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STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL

AN INVESTIGATION CONCERNING ALLEGATIONS
THAT HERBERT TEITELBAUM, EXECUTIVE DIRECTOR
OF THE COMMISSION ON PUBLIC INTEGRITY,
DISCLOSED INFORMATION CONCERNING THE
COMMISSION'S INVESTIGATIONS

STENOGRAPHIC MINUTES OF EXAMINATION
conducted of STEVE KRANTZ, held on the 17th day of
September, 2008, at the offices of STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL, Empire State Plaza,
Agency Building 2, 16th Floor, Albany, New York,
commencing at 11:45 a.m., before Diane Daly-Gage, a
Shorthand Reporter and Notary Public in and for the
State of New York.

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APPEARANCES:

STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL
Empire State Plaza
Agency Building 2, 16th Floor
Albany, New York 12223
(518) 474-1010
BY: JOSEPH FISCH, ESQ.

-and-

Sherry Amarel, Principal Investigator

1 P-R-O-C-E-E-D-I-N-G-S

2 MR. FISCH: Today is Wednesday,
3 September 17th. I am Joseph Fisch, State
4 Inspector General. We are in my Albany office,
5 Agency Building 2, 16th floor. Accompanying me
6 is the Deputy Chief Investigator Sherry Amarel.
7 And Mr. Steve Krantz is present.

8 Mr. Krantz you're appearing voluntarily in
9 response to a telephone call?

10 MR. KRANTZ: That's correct.

11 MR. FISCH: And you consent to the exam
12 being recorded stenographically?

13 MR. KRANTZ: I do.

14 MR. FISCH: All of my examinations are
15 being conducted under oath, so will you rise
16 and be sworn.

17 STEVE KRANTZ,

18 (having been first duly sworn, was examined and
19 testified as follows:)

20 EXAMINATION

21 BY MR. FISCH:

22 Q Mr. Krantz, can you tell us a little bit about your
23 background after law school?

24 A I clerked for a Federal District judge for one year.
25 I then worked for a law firm in Washington, DC for a

1 few years. After that I worked for many years for
2 the Manhattan District Attorney.

3 Q During what period of time, if you recall?

4 A For the Manhattan D.A. from approximately 1986
5 through 2000.

6 Q Okay. I'm sorry. And then?

7 A And then for the Attorney General in Albany and
8 starting in 2007 for the Governor in the Governor's
9 Counsel's Office.

10 Q Okay. Do you recall when in 2007 you came to
11 Counsel's Office?

12 A January 1st.

13 Q We have been referred a matter by the Albany
14 District Attorney that was in August of this year,
15 and the investigation is based upon allegations that
16 Herbert Teitelbaum, the Executive Director of the
17 Office on Public Integrity, had disclosed
18 confidential information concerning the activities
19 of the Commission to persons not authorized to
20 receive such information. Are you familiar with
21 that matter, the fact of the investigation?

22 A Yes.

23 Q Have you been involved in any aspect of the response
24 by the Chamber to those allegations?

25 A Yes. I've been involved in the Chamber's

1 involvement in the situation in general, although
2 now not specifically in responding to the
3 allegations.

4 Q You know that there was testimony that was taken by
5 the D.A. in pursuit of this matter, in pursuit of
6 this allegation?

7 A I've heard that.

8 Q Okay. And are you aware of the substance of the
9 allegation?

10 A I believe so.

11 Q Okay. That Teitelbaum had contacted Robert Hermann
12 with some information Hermann disclosed that to
13 Lloyd Constantine among others, does that help you?

14 A I think this is the first time that I've heard the
15 "among others." But apart from that, that is
16 generally consistent with my understanding.

17 Q Okay. And you're also aware that Constantine
18 reported the information, at least information that
19 Hermann had given him on or about November 1st, and
20 that Constantine, disturbed by the receipt of this
21 information, brought it to the attention of other
22 people in the Chamber?

23 A That's my understanding.

24 Q And as a result that there was a meeting with the
25 D.A. Okay?

1 A Yes.

2 Q Were you involved in any aspect -- other than
3 learning of this were you involved in any aspect of
4 that?

5 A I didn't attend the meeting with the D.A., but I was
6 involved in some of the internal conversations about
7 the receipt of the information and what to do given
8 the receipt of the information.

9 Q Okay. It was the determination by some members of
10 the Executive Chamber that they should notify the
11 District Attorney that they were in receipt of
12 information that they felt they should not have been
13 privy to. Is that a fair statement?

14 A Yes. Although, I guess I would've put it by saying,
15 they were in receipt of information that should not
16 have been disclosed originally.

