEND.

7 Q THE WARNING SEEMED TO BE SINCERE?

8 A OH, THERE WAS NO QUESTION.

9 Q DID YOU TAKE THEM AS VALID WARNINGS, MEANING THERE WAS SOME
10 DANGER OF PAYING A PRICE FOR YOUR RELATIONSHIP WITH MYSELF AND POSSIBLY
11 OTHER UNION INDIVIDUALS? DO YOU RECOGNIZE --

12 A THERE WAS NO QUESTION THAT SHE WAS -- JACKIE'S LIKE MY SISTER AND SHE
13 WAS LOOKING OUT FOR SOMEONE, I THINK, SHE VIEWS A BROTHER. AND SHE WAS
14 TRYING TO MAKE SURE THINGS WENT WELL FOR ME IN THE OFFICE.

15 Q I UNDERSTAND. WERE THOSE WARNINGS ON ONE OCCASION OR MORE THAN
16 ONE OCCASION?

17 A MORE THAN ONE OCCASION.

18 Q OVER WHAT PERIOD OF TIME?

19 A WELL, REALLY I WOULD SAY TWO OR THREE YEARS WHERE IT BECAME -- AS
20 THE UNION BECAME MORE REAL, MEANING WHEN YOU GUYS WERE FIRST STARTING,
21 YOU KNOW, AROUND 2005/2004 THAT KIND OF STUFF -- I MEAN THERE WERE THINGS
22 GOING ON WITH THE A.D.D.A. BUT AS THE TIME WENT ON AND THE UNION BECAME
23 MORE REAL AND DIFFERENT INCIDENTS HAPPENED THE WARNINGS BECAME, I WOULD
24 SAY, MORE FREQUENT. JACKIE AND I SPOKE LESS BUT --

ROUGH DRAFT

1 Q YOU SAY AS THINGS HAPPENED. AS THE A.D.D.A. BEGAN HAVING SOME
2 POLITICAL WEIGHT, SOME SUCCESSES AND SOME IMPACT ON THE ISSUES IMPORTANT
3 TO D.A.'S?

4 MS. EVANS: OBJECTION. LEADING.

5 HEARING OFFICER KERRIGAN: WHAT IS THE RELEVANCE? DOESN'T MANAGEMENT
6 HAVE THE RIGHT TO -- TO ORDER MANAGEMENT WOULD THAT AFFILIATED WITH THE
7 UNION.

8 MR. IPSEN: I'M SORRY.

9 HEARING OFFICER KERRIGAN: DOESN'T MANAGEMENT HAVE THE RIGHT TO INSIST
10 THAT PEOPLE MANAGEMENT NOT AID THE UNION.

11 MR. IPSEN: IF I CAN CLEAR THAT UP.

12 BY MR. IPSEN:

13 Q ARE YOU A GRADE FIVE OR A GRADE FOUR?

14 A GRADE FOUR.

15 Q AND YOU'RE A GRADE FOUR AND MEMBER OF THE BARGAINING UNIT?

16 A I AM.

17 HEARING OFFICER KERRIGAN: HE IS NOW BUT THESE CONVERSATIONS TOOK PLACE
18 WHEN HE WAS --

19 BY MR. IPSEN:

20 Q WHEN YOU WERE IN A MANAGEMENT POSITION, WERE YOU STILL A GRADE
21 FOUR?

22 A YES.

23 MR. DEBBAUDT: THE UNION COVERS HIM. ALL GRADES, ONE THROUGH FOUR. THE
24 ONLY PEOPLE THAT AREN'T COVERED ARE GRADE FIVES.

ROUGH DRAFT

1 MS. EVANS: HE TESTIFIED THAT HE WAS IN MANAGEMENT AS ASSISTANT HEAD
2 DEPUTY.

3 MR. DEBBAUDT: BUT UNDER THE RULES OF THE CERTIFIED BARGAINING UNIT BY THE
4 HEARING OFFICER AND THE COMMISSION, THAT WE'RE CERTIFIED FOR RIGHT NOW
5 FOR ALL GRADES ONE THROUGH FOUR, EVEN SUPERVISORIAL GRADE FOURS.

6 MS. EVANS: ONE AT A TIME.

7 HEARING OFFICER KERRIGAN: SO THERE WILL BE SOME EVIDENCE OF THIS AT SOME
8 POINT?

9 MR. IPSEN: THAT'S CORRECT.

10 HEARING OFFICER KERRIGAN: YOU'VE EXCEEDED YOUR 15 MINUTES BY HALF AN
11 HOUR. DO YOU HAVE MUCH MORE?

12 MR. IPSEN: I WILL GET TO THE POINT. I APPRECIATE YOUR INDULGENCE.

13 HEARING OFFICER KERRIGAN: I'M NOT SAYING -- I THINK YOU SHOULD CONSIDER
14 WHETHER THAT'S AN ISSUE AS TO WHETHER HE WAS IN MANAGEMENT AND WHAT
15 MANAGEMENT CAN EXPECT OF A MANAGEMENT PEOPLE. GO AHEAD.

16 MR. IPSEN: I APPRECIATE THAT.

17 BY MR. IPSEN:

18 FOLLOWING YOUR TRANSFER, WHAT DID JACKIE LACEY TELL WAS THE REASON, IN
19 CONFIDENCE, DID SHE TELL YOU WAS THE REASON YOU WERE TRANSFERRED?

