

1 STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL
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3 AN INVESTIGATION CONCERNING ALLEGATIONS
4 THAT HERBERT TEITELBAUM, EXECUTIVE DIRECTOR
5 OF THE COMMISSION ON PUBLIC INTEGRITY,
6 DISCLOSED INFORMATION CONCERNING THE
7 COMMISSION'S INVESTIGATIONS
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10 STENOGRAPHIC MINUTES OF CONTINUATION OF
11 EXAMINATION conducted of RICHARD RIFKIN, held pursuant
12 to Subpoena on the 26th day of January, 2009, at the
13 offices of STATE OF NEW YORK OFFICE OF THE INSPECTOR
14 GENERAL, Empire State Plaza, Agency Building 2, 16th
15 Floor, Albany, New York, commencing at 2:00 p.m.,
16 before Diane Daly-Gage, a Shorthand Reporter and
17 Notary Public in and for the State of New York.

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1 APPEARANCES:

2 STATE OF NEW YORK
3 OFFICE OF THE INSPECTOR GENERAL
4 Empire State Plaza
5 Agency Building 2, 16th Floor
6 Albany, New York 12223
7 (518) 474-1010
8 BY: JOSEPH FISCH, ESQ.

6

7 O'CONNELL & ARONOWITZ, P.C.
8 54 State Street
9 Albany, New York 12207
10 (518) 462-5601
11 On behalf of Richard Rifkin;
12 BY: STEPHEN COFFEY, ESQ.

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

2 EXAMINATION

3 BY MR. FISCH:

4 Q Today is January 26th. We are in my office in
5 Albany. Present for a continued examination is
6 Mr. Richard Rifkin, accompanied by Mr. Coffey, his
7 attorney. Mr. Rifkin last testified on October 20th
8 of 2008. Mr. Rifkin and Mr. Coffey, I want to
9 express my appreciation for both of you coming down
10 here, of course, voluntarily. And you are still
11 under oath, Mr. Rifkin.

12 A Okay.

13 Q Before we went on the record we had an opportunity
14 to discuss some of your prior testimony and a
15 memorandum that you wrote.

16 Mr. Rifkin, this memo dated November 11,
17 2007, the very last paragraph you've had an
18 opportunity to read that?

19 A I have.

20 Q And that describes a conversation you had with
21 Robert Hermann concerning information that you and
22 other members of the Chamber had received from Lloyd
23 Constantine concerning the disclosure of information
24 from the Commission on Public Integrity to Lloyd
25 Constantine via Robert Hermann; correct?

1 A That's correct.

2 Q And everything in that memo you once again endorse
3 as accurate?

4 A That's correct. This memo was written --

5 Q Talking about that portion.

6 A That portion, yes, I reaffirm that is. Correct.

7 Q And you testified before me as I indicated on
8 October 20th, and I just wanted to go over some of
9 that because we've had Mr. Hermann down and I wanted
10 just to reiterate some of your testimony and what
11 appears in your memo.

12 Once again, do you recall that when
13 Mr. Hermann came to you as reflected in that memo he
14 asked you to permit Teitelbaum to speak to Dean
15 Feerick rather than having you discuss with Dean
16 Feerick the information that you had received from
17 Constantine?

18 A Correct.

19 Q And he told you that Teitelbaum feared for his job?

20 A Correct.

21 Q And as you've indicated in your testimony, Hermann
22 never denied that he had been the source of
23 information to Constantine and never denied that
24 Teitelbaum had been the source of information to
25 him. Do you recall that?

- 1 A That's correct.
- 2 Q Did Hermann, when he spoke to you then or at any
3 time, ever tell you that Teitelbaum did not do
4 anything wrong?
- 5 A No.
- 6 Q Did he ever make any effort to explain how he,
7 Hermann, had obtained the information which he then
8 communicated to Constantine?
- 9 A No, he did not.
- 10 Q Okay. And upon receipt of the information from the
11 District Attorney -- the information which you had
12 revealed you had received from Constantine and then
13 communicated to the District Attorney, you felt
14 obliged to bring this information to Dean Feerick?
- 15 A I did.
- 16 Q What would you have told Dean Feerick if you did
17 meet with him?
- 18 A If I had called Dean Feerick I fundamentally would
19 have recited for him the facts of which I was aware.
20 And in sum that is, that I was at a meeting with
21 some of the other lawyers working on the
22 investigation. At that meeting Lloyd Constantine
23 told us that Bob Hermann had revealed to him certain
24 information which Hermann said had been given to him
25 by Herb Teitelbaum, and I would have informed

