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STATE OF NEW YORK  
OFFICE OF THE INSPECTOR GENERAL

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

---

October 10, 2008  
9:06 a.m.

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

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

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

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

BRYAN CAVE, LLP  
Attorneys for Witness  
1290 Avenue of the Americas  
New York, New York 10104

BY: AUSTIN V. CAMPRIELLO, ESQ.

\* \* \*

1

2 MR. FISCH: My name is Joseph  
3 Fisch. I'm the state inspector  
4 general. We are at my Manhattan  
5 office, 61 Broadway in Manhattan, New  
6 York County.

7 Present with me is Arlene  
8 Osterer of my staff. The witness  
9 today is Mr. Herbert Teitelbaum.

10 Counsel, will you note your  
11 appearance.

12 MR. CAMPRIELLO: Austin V.  
13 Campriello, Bryan Cave, LLP, 1290  
14 Avenue of the Americas, New York, New  
15 York.

16 MR. FISCH: Mr. Teitelbaum,  
17 you're appearing voluntarily in  
18 response to telephone calls that were  
19 made.

20 THE WITNESS: Correct, to my  
21 general counsel.

22 MR. FISCH: Do you consent to  
23 this examination being recorded  
24 stenographically?

25 THE WITNESS: I do.

1

2

MR. FISCH: All of my

3

examinations are under oath, so will

4

you rise and be sworn.

5

H E R B E R T T E I T E L B A U M ,

6

having been first duly sworn by a

7

Notary Public of the State of

8

New York, upon being examined,

9

testified as follows:

10

EXAMINATION BY

11

MR. FISCH:

12

Q. Mr. Teitelbaum, you are

13

currently executive director of the

14

Commission on Public Integrity, formally

15

the Ethics Commission; is that correct?

16

A. It was formally the Ethics

17

Commission and the Lobbying Commission,

18

yes.

19

Q. Can you give us something of

20

your background before joining the Ethics

21

Commission.

22

A. I was a senior partner at Bryan

23

Cave specializing in civil litigation.

24

Before that, I was a partner at Robinson

25

Silverman, another law firm in New York

1                   H. Teitelbaum  
2    which had merged into Bryan Cave. Before  
3    that, I had my own law firm, Teitelbaum  
4    Hiller, H I L L E R. Before that, I was  
5    the executive director of the Puerto Rican  
6    Legal Defense Fund. Before that, I was an  
7    associate at Skadden Arps. And before  
8    that, I was an associate in Boston at  
9    Widett, W I D E T T, and Kruger, K R U G E  
10   R.

11           Q.     Can you put on the record the  
12    telephone numbers you used, the telephones  
13    you used, cell phones, office telephones,  
14    Blackberries, and so on that you used,  
15    during the year 2007.

16           A.     You mean in my work?

17           Q.     Your work number, everything.  
18    Whatever phones you had, whether including  
19    phones that you have use that was your  
20    wife's at the tenement museum.

21           A.     I didn't use my wife's phone at  
22    the tenement museum except when I was on  
23    vacation in South America in December and  
24    into the beginning of January.

25                   I don't remember my office phone

1                   H. Teitelbaum  
2   number.  I had an office phone when we  
3   were at the Smith Building in Albany and  
4   then we moved to Broadway where we are now  
5   the latter part of December.  I think we  
6   moved before I left for South America, so  
7   my phone number is on my card.  My  
8   Blackberry you have, you have the --

9           Q.     Just give it to me again on the  
10   record.

11          A.     I don't have a good memory for  
12   numbers.

13                   My Blackberry number is (518)  
14   429-4611.  And I have an office in New  
15   York City and I don't know that number.  I  
16   rarely use the landline.  When I was in  
17   New York City, I'd by and large use my  
18   cell phone.

19          Q.     You refer to Blackberry and cell  
20   phone synonymously?

21          A.     Yes.  I'm sure I made phone  
22   calls when I was home in New York City but  
23   rarely would I use that phone since I had  
24   the Blackberry.

25          Q.     When you say when you were in

1                   H. Teitelbaum  
2   New York City, you're talking about your  
3   office in New York City?  
4       A.     No, when I was home.  
5       Q.     Do you live in New York City or  
6   Westchester?  
7       A.     I live in Manhattan and upstate  
8   as well.  
9       Q.     Are you aware of the witnesses  
10   who have appeared before me in connection  
11   with our current investigation?  
12      A.     I know that John Feerick  
13   appeared. I heard that Meave Tooher  
14   appeared.  
15      Q.     How do you know that?  
16             MR. CAMPRIELLO: Other than  
17   anything he would have learned as a  
18   result of a communication with me?  
19      Q.     Do you know what he testified  
20   to?  
21      A.     No.  
22      Q.     So I think Mr. Campriello is  
23   saying you know of his appearance because  
24   of --  
25             MR. CAMPRIELLO: No, I'm just

1                   H. Teitelbaum  
2           saying that, when you ask questions  
3           about did you know about people's  
4           appearances, other than anything he  
5           learned through me.  If I told him  
6           that Mr. X appeared, he learned it  
7           through me and I think that's  
8           privileged.  If he talked to Mr. X or  
9           read it or learned it in some other  
10          fashion, then obviously he should tell  
11          you.

12                   MR. FISCH: He can always waive  
13          privileges if he chooses.

14                   MR. CAMPRIELLO: I don't think we  
15          choose to do that.

16          Q.       Other than what Mr. Campriello  
17          just put on the record, do you know  
18          anything else about Mr. Hermann's  
19          appearance before me?

20          A.       No.

21          Q.       Any other witnesses that you  
22          know appeared before me?

23          A.       With the proviso that Mr.  
24          Campriello put on the record, the answer's  
25          no, except John Feerick.  I know that John

1 H. Teitelbaum  
2 appeared.  
3 Q. You mentioned Robert Hermann.  
4 You know him, of course?  
5 A. Yes.  
6 Q. For how long do you know him?  
7 A. I met him in 1970, so 1970 to  
8 date.  
9 Q. And do you see him regularly in  
10 Albany?  
11 A. No.  
12 Q. Did you see him regularly in  
13 Albany? Did you see Hermann regularly in  
14 Albany?  
15 A. For a period of time I did.  
16 Q. Until when?  
17 A. Sometime in November, mid  
18 November.  
19 Q. You joined the Ethics Commission  
20 as executive director by appointment of  
21 John Feerick; is that correct?  
22 A. No.  
23 Q. Who appointed you?  
24 A. The commission.  
25 Q. Were you introduced to the

1                   H. Teitelbaum  
2   commission by Feerick?  
3       A.     I was.  
4       Q.     And when did that employment  
5   commence?  
6       A.     July 17.  
7       Q.     Of?  
8       A.     2007.  
9       Q.     The commission was engaged in a  
10   number of investigations which generically  
11   I'll refer to as Troopergate; is that  
12   correct?  
13      A.     Ethics Commission.  
14      Q.     The Ethics Commission and then  
15   this was continued by COPI; is that right?  
16      A.     Correct.  
17      Q.     Was one of those investigations  
18   or an aspect of that the leaking of  
19   information by Spitzer aides to the  
20   newspapers?  
21      A.     That was not the focus of the  
22   investigation.  
23      Q.     Was it one of the aspects?  
24      A.     It was an area that we inquired  
25   into, but that was not the focus of the

1 H. Teitelbaum

2 investigation.

3 Q. The focus of the investigation  
4 was -- why don't you tell us just briefly.

5 A. The focus of the investigation  
6 had to do with the use of the state police  
7 to monitor the movements of then Majority  
8 Leader Joseph Bruno.

9 Q. During the investigation, you,  
10 as executive director, dealt with members  
11 of the Spitzer administration; is that  
12 correct?

13 A. Correct.

14 Q. And what people had been  
15 designated by the governor to represent  
16 the governor and to deal with you in  
17 connection with that investigation?

18 A. I don't know who the governor  
19 designated. I can tell you who I dealt  
20 with.

21 Q. Fine.

22 Who did you deal with? Did you  
23 believe that you were dealing with people  
24 that you believe were not authorized by  
25 the governor to deal with you?

1 H. Teitelbaum

2 A. No, I just don't know the full  
3 complement of people that he designated to  
4 deal with me.

5 Q. Who did you deal with?

6 A. I dealt with Peter Pope, Richard  
7 Rifkin, Lloyd Constantine in person. I  
8 dealt with Nocenti but not very much, not  
9 very much. I dealt with, through written  
10 communication, not personally, through the  
11 attorney who is now the acting counsel to  
12 the governor, Governor Paterson, Clemons.

13 Q. Terryl Brown Clemons?

14 A. Yes.

15 Q. That came later; didn't it?

16 A. It did come later.

17 And Sean Patrick Maloney in  
18 writing and on the telephone, but not very  
19 much.

20 Q. In connection with arrangements  
21 for production of witnesses and the  
22 production of documents, who were you  
23 supposed to be dealing with? You  
24 mentioned a number of people.

25 A. It's not that I was supposed to

1                   H. Teitelbaum  
2    -- nobody told me you're supposed to deal  
3    with this person or you're supposed to  
4    deal with that person. I can tell you who  
5    I dealt with.

6                   I dealt with Richard Rifkin, I  
7    dealt with Peter Pope -- mainly with  
8    Rifkin, but I dealt with Peter Pope and  
9    with Constantine. I also dealt with Sean  
10   Patrick Maloney but not very much, very  
11   little. And I also dealt with David  
12   Nocenti, the same thing, not very much,  
13   very little. And we also dealt with Ms.  
14   Clemons later on.

15        Q.     If you wanted witnesses to  
16    appear before the commission, who would  
17    you contact?

18        A.     You mean witnesses from the  
19    executive chamber?

20        Q.     Yes.

21        A.     Well, I wasn't the only one  
22    contacting so let me tell you that.

23        Q.     On behalf of the Ethics  
24    Commission, you were not the only one --

25        A.     Who was contacting people.

1 H. Teitelbaum

2 Q. Who else was?

3 A. Meave Tooher was also  
4 communicating with people, but I was the  
5 main person who was dealing with it. And  
6 oftentimes there would be, when those  
7 communications would take place, there was  
8 usually two of us on our side of the  
9 telephone conversation in the room.  
10 Mainly it was Rifkin and we also dealt  
11 with personal counsel representing  
12 witnesses in the executive chamber, their  
13 personal counsel.

14 Q. The investigation began, did it  
15 not, after the publication of the Cuomo  
16 report in July of 2007?

17 A. It did, it did begin after the  
18 Cuomo report. But at the beginning it was  
19 not an investigation, it was an inquiry.  
20 It became an investigation sometime in  
21 August of 2007.

22 Q. When you say, "an inquiry," how  
23 early did that inquiry begin?

24 A. The latter part of July.

25 Q. Now, you mentioned Meave Tooher.

1 H. Teitelbaum

2 When would she communicate with  
3 them as opposed to you doing it?

4 A. I can't give you a pattern. I  
5 was the main person. Meave would be --  
6 Meave or Joan Sullivan, who was another  
7 counsel, would be in the room when I would  
8 have these conversations. But there were  
9 times, and I don't think that they were  
10 frequent at the beginning, where Meave  
11 would be in communication. I can't give  
12 you what she would be talking about, but  
13 it would be arranging dates and times.

14 Q. Did you regard the investigation  
15 that you were conducting as serious?

16 A. What do you mean by that?

17 Q. Serious, of consequence.

18 A. I think every investigation is  
19 serious.

20 Q. Confidential?

21 A. What do you mean by that?

22 Q. You don't understand what I mean  
23 by confidential?

24 A. Yes, I don't understand.

25 Q. Something that should not be

1                   H. Teitelbaum  
2 shared with people not designated to be  
3 sharing it.

4           A.     You mean that there is an  
5 investigation?

6           Q.     Either one. The inquiry,  
7 whether you call it an inquiry or an  
8 official investigation investigating  
9 members of the chamber, the governor's  
10 staff.

11          A.     The fact that there was an  
12 investigation, the Troopergate  
13 investigation, was all over the newspapers  
14 and it was being disclosed.

15          Q.     At the time that your office got  
16 involved --

17          A.     Let me just finish what I was  
18 saying.

19          Q.     Go ahead, I'm sorry.

20          A.     It was being disclosed in the  
21 newspapers very early on, so I never  
22 really thought about whether the existence  
23 of an investigation was a piece of  
24 confidential investigation. I never  
25 really thought about it.

1 H. Teitelbaum

2 Q. You mentioned earlier you know  
3 Robert Hermann.

4 A. Yes.

5 Q. Did you ever talk to Mr. Hermann  
6 about the investigation the Ethics  
7 Commission and then COPI was conducting?

8 A. Just in a very general way. He  
9 knew that I was doing an investigation.

10 Q. Tell me what you mean by a  
11 general way.

12 A. That we were doing an  
13 investigation, that I was exhausted by the  
14 investigation. Bob Hermann and I, as I  
15 told you, knew each other a long time. We  
16 discussed many things. We had dinners  
17 together. One of the subjects that comes  
18 up is current events, reports in the  
19 newspaper about the current investigation,  
20 about me. I might have commented to him  
21 that I was being excoriated in the press  
22 unfairly, that kind of stuff, that the  
23 press don't know what they're talking  
24 about, that kind of thing.

25 Q. I want to go back to the

1                   H. Teitelbaum  
2 beginning of the inquiry and  
3 investigation.

4                   You said you spoke to Hermann  
5 generally.

6                   What do you mean by generally?

7           A.       Just as I described.

8           Q.       That there was an investigation,  
9 that's all you told him, that we're doing  
10 an investigation?

11          A.       There's not much more than that  
12 except I might have commented on newspaper  
13 articles, I'm sure I did, about what was  
14 being said by me.

15          Q.       How often did you see him in  
16 Albany during this period of time? You  
17 mentioned that I think sometime in  
18 November the relationship soured or  
19 ceased.

20                   That's fairly accurate; isn't  
21 it, sometime in November? We'll get to  
22 that later.

23          A.       We lived in the same complex so  
24 we would see each other in the gym and we  
25 would see each other once or twice a week

1                   H. Teitelbaum  
2 for dinner at either my apartment or his  
3 apartment.

4       Q.     One of you made dinner or you  
5 sent out for it or what?

6       A.     We didn't send out for it.

7       Q.     So one of you cooked?

8       A.     Well, we were two guys. We  
9 didn't have our families with us.

10      Q.     I understand.

11      A.     So our menu ranged from a big  
12 salad with bread or --

13      Q.     With humus, I would assume.

14      A.     I did have humus, actually.

15      Q.     Wine, liquor?

16      A.     Wine. Sometimes I would have a  
17 drink. As the investigation moved on --

18      Q.     You're entitled.

19      A.     And then I took frozen food from  
20 my house in New York City or I'd go to  
21 Zabar's and stock up. Sometimes I'd make  
22 a pasta.

23      Q.     On the average of one week  
24 during this period of time, how often  
25 would you see Hermann, whether at dinner,

1 H. Teitelbaum

2 whether at the gym or anywhere else?

3 A. I rarely saw him anywhere else,  
4 except we hiked together on weekends. But  
5 you're talking about Albany.

6 Q. Sorry?

7 A. You had mentioned how often I  
8 saw him in Albany.

9 Q. Yes.

10 A. I would say, depending on  
11 whether we both hit the gym at the same  
12 time, three times a week on an average.

13 Q. You also saw him in New York  
14 during this period of time?

15 A. If we would hike. We hiked  
16 together occasionally. Because of the  
17 time pressure that I was exposed to  
18 because of the investigation, the work was  
19 very intense, the amount of hiking I did  
20 decreased substantially so I don't really  
21 know whether we actually did a hike during  
22 the period from July to mid November, but  
23 I suspect we did.

24 Q. In addition to seeing him in  
25 person, you communicated with each other

1                                   H. Teitelbaum  
2    by telephone?  
3           A.    Yes.  
4           Q.    Frequently?  
5           A.    Yes.  
6           Q.    I'm interested once again in  
7    what conversations you had with him about  
8    the investigation.  
9           A.    What I told you.  
10          Q.    That's generally.  I'd like to  
11    expel out what that means.  
12                                You told him there was an  
13    investigation but you said that was in the  
14    newspapers.  I want to start at the  
15    beginning.  
16                                Did you say anything else to  
17    him?  
18          A.    I did not talk to -- let's cut  
19    to the chase.  I didn't talk to Bob  
20    Hermann about I was doing in my  
21    investigation, I didn't do that.  That  
22    didn't happen.  
23                                Now, if you're asking me did I  
24    make an offhand remark about the  
25    investigation that the press doesn't know

1                   H. Teitelbaum  
2    what they're talking about, I don't  
3    remember saying something like that.  
4    Might I have said it? I might have. I  
5    don't know. I don't remember. But since  
6    I have a pretty good idea what you're  
7    investigating, it didn't happen.

8           Q.     Did you ever talk to him about  
9    the difficulty you were having with the  
10   production of documents?

11          A.     Not that I remember.

12          Q.     You don't remember?

13                 MR. CAMPRIELLO: He said, "not  
14   that I remember."

15          A.     Not that I remember. I mean,  
16   you're talking about, I take it, back in  
17   2007 before our communications --

18          Q.     Before November 1.

19          A.     Not that I remember, no.

20          Q.     Did you ever talk to him about  
21   witnesses that were being -- that the  
22   Ethics Commission or COPI were interested  
23   in?

24          A.     No.

25          Q.     Did you ever tell him you were

1                   H. Teitelbaum  
2   having difficulty in getting documents?

3           A.     Not that I remember.

4           Q.     Did you ever tell him that  
5   attorneys for the second floor for the  
6   governor's office were asserting  
7   privileges with regard to either witnesses  
8   or production of records?

