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STATE OF NEW YORK  
OFFICE OF THE INSPECTOR GENERAL

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

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September 18, 2008  
9:43 a.m.

EXAMINATION of PETER POPE, held  
at the offices of STATE OF NEW YORK OFFICE  
OF THE INSPECTOR GENERAL, 61 Broadway, New  
York, New York before Wayne Hock, a Notary  
Public of the State of New York.

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A P P E A R A N C E S :

STATE OF NEW YORK  
OFFICE OF THE INSPECTOR GENERAL  
61 Broadway  
New York, New York 10006

BY: JOSEPH FISCH, ESQ.  
ARLENE S. OSTERER, ESQ.

HAFETZ & NECHELES, ESQS.  
Attorneys for Witness  
500 Fifth Avenue  
New York, New York 10110

BY: SUSAN R. NECHELES, ESQ.

\* \* \*

1

2 MR. FISCH: My name is Joseph  
3 Fisch. I'm the inspector general of  
4 New York State. We are at my New York  
5 office, 61 Broadway, twenty-first  
6 floor, New York County. Appearing  
7 with me is Arlene Osterer of my staff.  
8 With us today is Peter Pope who is  
9 represented by counsel.

10 Counsel, can you note your  
11 appearance, please.

12 MS. NECHELES: Hafetz and  
13 Necheles by Susan Necheles.

14 MR. FISCH: Mr. Pope, you're  
15 appearing pursuant to a telephone call  
16 but I believe counsel had requested,  
17 and you can state the reasons for your  
18 request, for a subpoena which we've  
19 granted you.

20 MS. NECHELES: I appreciate that.  
21 We're just a little bit concerned by  
22 the Public Officer Law which states  
23 that you cannot make an appearance  
24 before certain agencies within two  
25 years of your employment and it's not

1  
2 clear to me, it was a little fuzzy,  
3 whether it applies to this. It  
4 doesn't seem like it should but I  
5 thought the easiest way to deal with  
6 this was just ask for a subpoena. Mr.  
7 Pope is very happy to come down and we  
8 appreciate you giving him that  
9 subpoena.

10 MR. FISCH: I would imagine that  
11 refers to litigation before the agency  
12 but, since Mr. Pope is otherwise  
13 appearing voluntarily, that issuance  
14 of a subpoena is no problem.

15 Mr. Pope, do you consent to us  
16 recording the interview  
17 stenographically?

18 THE WITNESS: Of course, I do.

19 MR. FISCH: All of my interviews  
20 are conducted under oath, so would you  
21 rise to be sworn.

22 P E T E R P O P E, having  
23 been first duly sworn by a Notary Public  
24 of the State of New York, upon being  
25 examined, testified as follows:

1 P. Pope

2 EXAMINATION BY

3 MR. FISCH:

4 Q. As I advised you and I believe  
5 Ms. Necheles, the district attorney of  
6 Albany County, by letter dated August 6 of  
7 this year, referred to us for  
8 investigation allegations that the  
9 executive director of the Office of Public  
10 Integrity, Herbert Teitelbaum, had  
11 disclosed information concerning the  
12 activities of the commission to  
13 non-authorized people, people outside the  
14 commission.

15 And during the course of receipt  
16 of those allegations, I believe you  
17 testified before the district attorney; is  
18 that correct?

19 A. That's correct, before Assistant  
20 District Attorney Linda Griggs, I believe.

21 Q. It was March 6 of 2008.

22 A. I don't remember the date, but  
23 that would make sense.

24 Q. They referred to us a copy of  
25 that transcript.

1 P. Pope

2 Mr. Hope, you know Robert

3 Hermann?

4 A. Yes, I do.

5 Q. What position did he occupy in  
6 state government in the year of 2007?

7 A. There is an agency -- and  
8 forgive me, I am blocking the formal name  
9 of the agency -- that reviews all proposed  
10 regulations in state government and he was  
11 the head of that agency.

