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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 RICHARD RIFKIN, held pursuant to Subpoena
on the 3rd 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 11:58 a.m., before
Diane Daly-Gage, a Shorthand Reporter and Notary
Public in and for the State of New York.

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.

9 -and-

10 Sherry Amarel, Principal Investigator
11 Jonathan Masters, Investigative Counsel

12 O'CONNELL & ARONOWITZ, P.C.
13 54 State Street
14 Albany, New York 12207
15 (518) 462-5601
16 On behalf of Richard Rifkin;
17 BY: STEPHEN COFFEY, ESQ.

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

2 MR. FISCH: Today is Wednesday,
3 September 3rd. I'm Joseph Fisch, the State
4 Inspector General. We are in my Albany office,
5 Agency Building 2 on the 16th Floor.
6 Accompanying me are two staff members, Sherry
7 Amarel and Jonathan Masters. Present are
8 Mr. Richard Rifkin and his attorney, Stephen
9 Coffey.

10 Mr. Rifkin, you're appearing pursuant to a
11 phone call. However, you've indicated and
12 Mr. Coffey, both of you have indicated that
13 there is a reason why you may wish a subpoena.
14 Do you want to put that on the record as a
15 necessity?

16 MR. RIFKIN: Yes. Under the state Ethics
17 Law, as a former employee of the Executive
18 Chamber I am precluded from appearing before
19 any state agency. And to assure that the
20 Public Integrity Commission does not find me in
21 violation of that law, I've asked for a
22 subpoena as there's an opinion of the State
23 Ethics Commission, the predecessor of the
24 Public Integrity Commission, that holds that

1 appearance pursuant to a subpoena is not a
2 violation of the revolving door statute.

3 MR. FISCH: I'll you, Mr. Rifkin, I'm very
4 happy to serve a subpoena upon you. By doing
5 so, I'm not concurring on your interpretation
6 of the statute. I do not know, but I'm
7 accepting it for purposes of expediting this.

8 I told Mr. Coffey it's my policy with
9 regard to this investigation that everybody
10 appearing will be recorded. You have no
11 objection to the stenographic record?

12 MR. RIFKIN: No. I've spoken with
13 Mr. Coffey, and whatever conversations you've
14 had with him are fine with me.

15 MR. FISCH: Also, everybody is going to be
16 sworn. So will you rise and be sworn.

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

20 EXAMINATION

21 BY MR. FISCH:

22 Q My office is conducting an investigation based on a
23 referral from District Attorney Soares and the
24 referral was of allegations that Herbert Teitelbaum

1 of the Commission on Public Integrity had
2 inappropriately disclosed information concerning the
3 activities of the workings of the Commission to
4 Robert Hermann and possibly to others. And I made
5 that known to you, Mr. Coffey; correct?

6 MR. COFFEY: Correct. I acknowledge that.

7 Q And I know you were interviewed by the District
8 Attorney. We think the date was May 8th or some
9 time in May.

10 MS. AMAREL: Some time in May. We weren't
11 quite sure.

12 A I don't recall --

13 MR. COFFEY: I don't recall, actually. It
14 could've been May. I can't dispute that. It
15 sounds about right.

16 BY MR. FISCH:

17 Q All right. And I showed you before we began, you
18 and Mr. Coffey, the summary of the interview as they
19 in the D.A.'s Office recorded it. Just see if this
20 helps you and we'll talk about this in greater
21 detail.

22 Mr. Rifkin, for the record can you just
23 tell us about your background, please.

24 A How far back do you wish me to go? My graduation

1 from law school?

2 Q No. Public service.

3 MR. COFFEY: Tell them about Yale.

4 Everybody always likes to hear that.

5 A I came into state service on January 1, 1979 when
6 Robert Abrams took office as Attorney General. I
7 served in various capacities with Robert Abrams,
8 winding up as his First Assistant Attorney General.
9 I left the Attorney General's Office in early 1994,
10 became Executive Director of the State Ethics
11 Commission. I remained at the State Ethics
12 Commission through 1998. In January of 1999 I
13 returned to the Attorney General's Office. I
14 remained there for eight years. And in January, on
15 January 1st, 2007, I became Special Counsel to then
16 Governor Spitzer. I remained there until June of
17 this year when I left and took a job in the private
18 sector.