17 Q Why don't you develop that.

18 A Well, my understanding is that proceedings of the
19 Commission on Public Integrity are supposed to be
20 confidential by statute. And therefore, that if a
21 staff member of the Commission were to disclose
22 things relating to the proceedings other than in the
23 official exercise of his duties, that that would be
24 improper.

25 Q Okay. And this was the judgement of other people of

1 the Chamber?

2 A I'm sorry?

3 Q This was the judgement of other people in the
4 Chamber?

5 A Oh, yes. That information relating to Commission
6 proceedings was not supposed to be released outside
7 the Commission, except in the discharge of the
8 official duties of the Commission.

9 Q Now, the parties involved were Teitelbaum to
10 Hermann. You understand those were the allegations?

11 A Yes.

12 Q Did you ever speak to Hermann about that?

13 A I don't believe that I ever spoke to Hermann.

14 Q Any doubt in your mind?

15 A Well, I can tell you that I don't remember ever
16 speaking to him about this or anything else,
17 actually. And that I'm pretty confident that I
18 never did.

19 Q He's not a member of the Chamber, is he?

20 A He is not.

21 Q There came a time when the District Attorney, after
22 taking testimony concerning this matter, which they
23 called Investigation D-1, felt that it should be
24 brought to the attention of the Commission on Public
25 Integrity. Does that ring a bell with you?

1 A I heard that.

2 Q Okay. And in connection with that they turned over
3 testimony to the Commission on Public Integrity, the
4 D.A. did. Are you familiar with that too?

5 A I think I heard that.

6 Q Okay. One of the transcripts was that of Lloyd
7 Constantine's testimony. Are you familiar with
8 that?

9 A I'm familiar that he testified and I've seen at
10 least one transcript of his testimony.

11 Q Have you read this testimony?

12 A I read one -- I don't know how many times he
13 testified, but I did read one transcript of one
14 appearance.

15 Q The appearance before the D.A, did you read that?

16 A I believe I did.

17 Q And did you ever discuss that with Terryl Brown
18 Clemons?

19 A I'm sure I did in some fashion.

20 Q Do you remember in what connection?

21 A I don't really remember what the discussion was
22 about that transcript or that testimony. I think I
23 spoke to her about it very -- I think I spoke to her
24 about it briefly. If I looked at the transcript,
25 which I did not do in preparation for coming here,

1 it might help me remember any conversations I had
2 with Terryl about it. But I don't really remember
3 right now what we said about it.

4 Q The testimony of Constantine was to the effect that,
5 and we have fixed the date of November 1st at the
6 New York office, Hermann comes to him in a state of
7 great agitation. Do you remember that?

8 A I remember this from...

9 Q The transcript?

10 A Well, I remember it most vividly from hearing Lloyd
11 Constantine talk about it.

12 Q Okay. And when talking about it after his testimony
13 or -- I'm sorry. Strike that.

14 Talking about it in what way?

15 A I heard Lloyd Constantine describe these events, I
16 believe, prior to the time he went and testified to
17 the D.A.

18 Q Okay. The conversation with Hermann took place on
19 November 1st. How soon thereafter did you hear
20 Constantine describe this?

21 A Well, it would've been -- I believe it would've been
22 probably between November 3rd and November 9th.

23 Q Okay.

24 A I can't be sure exactly when it was.

25 Q What made you fix those dates?

1 A Well, I say November 3rd because as I recall when I
2 first learned about this, it wasn't contemporaneous
3 with Lloyd Constantine learning about it. I recall
4 that there was some passage of time between when he
5 learned about it and when I did, although I can't
6 say exactly how long it was. And the reason I made
7 my estimate for the last date would've likely been
8 is that I was privy to some discussions about what
9 to do about this. And I in preparation for coming
10 here did look at a memorandum to the file that
11 Richard Rifkin wrote, and I think that that's dated
12 November 11th. And that memorandum refers to some
13 involvement that I had. And I remember that I heard
14 about this a little bit before I ended up writing
15 something about it. So that's why I think I heard
16 about it at least a few days prior to November 11th.

17 Q Did you bring any of those memos?

18 A I did.

19 Q Do you have the Rifkin memo?

20 A I do.

21 Q And your own memo?

22 A Yes.

23 Q We'd like to have those, of course.

24 Let me just follow-up on this. You also
25 mentioned November 9th. You said either November

1 3rd or some time between November 3rd and
2 November 9th I thought you said.

3 A November 9th is just a rough guess on my part based
4 on the fact that if Richard wrote his memo on
5 November 11th, I think I had been apprised of the
6 situation at least a couple or a few days prior to
7 that.

8 Q Okay. What else -- do you recall anything else that
9 happened in which you were involved in the pursuit
10 of this matter, the Hermann, Teitelbaum, the
11 Teitelbaum to Hermann to Constantine and then a
12 meeting and then the response by the Chamber? That
13 was very inartfully put, so let me try that again.