20 A WELL, I TOLD YOU. JACKIE TOLD ME IT WAS THE SATURDAY SEMINAR BUT
21 THAT WAS -- I DON'T BELIEVE THAT.

22 Q OKAY. DID SHE EVER GIVE YOU ANY OTHER EXPLANATION OR WAS THAT JUST
23 ONE CONVERSATION WITH HER?

ROUGH DRAFT

1 A THERE WERE SEVERAL -- THAT WAS THE ONLY CONVERSATION YOU HAVE TO
2 UNDERSTAND THAT AFTER THE TRANSFER I NEVER -- I HAVEN'T -- I SPOKE TO JACKIE
3 ONCE AND IT WAS ABOUT SOMETHING COMPLETELY UNRELATED.

4 Q AND YOU INDICATED THAT YOU HAD A CONVERSATION WITH THE DISTRICT
5 ATTORNEY, STEVE COOLEY?

6 A I DID.

7 Q WHAT WS THE TIME AND CIRCUMSTANCE OF THAT CONVERSATION?

8 A IT WAS IN OCTOBER OF LAST YEAR.

9 MS. EVANS: OCTOBER 2008?

10 THE WITNESS: OCTOBER 2008, THE 17TH.

11 BY MR. IPSEN:

12 Q WHAT WERE THE CIRCUMSTANCES?

13 A THE CIRCUMSTANCES WERE THAT YOU HAD ASKED ME TO BE A PART OF THE
14 BARGAINING TEAM. I HAD TALKED TO JACKIE ABOUT THAT, BECAUSE JACKIE KNEW
15 THAT I WANTED SOME DAY TO BE A GRADE FIVE OR A D.I.C. AND SHE KNEW -- SHE
16 FELT THAT IF I WAS ON THE BARGAINING TEAM THAT WOULD BE A DISASTER FOR MY
17 CAREER BECAUSE OF HOW STEVE COOLEY FELT ABOUT THE UNION AND ABOUT YOU
18 IN PARTICULAR.

19 Q AND WHAT DID SHE TELL ABOUT YOU THE UNION AND ME IN PARTICULAR?

20 MS. EVANS: HEARSAY.

21 HEARING OFFICER KERRIGAN: I THOUGHT YOU WERE ASKING HIM ABOUT
22 CONVERSATIONS WITH COOLEY.

23 BY MR. IPSEN:

24 Q ALL RIGHT,

ROUGH DRAFT

1 A WELL, SO THE ANSWER IS JACKIE TOLD ME THAT THIS WOULD BE A MISTAKE.
2 THIS WOULD BE VERY BAD FOR MY CAREER. THAT I SHOULDN'T BE PART OF THE
3 BARGAINING TEAM. THAT STEVE DOESN'T LIKE YOU, DOESN'T LIKE THE UNION,
4 THINKS THE UNION IS GOING TO BE A DISASTER AND ANYONE ASSOCIATED WITH THE
5 UNION IS NOT GOING TO BE -- THAT'S ITS GOING TO BE VERY BAD FOR THEIR CAREERS.
6 I TOLD -- AGAINST HER SORT OF ADMONITIONS -- I WENT TO STEVE MYSELF. STEVE
7 COOLEY AND I HAVE KNOWN EACH OTHER FOR 15 YEARS, MAYBE LONGER. HE WAS
8 MY HEAD DEPUTY IN SAN FERNANDO IN THE EARLY 90'S. I'M HIS FRIEND. I
9 SUPPORTED HIM FOR D.A. IN 2000. I SUPPORTED HIS REELECTION IN 2004. I WENT TO
10 HIM AS A FRIEND AND AS SOMEONE WHO KNEW HIM TO ASK HIM WHAT HE THOUGHT I
11 SHOULD DO. I THOUGHT THAT IF I WAS ON THE BARGAINING TEAM, THAT I COULD BE
12 A GOOD BRIDGE BETWEEN THE UNION AND MANAGEMENT BECAUSE I HAVE FRIENDS
13 ON BOTH SIDES. AND PEOPLE WHO, I THOUGHT, RESPECTED ME ON BOTH SIDES AND I
14 THOUGHT I COULD BE HELPFUL. STEVE TOLD ME THAT --

15 (PAUSE IN THE PROCEEDINGS.)

16 THE WITNESS: STEVE TOLD ME THAT THE UNION ONLY EXISTED BECAUSE OF ME.
17 WHEN I ASKED HIM HOW HE REASONED THAT WAY, HE SAID THE UNION HAD TAKEN
18 THE FACT THAT I HAD SIGNED THE CARD AND USED THAT FACT TO SIGN UP
19 HUNDREDS OF YOUNGER DEPUTIES WHO LOOKED UP TO ME. HE SAID THE UNION WAS
20 GOING TO BE A DISASTER. HE SAID YOU WERE A CROOK. AND THAT ANYBODY WHO
21 WORKED WITH YOU IN THAT CAPACITY WAS -- WOULD BE -- I FORGET HIS LANGUAGE
22 BUT ESSENTIALLY IT WAS -- CONTAMINATED. I'M NOT SAYING THAT'S THE WORD HE
23 USED BUT THAT WAS THE GIST OF IT. HE TOLD ME -- I WAS SHOCKED AT HIS
24 REACTION. I KNEW FROM PRIOR CONVERSATIONS HOW HE FELT ABOUT YOU. AND I

