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3 FOR THE DEPARTMENT:

4 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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E X H I B I T S

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DEPARTMENT'S	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
1 - STATEMENT OF ISSUES	16	16
2 - NOTICE OF HEARING AND PROOF OF SERVICE	16	16
3 - LETTER FROM CALPERS TO SPACCIA DATED 12/2/2010	17	17
4 - LETTER FROM CALPERS TO SPACCIA DATED 6/6/2012	17	17
5 - LETTER OF APPEAL BY SPACCIA DATED 12/27/2010	17	17
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RESPONDENTS'	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
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- - NONE OFFERED - -

1 ORANGE, CALIFORNIA, MONDAY

2 AUGUST 27, 2012

3 10:40 A.M.

4
5 THE COURT: WE'LL GO ON THE RECORD. IT'S
6 AUGUST 27, 2012. WE'RE CONVENED IN THE CALPERS
7 OFFICE IN ORANGE, CALIFORNIA.

8 MY NAME IS JAMES AHLER, A-H-L-E-R. I'M AN
9 ADMINISTRATIVE LAW JUDGE. I'VE BEEN ASSIGNED TO HEAR
10 THE MATTER OF THE CALCULATION OF FINAL COMPENSATION
11 OF PIER'ANGELA SPACCIA, RESPONDENT, AND THE CITY OF
12 BELL, RESPONDENT.

13 THIS MATTER IS BEFORE THE PUBLIC EMPLOYEES'
14 RETIREMENT SYSTEM.

15 MAY I HAVE THE APPEARANCES OF THE PARTIES,
16 PLEASE.

17 MR. KENNEDY: WESLEY E. KENNEDY, SENIOR
18 STAFF COUNSEL, CALPERS.

19 THE COURT: THANK YOU.

20 MR. ONSTOT: STEPHEN ONSTOT, ALESHIRE AND
21 WYNDER, FOR THE CITY OF BELL.

22 THE COURT: THANK YOU.

23 MR. BRAUN: HARLAND BRAUN, B-R-A-U-N, FOR
24 MS. SPACCIA.

25 THE COURT: THANK YOU.

1 BEFORE WE GO A LOT FURTHER IN THIS MATTER,
2 IT'S MY UNDERSTANDING THAT YOU WOULD LIKE TO AMEND
3 PARAGRAPH ROMAN NUMERAL VIII, THE SECOND ONE, BY
4 MAKING THAT PARAGRAPH ROMAN NUMERAL VIII-A IN THE
5 STATEMENT OF ISSUES.

6 MR. KENNEDY: YES, YOUR HONOR.

7 THE COURT: ANY OBJECTION?

8 MR. BRAUN: NO OBJECTION.

9 MR. ONSTOT: NO OBJECTION.

10 THE COURT: THAT WILL BE DONE AS SOON AS I
11 GET THE JURISDICTIONAL DOCUMENTS.

12 THE RECORD SHOULD REFLECT THAT BEFORE WE
13 WENT ON THE RECORD, WE HAD EXTENSIVE DISCUSSIONS.

14 IT'S MY UNDERSTANDING THAT THE PARTIES WILL
15 STIPULATE TO THE TRUTH OF THE MATTER SET FORTH IN
16 PARAGRAPHS 1, 2, 3, 4, 5, 7, 10 AND 11.

17 MR. BRAUN: CORRECT, YOUR HONOR.

18 MR. ONSTOT: CORRECT.

19 MR. KENNEDY: THAT'S CORRECT, YOUR HONOR.

20 THE COURT: THANK YOU.

21 SO THAT THE MATTERS IN DISPUTE ARE THAT
22 PART OF PARAGRAPH 5 THAT RELATE TO THE PHRASE, QUOTE,
23 "EMPLOYEE PAID DEFERRED COMPENSATION," END QUOTE.

24 AND THOSE MATTERS THAT ARE SET FORTH IN
25 PARAGRAPH ROMAN NUMERAL IX.

1 MR. KENNEDY: YOUR HONOR, DID WE HAVE AN --
2 IN PARAGRAPH IX, DID WE NOT HAVE AN AGREEMENT THAT
3 MR. BRAUN NOW UNDERSTOOD THAT THE SCOPE OF THE ISSUES
4 IN THIS CASE WERE SET FORTH IN 12?

5 MR. BRAUN: THAT'S CORRECT, YOUR HONOR.

6 THE COURT: WE DO. THE ISSUES THAT I AM TO
7 RESOLVE ARE SET FORTH IN PARAGRAPH 12; CORRECT?

8 MR. BRAUN: CORRECT.

9 THE COURT: THANK YOU.

10 AND I WILL TAKE OFFICIAL NOTICE OF
11 PARAGRAPHS ROMAN NUMERAL VIII AND VIII-A.

12 AND I UNDERSTOOD THERE IS A DISPUTE ABOUT
13 WHETHER THE REGULATION IS SET FORTH IN VIII-A IS
14 EFFECTIVE AS OF THE TIME OF THIS PROCEEDING.

15 MR. BRAUN: THAT'S CORRECT.

16 MR. KENNEDY: JUST TO BE MORE SPECIFIC,
17 YOUR HONOR, IT MAY HELP, THE 570.5 BECAME -- WAS
18 PROMULGATED IN 2011, I BELIEVE. SO AS TO -- ITS
19 EFFECT ON THIS CASE IS AN ISSUE, BUT THE ACTUAL
20 REGULATION ITSELF WAS PROMULGATED IN 2011.

21 THE COURT: THANK YOU.

22 AND HAVING DONE ALL THE HOMEWORK, WOULD YOU
23 LIKE TO MAKE AN OPENING STATEMENT? YOU'VE GOT THE
24 BURDEN OF PROOF.

25 MR. BRAUN: YES. ESSENTIALLY, YOUR HONOR,

1 MS. SPACCIA -- AND WE'RE GOING TO GO THROUGH HER
2 WHOLE EMPLOYMENT HISTORY -- BASICALLY STARTED TO WORK
3 AT THE CITY OF BELL AS A CONSULTANT, BROUGHT IN FOR
4 HER EXPERTISE IN TERMS OF STRAIGHTENING OUT THE
5 FINANCIAL SITUATION FOR THE CITY OF BELL.

6 AND THEN SHE BECAME EMPLOYED BY THE CITY OF
7 BELL IN 2003 AS THE ASSISTANT TO THE C.A.O. IN THAT
8 CAPACITY SHE TRAINED LOURDES GARCIA, WHO THE
9 DOCUMENTS WILL SHOW BECAME THE FISCAL CHIEF AT THE
10 CITY OF BELL.

11 MS. SPACCIA PUT TOGETHER THE BUDGET THAT
12 THE CITY COUNCIL PASSED FOR THE YEARS 2005 THROUGH
13 2010, WHICH SET FORTH A PLAN FOR THE FISCAL INTEGRITY
14 OF THE CITY OF BELL.

15 IN 2005, MS. SPACCIA WAS TAKEN OUT OF THAT
16 POSITION AND ACTUALLY PUT INTO A SPECIAL ASSIGNMENTS
17 POSITION. AS THE DOCUMENTS WILL INDICATE, SHE DID
18 SPECIAL ASSIGNMENTS FOR THE C.A.O., INVOLVING SETTING
19 UP VARIOUS PLANS, SOME OF WHICH WILL BE IN ISSUE
20 HERE, CAR SHOWS, AND THINGS LIKE THAT.

21 SHE WAS EMPLOYED INITIALLY WITH THE --
22 UNDER THE AUTHORITY OF THE CITY COUNCIL. THE CITY
23 COUNCIL -- THE RESOLUTIONS -- WE'LL GO THROUGH HER
24 EMPLOYMENT.

25 AT LEAST BY 2006, THE CITY BECAME A CHARTER

1 CITY, WHICH USED -- THE POWER TO HIRE EMPLOYEES AND
2 SET WAGES WAS DELEGATED BY THE CITY COUNCIL IN A
3 RESOLUTION THAT WE WILL HAVE HERE.

4 THEREAFTER, SHE WAS -- HER PAY RATE AND HER
5 CONDITIONS OF EMPLOYMENT WERE GIVEN TO HER BY THE
6 C.A.O. OF THE CITY, WHICH SHE ACCEPTED.

7 SHE WORKED UNTIL 2010. AT THE LATTER PART
8 OF HER EMPLOYMENT, SHE WAS ASSIGNED TO THE CITY OF
9 MAYWOOD, WHICH HAD FINANCIAL PROBLEMS AT THAT TIME
10 AND WHICH SHE WILL DISCUSS SHE HAD DEATH THREATS AND
11 SO FORTH, A VERY DIFFICULT EMPLOYMENT.

12 AT ALL TIMES, SHE BASICALLY FILLED HER
13 FUNCTION AT THE CITY OF BELL. SHE WAS EMPLOYED UNDER
14 THE EMPLOYMENT AGREEMENT. SHE EXPECTED TO GET A
15 PENSION BASED ON WHAT CALPERS' CALCULATIONS WERE.

16 SHE HELPED SET UP THE DEFERRED COMPENSATION
17 PLAN FOR THE CITY OF BELL, WHICH SHE WILL DISCUSS.
18 SHE SET UP THE EMPLOYMENT RETIREMENT PLAN AND DID
19 OTHER ITEMS HERE.

20 AS YOU WILL SEE, IN 2005, SHE WAS ACTUALLY
21 REMOVED FROM THE DAY-IN AND DAY-OUT GOVERNING OF THE
22 CITY OF BELL. HER AUTHORITY AT THE CITY OF BELL
23 UNDER THE CHARTER, WAS REALLY NO AUTHORITY
24 WHATSOEVER.

25 IT WAS CHANGED AT SOME POINT AS MR. RIZZO

1 HAD HEALTH PROBLEMS. SHE WAS NAMED THE ASSISTANT
2 C.A.O., WHICH UNDER THE CHARTER WOULD PUT HER IN A
3 POSITION TO RUN THE CITY, SHOULD HE BECOME DISABLED.
4 BUT THAT WAS THE ONLY AUTHORITY THAT SHE REALLY HAD
5 AT THAT POINT.

6 THAT'S BASICALLY IT. SHE WILL LAY OUT HER
7 EMPLOYMENT HISTORY DIRECTLY, YOUR HONOR.

8 THE COURT: THANK YOU.

9 MR. KENNEDY?

10 MR. KENNEDY: YOUR HONOR, AT THIS TIME I
11 WOULD NOT HAVE AN OPENING STATEMENT. IF I COULD
12 RESERVE THAT FOR MY CASE-IN-CHIEF, I WOULD APPRECIATE
13 IT.

14 THE COURT: MR. ONSTOT?

15 MR. ONSTOT: SAME AS THEM. WE WILL
16 RESERVE.

17 THE COURT: READY TO PROCEED?

18 MR. BRAUN: YES.

19 THE COURT: WE HAVE A WITNESS. WOULD YOU
20 LIKE TO CALL A WITNESS OUT OF ORDER?

21 MR. KENNEDY: YES, YOUR HONOR, I WOULD.

22 BUT BEFORE WE DO THAT, MAYBE TO SAVE TIME,
23 THIS WITNESS WOULD ESSENTIALLY BE ASKED TO
24 AUTHENTICATE CERTAIN DOCUMENTS THAT ARE IN CALPERS'
25 EXHIBIT PACKAGE, VOLUME I, I BELIEVE.

1 AND THOSE DOCUMENTS ARE ESSENTIALLY ITEM
2 15.

3 THE COURT: OKAY. I DON'T HAVE ANY
4 DOCUMENTS IN FRONT OF ME RIGHT NOW.

5 I'VE BEEN HANDED TWO PACKAGES OF DOCUMENTS.
6 AND THESE ARE IN BLACK FOLDERS, AND THEY'VE GOT TABS
7 THAT GO FROM 1 THROUGH 50.

8 ARE THESE THE CALPERS EXHIBITS?

9 MR. KENNEDY: CORRECT, YOUR HONOR.

10 THE COURT: I'LL MARK THESE -- WE'LL JUST
11 CALL THEM EXHIBITS 1 THROUGH 50.

12 MR. BRAUN: SO WE HAVE NAMED -- WE HAVE
13 EXHIBITS MARKED 1 THROUGH -- SO WE'LL JUST CALL OURS
14 SPACCIA'S EXHIBITS.

15 THE COURT: EXACTLY.

16 MR. BRAUN: YEAH.

17 THE COURT: GOOD.

18 AND TELL ME ABOUT WHAT YOU'RE GOING TO DO
19 HERE.

20 MR. BRAUN: YOUR HONOR, I THINK I CAN
21 SHORT-CIRCUIT THIS, YOUR HONOR.

22 MR. KENNEDY: YOUR HONOR, THE ITEM --

23 MR. BRAUN: THESE ARE E-MAILS THAT WE
24 BELIEVE ARE IRRELEVANT TO THE CASE. HOWEVER, WE CAN
25 STIPULATE TO THE FOUNDATION OF THEM RESERVING THE

1 RELEVANCE ISSUE.

2 MR. KENNEDY: THAT WOULD BE FINE, YOUR
3 HONOR.

4 THE ONLY OTHER POINT OF TESTIMONY THAT I
5 WOULD ASK INVESTIGATOR MIRANDA WOULD BE AS TO ITEM 9,
6 WHICH IS AN ADDENDUM NUMBER 2 TO --

7 THE COURT: OKAY. LET'S JUST GO BACK.

8 STIPULATE TO THE AUTHENTICITY OF THE
9 DOCUMENTS SET FORTH IN THE CALPERS VOLUMES?

10 MR. BRAUN: YES, YOUR HONOR.

11 THE COURT: AND WITHOUT STIPULATING TO THE
12 RELEVANCY.

13 MR. BRAUN: I ASSUME THEY MAY DO THE SAME
14 FOR OURS.

15 THE COURT: ANY OBJECTION?

16 MR. ONSTOT: NONE.

17 THE COURT: ACCEPT THE STIPULATION?

18 MR. KENNEDY: AS TO THE CALPERS DOCUMENTS?

19 THE COURT: YES.

20 MR. KENNEDY: YES.

21 THE COURT: DO YOU HAVE SOMETHING ELSE?

22 MR. KENNEDY: YES. IN ITEM NUMBER 9 IN
23 VOLUME I, IN THE SMALLER VOLUME, YOUR HONOR, IS A --
24 PURPORTS TO BE AN ADDENDUM NUMBER 2 DATED 7/1/2005,
25 AND THAT IS PURSUANT TO A SEARCH WARRANT EXECUTED BY

1 INVESTIGATOR MIRANDA ON MS. SPACCIA'S COMPUTER.

2 THIS WAS FOUND TO BE ON HER PERSONAL DRIVE,
3 HER COMPUTER, AS AN UNSIGNED DRAFT FORM BUT USING THE
4 SAME TERMS AS PRESENTED HERE.

5 MR. BRAUN: WE WILL STIPULATE TO THAT, YOUR
6 HONOR.

7 THE COURT: STIPULATED THAT EXHIBIT -- I'M
8 GOING TO CALL IT "C," FOR CALPERS, -9 -- WAS FOUND
9 UNDER A -- PURSUANT TO A SEARCH WARRANT?

10 MR. BRAUN: I THINK WHAT COUNSEL SAID WAS
11 AN UNSIGNED VERSION OF THIS ON HER PERSONAL HARD
12 DRIVE.

13 MR. KENNEDY: BUT COMPORTED TO THE SAME
14 TERMS THAT ARE SET FOURTH.

15 THE COURT: WELL, TELL ME WHAT IT IS YOU'RE
16 STIPULATING TO THEN.

17 MR. BRAUN: THAT A VERSION OF THIS NUMBER 9
18 WITHOUT THE SIGNATURES WAS FOUND ON MS. SPACCIA'S
19 PERSONAL COMPUTER.

20 MS. SPACCIA: NO. WORK COMPUTER.

21 MR. BRAUN: HER WORK COMPUTER.

22 THE COURT: IS THAT STIPULATION ACCEPTABLE?

23 MR. KENNEDY: YES.

24 THE COURT: VERY WELL. IS THERE ANY NEED
25 NOW TO CALL THE DETECTIVE FROM LOS ANGELES?

1 MR. KENNEDY: I DON'T THINK SO, NO.

2 THE COURT: AND YOU HAVE A MOTION TO
3 EXCLUDE?

4 MR. BRAUN: BUT HE'S NOT GOING TO BE
5 CALLED.

6 THE COURT: BUT HE'S NOT GOING TO BE A
7 WITNESS. SO IS THERE ANYONE ELSE THAT IS A WITNESS?

8 MR. KENNEDY: YOUR HONOR, MR. RODGERS IS
9 ALSO THE DEPARTMENT'S REPRESENTATIVE.

10 (TELEPHONIC INTERRUPTION.)

11 THE COURT: OKAY.

12 MR. KENNEDY: MAY I UNPLUG THE PHONE BEHIND
13 YOU?

14 THE COURT: SURE.

15 AND WITH ALL THAT, YOU'RE READY TO PROCEED?

16 MR. BRAUN: RIGHT.

17 THE COURT: OKAY.

18 MR. KENNEDY: BEFORE WE PROCEED, YOUR
19 HONOR, MAY I INTRODUCE THE JURISDICTIONAL DOCUMENTS?

20 THE COURT: SURE.

21 MR. KENNEDY: AND WE WILL BE MOVING IT FOR
22 JURISDICTIONAL PURPOSES ONLY, OF COURSE, AT THIS
23 TIME. AND IF YOU WISH ME TO IDENTIFY THEM ON THE
24 RECORD --

25 THE COURT: PLEASE DO.

1 MR. KENNEDY: ITEM 1 IS THE STATEMENT OF
2 ISSUES. IT'S DATED JULY 1ST -- I'M SORRY -- JULY 9,
3 2012.

4 THE COURT: ANY OBJECTION?

5 MR. BRAUN: NO OBJECTION, YOUR HONOR.

6 MR. ONSTOT: NONE.

7 THE COURT: BE RECEIVED.

8 (DEPARTMENT'S EXHIBIT NUMBER 1 WAS MARKED FOR
9 IDENTIFICATION BY THE COURT AND RECEIVED
10 INTO EVIDENCE.)

11 MR. KENNEDY: ITEM 2 IS A NOTICE OF
12 HEARING.

13 THE COURT: ANY OBJECTION?

14 MR. BRAUN: NO OBJECTION.

15 MR. ONSTOT: NONE.

16 THE COURT: BE RECEIVED.

17 (DEPARTMENT'S EXHIBIT NUMBER 2 WAS MARKED FOR
18 IDENTIFICATION BY THE COURT AND RECEIVED
19 INTO EVIDENCE.)

20 MR. KENNEDY: ITEM 3 IS A DETERMINATION OF
21 CALPERS TO MS. SPACCIA.

22 MR. BRAUN: NO OBJECTION.

23 THE COURT: BE RECEIVED, EXHIBIT 3.

24 ///

25 ///

1 (DEPARTMENT'S EXHIBIT NUMBER 3 WAS MARKED FOR
2 IDENTIFICATION BY THE COURT AND RECEIVED
3 INTO EVIDENCE.)

4 MR. KENNEDY: AND ITEM 4 IS A SIMILAR
5 DETERMINATION AS TO A.R.S.C. TIME, FINAL
6 DETERMINATION ON JUNE 6, 2012.

7 MR. BRAUN: NO OBJECTION.

8 THE COURT: IT WILL BE RECEIVED.

9 (DEPARTMENT'S EXHIBIT NUMBER 4 WAS MARKED FOR
10 IDENTIFICATION BY THE COURT AND RECEIVED
11 INTO EVIDENCE.)

12 MR. KENNEDY: AND ITEM 5 IS THE APPEAL BY
13 MS. SPACCIA, DATED DECEMBER 27, 2010.

14 MR. BRAUN: NO OBJECTION.

15 THE COURT: BE RECEIVED.

16 (DEPARTMENT'S EXHIBIT NUMBER 5 WAS MARKED FOR
17 IDENTIFICATION BY THE COURT AND RECEIVED
18 INTO EVIDENCE.)

19 MR. KENNEDY: AND ITEM 6 IS A DISABILITY
20 RETIREMENT ELECTION APPLICATION BY MS. SPACCIA, DATED
21 SEPTEMBER 28, 2010.

22 MR. BRAUN: NO OBJECTION.

23 THE COURT: IT WILL BE RECEIVED.

24 DOES THE CITY HAVE ANY OBJECTION?

25 MR. ONSTOT: NONE, YOUR HONOR.

1 THE COURT: EXHIBITS ONE THROUGH SIX WILL
2 BE RECEIVED.

3 (DEPARTMENT'S EXHIBIT NUMBER 6 WAS MARKED FOR
4 IDENTIFICATION BY THE COURT AND RECEIVED
5 INTO EVIDENCE.)

6 THE COURT: ANYTHING FURTHER, MR. KENNEDY?

7 MR. KENNEDY: NOT AT THIS TIME, YOUR HONOR.

8 THE COURT: MR. BRAUN?

9 MR. BRAUN: MS. SPACCIA WILL TESTIFY.

10 THE COURT: PLEASE COME FORWARD. FACE THE
11 COURT REPORTER AND RAISE YOUR RIGHT HAND. YOU CAN
12 TAKE YOUR WATER WITH YOU. THAT'S PROBABLY A GOOD
13 IDEA.

14
15 PIER'ANGELA SPACCIA,
16 CALLED AS A WITNESS AND SWORN IN BY
17 THE COURT REPORTER, WAS EXAMINED AND
18 TESTIFIED AS FOLLOWS:

19
20 COURT REPORTER: DO YOU SOLEMNLY SWEAR THAT
21 THE EVIDENCE YOU WILL GIVE IN THIS PROCEEDING WILL BE
22 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
23 TRUTH?

24 THE WITNESS: YES, I DO.

25 THE COURT: HAVE A SEAT RIGHT THERE. TELL

1 US YOUR NAME AND SPELL IT FOR US.

2 THE WITNESS: MY NAME IS

3 PIER'ANGELA SPACCIA, SPELLED P-I-E-R-A-N-G-E-L-A --

4 MR. KENNEDY: YOUR HONOR, IF I MIGHT. I
5 HAVE TINNITUS. IF YOU WOULD ASK THE WITNESS TO TRY
6 AND SPEAK UP LOUDER.

7 THE WITNESS: I'LL TRY. I DON'T NORMALLY
8 SPEAK VERY LOUD.

9 MR. BRAUN: DO WE HAVE A MICROPHONE OR
10 ANYTHING ELSE?

11 THE COURT: NO, WE DON'T.

12 WOULD YOU LIKE TO MOVE YOUR SEAT IN HERE
13 CLOSER?

14 MR. KENNEDY: I WILL TRY -- I HOPE I WON'T
15 INTERRUPT TOO MUCH.

16 THE COURT: OKAY.

17 MR. BRAUN: I'M TRYING TO THINK. WE MIGHT
18 BE ONE SHORT. WE DID FOUR OF THESE. SO PERHAPS I
19 COULD BORROW --

20 SHE IS GOING TO BE USING OUR EXHIBIT BOOK,
21 BUT I WOULD THINK THE COURT WOULD NEED ONE. IF WE
22 COULD BORROW THE CITY'S TO GIVE TO THE JUDGE.

