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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 DAVID SOARES, held on the 4th 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 10:05 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
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P-R-O-C-E-E-D-I-N-G-S

MR. FISCH: Today is Thursday,
September 4th. I am Joseph Fisch, the State
Inspector General. We are in my Albany Office,
Agency Building 2, 16th floor. Accompanying me
are two members of my staff, Sherry Amarel and
Jonathan Masters. Present is District Attorney
David Soares.

Mr. Soares, you're appearing here
voluntarily pursuant to my telephone call to
you?

MR. SOARES: Yes, sir.

MR. FISCH: And you consent to this
testimony being recorded stenographically?

MR. SOARES: Yes, sir.

MR. FISCH: And as I advised you, all of
the witnesses who appear for interviews are
going to be testifying under oath.

MR. SOARES: Yes, sir.

MR. FISCH: So would you rise and be
sworn.

DAVID SOARES,

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

EXAMINATION

1
2 BY MR. FISCH:

3 Q Mr. Soares, you referred to us by letter dated
4 August 6th a matter involving allegations that the
5 Executive Director of the Commission of Public
6 Integrity, Herbert Teitelbaum, had inappropriately
7 released confidential information concerning the
8 activities and investigations by the Commission of
9 allegations of former Senator Bruno's use of state
10 aircraft; is that correct?

11 A That is correct.

12 Q And you asked us to look into that. And in response
13 to your request we are conducting an investigation.
14 Now, following...

15 A If I can just...

16 Q Please.

17 A Make a correction. That the matters involving what
18 has been publicly referred to as Trooper Gate, which
19 originally addressed the issue of Senator Bruno's
20 allegation, or allegations made against Senator
21 Bruno, then the allegations and Senator Bruno
22 against the Executive Office, it's been dubbed
23 Trooper Gate. However, for purposes of management
24 and investigation within the Albany County District

1 Attorney's Office we are looking at the three --
2 these were three separate investigations. The
3 allegations of the Executive Office misappropriating
4 state resources by using the troopers to spy on
5 Mr. Bruno, that was known as Trooper Gate. Then
6 there were allegations of Darren Dopp having
7 perjured himself, that was Investigation D. Then
8 there were matters of information being released by
9 the Integrity Commission, which was treated as a
10 separate and third inquiry.

11 Q So with regard to the latter that you contacted us.

12 A That we made the referral, yes.

13 Q Now, during these various investigations had there
14 been somebody designated by the Executive Chamber to
15 serve as liaison to you with regard to release of
16 documents or making witnesses available or anything
17 like that?

18 A During what was dubbed Trooper Gate, the first
19 investigation, the person designated was Peter Pope.
20 Peter Pope was the liaison, the attorney
21 representing the Executive Branch. And it was his
22 responsibility to communicate with the office and
23 provide the office with the information in terms of
24 work product and release of documents from the

1 Executive Branch.

2 Q There came a time, did there not, leading to the
3 third investigation, which you have referred to us,
4 when there was the possibility of a conflict between
5 the testimony of Darren Dopp, his testimony before,
6 was it you and his statement to Andrew Cuomo, can
7 you develop that for us?

8 A I'm not sure what the question is.

9 Q In other words, were you contacted at some point by
10 the Commission on Public Integrity concerning the
11 possibility of either perjury by Dopp or a false
12 statement by Dopp, why don't you develop that?

13 A In the month of October of 2007, and we are -- just
14 so you know, we are working on a time line for you
15 at this point just to be able to zero in on the
16 exact dates. But we believe that between, it may
17 have been October 15th and October 18th, because
18 those were three days that I was in town. I had
19 been on vacation the first week of October. I was
20 on vacation the first, I think, ten days in October
21 and then I was away at a speaking engagement and
22 conferences that took me out of the state, but I do
23 believe I was here three days in the middle thereof.
24 And it was at that point, it might've been a

1 Wednesday or a Thursday, that would've been the 16th
2 or the 17th, where we were contacted by the
3 Integrity Commission and asked for an appointment.
4 There was something urgent that they had to speak
5 with us about.

6 Q Who was it who contacted you?

7 A I believe it was Mr. Teitelbaum who had contacted
8 us. Now, I'm not sure whether that contact was made
9 to me directly or whether it was made to Linda
10 Griggs, but we were contacted and asked for an
11 appointment. The appointment was scheduled and
12 Mr. Teitelbaum and Ms. Tooher presented themselves
13 at the office.

14 Q And they met with you and what did they say?

15 A They met with myself, along with Linda Griggs and
16 Brett Knowles and I believe they had an excerpt of
17 the relevant testimony and presented the facts to
18 the office.

19 Q This was testimony of Dopp before the Commission?

20 A This was Darren Dopp. I believe October 11th
21 testimony before the Commission.

22 Q And did they also bring to your attention his
23 statement before Andrew Cuomo?

24 A Yes.

1 Q Okay. And what was your response to that?

2 A Our response to the matters that were presented to
3 us was that we would look at and review the
4 information that they presented and then we would
5 inform them as to what we were going to do.

6 Q Did there come a time when you decided what action
7 you would take?

8 A Yes.

9 Q How soon thereafter?

10 A We're working on that time line now. I would say
11 between two to three weeks after that was presented,
12 the decision was made.

13 Q Would there be any records or documents in your
14 office that can pinpoint the exact time, the exact
15 date that you made that decision?

16 A We are working on putting together that information
17 now. Because again, there was a lot of traveling
18 for myself and there was traveling for both Linda
19 and Brett Knowles, and there were other documents
20 that the Integrity Commission had turned over to us.
21 So we're trying to figure out whether the decision
22 had been made and communicated on November the
23 2nd or the 9th. It's one of those two dates.

24 Q Was the 2nd or the 9th the time that you said you

1 were looking into it or the time that you actually
2 made the decision even internally?