ROUGH DRAFT

1 KNEW FROM PRIOR CONVERSATIONS HOW HE FELT ABOUT THE UNION BUT I WAS
2 STILL TAKEN ABACK BY HIS VEHEMENCE. HE TOLD ME -- I SAID TO HIM: STEVE, WELL
3 THEN WHAT DO YOU THINK I SHOULD DO. HE SAID YOU SHOULD GET TOGETHER WITH
4 PETER BURKE AND TOM RUBINSON. PETER AND TOM ARE TWO -- PETER'S AN
5 ASSISTANT HEAD DEPUTY IN A SPECIAL UNIT TOM WAS A SPECIAL ASSISTANT. THEIR
6 BOTH FRIENDS OF MINE. THEY WERE BOTH IN THE OFFICE FOR YEARS. TOM IS NOW A
7 JUDGE. HE TOLD ME I SHOULD GET TOGETHER WITH THE TWO OF THEM AND DO
8 SOMETHING. HE WASN'T -- THE SOMETHING WAS CLEARLY -- I WISH I COULD
9 REMEMBER THE WORDS. THE SOMETHING WAS EFFECTIVELY DESIGNED TO SORT OF
10 UNDERMINE YOU. HE NEVER SAID THAT DIRECTLY, BUT IT WAS SOMETHING -- HE
11 KNEW THAT PETER -- EVERYONE KNOWS IN THE OFFICE THAT PETER HAS HAD HIS RUN
12 INS WITH YOU GUYS. I DIDN'T KNOW IF TOM -- I DON'T KNOW WHY TOM WAS
13 BROUGHT IN AT ALL. AND THEN I LEFT. I WAS SHAKEN AND I THOUGHT -- I WAS VERY
14 SHAKEN UP BY THE CONVERSATION.

15 Q WAS THAT THE LAST CONVERSATION YOU HAD WITH HIM?

16 A YES. ABOUT THAT TOPIC, YES.

17 Q WAS THAT PRIOR TO OR AFTER YOUR TRANSFER?

18 A THAT WAS PRIOR TO.

19 Q DID YOU HAVE ANY CONVERSATIONS WITH ANY PERSON FOLLOWING YOUR
20 TRANSFER ABOUT -- IN ADDITION TO THAT REGARDING THE REASON FOR THE
21 TRANSFER?

22 A NO. NONE THAT I HAVEN'T TOLD YOU BECAUSE THERE WAS NO REASON -- I
23 KNEW.

ROUGH DRAFT

1 Q DID MR. COOLEY EVER TELL YOU OR SAY THE WORDS THAT YOU COULD HAVE
2 STOPPED THE UNION OR WAS IT BY INFERENCE? DID HE EVER SAY THOSE WORDS.

3 A HE DIDN'T SAY IT WAS CLEAR -- WHAT HE SAID WAS -- I EVEN WROTE IT DOWN
4 AT THE TIME, HE SAID THAT: THEY USED YOU AND THEY USED YOUR GOOD NAME TO
5 GET 300 MORE PEOPLE TO SIGN THOSE CARDS. AND SOMEHOW HE FELT IT WAS MY
6 NOW RESPONSIBILITY, SINCE I WAS THE BLAME FOR THE UNION FORMING, TO NOW
7 GET TOGETHER WITH TOM AND PETER AND DO SOMETHING ABOUT THIS.

8 Q THE CARDS YOU SPEAK OF ARE THE UNION CARDS WHICH HAVE TO BE SIGNED
9 BY 50 PERCENT OF THE D.D.A.'S IN ORDER TO BECOME A CERTIFIED BARGAINING UNIT?
10 MS. EVANS: OBJECTION. LEADING.

11 HEARING OFFICER KERRIGAN: CARDS, UNION CARDS, I UNDERSTAND THAT.
12 BY MR. IPSEN:

13 Q DO YOU AGREE WITH HIS ASSESSMENT THAT YOU ARE IN A UNIQUE POSITION IN
14 THE OFFICE PERHAPS AS THE MOST RESPECTED PERSON BOTH AMONG LINE DEPUTY
15 D.A.'S AND MANAGEMENT?

16 MS. EVANS: OBJECTION. RELEVANCE.

17 HEARING OFFICER KERRIGAN: I'M NOT INTERESTED IN PEOPLE'S IMPRESSIONS OF
18 THEMSELVES MUCH REALLY, COUNSEL.

19 MR. IPSEN: NOTHING FURTHER.

20 MS. DIXON SILVA: DO WE NEED TO RELEASE MR. ZAJEC?

21 MS. EVANS: I JUST HAVE A COUPLE AT THIS TIME.

22 HEARING OFFICER KERRIGAN: GO AHEAD.

23 CROSS-EXAMINATION

24 BY MS. EVANS:

ROUGH DRAFT

1 Q YOU INDICATED THAT YOU NEVER TALKED TO ANYONE AFTER THIS
2 CONVERSATION WITH MR. COOLEY ABOUT YOUR TRANSFER?

3 A NO. NO. THAT'S NOT -- WHEN YOU SAY "ANYONE."

4 Q I'M SORRY. I THOUGHT MR. IPSEN'S QUESTION WAS: DID YOU TALK TO ANYONE.
5 WELL, AFTER YOU HAD THIS CONVERSATION WITH MR. COOLEY ABOUT THE THINGS
6 THAT YOU'VE TOLD US HERE AND ABOUT SIGNING THE CARDS AND THAT SORT OF
7 THING, WHO WAS THE NEXT PERSON THAT YOU TALKED TO ABOUT THIS
8 CONVERSATION WITH MR. COOLEY?

9 A BARBARA AND DAN MURPHY THAT NIGHT.

10 Q AND WHO ELSE HAVE YOU TALKED TO ABOUT IT?

11 (PAUSE IN THE PROCEEDINGS.)