9           A.     First of all, I don't think they  
10   ever asserted a privilege with regard to  
11   witnesses.

12          Q.     That they were considering  
13   asserting privileges.

14          A.     I don't know that they were.  As  
15   I sit here now, I don't know that they  
16   were considering that.  This is news to me  
17   that they were considering it.

18          Q.     Did you ever tell him that you  
19   were having problems with the chamber, and  
20   I'm referring to the executive chamber,  
21   with regard to -- I'll repeat it --  
22   production of witnesses or production of  
23   documents?

24          A.     No.

25          Q.     Never?

1 H. Teitelbaum

2 A. Not that I remember.

3 Q. Did you ever ask him to  
4 intercede for you?

5 A. You mean with the executive  
6 chamber?

7 Q. Yes.

8 A. No. That I do remember.  
9 Because that would have been a strategic  
10 decision.

11 Q. I'm sorry?

12 A. That would have been a strategic  
13 decision.

14 Q. What does that mean?

15 A. That would have been a strategic  
16 decision with respect to how I was  
17 conducting the investigation that I was  
18 going to use an intermediary to try to get  
19 documents. That would have been a  
20 strategic decision. I would have  
21 remembered that. That did not happen.

22 Q. Did you ever express frustration  
23 with Hermann about the slowness in the  
24 document production?

25 A. I don't remember. Just an

1                   H. Teitelbaum  
2   offhand remark or saying that I'm  
3   frustrated? Anybody that talked to me  
4   would know that, as time went on in this  
5   investigation, it was frustrating.

6           Q.     And you never used Mr. Hermann  
7   to assist you with the chamber in getting  
8   records?

9           A.     Never.

10          Q.     Did you ever tell anybody at the  
11   commission that you were using Mr. Hermann  
12   to assist you with the chamber?

13          A.     No.

14          Q.     Do you know Meave Tooher?

15          A.     I do.

16          Q.     Did you ever tell her that you  
17   were using him to assist you with the  
18   chamber?

19          A.     No.

20          Q.     Did you ever refer to Mr.  
21   Hermann as a back channel?

22          A.     Yes.

23          Q.     In what context?

24          A.     Mr. Hermann was telling me at a  
25   point in time that the executive chamber

1                   H. Teitelbaum  
2   lawyers that I was dealing with were very  
3   negative about me.

4       Q.     Were very what?

5       A.     Negative about me and thought  
6   that I had overstepped the line and was  
7   conducting an investigation that was, from  
8   their prospective, too aggressive.

9               MR. FISCH: Mr. Campriello, can I  
10   see you for a minute.

11              (Whereupon a break was taken)

12              MR. FISCH: Can you read back the  
13   last question.

14              (Whereupon the requested portion  
15   was read back by the reporter)

16       Q.     Mr. Teitelbaum, did you ever  
17   tell Meave Tooher that you were using  
18   Hermann to bring information to the  
19   chamber?

20       A.     No.

21       Q.     Did you ever tell --

22       A.     I mean, no, no.

23       Q.     Did you ever tell her that you  
24   have back door channels to try to move  
25   things along?

1 H. Teitelbaum

2 A. I didn't need back door  
3 channels. I was dealing directly with the  
4 executive chamber. The answer is no.

5 Q. Did she ever tell you that you  
6 should not be talking to anybody about the  
7 investigation?

8 A. We all told each other that we  
9 shouldn't be talking about the  
10 investigation to people.

11 Q. Did she tell you specifically  
12 that you should not be talking to anybody  
13 about the investigation in connection with  
14 Robert Hermann?

15 A. I don't remember her saying  
16 that, no.

17 Q. I'm sorry?

18 A. I don't remember her saying  
19 that, no.

20 She may have said it after this  
21 district attorney thing came about, you  
22 know, with the DA.

23 Q. I'm sorry?

24 A. After the district attorney's  
25 communication to me that he had a visit

1                   H. Teitelbaum  
2    from people of the executive chamber and  
3    there was this accusation made that I had  
4    said something to Hermann who said  
5    something to Constantine.

6        Q.     I'm talking about way prior to  
7    that.

8                   You started saying that Hermann  
9    told you that there was dissatisfaction  
10   that people in the Spitzer administration  
11   had expressed about you?

12       A.     Yes.

13       Q.     Tell me about that.

14       A.     After I got the phone call from  
15   Hermann -- not from Hermann, from David  
16   Soares.

17       Q.     Who?

18       A.     David Soares, the district  
19   attorney, in November, and my  
20   conversations with Bob Hermann after that,  
21   he may have told me before but I don't  
22   believe so that the lawyers with whom I  
23   was dealing in the executive chamber were  
24   very negative about me.

25       Q.     I want to go back to the period

1                   H. Teitelbaum  
2 prior to Halloween, October 31, prior to  
3 November 1.

4                   Did Hermann, during that early  
5 period from July on through November, tell  
6 you that -- I'm just picking up on your  
7 answer -- that members of the chamber were  
8 unhappy with you, dealing with you?

9           A.       There was a point in time where  
10 he did tell me that and I remembered him  
11 telling me that in November. I don't  
12 remember him telling me that before  
13 November. But I had a sense that there  
14 was negativity apart from Hermann.

15          Q.       Do you know Peter Pope?

16          A.       Only in the context of this  
17 investigation.

18          Q.       The sole meeting today is in  
19 context of this investigation.

20          A.       I don't know him in any other  
21 context. I don't know him personally.

22          Q.       Do you know him as somebody from  
23 the chamber, from the executive chamber?

24          A.       Correct.

25          Q.       Did you ever express to Peter

1 H. Teitelbaum  
2 Pope dissatisfaction with Rifkin being  
3 your liaison?  
4 A. No.  
5 I had very few conversations  
6 with Peter Pope.  
7 Q. Did you ever express to Hermann  
8 your dissatisfaction with Rifkin being a  
9 person you had to deal with?  
10 A. No. I wasn't dissatisfied with  
11 him.  
12 Q. I'm sorry?  
13 A. I wasn't dissatisfied with him.  
14 Q. Whether you were or not, did you  
15 ever say anything to Hermann about that?  
16 A. No.  
17 Q. Did you ever say to him or to  
18 anyone else that Rifkin should not have  
19 been the person designated for you to deal  
20 with?  
21 A. I don't remember saying that at  
22 all, no. And I didn't think that.  
23 Q. Now, again, Mr. Teitelbaum,  
24 prior to November 1, prior to Halloween  
25 evening, Hermann -- again, forgive me if

1                   H. Teitelbaum  
2 I'm repeating, during that period of time,  
3 did Hermann tell you about complaints  
4 about you expressed by members of the  
5 executive chamber?

6           A.     I don't remember a conversation  
7 before November 1 in which that was said.  
8 I do remember that that was said to me  
9 after November 1 but I don't remember it  
10 being said before November 1.

11          Q.     Prior to November 1 --

12          A.     Yes.

13          Q.     -- did he ever tell you that he  
14 had been admonished by Lloyd Constantine  
15 about communicating with him in connection  
16 with your investigation?

17                   THE WITNESS: Can you repeat  
18 that question?

19                   MR. FISCH: Let me rephrase it.

20                   It was perhaps awkward.

21          Q.     Did he ever tell you that  
22 Constantine told him I don't want you  
23 talking to Herb Teitelbaum about the  
24 investigation?

25          A.     No.

1 H. Teitelbaum

2 Q. You had dealings during --

3 A. It's a year ago, but I don't  
4 remember that ever being said to me before  
5 November 1.

6 Q. You know, of course, that this  
7 investigation was referred to us by  
8 District Attorney Soares.

9 A. I do.

10 Q. You know that.

11 And did Mr. Ginsberg show you  
12 the letter that Soares had submitted to  
13 us? I made that available to the  
14 commission.

15 A. Yes.

16 Q. So you saw that?

17 A. Yes.

18 Q. So the allegation is that you  
19 had disclosed confidential information to  
20 Robert Hermann which then reached people  
21 in the chamber.

22 You know that?

23 A. Do you have the letter with you?  
24 Because I'd like to look at it again. I  
25 just don't want to paraphrase the letter.

1 H. Teitelbaum

2 Q. The paraphrase is that they're  
3 referring to us allegations that you had  
4 disclosed information about the  
5 investigation that the commission was  
6 doing.

7 You were asked about that by  
8 Feerick; weren't you?

9 A. Asked about that?

10 Q. About allegations that you were  
11 providing information to Hermann about the  
12 investigation.

13 A. Yes, John and I spoke about  
14 that.

15 Q. So you know what I'm talking  
16 about?

17 A. You're talking about the letter  
18 that Soares sent to you. I'm just  
19 reluctant to paraphrase the letter without  
20 seeing it in front of me.

21 Q. I'll get that for you.

22 But you know that it was  
23 basically, in essence, allegations that  
24 you had disclosed information about the  
25 investigation?

1 H. Teitelbaum

2 A. I'll take your word for it.

3 Q. I don't want you to take my word  
4 for that.

5 You don't remember that being  
6 the thrust of the letter?

7 A. What I remember about the  
8 letter, as I sit here now, is that he said  
9 I acted inappropriately and I remember he  
10 mentioned Hermann and I think he did talk  
11 about conveying information to Hermann,  
12 but I think it's important that we get the  
13 precise language of the letter.

14 Q. Did you relay information about  
15 the investigation that you do not regard  
16 as inappropriate to Hermann?

17 MR. CAMPRIELLO: I don't  
18 understand that question.

19 MR. FISCH: He said that the  
20 whole thrust was the allegation was  
21 that he disclosed inappropriately or  
22 inappropriate information. I want to  
23 know --

24 MR. CAMPRIELLO: Can we have the  
25 letter, Judge?

1 H. Teitelbaum

2 MR. FISCH: I'll get the letter.

3 (Whereupon a break was taken)

4 A. I'm looking at a copy of a  
5 letter --

6 Q. I'll read it into the record.  
7 We'll make it part of the record.

8 The letter is August 6, 2008.

9 "Dear Inspector General Fisch, the office  
10 of the Albany County District Attorney is  
11 referring our investigation D-1 to your  
12 agency. This matter involves an  
13 allegation that Commission on Public  
14 Integrity Executive Director Herbert  
15 Teitelbaum inappropriately released  
16 confidential information pertaining to the  
17 commission's investigation of the release  
18 of documents on ex-Senator Bruno's use of  
19 state aircraft. This matter also involves  
20 potentially improper actions on the part  
21 of Robert Hermann, the director of the  
22 Governor's Office of Regulatory Reform.  
23 During our investigation, we secured  
24 evidence which supports the allegations.  
25 However, we believe a conflict may exist

1                   H. Teitelbaum  
2     with our continued handling of the matter  
3     as both myself and the two assistant  
4     district attorneys who worked on this case  
5     may be called as witnesses. Since you  
6     have jurisdiction over state officials and  
7     employees, we are referring this matter to  
8     you. I'd like to schedule a meeting with  
9     you at your earliest convenience to  
10    discuss this case. In the interim, I will  
11    have Assistant District Attorney Linda  
12    Griggs coordinate with your office to turn  
13    over our investigatory materials. Very  
14    truly yours, P. David Soares, District  
15    Attorney," and we'll make this part of the  
16    record.

17                   (Whereupon, a letter dated  
18            August 6, 2008 was marked Exhibit 1  
19            for identification.)

20            Q.     Mr. Teitelbaum, you picked up on  
21    the word "inappropriately."

22                   Did you release information  
23    concerning the investigation that you  
24    regarded as not inappropriate?

25            A.     To Hermann?

1 H. Teitelbaum

2 Q. Let's start with Hermann.

3 A. No.

4 Q. This says confidential  
5 information.

6 Did you, in your judgment,  
7 appropriately discuss information  
8 pertaining to the commission's  
9 investigation with Hermann other than the  
10 general context that you've mentioned  
11 earlier?

12 THE WITNESS: Can I have that  
13 question again.

14 (Whereupon the requested portion  
15 was read back by the reporter)

16 A. No.

17 Q. There are two words here one of  
18 which you seized on. One was  
19 "inappropriate," the other is  
20 "confidential." Let's forget whether it's  
21 appropriate or -- let's forget  
22 inappropriate and let's forget  
23 confidential.

24 The only discussions you had  
25 with Hermann about your investigation were

1                   H. Teitelbaum  
2 the general ones you described?  
3       A.     That's what I remember.  
4       Q.     During the course of your  
5 investigation, you took testimony from  
6 officials of the Spitzer administration;  
7 correct?  
8       A.     Yes.  
9       Q.     And one of those was Darryl  
10 Dopp's; is that correct?  
11      A.     Darren, D A R R E N.  
12      Q.     Thank you.  
13             Is that correct?  
14      A.     Yes.  
15      Q.     And there came a time when the  
16 commission felt -- and you correct me if  
17 I'm wrong -- that there might be a  
18 conflict or an inconsistency between his  
19 sworn testimony before your agency and the  
20 statement he executed before the attorney  
21 general; is that correct?  
22      A.     No, that's not correct.  
23      Q.     Did you speak to the DA about  
24 the sworn testimony of Dopp's?  
25      A.     Yes.

1 H. Teitelbaum

2 Q. When?

3 A. I want to make sure that this is  
4 reflected. This is all as a result of my  
5 looking back at these records. I didn't  
6 have an independent memory of this stuff.  
7 But my day book, which a copy you have,  
8 indicates on December -- not December,  
9 October 17 I met with the district  
10 attorney.

11 Q. As of Wednesday, you and Meave  
12 Tooher met with Assistant DA Linda Griggs,  
13 Assistant District Attorney Fred Knowles,  
14 and Investigator Steven Stein.

15 Does that refresh your  
16 recollection?

17 A. And the district attorney.

18 Q. October 17.

19 A. And the district attorney, too.

20 Q. And with the district attorney.

21 You remember that?

22 Do you remember what you  
23 discussed?

24 A. I do.

25 Q. What was it?

1 H. Teitelbaum

2 A. The Dopp testimony given to us  
3 concerning the affidavit that he submitted  
4 to the attorney general.

5 Q. Both his testimony before you  
6 and the affidavit to the attorney general?

7 A. The testimony to us concerning  
8 his affidavit to the attorney general.

9 Q. Specifically what was it in his  
10 testimony that you referred to the DA for  
11 consideration?

12 A. His testimony to us to the  
13 effect that the affidavit that he  
14 submitted to the attorney general was  
15 disingenuous and that he believed it to be  
16 disingenuous at the time he signed that  
17 affidavit and that he was strongly urged  
18 to sign that affidavit by members of the  
19 executive chamber on July 22.

20 Q. You think that this was possibly  
21 a criminal offense that he had committed?

22 A. It really wasn't so much what I  
23 thought, it was what members of the Ethics  
24 Commission thought, that it was something  
25 that would -- it would be appropriate to

1                   H. Teitelbaum  
2    have a consultation with the district  
3    attorney on the subject.  
4        Q.     And what did the district  
5    attorney say? Did he say he would review  
6    it?  
7        A.     Yeah, that he would consider it.  
8        Q.     Did you take any notes at that  
9    time?  
10       A.     No.  
11       Q.     Did you have any other  
12    conversations or meetings with the  
13    district attorney?  
14       A.     Yes.  
15       Q.     When? Mr. Teitelbaum, I want to  
16    stay with this subject.  
17       A.     You mean the Dopp subject?  
18       Q.     Yes.  
19       A.     You're talking about  
20    face-to-face meetings?  
21       Q.     Or telephone conversations.  
22       A.     Yeah, we had --  
23       Q.     Any communication with the DA or  
24    with the DA's staff concerning Dopp and  
25    what they were going to do with Dopp.

1 H. Teitelbaum

2 A. We had a meeting at which the  
3 district attorney was present after the  
4 seventeenth at my office. I don't  
5 remember whether I had another meeting  
6 with him at my office. I may have. We  
7 had a meeting at my office with Griggs and  
8 Knowles. I had a lunch with Griggs and  
9 Knowles. And we had conversations,  
10 telephone conversations with Griggs, I had  
11 conversations with Griggs and I believe  
12 Meave did and I had conversations with  
13 Soares.

14 Q. Did you take notes?

15 A. No.

16 You mean in these conversations?

17 Q. Before, after, about the content  
18 of your conversations.

19 A. I had notes about these subjects  
20 but not specifically notes that were taken  
21 during my conversation with any of these  
22 people or immediately after my  
23 conversations with any of these people. I  
24 may have had a crib sheet of things I  
25 wanted to discuss with them before the

1                   H. Teitelbaum  
2 conversation but not during or after, no.

3           Q.     Before we began, I asked you to  
4 examine notes that were sent to me by COPI  
5 which were purported to represent all of  
6 yours.

7                   Was that in that package that  
8 you reviewed?

9           A.     No.

10          Q.     What happened to those notes  
11 that you took?

12          A.     I didn't say that I took notes.  
13 I said that oftentimes I would have notes  
14 in the nature of a crib sheet before I'd  
15 have a telephone conference or a meeting  
16 with somebody, but not every time. And  
17 those notes were -- I didn't keep those  
18 notes, I didn't keep notes of that sort.  
19 I did not take notes -- typically I would  
20 not take notes during a meeting in which I  
21 was doing the talking because it's hard to  
22 do that at the same time.

23          Q.     When you met with the DA and  
24 received some definitive answer from him  
25 about him proceeding with Dopp, did you

1                   H. Teitelbaum  
2   incorporate that answer into a memo to the  
3   file?

4       A.     First of all, I didn't have a  
5   meeting with him --

6       Q.     Or a conversation by telephone.

7       A.     No, not a memo to the file.

8       Q.     Anything in the -- anything in  
9   the notes that you reviewed which reflect  
10  any of your conversations with the  
11  district attorney, telephone, in person,  
12  or anything else?