3 A Internally we were presented with facts on that
4 three-day period in the middle of October. And I
5 had gone away. I returned to the office on
6 October -- I returned to Albany on October 31st. I
7 took my kids out for Halloween on the 31st. Brett
8 and Linda had attended a conference in New Orleans
9 and they returned to the area either on the 1st or
10 2nd of November. But it was that last week of
11 October, early November when they returned.

12 When the Integrity Commission presented us with
13 the problem or the issue, they had presented us with
14 what I believe was 42 pages of the testimony from
15 Mr. Dopp, but there were a total of about 400 pages
16 or something to that effect. So there was a point
17 in time when the Integrity Commission turned over
18 the rest of those documents and they had to be
19 reviewed, and Linda and Brett were doing the review.
20 And there was a meeting that took place internally
21 and the facts were presented, an application of the
22 various laws were also presented and an analysis
23 conducted. Once that took place, then the decision
24 was made that we were going to begin an

1 investigation into these matters.

2 So the issue for us, and again, the importance
3 of the time line is whether or not that decision was
4 made on Thursday, November the 1st or the 8th.
5 Because what transpired after is the sum and
6 substance of the information and the referral that
7 we presented to you.

8 Q Once you made that determination that you were
9 looking into it, did you advise anybody at the
10 Commission that you decided to look into it?

11 A I advised the Executive Director.

12 Q Herbert Teitelbaum?

13 A Yes.

14 Q Was that by telephone?

15 A That was by telephone. I advised -- and here's the
16 reason why I continue to focus on the Thursday and
17 Friday and the weekend directly after, because that
18 confirmation was made on a Thursday, if my
19 recollection serves me. And within 24 hours, which
20 was a Friday, Friday evening I received a call from
21 representatives of the Executive Branch, and that
22 call was made to me at my home. I had been walking
23 my dog in the neighborhood at that time and when I
24 returned, my wife informed me that I received a

1 phone call from Mr. Rifkin and I promptly returned
2 that call on a Friday night.

3 Q By that time you had already made a decision and
4 communicated it to Teitelbaum that you were looking
5 into this?

6 A Yes.

7 Q What did Rifkin say?

8 A Mr. Rifkin had telephoned me at home. When I
9 returned the call, we were having sushi that evening
10 too, when I returned the phone call Mr. Rifkin had
11 informed me that Mr. Maloney was also in on the
12 phone. It was a three-way phone call. Now, from
13 our review of the information provided to us by the
14 Integrity Commission, Mr. Maloney was present in the
15 room I believe on the July 22nd discussion. We had
16 not yet taken any testimony, we had not yet
17 interviewed anyone. So at this point I was
18 uncertain as to whether or not Mr. Maloney -- we
19 knew for a fact that Mr. Maloney was going to be a
20 witness, but whether or not Mr. Maloney was going to
21 be a defendant because the issue of coercion was
22 still in play. During that conversation Mr. Rifkin
23 had requested a meeting with me and I had suggested
24 to Mr. Rifkin that I would take the meeting.

1 However, because Mr. Maloney was on the phone, I
2 didn't inform him that Mr. Maloney was a possible
3 witness or a possible defendant. I did not say
4 anything at that point. When that request was made
5 I suggested to Mr. Rifkin that I would take the
6 meeting. However, if I were going to take the
7 meeting, it would have to be with an attorney
8 present.

9 Q At this point in time, November 1st, 8:00 o'clock at
10 night when Rifkin calls...

11 A Again, it's either the 1st or the 8th. We're trying
12 to narrow it down on those two weeks. We're trying
13 to narrow whether it was the first week in November
14 or the second week. That's the part that we're a
15 little uncertain of.

16 In other words, I knew that I made my decision
17 on a Thursday...

18 Q The 31st. Halloween though?

19 A No. We don't know whether it was that week or the
20 other week. I knew that it was a Thursday the
21 decision had been made and communicated and I knew
22 that it was a Friday that I had been contacted by
23 the Executive Branch.

24 Q Okay. But when you made the decision the Thursday,

1 either the 31st or the following week, you
2 communicated your decision to Teitelbaum?

3 A Yes.

4 Q And following that, the following evening you got
5 the call from Rifkin requesting a meeting; am I
6 right?

7 A Yes.

8 Q Did Rifkin say anything else besides the request for
9 a meeting?

10 A No. I think -- I believe that Mr. Rifkin in that
11 conversation, he was aware that we were beginning a
12 formal investigation and he had stated to me that
13 they wanted to be helpful and cooperative and they
14 want to meet with me.

15 Q Did he indicate that he knew that you had made a
16 decision?

17 A Yes.

18 Q And did that surprise you?

19 A That was very surprising. And of course, again, I'm
20 in the unenviable position of having a third party
21 on the phone, who was a possible defendant.

22 Q I understand.

23 A So I could not -- I was being very coy and could not
24 confirm that we had, in fact, begun an investigation

1 because I didn't want to alert the third party,
2 Mr. Maloney, on the phone.

3 Q Did he tell you how he knew?

4 A Not at that point.

5 Q Did he mention Teitelbaum at this point?

6 A Not at that point.

7 Q Okay. Did you ask him -- what did he say that
8 indicated he knew a decision had been made?

9 A He had informed me on the phone that he knew I was
10 beginning an investigation and the matter at hand
11 involving Mr. Dopp, so on and so forth, and he
12 wanted to talk to me about that.

13 Q Okay. Did you have any conversation thereafter with
14 Teitelbaum?

15 A Mr. Teitelbaum telephoned me Saturday morning. I
16 was on my computer in the basement and he telephoned
17 me and he had, you know, in the earlier conversation
18 said he wanted to be kept in the loop, which was not
19 an unusual request to be kept in the loop as I would
20 say, sister agencies, in conducting an
21 investigation. Not that we would ever disclose any
22 privilege material, but to inform another agency as
23 to where you are is not an unreasonable request.