19 Q The then Ethics Commission was the predecessor to
20 the Commission on Public Integrity?

21 A It is.

22 Q Is there any difference between the two other than
23 composition?

24 A Oh, yes. The Public Integrity Commission is a

1 combination of the former Ethics Commission and the
2 former Lobbying Commission. And they have
3 jurisdiction over lobbying, which the Ethics
4 Commission did not have.

5 Q With regard to the ethics role, the ethics part of
6 the Public Integrity Commission, can you describe
7 what the confidentially restrictions are in terms of
8 information developed during the course of an
9 investigation?

10 A Well, there's a statutory provision that describes
11 how an investigation is to be conducted, and then in
12 the last sentence of that paragraph it says "all of
13 the above shall be confidential."

14 Q Is there a penalty for violation?

15 A Not that I know of.

16 Q Now, are there any exceptions with regard to the
17 Commissioner's disclosing to the appointing
18 authority, confidential information?

19 A Well --

20 Q Let me tell you why I asked. There is a provision
21 in the State Investigation Commission, there is a
22 provision which makes it a crime to disclose
23 information gathered during the course of an
24 investigation. There is an amendment, I don't know

1 what year, which permits Commissioners or exempts
2 Commissioners from disclosing to the appointing
3 authority, information. Is there anything as
4 ludicrous as that with regard to the Ethics
5 Commission or Public Integrity Commission? You'll
6 have to forgive my editorializing, but...

7 A This is a much more complicated question than you
8 realize.

9 Q Okay.

10 A There is a provision in Section 74 which is enforced
11 by the Public Integrity Commission that says that
12 state employees shall not reveal confidential
13 information. When I was at the Ethics Commission I
14 had always assumed that that meant revealing
15 confidential information to people outside of
16 government and not within government. However, the
17 Public Integrity Commission has recently issued a
18 notice of reasonable cause, which is its charging
19 instrument, and it has in that notice of reasonable
20 cause charged former Police Superintendent Preston
21 Felton of violating the confidentiality rule. To my
22 knowledge Superintendent Felton revealed information
23 only to the Governor's Office. If that is, in fact,
24 a violation, then I suppose revealing information to

1 another state official can be a violation.

2 Now, I emphasize that that right now is nothing
3 more than a notice of reasonable cause. It has not
4 been tested, he has not been found to have violated
5 the law, and obviously he has not had an opportunity
6 to bring a judicial challenge to that interpretation
7 of the law.

8 Q Was that interpretation one that your commission,
9 when you were Executive Director, operated under?

10 A No.

11 Q Okay. So you felt that within government it was
12 permissible, disclosures within the state government
13 were permissible?

14 A When you say "disclosures within state government,"
15 disclosures of which information? There are
16 provisions in the statute whereby the Commission can
17 notify various state officials at various times in
18 proceedings, and it's set forth in the statute.

19 For example, and this is a little bit off
20 topic, but I think we'll get straight to the point.
21 If a state employee who is required to file a
22 financial disclosure statement fails to timely file
23 the statement, the Commission is required to send a
24 15-day notice to that state employee. That notice

1 is confidential and is not given to the employer.
2 If the employee then still fails to file, the next
3 notice is sent to the employee as well as the
4 employing agency. So it depends upon which stage of
5 the proceeding you're at in terms of the
6 restrictions that are imposed on the Commission.

7 Q Now, I believe on July 23rd, 2007 the then Attorney
8 General Andrew Cuomo issued a report dealing with
9 then State Senator Bruno's use of a helicopter or
10 state facilities and that report triggered a number
11 of investigations, including one by the Commission
12 on Public Integrity. Did there come a time -- no.