12 BY MS. EVANS:

13 Q DID YOU EVER TALK TO MR. IPSEN ABOUT IT?

14 A NO.

15 Q DID YOU EVER TALK TO MR. DID DEBBAUDT ABOUT IT?

16 A NO.

17 Q DID YOU EVER TALK TO ANYONE ON THE A.D.D.A. BOARD ABOUT IT?

18 A NO.

19 Q DID YOU EVER FILE A -- DID YOU FEEL THAT YOU WERE BEING THREATENED BY
20 MR. COOLEY?

21 A NO.

22 Q DID YOU EVER FILE A COMPLAINT TO H.R. ABOUT THIS CONVERSATION WITH
23 MR. COOLEY?

24 A CAN I CLARIFY MY ANSWER ABOUT THE THREATENING?

1 Q SURE.

2 A I FELT THAT HE PUT ME IN AN IMPOSSIBLE POSITION. I FELT THAT HE WAS
3 ASKING ME -- STEVE IPSEN IS A FRIEND OF MINE. I'M NOT A UNION ACTIVIST, I NEVER
4 WAS. STEVE AND I HAVE KNOW EACH OTHER FOR YEARS. I HAVE THE GREATEST
5 AMOUNT OF RESPECT FOR HIM. STEVE COOLEY IS A FRIEND OF MINE. HE'S THE D.A.
6 HE WAS AT MY KIDS BARMITZFA. OKAY. HE WAS ASKING ME TO DO SOMETHING
7 THAT I FELT WAS WRONG IN A WAY THAT I FELT WAS INTIMIDATING. THE REASON I
8 WENT TO THE MURPHY'S IS BECAUSE I KNEW, I KNEW -- AND IF YOU KNOW THE WAY
9 THE OFFICE WORKS -- I KNEW AT THAT MOMENT THAT MY CAREER IN THE OFFICE WAS
10 BASICALLY DONE IF I DIDN'T LISTEN TO WHAT STEVE COOLEY ASKED ME TO DO. AND
11 I KNEW I WASN'T GOING TO DO IT BECAUSE I DIDN'T THINK IT WAS THE RIGHT THING
12 TO DO.

13 Q WHAT DID YOU EXPECT MR. COOLEY WOULD SAY TO YOU WHEN YOU WENT TO
14 HIM WITH THE QUESTION THAT YOU OFFERED HIM?

15 A THAT'S A GOOD QUESTION. THAT'S A REALLY GOOD QUESTION. I WAS HOPING,
16 NAIVELY, I WAS HOPING HE WOULD SAY: ROB, I THINK THAT'S A GREAT IDEA. I'M
17 REALLY GLAD YOU'RE WILLING TO STEP UP AND TAKE A ROLE IN THE BARGAINING
18 BECAUSE I'D LOVE TO HAVE SOMEONE WITH YOUR INTEGRITY ON THE OTHER SIDE. I
19 TALKED TO JULIE ABOUT THIS AT ONE POINT -- I'M SORRY. I DIDN'T ANSWER YOUR
20 QUESTION. THE ANSWER TO YOUR QUESTION IS: I THOUGHT THAT HE WAS GOING TO
21 SAY THAT HE WOULD -- EITHER ONE OF TWO THINGS. EITHER ONE, THAT HE WOULD
22 APPRECIATE HAVING ME ON THE BARGAINING TEAM, THAT IT WOULD BE THE GREAT
23 TO HAVE SOMEONE ON THE OTHER SIDE OF THE TABLE WITH MY LEVEL OF RESPECT
24 IN THE OFFICE. OR TWO, HE WOULD SAY: ROB, DO WHAT YOU THINK IS RIGHT. I

ROUGH DRAFT

1 KNOW YOU. I'VE KNOWN YOU FOR SO LONG. IF THIS IS WHAT YOU FEEL IS THE RIGHT
2 THING TO DO THEN GO AHEAD AND DO IT.

3 Q WAS YOUR CONVERSATION --

4 A THAT WAS --

5 Q I'M SORRY.

6 A NO. I'M SORRY.

7 Q NO. I DIDN'T MEAN TO CUT YOU OFF. I APOLOGIZE.

8 A IT'S ALL RIGHT.

9 Q WAS YOUR CONVERSATION WITH BARBARA AND DAN MURPHY ONE THAT YOU
10 HAD WITH THEM IN CONFIDENCE?

11 A I DON'T KNOW WHAT YOU MEAN.

12 Q THERE WAS SOME DISCUSSION ON YOUR DIRECT EXAMINATION WITH MR. IPSEN
13 THAT YOU HAD CONVERSATIONS THAT YOU FELT WERE IN CONFIDENCE?

14 A WHEN I WALKED INTO STEVE'S OFFICE -- I MEAN, THERE'S THINGS THAT -- STEVE
15 AND I HAVE ALWAYS HAD A GREAT RELATIONSHIP. HE'S ALWAYS BEEN ABLE TO
16 TALK TO ME AND TELL ME THINGS THAT I SUSPECTED, YOU KNOW, BECAUSE WE'RE
17 FRIENDS ALSO. SO I THINK -- I GUESS THAT'S WHAT I WAS TRYING TO CONVEY.
18 THAT'S WHY I --

19 Q WELL, WHO DID YOU DISCUSS THIS MEETING YOU HAD WITH MR. COOLEY --
20 WHO DID YOU DISCUSS THIS WITH BESIDES BARBARA AND DAN MURPHY BEFORE
21 TODAY?