14 Constantine relates this to other people
15 in the Chamber, they feel that they should not have
16 this information, should not have been disclosed,
17 you meet with the D.A. or there is a meeting with
18 the D.A. and the D.A. is told we have this
19 information; correct?

20 A That's my understanding.

21 Q The D.A. then pursues the investigation of Dopp and
22 his testimony before the Commission and the
23 statement before the Attorney General; correct?

24 A That too is my understanding.

25 Q And this offshoot basically remains on the back

1 burner for a while, as far as you know?

2 A I don't know about back burner, because I wasn't
3 privy to what was going on in the D.A.'s Office.

4 Q All right. There comes a time in February when the
5 D.A. takes testimony of Constantine and others;
6 right?

7 A That's my understanding.

8 Q And then the D.A. wishes to have this testimony,
9 Constantine testimony referred to the Ethics
10 Commission; correct?

11 A Again, that's my understanding. In fact, I think
12 I've even seen a copy of a letter from the D.A. to
13 the Ethics Commission.

14 Q Okay. Did there come a time based upon your having
15 refreshed your recollection with these memos that
16 you had read Lloyd Constantine's transcript?

17 A Well, it wasn't because my recollection was
18 refreshed by these memos, but I do recall having
19 read a transcript of Lloyd Constantine's testimony.

20 Q After he testified -- after you read the testimony
21 did you ever have any conversations with Constantine
22 about his testimony?

23 A I've talked to Lloyd Constantine on a number of
24 occasions about his account of the events. I don't
25 recall whether that was before or after I read his

1 transcript.

2 Q Okay. Well, after you read his transcript did you
3 ever talk to him about the content of his
4 transcript?

5 A I don't recall ever talking to him about the content
6 of his transcript, but I do recall talking to him
7 about the underlying events.

8 Q Were you ever present with Terry --

9 A Can I amend that a little bit?

10 Q Please.

11 A I don't think I ever said to him or I don't think I
12 ever told him that I had received and read the
13 transcript. My conversations with him did at
14 certain times include his descriptions of what he
15 had said.

16 Q Okay. Tell us about that.

17 A Well, it's a little hard for me to separate it in my
18 mind, things that he told us about the underlying
19 facts and things he told us about what he was going
20 to say or had said to the District Attorney. Those
21 things --

22 Q Was there a difference?

23 A No, they were always consistent and that's why it's
24 hard for me to separate out in my mind exactly how
25 he put it. I was, in fact, struck by how consistent

1 his account remained in different conversations and
2 different contexts. There was one point which we
3 had occasion to delve into in which there was kind
4 of an amplification or clarification of his account,
5 which on this one point I'm not sure if it was
6 consistent because I hadn't paid close attention to
7 exactly how he had expressed it the first time. So
8 I can tell you what that is if you'd like to hear
9 that.

10 Q I thought you'd never ask.

11 A In the first conversations about this, I always
12 understood Lloyd Constantine to say that Robert
13 Hermann had said that Herbert Teitelbaum had told
14 him these various things. Later we learned that
15 apparently Robert Hermann had given a different
16 account of not only what had happened but what he
17 told to Lloyd Constantine, so that he claimed that
18 he learned certain facts, not by being directly told
19 orally by Herbert Teitelbaum, but rather than from
20 reading some information on a pad. When we learned
21 this, I tried to think back to what I had heard
22 Lloyd Constantine say, and I couldn't really
23 remember whether he explicitly had said that, Robert
24 Hermann had explicitly said that Herbert Teitelbaum
25 had said these things orally or exactly how Hermann

1 had acquired the information. So in conversations
2 after that, I and Terryl asked...

3 Q I'm sorry. Who did you say, Terryl?

4 A Terryl Brown Clemons. In one conversation jointly
5 and perhaps later in conversations that I had
6 separately with Lloyd Constantine, we asked "How did
7 Hermann express this to you? What did he say?" And
8 Lloyd Constantine clarified that he wasn't sure that
9 Hermann had, you know, described in detail exactly
10 what words Teitelbaum had used or whether everything
11 that he had learned came from oral remarks of
12 Teitelbaum but that he, Lloyd Constantine,
13 understood -- his understanding of what Hermann had
14 told him was that Teitelbaum had told Hermann these
15 things.

16 In that one respect, I'm not sure if the way
17 Lloyd Constantine expressed it at that time was
18 consistent with how he had expressed it before,
19 because I hadn't been previously focusing on this
20 question of exactly how Hermann had learned the
21 information or what Hermann had told, the words that
22 he had used in telling Lloyd Constantine about
23 acquiring the information.