13 At that time was your role the liaison
14 between Governor Spitzer and the Commission on
15 Public Integrity?

16 A I was the ethics officer for the Executive Chamber.

17 Q Okay.

18 A And prior to the Commission on Public Integrity
19 opening investigation I talked very regularly about
20 a whole host of issues with the Ethics Commission.
21 And then I guess for a very short time the Public
22 Integrity -- no, I guess it was still the Ethics
23 Commission when the investigation opened. So yes, I
24 had had many conversations about many, many

1 different topics with the Ethic Commission over my
2 time in the Governor's Office. And then when they
3 decided to open an investigation, I became the
4 liaison to the Commission.

5 Q And at that time Herbert Teitelbaum was their
6 Executive Director?

7 A He was.

8 Q And if the Commission sought information from the
9 Executive Chamber, such request was supposed to go
10 to you?

11 A That's correct.

12 Q Okay. And with regard to the summoning of witnesses
13 and making witnesses available, that information
14 also should've gone to you, the Commission on Public
15 Integrity?

16 A That is also correct.

17 Q You know Lloyd Constantine, of course?

18 A I do.

19 Q Did there come a time when Mr. Constantine told you
20 that he had had communications with Robert Hermann
21 concerning activities of the Commission on Public
22 Integrity?

23 A Yes.

24 Q And did he tell you further that Hermann had spoken

1 to him purportedly on the basis of information that
2 Hermann had received from Teitelbaum?

3 A I can't recall my exact conversations with Lloyd,
4 but I do remember that -- can I step back for a
5 minute?

6 Q Sure.

7 A After the Public Integrity Commission opened its
8 investigation, there were, I guess, five lawyers in
9 the Executive Chamber who were working on all the
10 various investigations that were going on. They
11 were David Nocenti, Peter Pope, Sean Maloney, Lloyd
12 and myself. And with regard to any issue with any
13 of the investigations, the way we would make
14 decision is that we would meet together and sort of
15 talk out the issues among ourselves and reach a
16 joint decision. And I think that's a fair way to
17 put it. There was no real dominant person.
18 Everybody -- it was an open and free exchange among
19 lawyers trying to reach the best decision we could.
20 And my recollection is that Lloyd, in one of those
21 meetings, informed us that he was meeting with Bob
22 Hermann, that Bob was conveying information to him,
23 which Bob said he had received from Herb Teitelbaum.
24 And Lloyd raised this at one of our meetings and

1 that's how I found out about it.

2 Q Did he describe what information he had received
3 from him?

4 A I can't recall the specifics of exactly what he told
5 us. I will tell you that our conversations at that
6 time related much more to, if I may call it the
7 procedural issue, in terms of the nature were these
8 conversations proper, than they were to the
9 substance of the conversations.

10 Q But were the conversations substantive in nature in
11 terms of specifics, names or witnesses, documents?

12 A They appeared to relate to what was happening in the
13 internal investigation of the Commission.

14 Q Okay. And what was your response when Constantine
15 brought this to your attention?

16 A My personal response or...

17 Q Yours, plus--

18 A Actually, my response was no different, I guess,
19 from all of the others. All of us, including Lloyd
20 by the way, were very unhappy with the state of
21 affairs. We knew we should not be getting this
22 information. It was clear that if there were to be
23 conversations between the Ethics Commission and the
24 Governor's Office they should be between Herb

1 Teitelbaum and me. And the result of our discussion
2 was that Lloyd was going to go back and speak to Bob
3 Hermann and tell Bob that we felt that these
4 conversations were not a good idea and we should
5 cease to have them.

6 Q In addition to your unhappiness about lines of
7 communication, did you also tell Mr. Constantine
8 that you thought this was a violation of the
9 statute?

10 A We were certainly aware that it may very well have
11 violated the statute. I don't think anybody wanted
12 to come to a legal conclusion or a hard legal
13 conclusion. We just wanted it stopped.

14 Q Okay. But did you tell Constantine to convey to
15 Hermann that it was your judgement, your judgement
16 collectively, the committee's judgement that this
17 might constitute a violation?

18 A I can't recall the exact conversation or
19 conversations. There were multiple conversations
20 that I had with Lloyd. But we certainly talked
21 about the possibility that this may very well be a
22 violation.