22 HEARING OFFICER KERRIGAN: OTHER THAN YOUR WIFE.

23 THE WITNESS: I'M SORRY?

24 BY MS. EVANS:

1 Q SURE. OTHER THAN YOUR WIFE, I'M SORRY.

2 A TOM RUBINSON.

3 Q AND WHO ELSE BESIDES MR. RUBINSON AND THE MURPHY'S?

4 A ABE WEISBROT. W-E-I-S-B-R-O-T.

5 MR. IPSEN: I'M GOING TO OBJECT. IF IT INCLUDES ANY ATTORNEYS OR CLERGY

6 MEMBERS, I WOULD OBJECT TO HIM LISTING -- THIS IS NOT A JOKE. I THINK IF PEOPLE

7 DO SPEAK WITH CLERGY OR ATTORNEYS I THINK THAT'S EXEMPT.

8 THE WITNESS: THAT'S OKAY, STEVE. I DIDN'T SPEAK TO ANY RABBIS. SINCE YOU'RE

9 ASKING, I WENT TO THE MURPHY'S THAT NIGHT BECAUSE BARBARA IS A DEAR FRIEND

10 AND SHE'S A HEAD DEPUTY IN THE OFFICE. DAN MURPHY IS THE ALSO A HEAD

11 DEPUTY IN THE OFFICE AND HAS BEEN IN THE OFFICE FOR A LONG. THEY'RE TRUSTED

12 FRIENDS OF MINE. THEY KNOW THE WAY THE OFFICE WORKS. I EXPLAINED TO THEM

13 WHAT HAD HAPPENED AND I WAS SEEKING COUNSEL AS TO WHAT THEY THOUGHT MY

14 OPTIONS WERE, WHAT THEY THOUGHT I SHOULD DO GIVEN WHAT HAD JUST

15 HAPPENED. I DIDN'T WANT TO DISCUSS IT WITH ANYONE ELSE AT THE TIME BECAUSE

16 I JUST DIDN'T KNOW AT THAT POINT WHAT TO DO. SUBSEQUENTLY, AS THE WEEKS

17 WENT BY, I WOULD SAY UP UNTIL THE TIME OF MY TRANSFER I STILL THOUGHT I WAS

18 OKAY. AND THEN -- I'M SORRY.

19 BY MS. EVANS:

20 Q OKAY. IT WAS THE MURPHY'S, MR. RUBINSON, MR. WEISBROT --

21 A WEISBROT. W-E-I-S-B-R-O-T.

22 Q OKAY. WHO ELSE?

ROUGH DRAFT

1 A THERE'S PROBABLY ONE OR TWO OTHER FRIENDS IN THE OFFICE I'VE SPOKEN
2 TO ABOUT IT. I'M JUST BLANKING ON THEIR NAMES RIGHT NOW BUT I'M SURE I SPOKE
3 TO ONE OR TWO OTHER PEOPLE ABOUT THIS.

4 Q DID ANYBODY THAT YOU SPOKE TO TELL YOU THAT THEY WERE GOING TO
5 SHARE YOUR CONFIDENCE WITH MEMBERS OF THE A.D.D.A. BOARD?

6 A I'M SURE I TOLD THEM NOT TO TELL THEM.

7 Q DO YOU KNOW HOW THE A.D.D.A. BOARD CAME TO KNOW OF THE EVENTS
8 YOU'VE RECITED HERE TODAY?

9 MR. DEBBAUDT: I'M GOING TO OBJECT TO RELEVANCE.

10 MS. EVANS: IT'S NOT YOUR WITNESS.

11 HEARING OFFICER KERRIGAN: I DON'T THINK RELEVANCE IS A GOOD OBJECTION.
12 OVERRULED.

13 THE WITNESS: I HAVE A GUESS BUT I DON'T KNOW FOR SURE.

14 BY MS. EVANS:

15 Q AND WHAT'S YOUR BEST -- BASED ON YOUR UNDERSTANDING --

16 MR. IPSEN: OBJECTION. CALLS FOR SPECULATION. IT'S A GUESS.

17 HEARING OFFICER KERRIGAN: EXACTLY. SUSTAINED.

18 BY MS. EVANS:

19 Q WELL, YOU BELIEVE THAT YOU KNOW THE REAL REASON THAT YOU WERE
20 TRANSFERRED; IS THAT CORRECT?

21 A YES.

22 Q AND MS. LACEY GAVE YOU THE REASON THAT YOU WERE TRANSFERRED,
23 DIDN'T SHE?

ROUGH DRAFT

1 A NO. JACKIE TOLD ME -- JACKIE SAID -- WELL, WHEN I ASKED HER WHAT
2 HAPPENED SHE SAID IT WAS A SATURDAY SEMINAR. SO WHEN YOU SAY THE REAL
3 REASON, I MEAN NO ONE FROM THE ADMINISTRATION HAS EVER SAID ANYTHING
4 OFFICIALLY TO ME.