24 But the early Saturday morning conversation he

1 had asked me if I knew how the Executive Branch knew
2 that I was conducting an investigation.

3 Q And after the call from Rifkin Friday night where he
4 in words or substance advised you that he was aware
5 of your decision; am I correct so far?

6 A Yes.

7 Q Did you call Teitelbaum that night and inquire
8 whether he had said anything to the Executive
9 Branch? Because at this point in time Teitelbaum is
10 the only one who knew?

11 A Yes.

12 Q Okay.

13 A Now, I may have called Mr. Teitelbaum before I
14 returned a call to Mr. Rifkin. I may have done
15 that. My recollection at this point -- I may have
16 done that because I was troubled by the fact that I
17 was getting a phone call at home by a member of the
18 Executive Branch. And now that you mention it, I
19 may have spoken with him on that Friday night asking
20 him how -- why would they be calling me, whether or
21 not the cat was out of the bag.

22 Q Did he say anything?

23 A He said, if I recall correctly, no. And that would
24 have prompted his calling me that Saturday morning,

1 because he never telephoned me that early or on the
2 weekend, never had a conversation with him.

3 Q So when he calls on Saturday you had already spoken
4 to Rifkin?

5 A I had already spoken to Rifkin.

6 Q Did you say to Teitelbaum, "You son of a bitch, how
7 do you they know about it?"

8 A No, I didn't.

9 Q Even without that salutation, nothing to him about--

10 A We're in the business of gathering evidence,
11 applying facts to the law. I don't make accusations
12 unless I have, you know...

13 Q No. But did you ask him, "Rifkin told me last night
14 that he knew I made a decision. You're the only guy
15 I ever said this to. How does he know?"

16 A We didn't get into it. I didn't make that
17 accusation.

18 Q It's not an accusation. Just a question.

19 A I had raised those questions. I did raise those
20 questions. I raised those questions about, you
21 know, leaks.

22 Q Okay. Did you feel any sense of unease now talking
23 to Teitelbaum having learned from Rifkin that they
24 knew of the decision you made which you had shared

1 only with Teitelbaum?

2 A Not at that point. Not at that point.

3 Q Okay. So between that Saturday, which could've been
4 November 2nd?

5 A Hum-hum. And if you don't mind.

6 Q Please.

7 A The reason I didn't feel that way about
8 Mr. Teitelbaum at that point was because
9 understanding that we had done the original Trooper
10 Gate inquiry, and everything, whether it was a
11 person wearing a blue tie coming into the office,
12 everything that transpired during that interview
13 appeared in some paper the following morning. That
14 was an issue that we had, that was a persistent
15 issue moving in that inquiry. So they had come to
16 our office, I would say the second week or the third
17 week in the month of October and made this referral
18 to us. And I would say between two and three weeks
19 it took for us to make a decision, in between that
20 time period there was no information of that meeting
21 having taking place appearing anywhere in any paper.
22 So I had a lot of faith in the Integrity Commission
23 that they were not discussing anything that was
24 taking place between our respective agencies with

1 the press. So at that point I had no reason to
2 suspect or be concerned with Mr. Teitelbaum or any
3 agency or any representative of that agency with
4 respect to leaking information to the press.

5 Q Who was it that brought the information to you
6 initially; Teitelbaum and were there other
7 commissioners?

8 A It was just Mr. Teitelbaum and Ms. Tooher, Meave
9 Tooher. Tooher, is it?

10 Q Yes. M-E-A-V-E, I'll get the spelling for you.

11 Did she have anything to say or she merely
12 accompanied him?

13 A She accompanied him. She added some things. I
14 don't recall the conversation exactly.

15 Q Did Teitelbaum ever say anything to you between the
16 time of the referral for your consideration and your
17 conversation from Rifkin that Friday night, which
18 may have been November 1st, about the formation of a
19 special subcommittee within the Commission on
20 Integrity?

21 A Yes, he had mentioned that to us. I don't recall
22 when he had mentioned that to us. He said he had
23 concerns about information getting out as well to
24 the press and therefore, had created a special

1 subcommittee within the Integrity Commission to
2 address the issue.

3 Q Did he tell you who was on that committee?

4 A I don't recall.

5 Q Did he disclose whom the Commission suspected
6 might've leaked information?

7 A No.

8 Q So we're now at the stage where November 1st, Rifkin
9 talks to you and you asked Teitelbaum, "do you know
10 what this is all about?" You returned the call --
11 I'm sorry, you get a message that your wife received
12 from Rifkin, you call Teitelbaum, "do you know what
13 this is all about?" Correct me if I'm mistaken.

14 A No, you're right.

15 Q You returned the call to Rifkin, it was still Friday
16 night, the following day Teitelbaum calls you?

17 A Hum-hum.

18 Q "Do you know what this is all about?" Correct so
19 far?

20 A Yes.

21 Q And a meeting is arranged?

22 A Yes.

23 Q How soon after the call from Rifkin that Friday
24 night do you meet with him and other people from the

1 Executive Chamber?

2 A We're working on that time line now, but I believe
3 it was either the Monday or Tuesday following that
4 conversation.

5 Q So soon?

6 A It was soon. It was soon. I know it wasn't too
7 long between that conversation that they were there
8 and I think it was either that Monday or Tuesday.

9 Q Could it have been as long as a week?

10 A A week? I don't think it was a week, but...

11 Q All right.

12 A Again, I'd have to look at our time line and
13 documents in order to refresh my recollection.

14 Q So at this meeting, who attends?

15 A At the meeting with Mr. Rifkin, and again, my staff
16 and I, Linda Griggs is on vacation, myself and
17 Mr. Knowles were searching our memory banks
18 yesterday to see whether we had two meetings on the
19 same day because we did schedule -- I believe we had
20 spoken to Mr. Kindlon and Mr. Dopp and then spoken
21 with Mr. Rifkin, Mr. Maloney, as well as
22 Mr. Lieberman.