23 Q Did you ever speak to Hermann yourself about this?

24 A I don't recall speaking to Hermann about this.

1 Q Did you speak to Teitelbaum about this?

2 A No.

3 Q Okay. We have -- we believe that these
4 conversations, there's a series of conversations,
5 took place sometime between the issuance of the
6 Cuomo report of July 23rd and early August. Does
7 that seem correct to you?

8 A I can't recall the exact day, but that seems within
9 the time period within which all of this took place.

10 Q Did there come a time, we believe we fixed the date
11 as November 1st or thereabouts, when Mr. Constantine
12 told you about another conversation he had with
13 Hermann concerning a referral to the D.A.?

14 A Yes, to the D.A. I can't recall the date. I can
15 tell you it was on a Friday.

16 Q Okay. What did he tell you that happened?

17 A Lloyd asked for a meeting of the group of us, which
18 we were having on a regular basis, but he asked for
19 an immediate meeting. We met that Friday morning
20 and Lloyd said that he had had another conversation
21 with Bob Hermann and Lloyd said that Bob conveyed
22 the following, that Darren Dopp had testified before
23 the Public Integrity Commission. In his testimony
24 about the Commission he said -- go back.

1 Darren had signed a statement that was sworn
2 to, whether it was correctly notarized or not
3 there's a big debate over that, but it was certainly
4 sworn to. That in essence said, and I don't have
5 the statement in front of me, but that he realized
6 in some way that he had acted improperly and I think
7 was apologetic for it. That statement was given to
8 Attorney General Cuomo in the Cuomo investigation.
9 Darren apparently told the Public Integrity
10 Commission that he did not believe what he said in
11 that statement to be true. That, in fact, his true
12 belief is that he acted properly at all times and
13 that the reason he signed that statement is that he
14 was under great pressure from mainly Nocenti and
15 Pope and I guess to a lesser degree, Maloney, to
16 sign that statement rather than testify before
17 Cuomo.

18 Q And all of this Constantine said had been conveyed
19 to him by Hermann?

20 A Correct.

21 Q Anything else that he said Hermann had told him?

22 A Not that I recall. I mean that was the essence of
23 what I recall was said.

24 Q Was there also information that this matter had been

1 referred to the District Attorney?

2 A Yes. Yes, I'm sorry. I assume -- what happened --
3 all of this was based upon the fact that Teitelbaum
4 had suspended the Public Integrity Commission's
5 investigation and referred this matter to the
6 District Attorney, and what Lloyd was telling us is
7 that what he had heard from Hermann was this was all
8 the subject of the reference.

9 Q And this was given to Hermann by Teitelbaum
10 according to what Constantine relayed to you?

11 A Constantine's statement to us was that Teitelbaum
12 revealed this information to Hermann, who revealed
13 it to Lloyd, who was now revealing it to us.

14 Q Okay. And was there anything about a special
15 subcommittee that had been formed by the Commission
16 as part of this conversation on -- we believe we've
17 established that for November 1st?

18 A I was aware that there was a special subcommittee of
19 the Public Integrity Commission, but I can't tell
20 you when. But there's no doubt in my mind that Herb
21 Teitelbaum told me. This was not something that was
22 told in the manner in which we're just talking about
23 now.

24 Q Did that information about the creation of a

1 subcommittee come prior to this conversation of
2 November 1st?

3 A You mean when did I learn about it, before or after
4 this --

5 Q Yes.

6 A Frankly, I don't remember.

7 Q Okay.

8 A But I will say that Herb Teitelbaum in his
9 conversations with me as the liaison did at some
10 point reveal the existence of this committee.

11 Q Did he explain why it was formed?

12 A Fundamentally I guess his explanation was he felt
13 that he needed the guidance of commissioners, and
14 with 13 commissioners he couldn't keep getting
15 guidance from 13 commissioners, so they formed the
16 committee so that he would work closely with at
17 least the subcommittee of the commissioners as the
18 investigation proceeded.

19 Q Did he express any concern about information being
20 leaked by some of the commissioners to the press and
21 that this was one of the reasons for the
22 subcommittee's creation?