12 Q. The Governor's Office of  
13 Regulatory Reform?

14 A. Yes, that's exactly it. GORR.

15 Q. He was not considered a member  
16 of the executive chamber though; was he?

17 A. He was not, although he had  
18 office space within the executive chamber  
19 at the 590 Third Avenue location.

20 Q. And you know Lloyd Constantine?

21 A. I do.

22 Q. What position did he occupy in  
23 state government in the year 2007?

24 A. Lloyd was a member of the  
25 executive chamber and I believe his formal

1 P. Pope  
2 title was senior adviser to the governor.

3 Q. And in that capacity, was Mr.  
4 Constantine one of the people designated  
5 by the governor to be the liaison with the  
6 Commission on Public Integrity?

7 A. I believe he was designated by  
8 Dave Nocenti and I don't remember the  
9 date, but he was part of the team that was  
10 doing the liaising with the Public  
11 Integrity Commission.

12 Q. Who were the other members of  
13 the team?

14 A. David Nocenti, Sean Maloney, I  
15 was, and Richard Rifkin was, not all  
16 appointed at the same time.

17 Q. But there came a time when Lloyd  
18 Constantine joined that group?

19 A. That's correct.

20 Q. And the group was designed to  
21 serve -- I use the word "liaison" with the  
22 Commission on Public Integrity; is that  
23 correct?

24 A. That's correct, and with the  
25 senate which was conducting an

1 P. Pope  
2 investigation and with the district  
3 attorney's office which was conducting an  
4 investigation. And I'm not sure if I'm  
5 remembering all of the investigations, but  
6 at least those three. Oh, and of course  
7 the inspector general's office and the  
8 attorney general's office. And again, I  
9 don't remember the timing, the different  
10 people were appointed.

11 Q. I understand.

12 The report by Andrew Cuomo was  
13 issued in July of 2007.

14 Does that ring a bell?

15 A. That sounds right.

16 Q. Now, Mr. Hermann had no official  
17 role with regard to dealing with the  
18 Commission on Public Integrity; did he?

19 A. That's correct.

20 Q. Did there come a time when Mr.  
21 Hermann came to you and spoke to you about  
22 activities of the commission?

23 A. Shortly after the issuance of  
24 the Cuomo report, we became aware that the  
25 Public Integrity Commission was going to

1 P. Pope  
2 take this matter up. I think it was days  
3 or a week after the issuance of the Cuomo  
4 report.

5 Sometime after that, Bob Hermann  
6 said to me that Herb Teitelbaum was  
7 looking for information quickly and I  
8 expressed surprise because, if I remember  
9 correctly, Richard Rifkin was the liaison  
10 with the commission at that time because  
11 he had been the former executive director  
12 and said of course we'll try to get them  
13 everything we can and give him my  
14 telephone number. That was the substance  
15 of the conversation.

16 Q. But it was clear he said Herb  
17 Teitelbaum or Herb wanted information  
18 quickly? In other words, the importance  
19 of my question is that he identified Herb  
20 Teitelbaum as the person who asked him to  
21 convey that request?

22 A. Yes. It's clear that I  
23 understood that it was Herb Teitelbaum.

24 Q. Did he refer to anything  
25 specific?

1 P. Pope

2 A. No. He said he's going to want  
3 everything; documents, computer records.

4 Q. Did he say anything about  
5 assertion of particular legal positions,  
6 executive privilege or anything like that?

7 A. I don't remember anything like  
8 that. I don't remember anything like that  
9 and I think that we -- I don't remember  
10 that.

11 Q. Where did this conversation take  
12 place?

13 A. I think it was by phone. I'm  
14 not positive.

15 Q. Your office number or --

16 A. I think it was by phone. I have  
17 some recollection that it may have been on  
18 my cell phone, but I'm not positive.