23 THE COURT: GREAT. THANK YOU.

24 ///

25 ///

1 DIRECT EXAMINATION

2 BY MR. BRAUN:

3 Q. TRY TO KEEP UP YOUR VOICE FOR MR. KENNEDY.

4 ALL RIGHT.

5 A. ALL RIGHT.

6 Q. FIRST, WE WILL START --

7 MS. SPACCIA, WOULD YOU GIVE THE COURT YOUR
8 EDUCATIONAL BACKGROUND.

9 A. I HAVE A BACHELOR OF SCIENCE IN BUSINESS
10 MANAGEMENT FROM THE UNIVERSITY OF LA VERNE.

11 Q. AND WHEN DID YOU GET THAT BACHELOR'S?

12 A. MAY OF 1990.

13 Q. NOW, PRIOR TO GETTING YOUR BACHELOR'S, YOU
14 WERE EMPLOYED -- WOULD YOU GIVE THE JUDGE YOUR
15 EMPLOYMENT HISTORY PRIOR TO 1990.

16 A. YES. WELL, SHOULD I START WITH MY PUBLIC
17 SERVICE CAREER OR --

18 Q. YEAH. YOU HAD MISCELLANEOUS EMPLOYMENT AS
19 A YOUNGER PERSON?

20 THE COURT: TELL US, WHEN DID YOU GRADUATE
21 FROM HIGH SCHOOL?

22 THE WITNESS: 1976.

23 THE COURT: AND WHAT HIGH SCHOOL WAS THAT?

24 THE WITNESS: POLY TECHNICAL.

25 THE COURT: WHERE WAS THAT?

1 THE WITNESS: SUN VALLEY.

2 THE COURT: AND WHAT WAS YOUR FIRST
3 EMPLOYMENT AFTER THAT?

4 THE WITNESS: I WORKED FOR BEKINS MOVING
5 AND STORAGE.

6 THE COURT: WHAT DID YOU DO FOR THEM?

7 THE WITNESS: I WAS THEIR OFFICE MANAGER.

8 THE COURT: HOW LONG?

9 THE WITNESS: I DON'T RECALL.

10 THE COURT: WHEN DID YOU START WORKING FOR
11 BEKINS?

12 THE WITNESS: 1976.

13 THE COURT: WHAT'S YOUR NEXT EMPLOYMENT?

14 THE WITNESS: I WENT TO WORK FOR A COMPANY,
15 A SUBSIDIARY OF BROWN AND ROOT, AN OIL COMPANY.

16 THE COURT: WHAT DID YOU DO FOR THEM?

17 THE WITNESS: I WAS THEIR ACCOUNTS PAYABLE
18 CLERK.

19 THE COURT: HOW LONG DID YOU WORK FOR THEM?

20 THE WITNESS: I BELIEVE A YEAR.

21 THE COURT: AND AFTER THAT?

22 THE WITNESS: THEN I WENT TO WORK FOR THE
23 CITY OF VENTURA.

24 THE COURT: WHEN DID YOU START THERE?

25 THE WITNESS: JANUARY 21ST, 1980.

1 THE COURT: HOW LONG WERE YOU EMPLOYED FOR
2 THE CITY OF VENTURA.

3 THE WITNESS: A LITTLE OVER -- ALMOST 11
4 YEARS.

5 THE COURT: WHAT DID YOU DO FOR VENTURA?

6 THE WITNESS: I STARTED OUT AS AN ACCOUNTS
7 CLERK, PROMOTED OVER TIME TO AN ACCOUNTANT, AND THEN
8 TO THE ACCOUNTING MANAGER.

9 THE COURT: TO WHOM DID YOU REPORT?

10 THE WITNESS: TO THE DIRECTOR OF MANAGEMENT
11 SERVICES.

12 THE COURT: AND AFTER THE CITY OF VENTURA?

13 THE WITNESS: I WENT TO WORK FOR THE
14 LOS ANGELES COUNTY TRANSPORTATION COMMISSION.

15 THE COURT: WHAT DID YOU DO FOR THEM?

16 THE WITNESS: I STARTED AS THEIR ACCOUNTING
17 MANAGER AND THEN WAS PROMOTED TO THEIR DIRECTOR OF
18 MANAGEMENT SERVICES.

19 THE COURT: WHAT YEARS?

20 THE WITNESS: 1990, I BELIEVE, THROUGH THE
21 END OF '94.

22 THE COURT: WHAT DID YOU DO BETWEEN -- I
23 SEE. YOU WENT THROUGH 1980 TO 1990 WITH VENTURA?

24 THE WITNESS: CORRECT.

25 THE COURT: AND THEN YOU WORKED FOR THE

1 L.A. COUNTY TRANSPORTATION COMMISSION?

2 THE WITNESS: YES.

3 THE COURT: BY THEN -- AFTER THAT, WHO WERE
4 YOU EMPLOYED BY?

5 THE WITNESS: THEY WERE ACTUALLY MERGED
6 WITH THE R.T.D., AND WE BECAME L.A. COUNTY
7 METROPOLITAN TRANSPORTATION AUTHORITY. SO I
8 CONTINUED WORKING WITH THEM THROUGH THE END OF '94.

9 THEN I MARRIED AND MOVED TO NORTHERN IDAHO.

10 THE COURT: OKAY.

11 THE WITNESS: AND TOOK EMPLOYMENT AS THE
12 ASSOCIATE EXECUTIVE DIRECTOR FOR THE Y.W.C.A. FOR TWO
13 YEARS.

14 THE COURT: THAT WOULD BE '94 THROUGH '96?

15 THE WITNESS: YES.

16 AND THEN WHEN THE FINANCE POSITION AT THE
17 COUNTY BECAME OPEN, I GOT THAT JOB, AND THAT WAS IN
18 KOOTENAI COUNTY.

19 THE COURT: KOOTENAI?

20 THE WITNESS: YES.

21 THE COURT: TELL US HOW TO SPELL KOOTENAI.

22 THE WITNESS: K-O-O-T-E-N-A-I.

23 THE COURT: AND WHAT DID YOU DO FOR THE
24 KOOTENAI COUNTY?

25 THE WITNESS: I WAS THE FINANCE DIRECTOR.

1 THE COURT: HOW MANY YEARS?

2 THE WITNESS: FOUR.

3 THE COURT: WOULD THAT BE FROM 1996 --

4 THE WITNESS: TO 2000.

5 THE COURT: -- TO 2000?

6 THE WITNESS: CORRECT.

7 THE COURT: THEN WHAT DID YOU DO?

8 THE WITNESS: MY SON WAS IN A PRETTY

9 EXTREME ACCIDENT. SO I HAD TO MOVE HIM TO CALIFORNIA
10 FOR REHAB.

11 THE COURT: THAT WOULD BE IN 2000?

12 THE WITNESS: YES.

13 THE COURT: OKAY.

14 THE WITNESS: AND THEN I TOOK A JOB -- I
15 APPLIED AT SEVERAL JOBS, AND I TOOK THE FIRST ONE I
16 GOT WHICH WAS AT THE GLOBE THEATRE IN SAN DIEGO, A
17 NONPROFIT ORGANIZATION, AS THEIR FINANCE DIRECTOR.

18 AND I HAD APPLIED AT A NUMBER OF GOVERNMENT
19 AGENCIES TO TRY TO GET BACK INTO THE CALPERS SYSTEM.

20 SO I WAS AT THE GLOBE THEATRE ONLY TWO OR
21 THREE MONTHS, AND I RECEIVED A CALL FROM NORTH COUNTY
22 TRANSIT DISTRICT, AND THEY HIRED ME AS THEIR DIRECTOR
23 OF FINANCIAL SUPPORT SERVICES, I BELIEVE THEY CALLED
24 IT.

25 THE COURT: WOULD THAT BE IN 2001?

1 THE WITNESS: THAT SOUNDS ABOUT RIGHT.

2 THE COURT: HOW MANY YEARS DID YOU HAVE
3 THAT JOB?

4 THE WITNESS: I ACTUALLY WAS ONLY THERE
5 FIVE OR SIX MONTHS WHEN I RECEIVED A CALL FROM THE
6 JOB THAT I REALLY WANTED, AND THAT WAS FROM THE
7 COUNTY OF VENTURA. AND I GOT THAT JOB.

8 THE COURT: WHAT YEAR WAS THAT?

9 THE WITNESS: THAT WAS ABOUT 2001 AS WELL.

10 THE COURT: WHAT WAS THE JOB?

11 THE WITNESS: ASSISTANT CHIEF EXECUTIVE
12 OFFICER, SLASH, CHIEF FINANCIAL OFFICER.

13 THE COURT: AND HOW LONG DID YOU MAINTAIN
14 THAT POSITION?

15 THE WITNESS: I STAYED THERE JUST UNDER A
16 YEAR.

17 THE COURT: AND THEN WHAT HAPPENED?

18 THE WITNESS: THERE WAS A CHANGING OF THE
19 GUARD, THE NEW C.E.O., AND WE DID NOT HAVE THE SAME
20 MANAGEMENT PHILOSOPHY. I FELT HE DIDN'T HAVE THE
21 INTEGRITY THAT I HOPED FOR.

22 SO I LEFT AND WENT INTO INDEPENDENT
23 CONSULTING FOR VARIOUS CITIES.

24 THE COURT: WHAT WERE YOU DOING BUSINESS
25 AS?

1 THE WITNESS: ACTUALLY, THE COMPANY I
2 WORKED FOR WAS CALLED MORELAND AND ASSOCIATES.

3 THE COURT: M-O --

4 THE WITNESS: -R-E-L-A-N-D.

5 THE COURT: WHO'S MORELAND?

6 THE WITNESS: THAT WAS THE MAN WHO OWNED
7 THE COMPANY.

8 THE COURT: AND HOW MANY YEARS WERE YOU
9 EMPLOYED BY MORELAND AND ASSOCIATES?

10 THE WITNESS: OH, GOSH, POSSIBLY JUST A
11 YEAR.

12 THE COURT: 2003?

13 THE WITNESS: 2002 TO JULY OF 2003.

14 THE COURT: THEN WHAT HAPPENED?

15 THE WITNESS: ONE OF THE JOBS I WAS WORKING
16 FOR MORELAND AND ASSOCIATES HAD ASKED ME TO COME ON
17 PERMANENTLY, AND THAT WAS THE CITY OF BELL.

18 THE COURT: AND WHAT MONTH WAS THAT?

19 THE WITNESS: JULY 2008.

20 THE COURT: THANK YOU.

21 BY MR. BRAUN:

22 Q. NOW, MS. SPACCIA WHEN YOU WORKED FOR THE
23 CITY OF BELL, IN WHAT CAPACITY WERE YOU HIRED?

24 A. I WAS HIRED AS THE ASSISTANT TO THE CHIEF
25 ADMINISTRATIVE OFFICER.

1 Q. AND WHAT DID THAT JOB CONSIST OF?

2 A. AT THE TIME, FOR THE FIRST TWO YEARS, IT
3 CONSISTED OF PROVIDING OVERSIGHT TO THE FINANCIAL
4 DEPARTMENT AND MENTORING OF THE ACCOUNTING MANAGER SO
5 THAT SHE COULD BECOME THE FISCAL MANAGER.

6 Q. AT MORELAND AND ASSOCIATES, DID YOU WORK AT
7 ANY OTHER CITIES?

8 A. YES.

9 Q. WHAT CITY WAS THAT?

10 A. CITY OF ARVIN.

11 Q. WHAT WAS YOUR ROLE WITH RESPECT TO THE CITY
12 OF ARVIN?

13 A. THE CITY OF ARVIN HAD JUST -- THEY HAD
14 FIRED THEIR POLICE CHIEF, THEIR CITY MANGER, AND
15 THEIR FINANCE DIRECTOR. AND THERE WERE A NUMBER OF
16 IMPROPRIETIES, AND MY JOB WAS TO GO IN ON THE
17 FINANCIAL ASPECT OF THINGS AND CLEAN THINGS UP.

18 Q. AND DID YOU DO THAT AT THE SAME -- WHILE
19 YOU WERE WORKING AT ARVIN, WERE YOU ALSO WORKING AT
20 THE CITY OF BELL?

21 A. I DID, YES.

22 Q. HOW DID YOU DIVIDE YOUR TIME BETWEEN ARVIN
23 AND BELL?

24 A. I WORKED SEVEN DAYS A WEEK, AND I ONLY
25 WORKED PART-TIME AT BELL, AND PUT ALL THE REST OF THE

1 TIME INTO ARVIN BECAUSE THEY WERE IN THE MOST NEED.

2 Q. AND YOU SAY YOU WERE GOING TO MENTOR THE
3 FINANCE DIRECTOR AT THE CITY OF BELL?

4 A. YES.

5 Q. AND WHO WAS THAT?

6 A. LOURDES GARCIA.

7 Q. NOW, AT THE CITY OF BELL WHEN YOU WERE
8 FIRST EMPLOYED, WHAT BASIS WERE YOU EMPLOYED? DID
9 YOU HAVE A CONTRACT?

10 A. IT WAS AN EMPLOYMENT AGREEMENT, YES.

11 Q. AND WAS THAT EMPLOYMENT AGREEMENT APPROVED
12 BY THE CITY COUNCIL, OR HOW WAS IT AUTHORIZED?

13 A. AT THAT TIME, IT WAS APPROVED BY THE CITY
14 COUNCIL, YES.

15 Q. AND LET'S LOOK AT OUR EXHIBIT BOOK THERE IN
16 FRONT OF YOU.

17 WHAT IS EXHIBIT 2, RESOLUTION 2002-29?

18 A. EXHIBIT 2 WAS A PAY SCHEDULE THAT WAS
19 ACTUALLY IN EFFECT BEFORE I BECAME A FULL-TIME
20 EMPLOYEE.

21 Q. AND EXHIBIT 3, WHAT IS EXHIBIT 3?

22 A. EXHIBIT 3 IS THE CLASSIFICATIONS, THE PAY
23 CLASSIFICATIONS.

24 Q. IS THIS THE PAY CLASSIFICATION THAT WAS IN
25 EXISTENCE WHEN YOU BECAME AN EMPLOYEE?

1 A. YES.

2 Q. NOW, TAKE A LOOK AT EXHIBIT 4. THIS
3 AGREEMENT, WHAT IS THIS?

4 A. THIS WAS MY FIRST EMPLOYMENT AGREEMENT.

5 Q. AND WAS THIS APPROVED BY THE CITY COUNCIL?

6 A. YES, IT WAS.

7 Q. NOW, LOOKING AT THE --

8 MR. KENNEDY: YOUR HONOR, I WOULD OBJECT ON
9 THE GROUNDS OF HEARSAY.

10 THE COURT: OVERRULED.

11 BY MR. BRAUN:

12 Q. NOW, LOOKING AT THIS PAY. HOW DID THE PAY
13 THAT YOU FIRST AGREED TO FOR THE CITY OF BELL COMPARE
14 WITH THE PAY THAT YOU RECEIVED BEFORE THAT?

15 MR. KENNEDY: EXCUSE ME, YOUR HONOR. WHAT
16 ARE WE LOOKING AT? ARE WE LOOKING AT EXHIBIT 4?

17 MR. BRAUN: EXHIBIT 4.

18 MR. KENNEDY: THANK YOU.

19 THE WITNESS: ACTUALLY, IT WAS ALMOST
20 \$50,000 A YEAR LESS THAN I HAD BEEN MAKING WHEN I WAS
21 AT THE COUNTY OF VENTURA. BUT HE ASSURED ME THAT IF
22 THINGS WORKED OUT, IF I PASSED PROBATION PROPERLY,
23 THAT HE WOULD MAKE AN ADJUSTMENT UPWARD.

24 MR. KENNEDY: YOUR HONOR, I OBJECT ON THE
25 GROUNDS OF VAGUE AND AMBIGUOUS.

1 WHO IS "HE"?

2 THE WITNESS: I'M SORRY. THE C.A.O.

3 THE COURT: DO YOU HAVE A NAME FOR THAT
4 PERSON?

5 THE WITNESS: ROBERT RIZZO.

6 BY MR. BRAUN:

7 Q. NOW, LOOKING AT EXHIBIT 5, WHAT IS
8 EXHIBIT 5?

9 A. THAT'S THE CITY COUNCIL AGENDA THAT MY
10 EMPLOYMENT AGREEMENT WAS PRESENTED ON.

11 Q. LOOKING AT EXHIBIT 6, WHAT IS EXHIBIT 6?

12 A. THAT IS THE MINUTES OF THE CITY COUNCIL
13 APPROVING MY EMPLOYMENT AGREEMENT.

14 Q. LET'S LOOK AT EXHIBIT 7. WHAT IS
15 EXHIBIT 7?

16 A. THAT'S THE PAY SCHEDULE FOR THE YEARS 2003
17 THROUGH 2004.

18 Q. NOW, THIS EXHIBIT 7, THE 2003 TO 2004 PAY
19 SCHEDULE, DID YOU HAVE ANYTHING TO DO WITH DRAWING
20 THIS UP?

21 A. I DID. WELL, BASICALLY I TOOK THE ONE FROM
22 THE PRIOR YEAR BECAUSE WHAT I WAS TOLD WAS THAT THEY
23 DID A NEW ONE EVERY YEAR. AND I TOOK THAT AND MADE
24 WHATEVER CHANGES WERE NECESSARY AND JUST SUBMITTED
25 THAT TO THE CITY COUNCIL.

1 MR. KENNEDY: YOUR HONOR, JUST ONE
2 CLARIFICATION ON THE DOCUMENT.

3 SO DID I UNDERSTAND THE WITNESS TO SAY THIS
4 WAS A PAY SCHEDULE FOR 2003 TO 2004?

5 THE COURT: YES.

6 THE WITNESS: YES.

7 MR. KENNEDY: THE DOCUMENT --

8 THE COURT: IT SAYS 2005 AT THE TOP.

9 MR. KENNEDY: CORRECT.

10 THE WITNESS: OH, YOU KNOW -- THANK YOU.

11 I'M SORRY. I FORGOT THAT I DID A BIENNIAL BUDGET FOR
12 THE FIRST TIME IN 2003. SO IT WAS GOOD FOR TWO
13 YEARS. THANK YOU.

14 THE COURT: OKAY. AND WHAT WAS YOUR
15 CLASSIFICATION?

16 THE WITNESS: I WAS IN THE MANAGEMENT -- ON
17 PAGE 2 -- ASSISTANT TO THE C.A.O.
18 BY MR. BRAUN:

19 Q. ON THIS PARTICULAR PAY SCHEDULE, THE
20 MANAGEMENT WAS LISTED INDIVIDUALLY -- IS THAT
21 RIGHT? -- WITH A REFERENCE TO A CONTRACT?

22 A. CORRECT.

23 Q. AND WHAT IF THE -- FOR EXAMPLE, IN YOUR
24 PARTICULAR CASE, ASSISTANT TO THE C.A.O. CONTRACT,
25 WAS THAT THE WRITTEN CONTRACT YOU HAD WITH THE CITY?

1 A. YES.

2 Q. WAS THAT AVAILABLE TO THE PUBLIC, IF ANYONE
3 ASKED TO SEE IT?

4 A. YES, YES.

5 Q. NOW, LOOKING AT EXHIBIT 8, WHAT IS
6 EXHIBIT 8?

7 A. THAT IS AN ADDENDUM TO MY ORIGINAL
8 AGREEMENT FOR JULY 1ST, 2004.

9 Q. NOW, DID THIS PROVIDE AN INCREASE IN PAY
10 FOR YOU?

11 A. IT DID, YES.

12 Q. NOW, AT THE CITY OF BELL WHEN YOU CONTINUED
13 ON EMPLOYMENT, DID YOU USE AN ADDENDUM AS OPPOSED TO
14 HAVING A WHOLE NEW CONTRACT?

15 A. THE WAY THAT THE CITY ATTORNEY DRAFTED THE
16 CONTRACTS AT THAT TIME WAS IF IT WAS YOUR FIRST
17 EMPLOYMENT CONTRACT, IT WOULD BE A FULL DOCUMENT, AND
18 THEN ANY CHANGES TO SUBSEQUENT YEARS WOULD BE
19 ADDENDUMS.

20 Q. SO THIS WOULD BE ADDENDUM NUMBER 1 TO YOUR
21 ORIGINAL AGREEMENT; IS THAT RIGHT?

22 A. YES.

23 Q. AND DID -- NOW, LOOKING AT EXHIBIT 9, WHAT
24 IS EXHIBIT 9?

25 A. THAT IS THE CITY COUNCIL AGENDA, NOTICING

1 MY FIRST ADDENDUM TO THE EMPLOYMENT AGREEMENT.

2 Q. WHAT IS EXHIBIT 10?

3 A. THAT'S THE COUNCIL MINUTES APPROVING IT.

4 Q. LOOKING AT EXHIBIT 11, WHAT IS EXHIBIT 11?

5 A. THAT IS A PAY SCHEDULE FOR THE FISCAL YEAR
6 2004 TO 2005.

7 Q. AND WOULD THIS BE DONE UNDER YOUR
8 AUTHORITY?

9 A. AS THE FISCAL PERSON AT THE TIME, YES,
10 2004.

11 Q. I NOTICE THAT IN THAT PARTICULAR PAY
12 SCHEDULE, THEY LIST UNDER MANAGEMENT SEVEN PEOPLE,
13 AND THE REFERENCE IS TO A CONTRACT; IS THAT CORRECT?

14 A. CORRECT.

15 Q. NOW, AT THAT PARTICULAR TIME WERE YOU AWARE
16 OF ANY REQUIREMENT THAT THE PAY SCHEDULE WITH RESPECT
17 TO INDIVIDUAL CONTRACTS HAD TO ACTUALLY LIST THE
18 AMOUNT THAT THE PERSON WAS MAKING AS OPPOSED TO --

19 MR. KENNEDY: OBJECTION, YOUR HONOR.

20 THE COURT: OVERRULED.

21 THE WITNESS: DO I ANSWER?

22 THE COURT: YES.

23 THE QUESTION IS WHETHER SHE KNEW.

24 BY MR. BRAUN:

25 Q. DID YOU KNOW OF ANY REQUIREMENT THAT THE

1 PAY SCHEDULE ACTUALLY HAD THE AMOUNT OF MONEY AS
2 OPPOSED TO THE CONTRACT?

3 A. NO. IN FACT THE CHIEF OF POLICE RETIRED
4 THAT YEAR, AND THERE WAS NO ISSUES WITH HIS
5 RETIREMENT.

6 Q. AND DID HE RETIRE UNDER CALPERS?

7 A. YES, HE DID.

8 Q. AT THIS PARTICULAR PERIOD -- LET'S LOOK TO,
9 NOW, EXHIBIT 12. WHAT IS EXHIBIT 12?

10 A. THAT IS THE PAY CLASSIFICATION FOR FISCAL
11 YEAR 2004 TO 2005.

12 THE COURT: ONE SECOND. OKAY.

13 BY MR. BRAUN:

14 Q. OKAY. AND WOULD YOU DESCRIBE -- WAS THIS
15 DONE UNDER YOUR AUTHORITY AT THE TIME?

16 A. FOR 2004, YES.

17 Q. AND WHAT IS THIS THING -- WHAT DOES THIS
18 SCHEDULE SET FORTH IN TERMS OF --

19 MR. KENNEDY: I'M SORRY. I APOLOGIZE --

20 THE COURT: YEAH, MINE SAYS "RESOLUTION
21 NUMBER 2004-24."

22 THE WITNESS: CORRECT.

23 MR. KENNEDY: AND IT ALSO DOESN'T SAY
24 ANYTHING ELSE ABOUT A PAY SCHEDULE.

25 THE WITNESS: NO. PAY CLASSIFICATION.

1 MR. KENNEDY: PAY CLASSIFICATION. DOESN'T
2 SAY ANYTHING ABOUT A PAY CLASSIFICATION.

3 THE WITNESS: THAT'S WHAT IT IS. THIS IS
4 HOW IT WAS ALWAYS DONE BEFORE I GOT THERE.

5 MR. KENNEDY: YOUR HONOR, I WOULD OBJECT.
6 THE DOCUMENT SPEAKS FOR ITSELF, AND HER
7 CHARACTERIZATION IS IRRELEVANT TO IT, AND ALSO THE
8 DOCUMENT I HAVE IS NOT THE DOCUMENT BEING REFERRED
9 TO.