23 A I did have conversations with Teitelbaum about some
24 of his concerns of commissioners leaking statements

1 to the press. I don't recall him saying that the
2 subcommittee was formed for the purpose of avoiding
3 those leaks.

4 Q Was it a factor? Did he indicate it was a factor as
5 well?

6 A Not that I recall in my conversations with
7 Teitelbaum. I mean I had numerous conversations
8 with Herb Teitelbaum, and in some of those
9 conversations we did talk about the leaks. And in
10 some of those conversations we talked about a
11 special committee or the subcommittee, but I don't
12 recall, at least, any conversation in which the two
13 were linked.

14 Q Did Mr. Constantine characterize Mr. Hermann's
15 demeanor at the time he brought this information to
16 you?

17 A He did.

18 Q You had a smile on your face. How did he describe
19 Hermann?

20 A Apparently -- and again, understand, I'm just
21 relaying --

22 Q Do you want me to try to help you?

23 A No, no, no.

24 Q Shaking?

1 A That apparently Bob Hermann came in very exercised
2 telling Lloyd that he had to speak to Lloyd
3 immediately. There seemed to be something very
4 critical about all of this. Apparently, met, I
5 believe, in Lloyd's office in New York City, shut
6 the door and at that point presented all of this to
7 Lloyd.

8 Q Shaking, nervous, sweating, anything of that ring a
9 bell?

10 A As I say, I remember Lloyd describing Bob as being
11 very exercised. I can't tell you I remember the
12 details.

13 Q What did Hermann ask Constantine to do with the
14 information as Constantine relayed it to you?

15 A To my knowledge Hermann made no request at all.

16 Q Nothing about you've got to tell Eliot about this?

17 A Not that I know of.

18 Q Anything about not revealing him, Hermann, as the
19 source of the information?

20 A Not that I recall. That became an issue later on.

21 Q Why don't you pick up. When did it become an issue?

22 A It became an issue after I revealed the source of
23 the leak to the District Attorney.

24 Q Okay.

1 A In which case Bob Hermann came to see me very upset
2 about that, because apparently that had brought on a
3 major split between Teitelbaum and Hermann, who had
4 long been good friends and law partners.

5 Q How soon after your meeting with the D.A and your
6 disclosure to the D.A., the information that you had
7 did Hermann come to you?

8 A Well, when you say my disclosure to the -- my
9 initial disclosure to the DA was not at the meeting
10 with the D.A. It was beforehand.

11 Q Okay. Then let's go back.

12 A Okay. In other words, you're measuring from two
13 different times.

14 Q So let's go back.

15 Constantine gives you that information
16 that he got from Hermann ostensibly from Teitelbaum.
17 Did Constantine say that Hermann had once again
18 revealed Teitelbaum as the source of this
19 information?

20 A Yes. I remember at the meeting at which Lloyd
21 revealed this information, you know, we were looking
22 at this and realized that we had asked -- Lloyd had
23 asked Bob Hermann not to reveal any information way
24 back months before and here we were again with

1 information that we really didn't want at all.

2 Q Okay. So what did you do?

3 A Well, the first thing we realized is that we had a
4 serious ethical problem. The fact that there were
5 people in that room who now were potentially under
6 investigation by the District Attorney should have
7 made us wonder how best to proceed because this was
8 a whole new dynamic which had never been even
9 considered. So as I said, the conversation took
10 place on a Friday morning. Lloyd and I then went
11 back and we decided to retain Ethic's Counsel.
12 Lloyd had a prior relationship with Hal Lieberman,
13 whom you probably know. So Lloyd called Hal and we
14 retained him that afternoon.

15 Q Okay. Would you like some water?

16 A Yes, that would be okay.

17 (A discussion was held off the record.)