19 Q. Was that the only time he came  
20 to you directly with this message from  
21 Teitelbaum?

22 A. I think that that's -- there  
23 were occasions over the course of the long  
24 period of time that this investigation  
25 took where I at times, as you might

1 P. Pope  
2 imagine, we were -- and this happens in  
3 many different investigations -- both  
4 sides get angry and there were times at  
5 which I expressed my anger to Bob just as  
6 a --

7 Q. In terms of relaying a request  
8 from Teitelbaum, however, was that the  
9 only time that he spoke to you?

10 A. Yes. And I would only say that  
11 it was unclear to me whether he was  
12 relaying a request or whether he had been  
13 on the receiving end of a tirade from  
14 Teitelbaum.

15 Q. Again, if you recall whether  
16 there was anything specific in that  
17 request about -- or that statement that  
18 Teitelbaum wants to get information  
19 quickly.

20 A. The part that made an impression  
21 on me was fast and it baffled me because  
22 it's self-evident. I didn't understand,  
23 you know, here's my telephone number, call  
24 me.

25 Q. Were you surprised with his

1 P. Pope  
2 calling you or talking to you about this?  
3 A. I was surprised that Herb didn't  
4 call me directly.  
5 Q. Did you tell that to Herb?  
6 A. Yes.  
7 Q. Did you ask him why are you  
8 coming to me and why isn't Herb coming to  
9 me?  
10 A. No, I suggested that Herb should  
11 call me.  
12 Q. You were one of the people  
13 acting as liaison with the commission?  
14 A. I was one of the people assigned  
15 to the case and one of the things that we  
16 did was act as liaison to the commission.  
17 Q. Did you ask Hermann did  
18 Teitelbaum say he was not getting things  
19 quickly, anything along -- any questions  
20 as to why that request was made?  
21 A. No, I didn't drill Bob on why  
22 the request was made. I did express  
23 surprise that, if there was any kind of  
24 unhappiness, he didn't pick up the phone.  
25 I mean, we all had listed phone numbers.

1 P. Pope

2 Q. Was there anything in that  
3 period of time that you would have tied to  
4 the request? In other words, were there  
5 any records that the chamber was  
6 withholding or delaying or considering  
7 before responding to the request?

8 A. If I'm remembering right, this  
9 was too early in the process for there  
10 even to have been any disputes yet.

11 Q. Any other requests -- by the  
12 way, did Teitelbaum call you thereafter?

13 A. He did call me, yes. And I  
14 said, tell me what you want and we'll give  
15 it to you.

16 Q. Did you say why Hermann, why not  
17 call me straight?

18 A. I don't think I said why  
19 Hermann. I think I said here's my  
20 telephone number, use it any time.

21 Q. That was to Teitelbaum?

22 A. Yes.

23 Q. But you made a reference to the  
24 fact that Hermann had interceded?

25 A. I don't think I did, although

1 P. Pope  
2 it's entirely possible that I said, you  
3 know, Bob came to see me, here's my  
4 telephone number.

5 Q. I understand.

6 No other requests Hermann to  
7 you?

8 A. No.

9 Q. Did there come a time when you  
10 learned that Hermann had been  
11 communicating with other members of the  
12 chamber conveying requests from  
13 Teitelbaum?

14 A. I learned, and I don't remember  
15 when, but I believe it's in this same  
16 early time period that he had had a  
17 similar conversation with Lloyd  
18 Constantine. I understand that Lloyd at  
19 some stage had a conversation with him in  
20 which he said, Bob, stop.

21 Q. You understood that Constantine  
22 saying Bob, stop meant that there had been  
23 communications preceding that?

24 A. Well, the conversation that I've  
25 just alluded to -- I don't know how many,

1 P. Pope  
2 I don't know the nature. I believe that  
3 it was probably the same go fast message.  
4 And I don't know the words that Bob and  
5 Lloyd had after that.

6 Q. We know, based upon your  
7 testimony before the DA and our own  
8 investigation, there came a time where you  
9 and others met to discuss something very  
10 specific that Constantine relayed from  
11 Hermann.