10 THE COURT: WELL. I DON'T KNOW. LET'S
11 FIND OUT IF WE'RE ALL ON THE SAME PAGE.

12 MR. BRAUN: LOOKING AT THE TOP, DOES IT SAY
13 "RESOLUTION 2004-24"?

14 THE WITNESS: YES.

15 THE COURT: IS THAT WHAT YOURS SAYS,
16 MR. KENNEDY?

17 MR. KENNEDY: THAT'S WHAT MINE SAYS. I
18 HAVE PAGE 1. AND THE SECOND PAGE, IT APPEARS TO BE
19 AN ADDENDUM 1 TO THE AGREEMENT AGAIN. THE SECOND AND
20 THIRD, THERE SEEMS TO BE AN ADDENDUM.

21 MR. BRAUN: THAT'S A MISTAKE.

22 THE WITNESS: IT'S PROBABLY A MISTAKE IN
23 THE BOOK.

24 THE COURT: AT THE BOTTOM RIGHT OF MINE, IT
25 SAYS PAGE NUMBER 100. AND THEN TO THE RIGHT OF THAT,

1 IT SAYS PAGE NUMBER 101. IT'S ALMOST LIKE A BATES
2 STAMP.

3 MR. KENNEDY: I DON'T HAVE A 101.

4 THE COURT: OKAY. YOU WANT TO COME --

5 MR. KENNEDY: I'LL BE HAPPY TO GO MAKE A
6 COPY OF IT.

7 THE COURT: DO YOU WANT TO DO THAT RIGHT
8 NOW?

9 MR. KENNEDY: SURE.

10 (WHEREUPON, A RECESS WAS HELD.

11 FROM 11:16 A.M. TO 11:17 A.M.)

12 BY MR. BRAUN:

13 Q. MS. SPACCIA, REFERRING BACK TO NUMBER 12
14 AGAIN, HOW IS THIS PARTICULAR RESOLUTION USED AT
15 BELL?

16 MR. KENNEDY: OBJECTION. VAGUE.

17 THE COURT: OVERRULED.

18 THE WITNESS: IT'S USED TO DETERMINE THE
19 BENEFITS BASED ON CLASSIFICATIONS OF THE CATEGORIES
20 FOR EACH TO ENSURE THAT -- FOR EXAMPLE, IF YOU LOOK
21 AT ADMINISTRATIVE MANAGEMENT -- THAT ALL OF THOSE
22 PEOPLE RECEIVED THE SAME BENEFITS.

23 BY MR. BRAUN:

24 Q. AND IN TERMS OF THE EXECUTIVE MANAGEMENT
25 CATEGORY, I SEE THAT YOU'RE THERE; IS THAT CORRECT?

1 A. RIGHT. THAT IS THE FIRST YEAR THAT I WAS
2 THERE.

3 Q. OKAY. AND DO YOU KNOW WHY YOU WERE -- WAS
4 THERE SOMEONE IN THAT CATEGORY BEFORE YOU WERE PLACED
5 IN THAT CATEGORY?

6 A. THERE WAS.

7 Q. WHO WAS THAT?

8 A. HER NAME WAS PATRICIA CASJENS.

9 Q. AND DID SHE TERMINATE HER EMPLOYMENT AT
10 CITY OF BELL?

11 A. SHE -- I NEVER MET HER. MY UNDERSTANDING
12 WAS THAT SHE WAS TOLD TO GO HOME AND STAYED ON THE
13 PAYROLL ANOTHER 18 MONTHS AND THEN TERMINATED
14 CONTRACT.

15 Q. DID SHE HAVE AN ILL RELATIVE?

16 A. YES.

17 Q. AND THEN DO YOU KNOW WHY YOU WERE THEN
18 PLACED IN THAT CATEGORY?

19 MR. KENNEDY: OBJECTION. CALLS FOR
20 SPECULATION.

21 THE COURT: OVERRULED.

22 THE WITNESS: HE TOLD ME THAT HE WAS GOING
23 TO GIVE ME A 401 (A) PLAN WHICH THE PERSON, PATRICIA
24 CASJENS, HAD HAD BEFORE ME. AND THE PLAN APPARENTLY
25 REQUIRED TWO PEOPLE. SO HE CHOOSE TO PUT ME IN THAT

1 CATEGORY.

2 THE COURT: WHO IS "HE"?

3 THE WITNESS: THE C.A.O., ROBERT RIZZO.

4 BY MR. BRAUN:

5 Q. OTHER THAN MAKING YOU ELIGIBLE FOR A 401
6 AND KEEPING HIS ELIGIBILITY, DID THAT, PUTTING YOU IN
7 THE EXECUTIVE MANAGEMENT CATEGORY, GIVE YOU ANY
8 PARTICULAR ADDITIONAL AUTHORITY?

9 MR. KENNEDY: OBJECTION, YOUR HONOR.
10 INCOMPETENT.

11 THE COURT: OVERRULED.

12 THE WITNESS: NO.

13 BY MR. BRAUN:

14 Q. LET'S LOOK AT 13, EXHIBIT 13. WHAT IS THIS
15 EXHIBIT?

16 A. THIS IS ADDENDUM NUMBER 2 TO MY EMPLOYMENT
17 AGREEMENT, DATED JULY 1ST, 2005.

18 Q. AND WAS THIS PASSED BY THE CITY COUNCIL?

19 MR. KENNEDY: OBJECTION, YOUR HONOR. CALLS
20 FOR SPECULATION, LACK OF FOUNDATION.

21 THE COURT: SUSTAINED.

22 MR. BRAUN: WAS THIS SIGNED BY THE MAYOR?

23 MR. KENNEDY: OBJECTION. DOCUMENT SPEAKS
24 FOR ITSELF.

25 THE COURT: OVERRULED.

1 THE WITNESS: YES.

2 BY MR. BRAUN:

3 Q. WAS IT SIGNED BY THE CITY ATTORNEY?

4 A. YES.

5 Q. SIGNED BY THE CITY CLERK?

6 A. YES.

7 MR. KENNEDY: PARTICULARLY, YOUR HONOR, I
8 WOULD SAY OBJECTION AS TO SPECULATION. THERE IS
9 ACTUALLY -- AS AN OFFER OF PROOF, THERE'S ACTUALLY
10 TESTIMONY THAT THE CITY ATTORNEY IS -- HAS NO
11 RECOLLECTION OF EVER SIGNING THIS DOCUMENT.

12 THE COURT: ARE YOU FAMILIAR WITH THE CITY
13 ATTORNEY'S SIGNATURE?

14 THE WITNESS: YES.

15 THE COURT: DOES THIS APPEAR TO BE THE CITY
16 ATTORNEY'S SIGNATURE?

17 THE WITNESS: YES.

18 THE COURT: IS IT DIFFERENT IN ANY FASHION
19 FROM THE SIGNATURE YOU SAW THE CITY ATTORNEY AFFIX TO
20 DOCUMENTS?

21 THE WITNESS: NO.

22 MR. KENNEDY: WE WILL CALL REBUTTAL THEN.

23 THANK YOU.

24 THE COURT: YOU CAN DO THAT.

25 MR. KENNEDY: OH, NO, YOUR HONOR. I

1 JUST --

2 BY MR. BRAUN:

3 Q. LET'S LOOK AT NO. 14. WHAT IS NO. 14,
4 MS. SPACCIA?

5 A. 14 IS THE ORGANIZATIONAL CHART AS IT WAS
6 PUT IN PLACE BEGINNING JULY 2005.

7 Q. LOOKING AT THE FIRST PAGE OF THE
8 ORGANIZATIONAL CHART WHICH HAS A 39 AT THE BOTTOM,
9 DOES THIS SET FORTH THE ORGANIZATION AS YOU KNEW AT
10 THAT TIME?

11 A. YES.

12 Q. OKAY. AND THEN LOOKING AT THE NEXT PAGE
13 WHICH HAS A 40 ON THE BOTTOM, DOES THIS REPRESENT THE
14 ORGANIZATION OF THE CITY OF BELL AS YOU KNEW AT THAT
15 TIME?

16 A. IT REPRESENTS THE DAILY OPERATIONS AND
17 MANAGEMENT OF THE CITY, YES.

18 Q. NOW, LOOKING AT, FOR EXAMPLE, THAT PAGE,
19 THE CHIEF ADMINISTRATIVE OFFICER WOULD BE MR. RIZZO;
20 CORRECT?

21 A. CORRECT.

22 Q. AND WHO WOULD BE ADMINISTRATIVE SERVICES?

23 A. LOURDES GARCIA.

24 Q. AND WHO WOULD BE GENERAL SERVICES?

25 A. ERIC EGGENA.

1 Q. AND WHO WOULD BE COMMUNITY AND SOCIAL
2 SERVICES?

3 A. ANNETTE PERETZ.

4 Q. NOW, LOOKING AT THE NEXT PAGE --

5 THE COURT: WHO IS GENERAL SERVICES?

6 I'M SORRY.

7 THE WITNESS: ERIC EGGENA, E-G-G-E-N-A.

8 THE COURT: AND WHO IS COMMUNITY SERVICES?

9 THE WITNESS: ANNETTE PERETZ, P-E-R-E-T-Z.

10 THE COURT: ONE MORE TIME.

11 THE WITNESS: P-E-R-E-T-Z.

12 THE COURT: THANKS.

13 BY MR. BRAUN:

14 Q. NOW, THE NEXT PAGE WHICH SAYS 41 AT THE
15 BOTTOM --

16 MR. KENNEDY: I'M SORRY. BEFORE YOU GO

17 ON --

18 YOUR HONOR, I WOULD JUST LIKE TO FOLLOW UP

19 ON THE COURT'S QUESTIONS ON THE ADMINISTRATIVE

20 SERVICES. I DIDN'T GET THAT.

21 THE COURT: THAT WAS LOURDES.

22 THE WITNESS: LOURDES GARCIA.

23 MR. KENNEDY: GARCIA. THANK YOU.

24 BY MR. BRAUN:

25 Q. THE NEXT PAGE THEN WHICH HAS A 41,

1 "ADMINISTRATIVE SERVICES DIRECTOR," IS THAT FURTHER
2 EXPLAINING WHAT LOURDES GARCIA WOULD BE DOING?

3 A. YES, IT DOES.

4 Q. AND WHO WOULD SHE BE THEN IN CHARGE -- IS
5 THERE A SEPARATE PERSON IN CHARGE OF SUPPORT SERVICES
6 AS OPPOSED TO FINANCIAL SERVICES, OR IS THAT ALL
7 UNDER HER?

8 A. THAT'S ALL UNDER HER.

9 Q. AND WOULD SHE BE UNDER THE -- WOULD SHE BE
10 A DEPARTMENT HEAD?

11 A. SHE WOULD BE CONSIDERED A DEPARTMENT HEAD,
12 YES.

13 Q. GOING TO THE NEXT PAGE, THE NEXT PAGE IS
14 THE DIRECTOR OF GENERAL SERVICES. THAT WOULD BE
15 MR. EGGENA AGAIN?

16 A. YES.

17 Q. AND GOING TO THE NEXT PAGE, THE DEPUTY CITY
18 ENGINEER, WHO WOULD THAT BE?

19 A. LOUIS RAMIREZ.

20 Q. THAT WOULD INDICATE WHAT AUTHORITIES HE
21 HAD?

22 A. YES.

23 MR. KENNEDY: OBJECTION, YOUR HONOR. VAGUE
24 AS TO THE TERM "AUTHORITIES."

25 ///

1 BY MR. BRAUN:

2 Q. WHAT DID THE DEPUTY CITY ENGINEER DO?

3 A. HE WAS RESPONSIBLE FOR ALL FOUR ITEMS THAT
4 YOU SEE ON THIS CHART. THE FACILITY MAINTENANCE,
5 FLEET MAINTENANCE, ENGINEERING, AND THEN PUBLIC
6 PROPERTY MAINTENANCE.

7 Q. AND THEN THE NEXT PAGE WHICH HAS A 44 ON
8 THE BOTTOM, THAT INDICATES THE POLICE CHIEF; IS THAT
9 RIGHT?

10 A. YES.

11 Q. AND THAT WOULD BASICALLY INDICATE BELOW THE
12 POLICE CHIEF, HIS RESPONSIBILITIES; IS THAT CORRECT?

13 A. CORRECT.

14 MR. KENNEDY: OBJECTION AGAIN TO THE TERM
15 "RESPONSIBILITIES."

16 THE COURT: IS ANY OF THIS REALLY GOING TO
17 BE AN ISSUE?

18 MR. BRAUN: LET ME GET TO --

19 THE COURT: IS ANY OF THIS GOING TO BE AN
20 ISSUE?

21 MR. KENNEDY: WELL, THE ISSUE AS FAR AS
22 WHAT THE DUTIES WERE OF INDIVIDUALS MAY --

23 THE COURT: YOU KNOW, CAN YOU ANSWER IT YES
24 OR NO?

25 MR. KENNEDY: YES.

1 THE COURT: OBJECTION SUSTAINED.

2 MR. BRAUN: OKAY.

3 BY MR. BRAUN:

4 Q. LET'S LOOK UNDER THE ONE THAT SAYS 44 AT
5 THE BOTTOM, "POLICE CHIEF," DOES THIS CHART INDICATE
6 THE RESPONSIBILITIES OF THE POLICE CHIEF OF THE CITY
7 OF BELL?

8 MR. KENNEDY: AGAIN, YOUR HONOR, OBJECTION
9 TO THE TERM "RESPONSIBILITIES." THE DOCUMENT SPEAKS
10 FOR ITSELF.

11 THE COURT: WHAT WERE THE RESPONSIBILITIES,
12 MA'AM.

13 THE WITNESS: THE RESPONSIBILITIES OF THE
14 POLICE CHIEF WERE TO MONITOR AND MANAGE THE OVERSIGHT
15 FOR PAROLE, DETECTIVES, TRAINING FOR ITS PERSONNEL,
16 THE RECORDS BUREAU, DISPATCH COMMUNICATION, AND THE
17 ADMINISTRATION.

18 BY MR. BRAUN:

19 Q. NOW, MAYBE TO CUT TO THE CHASE OF THESE
20 ORGANIZATIONAL CHARTS, I DON'T SEE YOUR POSITION ON
21 ANY OF THESE ORGANIZATIONAL CHARTS.

22 A. CORRECT.

23 Q. SO WHAT WAS -- THIS PARTICULAR CHART
24 REPRESENTS A TIME WHEN YOU WERE -- YOU WERE STILL
25 INVOLVED IN THE FINANCE -- OVERSIGHT OF FINANCE?

1 A. THIS WAS PREPARED IN ANTICIPATION THAT I
2 WAS LEAVING FINANCE AND WAS GOING TO BE SOLELY
3 SPECIAL ASSIGNMENTS. AND THIS ORGANIZATIONAL CHART
4 REPRESENTS THE DAILY OPERATIONAL MANAGEMENT OF THE
5 CITY, AND I WAS NOT PART OF THAT.

6 MR. KENNEDY: OBJECTION, YOUR HONOR. LACK
7 OF FOUNDATION AND HEARSAY.

8 SHE DIDN'T TESTIFY SHE PREPARED THE
9 DOCUMENT, AND NOW SHE'S SPECULATING AS TO WHY IT WAS
10 PREPARED.

11 THE WITNESS: I DID PREPARE THIS DOCUMENT.

12 THE COURT: WELL, LACK OF FOUNDATION
13 SUSTAINED. NOW SHE'S GOING TO SAY, "I PREPARED THE
14 DOCUMENT."

15 GO AHEAD.

16 BY MR. BRAUN:

17 Q. THIS DOCUMENT WAS PART OF THE 2005-2010
18 BUDGET THAT YOU PREPARED?

19 A. CORRECT.

20 Q. SO WOULD YOU -- AT WHAT POINT DID YOU CEASE
21 YOUR OVERSIGHT OF THE FINANCE SIDE OF LOURDES GARCIA
22 AND WERE REMOVED FROM THAT PARTICULAR FUNCTION?

23 A. IT WAS ACTUALLY IN JULY OF 2005. I WAS --
24 I ACTUALLY HAD BROUGHT SOME IMPROPRIETIES THAT I
25 THOUGHT WERE HAPPENING WITH THE HOUSING AUTHORITY TO

1 THE C.A.O.

2 AND SHORTLY THEREAFTER HE SAID THAT HE
3 DIDN'T THINK THAT LOURDES NEEDED MY MENTORING ANY
4 LONGER, THAT SHE WAS READY TO TAKE OVER THE FINANCE
5 DEPARTMENT.

6 SO OFFICIALLY, JULY OF 2005 IS WHEN I WAS
7 REMOVED FROM FINANCE.

8 Q. NOW, AT THAT TIME THAT YOU BROUGHT THOSE
9 IMPROPRIETIES INVOLVING THE HOUSING AUTHORITY TO
10 MR. RIZZO'S ATTENTION, DID YOU BELIEVE HE WAS
11 REMEDYING THEM?

12 MR. KENNEDY: OBJECTION. CALLS FOR
13 SPECULATION, LACK OF FOUNDATION.

14 THE COURT: HOW IS THIS RELEVANT TO
15 ANYTHING I'M SUPPOSED TO DECIDE?

16 MR. BRAUN: THAT IS A GOOD POINT, YOUR
17 HONOR.

18 BY MR. BRAUN:

19 Q. AT THAT POINT, YOU CEASED BEING INVOLVED IN
20 THE FINANCIAL END OF THE CITY?

21 A. I WAS TOLD TO STAY OUT.

22 Q. AND AT THAT PARTICULAR POINT, DID YOU
23 REGARD THAT A DEMOTION OF SOME KIND?

24 A. I DIDN'T REALLY CONSIDER IT SO MUCH A
25 DEMOTION BECAUSE I DIDN'T REALLY KNOW WHAT I WAS IN

1 STORE FOR GOING FORWARD.

2 Q. AND AFTER YOU WERE REMOVED FROM THE FINANCE
3 END, WHAT DID YOUR DUTIES CONSIST OF THEN?

4 A. SPECIAL ASSIGNMENTS. ANYTHING FROM
5 CREATING AN ANNUAL LOW-RIDER CAR SHOW TO DEVELOPING A
6 SKATE PARK FOR THE YOUTH TO REVIEWING GRANTS TO SEE
7 WHETHER OR NOT THE CITY WOULD BE ELIGIBLE FOR THEM,
8 ATTENDING CHAMBER OF COMMERCE MEETINGS. JUST ANY --
9 IT WOULD VARY.

10 Q. AND WHERE DID YOU LIVE AT THAT TIME?

11 A. IN NORTHRIDGE, CALIFORNIA.

12 Q. HOW LONG OF A DISTANCE WAS IT FROM WHERE
13 YOU LIVED IN NORTHRIDGE TO THE CITY OF BELL?

14 A. ON AN AVERAGE, AN HOUR AND A HALF.

15 Q. DID YOU WORK AT HOME -- SOMETIMES AT HOME
16 AS OPPOSED TO COMING TO THE CITY OF BELL?

17 A. PROBABLY MORE THAN HALF THE TIME I WORKED
18 FROM HOME.

19 Q. WERE YOU ABLE TO WORK AT HOME?

20 A. YES. I HAD REMOTE ACCESS ON MY COMPUTER
21 AND -- BECAUSE I DIDN'T REALLY NEED TO INTERACT WITH
22 PEOPLE ON ANY OF THE DAILY OPERATIONAL THINGS.

23 I COULD MAKE PHONE CALLS FROM HOME. I
24 COULD, YOU KNOW, ARRANGE MEETINGS AND MEET PEOPLE AT
25 RESTAURANTS IF THAT'S WHAT WAS NEEDED TO DO IN ORDER

1 TO GET SOMETHING DONE.

2 Q. NOW, IN TERMS OF -- LET'S LOOK AT EXHIBIT
3 15. WHAT IS EXHIBIT 15?

4 A. THAT'S THE CITY COUNCIL AGENDA IDENTIFYING
5 THE FIVE-YEAR BUDGET WITH ITS ADDENDUMS AND
6 SUPPLEMENTAL REVISIONS.

7 Q. AND THEN WHAT IS EXHIBIT 16?

8 A. THAT'S THE MINUTES APPROVING THE BUDGET
9 WITH ITS SUPPLEMENTAL REVISIONS AND ADDENDUMS.

10 Q. WHAT IS EXHIBIT 17?

11 A. THAT IS THE ACTUAL RESOLUTION THAT WAS
12 PRESENTED WITH THE BUDGET, INDICATING THAT THERE WERE
13 SUPPLEMENTAL REVISIONS AND AMENDMENTS WITH IT.

14 Q. AND THEN WHAT IS EXHIBIT 18?

15 A. THAT IS THE PAY SCHEDULE FOR 2005 THROUGH
16 2010.

17 Q. AND DID YOU HAVE ANYTHING TO DO WITH
18 PREPARING THIS?

19 A. NO.

20 Q. WHO WITHIN THE ORGANIZATION -- AT THAT TIME
21 WHO WOULD HAVE BEEN IN CHARGE OF PREPARING THIS?

22 A. THAT WOULD HAVE BEEN LOURDES GARCIA.

23 Q. I NOTICE ON THIS PARTICULAR PAY SCHEDULE
24 2005-09, THERE IS NO LIST OF THE MANAGEMENT UNDER THE
25 PREVIOUS PAY SCHEDULE REFERRING TO THE CONTRACT?

1 A. CORRECT.

2 Q. DID YOU EVER KNOW THAT AT THAT TIME?

3 A. I WAS NOT AWARE OF THAT UNTIL WE RECEIVED
4 THIS DISCOVERY RECENTLY.

5 Q. NOW, LOOKING AT EXHIBIT 19, WHAT IS THAT?

6 A. THAT IS THE CITY OF BELL CHARTER.

7 Q. AND ARE YOU FAMILIAR -- WHEN WAS THAT --
8 WAS THAT IMPLEMENTED THROUGH AN ELECTION?

9 A. YES.

10 Q. AND WHEN WAS THIS CHARTER ADOPTED?

11 A. IT SAYS HERE JANUARY 3RD, 2006.

12 Q. NOW, TO JUMP AHEAD AND GO BACK. WHAT IS
13 EXHIBIT 20?

14 A. THERE WERE SOME ANOMALIES IN THE CHARTER
15 THAT WERE NOT --

16 MR. KENNEDY: OBJECTION, YOUR HONOR. IT'S
17 LACK OF COMPETENCY. NOW, SHE'S ATTEMPTING TO
18 INTERPRET AND DEFINE RESOLUTION 2006-42.