13      A.     I don't think so, but let me  
14  look at the note again.

15               MR. CAMPRIELLO: When you say the  
16  notes that he reviewed, are you  
17  referring to the ones you showed us at  
18  the beginning, Judge, before we  
19  started?

20               MR. FISCH: Yes, I understand and  
21  Mr. Teitelbaum said that represented  
22  the total of his notes.

23               MR. CAMPRIELLO: But you're  
24  referring specifically to his notes as  
25  opposed to any memos written by

1 H. Teitelbaum

2 anybody else he may have seen?

3 MR. FISCH: Yes.

4 A. By the way, Judge, when I say,  
5 "crib sheets," it would be in the nature  
6 of this two-page document, these notes  
7 here, that's what I mean by a crib sheet,  
8 these notes.

9 Also this note, something that's  
10 Bates stamped CPI 327 is also a crib  
11 sheet.

12 CPI 328 is also in the nature of  
13 that crib sheet.

14 The same thing with CPI 329.

15 I don't see any of these as  
16 notes that were taken, you know, memos to  
17 the file or notes that were taken by me  
18 concerning my conversations with the  
19 district attorney.

20 Q. Or with members of his staff?

21 A. The way it would work is that  
22 staff would generally take notes during a  
23 meeting but, as I said, I would have crib  
24 sheets to the things I wanted to address  
25 either in a telephone conference or in a

1 H. Teitelbaum

2 face-to-face meeting.

3 Q. Your counsel said you were not a  
4 note-taker.

5 Do you think that's fair?

6 A. If what you mean --

7 Q. When I asked him for your notes,  
8 he said, oh, Herb's not a note-taker,  
9 which is the same information from other  
10 people we spoke to. It was not until I  
11 spoke to Feerick that I learned that there  
12 were notes.

13 A. My note-taking practice is what  
14 I just described to you. There are times  
15 that I do take notes during a meeting but  
16 it is not typical because I'm talking.

17 Q. I believe you made a telephone  
18 call on Friday, October 19 to Meave -- it  
19 was a Friday; she remembered that --  
20 saying that the DA had agreed to go  
21 forward.

22 Does that ring a bell?

23 A. Only because I looked at the  
24 same phone records that you looked at.  
25 That's the only reason why I would -- I

1                   H. Teitelbaum  
2    mean, as I looked at the pattern of phone  
3    calls after you had asked for these phone  
4    records, I saw that there was the calls  
5    with Soares and then with Feerick and then  
6    a call to Meave.

7           Q.     Do you recall that initially  
8    what was referred -- and I'm not using  
9    your term "referred" in your legal  
10   concept. I understand that referral  
11   requires all the commissioners' approval,  
12   their wives and children, everybody's  
13   approval.

14                   Do you remember the transmittal  
15   by your office to the district attorney's  
16   office of the Dopp testimony, the forty  
17   some-odd pages of testimony that disturbed  
18   members of the commission? Do you  
19   remember that?

20           A.     Yeah.

21           Q.     And that only represented a  
22   portion of his testimony which I believe  
23   was close to four hundred pages; correct?

24           A.     We gave him the full transcript.

25           Q.     But not initially?

1 H. Teitelbaum

2 A. Oh, yes.

3 Q. Correct?

4 A. No.

5 Q. And that did not come until  
6 October 20 or 21?

7 A. That's not true.

8 Q. Were there continuing  
9 conversations that your office, either you  
10 or Meave or Joan Sullivan, had with the DA  
11 concerning what he was going to do with  
12 Dopp?

13 A. Were there, you're saying?

14 Q. Yes.

15 A. We had a meeting with the  
16 district attorney and members of his staff  
17 at my office -- I can't give you the  
18 precise date. I think it was November 1.  
19 He reiterated that he was going forward.  
20 He had asked us for more transcripts,  
21 which I declined to give him.

22 But just to kind of circle back  
23 to the nineteenth, the nineteenth he had  
24 the full transcript. It was not the  
25 twentieth or the twenty-first. He had the

1                   H. Teitelbaum  
2 full transcript. When we went to him  
3 initially, he had the full transcript.

4           Q.     Of Dopp's?

5           A.     Absolutely.

6           Q.     It's not an important point, Mr.  
7 Teitelbaum, but we have information from  
8 others that it was not until the twentieth  
9 or the twenty-first that he had that.

10          A.     No, that was a decision that was  
11 made, Judge, and I discussed it actually  
12 with my chair. I may have discussed it  
13 with other members of this working group  
14 that I had available to me. Because the  
15 judgment was that he would want the full  
16 transcript, so what's the point of giving  
17 him forty or fifty pages and then having  
18 to run back and give him the rest of it.  
19 So we gave him the full transcript.

20          Q.     You were still, as late as  
21 October 25 or 26, trying to decide whether  
22 the DA was moving on this or not; isn't  
23 that correct?

24          A.     No. By the twenty-fifth or  
25 twenty-sixth, our understanding was that

1 H. Teitelbaum

2 he was moving forward.

3 Q. When did you understand -- how  
4 early did you understand that he was  
5 moving forward?

6 A. The nineteenth.

7 Q. October 19?

8 A. Yes.

9 Q. Did you review notes of other  
10 members of your staff that talk about the  
11 DA saying it's premature to present things  
12 to the grand jury, there was a question  
13 about whether you were going to be a  
14 witness in the grand jury, weren't there  
15 discussions like that?

16 A. Where he told me that, where he  
17 told me that it was premature?

18 Q. Were you not aware that there  
19 was still efforts to find out from the  
20 district attorney whether he was going  
21 forward with this and wasn't the meeting  
22 on November 1 designed to find out what  
23 his intentions were?

24 A. He asked for the meeting on  
25 November 1, as I recollect, we didn't ask

1 H. Teitelbaum

2 for it.

3 From the nineteenth going  
4 forward, our understanding was, for a  
5 period of time, that he was going forward  
6 with this thing and he was going to put  
7 this to a grand jury. He then started  
8 blowing hot and cold on this thing and he  
9 started blowing hot and cold because he  
10 had found out that -- I guess -- I don't  
11 want to guess. What we were told at the  
12 meeting that we had with Griggs and the  
13 other guy --

14 Q. Knowles?

15 A. Knowles, was that, I don't know  
16 where they got it from, but that Dopp did  
17 not actually swear to the affidavit that  
18 he gave to the district attorney. And  
19 they had, I don't know if they concluded  
20 this, but they thought that created a  
21 problem for perjury and they said that  
22 they would pursue -- their intention was  
23 to pursue misdemeanor charges. At a point  
24 in time we started getting a different  
25 message.

1 H. Teitelbaum

2 Q. A different message whether he  
3 was going to proceed or not?

4 A. No, we always had the message  
5 that he was proceeding but with what was  
6 he proceeding -- I don't have a criminal  
7 defense background so you'll forgive me if  
8 I'm not using the right nomenclature --  
9 whether he was proceeding with a grand  
10 jury or, because it was a misdemeanor,  
11 there was going to be a criminal complaint  
12 of some kind. I don't know if that's  
13 correct.

14 Q. So the purpose of the meeting on  
15 November 1 was to find out not whether he  
16 was going to proceed but how he was going  
17 to proceed?

18 A. No, the purpose of the meeting,  
19 as I understood it from what they were  
20 asking us, I remember there were two  
21 inquiries that they made and it was not an  
22 extended meeting, as I recollect. One was  
23 they wanted to know whether there was any  
24 testimony in any of the other transcripts  
25 that we had that would have indicated,

1                   H. Teitelbaum  
2    from our prospective, any possible  
3    criminal conduct. And we said no. He  
4    then wanted to have us give him  
5    transcripts and in particular I remember  
6    he wanted the bound transcript and I said  
7    to him that we could not give to him the  
8    bound transcript but if he served us a  
9    friendly subpoena we would give it to him.  
10   I'm sure that -- although I don't have a  
11   specific memory, I'm sure we discussed  
12   timing. Because we had put -- we had held  
13   in abeyance taking certain testimony.

14        Q.     Do you recall conversations  
15    within the commission to the effect that  
16    not knowing what the DA was doing was  
17    stalling your investigation?

18        A.     Yes.

19        Q.     At what period of time did you  
20    know definitively what he was doing and  
21    how he was doing it so that your office  
22    can proceed with its own investigation?

23        A.     When he closed the investigation  
24    in 2008.

25        Q.     I'm sorry?

1 H. Teitelbaum

2 A. When he closed the Dopp  
3 investigation in 2008.

4 Q. During the testimony --

5 A. We proceeded with taking  
6 testimony that we held in abeyance in  
7 2008. Meave had placed a phone call to  
8 Griggs and asked if the district attorney  
9 would object to our proceeding to take  
10 testimony of people who were involved in  
11 the July 22 episode and the answer we got  
12 was we should just do whatever we wanted,  
13 there was no objection to it. But at that  
14 point in time, even at that point in time,  
15 we didn't know what the district attorney  
16 was going to be doing with the grand jury.  
17 We had no indication that -- or bringing  
18 charges against Dopp. We had no  
19 indication of what he was doing at that  
20 point in time.

21 So to answer your question  
22 again, definitively was when we had found  
23 out that he had closed the investigation.  
24 And I think that came out in his second  
25 report.

1 H. Teitelbaum

2 Q. The examination of Dopp by your  
3 office was conducted by whom?

4 A. Mainly by Meave. I think Joan  
5 Sullivan may have asked some questions.  
6 And I asked questions.

7 Q. When was that examination  
8 conducted, if you recall, Mr. Teitelbaum?

9 A. I do recall because I looked at  
10 the material before I came here.  
11 October 11.

12 Q. In that testimony did he, in  
13 essence, say that the statement he  
14 executed for Cuomo was done and was  
15 influenced by other people in the chamber;  
16 that they told him in essence if he signs  
17 this, that will be the end of it or  
18 something along those lines?

19 A. It would go away, I think that  
20 was the word he used, that this would go  
21 away.

22 Q. So the affidavit was done with  
23 the -- was influenced by other members of  
24 the chamber saying that to him?

25 A. That's what he said.

1                                   H. Teitelbaum

2           Q.     That's what he said.

3                                   Who were those people?

4           A.     He named David Nocenti, Peter

5     Pope, and Sean Patrick Maloney.

6           Q.     That testimony was confidential;

7     was it not?

8           A.     Yes.

9           Q.     You stopped to think.  You

10   hesitated.

11          A.     Well, it's confidential --

12          Q.     Within your office.

13          A.     Yes, of course.

14          Q.     And did that testimony represent

15   any problems for the commission in terms

16   of dealings with members of the chamber?

17          A.     I don't understand your

18   question.

19          Q.     You at that point, up to that

20   point, were dealing, you said, with

21   Nocenti in terms of getting records?

22          A.     No, Rifkin.

23          Q.     Rifkin.

24          A.     And Pope and, to a lesser

25   extent, Constantine.  Rifkin was the main

1 H. Teitelbaum

2 guy.

3 Q. And there were also discussions  
4 about the then Governor Spitzer appearing  
5 before your commission; is that correct?

6 A. Yes.

7 Q. And did you learn at that point  
8 who he had planned to represent him?

9 A. When we first discussed the  
10 appearance?

11 Q. At any point when you were  
12 discussing with the chamber having  
13 Governor Spitzer appear.

14 A. Well, there were several  
15 discussions over a period of time.

16 Q. Who did you learn that he had  
17 planned to represent him?

18 A. At the beginning of those  
19 discussions, which were, as I looked at  
20 the materials, starting really in  
21 September or October of 2007 I had taken  
22 the position that people who were  
23 appearing before us could not be  
24 represented by lawyers in the executive  
25 chamber, and they were back and forth

1                   H. Teitelbaum  
2    about that if they were going to be  
3    present but not representing the  
4    witnesses, what their role would be in  
5    terms of the assertion of privileges, that  
6    kind of thing. So I did not know who he  
7    had as counsel at that beginning period.

8                   I found out at a meeting -- I  
9    found out right before a meeting in 2008  
10   that he was going to be represented by  
11   Paul Weiss and Michele Hirshman and  
12   another lawyer at Paul Weiss.

13            Q.    You learned that when, Mr.  
14   Teitelbaum, roughly?

15            A.    It was at a meeting -- it was  
16   right before a meeting at Fordham. John  
17   Feerick, myself, David Nocenti -- not  
18   David Nocenti, Lloyd Constantine and  
19   Michelle Hirshman. And it was not too  
20   long before that meeting that I learned  
21   that Paul Weiss was going to be  
22   representing him.

23            Q.    The date, roughly?

24            A.    Of the meeting?

25            Q.    Or learning that Michele --

1 H. Teitelbaum

2 A. No, I wouldn't remember the  
3 particular date that I found out. I would  
4 have found out before that meeting because  
5 I would have been told who is going to be  
6 at that meeting.

7 Q. Before Hirshman entered the  
8 picture, who did you learn the governor  
9 had planned to represent him?

10 A. I didn't know.

11 Q. There were no discussions that  
12 Pope might be representing him or Nocenti?

13 A. There were discussions starting  
14 way in September.

15 Q. At any time.

16 A. But not about the governor  
17 himself, it was about witnesses generally.  
18 I took the position that executive chamber  
19 people, and that would include the  
20 governor, could not be represented by  
21 lawyers from the executive chamber. So I  
22 knew -- and I insisted on that and they  
23 acceded to that and there's correspondence  
24 reflecting that. So you knew, from my  
25 prospective, who wouldn't be representing

1                   H. Teitelbaum  
2   him but I did not know who was  
3   representing him.

4       Q.     Ones that you know could not or  
5   should not represent anybody before the  
6   commission were people that might be  
7   witnesses themselves; is that correct?  
8   Pope, Nocenti.

9       A.     No, that wasn't the reason, that  
10  wasn't the reason.

11      Q.     What was the reason?

12      A.     We were calling these -- the  
13  commission was not calling these people in  
14  their official capacities so this would  
15  not be tantamount to the kind of  
16  deposition that you would take under the  
17  CPLR or federal rules where a corporation  
18  or agency produces somebody where the  
19  testimony would be binding on the  
20  corporation or the agency. We were  
21  calling these people in their individual  
22  capacities. We didn't want these people  
23  to be represented by chamber counsel. A,  
24  we thought it was inappropriate because  
25  they weren't appearing as state officials.

1 H. Teitelbaum

2 And second, we thought that there might  
3 be --

4 Q. Conflict?

5 A. No, it's not a conflict, it was  
6 to have a Maria Treisman, who was the FOIL  
7 officer, for example, in the executive  
8 chamber, being represented by Pope or  
9 Nocenti who was her superior and much  
10 closer to the governor might create a kind  
11 of pressure on her. We didn't want that.  
12 It wasn't a matter of conflict.

13 Q. In pursuance of your  
14 investigation, after reading Dopp's  
15 testimony where he mentioned Pope and  
16 Nocenti, did he also mention Sean Maloney?

17 A. I testified to that, yes.

18 Q. And in pursuance of your  
19 investigation, was consideration given by  
20 your agency that those individuals might  
21 be summoned by your office?

22 A. Yes.

23 Q. And potential witnesses before  
24 your agency; is that correct?

25 A. Yes.

1 H. Teitelbaum

2 Q. Was that one of the reasons that  
3 your office felt they could not represent  
4 chamber personnel?

5 A. The position that we took  
6 relating to executive chamber lawyers  
7 representing executive chamber witnesses  
8 occurred before we took Dopp's testimony.

9 Q. Before what?

10 A. We took Dopp's testimony. It  
11 was before October 11. Those  
12 conversations had begun in September, I  
13 believe. So our position was initially,  
14 based on what I've testified to, when the  
15 Dopp testimony was given, we had already  
16 formulated our position on this. If  
17 you're asking me -- well, I don't want to  
18 hypothesize. Go ahead.

19 Q. Did the discussions within your  
20 agency include questions about whether  
21 there would be self-incrimination problems  
22 if they represented any of the witnesses?

23 A. No. There was a discussion  
24 after the Dopp testimony that, when we  
25 figured that we would be calling these

1                   H. Teitelbaum  
2    people, that there could be, first of all,  
3    a sense of unfairness that we're calling  
4    them while this thing was being  
5    investigated and pursued by the district  
6    attorney and that the working group that  
7    was counseling me also thought there were  
8    possible Fifth Amendment implications  
9    here.

10        Q.     That, if they testified before  
11    you, that it might be admissible against  
12    them in a criminal proceeding?

13        A.     I don't remember what their  
14    analysis was, Judge, but I do remember  
15    that there was concern that we could be  
16    doing something that would be antithetical  
17    to the Fifth Amendment, but I don't know  
18    how they got there.

19        Q.     Conflict of interest issues  
20    raised as part of these discussions?

21        A.     A conflict of interest?

22        Q.     Between representing chamber  
23    people when they might themselves be  
24    witnesses.

25        A.     No, no, no. The issue of their

1                   H. Teitelbaum  
2   representing chamber witnesses, that issue  
3   was addressed by us before the Dopp  
4   testimony.

5                   MR. CAMPRIELLO: Can I speak to  
6   him for a second?

7                   MR. FISCH: Sure.

8                   (Discussion held off the record)

9           A.     These issues were reflected in a  
10   memorandum that Meave prepared, because I  
11   saw the memorandum, I read the memorandum,  
12   and I think you've got it. So whatever  
13   that memorandum says is accurate. It's a  
14   memorandum dated October 24.

15                   MR. CAMPRIELLO: It's a typed  
16   memorandum, Judge, where she reflects  
17   her understanding as of that date that  
18   the DA had decided to proceed and it  
19   discusses what you're asking about, I  
20   think.