12 A. Yes.

13 Q. And that meeting was around  
14 November 2.

15 A. Okay.

16 We would be able to give you the  
17 precise date because it's the day that I  
18 retained counsel.

19 Q. Around November 2.

20 MR. FISCH: Does that strike a  
21 bell?

22 MS. NECHELES: That's correct.

23 Q. Between that meeting and your  
24 very first conversation directly with  
25 Hermann, did Constantine tell you of other

1 P. Pope  
2 communications he had received from  
3 Hermann?

4 A. No.

5 Q. So tell us what Constantine  
6 relayed at that meeting in November which  
7 we believe is November 2.

8 A. I was pulled into a meeting in  
9 Sean Maloney's office and I'm confident  
10 that in that meeting, either by telephone  
11 or in person, were me, David Nocenti, Sean  
12 Maloney, and Lloyd Constantine. I don't  
13 remember whether or not Richard Rifkin was  
14 a participant as well. The five of us in  
15 various configurations had many meetings  
16 over time and I don't remember whether  
17 this was a five-person meeting or a  
18 four-person meeting. I think, I think  
19 that physically present were me and Sean  
20 and Lloyd with David on the phone, but  
21 it's possible that Lloyd was on the phone,  
22 too. I'm just not sure.

23 In the course of that meeting, I  
24 came to understand that there had been a  
25 communication between Bob and Lloyd --

1 P. Pope

2 Q. Can I interrupt you.

3 You say you came to understand.

4 Is this something that Lloyd

5 Constantine had told you all?

6 A. Lloyd was the speaker. And he  
7 said that he had had a conversation with  
8 Bob Hermann.

9 Q. Was that the day before the  
10 meeting, shortly before the meeting?

11 A. There was some period of time  
12 between the conversation and the meeting  
13 because in the interim Lloyd had gone to  
14 consult with a counsel who was a  
15 specialist on ethics.

16 Q. Hal Lieberman?

17 A. Yes.

18 To see whether or not he could  
19 convey this information. He reported that  
20 he had gotten an opinion that he could and  
21 he conveyed to us information that, as I  
22 understood it -- and I don't know whether  
23 this is even accurate -- that it had been  
24 reported to the DA's office from the  
25 Public Integrity Commission that David and

1 P. Pope  
2 I, and I think Sean, had forced Darren  
3 Dopp to make a false statement.  
4 Q. Did Constantine indicate that  
5 Hermann told him a matter had been  
6 referred to the DA for consideration of a  
7 prosecution or that the DA had agreed to  
8 pursue this?  
9 A. My best recollection is that it  
10 was only about a referral.  
11 Q. Did Constantine describe  
12 Hermann's condition when he came to convey  
13 this information to him?  
14 A. No. He did say that Hermann  
15 took him into a separate office, but I  
16 don't think he described his condition.  
17 Q. Did he say that -- was there  
18 anything else that you recall Constantine  
19 having told those of you who were present?  
20 A. No. It was a pretty short  
21 meeting. I was, as you might imagine,  
22 angry and left the meeting and called Ms.  
23 Necheles' offices.  
24 Q. Who?  
25 A. Susan Necheles' office within

1 P. Pope

2 ten or fifteen minutes.

3 Q. Did Constantine at that meeting  
4 describe any other conversations he had  
5 had with him prior to that one about the  
6 DA?

7 A. I don't remember that. It was  
8 really about a -- it was really about this  
9 what I remember to be a referral.

10 Q. In addition to engaging counsel,  
11 did you speak to Hermann about this?

12 A. On the way from that meeting to  
13 my office, I saw Bob and I believe I  
14 expressed my low opinion of Mr.  
15 Teitelbaum.

16 Q. Can you perhaps be more  
17 explicit? We're all over twenty-one.

18 A. I don't remember the words I  
19 used.

20 Q. Did you refer to the fact that  
21 he had received this information from  
22 Teitelbaum?

23 A. No. I didn't want to talk to  
24 him.

25 Q. I understand.

1 P. Pope

2 When Constantine conveyed the  
3 information from Hermann, did he say that  
4 Hermann had reported that it had come from  
5 Teitelbaum?