- 1 Chairman Feerick of those facts.
- 2 Q All right. And the information which Hermann
3 related to Constantine, which Constantine then
4 related to you and other members of your group, was
5 information that you were aware of at the time; am I
6 correct? For example, that the matter had been
7 referred to the District Attorney for prosecution,
8 possible prosecution; correct?
- 9 A Right. I learned of that particular fact, as well
10 as I suspect the others, at the meeting that the
11 group of us had in the Governor's -- Counsel's
12 Office.
- 13 Q Based upon what Constantine had learned from
14 Hermann?
- 15 A Correct. In other words, I knew nothing of any of
16 this until Mr. Constantine revealed to us at this
17 meeting.
- 18 Q And other members of this group that you were with,
19 Constantine, Pope, Maloney, as far as you know --
- 20 A Nocenti.
- 21 Q No one else had this information?
- 22 A I think it's fair to say from the reaction that they
23 did not.
- 24 Q Okay. Now, after speaking to Hermann you did not go
25 to Feerick and you refrained from doing so at the

- 1 request of Hermann?
- 2 A That's correct.
- 3 Q And what did Hermann tell you -- he told you that
4 Teitelbaum was going to go to Feerick himself?
- 5 A Yes.
- 6 Q And what did you understand that Teitelbaum was
7 going to tell Feerick?
- 8 A I assumed in my own mind that Teitelbaum would
9 inform Feerick of the events of the past several
10 days.
- 11 Q Okay. And once again, no denial by Hermann that he
12 was the source of information, no denial that
13 Teitelbaum had been the source of information to
14 him?
- 15 A Correct.
- 16 Q Was it based upon this assurance from Hermann that
17 you refrained to go to Feerick yourself?
- 18 A Yes.
- 19 Q You said that Constantine had told you information
20 he heard from Hermann and that Hermann had said he
21 received this information from Teitelbaum.
- 22 A Hermann --
- 23 Q Because there's a question about whether that was an
24 assumption that Constantine made or whether Hermann
25 said this came from Teitelbaum. I'm talking about

- 1 the November 1st.
- 2 A My recollection is that at that meeting of the group
3 of us, Mr. Constantine told us that he received the
4 information from Mr. Hermann, who had received it
5 from Mr. Teitelbaum.
- 6 Q Okay. And the record is clear and it's undisputed
7 that prior to this Constantine had reported to you
8 and other members of your group, communications that
9 Hermann had received, which he identified as coming
10 from Teitelbaum, and that you told Constantine to
11 direct Hermann to cease any such conversations with
12 Teitelbaum. Do you remember that?
- 13 A I don't know what -- to say we directed...
- 14 Q Well, you suggested --
- 15 A Constantine -- this was sometime prior to the events
16 that we've been talking about.
- 17 Q Yes. Sometime around in maybe July or early on...
- 18 A Correct.
- 19 Q As I say it's undisputed, Hermann spoke to
20 Constantine and Constantine told the group of you
21 and you felt that Teitelbaum should not be talking
22 to Hermann and Constantine said you tell Hermann to
23 stop any such conversations with Teitelbaum.
- 24 A Here's my recollection. Lloyd Constantine revealed
25 to the group of us at that point that he and Bob

1 Hermann were having conversations, and in those
2 conversations Bob Hermann was giving him information
3 which Bob had obtained from Teitelbaum. Lloyd said
4 that he felt very uncomfortable with regard to his
5 receiving this information and it was his preference
6 that these conversations cease, but he wanted to
7 talk to others of us to sort of get a feel if he was
8 correct in having this discomfort and what he might
9 do. And I think the way I can best put it is, we
10 all agreed that Lloyd was correct. These
11 conversations really should not be taking place and
12 it seemed like a good idea for Lloyd to go back to
13 Bob Hermann and fundamentally ask him to refrain
14 from future similar conversations.

15 Q And until November 1st or 2nd there were no other
16 communications that Constantine had described to you
17 as having come from Hermann about --

18 A Correct, correct. The next -- I had heard in the
19 interim of no conversations between Constantine and
20 Hermann.

21 Q Okay. Thank you. I appreciate you coming again,
22 and Mr. Coffey too, I appreciate it.

23 Mr. Rifkin, anything else you wish to add?

24 A No.

25 MR. FISCH: Okay. Thank you both. I

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appreciate it.

MR. COFFEY: Thank you very much.

(Whereupon, the proceedings in the
above-entitled matter were concluded at
2:13 p.m.)

1 STATE OF NEW YORK)

2) ss.

3 COUNTY OF)

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5 I have read the foregoing record of my
6 testimony taken at the time and place as noted
7 in the heading hereof and I do hereby
8 acknowledge it to be a true and correct
9 transcript of the same.

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13 Sworn to before me this _____

14 day of _____, 200__

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Notary Public
Commission Expires:

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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: February 4, 2009