24 Q Okay. Was Terryl Brown Clemons part of these
25 conversations with Constantine?

1 A She was part of the first conversation we had with
2 Lloyd Constantine in which we were trying to get
3 clarification of what Hermann had told him or at
4 least the first time that we were seeking
5 clarification arising out of this question that had
6 come up because of what we learned about
7 Mr. Hermann's position.

8 Q Was there more than one conversation with
9 Constantine about this?

10 A Yes.

11 Q Was there more than one conversation with
12 Constantine about this where Terryl Brown Clemons
13 participated?

14 A I don't remember any others in which she
15 participated. I can't say whether there were other
16 ones, but I don't recall any.

17 Q With you, was it just one with her?

18 A That's all I recall right now. But I should say
19 that, you know, these were matters that I discussed
20 with Terryl with some frequency and whether or not
21 Lloyd was ever a party to a subsequent conversation,
22 I can't say for sure.

23 Q Was it basically asking Constantine, "are you sure
24 that Hermann said this came from Teitelbaum
25 directly?" Is that basically it?

1 A I think we asked the questions in a more open-ended
2 manner. I think the questions were more in the
3 nature of what did Hermann tell you. Do you recall
4 how he expressed it to you, what words did he use.

5 Q Anything like, "you might've made an assumption that
6 was wrong"?

7 A My goal in that conversation was to try to get
8 relevant information from Lloyd Constantine without
9 telling him the reasons for our inquiry. And as a
10 questioner or an investigator, I was trying to walk
11 that line.

12 Q What were the reasons for your inquiry?

13 A We had come to understand that Robert Hermann's
14 account was this alternative account that I had
15 mentioned about how some of the information came
16 from reading a pad.

17 Q Okay. Did you ever speak to Hermann about that?

18 A No.

19 Q Do you recall in Constantine's testimony that some
20 time after November 1st he speaks to Hermann again
21 about this and he said what was the big deal that
22 you didn't want anybody to know that you were the
23 source, and Hermann says, you don't know Teitelbaum.
24 I do. Something along those lines?

25 A I remember this. But once again, I remember it from

1 hearing it directly from Lloyd Constantine, rather
2 than from the transcript.

3 Q Where Hermann says Teitelbaum is capable of anything
4 when he's backed into a corner. That he's capable
5 of saying he did not tell me this, but that I stole
6 the information somehow. Do you remember hearing
7 that?

8 A Yes, I remember hearing that from Lloyd Constantine.

9 Q For Hermann to say that Teitelbaum is capable of
10 saying that "I did not tell him this," do you not
11 conclude that he did tell him this?

12 A I'm sorry?

13 Q In other words, why didn't you want anybody to know
14 you were the source. You don't know Teitelbaum.
15 He's capable of saying anything. He's capable of
16 saying he didn't tell me this, but that I came into
17 it somehow. I read it on a desk. All right. Isn't
18 that an affirmation that he did tell him, that
19 Teitelbaum is capable of coming up with this
20 alternative scenario of how Hermann acquired the
21 information?

22 A Are you asking whether Hermann's remarks to Lloyd
23 Constantine that you just mentioned --

24 Q How do you interpret that?

25 A Well...

1 Q You're an experienced, bright lawyer. When someone
2 says he's capable of saying that he didn't tell me
3 this and that I stole it, I broke into his
4 apartment, I saw it on a desk.

5 A I think I understand your question now and I agree
6 that I understood that at the time that Hermann was
7 saying those things to Lloyd Constantine, I
8 understood it to still be Hermann's position that
9 Teitelbaum had told him certain things and that it
10 wasn't a hundred percent of the true story that
11 Hermann had stolen the information. Is that what
12 you're saying? Yes. Okay.

13 Q Having heard this story from Hermann a week or so
14 later that he had with -- this conversation he had
15 with Constantine a week or so later, did that not
16 remove any doubt in your mind that Teitelbaum was
17 the source?

18 A Can I...

19 Q Answer it any way you want.

20 A Can I explain my reaction to that? The information
21 about those remarks of Hermann struck me as -- I
22 mean I was astonished by that for a number of
23 reasons. One was that it was my understanding,
24 although I don't know either of these gentlemen
25 personally, but it was my understanding that they

1 had a longstanding close business and personal
2 relationship. So I thought it was remarkable that
3 one person would say such things about another
4 person with whom they had had such a relationship,
5 which in my understanding has lasted decades.

6 Secondly, my reaction to the information was
7 that it was odd that Freeman [sic] would -- not only
8 that he would say Teitelbaum was capable of
9 anything, but then he would follow that up with,
10 "indeed he's capable of saying," and laying out kind
11 of a detailed scenario, because it struck me as odd
12 that somebody out of the blue would construct and
13 put that scenario out there.