18 BY MR. FISCH:

19 Q So you have Lieberman entering the picture and he
20 advises you to do what?

21 A He advises us to immediately notify -- tell David
22 Soares that we were aware of this, of the fact of
23 the referral and whatever we knew about the
24 referral. Because David Soares presumably would

1 think that we had no knowledge and we didn't want
2 the District Attorney to be under the misimpression
3 that we were ignorant of this referral. As I said,
4 and I can't emphasize it enough, we did not want
5 this information. We wished we could have put the
6 genie back in the bottle. But here we were, and
7 Lieberman's advise was to call Morgenthau -- I'm
8 sorry, Soares, as soon as possible. Sean Maloney
9 and I called David Soares at home that night. It
10 was a Friday night. When we first called, we got
11 his wife and he was out walking his dog, but we
12 eventually spoke to the District Attorney and we
13 revealed to him that we had knowledge of this
14 referral.

15 Q You said this to him by telephone?

16 A Yes.

17 Q Okay. And then you also requested a meeting?

18 A I don't recall whether we requested a meeting or he
19 requested a meeting with us, but we had a meeting
20 early the following week, either Monday or Tuesday
21 of the following week in his office.

22 Q But it's clear in your telephone conversation with
23 him that Friday night, which was maybe the 2nd or
24 3rd -- how soon after Constantine revealed this to

1 you did the call -- did he reveal it to you? We
2 think if it was contemporaneous with Hermann coming
3 to him, it may have been, what? I think it was
4 November 1st.

5 A I will tell you it was a Friday.

6 Q Okay.

7 A It's a very clear recollection. Our meeting when
8 Lloyd revealed it to us was somewhere around
9 11:00 o'clock or so.

10 Q Okay.

11 A We retained Hal Lieberman that afternoon. We had
12 conversations during the course of the afternoon
13 with Hal and Lloyd, myself and I think Sean, and it
14 was in late afternoon that we made the decision that
15 it was important for us to notify Soares that day.
16 I believe it was past business hours at that point,
17 so we did not get him at his office and we opted to
18 call him at home. We finally reached him at home I
19 would say somewhere around 8:00 o'clock.

20 Q Okay. Now, Constantine met with you and the other
21 members of your committee in person?

22 A Yes.

23 Q Because there was -- was there not a time when he
24 was out of town and may have communicated with you

1 by telephone? Is that a different --

2 A My best recollection of that meeting was that Lloyd
3 sent an e-mail saying that he was out of town, was
4 driving back to Albany, he should be back about
5 11:00 o'clock in the morning and can we meet as soon
6 as he gets back.

7 Q All right. And you fix that about 11'ish in the
8 morning?

9 A The meeting was about 11:00 o'clock or so.

10 Q Okay. And you call the D.A. the same night?

11 A Correct.

12 Q So that was Friday. All right.

13 What did Soares say when you gave him this
14 information by telephone?

15 A Very little. He fundamentally listened.

16 Q And then there came a time after that when you
17 actually had a meeting?

18 A We had a meeting with him either the following,
19 probably the following Tuesday because I think -- I
20 think we had conversations on Monday where there was
21 discussion about having a personal meeting. I think
22 it was at his request.

23 Q Okay.

24 A And then I remember because, sure, Hal Lieberman

1 actually attended that meeting and Hal would've had
2 to have come up from New York. So presumably we had
3 conversations on Monday, setting up the meeting for
4 Tuesday, and then met on Tuesday when Hal was
5 present.

6 Q When you spoke to the D.A. by telephone that
7 evening, Friday evening, did you reveal to him that
8 Hermann had been the source of this information?

9 A No.

10 Q Merely that you had this information?

11 A It was not a long conversation, but we told him we
12 wanted him to know that we were aware of the
13 reference from the Commission to him and generally
14 had knowledge of what had been referred.

15 Q Between that telephone conversation to the D.A. in
16 the evening and your meeting with him, did you have
17 any discussions about this matter with Hermann or
18 with Teitelbaum or with Constantine?

19 A I did not with Hermann or Teitelbaum. I don't
20 recall whether I had any with Lloyd during that.

21 Q All right. Now, we're at the meeting with the D.A.

22 A Right.

23 Q And who was present, Mr. Rifkin?

24 A I was present, Sean Maloney was present, Hal

1 Lieberman, and I think Terryl Brown-Clemons, who is
2 the First Assistant Counsel to the Governor at that
3 point. And for the D.A. there was Linda Griggs and
4 an attorney named Brett. I can't remember his last
5 name.