21           Q.     Nocenti and Pope -- this is from  
22   her memo -- are both present when the  
23   alleged false statement was signed by Dopp  
24   and, according to Dopp, exerted pressure  
25   getting him to sign the document despite

1                   H. Teitelbaum  
2 his protestations that there was falsities  
3 contained therein. Governor Spitzer had  
4 previously relayed to the commission that  
5 he wanted Peter Pope to prepare him for  
6 and represent him at his interview before  
7 the commission. You remember that. The  
8 interview of Nocenti and Pope prior to  
9 public knowledge of the grand jury  
10 proceeding create potential appearances of  
11 unfairness and could raise possible Fifth  
12 Amendment issues.

13                   Is that --

14           A.     That's accurate. That's what  
15 was being discussed among staff and with  
16 the working group.

17           Q.     So these two people, Pope and  
18 Nocenti, should not be representing the  
19 governor for these reasons; is that  
20 correct?

21           A.     I want to repeat again what I  
22 said.

23                   Our position on executive  
24 chamber lawyers representing executive  
25 chamber witnesses was formulated and

1                   H. Teitelbaum  
2   conveyed to the executive chamber after  
3   discussion with I don't remember whether  
4   it was the Ethics Commission or the -- it  
5   was with the Ethics Commission people. It  
6   was conveyed to the executive chamber  
7   before we took Dopp's testimony. We had  
8   determined at that point -- because it had  
9   been the tradition of the Ethics  
10   Commission, I was informed, that state  
11   employed lawyers do not represent  
12   witnesses who come before the commission.

13         Q.     But clearly after Dopp's  
14   testimony, it was the judgment of your  
15   commission that Nocenti and Pope should  
16   not be representing the governor?

17         A.     It was before Dopp's testimony.

18         Q.     Regardless of when. But  
19   certainly it was the position -- on  
20   November 1, was it the position of your  
21   office that Pope and Nocenti should not be  
22   representing the governor for these  
23   reasons?

24         A.     It was our position beginning  
25   sometime in September and it didn't

1                   H. Teitelbaum  
2 change. And it continued on November 1  
3 and after November 1.

4           Q.     Was that information  
5 confidential? Other than you  
6 communicating it to the governor, was it  
7 confidential, the judgment that your  
8 office had reached, confidential?

9           A.     I don't know whether it was  
10 confidential or not. It was not  
11 disclosed.

12          Q.     Should that have been disclosed  
13 to Robert Hermann?

14          A.     I didn't disclose it to Robert  
15 Hermann.

16          Q.     I didn't ask you that.

17          A.     You're asking me to make a legal  
18 conclusion now?

19          Q.     You're a lawyer.

20          A.     I am. I haven't done the  
21 research on what constitutes  
22 confidentiality under 9412. I have my own  
23 notion of what constitutes confidentiality  
24 under 9412 and 74.3(c).

25                   But all I can tell you is that I

1                   H. Teitelbaum  
2 did not tell Robert Hermann that these  
3 people could not represent executive  
4 chamber witnesses.

5           Q.     Should Robert Hermann have had  
6 that information regardless of whether you  
7 call it confidential, whether you call it  
8 sensitive, whatever you call it, should  
9 Robert Hermann have been aware of that  
10 judgment that Nocenti and Pope should not  
11 be representing the governor?

12                   MR. CAMPRIELLO: From him, Mr.  
13 Teitelbaum, or from people in the  
14 executive chamber?

15           Q.     Should Hermann have that  
16 information from anybody within your  
17 commission?

18           A.     I would not have wanted Hermann  
19 to have that information.

20           Q.     Why not?

21           A.     I tried to keep information  
22 concerning the information on a need to  
23 know basis. He didn't need to know that  
24 information. He was not involved in the  
25 investigation.

1 H. Teitelbaum

2 Q. So he had no business knowing  
3 that; is that fair to say? Whether you  
4 call it confidential or not confidential,  
5 Hermann should not have had that  
6 information?

7 A. From me.

8 Q. Or from anybody at your  
9 commission?

10 A. My position was that people in  
11 my commission should not be talking to  
12 people in the executive chamber except  
13 through the lawyers who were working on  
14 the investigation.

15 Q. Now, you're the director of the  
16 Commission on Public Integrity, you deal  
17 with state employees.

18 If Hermann had that information  
19 and received it from somebody on the  
20 commission, would that be an offense, a  
21 violation of the statute, of the Public  
22 Officers Law?

23 MR. CAMPRIELLO: You're asking  
24 for his legal conclusion on this?

25 Q. Your judgment. You're an

1                   H. Teitelbaum  
2 attorney lawyer, you have a long legal  
3 standing.

4           A.     Judge, I can only tell you what  
5 my MO was in conducting this  
6 investigation. I haven't done research on  
7 what the executive law deems to be  
8 confidential or doesn't deem to be  
9 confidential. And I haven't done research  
10 on what 74.3(c) means by the word  
11 "confidential." So I can't tell you that.  
12 I assume that you all have done that  
13 research. I have not. I mean, I know  
14 what I believe should and shouldn't be  
15 done in this investigation and what I  
16 wanted done and what I didn't want done.

17           Q.     Would you agree that there is  
18 misconduct that is not criminal?

19                   MR. CAMPRIELLO: As a general  
20 proposition, would you agree with  
21 that?

22                   THE WITNESS: Absolutely.

23           Q.     And that is not in violation of  
24 law, not just penal law?

25           A.     Speak to my children. Of

1 H. Teitelbaum

2 course.

3 Q. Now, you mentioned the  
4 subcommittee or the working committee.

5 A. The working group.

6 Q. They were formed by you and Dean  
7 Feerick?

8 A. I discussed it with Dean  
9 Feerick. He selected the members but I  
10 discussed it with him, of course.

11 Q. Now, I began this examination by  
12 asking whether one of the aspects of your  
13 Troopergate investigation was that there  
14 were leaks from the governor's office to  
15 the press.

16 Do you recall that?

17 A. You're asking me that?

18 Q. Yes.

19 A. Yes.

20 Q. Was your agency troubled by  
21 leaks from within your agency?

22 A. We're concerned about it.

23 Q. And did you ever discuss -- did  
24 you ever identify people that you thought  
25 -- commissioners who you thought might be

1                   H. Teitelbaum  
2   leaking information?  
3        A.     Yes.  
4        Q.     What names did you speculate  
5   might have been the culprits?  
6        A.     We were concerned about the fact  
7   that we were told that -- I was told that  
8   Commissioner Emery had a very close  
9   relationship with Lloyd Constantine.  
10       Q.     Anyone else?  
11       A.     No.  
12       Q.     Did Commissioner Gruenberg's  
13   name ever come up?  
14       A.     As a person who was leaking?  
15       Q.     Yes.  
16       A.     You know --  
17       Q.     Whether it's fair or not, that's  
18   not the question.  
19       A.     Let me ask you a question.  And  
20   I can't give you a specific conversation,  
21   but people have perceptions of other  
22   people without knowing anything.  It's  
23   just a matter of labeling people.  
24   Commissioner Gruenberg was the appointee  
25   of Senate Majority Leader Bruno.  Senate

1 H. Teitelbaum  
2 Majority Leader Bruno was the political  
3 enemy of the governor, as we read in the  
4 newspaper.

5 Q. I'm shocked to hear that.

6 A. So I think that somebody may  
7 have said to me, oh, well, since he's a  
8 Bruno appointee, you know, he might be the  
9 person leaking. But in my interaction  
10 with David Gruenberg, there was absolutely  
11 no evidence of that. I have found him to  
12 be hard working, fair, and apolitical in  
13 how he conducted himself.

14 Q. But the name came up?

15 A. I think it did, but I can't tell  
16 you who may have mentioned it to me and  
17 I'm not certain of it, I'm really not  
18 certain of it. But I want to give you an  
19 answer to this thing, to your question.  
20 It may not have happened but I think  
21 somebody had floated that to me and, if  
22 they had floated it to me, if that comment  
23 was made, I have no doubt that my response  
24 to that would have been I don't see that  
25 at all, end quote.

1 H. Teitelbaum

2 Q. Was the creation of the working  
3 group influenced by your concern and  
4 Feerick's concern about leaks?

5 A. I can't speak to John's  
6 concerns. We were both concerned about  
7 leaks. And I don't know whether the  
8 people who went on the working group had a  
9 concern about leaks. But five people are  
10 more manageable than twelve people. One  
11 commissioner recused himself, Commissioner  
12 Celli. The motive, from my prospective,  
13 was to get people on it so appeared to be  
14 balanced.

15 Q. Experienced in this field?

16 A. Yes. And also had, you know, in  
17 terms of Commissioner Guiffra, apart from  
18 his having conducted investigations, there  
19 was a sense of continuity because he had  
20 been a commissioner on the Ethics  
21 Commission. Commissioner Levine was a  
22 former district attorney, a court of  
23 appeals judge. Loretta Lynch was a United  
24 States Attorney for the Eastern District.  
25 We wanted an upstate person.

1 H. Teitelbaum

2 Q. So was the issue of leaks a  
3 factor in the if not the creation then the  
4 composition of the subgroups?

5 A. Well, I mentioned Commissioner  
6 Emery. I don't think Commissioner Emery's  
7 name was ever floated up as a possibility  
8 to go on this working group, so that was  
9 the only concern that we had. And I don't  
10 even know if we had that concern at that  
11 point in time because I didn't know of his  
12 relationship and I didn't know if John  
13 Feerick had knowledge of his relationship  
14 with Constantine at that point in time.

15 Q. Let me get back.  
16 Was the issue of leaks from  
17 within the commission a factor in either  
18 the creation or the composition of the  
19 working group, the one that consisted of  
20 Feerick, Lynch, Levine, and so on?

21 A. I can't speak for John.

22 Q. Was it a factor with you? You  
23 worked with --

24 A. I'm saying, I can't speak for  
25 him in terms of what his concern was. My

1                   H. Teitelbaum  
2   concern had to do with the skill sets of  
3   the people involved, that was my concern.  
4   John had -- I know he had a different set  
5   of criteria. I wasn't involved, for  
6   example, in making sure it was balanced in  
7   terms of Republicans and Democrats, that  
8   kind of thing. All I wanted was people  
9   who knew what they were doing in this  
10  field.

11        Q.     Was the leaking issue a factor  
12  in the composition?

13        A.     Not with me.

14        Q.     Not with you? It was never  
15  discussed?

16        A.     It was discussed.

17        Q.     But I'm talking about the  
18  creation or composition of the working  
19  group, it was never discussed because of  
20  the leaking issue?

21        A.     You mean within the working  
22  group?

23        Q.     No, no, no, no, no.

24                    You and Feerick were responsible  
25  for the composition of the committee or

1 H. Teitelbaum

2 the working group?

3 A. John and I discussed it but it  
4 was his pick.

5 Q. I'm asking, within those  
6 discussions, was the issue of leaking a  
7 factor?

8 A. It may have been. But not with  
9 regard to particular individuals but just,  
10 as I said, five people are more manageable  
11 on keeping things within a group than  
12 dealing with twelve people.

13 Q. Prior to November 1 or by  
14 November 1, was the composition of that  
15 working group publicly disclosed?

16 A. It was.

17 Q. Prior to November 1?

18 A. It was.

19 Q. In what manner?

20 A. On the weekend of October 22,  
21 Fred Dicker, a reporter from the New York  
22 Post, had information as to the  
23 composition of that working group. He had  
24 one member of the working group wrong,  
25 however. He didn't report it in the

1                   H. Teitelbaum  
2 newspaper but he indicated that he had it.  
3       Q.     To whom did he indicate?  
4       A.     He indicated it to my public  
5 information officer.  
6       Q.     Did it ever appear in the  
7 public?  
8       A.     Not newspapers?  
9       Q.     Yes.  
10      A.     Before November 1?  
11      Q.     Yes.  
12      A.     I don't remember it being --  
13      Q.     We have all the newspapers.  
14      A.     I'm just telling you I don't  
15 remember, I don't remember seeing it. I  
16 had mentioned the composition of the  
17 working group before November 1 to a  
18 number of people.  
19      Q.     To whom?  
20      A.     The district attorney knew it, I  
21 told him.  
22      Q.     Did you disclose it to Hermann?  
23      A.     I don't think I disclosed it to  
24 Hermann. But I disclosed it to members of  
25 the executive chamber.

1 H. Teitelbaum

2 Q. Hermann was not a liaison with  
3 the executive chamber; was he?

4 A. I have no idea -- in  
5 retrospect --

6 Q. Were you ever advised that  
7 Hermann was a person you can deal with in  
8 connection with the chamber?

9 A. Let me answer your first  
10 question. The first question was whether  
11 he was a liaison and the answer was I was  
12 never told that he was a liaison.

13 Q. He what?

14 A. I said I was never told that he  
15 was a liaison.

16 Q. Well, would you be dealing with  
17 anybody who you were not officially  
18 advised that you were dealing with?

19 A. I was never officially advised  
20 who I should be dealing with.

21 Q. Well, how did you know that you  
22 should be dealing with Rifkin?

23 A. Because Rifkin appeared on my  
24 doorstep. He was calling me. I called  
25 him.

1 H. Teitelbaum

2 Q. Did Hermann ever appear on your  
3 doorstep or say hey, you deal with me?

4 A. No.

5 Q. So as far as you know, he had no  
6 official position in terms of your  
7 relationship with the chamber; is that  
8 correct?

9 A. I had no idea whether he had or  
10 not had an official position with the  
11 chamber. My information was that he did  
12 not. I never heard anything to the effect  
13 that he did.

14 Q. Did you ever disclose to Hermann  
15 the composition of this subcommittee?

16 A. Not that I remember.

17 Q. Did you ever mention Loretta  
18 Lynch to Hermann?

19 A. I don't remember that one way or  
20 the other.

21 Q. Did you ever mention Howard  
22 Levine?

23 MR. CAMPRIELLO: When you say,  
24 "mention," you mean did he ever  
25 mention Howard Levine to Robert

1 H. Teitelbaum

2 Hermann?

3 Q. In connection with being a  
4 member of the subcommittee.

5 A. I don't remember one way or the  
6 other.

7 Q. Would you have any reason to  
8 discuss that with Hermann?

9 A. Do I have a reason to discuss it  
10 with him? Not that I recall there was a  
11 reason to discuss it with him, no.

12 Q. Forgetting the word  
13 "confidential," would it have been  
14 appropriate for you to disclose to Hermann  
15 the members of that subcommittee?

16 A. I didn't think the membership of  
17 that subcommittee was confidential. I  
18 think the public had a right to know it,  
19 they had a right to know who were the  
20 people who were working with me on an  
21 investigation. I didn't think that was  
22 confidential at all.

23 Q. Did you discuss it with Hermann?

24 A. I'm telling you, I just don't  
25 remember one way or the other mentioning

1                   H. Teitelbaum  
2   Loretta Lynch's name or Howard Levine's  
3   name. I may have mentioned Howard  
4   Levine's name because Howard and I have a  
5   nice relationship. I don't remember. I  
6   disclosed it to, as I said, the district  
7   attorney --

8           Q.     The district attorney is an  
9   official law enforcement person who had a  
10  role to play in all of this.

11          A.     He didn't have a role to play in  
12  that. I mentioned it to the district  
13  attorney not because of -- because he had  
14  a role to play in this.

15          Q.     You were dealing with him in  
16  connection with a possible criminal grand  
17  jury investigation.

18          A.     But that had nothing to do with  
19  the working group. The working group was  
20  irrelevant to that.

21          Q.     You make no distinction between  
22  advising the district attorney of the  
23  composition of the working group and  
24  advising Robert Hermann the composition --

25          A.     First of all, I didn't say I

1 H. Teitelbaum

2 advised Robert Hermann.

3 Q. I'm asking you if you make no  
4 distinction.

5 A. What I'm saying is that I don't  
6 believe, and I didn't believe then, that  
7 the composition of the working group was  
8 something that needed to be kept secret.

9 Q. So when Dicker called, why  
10 didn't you just issue a press release, let  
11 the public know?

12 A. Because our commission has been  
13 traditionally press-adverse. We don't  
14 talk to the press.

15 Q. You just said, you were  
16 executive director, that the public had  
17 the right to know?

18 A. In the sense that it's not a  
19 secret, but we don't deal with the press.

20 Q. Why didn't you authorize your PR  
21 person, Ayers, to confirm what Dicker had  
22 about the composition. Dicker called, is  
23 this the composition, absolutely, the  
24 public has the right to know, here are the  
25 people on the subcommittee.

1 H. Teitelbaum

2 A. If you look at the Dicker  
3 article that came out, which doesn't  
4 mention names, I believe it says that  
5 Ayers called them back and said he wasn't  
6 supposed to make a disclosure or wasn't  
7 supposed to confirm. We didn't want  
8 newspapers in our work for a myriad of  
9 reasons. But I did not view the  
10 composition of the working group as a  
11 secret in the sense that, if I had  
12 mentioned it, it would impair our  
13 investigation in any respect.

14 MR. CAMPRIELLO: Can we take a  
15 men's room break?

16 MR. FISCH: Absolutely.

17 (Whereupon a break was taken)

18 Q. Mr. Teitelbaum, there came a  
19 time when members of the executive chamber  
20 met with District Attorney Soares. This  
21 was in early November. And they claimed  
22 that they were provided information  
23 concerning COPI activities which they felt  
24 they should not have had.