23 Q Hal Lieberman?

24 A Yes.

1 Q At this meeting with Hal Lieberman what did they
2 tell you?

3 A At the meeting I believed, again, Mr. Rifkin was
4 expressing his desire to cooperate with us and
5 provide us with any information that we would need.
6 I believe he asked some questions. I don't exactly
7 recall the nature of the questions. There was
8 information that we couldn't provide and I was not
9 willing to provide at that point because we were
10 still in the infancy stages of the investigation. I
11 believe we informed him of the fact that Mr. Maloney
12 may have been a witness, may be a witness in that
13 regard and perhaps he should seek a counsel
14 independent of Chamber Counsel. Those were the
15 issues that we were talking about. And it was
16 towards the end of that meeting that, you know, I
17 had asked the question of how he was made aware of
18 the investigation. And it was at that point that
19 Mr. Rifkin had informed us that they were informed
20 by Bob Hermann.

21 Q And did they -- Rifkin told you that?

22 A Hum-hum.

23 Q Okay. And did they also say how Hermann got the
24 information?

1 A Yes.

2 Q What did they say?

3 A He informed us that Mr. Hermann had gotten the
4 information from Mr. Teitelbaum and had communicated
5 that information to Mr. Constantine.

6 Q And what was the role that Hal Lieberman played at
7 that meeting?

8 A It was our understanding, because I had informed
9 Mr. Rifkin that they should have counsel
10 representing them at that meeting and it was my
11 understanding that Mr. Lieberman was serving in that
12 capacity.

13 Q Were they disclosing this to you because they felt
14 that they had inadvertently gotten information about
15 your decision, which was information they should not
16 have had? In other words, we want to let you know
17 we were told about this, we should not have been
18 told about this, but we want you to know that we
19 were told about this, in essence?

20 A I don't believe that was the essence of the
21 discussion, but I would be speculating as to what I
22 believe their intentions were at that point. I know
23 they wanted to meet with us. During this period of
24 time, I mean there were overtures coming the

1 Executive Chamber a desire to cooperate and provide
2 us with information. They wanted us to have
3 everything and to be expeditious in our
4 investigation. So I'm engaging in speculation, I
5 believe that that was the sum and substance of the
6 meeting.

7 Q You now learned for the first time that Teitelbaum
8 was the source?

9 A This is the first time that we are made aware of the
10 Teitelbaum, Bob Hermann, Lloyd Constantine
11 connection.

12 Q Did they indicate that Hermann had confirmed his
13 receipt of this information from Teitelbaum?

14 A At that point I don't believe that we delved into
15 these issues, because our focus at the time was the
16 allegations of perjury. Knowing this information at
17 that point in time, this information was important
18 to us in terms of maintaining control over the
19 information coming out of our office and who we can
20 and cannot speak with about our investigation. So
21 that was the value in having that information at
22 that point in time. At that point in time we were
23 not thinking about launching a separate
24 investigation, we weren't splintering off and going

1 in a different direction. Our focus was dealing
2 with Darren Dopp and the allegations of July 22nd.

3 Q Did they indicate that they were aware not only of
4 your decision to consider the possibility of perjury
5 or false statement, but also what you alluded to
6 earlier that people in the Executive Chamber may
7 have been complicit in that false statement that
8 Dopp had provided to Cuomo?

9 A I don't recall. I think -- I don't recall as to
10 whether or not we had discussions with them about
11 other members of the Executive Chamber being
12 complicit. We may have, I just don't recall. My
13 sense tells me that at that conversation we did
14 inform them. That's what my senses tell me, because
15 after that they sort of changed the players around
16 somewhat as to who was going to be representing the
17 Executive Chambers. Because Peter Pope by virtue of
18 being in the room on the 22nd, was no longer going
19 to be representing the Chambers on this matter, and
20 that's when I believe Lloyd Constantine had been
21 appointed. So I think that they were made aware of
22 these facts during that meeting which would have
23 prompted the changes. But sitting here I can't tell
24 you for a fact as to whether or not that

1 conversation took place. But I have to confer with
2 my associates that were there.

3 Q Was anybody from Governor's Counsel there?

4 A No.

5 Q Terryl Brown-Clemons?

6 A She was not there at that meeting.

7 Q Did there come a time when she met with you in
8 connection with either of these investigations?

9 A We did sit down with Clemons-Brown --

10 Ms. Brown-Clemons.

11 Q While you're pondering that, give me five minutes.

12 A Sure.

13 (There was a short recess in the proceedings.)

14 BY MR. FISCH:

15 Q We are now at this stage where you've met with
16 people from the Chamber.

17 A Hum-hum.

18 Q You learned that Teitelbaum, according to them,
19 Teitelbaum had provided information to Hermann,
20 which Hermann then related to Constantine?

21 A Yes.

22 Q And the others were made aware of it?

23 A Hum-hum.

24 Q Okay. Did they spell out exactly what it was that

1 Teitelbaum had reported to Hermann other than the
2 fact that you were going to do an investigation?

3 A No, there were no details provided at that point.

4 Q Okay. What was your next step?

5 A Our next step was to proceed with the original, I
6 mean the matter of involving Mr. Dopp. Again, at
7 that point in time the issue of this information
8 getting out was important to us and in making
9 determinations as to who we speak to and how we
10 relate to other agencies. I believe a conversation
11 was had later on that same day with Mr. Teitelbaum.
12 He wanted to know the results of that meeting. We
13 had that conversation. He was on speaker phone, and
14 it was myself, Mr. Knowles --

15 Q I'm sorry. You with who else?

16 A Mr. Knowles, Brett Knowles and Linda Griggs in the
17 room talking about the conversation that had
18 transpired with the members of the Executive
19 Chamber.