6 Q At that meeting was anything said about Hermann
7 being the source?

8 A Yes, I believe it was at that meeting when we were
9 going over all of the details of this that I
10 revealed that Bob Hermann was the source.

11 Q And did you also reveal that Hermann stated that
12 Teitelbaum was the source of the information to him?

13 A Yes.

14 Q Anything take place at that meeting in connection
15 with the D.A. calling Teitelbaum or doing anything
16 other than the receipt of the information from you?

17 A No. I had no idea what the D.A. was going to do
18 with that information.

19 Q Okay. What was the next thing that happened after
20 the meeting in terms of contacts with Hermann or
21 Teitelbaum or anything?

22 A Well, the next thing that happened is that I can
23 recall is that Bob Hermann came to see me and was
24 very upset that I had revealed the fact that he was

1 the source of the information. I told Bob I didn't
2 think I had any choice but in talking to the D.A. to
3 reveal the facts as I knew them or at least as I had
4 heard them. And he explained to me that this caused
5 a great breach between Bob and Herb, which had upset
6 him a great deal, understandably. He requested that
7 I not inform Herb directly of this and he gave me a
8 100 percent assurance that John Feerick was going to
9 take this up with Herb. And since -- and when I say
10 100 percent assurance, I pressed Bob on that a great
11 deal. And since the Chairman of the Commission I
12 had been told was going to take up this matter with
13 the Executive Director, I was prepared to let that
14 happen. I thought that was an appropriate way to
15 deal with it.

16 Q Did Hermann indicate how he knew that Feerick was
17 going to deal with this?

18 A No, I don't think I asked him. I just kept pushing
19 him, are you absolutely 100 percent certain that
20 Feerick is going to be talking to Teitelbaum about
21 this and he said yes and I was prepared to accept
22 that representation.

23 Q Did he say anything about how he learned of this
24 information from Teitelbaum, whether it was any

1 disclaimer of the way it was communicated to him?

2 A No. We didn't discuss that at all.

3 Q Did he ever attempt to characterize his receipt of
4 this information in some fashion other than directly
5 from Teitelbaum?

6 A I don't recall ever talking to Bob Hermann about how
7 he received this information.

8 Q All right. And he never made any effort with you to
9 divorce Teitelbaum from this scenario as the source?

10 A No.

11 Q Let me rephrase. He never attempted to say that
12 Teitelbaum never told me about this. I came into
13 this information some other way. Noting along those
14 lines?

15 A No. I don't believe I had any conversations with
16 Bob Hermann at all at any time about how this all
17 came about.

18 Q Okay.

19 A My conversation with Bob was, as I say, after the
20 fact and after his name -- I had revealed his name
21 to the District Attorney. And it really, aside from
22 Bob talking about his personal relationship with
23 Herb, the conversation focused on what happens next.
24 And that's when we got into the discussion about how

1 this was going to be handled and I already told you
2 about that.

3 Q Did you ever talk to Feerick about this?

4 A No.

5 Q Or to anybody from the Commission? That counsel is
6 Barry Ginsberg, at least he is now.

7 A I was just going to say, I'm not sure Barry was
8 there when all of this took place.

9 Q Okay. So nobody from the Commission about this?

10 A No.

11 Q Did you talk to Teitelbaum about this?

12 A No.

13 Q Any further conversations with the D.A. about this?

14 A About this particular subject?

15 Q Yes.

16 A I don't think so.

17 Q Okay. So the last -- am I correct that the
18 conversation with Hermann about Feerick taking care
19 of this or dealing with this, which was sometime in
20 November of 2007, after your meeting with the DA and
21 so on?

22 A It must've been early to mid November.

23 Q Okay. Between then and today any conversations
24 about this issue with Hermann, any additional

1 conversations?

2 A No.

3 Q Teitelbaum?

4 A No.

5 Q Constantine?

6 A You know, I don't recall any. But understand,
7 Lloyd's office and my office were adjacent and I
8 just had many, many conversations with Lloyd.