5 Q AND YOU SAID JACKIE HAS BEEN A GOOD FRIEND OF YOURS FOR 20 YEARS?

6 A SHE IS A DEAR FRIEND OF MINE.

7 Q SHE'S LIKE A SISTER AND YOU'RE LIKE A BROTHER?

8 A WE WERE.

9 Q DOES JACKIE MAKE A HABIT OF LYING TO YOU?

10 A I'M SURE -- THAT'S A HORRIBLE QUESTION FOR ME TO ANSWER. AND I REFUSE
11 TO BELIEVE THAT JACKIE LIED TO ME IN THE WAY THAT YOU'RE SAYING. I THINK
12 THAT JACKIE EITHER BELIEVES IT BECAUSE SHE'S BEEN AROUND LONG ENOUGH OR
13 SHE WAS TRYING TO PROTECT ME. I DON'T BELIEVE -- WELL --

14 Q YOU TESTIFIED THAT YOU DIDN'T ACCEPT HER REASON. DID YOU NOT TESTIFY
15 TO THAT?

16 A THAT'S TRUE.

17 Q DID YOU TELL HER: JACKIE, I DON'T BELIEVE YOU. DID YOU ARGUE WITH HER?

18 A NO.

19 Q DID YOU TELL HER YOU DIDN'T BELIEVE HER?

20 A YES.

21 Q YOU DID TELL HER YOU DIDN'T BELIEVE HER?

22 A YES.

23 Q AND WHAT DID SHE SAY?

ROUGH DRAFT

1 A I'M TRYING TO REMEMBER THAT PHONE CONVERSATION. AND I'M REALLY
2 TRYING TO ANSWER YOUR QUESTION. I'M TRYING TO REMEMBER THE PHONE
3 CONVERSATION WITH JACKIE. I REMEMBER CLEARLY HER SAYING: THIS IS ABOUT
4 THE SATURDAY SEMINAR. I REMEMBER SAYING TO HER: JACKIE, I RECEIVED A
5 LETTER FROM STEVE COOLEY COMPLIMENTING ME ON THE SATURDAY SEMINAR.
6 AND HOW CAN THIS BE? HOW CAN YOU TRANSFER ME IF I RECEIVED A LETTER FROM
7 STEVE COOLEY TELLING ME WHAT I GREAT JOB I DID AT THE SATURDAY SEMINAR.
8 AND SHE SAID: YOU KNOW THOSE LETTERS ARE JUST FORM LETTERS THAT HE SENDS
9 OUT. AND I SAID: WELL, THAT'S GARBAGE. HOW CAN YOU SEND SOMEONE A LETTER
10 LIKE THAT AND THEN EXPECT ME TO BELIEVE THAT THAT'S THE REASON WHY I'M
11 BEING TRANSFERRED.

12 Q AND DID --

13 A AND THAT'S BASICALLY THE END OF THE CONVERSATION.

14 Q WELL, IT'S TRUE ISN'T THAT PEOPLE COMPLAINED ABOUT THINGS THAT YOU
15 DID AT THAT SATURDAY SIMILAR?

16 MR. IPSEN: OBJECTION. CALLS FOR SPECULATION.

17 HEARING OFFICER KERRIGAN: IF HE KNOWS.

18 THE WITNESS: THAT'S TRUE.

19 BY MS. EVANS:

20 Q THERE WERE COMPLAINTS MADE?

21 A THAT'S TRUE.

22 Q BY MORE THAN ONE ATTENDEE?

23 A I ONLY KNOW OF ONE.

24 Q AND IN FACT WASN'T THERE AN INVESTIGATION INTO THOSE COMPLAINTS?

ROUGH DRAFT

1 A I FOUND OUT -- I GUESS IT DEPENDS ON HOW YOU DEFINE INVESTIGATION.
2 THEY NEVER TALKED TO ME BUT I UNDERSTAND THAT THEY DID TALK TO SOME
3 OTHER PEOPLE.

4 Q WHAT WERE THE COMMENTS THAT YOU MADE THAT YOU UNDERSTAND PEOPLE
5 COMPLAINED ABOUT?

6 A YOU WANT TO KNOW THE STORY? I MEAN, I'M HAPPY TO TELL YOU. I'LL TELL
7 YOU EXACTLY WHAT THE COMMENT WAS. I'LL TELL YOU EXACTLY WHAT THE
8 COMMENT WAS. THERE WAS A COUPLE SITTING THERE WHO I KNOW, JACOB
9 GLUXMAN -- I MEAN, I KNOW IT SEEMS FAR AFIELD BUT THIS IS WHAT HAPPENED --
10 THERE'S A COUPLE SITTING IN THE AUDIENCE, IT'S A BIG ROOM THERE ARE ABOUT 300
11 PEOPLE. I'M GIVING A LECTURE ON SENTENCING, THERE'S A COUPLE SITTING THERE
12 NAMED JACOB GLUXMAN AND ROCHELLE ISRAEL. AND I SAID -- I MADE AN OFFHAND
13 REMARK -- I SAID: GUYS, DOES EVERYONE KNOW THAT THEY'RE MY FIRST NEW HIRES
14 COUPLE THAT JUST GOT ENGAGED AND STAND UP AND TAKE A BOW,
15 CONGRATULATIONS. AND EVERYONE APPLAUDED. AND THEN I TURNED TO MY
16 FRIEND CYNTHIA NIKOW. CYNTHIA NIKOW IS MY FRIEND, WHO I TALKED ABOUT THE
17 SUBJECT AND I SAID: YOU KNOW, CYNTHIA, YOU KNOW, MARRIAGE. MAYBE YOU
18 SHOULD GIVE IT A TRY. AND THAT'S THE LINE.

19 Q THAT'S EXACTLY WHAT YOU SAID? "MARRIAGE, MAYBE YOU SHOULD GIVE IT A
20 TRY"?

21 A MARRIAGE, MAYBE YOU SHOULD GIVE IT A TRY. I HAVE THE -- YOU GUYS HAVE
22 THE D.V.D., YOU CAN LOOK AT IT IF YOU WANT.