19 MR. BRAUN: MAYBE I'LL ASK IT A DIFFERENT
20 WAY, YOUR HONOR.

21 THE COURT: THANK YOU.

22 BY MR. BRAUN:

23 Q. OKAY. NUMBER 20, THE RESOLUTION 2006-42,
24 IS THAT A RESOLUTION PASSED BY THE CITY COUNCIL?

25 MR. KENNEDY: LACK OF FOUNDATION, YOUR

1 HONOR.

2 THE COURT: OVERRULED.

3 THE WITNESS: YES.

4 MR. BRAUN: SO NUMBER 21, IS THAT THE
5 MINUTES OF THE CITY COUNCIL PASSING RESOLUTION
6 2006-42.

7 MR. KENNEDY: YOUR HONOR, I WOULD ALSO
8 OBJECT ON THE -- THIS IS -- THIS DOES NOT APPEAR TO
9 BE COMPLETE DOCUMENTS.

10 SHE DIDN'T SHOW THE FUNCTION OF THE CITY
11 CLERK IN THIS RESPECT. SO SHE HAS REALLY NO
12 COMPETENCY TO TESTIFY AS TO THE DOCUMENT, THE
13 FOUNDATION OF THE DOCUMENT ITSELF, ITS AUTHENTICITY.

14 THE COURT: YOU THINK IT'S PHONY?

15 MR. KENNEDY: I THINK IT'S INCOMPLETE. I
16 THINK THERE ARE --

17 THE COURT: DO YOU HAVE A COMPLETE ONE
18 YOU'D LIKE TO SHOW TO HER?

19 MR. KENNEDY: YES, WE HAVE --

20 THE COURT: WHY DON'T YOU BRING IT FORWARD
21 THEN RIGHT NOW.

22 MR. KENNEDY: WE DON'T HAVE IT RIGHT NOW,
23 YOUR HONOR. MAYBE WE DO.

24 DO WE HAVE IT?

25 MR. ONSTOT: THEY'RE ON THEIR WAY.

1 MR. KENNEDY: THEY'RE ON THEIR WAY.

2 THE WITNESS: WHICH DOCUMENT?

3 BY MR. BRAUN:

4 Q. NOW, AFTER THE CHARTER WAS PASSED AND AFTER
5 2006-42 WAS IMPLEMENTED, HOW WERE YOUR AGREEMENTS
6 WITH THE CITY OF BELL FOR EMPLOYMENT AUTHORIZED?

7 A. I WAS TOLD --

8 MR. KENNEDY: OBJECTION AS TO THE TERM
9 "AUTHORIZED," YOUR HONOR, "HOW THEY WERE."

10 THE COURT: OVERRULED.

11 THE WITNESS: I WAS TOLD TO TAKE OFF THE
12 MAYOR'S SIGNATURE ON ALL OF THE -- I TYPED ALL OF THE
13 MANAGEMENT CONTRACTS FOR ALL EMPLOYEES FROM 2004
14 MOVING FORWARD.

15 AND PRIOR TO THIS CHARTER AND THIS
16 RESOLUTION, THE CITY COUNCIL HAD TO APPROVE THEM, BUT
17 AFTER THIS RESOLUTION --

18 MR. KENNEDY: OBJECTION, YOUR HONOR. IT
19 GOES TO THE COMPETENCY. NOW SHE'S INTERPRETING THE
20 EFFECT OF THE CHARTER IN THIS AMENDMENT.

21 THE COURT: NO. NO, SHE'S NOT. PLEASE.
22 THANK YOU, MR. KENNEDY.

23 MR. KENNEDY: THANK YOU.

24 MR. BRAUN: YOU MAY PROCEED.

25 THE COURT: YOU WERE TOLD TO TAKE OFF THE

1 MAYOR'S SIGNATURE, AND THERE WAS A PLACE WHERE THE
2 CITY COUNCIL SIGNED IT.

3 THE WITNESS: YES. AND I WAS TOLD TO TAKE
4 OFF THAT SIGNATURE AREA AND THAT THE C.A.O., ROBERT
5 RIZZO, THEN HAD THE AUTHORITY TO SIGN THOSE
6 CONTRACTS.

7 MR. BRAUN: NOW, LET'S --

8 THE COURT: SO DID YOU PUT HIS NAME ON
9 THERE?

10 THE WITNESS: I DID.

11 MR. BRAUN: NOW, LET'S GO --

12 THE COURT: AND WHO TOLD YOU TO DO THAT?

13 THE WITNESS: ROBERT RIZZO.

14 BY MR. BRAUN:

15 Q. NOW, DURING THE -- WHILE YOU WERE EMPLOYED
16 AT THE CITY OF BELL, DID YOU HAVE SOME FUNCTION IN
17 PREPARING THE ACTUAL PHYSICAL DOCUMENTS THAT BECAME
18 THE VARIOUS CONTRACTS OF THE VARIOUS EMPLOYEES?

19 A. I TYPED -- WHAT I DID WAS I TOOK A TEMPLATE
20 FROM THE CITY ATTORNEY WHO PREPARED THEM BEFORE I
21 CAME TO WORK THERE.

22 AND AT SOME POINT WHEN MY DUTIES WERE
23 CHANGING, ROBERT RIZZO ASSIGNED ME THAT DUTY OF
24 TYPING THE EMPLOYMENT CONTRACTS. SO I TYPED ALL
25 MANAGEMENT EMPLOYMENT CONTRACTS.

1 Q. AND FROM WHAT PERIOD OF TIME DID YOU DO
2 THAT?

3 A. FROM 2004 THROUGH 2010.

4 Q. AND WHO DIRECTED YOU TO WHAT NUMBERS TO PUT
5 IN THOSE PHYSICAL CONTRACTS?

6 A. THE FINANCE DIRECTOR WITH THE C.A.O. WOULD
7 PREPARE A SPREAD SHEET. THEY WOULD DETERMINE WHAT
8 THE DOLLAR AMOUNTS WERE, AND THAT WOULD BE GIVEN TO
9 ME. AND I WOULD FILL IN THE BLANKS OF THE TEMPLATE.

10 THE COURT: WHO DID YOU GET THE NUMBERS
11 FROM?

12 THE WITNESS: FROM THE C.A.O. AND THE
13 FINANCE DIRECTOR.

14 BY MR. BRAUN:

15 Q. TO SKIP AHEAD -- ACTUALLY, IN THAT BIG
16 BOOK, THERE IS A SPREADSHEET THAT YOU WERE GIVEN.

17 A. NUMBER 25?

18 Q. OKAY. CAN WE SKIP -- LOOK AT 25.

19 A. YES.

20 Q. WHAT IS 25?

21 A. 25 IS THE SPREADSHEET THAT I WAS GIVEN TO
22 PREPARE THE CHANGES FOR JULY 2008 THROUGH JULY 2011,
23 WHICH, OF COURSE, I WASN'T THERE THAT LONG, BUT THAT
24 WAS THE INTENTION.

25 Q. AND HOW WAS THAT SPREADSHEET GIVEN TO YOU?

1 A. E-MAIL.

2 Q. DID THE E-MAIL SHOW WHERE IT ORIGINATED
3 FROM?

4 A. WELL, LOURDES GARCIA PREPARED IT AND SENT
5 IT TO ROBERT RIZZO, THE C.A.O., WHO THEN FORWARDED IT
6 TO ME.

7 Q. AND IS THIS COPY FROM YOUR COMPUTER?

8 A. YES.

9 Q. DID YOU HAVE ANY AUTHORITY OR SAY IN WHAT
10 THE FIGURES WERE GOING TO BE?

11 A. NO.

12 Q. DID MR. RIZZO EVER DISCUSS WITH YOU WHAT
13 PEOPLE WERE SUPPOSED TO BE GETTING AT CITY OF BELL?

14 A. NO.

15 Q. IN TERMS OF EVEN YOUR OWN PAY THAT'S LISTED
16 ON THIS SPREADSHEET, DID YOU HAVE ANY INPUT OR
17 DISCUSSION WITH MR. RIZZO ABOUT WHAT YOU WERE GOING
18 TO BE GETTING?

19 A. ONLY WHEN I WAS INITIALLY HIRED, MY FIRST
20 EMPLOYMENT CONTRACT.

21 Q. AND WAS THERE ANY PARTICULAR REASON YOU
22 DIDN'T DISCUSS THE FIGURES WITH HIM?

23 A. WELL, HE ALWAYS -- HE MADE IT CLEAR TO ALL
24 OF US THAT HE PAID US WELL, AND THAT HIS -- HE PAID
25 US WELL SO THAT HE COULD RETAIN US, THAT WE COULDN'T

1 JUST GO TO ANOTHER CITY AND TAKE A SIMILAR JOB AND
2 GET MORE MONEY.

3 AND SO I TOOK THAT AT ITS FACE THAT I WAS
4 BEING PAID PRETTY WELL. SO I DIDN'T HAVE ANY PLACE
5 TO NEGOTIATE OR SAY "YES" OR "NO" OR ANYTHING OTHER
6 THAN "THANK YOU."

7 Q. SO WOULD IT BE SAFE TO SAY HE BASICALLY
8 UNILATERALLY SET THESE TERMS FOR THE -- FOR AT LEAST
9 YOU?

10 MR. KENNEDY: OBJECTION, YOUR HONOR.
11 LEADING.

12 THE COURT: SUSTAINED.

13 WAS IT RIZZO -- AND WAS THERE SOMEONE ELSE?

14 THE WITNESS: GARCIA.

15 THE COURT: DID GARCIA HAVE A SAY IN THIS?

16 THE WITNESS: IN THIS, YES, I BELIEVE SO.

17 THE COURT: ANYONE ELSE?

18 THE WITNESS: NO.

19 MR. BRAUN: LET'S GO BACK TO --

20 THE COURT: DID IT EVER OCCUR TO YOU THAT
21 \$230,000 A YEAR WAS AN AWFUL BIG SALARY FOR THE KIND
22 OF THINGS THAT YOU DID?

23 THE WITNESS: I KNEW THAT WAS A GOOD
24 SALARY.

25 THE COURT: IT'S BEYOND GOOD, ISN'T IT?

1 THE WITNESS: WELL --

2 THE COURT: IT'S EXTRAORDINARY.

3 THE WITNESS: YOU THINK SO?

4 THE COURT: YEAH, I DO.

5 THE WITNESS: WELL, I SAY THAT ONLY

6 BECAUSE --

7 THE COURT: A SUPREME COURT JUSTICE MAKES
8 ABOUT \$230,000.

9 THE WITNESS: DO THEY?

10 THE COURT: THE PRESIDENT OF THE UNITED
11 STATES, UNTIL ABOUT 10 YEARS AGO MADE \$250,000.

12 IS THAT A GOOD SALARY? YEAH, I THINK IT'S
13 PRETTY GOOD.

14 THE WITNESS: YEAH, THAT'S A GOOD SALARY.

15 BY MR. BRAUN:

16 Q. IN TERMS OF YOUR QUALIFICATIONS, WERE YOU
17 OVERLY QUALIFIED FOR THE JOB?

18 A. I FELT I WAS.

19 THE COURT: YOU HAVE A BACHELOR'S DEGREE;
20 IS THAT RIGHT?

21 THE WITNESS: YES. BUT I WAS REFERRING TO
22 MY EXPERIENCE.

23 THE COURT: DO YOU HAVE A MASTER'S DEGREE?

24 THE WITNESS: NO.

25 ///

1 BY MR. BRAUN:

2 Q. NOW, IN TERMS OF HIS PHILOSOPHY AT THE
3 CITY, DID HE DISCUSS WITH YOU WHY EVERYONE AT THE
4 CITY SEEMED TO BE GETTING SUCH LARGE SALARIES?

5 A. JUST THAT -- WHAT HE WOULD TELL ALL OF US,
6 AND THAT WAS THAT HE PAID US WELL SO WE COULDN'T
7 LEAVE.

8 Q. DID HE HAVE ANY PHILOSOPHY ABOUT HOW THINLY
9 OR THICKLY THE CITY WAS SUPPOSED TO BE STAFFED?

10 A. HE DID HAVE A THEORY THAT -- A PHILOSOPHY
11 THAT WE HAD A LEAN STAFF. MY UNDERSTANDING WAS THAT
12 WHEN HE FIRST CAME THERE, IT WAS A MUCH LARGER STAFF,
13 AND HE HAD WHITTLED AWAY AT IT AND REDUCED IT TO A
14 BARE MINIMUM.

15 AND SO HE FELT THAT WE HAD TO BE ON-CALL
16 24/7, AND WE HAD TO WORK HARD, WE HAD TO BE THERE IF
17 HE NEEDED US TO BE THERE, AND HE PAID US WELL IN LIEU
18 OF THAT.

19 Q. AND DID ANY OF THESE EMPLOYEES A HAVE ANY
20 TENURE? WERE THEY AT-WILL EMPLOYEES?

21 A. NOT UNTIL JULY OF 2005. THAT'S WHEN HE PUT
22 ALL OF THE MANAGEMENT STAFF AT-WILL AND GAVE THEM
23 ABOUT A 40 PERCENT INCREASE.

24 Q. AND AN AT-WILL, WHAT IS IT IN TERMS OF --

25 A. THAT YOU COULD BE FIRED WITHOUT CAUSE.

1 Q. NOW, LET'S LOOK AT EXHIBIT 21. WHAT IS
2 EXHIBIT 21?

3 A. THAT WAS THE MINUTES APPROVING RESOLUTION
4 2006-42.

5 THE COURT: SORRY. 21?

6 MR. BRAUN: 21, YES, YOUR HONOR.

7 THE COURT: THANK YOU.

8 BY MR. BRAUN:

9 Q. EXHIBIT 22, WHAT IS EXHIBIT 22?

10 A. THAT WAS AN ADDENDUM FOR JULY 1ST, 2006, TO
11 MY AGREEMENT.

12 Q. AND HOW DID THAT CHANGE YOUR AGREEMENT WITH
13 THE CITY?

14 A. I HAVE TO READ IT.

15 IT WAS SAYING THAT -- I BELIEVE, THAT I
16 COULD BE FIRED WITHOUT CAUSE, GIVEN 30 DAYS WRITTEN
17 NOTICE.

18 Q. AND YOU AGREED TO THAT?

19 A. YES.

20 Q. AND ON THE SECOND PAGE, IT'S SIGNED BY
21 MR. RIZZO AND THE CITY CLERK?

22 A. YES.

23 Q. AND AT THAT PARTICULAR POINT AFTER 2006-42
24 WAS PASSED, DO YOU BELIEVE THAT HE HAD THE AUTHORITY
25 TO ENTER INTO EMPLOYMENT AGREEMENTS --

1 MR. KENNEDY: OBJECTION. IRRELEVANCY,
2 INCOMPETENCY.

3 THE COURT: OVERRULED.

4 BY MR. BRAUN:

5 Q. -- WITHOUT THE APPROVAL OF THE CITY
6 COUNCIL?

7 A. YES.

8 Q. NOW, LET'S LOOK AT NUMBER 23. WHAT IS 23?

9 A. THIS IS A NEW EMPLOYMENT AGREEMENT DATED
10 JULY -- I'M SORRY -- JUNE 30, 2008, FOR MYSELF.

11 Q. AND WHY WAS -- WHY DID YOU HAVE A NEW
12 EMPLOYMENT AGREEMENT ON THE 2008 RATHER THAN JUST DO
13 AN ADDENDUM TO YOUR OLD AGREEMENT?

14 MR. KENNEDY: OBJECTION, YOUR HONOR. CALLS
15 FOR SPECULATION, LACK OF FOUNDATION.

16 THE COURT: IF SHE KNOWS.

17 THE WITNESS: THE CITY CHARTER PROVIDES FOR
18 AN ASSISTANT C.A.O. IN THE EVENT THAT THE C.A.O. HAD
19 BECOME INCAPACITATED OR HAD AN EXTENDED ABSENTEE
20 PERIOD, AND HE CHOSE -- THAT WAS IN 2006.

21 BUT WITHOUT ASSIGNING SOMEONE THAT TITLE,
22 HE WAS -- THE MAYOR WOULD BE IN CHARGE IF HE WERE OUT
23 WITH A PHYSICAL AILMENT OF SOME SORT.

24 SO HE APPOINTED ME THE ASSISTANT C.A.O. AND
25 TOLD ME THAT I NEED TO TYPE A BRAND-NEW AGREEMENT.

1 Q. NOW, IN TERMS OF A CITY LIKE THE CITY OF
2 BELL WITH THE CITY COUNCIL AND THE MAYOR THAT THEY
3 HAD, WOULD IT BE LIKELY, IN YOUR OPINION, THAT THE
4 CITY -- THE MAYOR WOULD HAVE THE BACKGROUND OR THE
5 COMPETENCE TO RUN ACTUAL ADMINISTRATION OF THE CITY
6 IN THE ABSENCE OF MR. RIZZO?

7 MR. KENNEDY: OBJECTION, YOUR HONOR. LACK
8 OF FOUNDATION, COMPETENCY, RELEVANCE.

9 THE COURT: SUSTAINED.

10 BY MR. BRAUN:

11 Q. NOW, DID THE -- YOUR APPOINTMENT TO BECOME
12 THE ASSISTANT C.A.O. CHANGE YOUR DUTIES AT THE CITY
13 OF BELL?

14 A. NO.

15 Q. NOW, LOOKING AT THE SECOND PAGE OF THE
16 AGREEMENT, 23, SECTION 5, "BASIC SALARY."

17 A. YES.

18 Q. IS YOUR AGREEMENT WITH -- THIS NEW
19 AGREEMENT SUBJECT TO THE FISCAL CONDITION OF THE CITY
20 OF BELL? IN OTHER WORDS, IF THEY RUN SHORT OF MONEY,
21 WOULD YOUR SALARY BE REDUCED?

22 MR. KENNEDY: DOCUMENT SPEAKS FOR ITSELF,
23 YOUR HONOR.

24 THE COURT: OVERRULED.

25 IF YOU KNOW.

1 THE WITNESS: YES. ALL AGREEMENTS WERE
2 TYPED SUCH THAT EVERYTHING WAS PROVISIONAL ON THE
3 GENERAL FUND AND ITS FINANCIAL HEALTH.

4 BY MR. BRAUN:

5 Q. WHEN DID THAT START BECOMING PART OF THE
6 AGREEMENTS IF YOU RECALL?

7 A. SINCE BEFORE I STARTED WORKING THERE.

8 Q. OKAY. SO THE AGREEMENTS THAT YOU TYPED
9 WOULD ALL BE CONDITIONED ON THE FINANCIAL CONDITION
10 OF THE CITY OF BELL; IS THAT CORRECT?

11 A. YES. IN FACT, IN 2010 WE DID NOT RECEIVE A
12 PAY INCREASE.

13 MR. KENNEDY: OBJECTION. MOVE TO STRIKE,
14 NONRESPONSIVE.

15 THE COURT: OVERRULED.

16 BY MR. BRAUN:

17 Q. WELL, IT SAYS "THE SALARY ADJUSTMENT SHALL
18 NOT TAKE EFFECT." SO NO MATTER WHAT THE CONDITION OF
19 THE CITY OF BELL, YOU'RE ENTITLED TO THE BASE SALARY;
20 RIGHT?

21 A. THAT WAS NOT MY UNDERSTANDING.

22 THE COURT: OKAY. DIDN'T IT SAY ONLY THE
23 SALARY ADJUSTMENT IS SUBJECT TO THE CONDITION? DID I
24 READ THAT WRONG?

25 THE WITNESS: I DON'T THINK I EVER ANALYZED

1 IT.

2 THE COURT: SO IT'S SAFE TO SAY YOU HAVEN'T
3 REALLY THOUGHT OF THIS?

4 THE WITNESS: TRUE.

5 THE COURT: SO YOUR ANSWER TO THE QUESTION?

6 THE WITNESS: I HAVEN'T LOOKED AT IT.

7 THE COURT: THIS SPECIFIC LANGUAGE WHERE IT
8 SAYS, "BASIC SALARY."

9 THE WITNESS: NOT RECENTLY.

10 THE COURT: THANKS.

11 BY MR. BRAUN:

12 Q. SO YOURS COULD THEN BE TERMINATED AS WELL?

13 A. YES.

14 Q. WITHOUT CAUSE?

15 A. YES.

16 Q. SO IN ADDITION TO WHAT THE JUDGE HAS
17 POINTED OUT, THAT YOUR ADJUSTMENTS COULD BE FORGONE
18 IF THE CITY HAD A POOR FINANCIAL CONDITION, YOUR
19 ENTIRE EMPLOYMENT COULD BE TERMINATED CORRECT?

20 A. TRUE.

21 Q. NOW, LOOKING AT 24. THIS IS THE -- IS 24
22 THE SALARY SCHEDULE FOR 2008?

23 A. IT LOOKS LIKE IT'S THE PAY SCHEDULE FOR
24 2008 THROUGH 2011.

25 Q. AND DID YOU HAVE ANYTHING TO DO WITH

1 PREPARING THIS?

2 A. NO.

3 Q. AND UNLIKE THE ONE YOU PREPARED, THERE IS
4 NO REFERENCE TO MANAGEMENT CONTRACT EMPLOYEES?

5 A. RIGHT.

6 Q. NOW, 25, OF COURSE, IS THE SPREADSHEETS
7 THAT YOU WORKED FROM AGAIN?

8 A. YES.

9 Q. NOW, LET'S GO TO THE DEFERRED -- LET'S TALK
10 ABOUT THE DEFERRED COMPENSATION, THE 401 PLANS. WERE
11 YOU INVOLVED AT ALL IN SETTING THOSE UP?

12 A. NO.

13 Q. AND IN TERMS OF -- WHEN DID YOU START
14 BECOMING ELIGIBLE FOR THE 401?

15 A. AFTER PATRICIA CASJENS LEFT EMPLOYMENT. SO
16 THAT WAS JULY 2004, I BELIEVE.

17 Q. SO THEN YOU BASICALLY THEN BEGAN TO
18 PARTICIPATE IN THE DEFERRED COMPENSATION?

19 A. YES.

20 Q. OKAY. NOW, YOU HEARD COUNSEL SAY THAT IN
21 TERMS OF THE PEOPLE IN THE JOB CLASSIFICATION IN THE
22 EXECUTIVE MANAGEMENT CATEGORY, IN ADDITION TO YOU AND
23 MR. RIZZO, THERE WERE OTHER PEOPLE IN THAT CATEGORY,
24 WERE THERE NOT?

25 A. THE CITY COUNCIL MEMBERS. HOWEVER, THEIR

1 BENEFIT STRUCTURE IS DIFFERENT.

2 Q. SO THE CITY COUNCIL PEOPLE WOULD NOT BE
3 ELIGIBLE FOR THE 401 PLAN; CORRECT?

4 A. CORRECT.

5 THE COURT: WHO IN THE CITY OF BELL WAS A
6 PARTICIPANT OF THE 401 PLAN?

7 THE WITNESS: DIFFERENT PEOPLE AT DIFFERENT
8 PERIODS OF TIME.

9 THE COURT: WHO WERE THEY?

10 THE WITNESS: OKAY. ROBERT RIZZO AND
11 PATRICIA CASJENS. AND THEN THAT CHANGED TO --
12 PATRICIA CASJENS LEFT EMPLOYMENT. SO THEN IT BECAME
13 ROBERT RIZZO AND MYSELF.