9 Q Okay. What about the First Assistant Counsel to the
10 Governor?

11 A Terryl Brown-Clemons?

12 Q Yes.

13 A C-L-E-M-M-O-N-S [sic]. Did I talk to Terryl? I may
14 have talked to Terryl because -- because of the
15 referral Terryl stepped in and I don't want to say
16 replaced David Nocenti, but took over a lot of the
17 functions that David was performing related to these
18 investigations. And so I began to have numerous
19 conversations with Terryl about lots of different
20 aspect to these investigations. It is certainly
21 conceivable that I talked with her at some point
22 about the Hermann/Constantine revelations, but I
23 don't recall any specific conversations and
24 certainly it was not the focus of anything we were

1 doing.

2 Q It was not what?

3 A It was not the focus of what we were doing.

4 Understand, we were being -- our office was being
5 investigated by the D.A, the Public Integrity
6 Commission, the State Senate. This issue of
7 whatever Teitelbaum did or did not do was really not
8 of a priority to us. Our priority was dealing with
9 the investigations as they were proceeding.

10 Q I asked you about possible conversations with
11 Constantine. Did he ever tell you that Hermann had
12 attempted to put a different spin on how he obtained
13 the information?

14 A Not that I recall.

15 Q Anything along the lines that we happened to be in
16 Teitelbaum's apartment one evening, saw some written
17 notes and that's how he became so informed about the
18 referral?

19 A Never heard anything like that.

20 Q Okay. You have a smile on your face.

21 A I have assurance because this is -- you know, if
22 anybody told you that, that this is the first time
23 I'm hearing that.

24 Q Okay. Is there anything that you wish to add,

1 Mr. Rifkin?

2 MR. COFFEY: Off the record.

3 (A discussion was held off the record.)

4 MR. COFFEY: Yes, there is one thing that
5 I would like to put on. Prior to the time that
6 Mr. Rifkin left the Governor's Office,
7 he consistent with this duties, submitted a
8 memo to the Governor...

9 MR. RIFKIN: Not quite. What I did is, I
10 wrote -- in the course of these events I wrote
11 a contemporaneous memo, which was a memorandum
12 to the file reciting all of the events. And
13 that memo resides in the files of the
14 Governor's Office.

15 MR. FISCH: Sure.

16 MR. RIFKIN: And although I knew I'd be
17 appearing here today, I did not call the
18 Governor's Office and ask for a copy of that
19 memo. My assumption was that your preference
20 would've been that I not call the Governor's
21 Office.

22 MR. FISCH: That's fine.

23 MR. RIFKIN: And therefore, understand my
24 testimony is given, my best recollection

1 without having seen the memo that I made to the
2 file.

3 MR. FISCH: What I would be very happy to
4 do for you, if you wish, Mr. Rifkin, if you
5 want to acquire that memo for your own
6 recollection or to refresh your recollection
7 and come back if you feel there is anything
8 here that is inconsistent or perhaps you want
9 to amend anything you've said, that would be
10 fine with us too. In other words, you have
11 carte blanche, if you want to come back, if you
12 want to look at that and say, gee, I gave you
13 this date. I was not a Friday, it was a
14 Thursday or anything like that. Whatever you
15 want to do.

16 MR. RIFKIN: Can I ask you, will I have an
17 opportunity to review my testimony?

18 MR. FISCH: Sure.

19 MR. RIFKIN: Okay. Then what I will do I
20 think, I will ask the Governor's Office for
21 that memo. And when I review my testimony, I
22 will compare it and if there are any
23 discrepancies, I will let you know in some way.

24 MR. FISCH: That's fine.

1 Anything else, Mr. Coffey?

2 MR. COFFEY: No.

3 MS. AMAREL: I don't.

4 MR. MASTERS: I don't.

5 MR. COFFEY: Thank you.

6 MR. FISCH: I want to thank you,

7 Mr. Rifkin.

8 (Whereupon, the proceedings in the

9 above-entitled matter were concluded at 12:51

10 p.m.)

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STATE OF NEW YORK)

ss.

COUNTY OF)

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

Sworn to before me this _____
day of _____, 200____

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: September 5, 2008