20 Q At that point did you, I cannot think of another
21 word other than confront, did you confront?

22 A You know, I was nonconfrontational. I wouldn't
23 describe myself in the way that we dealt with the
24 issue as being confrontational. Mr. Teitelbaum had

1 asked questions about the meeting and we confirmed
2 that we had met. He asked whether or not they
3 informed us of who had divulged this information.

4 Q But did you tell him that --

5 A I did and he was on the speaker phone and he asked
6 if Mr. Rifkin had informed us as to who had provided
7 that information and I said yes.

8 Q He asked you?

9 A Yes.

10 Q Let me stop you for a minute.

11 A Sure.

12 Q He calls you and I take it, correct me if I'm wrong,
13 if you did not start the conversation by saying
14 "I've heard you provided this information," am I
15 right so far?

16 A You're right.

17 Q You did say that they advised me that they knew I'm
18 starting an investigation; is that accurate?

19 A Yes.

20 Q Okay.

21 A I had confirmed with him that they had known, they
22 meaning representatives of the Executive Branch, had
23 known that an investigation had started.

24 Q Okay.

1 A Then he inquired as to who had informed them of the
2 fact that the investigation was started.

3 Q So now you're no longer coy.

4 A Now I'm no longer coy.

5 Q What do you say?

6 A I said, well, I was informed that the information
7 had come from you.

8 Q Did you say "you" to Hermann?

9 A To Mr. Teitelbaum. So they informed me that that
10 information came from you.

11 Q What does he say?

12 A He -- I think all three of us in the room are a
13 little off on the exact word. I thought I heard
14 "that's preposterous."

15 Q Okay.

16 A Brett or Linda think that they heard "that's
17 ridiculous," and Linda thinks that it's yet a third
18 response, but --

19 Q Bullshit?

20 A Yeah. The spirit of his response was it's
21 preposterous, or you know.

22 Q Okay. Did you mention to him that Hermann was the
23 intermediary?

24 A Did not mention -- I don't believe I mentioned to

1 him at that point about Mr. Hermann.

2 Q But that he had provided -- that the information
3 about your decision to go forward came from him?

4 A Yes.

5 Q And he denied it?

6 A Yes.

7 Q Okay. What's your next stop?

8 A Well, that conversation ended. I don't think that
9 we -- I don't think that we stayed on that topic. I
10 think the conversation was done. I don't recall
11 having too much to say after that point. And that
12 was the last time that I had a phone conversation
13 with Mr. Teitelbaum.

14 Q You decided, however, to follow-up on that
15 allegation?

16 A I don't recall exactly how soon after that
17 conversation we followed up on those allegations,
18 but there was a point in time where we did follow-up
19 on those allegations.

20 Q And you took testimony, you interviewed people and
21 you turned that over to us. That's why we are here?

22 A Yes.

23 Q You provided us with a transcript of your interview
24 with Mr. Constantine?

1 A Hum-hum.

2 Q Pope?

3 A Yes.

4 Q An interview with Mr. Rifkin, which was not
5 stenographically recorded, but there were notes
6 taken and your Assistant D.A. --

7 A I believe Mr. Rifkin was represented by Mr. Coffey,
8 who objected to a recording of the interview.

9 Q Yes. Okay. So you have all this information?

10 A Hum-hum.

11 Q Which basically identifies Teitelbaum as the source
12 to Hermann to Constantine?

13 A Hum-hum.

14 Q What did you do with that information?

15 A Understanding, of course, that from our learning of
16 this information it was not our intention at that
17 point in time to splinter the investigation and
18 begin an intense investigation into Mr. Teitelbaum
19 and the disclosure of the information. Our focus at
20 that point in time was dealing with the incident
21 that took place on July 22nd of 2007 involving
22 Mr. Dopp and members of the Chamber. That was our
23 primary focus. And in between those interviews we
24 talked to Mr. Constantine about the other matter,

1 the Investigation D-1, I believe that's what we
2 titled it internally.

3 Q There came a time when you brought this to the
4 attention of the Commission itself, Mr. Feerick?

5 A Yes, I did.

6 Q How did that develop?

7 A I had reached out to Mr. Feerick and I was troubled
8 by the information that I had received, and I don't
9 recall whether it was after the discussion with
10 Mr. Hermann, the interview with Mr. Hermann, but
11 certainly at some point in time I did reach out to
12 Mr. Feerick.

13 Q I think Hermann was the first person you spoke to?

14 A Yes.

15 Q And he was represented by Mr. Jones?

16 A Yes.

17 Q It was the issue of executive privilege?

18 A Yeah.

19 Q And then you got a letter I think from Ms. Brown
20 where they were waiving the executive privilege from
21 counsel's office?

22 A I don't recall as to whether or not -- I don't know
23 if we're confusing waiving executive privilege with
24 the limited waiver agreements. Yes, it could've

1 been.

2 Q But in any event, from the information you turned
3 over to us, and I apologize, you also turned over to
4 us the communications with Stewart Jones and the
5 interview of Hermann. There was a time where you
6 wanted to follow-up with Hermann and that scheduled
7 interview was cancelled by Jones?

8 A Yes. There was a time where we made a request to
9 follow-up with Mr. Hermann and Mr. Jones had made
10 some objections about the discussion being -- that
11 that interview being done under oath and there were
12 some other issues that he presented and that they
13 decided to author a letter instead.

14 Q Did Mr. Hermann provide you with any type of
15 documents or written materials to support his story?
16 His story was having come upon this --

17 A No. Mr. Hermann's -- Mr. Hermann had conducted the
18 interview. Of course, we reviewed the transcript of
19 the original interview or I don't know if we -- my
20 recollection doesn't serve me very well here. But
21 at some point in time we were in the room with Linda
22 and Brett and we were talking about the facts and
23 Mr. Hermann's -- Mr. Hermann's story about how he
24 came upon the information was something that struck

1 me as quite spectacular and that prompted -- I
2 believe that's what prompted the discussion with
3 Mr. Feerick.