14 AND THEN EVENTUALLY THE CLASSIFICATION THAT
15 WE CALL "ADMINISTRATIVE MANAGEMENT," I BELIEVE THERE
16 ARE SIX OR SEVEN EMPLOYEES, AND THEY ALSO BECAME
17 ELIGIBLE FOR THE 401(A).
18 BY MR. BRAUN:

19 Q. DID YOU NAME ALL THE OTHER PEOPLE THAT
20 BECAME ELIGIBLE, IF YOU RECALL?

21 THAT'S THE SPREADSHEET ON 25 OF THAT --

22 A. OH, THAT WOULD BE HELPFUL.

23 MR. KENNEDY: SINCE THAT SPREADSHEET -- I
24 WOULD ASK THAT -- THAT SPREADSHEET PURPORTEDLY COVERS
25 A PERIOD FROM 2007 TO '11. COULD WE HAVE SOME KIND

1 OF A TIME FRAME?

2 THE COURT: WE'RE JUST LOOKING FOR THE
3 NAMES RIGHT NOW, MR. KENNEDY.

4 MR. KENNEDY: THANK YOU.

5 THE COURT: THIS IS A METHOD BY WHICH MAYBE
6 SHE CAN REFRESH HER RECOLLECTION.

7 THE WITNESS: YES. THE ADMINISTRATIVE
8 MANAGEMENT CATEGORY INCLUDED ERIC EGGENA.

9 THE COURT: SPELL IT FOR US AGAIN.

10 THE WITNESS: E-G-G-E-N-A. LOURDES GARCIA;
11 ANNETTE PERETZ, P-E-R-E-T-Z; LOUIS RAMIREZ, AND I
12 BELIEVE RICARDO GONZALEZ.

13 THE COURT: WOULD IT BE FAIR TO SAY THAT IF
14 SOMEONE WAS NOT ON THIS LIST, THEY WERE NOT IN THE
15 401 PROGRAM?

16 THE WITNESS: THE SAFEST WAY TO LOOK AT
17 IT -- WOULD BE BETTER TO LOOK AT THE PAY
18 CLASSIFICATIONS, AND THERE WAS TWO CLASSIFICATIONS,
19 EXECUTIVE MANAGEMENT AND ADMINISTRATIVE MANAGEMENT.
20 SO ANYONE IN THOSE TWO CLASSIFICATIONS WERE ELIGIBLE.

21 THE COURT: IS THERE ANYONE IN THOSE TWO
22 CLASSIFICATIONS THAT YOU HAVEN'T NAMED YET?

23 THE WITNESS: I DON'T BELIEVE SO.

24 THE COURT: OKAY.

25 ///

1 BY MR. BRAUN:

2 Q. NOW, IN TERMS OF THE CONTRIBUTIONS TO THE
3 I.C.M.A., WERE THOSE INCLUDE -- HOW WERE -- IN TERMS
4 OF YOUR OWN CONTRIBUTIONS, HOW WERE THOSE CLASSIFIED
5 IF TERMS OF YOU PAYING IT VERSUS THE CITY OF BELL
6 PAYING FOR IT?

7 A. THE CITY HAD --

8 MR. KENNEDY: OBJECTION, YOUR HONOR, AS TO
9 WHAT PERIOD OF TIME ARE WE TALKING ABOUT.

10 THE COURT: THE FIRST DAY. THAT WOULD BE
11 JULY.

12 MR. BRAUN: THE FIRST DAY THAT YOU WERE
13 INVOLVED?

14 THE COURT: JULY, 2004.

15 DID ANY MONEY COME OUT OF YOUR PAYCHECK?

16 THE WITNESS: YES.

17 THE COURT: WHEN DID THAT HAPPEN?

18 THE WITNESS: I BELIEVE -- AND I COULDN'T
19 TELL YOU THIS FOR CERTAIN -- BUT I THINK IT WAS 2006.

20 THE COURT: HOW MUCH CAME OUT?

21 THE WITNESS: IT WAS SWITCHED TO THE
22 EMPLOYER CONTRIBUTION BEING \$1000, AND THE EMPLOYEE
23 CONTRIBUTION HAD TO BE THE BALANCE, WHICH VARIED FROM
24 YEAR TO YEAR.

25 SO IT WAS ON AN AVERAGE 45 TO 47,000.

1 BY MR. BRAUN:

2 Q. NOW, WAS YOUR PART OF THE CONTRIBUTION
3 INCLUDED IN YOUR W-2 FORM?

4 A. YES.

5 Q. AND DID YOU THEN PAY TAXES ON THAT PORTION?

6 A. YES.

7 THE COURT: NO. NOT IF IT WAS GOING TO A
8 401(K).

9 THERE WOULDN'T BE ANY TAXES. THAT'S WHY
10 YOU TAKE THEM OUT SO THAT THERE'S NOT TAXES THAT ARE
11 PAID; RIGHT.

12 MR. BRAUN: I THOUGHT IT WENT INTO IT.

13 THE WITNESS: I BELIEVE THEY ARE.

14 THE COURT: NO.

15 MR. BRAUN: I THINK IF YOU LOOK -- LET'S
16 LOOK AT THE W-2S. LET'S SEE.

17 THE COURT: IF YOU'RE MAKING A CONTRIBUTION
18 FOR SOMEWHERE DOWN THE LINE THAT YOU CAN TAKE OUT AS
19 PART OF YOUR RETIREMENT, IT'S NOT TAXED. THAT'S WHY
20 THEY LET YOU DO IT.

21 MR. BRAUN: I THINK YOU'RE RIGHT.

22 THE COURT: THERE IS NO REASON TO TAX IT
23 NOW AND THEN TAX IT AGAIN. THAT'S WRONG.

24 MR. BRAUN: YEAH. I THINK YOU'RE RIGHT.

25 YEAH. I'M WRONG.

1 BY MR. BRAUN:

2 Q. SO LET'S LOOK AT 36. THESE ARE YOUR W-2S.

3 DO YOU SEE 36?

4 A. YES.

5 Q. LET'S SEE. THAT WOULD BE FOR 2007. THERE

6 IS A LIST HERE OF "E.R." WHAT IS "E.R."?

7 A. EMPLOYERS --

8 THE COURT: OKAY. I'M MISSING 36.

9 MR. BRAUN: 36.

10 THE WITNESS: OKAY. IT'S W-2S. COULD IT

11 BE IN 35 ACCIDENTLY?

12 THE COURT: I COME UP TO TAB 26. THEN IT

13 GOES BACKWARDS, 25 TO WHATEVER.

14 MR. BRAUN: OH MY GOD. WHY DON'T YOU --

15 THE WITNESS: SHALL I TRADE BOOKS?

16 MR. KENNEDY: YOUR HONOR, WOULD YOU LIKE ME

17 TO MAKE A COPY FOR YOUR BINDER?

18 THE COURT: THAT'S GOING TO SOLVE A

19 PROBLEM, BUT IT'S NOT GOING TO SOLVE THE BIG PROBLEM.

20 MR. BRAUN: THE BIG PROBLEM, YEAH.

21 MR. KENNEDY: WELL, WE'RE AT NOON NOW.

22 THE COURT: I TELL YOU WHAT. IT'S ABOUT

23 TEN MINUTES OF NOON. WE WILL BE IN RECESS UNTIL

24 1:30.

25 IF YOU GUYS CAN GET ME A BINDER WITH TABS

1 IN IT, THAT WOULD BE WONDERFUL.

2 BACK IN SESSION AT 1:30.

3 (WHEREUPON, A LUNCHEON RECESS WAS

4 HELD FROM 11:56 A.M. UNTIL 1:24 P.M.)

5

6

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1 ORANGE, CALIFORNIA, MONDAY

2 AUGUST 27, 2012

3 1:24 P.M.

4
5 THE COURT: WE'LL GO BACK ON THE RECORD.

6 MR. BRAUN?

7 MR. BRAUN: YES, YOUR HONOR. BASED ON YOUR
8 QUESTION AND MY RECONSIDERATION AND GOING OVER THE
9 DOCUMENTS WITH MY CLIENT, I THINK IT'S PRETTY CLEAR
10 WE WERE WRONG ABOUT THE DEFERRED COMPENSATION THAT
11 HAD BEEN PAID BY THE CITY, THAT IT WAS INCLUDED IN
12 HER TOTAL PAY PACKAGE.

13 WE LOOKED AT THE W-2 FORM WHICH LISTED THAT
14 DEFERRED -- ON HER INCOME. BUT AS I READ THE CODE
15 SECTION, IF HER PAY RATE THAT SHE GETS PER CONTRACT
16 AND IF THE CITY PAYS SOMETHING IN ADDITION TO THAT,
17 FOR EXAMPLE, THE DEFERRED COMPENSATION, IT'S NOT
18 TAKEN OUT OF THE PAY RATE. THAT IS NOT PART OF THE
19 EARNABLE COMPENSATION.

20 SO IN TERMS OF OUR POSITION ON THE NOTICE
21 WHERE IT SAYS "EMPLOYER PAID DEFERRED COMP," WE'VE
22 ACTUALLY SORT OF REVALUATED OUR SITUATION. WE'VE
23 GONE BACK AND LOOKED AT HER PAY RATE AND WHAT PAY SHE
24 GOT, AND I THINK THAT DEFERRED EARNINGS WAS IN
25 ADDITION TO HER PAY RATE.

1 SO WE'RE NOT GOING TO CLAIM THAT AS PART OF
2 THE COMPENSATION UPON WHICH HER PENSION SHOULD BE
3 BASED.

4 THE COURT: OKAY. GUESS THAT'S SOMETHING
5 TO TAKE CARE OF AT THE END, BUT THANKS FOR THE
6 FOREWARNING.

7 MR. BRAUN: I DIDN'T WANT TO HAVE A BUNCH
8 OF EVIDENCE THAT'S NOT AN ISSUE.

9 THE COURT: OKAY. ANYTHING FURTHER?

10 YOU'RE BACK ON THE STAND.

11 I THINK THE LAST QUESTION WE WERE AT WAS
12 26, AND THEN YOU WANTED US TO LOOK AT SOME PAY STUBS,
13 BUT THEY WEREN'T IN MY BOOK.

14 MR. BRAUN: YEAH. WE STRAIGHTENED IT --
15 AND ACTUALLY THAT'S ONE OF THE REASONS THAT WE --
16 LET'S SEE.

17 THE WITNESS: 36.

18 MR. BRAUN: WHAT?

19 THE WITNESS: 36.

20

21 DIRECT EXAMINATION (RESUMED)

22 BY MR. BRAUN:

23 Q. OKAY. WOULD YOU LOOK AT 36, MS. SPACCIA.

24 ARE THESE YOUR PAY STUBS FROM THE CITY OF BELL?

25 A. NO.

1 Q. THESE WERE YOUR W-2S?

2 A. YES.

3 Q. RIGHT. OKAY. AND WHAT WE'RE TRYING TO
4 DETERMINE IS WHETHER OR NOT THE -- WHAT THE "P.K.U.P.
5 44,000" AND THE "E.R." ARE ON THOSE STUBS?

6 A. THE "P.K.U.P." --

7 MR. KENNEDY: SORRY. OBJECTION. IS THERE
8 A -- IS THAT A QUESTION, OR IS THAT A STATEMENT?

9 MR. BRAUN: I'M TRYING TO ASK HER WHAT THEY
10 WERE.

11 THE COURT: LET -- GO AHEAD.

12 MR. KENNEDY: I WAS JUST GOING TO SAY IT
13 ISN'T A PROPER QUESTION. IT'S A STATEMENT.

14 THE COURT: DO YOU KNOW WHAT THE TERM
15 "E.R." AND THE TERM "P.K.U.P." REFER TO ON THE TOP
16 BOX ON EXHIBIT 36?

17 THE WITNESS: YES, I DO.

18 BY MR. BRAUN:

19 Q. WHAT ARE THEY?

20 A. THE "E.R." IS THE EMPLOYER CONTRIBUTION ON
21 THE 401(A), AND THE "P.K.U.P." IS THE EMPLOYEE PICKUP
22 PORTION ON THE 401(A).

23 MR. KENNEDY: CAN YOU -- I'M SORRY. CAN
24 YOU IDENTIFY WHERE YOU'RE TALKING ABOUT? ON 36?

25 MR. BRAUN: 36, YEAH.

1 THE COURT: OKAY. YOU SEE THERE ON THE
2 BOTTOM IS SAYS "OTHER," ITEM 14?

3 MR. KENNEDY: YES. THANK YOU. GOT IT.
4 BY MR. BRAUN:

5 Q. NOW, WERE WE ABLE TO DETERMINE OVER THE
6 LUNCH HOUR WHETHER OR NOT THE CONTRIBUTION, THE
7 44,000, THE 1,000 WAS DEDUCTED FROM YOUR CONTRACTUAL
8 PAY RATE, OR WAS THAT IN ADDITION TO YOUR PAY RATE?

9 A. IT WAS IN ADDITION TO MY PAY RATE.

10 MR. KENNEDY: JUST FOR CLARIFICATION SINCE
11 THE P.E.R.L. USES THE TERM "PAY RATE" AS WELL -- THE
12 P.E.R.L., THE CALIFORNIA PUBLIC EMPLOYEE'S RETIREMENT
13 LAW USES THE TERM "PAY RATE" AS WELL, AND I JUST --
14 FOR CLARIFICATION, I'D LIKE TO UNDERSTAND WHAT IS THE
15 --

16 THE COURT: "PAY RATE," THE AMOUNT OF MONEY
17 THAT YOU WOULD BE PAID ON A MONTHLY BASIS FOR THE
18 SERVICES YOU REGULARLY PERFORM?

19 THE WITNESS: CORRECT.

20 THE COURT: DO YOU WANT TO ASK IT A
21 DIFFERENT WAY?

22 MR. KENNEDY: NO. IF THAT'S HER
23 UNDERSTANDING. SHE IDENTIFIED BY THE COURT'S -- HER
24 UNDERSTANDING.

25 THE COURT: THANK YOU.

1 BY MR. BRAUN:

2 Q. DO YOU KNOW WHETHER OR NOT YOUR ACCOUNTANT
3 INCLUDED THAT IN YOUR INCOME FOR THOSE YEARS?

4 A. I DON'T KNOW.

5 Q. OKAY. NOW, LET'S THEN TURN TO THE CALPERS
6 EXHIBIT LIST. THAT WOULD BE NUMBER 12.

7 A. OKAY.

8 Q. NUMBER 12 IN THE SMALL VOLUME.

9 NOW, MS. SPACCIA, ARE YOU THE ONE THAT
10 HANDLED THE PURCHASE OF THE -- I GUESS YOU CALL IT
11 "AIR TIME" -- FOR VARIOUS EMPLOYEES AT THE CITY OF
12 BELL?

13 A. YES. IT WAS ONE OF MY ASSIGNMENTS.

14 Q. AND WHO GAVE YOU THAT ASSIGNMENT?

15 A. ROBERT RIZZO.

16 Q. AND FOR HOW MANY EMPLOYEES APPROXIMATELY?
17 DO YOU KNOW HOW MANY EMPLOYEES THE CITY OF BELL
18 PURCHASED THE "AIR TIME" FOR?

19 MR. KENNEDY: OBJECTION AS TO TIME, VAGUE
20 AS TO TIME.

21 THE COURT: SUSTAINED.

22 BY MR. BRAUN:

23 Q. HOW MANY EMPLOYEES DID YOU HANDLE THE
24 PURCHASES FOR?

25 A. 12.

1 Q. AND THOSE WERE IN WHICH CATEGORIES?

2 A. ELEVEN OF THEM WERE -- IT WAS THE EXECUTIVE
3 MANAGEMENT AND THE ADMINISTRATIVE MANAGEMENT
4 CLASSIFICATIONS.

5 Q. AND --

6 A. AND THEN ONE OF THEM WAS IN A DIFFERENT
7 CLASSIFICATION. IT WAS A SETTLEMENT.

8 Q. WHAT DO YOU MEAN BY THAT?

9 A. IT WAS -- I DON'T KNOW THE DETAILS, BUT
10 APPARENTLY THERE WAS SOME SORT OF HARASSMENT CLAIM
11 FILED.

12 MR. KENNEDY: OBJECTION, YOUR HONOR. MOVE
13 TO STRIKE AS SPECULATION.

14 THE COURT: OVERRULED.

15 THE WITNESS: IT WAS A HARASSMENT CLAIM
16 THAT WAS FILED. AND PURCHASING FIVE YEARS' SERVICE
17 CREDIT FOR THIS WOMAN WAS THE SETTLEMENT, IF YOU
18 WILL.

19 BY MR. BRAUN:

20 Q. NOW, DID YOU DEAL DIRECTLY WITH CALPERS IN
21 PURCHASING THIS "AIR TIME"?

22 A. YES.

23 Q. AND WITH WHOM DID YOU DEAL?

24 A. NANCY VEITENHANS.

25 Q. AND --

1 THE COURT: CAN YOU SPELL THAT LAST NAME?

2 THE WITNESS: V-E-I-T-E-N-H-A-N-S.

3 BY MR. BRAUN:

4 Q. NOW, THE NUMBER 12 IN THE CALPERS VOLUME,
5 IS THAT THE APPLICATION THAT YOU SUBMITTED TO
6 CALPERS?

7 A. THIS LOOKS LIKE MY APPLICATION, YES, FOR
8 MINE.

9 Q. AND WOULD A SIMILAR APPLICATION THEN COME
10 FOR ALL THE OTHER EMPLOYEES?

11 A. CORRECT.

12 Q. AND WHEN THIS APPLICATION WAS SUBMITTED, AT
13 WHOSE DIRECTION DID YOU UNDERTAKE THIS TASK?

14 A. THE DIRECTION OF THE C.A.O.

15 MR. KENNEDY: OBJECTION, YOUR HONOR. VAGUE
16 AS TO "WHOSE DIRECTION YOU TAKE THIS TASK."

17 MR. BRAUN: OKAY.

18 THE COURT: DID YOU DO THIS AT MR. RIZZO'S
19 REQUEST?

20 MR. KENNEDY: DID YOU SUBMIT THE --

21 THE WITNESS: I DID.

22 THE COURT: DID YOU DO SO AT RIZZO'S
23 REQUEST?

24 THE WITNESS: YES, I DID.

25 ///

1 BY MR. BRAUN:

2 Q. AND THEN AFTER THE APPLICATION WAS
3 SUBMITTED TO CALPERS, DID YOU RECEIVE CALCULATIONS
4 BACK FROM CALPERS HOW MUCH WAS DUE TO EACH EMPLOYEE?

5 A. YES.

6 Q. DID YOU HAVE ANYTHING TO DO WITH
7 CALCULATING THE AMOUNT THAT CALPERS WAS DUE ON EACH
8 EMPLOYEE?

9 A. NO.

10 Q. THEN AFTER THESE APPLICATIONS WERE
11 SUBMITTED AND CALPERS TOLD YOU HOW MUCH THEY WANTED
12 FOR THE BACK TIME, DID YOU SUBMIT ANY -- DID YOU
13 SUBMIT CHECKS TO CALPERS TO PAY FOR THIS BACK TIME?

14 A. WE DID.

15 MR. KENNEDY: YOUR HONOR, IF I COULD JUST
16 CORRECT THE RECORD TO BE CAREFUL. COUNSEL KEEPS
17 REFERRING TO IT AS "BACK TIME." THIS IS NOT PRIOR
18 SERVICE PURCHASES; THIS IS "AIR TIME" PURCHASED.

19 MR. BRAUN: "AIR TIME," I THINK THEY CALL
20 IT. "AIR TIME."

21 BY MR. BRAUN:

22 Q. AND HOW WAS THE -- HOW WAS THIS AIR TIME
23 PURCHASED?

24 A. EACH OF THE EMPLOYEES IN THOSE TWO
25 CLASSIFICATIONS FILLED OUT THEIR PAPERWORK, SUBMITTED

1 IT TO CALPERS, AND THEN CALPERS REMITTED BACK WHAT
2 THE TOTAL LUMP SUM PAYMENT WOULD BE TO PURCHASE THE
3 FIVE-YEAR SERVICE CREDIT. AND THEN AT THAT POINT,
4 THE ACCOUNTS PAYABLE AT THE CITY OF BELL PROCESSED
5 INDIVIDUAL CHECKS FOR EACH OF THOSE INDIVIDUALS.

6 Q. SO THEN THE CITY OF BELL SUBMITTED, WHAT,
7 12 CHECKS FROM THE CITY TO CALPERS?

8 A. OVER TIME, YES.

9 Q. AND IN YOUR DISCUSSIONS WITH CALPERS
10 CONCERNING THE PURCHASE OF THE AIR TIME DID ANYONE AT
11 CALPERS EVER TELL YOU THAT THE MONEY HAD TO COME FROM
12 THE EMPLOYEES AND NOT FROM THE EMPLOYER?

13 A. NO. IN FACT, I WAS DIRECTED TO
14 SPECIFICALLY ASK CALPERS IF THE CITY COULD PAY FOR
15 THE EMPLOYEES AIR SERVICE TIME, AND THEY SAID YES,
16 THAT THERE WAS NOTHING THAT DICTATED --

17 MR. KENNEDY: YOUR HONOR, I MOVE TO --
18 OBJECTION. HEARSAY.

19 THE COURT: SUSTAINED.

20 BY MR. BRAUN:

21 Q. WHO AT CALPERS TOLD YOU THIS?

22 A. NANCY VEITENHANS.

23 Q. AND WAS SHE THE PERSON YOU WERE DEALING
24 WITH AT CALPERS?

25 A. YES.

1 Q. AND DID YOU SPECIFICALLY ASK HER ABOUT
2 WHETHER THE CITY COULD PAY?

3 A. YES.

4 Q. WHAT DID SHE TELL YOU?

5 MR. KENNEDY: SAME OBJECTION.

6 THE COURT: WELL, MY GUESS IS THAT IT'S
7 BEING OFFERED AS A STATEMENT AGAINST INTEREST BY A
8 REPRESENTATIVE FROM CALPERS. IS THAT THE OFFER?

9 MR. BRAUN: YES, YOUR HONOR.

10 MR. KENNEDY: RELEVANCY.

11 THE COURT: WELL, IF THEY GIVE THEM
12 MISINFORMATION, THEN HOW DOES THE CITY EMPLOYEE KNOW
13 HOW TO DO IT CORRECTLY?

14 EXPLAIN THAT TO ME.

15 MR. KENNEDY: MS. VEITENHANS --

16 THE COURT: WHY SHOULDN'T THERE BE AN
17 ESTOPPEL?

18 MR. KENNEDY: WHY SHOULDN'T THERE BE AN
19 ESTOPPEL?

20 THE COURT: YES.

21 MR. KENNEDY: FOR THE -- BECAUSE VEITENHANS
22 INDICATED THAT THE CITY COULD PURCHASE IT?

23 THE COURT: YES.

24 MR. KENNEDY: THE ESTOPPEL THAT SHE --
25 MS. VEITENHANS CAN'T --

1 THE COURT: SIR, WHY SHOULDN'T A CITY
2 EMPLOYEE REASONABLY RELY ON THE ADVICE GIVEN BY
3 SOMEONE AT CALPERS WHO IS IN A POSITION TO GIVE THAT
4 ADVICE?

5 MR. KENNEDY: WHEN IT'S CONTRARY TO THE
6 STATUTORY LAW, ALSO TO ALL THE INFORMATION THAT'S
7 PROVIDED IN THE BOOKLET ITSELF OR THE APPLICATION
8 ITSELF --

9 THE COURT: AND THAT GOES TO
10 REASONABLENESS, DOESN'T IT?

11 MR. KENNEDY: IS GOES TO REASONABLENESS.

12 AND WE ALSO DON'T HAVE A -- WE DON'T KNOW
13 IF THIS ASSOCIATES WITH ONE PURCHASE OR MULTIPLE
14 PURCHASES, OR WHEN THAT STATEMENT WAS EVEN MADE.