6 A. I'm sorry, could you --

7 Q. When Constantine reported to the  
8 meeting, to those of you who were at the  
9 meeting, his conversation with Hermann,  
10 did he also add or explain that Hermann  
11 had received this information from  
12 Teitelbaum?

13 A. There's no doubt that I  
14 understood the information to come from  
15 Teitelbaum, but I don't remember the words  
16 at all.

17 Q. Why do you say that?

18 A. Because I left the meeting with  
19 that state of mind. I don't remember the  
20 words. I do remember being extremely  
21 angry.

22 Q. Anything else that you remember  
23 about that meeting?

24 A. There was a discussion after it,  
25 after this main description, as to whether

1 P. Pope  
2 we could even continue to have  
3 conversations, a very destructive dynamic  
4 in a government office, and I said that it  
5 was my intention to retain a lawyer and  
6 others should think about that as well.

7 Q. Between that meeting and running  
8 into Hermann, did you ever talk to Hermann  
9 again from then until today?

10 A. Not about this matter. Not at  
11 all since the governor resigned.

12 Q. Did he ever reach out or make an  
13 effort to explain to you how he had come  
14 to this information or apologize or any --

15 A. No, but I was very clear and  
16 direct about the fact that I did not want  
17 to discuss this with him at all.

18 Q. Any conversations with  
19 Teitelbaum?

20 A. The only time that I have seen  
21 or spoken with Teitelbaum is when he  
22 examined me under oath as a part of the  
23 Public Integrity Commission. I had  
24 conversations before that in the course of  
25 the representation of the chamber. But

1 P. Pope  
2 absolutely not on this subject.

3 Q. Did he interview you before  
4 putting you under oath?

5 A. No, he did not. But I did go to  
6 the -- his offices as part of the  
7 representation early on.

8 Q. He did not speak to you before  
9 examining you under oath?

10 A. He did not. Good morning, you  
11 know, the shaking of hands.

12 Q. I understand that.  
13 Were there any other contacts  
14 you had with the district attorney besides  
15 your interview on March 6 of 2008 in  
16 connection with the Hermann/Teitelbaum  
17 thing?

18 A. No.

19 Q. Or with anybody else from the  
20 DA's office?

21 A. No.

22 Q. Anybody else in this whole  
23 universe of state government who spoke to  
24 you about this again?

25 A. Richard Rifkin and I had lunch

1 P. Pope  
2 last week. He said that he was going to  
3 be interviewed by you and he raised with  
4 me the issue of whether or not it  
5 constituted an appearance.

6 Q. A what?

7 A. An appearance under the Public  
8 Officers Law.

9 Q. I suspected that's why you  
10 wanted the subpoena.

11 A. And both of us said that's the  
12 only conversation we're going to have  
13 about it, and it was.

14 Q. Anything that you would like to  
15 add that I may not have covered?

16 A. The one thing that may or may  
17 not be relevant to you is that, although  
18 Bob Hermann was not officially a member of  
19 the executive chamber, he worked hand in  
20 glove with the executive chamber on a  
21 wide, wide variety of matters because of  
22 the nature of his job. And it was a  
23 government in which strict chains of  
24 command were not always observed so that  
25 he was, in some ways, integrated with the

1 P. Pope

2 executive chamber.

3 Q. But he was never designated to  
4 serve in the role of liaison?

5 A. That's correct.

6 Q. Anything else that you wish to  
7 add?

8 A. No.

9 Q. Did you have any discussions  
10 concerning how the Commission on Public  
11 Integrity was dealing with this purported  
12 disclosure by Teitelbaum of confidential  
13 information?

14 A. Well, at one stage we had a  
15 discussion with Teitelbaum -- this is  
16 before these events -- about a newspaper  
17 article.

18 Q. But the information which  
19 Hermann had which came not from newspapers  
20 at that time but from the commission, you  
21 regarded that as serious; didn't you? The  
22 fact that Hermann was privy to that  
23 information. This was a referral by the  
24 commission of this information.