14 So I guess I'm trying to say that I took two
15 conflicting implications from that conversation.
16 One was that Freeman [sic] was still saying that he
17 had learned information orally from Teitelbaum, even
18 though Teitelbaum might say something else. But the
19 other was to make me wonder why Freeman [sic] was
20 laying out as a possible scenario of what Teitelbaum
21 might say, this somewhat detailed and
22 implausible-sounding scenario. And those two lines
23 of reasoning worked in opposite directions.

24 Q So was it because of that that you, and I don't want
25 to use "pressed," that you were pressing

1 Constantine, "are you sure that Hermann said it came
2 from Teitelbaum?" Is that part of your reason for--

3 A No, the catalyst for asking Lloyd Constantine those
4 questions wasn't that we learned about the remarks
5 in which Freeman [sic] said to Constantine, Herb
6 Teitelbaum is capable of anything. He might even
7 say that I stole the material. The catalyst for it
8 was that we learned, I think at a later time, of
9 Mr. Freeman's [sic] account --

10 Q Mr. Freeman?

11 MS. AMAREL: Hermann.

12 A I'm sorry. Hermann. This isn't the first time that
13 I've made that mistake and I apologize.

14 Q That's all right.

15 A Mr. Hermann's account. It was when we learned about
16 Mr. Hermann's account for the first time about the
17 pad, that we contacted Lloyd Constantine to ask
18 these questions.

19 Q Okay. You said "we."

20 A Terryl Brown Clemons and myself.

21 Q Again, do you remember her being involved more than
22 one time within your presence talking to him?

23 A To Lloyd Constantine?

24 Q Yes.

25 A Well, we talked to him many times about this general

1 area, but what I'm not remembering right now is
2 whether we talked to him on any other occasions
3 about this question of exactly what did Hermann tell
4 you or in what words did he tell you. It's possible
5 that we did, but the only one that is coming to my
6 memory is the one where we first talked to him about
7 it and that was in Terryl's office and he was on the
8 speaker phone. He, Lloyd, was on the speaker phone.

9 Q He was somewhere else apparently?

10 A He was somewhere else.

11 Q Okay.

12 MS. AMAREL: Do you recall the date of
13 that or when that conversation took place?

14 MR. KRANTZ: Well, I know it was before he
15 went to answer questions about this matter to
16 the D.A.

17 MS. AMAREL: It was before he testified?

18 MR. KRANTZ: Yes, I know that for sure. I
19 don't remember the date of his testimony.

20 BY MR. FISCH:

21 Q This was after you had seen Hermann's version?

22 A It was after we had heard Hermann's version.

23 Q From Hermann?

24 A No, from Hermann's lawyer.

25 Q From Stewart Jones?

1 A Yes.

2 Q What prompted Hermann's lawyer to come to you to
3 tell the story? You were not investigating Hermann,
4 were you?

5 A Well, my understanding of our role in the Counsel's
6 Office is that one of the various things we were
7 trying to do throughout these events was to be aware
8 of any possible misconduct by...

9 Q Staff?

10 A By members of the Executive Branch, or at least the
11 Administration. And although Robert Hermann wasn't
12 within the Executive Chamber, he is a gubernatorial
13 appointee. And so one of the things that at least I
14 perceived our role to be was to try to be aware of
15 both any allegations of misconduct by such people
16 and also the truth or not of any allegations of such
17 people, because the Governor has an ongoing interest
18 in finding out if his subordinates have committed
19 misconduct. So yes, we were trying to -- in my mind
20 we were trying to learn whether Mr. Hermann had
21 engaged in any misconduct.

22 Q How did the conversations with Stewart Jones, who
23 represented Hermann, how did they occur? I mean did
24 you contact Hermann, did Hermann's lawyer, Stewart
25 Jones, contact you or what?

1 To see if this helps in any way, Hermann
2 testified before the D.A. on February 7th of 2008.
3 All right. Lloyd Constantine testified on
4 February 25th of 2008, about three weeks thereafter,
5 almost three weeks thereafter. So did Jones reach
6 out to you or had you started -- let me go back a
7 little while.

8 The allegations about Hermann bringing
9 this to Constantine's attention go back to
10 November 2007. Okay?

11 A Right.

12 Q And he's not called to testify before the D.A. until
13 February of 2008. So between November of 2007 and
14 February of 2008 when he comes, or any time in 2008
15 when Hermann is interviewed by the D.A., do you have
16 conversations with him during that year or so or
17 that four months or five months?

18 A With Lloyd Constantine?

19 Q With Hermann.

20 A No, I don't think I've ever spoken to Robert Hermann
21 about anything.

22 Q So how does Stewart Jones suddenly enter the
23 picture, Hermann's attorney?

24 A At some point we learned, and I don't recall how we
25 learned, but as some point we learned that Mr. Jones

1 represented Robert Hermann. And although...