15 THE COURT: I WILL LET YOU COVER ALL THAT
16 ON CROSS-EXAMINATION.

17 THE OBJECTION IS OVERRULED.

18 BY MR. BRAUN:

19 Q. DID YOU EVER -- IN PROCESSING THIS AIR
20 TIME, DID YOU EVER SEE ANY -- SUBMIT ANY DOCUMENTS OR
21 SEE ANY DOCUMENTS THAT PROHIBITED THE PURCHASE TO BE
22 PAID FOR BY THE EMPLOYER?

23 A. NO. THEY TOOK THE CHECKS. THEY ACCEPTED
24 THE CHECKS. THEY PROVIDED THE SERVICE CREDIT TO EACH
25 OF THOSE EMPLOYEES. AND WE SAW THAT VIA THE ANNUAL

1 REPORTS THAT SHOWS SERVICE CREDIT FOR EACH EMPLOYEE
2 FOR THE CITY OF BELL.

3 Q. AND WHEN IS THE DATE ON THIS APPLICATION?
4 WHAT YEAR WAS THIS DONE IN?

5 A. THIS ONE WAS MAY 15, 2004.

6 Q. AND AFTER THIS AIR TIME WAS PURCHASED BY
7 ALL THESE EMPLOYEES, WHILE YOU WERE WORKING AT THE
8 CITY OF BELL, DID ANYONE EVER RECONTACT AND SAY THAT
9 THIS PURCHASE WAS ILLEGAL?

10 A. NO.

11 Q. WHEN WAS THE FIRST TIME THAT YOU EVER HEARD
12 THAT THERE MAY BE SOME ISSUE THAT THIS WAS ILLEGAL?

13 A. I RECEIVED A LETTER -- I BELIEVE, IT WAS
14 JUNE OF THIS YEAR, JUNE OF 2012, FROM CALPERS.

15 Q. NOW, IN TERMS OF YOUR SERVICE AT THE CITY
16 OF BELL, YOUR LAST ASSIGNMENT WAS AT ANOTHER CITY,
17 WAS IT NOT?

18 A. YES.

19 Q. AND WOULD YOU TELL THE COURT HOW THAT CAME
20 ABOUT?

21 A. EXCUSE ME. ONE OF THE CITY EMPLOYEES WHO
22 WORKS SPECIAL ASSIGNMENTS LIKE I DID CAME TO ME AND
23 SAID THAT THERE WERE PROBLEMS WITH THE RENT THAT WAS
24 COMING INTO THE HOUSING AUTHORITY, AND THAT STRUCK ME
25 AS REALLY ODD.

1 SO WHAT I TOLD HIM TO DO WAS SPEAK WITH
2 ROBERT RIZZO BECAUSE I HAD NO AUTHORITY OVER THE
3 FISCAL MANAGEMENT OF THE CITY. SO HE DID THAT. BUT
4 WHILE HE DID THAT, SO DID I.

5 THERE WERE CLEARLY IMPROPRIETIES IN THAT
6 THE RENT WAS NOT GOING INTO THE CITY'S BOOKS BECAUSE
7 THERE WEREN'T ANY OFFSETTING EVICTIONS. IN OTHER
8 WORDS, IF THE RENT WASN'T BEING PAID, THERE SHOULD BE
9 EVICTIONS, AND THERE WERE NO RECORDS OF EVICTIONS.

10 SO I SUSPECTED SOME IMPROPRIETIES WITH THE
11 FINANCE DIRECTOR AND THE DIRECTOR OF GENERAL
12 SERVICES. AND SO I BROUGHT THAT TO ROBERT RIZZO'S
13 ATTENTION. AND WITHIN A MONTH, I -- MYSELF AND THIS
14 OTHER INDIVIDUAL WHO ALSO WENT TO HIM, WE WERE BOTH
15 REASSIGNED TO THE CITY OF MAYWOOD.

16 THE COURT: WHERE'S MAYWOOD?

17 THE WITNESS: IT'S AN ADJOINING CITY NEXT
18 TO BELL.

19 BY MR. BRAUN:

20 Q. AND WHAT WAS YOUR JOB OVER AT THE CITY OF
21 MAYWOOD?

22 A. I WAS THEIR INTERIM CITY MANAGER.

23 Q. AND HOW LONG WERE YOU THERE AT THE CITY OF
24 MAYWOOD?

25 A. SEVEN MONTHS.

1 Q. AND WHAT WERE THE CONDITIONS UNDER WHICH
2 YOU WORKED THERE?

3 LET ME -- MS. SPACCIA, THE CITY OF MAYWOOD
4 HAD A RELATIONSHIP WITH THE CITY OF CUDAHY; IS THAT
5 RIGHT?

6 THE COURT: CITY OF WHAT?

7 MR. BRAUN: CUDAHY.

8 BY MR. BRAUN:

9 Q. CUDAHY; IS THAT CORRECT?

10 A. YES.

11 Q. OKAY. AND THEY WERE -- IN WORKING AT THE
12 CITY OF MAYWOOD, DID YOU HAVE TO HAVE BODYGUARDS?

13 A. YES.

14 Q. DID YOU HAVE TO HAVE A SPECIAL WAY TO START
15 YOUR CAR WITHOUT GETTING INTO YOUR CAR?

16 A. YES.

17 Q. AND WHY WAS THIS?

18 A. BECAUSE MY LIFE WAS BEING THREATENED.

19 Q. NOW, WAS PART OF YOUR JOB AT THE CITY OF
20 MAYWOOD TO DISBAND THE MAYWOOD POLICE DEPARTMENT AND
21 SUBSTITUTE THE SHERIFF'S DEPARTMENT?

22 A. THAT ULTIMATELY BECAME PART OF MY DUTIES.

23 Q. AND WAS THIS BASED ON WHAT YOU KNOW FROM
24 THE CITY OF MAYWOOD -- WAS THIS A THREAT TO ONGOING
25 CRIMINAL ACTIVITY IN CUDAHY AND MAYWOOD?

1 A. YES.

2 Q. THE -- WHEN YOU LEFT, DID YOU EVER GO BACK
3 TO THE CITY OF BELL?

4 A. ONLY ONE NIGHT TO MEET WITH THE CITY
5 COUNCIL.

6 Q. AND WHAT WAS THE PURPOSE OF THAT MEETING --
7 WAS THAT AFTER MR. RIZZO HAD RESIGNED?

8 A. YES.

9 Q. AND WHAT WAS THE PURPOSE OF THAT MEETING
10 WITH THE CITY COUNCIL?

11 A. THEY ASKED IF I WOULD TAKE HIS PLACE, IF I
12 WOULD STAY IN ROBERT RIZZO'S PLACE AS THE C.A.O.

13 Q. AND DID YOU ACCEPT THEIR OFFER?

14 A. NO.

15 Q. WHY NOT?

16 A. I JUST WAS NOT -- I DIDN'T FEEL
17 EMOTIONALLY, PHYSICALLY CAPABLE AT THAT POINT OF
18 ANYTHING. I COULDN'T EVEN CONTINUE WITH MAYWOOD.

19 Q. WERE YOU HOSPITALIZED AFTER THAT?

20 A. YES.

21 Q. AND WHAT WERE YOU HOSPITALIZED FOR?

22 MR. KENNEDY: OBJECTION AS FAR AS
23 RELEVANCE, YOUR HONOR.

24 THE COURT: SUSTAINED.

25 ///

1 BY MR. BRAUN:

2 Q. NOW, IN TERMS OF -- SO WHEN DID YOU
3 ACTUALLY THEN STOP WORKING?

4 A. I BELIEVE IT WAS AUGUST 9.

5 Q. 2000 --

6 A. 2010.

7 Q. AND DID YOU HAVE SOME AGREEMENT THAT YOU'RE
8 SUPPOSED TO BE AT -- YOUR AGREEMENT WITH THE CITY OF
9 BELL?

10 A. BETWEEN THE CITY OF BELL AND THE CITY OF
11 MAYWOOD, THERE WAS AN AGREEMENT THAT WAS TO EXPIRE AT
12 THAT TIME. SO I STAYED TO COMPLETE THE ASSIGNMENT.

13 Q. AND THEN WHEN DID YOU THEN PUT YOUR
14 APPLICATION IN FOR A CALPERS PENSION?

15 A. THE CITY OF BELL AND I AGREED THAT I WOULD
16 TRY TO HELP THE CITY OF BELL TRANSITION THROUGH
17 SEPTEMBER 30, AND THEN I WOULD RETIRE OCTOBER 1. SO
18 THAT'S WHAT I DID.

19 Q. AND DID THEY HAVE YOU WORKING DURING THAT
20 PERIOD?

21 A. NO. WHAT THEY ENDED UP DOING WAS THEY
22 BROUGHT IN SOMEONE TO TAKE ROBERT RIZZO'S PLACE, AND
23 THAT INDIVIDUAL TOLD ME NOT TO BOTHER.

24 Q. AND WHEN YOU RETIRED, DID YOU APPLY TO
25 CALPERS FOR YOUR PENSION BASED ON ALL YOUR YEARS --

1 MANY YEARS OF SERVICE AT THAT POINT?

2 A. YES.

3 Q. AND DID CALPERS -- HOW DID CALPERS RESPOND?

4 A. THEY DIDN'T AT FIRST.

5 THE COURT: DO WE HAVE A COPY OF THE
6 APPLICATION SOMEWHERE?

7 MR. KENNEDY: YES, YOUR HONOR. THE
8 APPLICATION IS INTRODUCED FOR JURISDICTIONAL PURPOSES
9 AS EXHIBIT 6.

10 THE COURT: THAT'S THE DISABILITY
11 RETIREMENT.

12 MR. KENNEDY: THAT'S PENDING. IT LOOKS
13 LIKE IT'S JUST A DISABILITY RETIREMENT -- IT SAYS
14 "SERVICE PENDING."

15 THE COURT: OKAY.
16 BY MR. BRAUN:

17 Q. DID YOU APPLY FOR A DISABILITY RETIREMENT?

18 A. I DID.

19 THE COURT: TAKE A LOOK AT EXHIBIT 6 FOR
20 US.

21 THE WITNESS: YES.

22 THE COURT: IS THAT THE APPLICATION THAT
23 YOU FILED ON SEPTEMBER 28, 2010?

24 THE WITNESS: YES.

25 ///

1 BY MR. BRAUN:

2 Q. NOW, WHY DID YOU FILE FOR DISABILITY
3 RETIREMENT RATHER THAN PAID RETIREMENT?

4 MR. KENNEDY: RELEVANCE, YOUR HONOR.

5 THE COURT: OVERRULED.

6 THE WITNESS: WHEN I WAS HOSPITALIZED, THE
7 DOCTOR AT THAT TIME -- OH, ACTUALLY -- I'M SORRY. I
8 HAVE TO GO BACK. IT WAS BEFORE THAT.

9 WHEN I FILLED -- IS THERE A DATE ON THIS?

10 THE COURT: YES. SIGNED THE 28TH OF
11 SEPTEMBER. IT'S THE LAST PAGE.

12 THE WITNESS: YEAH. IT PROBABLY WAS.

13 WHEN I WAS HOSPITALIZED, THE DOCTOR SAID
14 THAT I NEEDED TO BE OUT FOR AN EXTENDED PERIOD OF
15 TIME.

16 BY MR. BRAUN:

17 Q. WERE YOU ACTUALLY IN BAD PSYCHOLOGICAL
18 CONDITION FROM WHAT HAPPENED AT BELL?

19 MR. KENNEDY: OBJECTION, YOUR HONOR.
20 RELEVANCY.

21 THE COURT: OVERRULED.

22 THE WITNESS: YES. I HAD -- YEAH.

23 BY MR. BRAUN:

24 Q. NOW, BASED ON THE APPLICATION, DID YOU
25 RECEIVE A PENSION FROM THE CITY OF BELL -- I MEAN

1 FROM CALPERS?

2 A. IN DECEMBER I RECEIVED THE NOTICE. THEY
3 WEREN'T SURE HOW THEY WANTED TO HANDLE MY RETIREMENT.
4 IT WAS A LOT OF POLITICAL NEWS.

5 MR. KENNEDY: OBJECTION, YOUR HONOR. MOVE
6 TO STRIKE. IT'S NONRESPONSIVE. THE QUESTION WAS DID
7 SHE RECEIVE A RETIREMENT.

8 THE COURT: SUSTAINED.

9 THE WITNESS: AND I RECEIVED A REDUCED
10 AMOUNT.

11 BY MR. BRAUN:

12 Q. WERE YOU TOLD BY CALPERS HOW THEY
13 CALCULATED THAT AMOUNT?

14 A. THEY SENT ME A LETTER AND TO SOME DEGREE
15 EXPLAINED IT, YES.

16 THE COURT: DO WE HAVE A COPY OF THAT
17 LETTER?

18 MR. KENNEDY: YES, YOUR HONOR. IT'S IN
19 THE -- IT WOULD BE EXHIBIT 3.

20 THE COURT: LET'S TAKE A LOOK AT EXHIBIT 3.
21 TELL ME IF THAT'S THE LETTER THAT YOU RECEIVED.

22 THE WITNESS: YES.

23 MR. BRAUN: MAY I APPROACH THE WITNESS?

24 THE COURT: SURE.

25 IS THERE ANY PLACE IN HERE THAT SAYS HOW

1 MUCH A MONTH IT IS?

2 MR. KENNEDY: NO. THERE'S ACTUALLY ANOTHER
3 EXHIBIT THAT WILL SHOW WHAT WE CALL THE "ROLL
4 LETTER," YOUR HONOR, WHICH WILL EXPLAIN THE MONTH TO
5 MONTH.

6 THE COURT: WHAT EXHIBIT IS THAT?

7 MR. KENNEDY: IT WOULD BE UNDER -- PROBABLY
8 TAB 13. AND IF YOU LOOK AT -- IT'S NUMBERED AT THE
9 BOTTOM -- THEY LOOK LIKE THEY'RE COMBINED.

10 LOOKS LIKE THERE MAY BE DUPLICATES HERE,
11 BUT IT WOULD BE PAGE 10 ON THE BOTTOM RIGHT.

12 THE COURT: PAGE 11?

13 MR. KENNEDY: NO. PAGE 10.

14 CAN I APPROACH?

15 THE COURT: SURE.

16 EXHIBIT 13, PAGE 10?

17 MR. KENNEDY: YEAH.

18 THE COURT: OKAY. WHERE'S THE NUMBER?

19 THE SECOND PARAGRAPH?

20 BY MR. BRAUN:

21 Q. BASED ON THAT LETTER, WHICH SALARIES DID
22 THEY USE?

23 A. IN THE COMPUTATIONS -- TOOK ME A WHILE TO
24 FIGURE IT OUT. BUT THEY USED MY -- FOR EXAMPLE, WHEN
25 I WAS AT THE CITY OF VENTURA FROM 1980 TO 1990,

1 WHATEVER MY LAST SALARY WAS IN 1990, THEY USED THAT
2 FOR THOSE YEARS OF SERVICE.

3 AND THEY WENT TO EACH EMPLOYER, AND
4 WHATEVER MY PAY RATE WAS FOR THAT EMPLOYER IS WHAT
5 THEY GAVE ME THOSE YEARS OF SERVICE CREDIT FOR.

6 AND THEN THEY ATTACHED A NUMBER, WHICH I
7 NEVER DID UNDERSTAND, FROM THE CITY OF BELL, A SALARY
8 AMOUNT. I NEVER KNEW WHERE THAT CAME FROM.

9 THE COURT: HOW MUCH WAS THAT, DO YOU KNOW?

10 THE WITNESS: IT SAYS \$7802.07. I NEVER
11 EARNED THAT.

12 THE COURT: WOULD THAT BE A MONTH?

13 THE WITNESS: YES. FROM THEIR COMPUTATION.

14 BY MR. BRAUN:

15 Q. NOW, LOOK AT NUMBER 27 IN OUR BOOK, THE
16 CALCULATIONS THAT YOU DID.

17 THE COURT: I'M SORRY. 27?

18 MR. BRAUN: 27. YES.

19 THE COURT: AND THAT WOULD BE IN YOUR -- IN
20 THE RESPONDENT'S?

21 MR. BRAUN: YES, YOUR HONOR, THE
22 RESPONDENT'S.

23 THE COURT: THANK YOU.

24 THE WITNESS: OKAY.

25 ///

1 BY MR. BRAUN:

2 Q. THIS IS A CALCULATION THAT HAS TO BE
3 CORRECTED BECAUSE OF WHAT WE DISCOVERED TODAY; IS
4 THAT CORRECT?

5 A. YES.

6 Q. THIS CALCULATION INCLUDED THE DEFERRED
7 COMPENSATION WHICH WE'VE CONCEDED NO LONGER IS
8 INCLUDED WITHIN YOUR PAY RATE FOR PURPOSES OF A
9 PENSION; IS THAT CORRECT?

10 A. CORRECT.

11 Q. BUT IN TERMS OF -- CAN YOU CALCULATE -- IS
12 THERE ANY WAY FOR YOU TO SORT OF ESTIMATE HOW FAR OFF
13 THIS WOULD BE?

14 THIS SHOWS 15,600-AND-SOME DOLLARS A MONTH.
15 CAN YOU ESTIMATE HOW MUCH THAT IS OVER? WHAT IT
16 SHOULD BE IF WE ELIMINATED THE DEFERRED COMPENSATION?

17 A. I COULD WITH A CALCULATOR.

18 THE COURT: HERE YOU GO.

19 THE WITNESS: THANK YOU. AND CAN I BORROW
20 YOUR PEN AS WELL?

21 THE COURT: SURE.

22 THE WITNESS: IT SHOULDN'T TAKE TOO LONG.

23 OKAY. THANK YOU.

24 BY MR. BRAUN:

25 Q. CAN YOU TELL US HOW YOU CALCULATED AND WHAT

1 IT CAME OUT TO?

2 A. HOW I CALCULATED IT, I TOOK OFF THE
3 DEFERRED COMPENSATION AMOUNT OF \$49,000 OFF OF MY
4 HIGH 12 MONTHS.

5 I USED THE HIGH 12-MONTH COMPENSATION AND
6 APPLIED THE VARIOUS REDUCED RATES -- BECAUSE I'M NOT
7 55 YEARS OLD YET -- THE REDUCED RATES TO MY YEARS OF
8 SERVICE. AND I CAME UP WITH 13,562.30 A MONTH.

9 MR. KENNEDY: JUST SO I'M CLEAR, YOUR
10 HONOR, WHICH -- ON THIS GRAPH ON THIS EXHIBIT,
11 WHICH -- WHERE ARE YOU -- WHICH ONE ARE YOU CLAIMING
12 IS BELL? THE 2 AT 55 WITH 11.286 YEARS?

13 THE WITNESS: THE 2.7 IS BELL.

14 MR. KENNEDY: 11 -- I'M SORRY.

15 THE WITNESS: 12.

16 MR. KENNEDY: 12? THAT'S BELL?

17 THE WITNESS: YES.

18 MR. KENNEDY: AND SO JUST FOR
19 CLARIFICATION'S SAKE, IF I MAY, HOW DID YOU -- ON THE
20 NUMBER DOWN IN THE BOX, HOW DID THAT CHANGE?

21 THE WITNESS: WHICH NUMBER?

22 MR. KENNEDY: IT LOOKS LIKE A 103,000.

23 THE WITNESS: IT CHANGED TO 89,336.85.

24 MR. KENNEDY: AND DO YOU LIST THE FINAL
25 COMP ON THIS ANYWHERE ON HERE FOR BELL?

1 THE WITNESS: AT THE TOP, WHERE IT SAYS
2 "LAST 12 MONTHS COMPENSATION EQUALS." SO IT WOULD BE
3 320 BECAUSE YOU WOULDN'T INCLUDE THAT 49 THAT IS ON
4 THERE NOW.

5 MR. KENNEDY: OH, I SEE. SO WE TAKE 342989
6 TURNS INTO -- SORRY -- IS THE MONTHLY FOR THAT?

7 THE WITNESS: YES.

8 MR. KENNEDY: 28252 TURNS INTO WHAT?

9 THE WITNESS: THAT'S MONTHLY.

10 MR. KENNEDY: AND IT BECOMES WHAT? YOU
11 SAID YOU TOOK OUT THE --

12 THE WITNESS: WHAT I DID WAS AT THE VERY
13 TOP WHERE IT SAYS "ANNUAL COMPENSATION AT 8/30/2009,"
14 I ONLY USED A PORTION OF THAT SALARY, AND THEN --
15 BECAUSE I HAD TO TAKE THE 12 CONSECUTIVE MONTHS.

16 SOME OF THOSE MONTHS WAS AT A DIFFERENT
17 SALARY THAN THE OTHER MONTHS.

18 MR. KENNEDY: OKAY.

19 THE WITNESS: DID THAT ANSWER YOUR
20 QUESTION?

21 MR. KENNEDY: THANK YOU, YOUR HONOR, FOR
22 LETTING ME ASK.

23 THE 320123 TOTAL DROPS INTO WHAT?

24 THE WITNESS: THAT BECOMES THE 12 MONTHS
25 COMPENSATION.

1 MR. KENNEDY: NO. I UNDERSTAND. BUT THAT
2 DROPS TO WHAT, AFTER YOU TAKE OUT THE DEFERRED COMP?

3 THE WITNESS: NO. THAT DID NOT INCLUDE THE
4 DEFERRED COMP.

5 MR. KENNEDY: SO THE 369 DROPS.

6 THE WITNESS: THAT 369 INCLUDED THE
7 DEFERRED COMP.

8 MR. KENNEDY: I SEE. SO THE 320 IS WITHOUT
9 THE DEFERRED --

10 THE WITNESS: CORRECT.

11 BY MR. BRAUN:

12 Q. NOW, MS. SPACCIA WOULD YOU LOOK AT EXHIBIT
13 31 IN OUR DOCUMENTS. THIS IS AN AUDIT BY THE -- THIS
14 IS A CALPERS AUDIT IN 2006?

15 A. YES.

16 Q. WHO INTERACTED, IF YOU KNOW, WITH CALPERS
17 WHEN THEY CAME TO AUDIT THE CITY OF BELL?

18 A. MYSELF AND LOURDES GARCIA AND ROBERT RIZZO.

19 Q. AND DID THEY JUST TAKE DOCUMENTS, OR DID
20 THEY COME AND STAY AT THE CITY OF BELL? OR HOW DID
21 THIS --

22 A. THEY CAME. THEY WERE ON-SITE, I BELIEVE, A
23 COUPLE OF WEEKS.

24 Q. HOW MANY PEOPLE WERE THERE FOR A COUPLE OF
25 WEEKS?

1 A. ONE.

2 Q. AND WAS THAT PERSON GIVEN ACCESS TO ALL THE
3 BOOKS AND RECORDS OF BELL REGARDING PENSIONS?

4 A. YES.

5 Q. DID YOU HAVE MUCH CONTACT WITH THIS PERSON
6 DURING THE COUPLE WEEKS HE WAS THERE?

7 A. NOT A LOT OF CONTACT. HE BASICALLY WANTED
8 DOCUMENTS AND THEN HAD TO DO HIS PART.

9 Q. AND DID THEY -- AFTER THE AUDIT WAS
10 COMPLETED, DID THEY BRING TO YOUR ATTENTION -- DID
11 THEY FILE A REPORT THAT -- IN TERMS OF THEIR
12 COMPLIANCE REVIEW WITH THEIR REGULATIONS?