25 Do you remember that? You've

1                   H. Teitelbaum  
2    been advised of that.  
3           A.     By the district attorney.  
4           Q.     By the district attorney.  
5           A.     Correct.  
6           Q.     As a matter of fact, there was a  
7    telephone call, I believe?  
8           A.     Yes.  
9           Q.     And he told you about that.  And  
10   he told you that the information was that  
11   Hermann had related information to  
12   Constantine which Hermann had claimed had  
13   come from you.  
14          A.     That I didn't hear.  
15          Q.     But that Hermann was the source  
16   and you were supposed to have been the  
17   original source.  I'm putting this in the  
18   widest context.  
19          A.     Let me tell you what I was told,  
20   Judge.  
21          Q.     What were you told?  
22          A.     I was told that the district  
23   attorney had met with some representatives  
24   of the executive chamber and they had said  
25   that Hermann told Constantine -- I'm

1                   H. Teitelbaum  
2   paraphrasing now -- that the DA was back  
3   in the game in terms of an investigation  
4   and that I was the source of Hermann's  
5   information. I wasn't told what Hermann  
6   told Constantine, you know, about their  
7   conversation.

8       Q.     And did there come a time when  
9   you spoke to Feerick about that?

10    A.     Yes.

11    Q.     How did that come about?

12    A.     How I spoke to John Feerick? We  
13   were driving up to Albany together.

14    Q.     What did you tell him?

15    A.     I told him that -- I related the  
16   phone conversation that I just described  
17   to you. I told him that I had put the  
18   issue to Hermann, you know, I asked  
19   Hermann about this and he denied it.

20    Q.     That was the end of the whole  
21   thing?

22    A.     I told John that I thought I was  
23   being set up.

24    Q.     That you were set up?

25    A.     I thought I was being set up.

1 H. Teitelbaum

2 Q. By whom and why?

3 A. I just didn't know. I didn't  
4 know who and I didn't know why. I  
5 surmised because of my relationship with  
6 the executive chamber by that time had  
7 become quite contentious and I surmised --  
8 I want to underscore surmised -- that they  
9 wanted me out of the investigation.

10 Q. Was there anybody at the  
11 commission, either the original Ethics  
12 Commission or the Commission on Public  
13 Integrity, that had any type of  
14 relationship that you're aware of,  
15 personal or professional, with Hermann?

16 A. I don't know of any except  
17 Hermann was at Skadden and John was at  
18 Skadden, but other than that --

19 Q. John Feerick?

20 A. Was at Skadden Arps, yeah.  
21 Other than that, I don't know of  
22 any.

23 Q. So you told Feerick that you  
24 spoke to Hermann and Hermann denied it?

25 A. Yes.

1 H. Teitelbaum

2 Q. Did you have any other  
3 discussions with Feerick about the  
4 allegation that you had provided  
5 information to Hermann?

6 A. At that time?

7 Q. At any time.

8 A. Oh, sure.

9 Q. Tell me about it.

10 A. Well, after the phone call from  
11 the district attorney and my having told  
12 John what I just told you, there was  
13 nothing else that happened in this -- on  
14 this subject for months. I don't remember  
15 any conversations that I had with John  
16 between that conversation -- I'm sure  
17 there was another conversation or another  
18 two conversations around that time but I  
19 don't remember and I don't remember if  
20 there were. It wouldn't surprise me if  
21 there were.

22 Q. At this point in time you hear  
23 the allegations from the DA, you deny it,  
24 you call Hermann and he denies that;  
25 correct?

1 H. Teitelbaum

2 A. Yes.

3 Q. Did you have any further  
4 conversations with Hermann about this?

5 A. Oh, yes.

6 Q. Tell us about that.

7 A. I had numerous telephone  
8 conversations with Hermann in November.

9 Q. Did you ask him if he had any  
10 explanation as to why?

11 A. I did.

12 Q. What did he say?

13 A. That's when he told me they were  
14 negative on me, that the executive chamber  
15 people didn't like me. I don't know if he  
16 meant it personally but thought that I was  
17 being too aggressive and inappropriate.

18 And I tried to find out as much as I could  
19 about his conversations with the executive  
20 chamber. I didn't get anywhere. I tried  
21 to find out what he knew about leaks to  
22 the newspaper because there were newspaper  
23 articles coming out around this time  
24 disclosing that the district attorney had  
25 commenced an investigation or was looking

1 H. Teitelbaum

2 into Dopp.

3 Q. Not at the time that he, on  
4 November 1, spoke to Constantine.

5 A. No, no, I'm talking about --  
6 Judge, I want to make sure that you and I  
7 are talking about the right dates. I mean  
8 at the time that I was speaking to Hermann  
9 about what I heard from the district  
10 attorney. At that time articles started  
11 coming out about the district attorney's  
12 investigation and about the fact that we  
13 had presented to the district attorney the  
14 Dopp transcript. I wanted to know if he  
15 knew where that was coming from. So  
16 that's the nature -- I'm sure we talked  
17 about other things, but those kinds of  
18 issues were the issues that were on my  
19 mind. He denied that he had told  
20 Constantine or anybody else in the  
21 executive chamber that I had told him that  
22 -- information concerning my  
23 investigation.

24 Q. Did he deny that he had a  
25 conversation with Constantine wherein he

1 H. Teitelbaum  
2 disclosed members of the subcommittee?

3 A. I was never told that he  
4 disclosed members of the subcommittee.

5 Q. Did you ask him what  
6 conversation he had with Constantine on or  
7 about November 1?

8 A. I didn't know about November 1.

9 Q. There came a time later on when  
10 you spoke to Feerick about this, about a  
11 dinner you had had October 31 with  
12 Hermann; correct?

13 A. No. I don't know whether I had  
14 a dinner with Hermann on October 31. I  
15 may have but I don't know if I did. I  
16 don't recall being told -- I mean, I found  
17 out afterwards, that Hermann had said that  
18 -- he and I had a dinner at around  
19 Halloween. I don't think the district  
20 attorney told me that. I mean, I don't  
21 remember his telling me that in that  
22 conversation. So I didn't know about a  
23 November 1 conversation that he had with  
24 Constantine. I don't know if I ever knew  
25 that he spoke to Constantine on

1 H. Teitelbaum

2 November 1.

3 Q. Did he ever tell you about  
4 conversations that he had on November 1  
5 with Constantine or did he deny ever  
6 talking to Constantine on November 1?

7 A. November 1 was not a date I had,  
8 Judge.

9 Q. Let me tell you why I mention  
10 that date. On November 1, you learned  
11 from the district attorney, according to  
12 him, that he was going forward.

13 A. That's not true.

14 Q. He's wrong?

15 A. Uh-huh, yes.

16 MR. CAMPRIELLO: In fact, Judge,  
17 the memo that we alluded to earlier  
18 that you looked at indicates that it  
19 was much earlier and there was back  
20 and forth.

21 Q. But the memos and the notes from  
22 Feerick's diary was that, on November 1,  
23 there was a meeting.

24 A. There was.

25 Q. With the DA.

1 H. Teitelbaum

2 A. Yes.

3 Q. And that on November 1 he  
4 indicated he was going forward?

5 A. He did.

6 Q. Did you communicate that --

7 A. Judge, forgive me for  
8 interrupting. That was the second time he  
9 told it to me. He told it to me on the  
10 nineteenth and he reiterated it on  
11 November 1 of course because he was asking  
12 for information and transcripts in  
13 connection with his going forward.

14 Q. When he told you on October 19  
15 he was going forward, did you tell that to  
16 Hermann?

17 A. No.

18 Q. When he told you on November 1  
19 he was going forward, did you tell that to  
20 Hermann?

21 A. No.

22 Q. Did you notify anybody after  
23 being advised on November 1 by the DA that  
24 he was going forward, did you notify  
25 anybody about that, that he was going

1 H. Teitelbaum

2 forward?

3 MR. CAMPRIELLO: Does that  
4 include members of the commission and  
5 things like that, Judge?

6 MR. FISCH: Anybody; the  
7 commission, anybody outside the  
8 commission.

9 A. No, not that I recall.

10 Q. Your wife, your children,  
11 anybody? I'm not trying to be flippant  
12 but --

13 A. No. I mean, staff knew that he  
14 was going forward. Staff knew he was  
15 going forward on October 19. But not  
16 generally throughout the staff.

17 Q. When you had occasion to call  
18 Hermann, what numbers would you call;  
19 would you call his office, would you  
20 call --

21 A. Generally on his cell phone.

22 Q. Did you ever call him at his  
23 office?

24 A. I must have. I don't have a  
25 recollection of it. We had business with

1                   H. Teitelbaum  
2 his office so I probably called him on his  
3 office phone at that point and I may have  
4 called him at his office phone on other  
5 matters. I don't remember.

6           Q.     Did you ever call his office and  
7 have them relay the call to him in New  
8 York?

9           A.     I don't remember.

10          Q.     On November 1 at 1:32 p.m., did  
11 you call his office and ask for Hermann?

12          A.     I have no memory of that, Judge.  
13 We're talking about November 1 which is  
14 going on almost a year.

15          Q.     November 1 was -- look, you've  
16 heard from my questions November 1 was a  
17 day that Constantine says he came into the  
18 chamber and took him out of a meeting.

19          A.     As I told you, I have no  
20 knowledge of Hermann meeting with Lloyd  
21 Constantine on November 1.

22                   MR. CAMPRIELLO: He says he  
23 doesn't remember. If you have a phone  
24 record that can refresh his  
25 recollection, show it to him and he'll

1                   H. Teitelbaum  
2           say no, I don't remember or yeah, I  
3           remember it now.  
4           Q.     I have phone records of a  
5           receipt by Hermann of a telephone call at  
6           1:32 which came from the office, the trunk  
7           line, where somebody would call and --  
8           A.     Right, and they transfer it  
9           down.  
10                  MR. CAMPRIELLO: Is that from Mr.  
11           Teitelbaum's number or just in  
12           general?  
13                  MR. FISCH: I just want to know  
14           if he recalls anything.  
15           Q.     Specifically to tell him that  
16           the DA is going forward.  
17           A.     Neither on the phone call nor  
18           any other manner.  
19           Q.     As we sit here today and as  
20           you've had a lot of opportunity to talk  
21           about this whole issue, do you have any  
22           explanation --  
23           A.     Actually, I didn't have a lot of  
24           opportunity to talk to a lot of people  
25           about this issue, but go ahead.

1 H. Teitelbaum

2 Q. Have you ever reflected on how  
3 Hermann could have gone -- how he could  
4 have had information to relate to  
5 Constantine on November 1 that the DA is  
6 going forward with this investigation?  
7 Any notion about where he might have  
8 learned that from?

9 A. You mean as I sit here today?

10 Q. I'm asking you if you have  
11 any --

12 A. The only thing I know is that I  
13 learned what he had told the district  
14 attorney, I learned about that at the end  
15 of February, 2008. I know what he said to  
16 the district attorney.

17 Q. So from February to today, have  
18 you reflected upon how he might have had  
19 that information?

20 A. Well, he says he looked at notes  
21 of mine.

22 Q. He might have seen notes?

23 A. He said that he saw notes of  
24 mine, that's what he told the district  
25 attorney.

1 H. Teitelbaum

2 Q. You said you didn't take any  
3 notes when you dealt with the DA.

4 A. Judge, I'm trying to tell you  
5 what Mr. Hermann -- I was told what Mr.  
6 Hermann told the district attorney.

7 Q. What do you understand he told  
8 the DA?

9 A. You asked me how I thought about  
10 how he could have learned this  
11 information. And from November to the  
12 latter part of February, the only thing  
13 that I had was communication from the  
14 district attorney and communications with  
15 Hermann concerning my communication with  
16 the district attorney. I was concerned  
17 about what I felt I wasn't hearing and  
18 what I was hearing in those various  
19 conversations. That's why I put distance  
20 between myself and Bob at that point in  
21 time. I didn't think about how he could  
22 have learned anything because I didn't  
23 know what he knew. All I knew is that he  
24 denied it and I knew that I didn't tell  
25 him anything.

1                   H. Teitelbaum  
2                   I found out in the latter part  
3 of February when members of my commission  
4 and Barry Ginsberg went to the district  
5 attorney's office and heard these two  
6 recordings. And soon after that, I found  
7 out that Bob Hermann told the district  
8 attorney that he saw notes in my  
9 apartment. So that's what I understand he  
10 said. So if you ask me if I thought about  
11 how he found out, Hermann said that's how  
12 he found out.

13           Q.     This was supposed to have taken  
14 place in your apartment on Halloween  
15 night?

16           A.     I don't remember what Hermann  
17 said. My recollection is he said around  
18 Halloween. You probably have the tape or  
19 whatever it is. I don't know if he said  
20 Halloween.

21           Q.     Around Halloween?

22           A.     That's what he said.

23           Q.     Were there notes in your  
24 apartment on that evening?

25           A.     I don't know, Judge.

1                   H. Teitelbaum  
2                   Bob Hermann and I had dinners  
3 frequently between July and mid November.  
4 There was nothing, from my prospective,  
5 that stands out about those dinners. I  
6 can't tell you whether I had notes in my  
7 apartment on that night or some other  
8 night. I did have notes in my apartment  
9 on nights, yes.

10           Q.     Where are those notes?

11           A.     I have those notes shredded,  
12 Judge. I don't keep my crib notes, I  
13 don't keep them. The only notes that I  
14 have are the ones you have. I didn't keep  
15 them.

16           Q.     He claimed to have seen  
17 something on a yellow pad on your cocktail  
18 table, Dopp's inconsistency, DA, something  
19 along those lines.

20                   Did you write that down at any  
21 time? Because you said you never took  
22 notes when you had conversations with the  
23 DA.

24           A.     Judge, let me be -- so that I  
25 can help on this, that is correct, I did

1                   H. Teitelbaum  
2 not take notes at my conversation with the  
3 district attorney because at that meeting  
4 I was doing the talking. Just hear me  
5 out.

6       Q.       Which meeting are you talking  
7 about?

8       A.       The one on the seventeenth.

9       Q.       The 17th of October?

10      A.       Yes.

11               And while I do take notes at  
12 meetings from time to time, generally I do  
13 not because generally at meetings I'm  
14 talking and I can't do both of those  
15 things. Somebody else is doing that. And  
16 typically I have somebody else in a  
17 meeting of the sort of meeting with the  
18 district attorney. I do have notes. I  
19 did take notes in the sense that crib  
20 notes, and you've got examples of them. I  
21 would have talk points before I would have  
22 a conference call, before I would have a  
23 -- speaking to John Feerick very  
24 frequently during that period. I couldn't  
25 say every night but just about every night

1                   H. Teitelbaum  
2 he and I spoke. I would say he was my  
3 first call in the morning and my last call  
4 at night. And I would have, not on every  
5 phone call, but I would have crib notes of  
6 things I wanted to discuss with him. I  
7 would have crib notes generally when I  
8 would meet with the working group of  
9 things I wanted to raise with them. Those  
10 are the notes that I have. You're correct  
11 that I didn't generally take notes during  
12 the meetings, but I had crib notes that I  
13 could refer to at meetings to cover the  
14 things I wanted to discuss.

15         Q.     Did you ever have notes, crib  
16 notes or otherwise, indicating  
17 conversations with the district attorney  
18 and inconsistencies in the Dopp testimony?

19         A.     I don't remember specifically a  
20 set of notes of that sort. But if you're  
21 asking me to bet whether I had that, I'd  
22 bet that I did. If you're asking me to  
23 bet whether I had notes about the Dopp  
24 situation, crib notes -- understand what  
25 I'm defining as crib notes, things that I

1                   H. Teitelbaum  
2    have before the discussion -- I would bet  
3    that I had notes of that sort but I can't  
4    tell you definitively yes I had those  
5    notes and that's what I said.

6           Q.     Do you keep that on the cocktail  
7    table in your apartment?

8           A.     There was no one place that I  
9    kept notes. My apartment was such that I  
10   have a bedroom, a small bedroom and a  
11   small living room and a dining room that's  
12   connected to the living room with a table  
13   and a kitchen. I didn't work in the  
14   bedroom except for the phone calls. So  
15   did I have notes in these other rooms?  
16   Yeah, I'm sure I did.

17          Q.     When you had dinner with Hermann  
18   on or about October 30 or October 31, was  
19   that something prearranged?

20          A.     Judge, I want to be clear. I  
21   don't have any specific memory of having a  
22   dinner with Bob Hermann on the  
23   thirty-first or the thirtieth. I may well  
24   have had a dinner with Bob Hermann on the  
25   thirtieth or the thirty-first. I don't

1                   H. Teitelbaum  
2    know what they were but we didn't  
3    generally have dinners on Thursday and  
4    Fridays. Mondays, Tuesdays, and  
5    Wednesdays were the days that we would  
6    have dinners. It may well be that we had  
7    dinner on the thirtieth or the  
8    thirty-first. The first you tell me he  
9    was in New York City so it couldn't be  
10   that.

11                   Were they prearranged? They  
12   were prearranged in this way --

13        Q.     That you knew he was coming to  
14   dinner?

15        A.     I knew he was coming to dinner.

16        Q.     You had humus and wine and  
17   something on the cocktail table?

18        A.     Sometimes I would, sometimes I  
19   wouldn't. I don't know what you mean by a  
20   cocktail table. I was a guy living alone.

21        Q.     Did you have a table?

22        A.     Yeah, there were three tables in  
23   the living room and a chest that I had in  
24   the living room.

25        Q.     When you knew he was coming,

1 H. Teitelbaum

2 would you keep crib notes exposed?

3 A. I don't remember that. I know  
4 he said that. I know he said that.

5 Q. So you may have had notes  
6 indicating the district attorney and  
7 Dopp's inconsistency?

8 A. I don't have a recollection of  
9 it, Judge. I don't have a recollection of  
10 having dinner with him on the thirtieth or  
11 thirty-first. I don't have a recollection  
12 of whether I had notes in my apartment on  
13 those dates. That was around the time  
14 that the Dopp issue had percolated up.  
15 There was nothing outstanding about any of  
16 these dinners that would cause me to  
17 remember a dinner that occurred almost a  
18 year ago.