23 Q WAS IT MS. NIKOW OR ANOTHER WOMAN THAT YOU CALLED THE BAG LADY?

24 A I'M SORRY, YOUR HONOR. I DON'T WANT TO BE DISRESPECTFUL.

ROUGH DRAFT

1 HEARING OFFICER KERRIGAN: THAT'S OKAY.

2 THE WITNESS: MY DEAR FRIEND PAM PRORITE AND I TAKE THE TRAIN. WE TAKE THE
3 TRAIN TOGETHER. ALMOST EVERY TIME SHE HAS THIS BAG, A PULL CART AND SHE
4 BRINGS IT TO WORK EVERYDAY. AND EVERYDAY I SEE HER WITH IT ON THE TRAIN
5 AND I MAKE FUN OF HER. I SAY: PAM, GET YOURSELF, YOU KNOW, A 21ST CENTURY
6 PULL CART. YOU KNOW, GET YOURSELF SOMETHING THAT LOOKS MORE
7 PROFESSIONAL, LOOKS GOOD. AND SHE SAYS: I LOVE THIS PULL CART. I JUST LOVE
8 THIS THING. I COULD NEVER GET RID OF IT. IT'S A RUNNING JOKE BETWEEN THE TWO
9 OF US. SO DID I CALL PAM A BAG LADY AT THE SATURDAY SEMINAR? CALL PAM
10 PRORITE, ASK HER? I TALKED TO HER AFTERWARDS. PAM PRORITE WAS A DEAR
11 FRIEND OF MINE BEFORE, SHE WAS A DEAR FRIEND THEN AND IF PAM PRORITE -- IF I
12 FOUND OUT THAT PAM COMPLAINED ABOUT THAT REMARK, I WOULD BE BLOWN
13 AWAY. THAT WOULD BE -- I WOULD BE STUNNED. I ASKED HER ABOUT THAT. I JUST --
14 I JUST CAN'T IMAGINE --

15 Q DO YOU KNOW HOW MANY PEOPLE IT WAS THAT SUBMITTED COMPLAINTS
16 ABOUT YOUR CONDUCT AT THAT SATURDAY MEETING?

17 A NO. I DON'T.

18 MS. EVANS: THAT'S ALL I HAVE AT THIS TIME.

19 HEARING OFFICER KERRIGAN: ANY FURTHER QUESTIONS? ANOTHER SHORT ONE.

20 MS. EVANS: YEAH, ANOTHER 15 MINUTE ONE.

21 MR. IPSEN: WHAT LIMIT DO I HAVE, TWO MINUTES?

22 HEARING OFFICER KERRIGAN: OKAY.

23 MR. IPSEN: COUPLE OF QUESTIONS IF I MAY?

24 HEARING OFFICER KERRIGAN: OKAY.

ROUGH DRAFT
REDIRECT EXAMINATION

1
2 BY MR. IPSEN
3 Q YOU INDICATED MR. COOLEY SAID YOU SHOULD WORK WITH A PETER BURKE
4 AND ANOTHER PERSON. WHO WAS THE OTHER PERSON?
5 MS. EVANS: ITS BEYOND THE SCOPE OF CROSS --
6 THE WITNESS: TOM RUBINSON.
7 BY MR. IPSEN:
8 Q AND TOM RUBINSON IS NOW A JUDGE; CORRECT?
9 A YES.
10 Q AND MR. BURKE IS WHAT?
11 A HE'S AN ASSISTANT HEAD DEPUTY. I WANT TO SAY AUTO INSURANCE FRAUD, I
12 THINK.
13 Q OKAY. AND WOULD HE, LIKE YOURSELF, BE A GRADE FOUR LEVEL NOT YET A
14 FIVE FULL MANAGEMENT BUT A GRADE WORKING IN A SUPERVISOR TYPE CAPACITY?
15 A I'M SORRY?
16 Q HE'S ALSO AN ASSISTANT HEAD DEPUTY?
17 A YES.
18 Q OKAY. WERE YOU -- FOLLOWING THAT CONVERSATION WERE YOU, IN FACT,
19 CONTACTED BY PETER BURKE?
20 A YES.
21 Q DID PETER BURKE ASK YOU TO WORK WITH HIM ON A PROJECT THAT AFFECTED
22 THE A.D.D.A. AS A UNION?
23 A YES.
24 Q WHAT DID PETER BURKE ASK YOU TO DO?

ROUGH DRAFT

1 A PETER IS -- PETER FILED A LAWSUIT AGAINST THE UNION FOR IMPROPER
2 NOTICE. I THINK THE GIST OF IT WAS THAT HE BASICALLY WANTED AN ELECTION. I
3 DON'T KNOW THE DETAILS. HE WANTED AN ELECTION AND SAID THAT YOU GUYS
4 HAD TO HAVE AN ELECTION. HE WANTED -- CAME TO ME, WE TALKED ABOUT THIS
5 ISSUE MANY TIMES IN CONVERSATIONS ABOUT WHAT HE SHOULD DO, HOW HE WAS
6 GOING TO DEAL WITH YOU, HOW HE WAS GOING TO DEAL WITH THE MEMBERS OF THE
7 BOARD. AND I -- PETER IS MY FRIEND AND I TRIED TO MEDIATE AND WORK WITH
8 PETER -- NOT WORK WITH HIM IN THE SENSE OF WORK WITH HIM AGAINST YOU GUYS -
9 - AGAIN, I THINK OF MYSELF AS FRIENDS TO ALL SIDES. SO I WAS JUST TRYING TO GET
10 HIM TO WORK IN A WAY THAT WHERE MAYBE WE COULD ALL SORT OF COME TO AN
11 AGREEMENT SO HE WOULDN'T FILE A LAWSUIT, BUT ULTIMATELY THAT DIDN'T WORK
12 AND HE FILED THE LAWSUIT.