13 A. YES.

14 Q. WOULD YOU LOOK AT THE LAST PAGE OF EXHIBIT
15 31, A LETTER FROM YOU TO MR. LARSON -- JENSEN,
16 RATHER.

17 A. YES.

18 Q. SO DOES THIS -- WHAT IS THE PURPOSE OF THIS
19 LETTER?

20 A. THIS WAS ACKNOWLEDGMENT THAT WE HAD
21 RECEIVED THEIR REVIEW AND ACCEPTED ALL OF THE
22 FINDINGS AND WERE GOING TO MAKE REMEDY.

23 Q. NOW, BY 2006 HAD THE FIVE-YEAR AIR TIME
24 THAT WE DISCUSSED EARLIER ALREADY BEEN PURCHASED?

25 A. YES.

1 Q. DID MR. JENSEN OR ANYONE ELSE FROM CALPERS
2 QUESTION THE LEGALITY OF THAT PURCHASE?

3 A. NO. CAN I MAKE A POINT OF CLARIFICATION
4 WHEN I SAID, YES, THAT THEY HAD BEEN PURCHASED?

5 Q. YES.

6 A. SOME OF THEM WERE PURCHASED OVER TIME BUT
7 ONLY WHEN THAT PERSON IN THIS CLASSIFICATION HAD
8 BECOME ELIGIBLE.

9 SO IN OTHER WORDS, THERE WAS A GROUP OF
10 PEOPLE PURCHASED IN 2004. AND THEN OVER TIME WHEN
11 THE PERSON HAD ALREADY BECOME VESTED IN THEIR
12 FIVE-YEAR SERVICE CREDIT, THEN WE COULD PURCHASE THE
13 A.R.S.C.

14 SO I'M NOT EXACTLY SURE WHEN THE LAST ONE
15 WAS.

16 Q. SO AT THE TIME OF THE CALPERS JUNE 2006
17 AUDIT OF THE CITY OF BELL, A NUMBER OF EMPLOYEES HAD
18 THEIR AIR TIME PURCHASED ALREADY; IS THAT RIGHT?

19 A. YES.

20 Q. WAS ANY QUESTION EVER RAISED BY THE
21 AUDITORS FROM CALPERS OF THE LEGALITY OF THOSE
22 PURCHASES?

23 A. NO.

24 MR. KENNEDY: OBJECTION, YOUR HONOR, TO
25 MS. SPACCIA.

1 THE COURT: PARDON ME?

2 MR. KENNEDY: THE QUESTION WAS WAS ANY
3 QUESTION EVER RAISED, AND IT WOULD CALL FOR
4 SPECULATION. WAS IT RAISED TO HER?

5 THE COURT: THAT'S WHAT I UNDERSTOOD IT TO
6 BE.

7 MR. BRAUN: OKAY. THANK YOU.

8 BY MR. BRAUN:

9 Q. IN TERMS OF YOUR REVIEW OF THEIR AUDIT,
10 THEY ACTUALLY SUBMITTED A REPORT IN TERMS OF
11 COMPLIANCE; IS THAT CORRECT?

12 A. CORRECT.

13 Q. DO YOU RECALL ANYTHING IN THE WRITTEN, I
14 GUESS YOU COULD CALL IT, CRITICISM BY CALPERS OF SOME
15 NONCOMPLIANCE REGARDING THE LEGALITY OF THE PURCHASE
16 OF AIR TIME?

17 A. NO.

18 MR. KENNEDY: YOUR HONOR, I WOULD OBJECT ON
19 THE GROUNDS THAT COUNSEL IS USING -- I DON'T
20 UNDERSTAND WHAT THE TERM "COMPLIANCE" --

21 THE COURT: HERE'S WHAT HE WANTS TO KNOW,
22 IF I GET IT: DOES THAT WRITTEN REPORT FROM
23 CALPERS -- IS IT CRITICAL AT ALL OF THE CITY OF BELL
24 PURCHASING AIR TIME?

25 MR. KENNEDY: I DON'T SEE ANYTHING IN THIS

1 THAT WAS EVEN REVIEWED -- AIR TIME WAS EVEN REVIEWED
2 IN THIS AUDIT.

3 THE COURT: WELL, THEN THE ANSWER IS, "NO,"
4 ISN'T IT?

5 YEAH. THAT ANSWER IS "NO." THAT ANSWER
6 WILL STAND.

7 MR. BRAUN: THANK YOU.

8 BY MR. BRAUN:

9 Q. NOW, IN TERMS OF THAT AUDIT, ARE YOU AWARE
10 OF ANY CRITICISM OF THE CITY OF BELL AS TO WHETHER OR
11 NOT IT HAD MAINTAINED A PUBLICLY AVAILABLE BELL
12 SCHEDULE -- I MEAN, SALARY SCHEDULE?

13 A. NO.

14 Q. AT ANY TIME WHILE YOU WORKED -- WHAT TYPE
15 OF -- DURING YOUR EMPLOYMENT WITH THE CITY OF BELL,
16 HOW MUCH INTERACTION DID YOU HAVE WITH CALPERS?

17 A. IT WAS VERY SPORADIC. ONLY WHEN ASKED TO
18 CHECK INTO SOMETHING OR TO HELP EMPLOYEES WITH THEIR
19 ADDITIONAL RETIREMENT SERVICE CREDIT.

20 Q. AT ANY TIME DURING THAT PERIOD, DID ANYONE
21 EVER RAISE WITH YOU, FROM CALPERS, WHETHER OR NOT
22 BELL WAS COMPLYING WITH THE REQUIREMENT TO HAVE A
23 PUBLICLY AVAILABLE PAY SCHEDULE?

24 A. NO.

25 MR. BRAUN: ONE MOMENT, YOUR HONOR. LET ME

1 SEE IF I LEFT SOMETHING OUT.

2 MAY I APPROACH THE WITNESS?

3 THE COURT: UH-HUH.

4 BY MR. BRAUN:

5 Q. WOULD YOU LOOK AT NUMBER 36 AND --

6 A. 35.

7 Q. 35. MS. SPACCIA, WHAT IS 35?

8 A. 35 IS -- AS A RESULT OF THE 2006 REVIEW, WE
9 NOTED THAT IT WOULD BE IMPORTANT TO GET WHAT WAS
10 REFERRED TO BY CALPERS AS AN EXCEPTION, I BELIEVE,
11 FOR THE LARGE PAY INCREASES THAT THE ENTIRE
12 MANAGEMENT OF THE CITY HAD RECEIVED IN THE YEAR 2005
13 BECAUSE IT WAS 40-SOMETHING PERCENT.

14 FOR EACH PERSON IT VARIED A LITTLE BIT.
15 THE C.A.O., FOR EXAMPLE, HAD RECEIVED A 47 PERCENT
16 INCREASE.

17 SO THESE DOCUMENTS ARE JUST A REQUEST TO
18 CALPERS AND RECEIVED BACK FROM CALPERS, ACKNOWLEDGING
19 THAT THE EXCEPTION IS GRANTED FOR THE UNUSUALLY HIGH
20 PAY INCREASE.

21 Q. SO THE SECOND PAGE OF 35 IS THEN THE CITY
22 OF BELL'S REQUEST FOR APPROVAL FROM CALPERS FOR
23 INCREASES IN PAY AS HIGH AS 47 PERCENT; IS THAT
24 CORRECT?

25 A. CORRECT.

1 Q. AND THEN THE SECOND AND THIRD IS YOUR
2 LETTER TO CALPERS; IS THAT CORRECT?

3 A. CORRECT.

4 Q. THE OTHER DOCUMENTS THAT ARE IN THAT, WERE
5 THOSE DOCUMENTS THAT HAD BEEN SUBMITTED TO CALPERS?

6 A. YES. THEY WERE SUBMITTED TO CALPERS,
7 PREPARED BY LOURDES GARCIA.

8 Q. AND THEN THE FIRST PAGE, THAT WOULD BE
9 CALPERS APPROVAL OF THESE LARGE PAY INCREASES; IS
10 THAT RIGHT?

11 A. YES. THIS WAS WHEN THE CITY WENT AWAY FROM
12 CIVIL SERVICE TO YOU COULD BE FIRED WITHOUT CAUSE.

13 MR. KENNEDY: YOUR HONOR, AT THIS POINT I
14 WOULD OBJECT ON THE GROUND THAT IT LACK OF
15 COMPETENCY. IT'S ALSO SPECULATION. THE DOCUMENT
16 SPEAKS FOR ITSELF.

17 SHE'S REFERRING TO CALPERS APPROVING LARGE
18 SALARY INCREASES, AND THAT IS NOT NECESSARILY THE
19 FUNCTION OF 20636(E) (2), WHAT SHE'S REFERRING TO.

20 SO THE DOCUMENT SAYS WHAT THE DOCUMENT
21 SAYS.

22 THE COURT: YOU MEAN, WHERE IT SAYS "THE
23 REQUEST IS HEREBY GRANTED"?

24 YEAH, THAT ANSWER WILL STAND.

25 ///

1 BY MR. BRAUN:

2 Q. AT THAT POINT TO YOUR KNOWLEDGE, DID
3 CALPERS DEMAND ANY JUSTIFICATION FOR THESE LARGE
4 INCREASES IN PAY?

5 A. THEY DID. AND THAT'S THE ATTACHMENTS.
6 THAT WAS THE INFORMATION THAT THEY ASKED -- THAT THEY
7 REQUESTED.

8 THE COURT: THE WAY THIS IS SET UP IS
9 BACKWARDS. THE INFORMATION THAT GOES FIRST TO
10 CALPERS IS BEHIND THE FIRST PAGE OF 36.

11 MR. KENNEDY: THAT'S WHAT I UNDERSTAND.

12 THE WITNESS: I APOLOGIZE.

13 THE COURT: WELL, I'M JUST SAYING YOUR
14 LETTER TO CALPERS IS DATED OCTOBER 2ND.

15 THE WITNESS: CORRECT.

16 THE COURT: AND ALL THE INFORMATION THAT
17 BACKS UP THE REQUEST IS BEHIND YOUR LETTER DATED
18 OCTOBER 2ND.

19 THE WITNESS: YES.

20 THE COURT: AND THE LETTER WHICH CALPERS
21 SAYS AT THE END OF THE FIRST PARAGRAPH, "THE REQUEST
22 IS HEREBY GRANTED," THAT'S DATED OCTOBER 13, 2006.

23 THE WITNESS: YES.

24 THE COURT: OKAY.

25 MR. BRAUN: NO FURTHER QUESTIONS, YOUR

1 HONOR.

2 THE COURT: OKAY. CROSS-EXAMINATION?

3 MR. KENNEDY: YES.

4

5 CROSS-EXAMINATION

6 BY MR. KENNEDY:

7 Q. LET'S START WITH THE LAST DOCUMENT THEN.

8 IS THAT A COMPLETE COPY OF THE DOCUMENT THAT WAS

9 TRANSMITTED TO CALPERS?

10 A. I'M SORRY?

11 Q. IS THIS A COMPLETE SET OF DOCUMENTS THAT

12 WERE TRANSFERRED BETWEEN YOU AND CALPERS REGARDING

13 THIS EXCEPTION YOU WERE ASKING FOR?

14 A. THIS IS WHAT I RECEIVED AS DISCOVERY FROM

15 CALPERS.

16 Q. DISCOVERY FROM CALPERS?

17 A. YES.

18 Q. OKAY. CAN YOU --

19 A. SO I'M ASSUMING IT IS A COMPLETE PACKET.

20 Q. OKAY.

21

22 MR. KENNEDY: CAN YOU IDENTIFY THAT IN

23 DISCOVERY, COUNSEL? CAN YOU IDENTIFY THAT IN

24 DISCOVERY RESPONSES?

25 MR. BRAUN: I THINK YOU GOT YOUR BATES

1 NUMBERS ON THEM.

2 THE WITNESS: ON THE BOTTOM RIGHT.

3 MR. KENNEDY: THERE ARE BATES NUMBERS ON
4 THE BOTTOM OF THAT, BUT I DON'T THINK THAT'S A
5 COMPLETE SET OF DOCUMENTS THAT WERE INCLUDED.

6 LET ME SHOW YOU -- I WANT TO SHOW YOU --
7 AND I CAN MARK THIS AS NEXT IN ORDER FOR
8 CALPERS, WHICH WOULD BE, I BELIEVE 31, YOUR HONOR.

9 THE COURT: OKAY. 31.

10 SHOW THESE TO COUNSEL.

11 MR. KENNEDY: YES. SORRY.

12 I SHOULD MAKE A COPY. WOULD YOU LIKE TO
13 TAKE A SHORT BREAK AND MAKE A COPY?

14 MR. BRAUN: COUNSEL, THERE'S TWO ADDITIONAL
15 PAGES. IF YOU COULD JUST STATE WHAT IT IS.

16 MR. KENNEDY: LET'S SEE.

17 BY MR. KENNEDY:

18 Q. ON YOUR EXHIBIT, CAN YOU TELL ME WHOSE
19 NUMBERING THAT IS, THE HANDWRITTEN NUMBER AT THE
20 BOTTOM ABOVE THE P.E.R.S. NUMBER, WHAT LOOKS LIKE
21 POSSIBLY A BATES STAMP NUMBER?

22 A. ARE YOU ON PAGE --

23 Q. IS THAT YOUR HANDWRITING?

24 A. WE'RE ON PAGE 1?

25 Q. IS THAT YOUR HANDWRITING ON THE BOTTOM OR

1 IS THAT --

2 A. THE NUMBER 1 IS MY HANDWRITING.

3 Q. OKAY.

4 A. IS THAT WHAT YOU'RE REFERRING TO?

5 MR. KENNEDY: YOUR HONOR, PERHAPS IT'S BEST
6 IF I JUST MAKE A COPY OF THIS DOCUMENT THAT I HAVE IN
7 MY HAND.

8 THE COURT: YOU WANT TO MAKE A COPY? SURE.

9 WE'RE OFF THE RECORD.

10 (WHEREUPON, A RECESS WAS HELD
11 FROM 2:11 P.M. TO 2:17 P.M.)

12 MR. BRAUN: ON THE RECORD, LET ME CLARIFY
13 ONE THING THAT MIGHT BE HELPFUL, YOUR HONOR.

14 THE COURT: OKAY.

15 MR. BRAUN: WE WERE INSTRUCTED BY JUDGE
16 ALSFORD (SPELLED PHONETICALLY) THAT ANY EXHIBIT MORE
17 THAN TWO PAGES HAD TO BE INTERNALLY NUMBERED. SO
18 THOSE PENCILED NUMBERS THAT YOU SEE ON THE EXHIBITS
19 ARE -- MS. SPACCIA WENT THROUGH THE BOOKS AT MY
20 INSTRUCTION AND NUMBERED THEM.

21 THE COURT: OKAY. THANK YOU.

22 BY MR. KENNEDY:

23 Q. MS. SPACCIA, YOU INDICATED YOU AND
24 MS. LOURDES WORKED TOGETHER IN PUTTING TOGETHER THIS
25 DOCUMENT?

1 A. MS. GARCIA DID THE ATTACHMENTS.

2 Q. MS. GARCIA'S ATTACHMENTS, YOUR LETTER?

3 A. SHE DID THE ATTACHMENTS, YES.

4 Q. SO YOU REVIEWED THE ATTACHMENTS TO PREPARE
5 THE LETTER?

6 A. ACTUALLY, I DID NOT.

7 Q. OKAY. THIS IS YOUR LETTER IN THE FRONT;
8 RIGHT?

9 A. YES.

10 Q. DID YOU WRITE THE LETTER?

11 A. I WROTE THE LETTER.

12 Q. OKAY. IN THE LETTER IT REFERS TO THE
13 ATTACHMENTS?

14 A. YES.

15 Q. AND IT REFERS TO THEM BY LETTER, LOOKS LIKE
16 HANDWRITTEN LETTERS, "ATTACHMENT A," "ATTACHMENT B";
17 RIGHT?

18 A. CORRECT.

19 Q. SO IN DRAFTING THIS, THOUGH, IN THIS
20 PARAGRAPH -- IN THIS LETTER, YOU SAY YOU DIDN'T LOOK
21 AT THE ATTACHMENTS, BUT YOU JUST REFERRED TO THEM?

22 A. CORRECT.

23 Q. NOW, THIS IS IN SPECIFIC RESPONSE TO WHAT?
24 WHY WERE YOU DRAFTING THIS LETTER?

25 A. THIS LETTER WAS TO REQUEST AN EXCEPTION

1 REGARDING THE ONE-TIME COMPENSATION ADJUSTMENTS.

2 Q. FOR WHOM?

3 A. FOR THE -- ACTUALLY, THE LETTER REFERS TO
4 EXECUTIVE AND ADMINISTRATIVE MANAGEMENT
5 CLASSIFICATIONS.

6 Q. NOW, WAS THIS LETTER IN RESPONSE TO THE --
7 TO AN AUDIT NOTE ON DECEMBER 2006?

8 A. NO. IT WAS IN RESPONSE TO JUST A
9 DISCUSSION WITH MICHAEL DUTIL.

10 Q. DUTIL?

11 A. DUTIL.

12 Q. D-U-T-I-L?

13 A. YES.

14 Q. AND I'D LIKE TO DIRECT YOUR ATTENTION BACK
15 TO THE OCTOBER -- IT'S ATTACHMENT -- I MEAN, IT'S
16 EXHIBIT 31.

17 NOW, DO YOU --

18 MR. BRAUN: WHAT NUMBER WAS THAT, PLEASE?

19 MR. KENNEDY: YOUR EXHIBIT -- SPACCIA'S
20 EXHIBIT 31.

21 BY MR. KENNEDY:

22 Q. DO YOU KNOW WHETHER OR NOT THEY REVIEWED
23 THE PAY RATE OR SALARY SCHEDULES OF THE CITY OF BELL
24 WHEN THEY WERE PRESENT AT THIS AUDIT?

25 A. I KNOW THEY HAD TO. THEY WERE PROVIDED TO

1 THEM, TO MICHAEL.

2 Q. AND HOW WERE THEY PRESENTED? I MEAN, IN
3 WHAT FORM WERE THEY PRESENTED?

4 A. ARE YOU ASKING WERE THEY ELECTRICALLY
5 PRESENTED OR --

6 Q. WHAT WAS PRESENTED, DO YOU KNOW?

7 A. A HARD COPY.

8 Q. DO YOU KNOW WHAT WAS PRESENTED?

9 A. NO. NOT SPECIFICALLY, OTHER THAN WHAT I
10 WAS TOLD. I DIDN'T MYSELF PRESENT IT.

11 Q. OKAY. I DON'T WANT YOU TO RELATE WHAT
12 OTHER PEOPLE TOLD YOU.

13 A. RIGHT.

14 Q. I JUST WANT TO KNOW, YOU DON'T KNOW WHAT
15 WAS USED BY MR. DUTIL TO, SAY, RECONCILE PAY RATES OR
16 SALARIES?

17 A. I KNOW THAT HE HAD THE RESOLUTIONS FROM THE
18 CITY COUNCIL, THE PAY SCHEDULE, AND THE PAY
19 CLASSIFICATIONS.

20 Q. OKAY. NOW, IF I CAN DIRECT YOUR ATTENTION
21 TO PAGE 8 OF EXHIBIT 31.

22 A. YES.

23 Q. AND UNDER THE CATEGORY -- IT'S CALLED
24 "RISKS," AND IT'S ITEM 2. AND IT SAYS:

25 "THE CITY MAY NOT PAY EMPLOYEES

1 PURSUANT TO PUBLIC SALARY SCHEDULES" --

2 OR "PUBLIC SALARY INFORMATION?"

3 CAN YOU SEE THAT?

4 THE COURT: OH, ON THE LEFT SIDE IT SAYS

5 "RISKS" IN A COLUMN.

6 MR. KENNEDY: CORRECT.

7 THE COURT: OKAY.

8 BY MR. KENNEDY:

9 Q. AND IN THE MIDDLE COLUMN, IT SAYS

10 "OBSERVATION" -- "MITIGATION AND OBSERVATIONS?"

11 A. OKAY.

12 Q. AND THERE IT MENTIONS MR. RIZZO'S 47.33

13 PERCENT.

14 A. OKAY.

15 Q. DOES IT MENTION ANYWHERE ABOUT THE CITY

16 COUNCIL OR ABOUT YOUR PAY?

17 A. NO.

18 Q. OKAY. NOW, GOING BACK TO EXHIBIT 31.

19 THE COURT: WHICH 31 NOW?

20 MR. KENNEDY: CALPERS 31.

21 THE COURT: OKAY.

22 BY MR. KENNEDY:

23 Q. IN YOUR LETTER, YOU'RE ASKING FOR AN

24 EXCEPTION FOR -- IT LOOKS LIKE FOR YOU, THE CITY

25 COUNCIL, AND MR. RIZZO FOR A ONE-TIME SALARY

1 INCREASE; CORRECT?

2 A. AND THE ADMINISTRATIVE MANAGEMENT GROUP.

3 Q. OKAY. AND YOU REPRESENTED AT THAT POINT IN
4 TIME THAT THE C.A.O. GOT A 47 AND YOU GOT A 43 -- OR
5 42 PERCENT INCREASE, AND THE CITY COUNCIL RECEIVED A
6 37 PERCENT INCREASE; CORRECT?

7 A. UH -- WHAT?

8 THE COURT: TAKE A LOOK AT THE SECOND PAGE.

9 THE WITNESS: WHICH EXHIBIT?

10 THE COURT: 31.

11 MR. KENNEDY: 31.

12 MR. BRAUN: THE OTHER 31. DOES SHE HAVE
13 ONE?

14 MR. KENNEDY: IT'S CALPERS 31. SORRY.

15 THE WITNESS: I DON'T THINK I HAVE 31.

16 MR. KENNEDY: I DON'T THINK SHE HAS IT.

17 THE COURT: HERE.

18 MR. KENNEDY: YEAH. SHE HAS A COPY IN
19 FRONT OF HER.

20 THE COURT: IF YOU COULD GO UP AND FIND IT
21 FOR HER.

22 THE WITNESS: I HAVE IT AT 35. OKAY.

23 I'M SORRY. WHAT WAS YOUR QUESTION?

24 BY MR. KENNEDY:

25 Q. YOU MENTIONED SOMETHING ABOUT THE ADMIN

1 CLASS OR THE EXECUTIVE CLASS?

2 A. YES.

3 Q. AND I JUST SEE THOSE THREE MENTIONED. WAS
4 THERE SOMEBODY ELSE THAT THIS WAS INTENDED TO ASK FOR
5 AN EXCEPTION TO THE LAW?

6 A. I REMEMBER THAT THE EXECUTIVE MANAGEMENT
7 CLASS AND THE ADMINISTRATIVE MANAGEMENT CLASS ALL
8 RECEIVED ON AN AVERAGE OF 40-SOMETHING PERCENT
9 INCREASE.

10 AND SO I KNOW THAT WE WERE ASKING FOR
11 EXCEPTIONS FOR ANYONE WHO WAS NEARING A RETIREMENT
12 AGE SO THAT IT WOULD NOT BE LOOKED AT AS PENSION
13 SPIKING.