4 Q Okay. So you called Dean Feerick. So you meet with
5 Feerick. Did other people from your office
6 accompany you?

7 A No. At that point I believe Mr. Feerick and I met
8 and scheduled to meet on a Friday, late Friday
9 afternoon at the Bruegger's Bagel on Pearl Street is
10 where we agreed to meet. Bruegger's Bagel
11 unfortunately closed early that day or it closed at
12 its normal time, but early for us, and we decided to
13 have a cup of coffee over at I believe Jonathan's
14 Pizza on Pearl.

15 Q And you tell him what you had learned. At this time
16 had you completed all of your examinations?

17 A No. Again, we were still interviewing, collecting
18 information from the second floor, gathering
19 information. I believe we were still in somewhat of
20 the infancy stages of Investigation D.

21 Q So your first informal coffee confab with Feerick
22 you had only spoken to Hermann?

23 A Again, I have to do a time table. We're working on
24 that now. But what I believe prompted my meeting

1 with Mr. Feerick was the interview with Mr. Hermann
2 coming upon this information, but then that
3 information being so outlandish that I felt the need
4 to bring it to his attention.

5 Q All right. What did Feerick say?

6 A He was troubled by it. He was troubled by -- I
7 didn't come out and say look, we think your guy is a
8 bad man. My concern was at the very least there's
9 going to be an appearance of impropriety here and I
10 just need to bring this to your attention. And I
11 thought that based upon what I communicated with him
12 that he would make some decisions about it, because
13 this is a very high profile case and it was
14 important for the Integrity Commission being their
15 first big case out of the box, so to speak.

16 Q He told you he was troubled?

17 A He was troubled by the allegation, of course,
18 understanding that he's hearing it from me and he
19 hasn't had the opportunity to speak with his own
20 people. But he told me, his reaction was a concern.
21 He's one of the Deans of Ethics in the state and
22 perhaps even in the country. So I...

23 Q Did he say what he was going to do?

24 A He was thankful that I presented the issue to him

1 and he was going to address it. And then did not
2 recall him saying that he was going to do X, Y and Z
3 or a time line or anything of that nature.

4 Q You then continued...

5 A With our investigation date.

6 Q With Constantine and Pope and Rifkin while
7 interviewing them?

8 A Yes.

9 Q This was after your coffee with Feerick?

10 A Yes.

11 Q After you had collected all of these interviews did
12 there come a time when you went back to Feerick?

13 A I was most troubled after the discussions with
14 Mr. Constantine. And at that point in time I just
15 said, look, this is just -- I think there's an issue
16 with respect to the appearance of impropriety. If
17 there was an associate, a friend who has come upon
18 information and that person is acting independently
19 and he comes to certainly an interested party and
20 communicates with that interested party, there's an
21 appearance of impropriety. I think when you're
22 interviewing Mr. Constantine and, you know, the
23 communications in just an isolated incident several
24 times over the course of time, that I thought was

1 troubling.

2 Q Do you recall in your interview of Constantine he
3 said he had spoken to Rifkin because he was troubled
4 by these communications?

5 A Hum-hum.

6 Q And Rifkin said -- told the guy to stop and that
7 this may be a violation of the confidentiality
8 provisions of the Commission, do you recall that?

9 A I do recall that.

10 Q Okay. You now go to Feerick. Is it only after
11 Constantine's examination or after you've also
12 spoken to Rifkin and to Pope?

13 A I don't recall. What I do recall is that, you know,
14 my antenna certainly was up after the interview with
15 Constantine and I felt obligated to bring the matter
16 to the attention of Mr Feerick.

17 Q Okay. And when you met with Mr. Feerick you also
18 brought the tape of the interview or the transcribed
19 tape?

20 A I believe what happened was, there was a telephone
21 conversation between Mr. Feerick and myself and we
22 had the recording of the interview with
23 Mr. Constantine. And I had an event that evening, I
24 had asked them to come over and if they wanted the

1 opportunity to review the information, because I
2 know that they were still conducting their
3 investigation and --

4 Q Their investigation of what?

5 A They were still doing their investigation of the
6 entire "Trooper Gate" matter.

7 Q But you were not under the impression at that point
8 they were investigating the disclosures by
9 Teitelbaum?

10 A No, I'm sorry. Let me clarify.

11 The Integrity Commission was reviewing conduct
12 of the members of the Executive Chamber.

13 Q Sure.

14 A From the very beginning of the allegations from
15 July...

16 Q I understand.

17 A And they had not yet completed that investigation.

18 Q I understand, I understand.

19 A My concern was, you have an individual who has been
20 a part of this investigation from the very
21 beginning. You're at a critical phase right now.
22 This has come to our attention. I want to alert you
23 to these facts because you may want to make a
24 decision about removing that person so that the

1 integrity of your investigation upon its completion
2 will not be compromised or questioned. And so
3 knowing that they had not yet completed their
4 investigation, I wanted to bring those individuals,
5 I wanted to apprise them of what was being alleged.

6 So at some point, and I don't remember the
7 exact date, here we are having a cup of coffee, an
8 informal conversation, troubled with the appearance
9 of impropriety. Another point, we had information
10 that leads me to believe that more than one contact
11 and certainly needs to take a look at this and make
12 some decisions.

13 Q Okay.

14 A So I convey the offer to have them review some
15 information that we had come to our attention. They
16 are the Integrity Commission. They would have to
17 deal with this issue. And I got a phone call I
18 believe it was after the 5:00 o'clock hour and it
19 was most appropriate, I believe it was our
20 recommendation to be done after five. Did not want
21 to risk representatives from that agency coming into
22 the office during the business hours where different
23 people were in a waiting room. So we had arranged
24 for them to come into the office after hours to

1 review that information, so that someone from the
2 press would not be anywhere in the building.