2 Q Let me see if I can help you. Was it in connection
3 of getting a waiver of Executive privilege?

4 A I don't remember.

5 Q Okay.

6 A It very well may have been though, because...

7 Q When Hermann testified -- did you ever see his
8 testimony before the D.A.?

9 A I don't think so.

10 Q All right. That was a question about Executive
11 privilege. Jones did not permit him to go into
12 certain areas and made an issue of Executive
13 privilege. I know they reached out.

14 A That's very possible. I personally talked to a
15 number of attorneys for various witnesses about the
16 question of what they should do with respect to
17 information that might be subject to privilege owned
18 by the Executive Chamber. And it may well be that
19 Stewart Jones was one of those attorneys that I
20 spoke to, but I can't remember right now whether we
21 did.

22 Q This was an issue with Hermann's examination. There
23 were restrictions on what Jones permitted him to
24 answer because of that issue of Executive privilege.

25 A I remember it being an issue with respect to

1 Mr. Hermann's testimony.

2 Q Okay. Let me ask you this. This is a tough one.
3 Could Constantine, based upon your questions, based
4 upon Terryl Brown Clemons' questions, have
5 reasonably sensed an effort to get him to water down
6 his testimony?

7 A No.

8 (A brief interruption during the proceedings.)

9 (A discussion was held off the record.)

10 BY MR. FISCH:

11 Q Could you have asked him whether he might have made
12 assumptions that Teitelbaum was the source of the
13 information to Hermann directly as opposed to any
14 other way?

15 A Yes. We might've asked questions like that. And we
16 didn't record the conversation, but I think that we
17 could've absolutely asked questions like when you --
18 now, addressing Lloyd Constantine, "when you say
19 that Hermann told you that he had received this from
20 Mr. Teitelbaum, did he say whether he received it
21 orally or in some other fashion?" So, yes I believe
22 we were absolutely asking questions like that.

23 But in response to your earlier question about
24 whether he could reasonably think that we were
25 encouraging him to temper his testimony, it would've

1 been, I believe, totally unreasonable for him to
2 think that in light of the conversation as a whole
3 and in light of our dealings on the subject as a
4 whole.

5 Q But Terryl Brown Clemons was part of this, these
6 conversations?

7 A Yes.

8 Q More than one time?

9 A All that I'm remembering right now on this subject
10 was the conversation we had in her office in which
11 she and I were physically present and Lloyd
12 Constantine was on the speaker phone.

13 Q Give me a few minutes to look this over.

14 (Brief pause.)

15 Mr. Krantz, for the record you have
16 provided us with a copy of a memo by Mr. Rifkin, a
17 memo to the file dated November 11th and the subject
18 is Soares Investigation. And attached to that is a
19 memo from you to Mr. Rifkin and to Terryl Brown
20 Clemons dated November 10th, 2007, subject;
21 privileged communication in the hands of attorneys
22 of different clients. And there are attachments of
23 case law; is that correct?

24 A It's correct, except for that I think what's
25 attached is not case law but rather excerpts from

1 the Restatement of the Law Governing Lawyers.

2 Q Thank you for correcting me. I appreciate that.

3 A And also, in addition to the attached excerpts from
4 the Restatement there is also in the package that I
5 gave you a last page which has a couple of e-mails,
6 and those were not attachments to my memo. But when
7 I recently retrieved this document, they were
8 stapled to it.

9 MS. AMAREL: Actually, I just want to
10 clarify. When you and Terryl Brown Clemons had
11 the conversation with Constantine, he was on
12 the phone, this was before Constantine
13 testified in front of the D.A.?

14 MR. KRANTZ: Yes.

15 MS. AMAREL: So all of your questions were
16 based on conversations you had with him or what
17 you had heard the rumor was that Teitelbaum had
18 told Hermann who told Constantine, or were you
19 looking at a transcript of sort? What were you
20 basing your questions on?

21 MR. KRANTZ: Well, two things. One is, we
22 already knew about Lloyd Constantine's account
23 of these events. We had known that ever since
24 November of 2007. We had had numerous
25 conversations about it with Lloyd Constantine.

1 MS. AMAREL: Conversations. Okay.

2 MR. KRANTZ: And probably -- well, more
3 than probably. I believe that I had also -- I
4 can't remember which transcript I had or when I
5 had it. But in any event, my knowledge or my
6 understanding of the underlying events had
7 essentially come from conversations with Lloyd
8 Constantine, numerous conversations starting in
9 November of 2007. The other thing which we had
10 only just learned of was the account of
11 Mr. Hermann. And those two accounts seemed
12 somewhat intentional. Although, we didn't know
13 if they were really contradictory until we
14 asked Mr. Constantine more questions about
15 exactly what Mr. Hermann had said to him. But
16 it was a result of those various conversations.
17 First, the numerous ones with Lloyd Constantine
18 and secondly, the conversation with Stewart
19 Jones that that was -- and the seeming tension
20 between those two different accounts, which is
21 what led to our reaching out to Lloyd
22 Constantine to ask him more questions.