13 Q DID IT SEEM ODD TO YOU THAT AFTER MR. COOLEY SAID YOU SHOULD WORK
14 WITH MR. BURKE ON SOMETHING THAT MR. BURKE CAME TO YOU REGARDING HIS
15 LAWSUIT?

16 MS. EVANS: RELEVANCE.

17 HEARING OFFICER KERRIGAN: WE'VE ALREADY GONE INTO IT. IT'S HEARSAY. I'M NOT
18 GOING TO BASE A FINDING ON IT, BUT YOU CAN -- IT'S BEEN THE GOTTEN INTO. GO
19 AHEAD.

20 THE WITNESS: LOOK, I MEAN, STEVE COOLEY DID NOT SEND PETER BURKE TO COME
21 TALK TO ME. STEVE COOLEY -- THIS IS PERSONAL. STEVE COOLEY AND YOU -- HE HAS
22 -- IT'S ONE OF THOSE THINGS, YOU KNOW, EVERYONE KNOWS. I MEAN, HOW MANY
23 PEOPLE ARE YOU GOING TO GET UP HERE TO SAY HE CAN'T STAND YOU AND HE
24 DOESN'T LIKE THE UNION. AND PERSONALLY HE JUST CAN'T STAND YOU. I DON'T

ROUGH DRAFT

1 KNOW WHY THAT HAPPENED, HOW THAT HAPPENED. BUT STEVE COOLEY DID NOT
2 SEND PETER BURKE – I DON'T BELIEVE -- TO ME TO SORT OF WORK TOGETHER. I DON'T
3 BELIEVE THAT FOR A SECOND. PETER IS LIKE ON A MISSION. HE'S GOT HIS OWN SORT
4 OF ISSUES WITH YOU GUYS AND HE WANTS TO – HE BELIEVES THAT HE HAS A CAUSE.
5 HE BELIEVES IT'S A RIGHTEOUS CAUSE AND HE'S GOING TO GO THROUGH THAT AND
6 HE LOOKED FOR ME TO SUPPORT HIM IN THAT CAUSE.

7 Q SUPPORT HIM IN THE LAWSUIT?

8 A HE NEVER ASKED ME TO SUPPORT -- HE WANTED ME TO HAND OUT THINGS AT
9 THE SATURDAY SEMINAR. YOU KNOW THE WAY THE OFFICE WORKS. HE WANTS ME
10 TO SORT OF STAND WITH HIM AND SORT OF BASICALLY TELL PEOPLE THAT THIS GUY
11 IS THE NOT CRAZY. HE'S A GOOD GUY. HE WOULD SORT OF -- LEND MY GOOD NAME
12 SUPPOSEDLY.

13 Q WHY DIDN'T YOU WORK WITH BURKE?

14 MS. EVANS: OBJECTION. RELEVANCE.

15 MR. IPSEN: IT'S MY LAST QUESTION.

16 MS. EVANS: IT DOESN'T MATTER THAT IT'S THE LAST ONE.

17 HEARING OFFICER KERRIGAN: IT'S IRRELEVANT. IF HEDIDN'T DO IT, HE DIDN'T DO IT.

18 HE'S NOT A CHARGING PARTY. WE'RE NOT CONCERNED WITH HIS REASONS.

19 SUSTAINED.

20 MR. IPSEN: I HAVE NO FURTHER QUESTIONS.

21 MR. RENETZKY DOES INDICATE THAT HE WANTS HIM TO BE ON CALL POSSIBLY TO BE

22 RECALLED BY HIM AT SOME LATER POINT.

23 I HAVE NO FURTHER QUESTIONS.

24 HEARING OFFICER KERRIGAN: ANY FURTHER QUESTIONS?

1 MS. EVANS: NOT AT THIS TIME?

2 HEARING OFFICER KERRIGAN: YOUR AMBITION WAS TO BE GRADE FIVE AND BE IN
3 MANAGEMENT?

4 THE WITNESS: I WOULDN'T SAY THAT'S MY GOAL IN LIFE BUT I CERTAINLY WANTED
5 TO BE CONSIDERED. ABSOLUTELY.

6 HEARING OFFICER KERRIGAN: IF YOU KNEW MR. COOLEY HAD AN ANIMUS TOWARD
7 THE UNION, DIDN'T YOU THINK THAT WOULD BE INCONSISTENT WITH ACHIEVING
8 THAT GOAL?

9 THE WITNESS: YES. BUT I ON THE ONE HAND I THOUGHT IT WOULD BUT ON THE
10 OTHER HAND I JUST -- YOU HAVE TO UNDERSTAND, I BELIEVED IN STEVE. HE WAS MY
11 FRIEND. I THOUGHT HE WAS GOING TO BE A GREAT D.A. I THOUGHT HE BELIEVED IN
12 ME. AND I THOUGHT HE WOULD JUST LOOK PAST THAT. I THOUGHT HE WOULD LOOK
13 PAST IT. I THOUGHT HE WOULD SEE THAT I'M A TALENTED GUY, VERY WELL
14 RESPECTED AMONGST HIS LAWYERS, A GOOD SUPERVISOR WITH A GOOD TRACK
15 RECORD AND I THOUGHT HE WOULD LOOK PAST THAT ANDJUST JUDGE ME BASED ON
16 MY MERITS.

17 HEARING OFFICER KERRIGAN: I HAVE NO FURTHER QUESTIONS.

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