25 A. You mean not about the newspaper

1 P. Pope  
2 leaks, about the information from this  
3 commission?

4 Q. Sure.

5 A. Occasionally one of us would say  
6 to the other -- there were conversations  
7 about -- and I think the first of these  
8 was in that meeting -- something about  
9 there's more evidence that there are leaks  
10 out of the Public Integrity Commission  
11 than any evidence of wrongdoing by the  
12 executive chamber.

13 MS. NECHELES: Judge, can you  
14 just repeat your question? What was  
15 your question?

16 MR. FISCH: I'm sorry?

17 MS. NECHELES: What was your  
18 question? Can you just repeat your  
19 question?

20 Q. Whether there were any  
21 discussion concerning what appeared to be  
22 a serious breach of information about the  
23 activities of the commission.

24 MS. NECHELES: Was there any  
25 discussion with Teitelbaum or with --

1 P. Pope

2 Q. That Hermann receives  
3 information concerning a confidential  
4 investigation.

5 That's heavy stuff; isn't it?

6 A. Either at that meeting or after  
7 that I think that I asked Richard Rifkin  
8 do we have any obligations and he said  
9 yes, and you and I probably shouldn't  
10 discuss them and we did not. And this was  
11 of course against a background of knowing  
12 that Lloyd had consulted with Hal  
13 Lieberman.

14 MS. OSTERER: Just briefly, with  
15 respect to the occasion on November 2  
16 when you ran into Mr. Hermann and you  
17 spoke to him, did he make any reply to  
18 you?

19 THE WITNESS: I didn't give him  
20 much of an opportunity to make any  
21 reply.

22 MS. NECHELES: Can we take just a  
23 minute?

24 MR. FISCH: Sure.

25 (Whereupon a break was taken)

1 P. Pope

2 THE WITNESS: Judge, I'm not  
3 sure that this is responsive to your  
4 previous question, but it might be.

5 Before my testimony before the  
6 Public Integrity Commission, my  
7 counsel wrote -- had a communication  
8 with the Public Integrity Commission  
9 in which it was pointed out to them  
10 that I had been questioned by Soares  
11 on the subject of this issue. So  
12 there was a communication from my  
13 counsel to the commission.

14 MR. FISCH: Do you recall the  
15 date of that, Ms. Necheles?

16 MS. NECHELES: I don't recall the  
17 date.

18 Was it in December we were going  
19 up to speak -- I don't recall the date  
20 that Peter spoke with them. It was  
21 like the week before he spoke with  
22 them.

23 Q. I believe you --

24 A. And the point of the  
25 communication was to raise an issue of

1 P. Pope  
2 potential conflict for them to resolve.  
3 Q. I believe you inadvertently had  
4 the wrong address for the New York City  
5 governor's office. It's 633 Third Avenue.

6 A. Yes, that's correct.

7 Q. And the meeting that you had  
8 November 2 was at the New York office  
9 rather than the Albany office?

10 A. That's correct, it was at the  
11 New York office.

12 Q. Is there anything else?

13 A. No, Judge.

14 MR. FISCH: I cannot direct you  
15 not to disclose your testimony, but I  
16 am requesting that you refrain from  
17 doing so.

18 THE WITNESS: It is not my  
19 intention to do so, Judge.

20 MR. FISCH: Thank you.

21 (TIME NOTED: 10:17 a.m.)

22

23

24

25

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## CERTIFICATION BY REPORTER

3

4

I, Wayne Hock, a Notary Public of the

5

State of New York, do hereby certify:

6

That the testimony in the within

7

proceeding was held before me at the

8

aforesaid time and place;

9

That said witness was duly sworn

10

before the commencement of the testimony,

11

and that the testimony was taken

12

stenographically by me, then transcribed

13

under my supervision, and that the within

14

transcript is a true record of the

15

testimony of said witness.

16

I further certify that I am not

17

related to any of the parties to this

18

action by blood or marriage, that I am not

19

interested directly or indirectly in the

20

matter in controversy, nor am I in the

21

employ of any of the counsel.

22

IN WITNESS WHEREOF, I have hereunto

23

set my hand this                      day of

24

, 2008.

25

---