23 MS. AMAREL: Okay.

24 BY MR. FISCH:

25 Q This is before his testimony before the D.A.?

1 A Yes, it was.

2 Q When you spoke to him had you been aware of the
3 second conversation that Constantine had with
4 Hermann where Hermann in explaining his reluctance
5 to be disclosed as the source of the information,
6 told Constantine, "you don't know what Teitelbaum is
7 capable of. That he's capable of saying that he did
8 not tell me this information. That I stole it
9 somehow. That I saw it on a desk in his apartment"?

10 A I believe I had heard that part of the account back
11 in November. I can't say that for sure, but I
12 believe I had heard that part back in November.

13 Q When you spoke to Constantine prior to his testimony
14 before the D.A., was that also in your mind besides
15 the Hermann version? In other words, the Hermann
16 version in early of 2008 was this yellow pad or
17 notes. Okay. The Constantine conversations with
18 Hermann which he related to you go back to November
19 of 2007, and you don't have any transcript of his
20 yet because he has not yet testified before the D.A.
21 So did you remember as well in talking to him, his
22 second conversation with Hermann? Do you know what
23 I'm saying?

24 A I do understand. And my memory of this right now is
25 that I think that as soon as I heard from Stewart

1 Jones what Mr. Hermann's account was, it immediately
2 in my mind clicked with what I had heard from Lloyd
3 Constantine about what Hermann said that Teitelbaum
4 might say.

5 Q Okay. And then you spoke to Lloyd Constantine.

6 A And then we spoke to Lloyd Constantine to ask more
7 questions about what his conversations with Hermann
8 had been.

9 Q Did he at that time during those conversations
10 remind you and Terryl Brown Clemons of the second
11 conversation with Hermann?

12 A I can't remember if he did in that conversation or
13 not. He did not in that conversation -- I remember
14 this. In that phone conversation he did not say
15 anything to the effect of, you know, why are you
16 asking me these questions. Has Hermann given a
17 different account? In a later conversation, much
18 later conversation he did tell me that based on the
19 questions that Terryl and I were asking him, he
20 suspected that we had learned of a different account
21 from Robert Hermann.

22 Q All right.

23 A But we didn't tell Lloyd Constantine about what we
24 had learned about the Hermann account either in that
25 conversation or subsequently and, indeed, we

1 consulted with counsel about whether to tell him.

2 Q Counsel who?

3 A Ethics Counsel, Mr. Lieberman.

4 Q Okay. Mr. Krantz, is there anything you wish to
5 add? We appreciate you coming. You came, as I put
6 on the record, voluntarily. You've been very
7 helpful as always. Anything else?

8 A No, I don't have anything to add.

9 MR. FISCH: Thank you.

10 Let me put one more thing on the record.

11 BY MR. FISCH:

12 Q Mr. Krantz, I cannot direct you not to discuss this
13 testimony with anyone, but I am requesting that you
14 not do so.

15 A What are your procedures as far as do witness get
16 transcripts?

17 Q I will certainly give you a copy if you want. Would
18 you like to have a copy?

19 A I would.

20 Q If you wish a copy of your transcript, I'll make it
21 available for you to review. Okay. Once it's typed
22 sometime next week.

23 A Is this, I guess -- are we off?

24 Q Off or on, whatever you want.

25 (A discussion was held off the record.)

1 BY MR. FISCH:

2 Q Do you remember Constantine relating not only his
3 conversation of November 1st with Hermann, but the
4 fact that there had been prior communications from
5 Hermann?

6 A Yes.

7 Q Okay. And in those conversations it was very clear
8 that Hermann was relating information that he
9 received from Teitelbaum?

10 A Yes. Well, I remember hearing about such prior
11 conversations from Lloyd Constantine. And my
12 understanding of what Lloyd Constantine said was
13 that Hermann had received some information from
14 Teitelbaum.

15 Q And do you recall or are you aware that prior to the
16 November 1st conversation Hermann had with
17 Constantine, that Constantine had been advised to
18 notify Hermann that Constantine and others did not
19 want to hear anymore of these conversations from
20 Hermann?

21 A I remember hearing from Lloyd Constantine that Lloyd
22 Constantine did advise Hermann to that effect, to
23 the effect of "I don't want to hear it." I can't
24 recall whether I heard that Lloyd Constantine had
25 been advised to -- I have some recollection that I

1 may have heard that he had spoken to Richard Rifkin
2 about it.