19 Q. But you spoke to Feerick about  
20 this and he told you this was Hermann's  
21 explanation. That was not a year ago,  
22 that was right after the testimony that  
23 he --

24 A. Yes, that was the end of  
25 February.

1 H. Teitelbaum

2 Q. And he told you Hermann's  
3 explanation.

4 A. That's correct.

5 Q. Did that not refresh your  
6 recollection as to whether he was in your  
7 apartment or not on October 30 or 31?

8 A. No, no. I had dinner with Bob  
9 Hermann once or twice a week over a period  
10 of four months.

11 Q. But this is significant. This  
12 is the whole basis of why you're here. He  
13 claimed he learned these things from  
14 seeing it on your table.

15 A. Judge, how could I explain this?

16 MR. CAMPRIELLO: I can.

17 It became significant at the end  
18 of February, perhaps. It was not  
19 significant if and when it occurred in  
20 October. So at the end of February it  
21 is not necessarily significant -- at  
22 the end of February, when it becomes  
23 significant, does not necessarily  
24 enable a person to go back in time  
25 when he's having dinners with this

1                   H. Teitelbaum  
2           other guy frequently to say oh, I  
3           remember the one on the thirtieth and  
4           it was on the thirtieth as  
5           distinguished from the one on the  
6           seventeenth and the one on the fifth  
7           and the one on the sixth.  
8           A.     There was nothing that stands  
9           out to me about any dinner that I had with  
10          Bob Hermann.  
11          Q.     But the Feerick conversation  
12          with you --  
13          A.     Yes.  
14          Q.     -- which he then incorporated  
15          into a memo to the staff, to the  
16          commission members --  
17          A.     I didn't see that.  
18          Q.     But you remember him discussing  
19          Hermann's version?  
20          A.     At the end of February.  
21          Q.     And in February did that not  
22          ring a bell with you? Don't forget,  
23          November, early November you were told by  
24          the district attorney that you had been  
25          identified as a source of leaks.

1 H. Teitelbaum

2 A. Yes.

3 Q. This is a couple of days after  
4 you may have had dinner with Hermann at  
5 your home, at your apartment.

6 So nothing of that rings a bell?

7 A. No, Judge, because there was  
8 nothing about what the district attorney  
9 told me that would have caused me to think  
10 that there was something that happened at  
11 a dinner or anything of that sort. The  
12 only time that the issue of a dinner at or  
13 around Halloween 2007 or notes came into  
14 my knowledge was at the end of February  
15 when I was told what Hermann told the  
16 district attorney. I don't remember the  
17 specifics of conversations I had with John  
18 at that point, but I suspect I told him  
19 that I don't remember these, you know, one  
20 dinner from another dinner. There was  
21 nothing outstanding to my mind about these  
22 dinners.

23 Now I'm standing at the end of  
24 February, 2008 and saying, well, on  
25 October 30 or October 29 or October 31 did

1                   H. Teitelbaum  
2 I leave notes out, did I have dinner with  
3 Bob Hermann on those dates. I don't know.  
4 Hermann may be right that we did have  
5 dinner around that time. It wouldn't  
6 surprise me because of the frequency with  
7 which we were having dinner. But I don't  
8 have a specific recollection of a  
9 particular dinner, that dinner that he  
10 spoke about or any other dinner. The two  
11 conversations were two guys talking about  
12 our families, our children, our jobs.

13       Q.     Did you ever tell him that the  
14 commission had run into a roadblock --

15       A.     Yeah, I know he said that. I  
16 don't remember that, I don't remember  
17 that. And I didn't believe --

18       Q.     I said that?

19               MR. CAMPRIELLO: No, he said, "I  
20 know he," meaning Hermann, said that.

21       Q.     Did you ever tell him that?

22       A.     I didn't believe that we had  
23 come into a roadblock, first of all. I  
24 didn't believe it then and I don't believe  
25 it now. It's not a roadblock. I just

1                   H. Teitelbaum  
2    don't remember conversations with Bob, you  
3    know, these kind of casual conversations  
4    with him. But I don't believe I said  
5    that. But I don't have a memory of these  
6    things, a conversation at the end of  
7    October. If you ask me again did I sit  
8    Hermann down and say, Bob, go to the  
9    executive chamber and say something, that  
10   I'd remember, because that was a strategic  
11   decision. I'd remember that.

12        Q.     Did you have at your home any  
13    crib notes with the name of Lynch, with  
14    the name of the composition of that  
15    working group, would that have been on  
16    crib notes at your home?

17        A.     I don't remember what notes  
18    contained concerning the subject. I  
19    suspect that I had notes concerning this  
20    subject.

21        Q.     At your home as opposed to the  
22    office?

23        A.     No, because, Judge, I was  
24    working at night, I was working in the  
25    morning, and I was having telephone calls

1                   H. Teitelbaum  
2 with John and sometimes with other  
3 commissioners from my home.

4           Q.     Did you ever have Gruenberg's  
5 name on the crib notes at your home?

6           A.     Judge, I don't remember what was  
7 in crib notes. Again, I don't remember  
8 but I would bet that I had crib notes  
9 concerning this subject and probably  
10 several crib notes as events unfolded. I  
11 don't know why Gruenberg would pop up on  
12 this because Gruenberg was not part of the  
13 working group.

14          Q.     The question is whether he was  
15 not part of the working group because he  
16 was suspected of being one of the people  
17 leaking.

18          A.     I think I answered that  
19 question. I don't know if John suspected  
20 it but John never indicated to me that he  
21 suspected it. John and I both expressed  
22 affection about David Gruenberg and that  
23 he was a valuable commissioner. I never  
24 heard John say to me that he suspected  
25 David Gruenberg.

1 H. Teitelbaum

2 Q. But you heard his name come up?

3 You said that before. Whether fairly or  
4 unfairly.

5 A. I understand. I have a very  
6 vague memory, and I could be wrong on this  
7 -- I want to be square with you -- I think  
8 it was mentioned to me. I couldn't tell  
9 you who mentioned it. It would have --  
10 and if it had been mentioned to me, I  
11 would have tamped it down because my  
12 experience with the man has been nothing  
13 but positive and I believe that that's  
14 also true of John.

15 Q. You mentioned shredding the crib  
16 notes.

17 Do you have a shredder at home?

18 A. No, I have a shredder at the  
19 office.

20 Q. So you would bring the crib  
21 notes to your office to shred if you had  
22 them at home?

23 A. In other words, I didn't keep  
24 notes at home, Judge. I take a briefcase  
25 back and forth.

1 H. Teitelbaum

2 Q. So the shredding would be you'd  
3 bring it back into the office and shred it  
4 there?

5 A. What happens is -- again, I  
6 can't talk about a specific set of notes.  
7 But generally with papers and not just  
8 notes, other kinds of papers, edits,  
9 marginal notations, I would have these  
10 things shredded not every day but  
11 periodically, yes, at the office.

12 Q. I want to repeat.  
13 Did you ever tell Hermann that  
14 the district attorney was proceeding with  
15 the grand jury investigation?

16 A. No.

17 Q. No, the answer's no?

18 A. No.

19 Q. Do you recall him questioning  
20 you about notes and confirming that the DA  
21 was going forward with a grand jury  
22 investigation or with any investigation?

23 MR. FISCH: Let me go back.

24 Q. Did there come a time where  
25 Hermann may have seen notes, asked you

1                   H. Teitelbaum  
2    about that, and then you said we've run  
3    into a roadblock and then telling him that  
4    the DA was proceeding with a grand jury  
5    investigation?

6           A.    I have no memory of the  
7    roadblock comment. I just have no memory  
8    of it. And as I said, I didn't believe  
9    then and I don't believe now that there  
10   was a roadblock. My prospective was then  
11   and my prospective now is that there was  
12   just another aspect to the investigation  
13   that had opened up.

14                    You also asked did I discuss  
15   with him I take it at around that time,  
16   November, October, 2007, did I discuss  
17   with him that he saw notes? No. I didn't  
18   know that he saw any notes if he did see  
19   any notes until --

20           Q.    I'm not endorsing that story, I  
21   want you to know, but that was his  
22   explanation.

23           A.    I want to be very clear here.  
24   I'm not validating anybody else's  
25   presentation to the district attorney or

1                   H. Teitelbaum  
2 to you. I assume people said to you what  
3 they said to the district attorney. I  
4 just know what I did.

5           Q.     Did you ever tell him the DA is  
6 proceeding with a grand jury  
7 investigation?

8           A.     No.

9           Q.     When John Feerick spoke to you  
10 after having heard the tapes -- do you  
11 recall that, that was sometime in  
12 February?

13          A.     Right.

14          Q.     Did he tell you that he heard  
15 not only Hermann's tapes but Constantine's  
16 tapes?

17          A.     Yes.

18          Q.     Did he tell you in Constantine's  
19 tape he spoke to Hermann after November 1  
20 and asked Hermann why it was Hermann's  
21 wish not to be disclosed as the source of  
22 information?

23                   Let me go back.

24          A.     No, I understand your question.

25                   I don't remember the November 1

1                   H. Teitelbaum  
2     date, Judge, I just don't. I may have  
3     been told about November, that Constantine  
4     had said that to the district attorney. I  
5     just don't remember being told that. I  
6     may have been. I was told that Hermann  
7     said to Constantine that he didn't want  
8     his name disclosed.

9           Q.     Do you recall -- first of all,  
10    were you told the contents of  
11    Constantine's tape other than Hermann said  
12    he didn't want his name known?

13          A.     Generally we didn't have a  
14    transcript, we didn't have the recording  
15    itself, but I was told --

16          Q.     Did you ever see Ginsberg's  
17    notes that he took while listening to the  
18    tapes?

19          A.     I saw the notes but I never read  
20    them because I can't understand his  
21    handwriting. He used his notes to tell  
22    me --

23          Q.     They were then reduced to a  
24    written memo.

25                   Did you ever see his written

1 H. Teitelbaum  
2 memo?  
3 A. No.  
4 Q. Did you ever learn that in  
5 Constantine's tape he asked Hermann about  
6 a week later why did you not want your  
7 name disclosed?  
8 A. A week after November 1?  
9 Q. Yes.  
10 A. I don't have the dates, Judge.  
11 Q. Whatever date, sometime  
12 thereafter.  
13 A. What I was told was that -- no,  
14 the answer's no, I wasn't told that.  
15 Q. Did you ever learn what --  
16 A. This is the first time I'm  
17 hearing it.  
18 Q. Did you ever learn what  
19 Hermann's explanation to Constantine  
20 was --  
21 A. No.  
22 Q. -- as to why he did not want his  
23 name to be disclosed as the source?  
24 A. No.  
25 Q. Did Feerick ever mention it to

1 H. Teitelbaum

2 you?

3 A. I don't remember John ever  
4 mentioning it to me.

5 Q. Where Hermann said you don't  
6 know what Teitelbaum is capable of.

7 A. Oh, yeah, yeah, yeah, I heard  
8 that part, that I would say somebody broke  
9 into my apartment.

10 Q. Before that, you don't know what  
11 he's capable of when he's backed into a  
12 corner.

13 Do you remember that part?

14 A. The one that stands out in my  
15 mind is break into my apartment. I may  
16 have been told the other part. I probably  
17 was.

18 Q. The other part is he's capable  
19 of saying he did not tell me, that I saw  
20 this on his desk, that I came into  
21 possession of it some other way.

22 Do you remember that part?

23 A. I don't remember the seeing it  
24 on his desk or anything. I don't have a  
25 desk, by the way. But I do recall Lloyd

1                   H. Teitelbaum  
2     Constantine's apparently saying to the  
3     district attorney that Bob Hermann told  
4     him that I was capable, if I were backed  
5     into a corner, of -- I don't remember the  
6     business about that I would say anything  
7     about notes. I just don't remember that.  
8     What I remember being told was breaking  
9     into my apartment. That's what I remember  
10    being told. If Constantine said it, he  
11    said it. I don't remember being told  
12    that.

13         Q.     And the part where he said he's  
14    capable of saying that he did not tell him  
15    that information?

16         A.     I don't remember being told  
17    that.

18                 Did Constantine say that?

19         Q.     It's Constantine's testimony.  
20    It's in your office filed in the Ginsberg  
21    notes.

22         A.     I've been walled off from that,  
23    as you know.

24         Q.     In writing the final report,  
25    were you involved in any particular

1 H. Teitelbaum

2 portion or in the entire report?

3 A. I was involved in -- well, the  
4 report was a collaborative effort starting  
5 with staff. Joan Sullivan pulled a lot of  
6 the laboring oar at the beginning. I  
7 don't know at what point Meave had  
8 intersected with it. But eventually a  
9 draft would come to me and I would do  
10 heavy edits on the draft. And then the  
11 report went to the commission and there  
12 were commissioners who edited the report  
13 and quite heavily.

14 Q. There was one portion I believe  
15 at pages twelve to thirteen where  
16 reference is made -- and I have the report  
17 here -- to the date that the DA said he  
18 was going to go forward.

19 A. Yes.

20 Q. Do you recall that part?

21 A. Yes.

22 Q. Were you involved with Feerick  
23 in that portion of the report?

24 A. I remember -- I didn't have an  
25 independent recollection of that

1                   H. Teitelbaum  
2 particular date. I knew about the time  
3 that I spoke to him and I remember where I  
4 was when I spoke to him but I didn't  
5 remember the date. I asked John if he had  
6 a notation of it and he said he did.  
7 Because I remember that I had spoken to  
8 John after my conversation with the  
9 district attorney. And then, as I looked  
10 at the telephone records, they're  
11 consistent with it.

12           Q.     Let me show you pages twelve to  
13 thirteen. I want to show you particularly  
14 the bottom of twelve continuing to page  
15 thirteen.

16           A.     (Reviewing).

17           Q.     I'm talking about October 19 is  
18 the date that --

19           A.     Yeah, yeah.

20           Q.     You had mentioned and you had  
21 testified that the DA went back and forth  
22 on this as to whether or not he was  
23 proceeding or how he was proceeding.

24           A.     He never said to me that he  
25 wasn't proceeding. What he said to me was

1                   H. Teitelbaum  
2    -- and he didn't say it to me, by the way,  
3    it was his minions, that they thought they  
4    had a problem -- and this was in December,  
5    I think it was -- that they had a problem  
6    with the swearing to the jurat and that  
7    they thought they would proceed -- if they  
8    couldn't remedy that situation, they would  
9    nonetheless proceed with charges of  
10   misdemeanors.

11                   You had asked me earlier on was  
12   there a point in time that I learned that  
13   the district attorney was not going to  
14   proceed.

15           Q.    No, no.  If I did -- that he  
16   thought it was premature.

17           A.    I know you asked me that, Judge,  
18   but he -- I thought you had asked me did  
19   there come a time when I learned that the  
20   district attorney was not going to  
21   proceed.  I think you asked me that.  And  
22   I said to you yes, at the point in time  
23   that he issued his second report it  
24   indicated that he had granted immunity to  
25   Dopp and it was over.  That's when I

1 H. Teitelbaum

2 learned about it.

3 Q. I just question about the dates  
4 that you have in your final report because  
5 there's much that happened after the  
6 seventeenth and after the nineteenth and  
7 yet one reading the report would believe  
8 that that was the end of it, October 19,  
9 after reviewing Dopp's testimony that he  
10 did not review all of Dopp's testimony at  
11 that time --

12 A. He did.

13 Q. No, according to --

14 A. I don't know what --

15 MR. CAMPRIELLO: You're saying  
16 review, you're saying you gave it to  
17 him. Whether he read it or not is  
18 another story.

19 Q. You presented everything to him  
20 at the first meeting.

21 A. I also gave him the exhibit, by  
22 the way.

23 Q. My question is you have, on  
24 October 19, after reviewing Dopp's  
25 testimony to the District Attorney Soares,

1                   H. Teitelbaum  
2 informed the commission that the ODA would  
3 present evidence about Dopp's testimony.

4           A.     Right.

5           Q.     Things took place after  
6 October 19?

7           A.     What do you mean by things.

8           Q.     He didn't present it --

9           A.     I don't think he ever presented  
10 it to a grand jury. I have no knowledge  
11 of him ever presenting anything to a grand  
12 jury.

13          Q.     Was there any suggestion by  
14 staff that more should have been said  
15 about that other than October 19?

16          A.     No.

17                   Remember, Judge -- the answer's  
18 no. The focus of this report -- it's  
19 really technically a Notice of Reasonable  
20 Cause. The focus of the Notice of  
21 Reasonable Cause is with respect to  
22 charges against four individuals. None of  
23 those charges concerns the district  
24 attorney and none of those charges  
25 concerns the July 22 episode.

1 H. Teitelbaum

2 There was a point in time before  
3 this report was issued where we determined  
4 that there was just no evidence that was  
5 sufficient to pursue that area.

6 Q. Was the fact that allegations  
7 had been made against you a factor in the  
8 writing of that particular section? Did  
9 you discuss that with John Feerick?

10 A. The allegations about the  
11 district attorney or the executive  
12 chamber?

13 Q. The fact that there had been  
14 allegations about you and those  
15 allegations had been made prior to the  
16 writing and completion of the report;  
17 correct? This report was issued in the  
18 summer of 2008.

19 A. I just want to be clear about  
20 the allegations you're talking about.  
21 There are a lot allegations that were made  
22 about me in the press.

23 Q. The allegations of you leaking  
24 information to Hermann.

25 A. No, the answer's no.

1 H. Teitelbaum

2 MR. CAMPRIELLO: I don't think  
3 there was a whole question there.

4 A. The question is: Was that  
5 allegation by the executive chamber, the  
6 allegation that I had leaked to Hermann --  
7 the allegation made by the executive  
8 chamber, did that influence the writing of  
9 this report, that was your question?

10 Q. Was it discussed with John  
11 Feerick --

12 A. No.

13 Q. You don't know the rest of the  
14 question?

15 A. It had nothing to do with the  
16 report. Is somebody telling you it had  
17 something to do with the report? It had  
18 nothing to do with the report.