3 Q You turned over to us, and I'll have get that, it's
4 in my other office, I'm sorry, the letters that were
5 exchanged between you and Dean Feerick in terms of
6 pinpointing the date.

7 A Hum-hum.

8 Q You played at some point the Constantine tape?

9 A Yes.

10 Q And was it just to Feerick or other members?

11 A No. It was just to, I don't remember exactly the
12 individuals who were in the room, I believe there
13 were...

14 Q Let me get the letters. Maybe that will help you.
15 Okay?

16 A I don't know if the letters --

17 Q Well, in terms of time and maybe the name's on their
18 letterhead might refresh your recollection.

19 A Yeah. I think it was four people; Mr. Feerick and
20 several of the others.

21 Q Howard Levine, former Court of Appeals Judge?

22 A Not Mr. Levine. I don't believe Mr. Levine was in
23 the room.

24 Q Loretta Lynch?

1 A No. Loretta Lynch and Mr. Levine had approached us.
2 They became the new conduit to the office after this
3 incident, after we presented the incident, but they
4 still needed information from us. So Judge Levine
5 and Ms. Lynch had become the new conduit to the
6 office.

7 Q With regard to the Teitelbaum matter?

8 A With regard to obtaining information from us that
9 they needed from us in order to complete their
10 entire investigation. They still needed information
11 and we wanted to be cooperative and we cooperated
12 with them and provided them with whatever
13 information we could.

14 MR. FISCH: Let me get the letters and
15 show you.

16 (There was a brief pause in the proceedings.)

17 BY MR. FISCH:

18 Q Mr. Soares, here's a letter -- I see in one of your
19 letters to Mr. Feerick you had copies to Daniel
20 Alonso and to Richard Emery and to James King. So I
21 wonder if that helps you with the names?

22 A I will tell you that the genesis of the cc's, we had
23 presented and we had presented, what in my humble
24 opinion was, information worthy of the Commission

1 taking a very hard look at the allegations that we
2 were making at that point. Having recalled that
3 there was a subcommittee of the Commission reviewing
4 the issue, the thought did occur, well, what if the
5 letters that we're sending are being intercepted by
6 representatives of that subcommittee and not the
7 entire body. And so the other correspondence, we
8 copied all the other members of the Commission so
9 that at least everyone would have that knowledge.

10 Q Here's a letter from you to Mr. Feerick,
11 February 26th, you refer to a follow-up meeting --
12 well, "I am sending this letter in follow-up to our
13 meeting on February 8, 2008. During that meeting I
14 advised you that we had received allegations that
15 Executive Director Teitelbaum was in appropriately
16 releasing confidential information pertaining to the
17 Commission's investigation of the release of
18 documents and Senator Bruno's use of state aircraft.
19 Since our meeting, we have secured evidence that
20 supports the allegations against Mr. Teitelbaum. We
21 believe Mr. Teitelbaum's continued involvement in
22 this matter would compromise the integrity of the
23 Commission's investigation. I would like to meet
24 with you to discuss this further." And this is what

1 you've already spoken about.

2 And then a hand-delivered a letter of
3 February 28 to you from John Feerick. "This is a
4 follow-up to our individual meeting of February 8th
5 to let you know I'm available to meet with you
6 concerning the uncorroborated evidence you have
7 bearing on the subject of the Commission's
8 investigation. I'm happy to receive it in the
9 uncorroborated form or any other manner you choose.
10 This letter is authorized by the full Commission.
11 Thank you for your consideration."

12 Okay. And then these are the letters.
13 Now, there's other correspondence, Mr. Soares.
14 Apparently, time period is as follows: You turned
15 over to us the transcript of your interview with
16 Constantine, which was February 25th.

17 A Okay.

18 Q And then you wrote to Mr. Feerick at some point and
19 you refer to on February 26th you shared information
20 with them.

21 A Hum-hum.

22 Q All right. And then on February 28 you had this
23 letter from Mr -- are you through with these
24 letters?

1 A Yes.

2 Q So, February 28th he says that they've all reviewed
3 this and they continue to have confidence in
4 Teitelbaum.

5 When you played the tape of Constantine
6 were there any questions by any of the
7 Commissioners, Feerick or any other Commissioners?

8 A No. Again, it was the evening and I know that they
9 were leaving town, I think, if I'm not -- because
10 earlier in the discussion that was the apprehension
11 of coming over that day, that they were leaving, but
12 they eventually ended up coming over and I played
13 that for them, respected their process, gave them
14 the Greenberg room to meet and confer to have
15 discussions among themselves, we stayed and they
16 came in and thanked us for sharing information with
17 them and then they left. There was another
18 gentleman who had listened to the recording via
19 telephone, except I am not...

20 Q Was that Barry Ginsberg?

21 A You know, sir, I don't recall.

22 Q Because that counsel -- because there's a reference
23 to -- on February 28th there's a reference to, "two
24 other Commissioners who participated, our General

1 Counsel and I appreciate the time you and your staff
2 have spent with us." Okay.

3 In any event, they listened to it, he
4 writes you February 28th by hand delivery that they
5 -- after all of that and based upon and including
6 our discussion with Mr. Teitelbaum, they continue to
7 have full confidence in him.

8 A Hum-hum.

9 Q That was February 28th. On March 3rd you write
10 acknowledging receipt of the letter. It's a letter
11 from you to Feerick and you refer to his letter and
12 that we feel, "While we appreciate your confidence
13 in Mr. Teitelbaum's abilities, in light of the
14 nature of the information we shared with you, we
15 feel it is necessary to seek independent counsel to
16 advise us on our ethical obligation to disseminate
17 to the Commission information on our underlying
18 investigation of the Executive Chamber, as well as
19 our responsibility to interested parties."