3 Q And Rifkin may've told him, hey, this shouldn't be
4 happening. We don't want to hear it. You tell
5 Hermann to stop. If Teitelbaum has any information,
6 let him contact me, let him contact other persons
7 who are designated liaisons.

8 A I think I may've heard that. And in any event, that
9 would be perfectly consistent with how I know
10 Richard Rifkin would've reacted to that.

11 Q Okay. And that those prior communications there was
12 no doubt that they came from Teitelbaum? As a
13 matter of fact, Hermann's prefacing this
14 conversation with, "Herb says this. Herb told me."
15 Does that strike a bell?

16 A Well, that was my understanding. But you have to
17 understand that not only wasn't I present in any
18 conversations between Hermann and Constantine, but
19 at the time that I heard about these things from
20 Constantine, I wasn't even focusing on the exact
21 words that Constantine used, much less the exact
22 words that Constantine attributed to Hermann.

23 Q I understand.

24 A So it wasn't until we heard this -- we heard from
25 Stewart Jones about Mr. Hermann's account, that I

1 really began to focus on whether Hermann could
2 conceivably be learning information other than in
3 the most natural way of somebody telling him.

4 Q Did Constantine also say that on that November 1st
5 meeting with Hermann that Hermann said that the
6 Feerick Commission, because of concern about leaks,
7 had constructed a subcommittee to deal with these
8 matters?

9 A Well, I certainly heard about the subcommittee in a
10 variety of ways, including an apparent leak, because
11 it was in the newspapers. I think it was in *The New*
12 *York Post*. And at some point I believe I also heard
13 of it through learning that Lloyd had reported that
14 Hermann had said something about that, but I think
15 it was much later that I learned about that. I
16 learned about it through that channel.

17 Q The reason I ask, because the information that
18 Hermann related to Constantine on November 1st was
19 an awful lot of detail; names, the subcommittee, the
20 composition of the subcommittee, the actual names of
21 the people on that, an awful lot had been written on
22 a single piece of yellow pad paper.

23 A Well, if you're asking for my reaction to what you
24 just said, certainly one of my reactions following
25 the conversation with Mr. Jones was that I was

1 deeply skeptical that in the normal course of events
2 there would ever be a pad which would contain all
3 the information that Mr. Hermann had supposedly
4 gleaned from a pad, especially that it contained on
5 the top page. Although, I don't recall whether
6 something was explicitly said about whether he was
7 limited to reading the top page or whether he had
8 read only the top page. But the detail of
9 information that was recounted at that point, which
10 I can't remember everything right now, definitely
11 led me to be extremely skeptical that that would
12 ever occur, unless somebody was for some unusual
13 reason putting a lot of information in a very
14 visible way on a pad. By my experience of the
15 normal way that people take notes in an
16 investigation is that it would be most unusual for
17 so much detailed information in such explicit form
18 to be readily accessible on a pad.

19 Q Okay. Has the Chamber taken any action with regard
20 to Hermann, looking into this matter?

21 A It's been discussed and I can only tell you what was
22 the subject of the discussions that I've been privy
23 to. I know that when shortly after we first learned
24 of this there was a discussion of whether
25 Mr. Hermann's account should be brought to the

1 attention of the Governor or the Secretary to the
2 Governor in light of the fact that Mr. Hermann was
3 still in place in his position. And I don't know
4 what, if anything, along those lines was done
5 following that discussion.

6 Q Who would have made that decision?

7 A Well, the people in that discussion that I was privy
8 to were the then Counsel to the Governor, which is
9 David Nocenti, and the then First Assistant Counsel,
10 which is Terryl Brown Clemons, who is now the Acting
11 Counsel. And my understanding is that it would be
12 Mr. Nocenti who, if anybody, would be the one to
13 bring it to the attention of the Governor personally
14 or the Secretary, I would assume it would be him.

15 Q What's he currently doing, Hermann? He's still
16 Director of Governor's Regulatory Reform, I believe?

17 A To the best of my knowledge, yes.

18 MR. FISCH: All right. Anything else for
19 Mr. Krantz?

20 MS. AMAREL: No.

21 MR. FISCH: Mr. Krantz, thank you.

22 (Whereupon, the proceedings in the
23 above-entitled matter were concluded at
24 12:54 p.m.)

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C E R T I F I C A T I O N

I, Diane Daly-Gage, Shorthand Reporter and
Notary Public in and for the State of New York,
do hereby certify that the foregoing record
taken by me at the place and date noted in the
heading hereof is a true and accurate
transcript of same to the best of my ability
and belief.

Diane Daly-Gage

Dated: September 17, 2008