19 MS. OSTERER: Mr. Teitelbaum, is  
20 it fair to say that you and Mr.  
21 Hermann had a falling out?

22 THE WITNESS: That's fair to  
23 say.

24 MS. OSTERER: When did that  
25 occur?

1                   H. Teitelbaum

2                   THE WITNESS: It occurred

3                   incrementally. It occurred in mid

4                   November. And it wasn't -- I would

5                   put it differently than a falling out.

6                   I would say that, in mid November,

7                   after having numerous conversations

8                   with Hermann and having heard what the

9                   district attorney told me and having

10                  heard Hermann's denial, I concluded

11                  that I wasn't being given all the

12                  pieces to the puzzle about this

13                  episode, and that was distressing to

14                  me. So my relationship with Hermann

15                  at that point declined, I'll put it

16                  that way. We were in much less

17                  communication. I would see him in the

18                  gym but the conversations were rather

19                  perfunctory and I would suspect that

20                  he knew that I was upset and I may

21                  have professed to him over the

22                  telephone that I just didn't

23                  understand what was going on here.

24                  When I had heard what he said to

25                  the district attorney at the end of

1                   H. Teitelbaum  
2       February, I was very angry and hurt  
3       and it created a rupture in the  
4       relationship, a serious, serious  
5       rupture.  
6       Q.     Did you ever speak to him about  
7       that?  
8       A.     I did, I did.  
9       Q.     What did he say?  
10      A.     He told me he wanted to put the  
11     relationship back, that we've been friends  
12     for close to forty years, that there were  
13     a lot of years and the families knew each  
14     other, things of that sort.  
15      Q.     Did he say anything further  
16     about what he had testified to before the  
17     DA?  
18      A.     He said he was sorry.  
19      Q.     I'm sorry?  
20      A.     He said he was sorry.  
21      Q.     He was sorry. But did he  
22     explain that any further? Did you ask him  
23     about that?  
24      A.     No.  
25             You know, Judge, you walked out

1                   H. Teitelbaum  
2 of the room today, you left notes here,  
3 you left your notes did. This gentleman  
4 was in the room. If you had found out  
5 that I looked at your notes, is there  
6 anything else we would have to discuss?  
7 There's nothing else to discuss really.  
8 It's something that one shouldn't do.

9           Q.     I said to you before that I was  
10 not, by talking to you about Hermann's --  
11 one of Hermann's versions, endorsing that.

12          A.     I'm not endorsing it and I'm not  
13 not endorsing it. I can only tell you  
14 what I know and what I did and what I  
15 didn't do. As I told you, my relationship  
16 with the executive chamber was not good.  
17 In my own view and the view of other  
18 people who knew what I was doing in this  
19 investigation, that probably speaks to the  
20 integrity of the investigation. Because  
21 all I was doing was my job and trying to  
22 get all the documents and trying to get  
23 all the testimony and have it under oath.  
24 I'm not telling you anything that you're  
25 not familiar with yourself. And sometimes

1                   H. Teitelbaum  
2 people become angry. It was a highly  
3 political situation. People were  
4 concerned about the governor and  
5 protecting the governor. People were  
6 accusing me of being in the governor's  
7 pocket, they were accusing me of being in  
8 the governor's pocket from the get-go. I  
9 felt serious pressure from the executive  
10 chamber to complete the investigation  
11 within a series of weeks. They weren't  
12 happy that I wasn't doing that.

13                   MR. CAMPRIELLO: If you look at  
14 the Meave Tooher memorandum, it talks  
15 about the district attorney having  
16 accepted the investigation. At the  
17 end she reports on the rest of the  
18 meeting where the people in the  
19 executive chamber made certain  
20 suggestions to Mr. Teitelbaum and he  
21 said we're not going there, we're not  
22 going to talk about that.

23                   A. From that point on, it was  
24 downhill. When I told them that they  
25 couldn't represent people in the executive

1                   H. Teitelbaum  
2   chamber, they were very angry, they very  
3   angry. When I told them -- when I told  
4   Lloyd, because I went to Lloyd about this,  
5   I said, Lloyd, you know, you claim  
6   privilege on one hundred nine documents.  
7   If those documents are not incriminatory,  
8   give them to me because it's going to look  
9   bad for everybody and I can't sit here  
10   with that claim of privilege because I  
11   don't believe that claim of privilege is  
12   bona fide. When I went to that commission  
13   in early January or mid January and said  
14   we can't just sit here with that because  
15   they refused to give me those documents  
16   and I called him, after I was authorized  
17   to file an enforcement proceeding, they  
18   were again furious with me. I got the  
19   documents but my sense of it was they  
20   wanted me out of the way. They wanted me  
21   out of the way because they thought I  
22   would jeopardize the political standing of  
23   the governor.

24                   Believe me, if I could have  
25   avoided this investigation, I would have

1                   H. Teitelbaum  
2   avoided it.  It started five or six days  
3   after I arrived there, the inquiry.  I  
4   knew it was going to be very difficult.  I  
5   didn't know how difficult it was going to  
6   be.  It was not inconceivable to me that I  
7   was being set up here to get me out.  And  
8   I didn't know until the end of February  
9   what Hermann had said to the district  
10  attorney.  I couldn't figure out where all  
11  this was coming from.  But I knew I was  
12  not on the most favored nation list.

13       Q.     I was looking at my watch for  
14  two reasons.  Number one, because your  
15  attorney was kind enough to make  
16  arrangements for this early interview  
17  because he has something pressing.  That  
18  was one reason.

19               The other reason was if I had to  
20  summarize what almost three hours was  
21  devoted to today, it boils down to whether  
22  all of these problems you were having with  
23  the chamber were shared with Hermann,  
24  whether you told him about problems with  
25  production of records, with witnesses,

1                   H. Teitelbaum  
2 with all of these issues about why the  
3 governor and other people could not be  
4 represented by these attorneys, that the  
5 DA was proceeding, this is, in a nutshell,  
6 what this is about; that you had used him  
7 as a conduit, that he bore your message to  
8 members of the chamber, that he had  
9 information which he should never have  
10 had. And I must tell you this, there is  
11 no question about that. Okay? That's  
12 what the three hours is about.

13           A.     I don't know, Judge, I don't  
14 know what information he had. I don't  
15 know how he got it. I don't know. I can  
16 only tell you what I know about myself,  
17 that's all I can tell you.

18                   The point I'm trying to make  
19 here is I was in the vortex of a political  
20 situation and there were people who were  
21 embarrassed by what I did, they were very  
22 embarrassed by what I did. And I believe  
23 they wanted me out of the way.

24                   Now, what that has to do with  
25 Bob Hermann, I can't tell you. I didn't

1                   H. Teitelbaum  
2    need a conduit to the executive chamber.  
3    I was talking directly to the executive  
4    chamber.

5           Q.     That is correct.

6           A.     So I didn't need a conduit.  And  
7    I was talking mamalushen to the executive  
8    chamber.  I was not a patsy and I enraged  
9    them.  Now, why would I use a conduit with  
10   these people?  Why would I need a conduit  
11   for?  I was confronting them head on.  We  
12   filed litigation against them head on.  
13   And if I was using Hermann as a conduit,  
14   why would I go and have nothing to do with  
15   them?

16          Q.     Two parts.  Whether you were  
17   using him or telling him information which  
18   he should not have had which he then  
19   conveyed to the chamber.  The record is  
20   clear on what your answer is.

21          A.     You can understand my feelings  
22   about this.  This comes after one year of  
23   accusations, after one year of accusations  
24   which I couldn't respond to.

25                   MS. OSTERER:  When you and Mr.

1                   H. Teitelbaum  
2           Hermann were both in Albany, did you  
3           ever commute to work together?  
4           THE WITNESS: No.  
5           MS. OSTERER: Did he have --  
6           THE WITNESS: No, I don't think  
7           so.  
8           MS. OSTERER: Did he have the  
9           keys to your apartment?  
10          THE WITNESS: No. He could have  
11          gotten keys to my apartment because  
12          they needed somebody -- I don't know  
13          if they needed it. But Wood Lake  
14          where I lived, when I entered into the  
15          lease, I don't know if they required  
16          it but I said that if I'm not around  
17          and you need to get into my apartment  
18          or if Hermann needs to get into my  
19          apartment, you can give him the keys.  
20          But he never used that, as far as I  
21          know. He never used that. I don't  
22          even think he knew it.  
23          MS. OSTERER: When he would have  
24          dinner at your apartment, he would not  
25          let himself in with a key?

1 H. Teitelbaum

2 THE WITNESS: No.

3 MS. OSTERER: Would you let him  
4 in?

5 THE WITNESS: Sometimes.  
6 Sometimes I'd leave the door so it was  
7 unlocked if I was doing something.

8 MS. OSTERER: Was it ajar or  
9 unlocked?

10 THE WITNESS: I don't remember.  
11 Probably both.

12 MS. OSTERER: Did you do that  
13 typically when he would be coming over  
14 for dinner?

15 THE WITNESS: There was no  
16 typical. If I was in the kitchen, I  
17 might not have. There was no typical  
18 to it. I think it happened more than  
19 once certainly. Because I was on the  
20 phone a lot. I don't know how many  
21 times it happened but sometimes the  
22 door was locked. I didn't have a set  
23 procedure about door locking and the  
24 door ajar and not locked. I assume  
25 all of that took place. But Bob could

1 H. Teitelbaum  
2 come into my apartment. I didn't have  
3 a problem with his just opening the  
4 door and just walking in.

5 MS. OSTERER: Did you have a  
6 conversation with Richard Rifkin on or  
7 about November 1, 2007 about the  
8 representation of the governor, the  
9 then governor?

10 THE WITNESS: I don't remember.

11 Do you have a note that I can  
12 look at?

13 MS. OSTERER: We have Dean  
14 Feerick's diary of that date.

15 THE WITNESS: Then I must have  
16 told John.

17 MS. OSTERER: Is it possible that  
18 you could have had a conversation on  
19 or about that date, it came into  
20 Richard Rifkin that David Nocenti and  
21 Peter Pope are unable to represent the  
22 governor?

23 THE WITNESS: If John's got it,  
24 John's pretty accurate.

25 I think you're trying to fix the

1                   H. Teitelbaum  
2           time of this thing, of when we  
3           formulated this view. And there's a  
4           correspondence of Richard Rifkin to me  
5           I think it's in October, October 24  
6           or 23 or 22 because when Soares called  
7           me -- no, excuse me. When I met with  
8           Soares and was told by Soares on the  
9           nineteenth that he was going forward,  
10          we had a tentative date with the  
11          governor to take his testimony and I  
12          called Richard Rifkin or he may have  
13          called me in the course of that  
14          conversation and told him that we  
15          would have to adjourn the governor's  
16          testimony without date. And he asked  
17          me why and I said something has come  
18          up. He wrote me a letter reflecting  
19          the fact that, since sometime in  
20          September, we had been discussing  
21          representation of executive chamber  
22          people and reflecting the position  
23          that I had articulated to him.

24                    Do you have that letter?

25           Q.       Which one is that?

1                                   H. Teitelbaum

2           A.     It's a letter from Rifkin to me.

3     There were two letters on this subject of

4     representation from Rifkin to me.  And

5     then there was an e-mail from me to Rifkin

6     on this subject.  I think the first letter

7     he sent me reflected the fact, and it was

8     part of a larger letter, reflected the

9     fact that we had been discussing this

10    issue since September.  And the reason I

11    know this is not from any independent

12    memory, it's because I reviewed the

13    correspondence with the executive chamber

14    when this came up.  I think it reflected

15    the fact that we had been discussing this

16    since September and reflected the view of

17    the commission on the subject.  Then he

18    sent me a second letter saying that he

19    vehemently disagreed with the position but

20    that they would accede to it, that people

21    would have to spend their own money on

22    hiring private counsel.  And I sent an

23    e-mail -- and then he laid out what he

24    thought were the rules that I was

25    insisting on and I had sent him back an

1                   H. Teitelbaum  
2 e-mail clarifying how I wanted this done.  
3                   So it may well have been that,  
4 on November 1, this was discussed with  
5 them because I don't remember whether we  
6 discussed the governor particularly in  
7 these other conversations. I just dealt  
8 with the entire executive chamber. I  
9 didn't carve out the governor. The  
10 governor was part of the executive chamber  
11 so what I was saying about the executive  
12 chamber and people being represented  
13 included the governor. It may have been  
14 that he called me specifically. I don't  
15 have a memory of this, but if John says  
16 it, I'm sure it's true, where he asked  
17 about Pope and Nocenti and I suspect I  
18 told him that they couldn't represent him.  
19                   Is that what his note says, that  
20 I couldn't represent him?  
21                   MS. OSTERER: Unable to, unable  
22 to represent governor.  
23                   THE WITNESS: I told him that.  
24                   MS. OSTERER: The note says that  
25 you told Richard Rifkin that.

1 H. Teitelbaum

2 THE WITNESS: I told him that  
3 before November. There's  
4 correspondence that reflects that.

5 MR. CAMPRIELLO: We're operating  
6 under the assumption that you have the  
7 correspondence. I don't know what you  
8 have or don't have.

9 MS. OSTERER: With respect to the  
10 documents that the commission wanted  
11 from the executive chamber in the  
12 summer of 2007, was that ever stated  
13 publicly?

14 THE WITNESS: Give me a time in  
15 the summer.

16 MS. OSTERER: Prior to September.

17 THE WITNESS: Well, the  
18 documents that we wanted from the  
19 executive chamber prior to August 14.  
20 When I said there was an inquiry  
21 before an investigation, the inquiry  
22 involved getting the files from the  
23 district attorney, your office, and I  
24 think the state police. We did not  
25 ask for -- and the documents that were

1                   H. Teitelbaum  
2           turned over by the state police to  
3           these various investigator agencies.  
4           I was not authorized to go beyond  
5           those documents. On the basis of  
6           those documents, we sent a memorandum,  
7           the staff provided a memorandum to the  
8           ethics commissioners saying why we  
9           believed, on the basis of what was in  
10          those documents and on the basis of  
11          the attorney general's report, that we  
12          thought an investigation should be  
13          commenced and that would require  
14          sending out what are called  
15          fifteen-day letters to at that point  
16          three individuals.

17                   On August 14, we formulated a  
18          document request and sent it over to  
19          the executive chamber. I understand,  
20          from Constantine's testimony to the --  
21          not testimony but his interview with  
22          the district attorney, that he said  
23          that Hermann went to him on  
24          August 6, 7, or 8 about documents. We  
25          hadn't even formulated a document

1                   H. Teitelbaum  
2           request at that point. I think I got  
3           that right. We didn't have a document  
4           request at that point.

5                   Now, to answer your question, I  
6           know there were newspaper reports  
7           about e-mails and Blackberries but I  
8           don't know when those things came out.  
9           I just don't. I don't know.

10                   MS. OSTERER: Did the commission  
11           ever state publicly what documentation  
12           it sought?

13                   THE WITNESS: The commission  
14           didn't talk to the press unless  
15           somebody was talking to the press.

16                   MS. OSTERER: Nothing official?

17                   THE WITNESS: No. The attorney  
18           general's office knew it. I think  
19           there was a newspaper report that I  
20           had sent a letter to the AG about  
21           documents but I just don't remember  
22           when that news article appeared. It  
23           appeared very quickly after I sent the  
24           letter.

25                   MS. OSTERER: Did you ever state

1                   H. Teitelbaum  
2           to Robert Hermann, in words or  
3           substance, that what the executive  
4           chamber was telling the public or was  
5           telling the newspapers was not  
6           accurate?

7                   THE WITNESS: I don't remember  
8           saying that.

9                   MS. OSTERER: Did you ever state  
10          to Robert Hermann, in words or  
11          substance, that the commission had  
12          sought the production of particular  
13          records?

14                   THE WITNESS: You mean  
15          particular records, specific, like a  
16          memorandum or just that the commission  
17          was seeking records?

18                   MS. OSTERER: We could start with  
19          that.

20                   THE WITNESS: It would be  
21          extraordinary if Hermann didn't know  
22          that, but I don't remember saying to  
23          him that -- I mean, anybody who knows  
24          anything about investigations knows  
25          you look for records.

1 H. Teitelbaum

2 MS. OSTERER: The question was  
3 about whether you stated that.

4 THE WITNESS: I don't remember  
5 that.

6 Q. I'm sorry, the answer is you  
7 don't remember?

8 A. I don't remember that, I don't  
9 remember one way or the other.

10 THE WITNESS: You mean back in  
11 the summer?

12 MS. OSTERER: Certainly.

13 THE WITNESS: I don't remember  
14 my conversations with Bob Hermann.  
15 None of them were memorable, except in  
16 November.

17 MS. OSTERER: Did you ever state  
18 to anyone outside of the commission  
19 that the commission was seeking the  
20 production of particular documents?

21 THE WITNESS: When you say,  
22 "particular documents," I'm looking at  
23 the word "particular," you mean we  
24 were looking at a memorandum, we were  
25 looking at --

1 H. Teitelbaum

2 MS. OSTERER: Was the executive  
3 chamber made aware that particular  
4 documents were being sought?

5 THE WITNESS: Yes, yeah, the  
6 executive chamber was made aware that  
7 we were looking for a particular  
8 document, sure.

9 MS. OSTERER: And the question is  
10 whether you ever stated to anyone  
11 outside the commission or outside the  
12 executive chamber that those  
13 particular documents were being  
14 sought?