20 Did you have any other, Mr. Soares, any
21 other conversation with Feerick or any other members
22 of the Commission apart from Teitelbaum at this
23 stage concerning their response to the information
24 you gave them?

1 A No.

2 Q Okay.

3 A I -- sir, I respect agencies in their hierarchy. I
4 do not seek to overstep, you know, my boundaries
5 with respect to what other agencies do internally.
6 I felt that this is a very high profile -- having
7 everything that was coming out of our office
8 appearing in the paper and having the integrity of
9 our office questioned because the outcome of our
10 inquiries or investigations didn't necessarily
11 fulfill the expectations of, you know, the Fourth
12 Estate. I knew what every one of us were going to
13 be subjected to. If there was anything that is done
14 throughout the course of these, whether you're
15 calling them inquiries, investigations and so on and
16 so forth, there were piranhas and barracudas out
17 there in terms of press feeding on this information,
18 arriving at these incredible conclusions that were
19 void of fact or law. So my obligation at that point
20 in time is to provide the Executive with
21 information, my concerns and then to allow for
22 whatever internal process take places to take place
23 and to respect it. That is my concern there.

24 The sentiments that we expressed in the

1 document is, you're dealing with issues of first
2 impression. You've got people who you're
3 investigating and in the event that you come across
4 information, that while for purposes of a criminal
5 prosecution doesn't rise to that level, but for
6 purposes of violations of Public Officers Law,
7 ethical concerns, who do you refer that to now when
8 they're the body that's supposed to be doing it.
9 But here you are with information that at the very
10 minimum creates an appearance of impropriety because
11 information is being unlawfully disclosed. So we
12 were in somewhat of an ethical quandary at that
13 point and just hoping that we could communicate that
14 with Mr. Feerick.

15 Q But beyond these exchanges of correspondence, the
16 letters, no further discussion with Feerick or
17 anyone of the Commission concerning --

18 A Concerning?

19 Q This matter.

20 A Concerning this matter, no.

21 Q Any conversation with Teitelbaum concerning this?

22 A No.

23 Q Hermann?

24 A No.

1 Q Any of the other people, Constantine, Pope, only
2 about this matter?

3 A No. There were interviews that were conducted, but
4 beyond that I don't believe that there were any
5 discussions that had taken place about this matter.
6 Again, the primary focus was dealing with the
7 allegations of July 22nd.

8 Q You also provided the same information to the State
9 Investigation Commission?

10 A Yes.

11 Q All right. Did they indicate anything that they
12 were doing with it, not doing anything with it?

13 A There has been no discussion with our office about
14 what, if anything, they're going to be doing with
15 this information. They certainly have called and
16 asked for context, they've sought additional
17 information that we have provided. But as far as
18 dealing with anything in particular, I...

19 Q Between the time you provided it to us and today,
20 has the Commission contacted you or any member of
21 the staff on this Teitelbaum/Hermann matter?

22 A I cannot speak for the rest of my staff. I've been
23 on vacation. But since the time that we provided
24 this information to you, I personally have not been

1 contacted about additional information.

2 Q Because I touched base with them. I didn't want
3 both of us doing the same thing. So I made it clear
4 we were looking into it.

5 After your letter to me, followed up by
6 your meeting with you and with Linda and with Nelson
7 Sheingold was present, Linda indicated that a day or
8 so, or perhaps within days prior to our meeting
9 Counsel to the Commission, Barry Ginsberg, had
10 called and wanted another look at the Constantine
11 tape or transcript, and she asked him to put his
12 request in writing with an explanation of why. Do
13 you know what might have prompted that?

14 A I don't know what prompted that. I recall
15 Ms. Griggs informing me of -- and of course, we're
16 going to cooperate with whomever...

17 Q Of course.

18 A Is looking into these cases. But as far as, you
19 know, we've given you everything we had, we gave it
20 to you at a critical time and you chose not to do
21 anything with it, in our humble estimation, and you
22 are now seeking sort of a second bite of the apple
23 and we were going to provide it to him so long as
24 the request was made in writing. And I don't know

1 to this point whether we have ever received or there
2 has been any follow-up.

3 Q So as we sit here today you're not aware of what
4 Teitelbaum might have said to the Commission by way
5 of explanation?

6 A I do not know.

7 Q Okay.

8 A Nor do I know that any formal inquiry was made into
9 the information that we provided to him because we
10 were not contacted and asked as we were being asked
11 now for dates, times and so on and so forth. So I
12 don't believe what I would consider a formal
13 investigation was conducted in that regard.

14 Q As a follow-up to the materials you've turned over
15 to us we're interviewing the people that you
16 interviewed, we're doing it again, and one is
17 Mr. Hermann. And his attorney, Mr. Jones, asked to
18 see a copy of the transcript of the interview before
19 you. Since it was your interview I wanted to check
20 with you, do you have any objection to my making
21 that available?

22 A Sir, we provided you with information so that you
23 can conduct your --

24 Q We can do what we want with it?

1 A Yes. And that is my...

2 Q Okay. I think as a courtesy, obviously, I wanted to
3 make sure you had no objection to that.

4 A And I appreciate that.

5 MR. FISCH: Off the record for a minute.

6 (A discussion was held off the record.)

7 BY MR. FISCH:

8 Q Mr. Soares, is there anything that I have neglected
9 to ask you that you wish to add?

10 A Only that we were currently working on a time line,
11 that we will provide to you that will be in terms of
12 dates, that will be more accurate for purposes of
13 your investigation is concerned.

14 Q I understand. Okay. I appreciate that.

15 Thank you for coming.

16 A Thank you for having me.

17 MR. FISCH: Thank you.

18 (Whereupon the proceeding in the above-entitled
19 matter concluded at 11:33 a.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 thereof is a true and accurate transcript of same to the best of my ability and belief.

DIANE DALY-GAGE

Dated: September 6, 2008