15 THE WITNESS: Yes.

16 MS. OSTERER: Who did you state  
17 that to?

18 THE WITNESS: Lawyers that were  
19 representing witnesses. For example,  
20 we wanted Blackberry information, that  
21 kind of thing, which the executive  
22 chamber essentially, and there's  
23 correspondence on this, the executive  
24 chamber referred us to the lawyers  
25 that were representing these

1                   H. Teitelbaum  
2           individuals and I think the letter  
3           said, before we get these materials,  
4           it should be reviewed by the executive  
5           chamber. We were copied on that. It  
6           was to lawyers.

7                   MS. OSTERER: Did you ever relate  
8           the circumstance of having to tell the  
9           attorneys to Bob Hermann?

10                   THE WITNESS: You mean telling  
11           the attorneys that they should give me  
12           materials?

13                   MS. OSTERER: Yes.

14                   THE WITNESS: No, not that I  
15           remember.

16                   MS. OSTERER: Did you ever state  
17           to Robert Hermann, in words or  
18           substance, that there was a dispute  
19           between the executive chamber and the  
20           commission over the production of  
21           documents?

22                   THE WITNESS: I don't remember  
23           that. Bob Hermann at one point said  
24           to me, which was a mantra that I had  
25           heard from the executive chamber,

1                   H. Teitelbaum  
2           something along the lines of -- I'm  
3           paraphrasing now -- kind of hurry up  
4           and finish this investigation, that  
5           there was a public interest in getting  
6           it done. I don't remember whether he  
7           ever indicated to me that he knew that  
8           there was controversy. I just don't  
9           remember that. I don't know whether  
10          he knew that, but I don't remember  
11          telling him.

12          Q.     Hermann may have said that  
13          people in the chamber said to hurry up  
14          with the production of records?

15          A.     No, Hermann said to me -- not  
16          production of records. Hermann said to me  
17          at some point something along the lines of  
18          I should hurry up and conclude this  
19          investigation, it's negatively impacted  
20          the government or something like that.

21          Q.     Why to Hermann?

22          A.     He's telling me. He's saying  
23          this to me.

24          Q.     He's telling to you that they're  
25          saying to him?

1 H. Teitelbaum

2 A. No, no, he just said it, he  
3 didn't say they were saying it to him. He  
4 just said that to me.

5 Q. To what, hurry up with records?

6 A. That I should conclude the  
7 investigation because it's negatively  
8 impact the operation of the government.

9 Q. Did you ever tell him that it's  
10 none of your business?

11 A. No, what I told him is I'm going  
12 to do the investigation -- this is my  
13 mantra. I don't remember saying this to  
14 him but I suspect I did, that I'm going to  
15 do this investigation properly and  
16 thoroughly and that kind of thing.

17 Q. I'm not sure because I thought I  
18 had asked you earlier, and maybe it's my  
19 recollection that's faulty, did you ever  
20 discuss with Hermann records or category  
21 of records that you wanted produced from  
22 the executive chamber?

23 A. No, not that I remember.

24 Q. Did you ever discuss with  
25 Hermann witnesses that you wanted to

1 H. Teitelbaum

2 examine before the commission?

3 A. Not that I remember, no.

4 Q. I'm sorry?

5 A. I said not that I remember, no.

6 Q. Would the names of witnesses you  
7 wanted to examine have been an appropriate  
8 subject for you to discuss with Hermann?

9 A. I don't believe I discussed it  
10 with him.

11 Q. Because you said not that you  
12 remember.

13 A. Judge, you're asking me about  
14 conversations that occurred a year ago. I  
15 don't believe I discussed with Bob Hermann  
16 witnesses that we wanted to take,  
17 witnesses that we did take, specific  
18 documents, controversy with the executive  
19 chamber. I don't believe I had any of  
20 those conversations. I don't believe I  
21 had any of those conversations. And I  
22 know I didn't have a conversation with him  
23 about the district attorney. And I  
24 strongly doubt, I strongly doubt that I  
25 had any of the conversations on the other

1                   H. Teitelbaum  
2 subjects that I've just enumerated. But  
3 I'm a careful lawyer and these things  
4 occurred a year ago. So if you asked me  
5 do you have a memory of doing that? The  
6 answer's no. Are you certain that you  
7 didn't do it? I'm near certain, but it  
8 occurred a year ago and I don't have  
9 specific recollection of conversations  
10 with Bob Hermann.

11           Q.     At the very beginning of this  
12 examination when I referred to the letter  
13 of the DA, you were very fastidious about  
14 the use of the word "inappropriate."

15           A.     Yes.

16           Q.     Would such conversations about  
17 what witness the commission was interested  
18 in have been an appropriate conversation  
19 for you to have had with Hermann?

20           A.     My approach to the investigation  
21 was not to have those sorts of  
22 conversations.

23           Q.     Would it have been an  
24 inappropriate discussion to have with  
25 Hermann?

1 H. Teitelbaum

2 A. Not so much that it would be  
3 inappropriate, it would be inconsistent  
4 with how I conduct investigations.

5 Q. Would it have been wrong?

6 A. It would have been inconsistent  
7 with how I conduct investigations. I told  
8 my staff not to have conversations of that  
9 sort with anybody and that has been my  
10 modus of operation.

11 Q. Using that as a parameter,  
12 should you have not have had such  
13 conversations with Hermann about what  
14 witnesses the commission was interested  
15 in?

16 A. According to my standard --

17 Q. Yes.

18 A. -- I believe and I wouldn't  
19 have.

20 Q. So the answer is you should not  
21 have advised Hermann about what witnesses  
22 the commission was interested in?

23 A. According to the rules of  
24 Teitelbaum, yes.

25 Q. Would it have been inappropriate

1                   H. Teitelbaum  
2 or wrong for you to have discussed with  
3 Hermann categories of documents or  
4 documents that the commission was  
5 interested in receiving from the chamber?

6           A.     That should not be discussed.

7           Q.     Would it have been inappropriate  
8 to discuss with Hermann privileges that  
9 lawyers were considering invoking with  
10 regard to representation of particular  
11 witnesses?

12          A.     You mean executive chamber  
13 lawyers?

14          Q.     Yes.

15          A.     Telling Hermann that people in  
16 the executive chamber are considering  
17 invoking a privilege?

18          Q.     And they should not be or that  
19 they were considering this, did you have  
20 any such discussions with him?

21          A.     No, not that I remember. I  
22 don't remember those discussions.

23                   Judge --

24          Q.     So you might have told him  
25 something that was inappropriate?

1 H. Teitelbaum

2 A. I don't believe, and I can't say  
3 this as strongly as I'm saying it, I don't  
4 believe I had those conversations.

5 MR. CAMPRIELLO: Also, Judge --

6 MR. FISCH: Please, let him  
7 finish. He's a big boy, he's an  
8 attorney.

9 MR. CAMPRIELLO: These are trick  
10 questions and I've let it go on and on  
11 and on, but these are trick questions  
12 and they have been asked over and over  
13 and over.

14 MR. FISCH: How is it a trick  
15 question?

16 MR. CAMPRIELLO: Because you're  
17 asking him to accept your definition  
18 of words.

19 MR. FISCH: No, would that have  
20 been wrong by his standard.

21 A. Judge, let me answer your  
22 question.

23 You're asking me about  
24 conversations that occurred or supposedly  
25 might have occurred, somebody may have

1                   H. Teitelbaum  
2   told you occurred almost a year ago. And  
3   I said I think more than once here that  
4   there was nothing in my conversations with  
5   Bob Hermann that stand out in my mind as  
6   memorable, important, except two guys  
7   talking about the subjects I've described  
8   to you.

9                   Now, I have standards on how to  
10   conduct investigations and I've explained  
11   them to you. If telling Bob Hermann that  
12   lawyers in the executive chamber were  
13   contemplating invoking a privilege, and I  
14   don't know what that means, that they were  
15   contemplating it, I would not have told  
16   him that according to my standards.

17            Q.    And should not have?

18            A.    According to my standards, I  
19   would not tell it to him, I don't believe  
20   I told it to him, and that's not how I  
21   conduct my affairs when it comes to  
22   investigations. I can't be more clear  
23   than that, Judge.

24                   I hope I'm answering your  
25   question. It's the best I can do.

1 H. Teitelbaum

2 MS. OSTERER: Going back to your  
3 earlier answer that Bob Hermann may  
4 have said to you that this  
5 investigation should hurry up and  
6 conclude, did you ever state to him,  
7 in words or substance, that it's the  
8 executive chamber that should hurry up  
9 and produce the records?

10 THE WITNESS: I don't believe I  
11 said that, no. I don't remember that.  
12 I think my response probably was the  
13 response that I gave you, which is I  
14 do the investigation properly and  
15 thoroughly and that's the way I'm  
16 going to do it.

17 Telling me to hurry up, by the  
18 way, was not the first time that's  
19 been told to me by somebody in the  
20 Spitzer administration.

21 MS. OSTERER: Did you ever state  
22 to Robert Hermann, in words or  
23 substance, that you were not pleased  
24 about the fact that Rifkin was the  
25 liaison with the commission?

1 H. Teitelbaum

2 THE WITNESS: I've already  
3 answered that.

4 MS. OSTERER: I don't believe it  
5 was phrased that way.

6 THE WITNESS: I never said that,  
7 I didn't feel that, and I don't feel  
8 that way now. I like Richard Rifkin.  
9 I'm going to lecture for him in  
10 November before the state bar  
11 association.

12 MS. OSTERER: Did you ever state  
13 to Robert Hermann, in words or  
14 substance, that the district attorney  
15 is looking into alleged  
16 inconsistencies made by Darren Dopp?

17 THE WITNESS: No.

18 MS. OSTERER: Did you ever state  
19 to Robert Hermann, in words or  
20 substance, that any notification had  
21 been made to the district attorney?

22 THE WITNESS: Did I tell him in  
23 words or substance that --

24 MS. OSTERER: A notification had  
25 been sent to the district attorney

1 H. Teitelbaum

2 regarding Darren Dopp.

3 THE WITNESS: When you say,

4 "notification" --

5 MS. OSTERER: A communication as

6 broadly as you would want to define

7 that.

8 THE WITNESS: No.

9 MS. OSTERER: Did you ever state

10 to Robert Hermann, in words or

11 substance, that the commission's

12 investigation was stalled at a certain

13 point?

14 THE WITNESS: I think I answered

15 that.

16 MS. OSTERER: Could you answer it

17 again, please.

18 THE WITNESS: I will.

19 I don't remember using a word

20 such as "stalled." I didn't believe

21 that we were stalled. And I have no

22 recollection of a conversation of that

23 kind.

24 MS. OSTERER: Did you ever state

25 to Robert Hermann, in words or

1                   H. Teitelbaum  
2           substance, that the governor should be  
3           apprised that specific individuals  
4           were in a conflicted situation?

5                   THE WITNESS: No.

6                   MS. OSTERER: Did you ever state  
7           to Robert Hermann, in words or  
8           substance, that the commission had  
9           formed a committee or a subcommittee  
10          or a working group to deal with this  
11          investigation?

12                  THE WITNESS: I don't remember  
13          one way or the other whether I had  
14          such a conversation with him. But as  
15          I said, there was out there in  
16          October. There's a Dicker article  
17          which talks about it. It doesn't give  
18          the names but Dicker had the names.  
19          He didn't have the right names but he  
20          had names.

21                  MS. OSTERER: Did you ever state  
22          the names to Robert Hermann prior to  
23          October 22, 2007?

24                  THE WITNESS: I don't have any  
25          memory of doing that.

1 H. Teitelbaum

2 MS. OSTERER: Did you ever state  
3 to Robert Hermann, in words or  
4 substance, that it was suspected that  
5 Commissioner Gruenberg had been  
6 leaking information?

7 THE WITNESS: I didn't brief  
8 that Gruenberg was leaking  
9 information. I wouldn't have said  
10 that to Bob Hermann, no.

11 MS. OSTERER: It's not a question  
12 that you believed it --

13 THE WITNESS: That somebody has  
14 accused Gruenberg of leaking?

15 MS. OSTERER: Yes, or that it was  
16 thought that perhaps he was leaking.

17 THE WITNESS: No. I don't  
18 remember that at all.

19 MS. OSTERER: Did you ever state  
20 to Robert Hermann, in words or  
21 substance, that he might state that he  
22 had come upon the information  
23 regarding the district attorney's  
24 investigation inadvertently?

25 THE WITNESS: Say it again?

1 H. Teitelbaum

2 MS. OSTERER: Did you ever state  
3 to Robert Hermann in essence that he  
4 might state that, instead of your  
5 telling him, that he had come across  
6 this information inadvertently?

7 THE WITNESS: No.

8 MS. OSTERER: Did you have a  
9 discussion with Robert Hermann about  
10 who would tell Dean Feerick that these  
11 allegations had been made?

12 THE WITNESS: Who would tell  
13 Dean Feerick? You mean --

14 MS. OSTERER: Let me backtrack.

15 The district attorney is  
16 apprised by members of the executive  
17 chamber that Robert Hermann made these  
18 allegations; correct?

19 THE WITNESS: Whatever they were  
20 told, they were told.

21 MS. OSTERER: And then it was  
22 conveyed to you, as I understand it,  
23 that you had been named as the source  
24 of these allegations.

25 THE WITNESS: Yes.

1 H. Teitelbaum

2 MS. OSTERER: At or about that  
3 time, did you have a discussion with  
4 Dean Feerick that these allegations  
5 had been made, that your name had been  
6 mentioned in connection with this?

7 THE WITNESS: I've already  
8 answered that question.

9 MS. OSTERER: And the answer is  
10 yes?

11 THE WITNESS: Yes.

12 MS. OSTERER: Did you at or about  
13 that time in November of 2007 have a  
14 conversation with Robert Hermann about  
15 whether you would tell Dean Feerick  
16 about this?

17 THE WITNESS: I don't recall. I  
18 don't remember.

19 MS. OSTERER: Is it possible?

20 THE WITNESS: I don't remember  
21 whether I said that -- I don't  
22 remember whether I said to Hermann  
23 that I've disclosed this communication  
24 with the DA to John Feerick. I just  
25 don't remember whether I did that. Is

1                   H. Teitelbaum  
2           it possible? You know, anything is  
3           possible. I don't have a memory of  
4           discussing that with Hermann during  
5           the November period. All I remember  
6           that I did disclose it to John  
7           Feerick.

8           Q.     Just to add another dimension to  
9           that, that you told Hermann that you  
10          wanted to be the one to talk to Feerick  
11          about this rather than Rifkin telling  
12          Feerick about these allegations.

13          A.     I don't remember that, no.

14                   MS. OSTERER: Did you ever state  
15          to Robert Hermann, in words or  
16          substance, that he should relay any  
17          messages on your behalf to Lloyd  
18          Constantine?

19                   THE WITNESS: No.

20                   MS. OSTERER: Did you ever state  
21          to Meave Tooher, in words or  
22          substance, that you had been speaking  
23          to Robert Hermann with the  
24          understanding that Hermann would bring  
25          information to the executive chamber?

1 H. Teitelbaum

2 THE WITNESS: I don't remember  
3 saying that to Meave Tooher at all.

4 MS. OSTERER: Did you ever  
5 state --

6 THE WITNESS: Because it didn't  
7 occur.

8 MS. OSTERER: Did you ever state  
9 to Meave Tooher that you had back  
10 channels for dealing with the  
11 executive chamber?

12 THE WITNESS: I've already  
13 answered that.

14 MS. OSTERER: I don't have  
15 anything else.

16 Q. You said that Hermann, in an  
17 effort to repair the relationship, spoke  
18 to you and said he was sorry; correct?

19 A. Yes.

20 Q. What was he sorry that he had  
21 done?

22 A. I didn't ask him.

23 Q. Did he ever go further and  
24 attempt to talk to you about other  
25 conversations he had about -- related to

1 H. Teitelbaum

2 this, to this investigation?

3 A. You mean with the executive  
4 chamber people?

5 Q. Yes.

6 A. After the end of February when  
7 this was I just want to get a time frame.  
8 When there was a real rupture?

9 Q. Did he ever talk to you about  
10 conversations he had with the governor?

11 A. No.

12 Q. Did he ever talk to you about  
13 conversations he had with Michele  
14 Hirshman?

15 A. No.

16 Q. Or with any other people that  
17 were representing the governor that he,  
18 himself had had other than Constantine?

19 A. What I had already testified to,  
20 that there was negativity towards me.

21 Q. I'm sorry?

22 A. That there was negativity  
23 towards me that apparently they had  
24 expressed to him that I was persona non  
25 grata.

1

2 Q. So the effort to repair your  
3 relationship was his effort and that was  
4 it?

5 A. He pursued it on several  
6 occasions but I -- it's not repaired.

7 Q. He never elaborated on and you  
8 never explored what he said he was sorry  
9 for or what he --

10 A. I didn't need to know that,  
11 Judge. I knew it.

12 Q. I'm sorry?

13 A. I knew what he was sorry about.  
14 I didn't need to ask him. If what he says  
15 happened and this is what he said, looking  
16 at someone's notes, your friend's notes,  
17 is not acceptable.

18 MR. FISCH: I don't have anything  
19 else.

20 Q. Is there anything you want to  
21 add to the record?

22 A. No.

23 (TIME NOTED: 12:33 p.m.)

24

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## CERTIFICATION BY REPORTER

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5

I, Wayne Hock, a Notary Public of the  
State of New York, do hereby certify:

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That the testimony in the within  
proceeding was held before me at the  
aforesaid time and place;

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That said witness was duly sworn  
before the commencement of the testimony,  
and that the testimony was taken  
stenographically by me, then transcribed  
under my supervision, and that the within  
transcript is a true record of the  
testimony of said witness.

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I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, that I am not  
interested directly or indirectly in the  
matter in controversy, nor am I in the  
employ of any of the counsel.

22

23

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25

IN WITNESS WHEREOF, I have hereunto  
set my hand this                      day of  
, 2008.

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