14 SO I THOUGHT THAT IT WAS, AS YOU CAN SEE IN
15 MY LETTER, EXECUTIVE AND ADMINISTRATIVE MANAGEMENT
16 CLASSIFICATIONS.

17 Q. IS THERE ANYONE ELSE IN THOSE
18 CLASSIFICATIONS THAT YOU ASKED FOR?

19 A. YES. THERE WOULD HAVE BEEN, SHOULD HAVE
20 BEEN.

21 Q. ALL RIGHT. NOW, WERE -- WERE YOU NEARING
22 RETIREMENT AGE AT THIS TIME?

23 A. NOT WITHIN A COUPLE OF YEARS, NO. BUT I
24 WAS GOING TO BE 50 IN 2008. SO THAT BROUGHT ME
25 CLOSE.

1 Q. IF YOU CAN GO PAST YOUR LETTER ITSELF, AND
2 THERE IS A PAGE ATTACHED NEXT TO IT. AND WOULD YOU
3 EXPLAIN TO US WHAT THAT PAGE REFLECTS?

4 A. UNFORTUNATELY, I DIDN'T PREPARE IT. I
5 DON'T KNOW.

6 Q. ALL RIGHT. YOU DID THE BUDGETS AND
7 FINANCIAL DOCUMENTS FOR BELL, DIDN'T YOU?

8 A. IN THE PAST.

9 Q. IN THE PAST?

10 A. UP TO 2005, YES.

11 Q. OKAY. THIS ESSENTIALLY REFLECTS -- WOULD
12 REFLECT A REVENUE FLOW. IS THAT WHAT IT IS?

13 A. LOOKS LIKE A REVENUE CHANGE AND AN
14 EXPENDITURE CHANGE.

15 Q. AND ATTACHMENT A, THE GENERAL FUND
16 ANALYSIS, DID YOU PREPARE THAT?

17 A. NO.

18 Q. AND YOU DIDN'T READ IT BEFORE YOU WROTE
19 YOUR LETTER?

20 A. NO.

21 Q. HAVE YOU HAD A CHANCE TO READ IT SINCE
22 THEN?

23 A. NO.

24 Q. YOU DIDN'T READ IT BEFORE YOU CAME HERE
25 TODAY?

1 A. I DID NOT. I'M SORRY.

2 Q. OKAY. AND ATTACHMENT B?

3 A. YES.

4 Q. DO YOU RECOGNIZE THAT?

5 A. YES.

6 Q. AND THERE WE HAVE IN THE EXECUTIVE
7 MANAGEMENT, WE HAVE THE CHIEF ADMINISTRATIVE OFFICER
8 AND CITY COUNCIL; RIGHT?

9 A. YES.

10 Q. AND THEN UNDER ADMINISTRATIVE MANAGEMENT,
11 YOU'RE LISTED AND THEN A SERIES OF OTHER POSITIONS;
12 RIGHT?

13 A. CORRECT.

14 Q. BUT IN YOUR LETTER, YOU'RE REQUESTING AN
15 EXCEPTION TO THE PAY INCREASE JUST FOR THREE PEOPLE.
16 I MEAN, WELL, THE CITY COUNCIL AND YOU AND MR. RIZZO;
17 RIGHT?

18 A. YES.

19 Q. OKAY.

20 A. YES.

21 Q. AND THE SAME ON THE NEXT ATTACHMENT C, IS
22 FOR 2004, AND THAT HAS THE CITY COUNCIL, THE CHIEF
23 ADMINISTRATOR, AND YOU AS EXECUTIVE MANAGEMENT;
24 CORRECT?

25 A. YES.

1 Q. OKAY. SO THAT WAS THE GROUP THAT YOU
2 REQUESTED THE EXCEPTION FOR THERE, JUST THE EXECUTIVE
3 MANAGEMENT; RIGHT?

4 A. I REMEMBER WHY.

5 Q. YOU REMEMBER --

6 A. NONE OF THEM HAD -- THERE WAS TWO
7 INDIVIDUALS IN ADMINISTRATIVE MANAGEMENT THAT WERE
8 OLDER, THAT COULD HAVE, IN THEORY, BEEN CLOSE TO
9 RETIREMENT. BUT THEY WEREN'T PLANNING ON RETIRING
10 FOR AT LEAST TEN YEARS, LOUIS RAMIREZ AND ANNETTE
11 PERETZ.

12 Q. WERE YOU INTENDING ON RETIRING WITHIN TWO
13 YEARS?

14 A. 2009.

15 Q. YOU WERE INTENDING TO RETIRE IN 2009?

16 A. YES.

17 Q. SO WHY ARE YOU REFERENCING TWO YEARS?

18 A. TWO YEARS.

19 Q. YOU SAID THEY WERE GOING TO RETIRE WITHIN
20 TWO YEARS, LOUIS RAMIREZ AND SOMEBODY ELSE.

21 THE COURT: WITHIN TEN YEARS.

22 THE WITNESS: TEN YEARS.

23 BY MR. KENNEDY:

24 Q. OH, TEN YEARS. OKAY.

25 A. TEN YEARS. I'M SORRY.

1 Q. ATTACHMENT D, DO YOU SEE THAT?

2 A. YES.

3 Q. WE HAVE THE GENERAL FUND ANALYSIS. YOU
4 DIDN'T PREPARE THAT?

5 A. NO.

6 Q. MS. GARCIA DID; RIGHT?

7 A. YES.

8 Q. ATTACHMENT E, NOW, IS MR. RIZZO'S CONTRACT
9 FOR JULY -- LOOKS LIKE AN UNSIGNED CONTRACT FOR
10 JULY 1, '05. DID YOU PROVIDE THAT?

11 A. I'M NOT SURE IF I PROVIDED THE ATTACHMENT
12 OR IF LOURDES GARCIA DID. ONE OF US DID.

13 Q. AND ARE YOU AWARE WHETHER THAT AGREEMENT
14 WAS APPROVED BY THE CITY COUNCIL?

15 A. YES.

16 Q. YOU DIDN'T PROVIDE A SIGNED COPY OF IT?

17 A. DOESN'T LOOK LIKE IT, NO.

18 Q. NOW, ATTACHMENT F IS YOUR AGREEMENT OF JULY
19 2005, JULY 1, 2005; CORRECT?

20 A. CORRECT.

21 Q. NOW, IS IT YOUR UNDERSTANDING THIS WAS
22 SUBMITTED TO YOU AND APPROVED BY THE CITY COUNCIL
23 PURSUANT TO A DULY NOTED AGENDA ITEM?

24 A. YES.

25 Q. OKAY. AND WHAT'S THE BASIS FOR THAT

1 INFORMATION, TO YOUR KNOWLEDGE?

2 A. TO MY KNOWLEDGE?

3 Q. YEAH.

4 A. ROBERT RIZZO, THE FOLLOWING MORNING IT WAS
5 PRESENTED TO THE COUNCIL, TOLD LOURDES GARCIA AND
6 MYSELF THAT IT HAD BEEN APPROVED, THAT ALL
7 CONTRACTS -- THERE WERE ABOUT 12 CONTRACTS FOR ALL OF
8 THE MANAGEMENT -- THAT THEY WERE ALL APPROVED.

9 Q. AND THAT'S THE WHOLE BASIS OF YOUR
10 INFORMATION, THAT YOUR CONTRACT WAS APPROVED?

11 A. WELL, IT WAS PART OF THE BUDGET PACKET.

12 Q. I'M JUST ASKING: WAS THIS THE SOLE BASIS
13 THAT YOU KNEW THIS CONTRACT WAS APPROVED AND WAS
14 SUBMITTED TO THE CITY COUNCIL FOR APPROVAL, WAS THAT
15 ROBERT RIZZO TOLD YOU?

16 A. YES. I DID NOT ATTEND THE MEETING.

17 MR. ONSTOT: OBJECTION, YOUR HONOR. MOVE
18 TO STRIKE, HEARSAY.

19 THE COURT: OVERRULED.

20 BY MR. KENNEDY:

21 Q. WE'LL GET TO THE BUDGET DOCUMENTS LATER.
22 BUT THE NEXT DOCUMENT IS ATTACHMENT G?

23 A. YES.

24 Q. OKAY. AND CAN YOU IDENTIFY -- CAN YOU TELL
25 ME WHAT THE PURPOSE OF PUTTING THIS IN THIS PACKET

1 WAS AS PART OF THE REQUEST?

2 A. I BELIEVE IT HAD TO DO WITH THE MEDICAL
3 REIMBURSEMENT PROGRAM GUIDELINES.

4 Q. WELL, PART OF YOUR REQUEST WAS -- PART OF
5 YOUR REQUEST WAS TO CONVERT THE MEDICAL, THE
6 CAFETERIA PLAN INTO PAY RATE?

7 A. YES.

8 Q. SO YOU ELIMINATED THE COST TO THE CITY AND
9 PAID THE MONEY INSTEAD TO THE INDIVIDUALS AS PART OF
10 THE PAY RATE?

11 A. CORRECT.

12 Q. OKAY. NOW, FOLLOWING THAT DOCUMENT IS A
13 DOCUMENT DEALING WITH CITY COUNCIL. IT SAYS "CITY
14 COUNCIL," HANDWRITTEN AT THE TOP.

15 A. YES.

16 Q. DO YOU RECOGNIZE THAT DOCUMENT?

17 A. NO.

18 Q. NOW, IN THE NEXT DOCUMENT IS A DOCUMENT
19 FROM THE CITY OF BELL, EXECUTIVE MANAGEMENT ANNUAL
20 CHANGES FOR FISCAL YEAR 2003 TO 2005.

21 A. OKAY.

22 Q. DO YOU RECOGNIZE THAT DOCUMENT?

23 A. NO.

24 Q. OKAY. CAN YOU LOOK AT THE NUMBERS FOR THE
25 CHIEF -- FOR THE ASSISTANT TO THE CHIEF EXECUTIVE

1 OFFICER. IS THAT, AS FAR AS YOU UNDERSTAND, AN
2 ACCURATE REFLECTION OF WHAT YOU WERE BEING PAID AT
3 THAT TIME?

4 A. YES.

5 Q. OKAY. AND THE CHIEF EXECUTIVE OFFICER, IS
6 THAT, TO YOUR KNOWLEDGE, AN ACCURATE REFLECTION OF
7 WHAT HE WAS BEING PAID AT THE TIME?

8 A. I'M NOT SURE.

9 Q. AND THE CITY COUNCIL, DO YOU BELIEVE THAT'S
10 AN ACCURATE REPRESENTATION OF WHAT THEY WERE BEING
11 PAID?

12 A. I'M NOT SURE.

13 Q. UNDER THE "ASSUMPTIONS" WHERE IT SAYS:

14 "EMPLOYEES WITHIN THIS CATEGORY
15 PLAY KEY ROLES IN THE LEADERSHIP
16 AND POLICY-MAKING PROCESS OF THE
17 ORGANIZATION."

18 IS THAT A TRUE STATEMENT?

19 A. EVERY EMPLOYEE PLAYS A KEY ROLE IN EVERY
20 CATEGORY.

21 Q. SO YOU WOULD AGREE, THEN? BASICALLY,
22 YOU'RE SAYING THAT YOU PLAYED A KEY ROLE IN THE
23 LEADERSHIP AND POLICY-MAKING PROCESS FOR THE CITY OF
24 BELL?

25 A. FOR FISCAL YEAR 2003 TO 2005, YES.

1 Q. ON PAR WITH THE CITY COUNCIL AND MR. RIZZO?

2 A. ON PAR, NO.

3 Q. OKAY. WHEN YOU WENT TO -- AS FAR AS AIR
4 TIME, YOU WENT TO -- YOU HAD COMMUNICATIONS WITH
5 CALPERS AND MS. VEITENHANS?

6 A. CORRECT.

7 Q. WERE YOU THE -- AT THE CITY OF BELL AT THAT
8 TIME, YOU SAID YOU WERE THE GO-TO PERSON WHEN IT CAME
9 TO P.E.R.S. ISSUES AND AIR TIME?

10 A. I WASN'T THE GO-TO PERSON ON CALPERS
11 ISSUES, NO. BUT WHEN IT CAME TO THE AIR TIME, I SORT
12 OF TOOK THAT ON AS A SPECIAL ASSIGNMENT.

13 Q. AND ABOUT WHAT TIME WAS THAT?

14 A. ACTUALLY, I DON'T KNOW. I WAS ALWAYS, I
15 GUESS. I'LL SAY THROUGH MY COMPLETE TENURE. BECAUSE
16 WHEN AN EMPLOYEE WANTED TO PURCHASE THEIR AIR TIME,
17 THEY WOULD OFTEN COME TO ME, AND I WOULD HELP THEM
18 FILL OUT THE PAPERWORK.

19 Q. AND WHEN YOU HELPED THEM FILL OUT THE
20 PAPERWORK -- WELL, HOW DID YOU EDUCATE YOURSELF WITH
21 THE AIR TIME?

22 A. WELL, MOSTLY THROUGH NANCY VEITENHANS.

23 Q. BUT YOU DON'T RECALL WHEN YOU TALKED TO
24 HER?

25 A. WHAT YEARS?

1 Q. YES.

2 A. ON AND OFF FOR MANY YEARS.

3 Q. STARTING FROM WHEN?

4 A. THAT, I DON'T KNOW. I STARTED WORKING FOR
5 THE CITY OF BELL IN 2003. IT MIGHT HAVE 2003; IT
6 MIGHT HAVE BEEN 2004 OR 2005.

7 AND THE TIME, ACTUALLY, THE MORE REMOVED I
8 WAS FROM FINANCE -- SO FROM 2005 FORWARD -- IT WAS A
9 LOT LESS.

10 Q. AND WHEN WERE YOU REMOVED FROM FINANCE?

11 A. JULY 2005.

12 Q. AND WHEN DID YOU GO UP AND VISIT
13 MS. VEITENHANS IN SACRAMENTO?

14 A. I DON'T REMEMBER.

15 Q. DID YOU GO UP AND MEET --

16 A. OH, YES.

17 Q. WAS IT IN 2005?

18 A. I HONESTLY DON'T RECALL.

19 Q. IN 2006?

20 A. I DON'T RECALL. DO YOU KNOW WHEN?

21 Q. IN EXHIBIT 31, YOU'RE WRITING ON BEHALF OF
22 THE CITY OF BELL ASKING FOR EXCEPTIONS BASED UPON THE
23 FACT THAT THEIR BUDGET IS IN SURPLUS FOR THOSE
24 PERIODS, AND THIS IS IN 2006. WERE YOU REMOVED FROM
25 THE FINANCIAL ISSUES BY THEN?

1 A. YES. UNLESS I WAS GIVEN AN ASSIGNMENT,
2 YES.

3 Q. NOW, WHAT DID -- WHAT ELSE DID YOU DO TO
4 EDUCATE YOURSELF ON AIR TIME, PURCHASE AND USE OF AIR
5 TIME?

6 A. WHAT ELSE DID I DO? THE ONLY THING I DID
7 WAS TO RELY OWN CALPERS TO TELL ME WHAT WE COULD OR
8 COULD NOT DO, AND THAT WAS AT THE INSTRUCTION OF
9 ROBERT RIZZO.

10 Q. AND CALPERS, MS. VEITENHANS, YOU SAID?

11 A. YES.

12 Q. AND IF I WERE TO BRING IN MS. VEITENHANS TO
13 THIS COURTROOM, SHE WOULD TESTIFY THAT "YES, I HAD
14 DISCUSSIONS OVER A PERIOD OF YEARS WITH MS. SPACCIA
15 CONCERNING AIR TIME, AND AT NO TIME DID I TELL HER
16 THAT AN EMPLOYER COULD NOT PURCHASE THE AIR TIME FOR
17 THE EMPLOYEE"?

18 A. CORRECT. WE THOUGHT ABOUT BRINGING HER AS
19 A WITNESS.

20 Q. DID SHE TESTIFY TO THE EFFECT THAT THE
21 EMPLOYER COULD PURCHASE IT?

22 A. DID SHE WHAT?

23 Q. DID YOU ASK HER SPECIFICALLY AT ANY TIME
24 "CAN AN EMPLOYER PURCHASE AIR TIME?"

25 A. YES.

1 Q. AND DID SHE RESPOND TO YOU?

2 A. NOT IMMEDIATELY.

3 Q. WAS THAT IN WRITING? WAS THAT VERBALLY?

4 A. IT MAY HAVE BEEN VERBALLY ONLY. I DON'T
5 RECALL.

6 Q. AND THIS WAS IN RELATIONSHIP TO -- WELL,
7 DIDN'T THE CITY OF BELL AT ONE TIME TRY TO SET UP, OR
8 DIDN'T IT ALSO PASS A RESOLUTION TO SET UP AN
9 INSTALLMENT PLAN FOR THE CITY TO PAY ON BEHALF OF A
10 MEMBER, INSTALLMENT PAYMENTS TOWARD THE AIR TIME?

11 A. I'M NOT SURE. EXPLAIN THAT TO ME.

12 Q. WELL, YOU'RE FAMILIAR WITH AIR TIME.
13 YOU'RE FAMILIAR WITH THE PURCHASE PROCESS; RIGHT?

14 A. YEAH.

15 Q. YOU HELPED MANY PEOPLE DO THIS.

16 A. CORRECT.

17 Q. AND YOU REALIZE IT CAN BE DONE THROUGH
18 INSTALLMENT PAYMENTS AS DEDUCTIONS FROM THE
19 EMPLOYEE'S PAY?

20 A. CORRECT.

21 Q. OR IT CAN BE PAID IN A LUMP SUM?

22 A. CORRECT.

23 Q. RIGHT?

24 A. YES.

25 Q. DID YOU WORK WITH THE CITY OF BELL TO

1 CONSTRUCT A RESOLUTION AT ONE TIME THAT WAS DIRECTED
2 AT HAVING THE CITY OF BELL PURCHASE AIR TIME THROUGH
3 INSTALLMENT PAYMENTS ON BEHALF OF EMPLOYEES?

4 A. IT'S NOT RINGING A BELL.

5 Q. SO THERE WAS NO RESOLUTION TO THAT --
6 RIGHT? -- THAT YOU CAN RECALL?

7 A. I'M NOT SURE. I DON'T RECALL IT.

8 Q. WAS THERE EVER A RESOLUTION THAT YOU RECALL
9 FROM THE CITY OF BELL OR AUTHORIZATIONS FROM THE CITY
10 COUNCIL DIRECTING THAT THE LUMP SUM PAYMENTS BE MADE
11 ON BEHALF OF THE CITY OF BELL TO THE CALPERS?

12 A. NO. CALPERS SAID THEY ONLY NEEDED THE
13 C.A.O.'S APPROVAL.

14 Q. CALPERS TOLD YOU THAT?

15 A. YES.

16 Q. AND THEY SPECIFICALLY SAID THEY ONLY NEEDED
17 THE C.A.O.'S APPROVAL?

18 A. YES.

19 Q. AS FAR AS AUTHORIZING THIS BY THE CITY --

20 A. YES.

21 Q. -- DID THE CITY --

22 NO. LISTEN TO MY -- DID THE CITY AT ANY
23 TIME HAVE A RESOLUTION THAT AUTHORIZED YOU OR ANYONE
24 ELSE IN THE CITY TO PAY A LUMP SUM ON BEHALF OF THESE
25 SELECT INDIVIDUALS TO PURCHASE THIS AIR TIME?

1 A. THERE IS NOT A RESOLUTION. IT WAS INCLUDED
2 IN THE BUDGET.

3 Q. OKAY. BUDGET OF WHAT? 2005-2010?

4 A. YES.

5 Q. AND IF I SHOWED YOU THE BUDGET, COULD YOU
6 POINT TO THE LINE ITEM?

7 A. I CAN TRY.

8 Q. WELL, WHEN WE TAKE A BREAK, I MIGHT DO
9 THAT.

10 A. OKAY.

11 Q. SO AT ONE POINT IN TIME, YOU WENT UP AND
12 YOU TALKED TO MS. VEITENHANS IN SACRAMENT?

13 A. YES.

14 Q. AND WHAT WAS THE PURPOSE OF THAT TRIP?

15 A. I DON'T REMEMBER. I'M TRYING TO REMEMBER,
16 AND I DON'T REMEMBER.

17 Q. ALL YOU CAN REMEMBER SPECIFICALLY IS THAT
18 MS. VEITENHANS TOLD YOU THAT THE CITY OF BELL CAN
19 PURCHASE AN LUMP SUM -- CAN PAY A LUMP SUM PAYMENT
20 FOR SELECTIVE INDIVIDUALS, A.R.S.C. TIME, AS LONG AS
21 THE C.A.O. SAYS SO?

22 A. YES.

23 Q. IF WE LOOK AT THE -- IT'S CALPERS
24 EXHIBIT 12. I'M CERTAIN YOU REVIEWED THIS DOCUMENT
25 ALONG WITH -- FOR YOUR PURCHASE ALONG WITH OTHER

1 PEOPLE'S; RIGHT?

2 A. YES.

3 Q. CAN YOU SHOW ME IN THERE WHERE IT SAYS
4 ANYWHERE OTHER THAN THE MEMBER MAY PURCHASE THE
5 A.R.S.C. TIME?

6 A. CAN I SHOW YOU WHAT?

7 Q. IF YOU LOOK AT THE DOCUMENT, CAN YOU POINT
8 TO ANY PLACE IN THERE WHERE IT SAYS THAT THE
9 EMPLOYER, RATHER THAN MEMBER, CAN PURCHASE AIR TIME.

10 A. I DON'T KNOW IF IT SAYS EVEN IF THE MEMBER
11 CAN IN THESE DOCUMENTS. I'D HAVE TO REVIEW THEM IN
12 DETAIL.

13 Q. COULD YOU TAKE A LOOK. TAKE A FEW MINUTES.
14 I MEAN, THIS IS SOMETHING THAT YOU WOULD
15 HAVE BASED YOUR DETERMINATION ON, IS IT NOT, THAT THE
16 CITY COULD PURCHASE IT?

17 A. NO. I BASED MY DETERMINATION ON MY
18 DISCUSSION WITH NANCY VEITENHANS.

19 Q. WELL, WE DON'T KNOW WHEN THAT HAPPENED.
20 YOU DON'T REMEMBER HOW IT HAPPENED.

21 A. IT WOULD HAVE BEEN SOMETIME BEFORE MAY 15,
22 2004.

23 Q. SO YOU HAD A CONVERSATION WITH
24 MS. VEITENHANS SOMETIME IN MAY OF 2004, IN WHICH SHE
25 SAID ALL THESE INDIVIDUALS -- THE CITY CAN PURCHASE

1 AIR TIME IN A LUMP SUM AS LONG AS THE C.A.O. PAYS.

2 ANY OTHER DISCUSSIONS AS TO HOW IT WOULD BE
3 PURCHASED?

4 A. AS LONG AS THE CITY WANTS TO DO THAT, THE
5 CITY CAN DO THAT.

6 Q. AND THIS WAS NOT DOCUMENTED ANYWHERE IN ANY
7 E-MAIL OR --

8 A. IT MAY HAVE BEEN. I DON'T HAVE IT WITH ME,
9 NO.

10 Q. I ASKED YOU IN DISCOVERY IF YOU HAD ANY
11 DOCUMENTATION REGARDING ANY COMMUNICATION WITH THE
12 CITY OF BELL OR ANY OTHER INDIVIDUALS OR ENTITIES
13 CONCERNING YOUR COMPENSATION WITH THE CITY OF BELL.

14 YOU HAVE NO SUCH DOCUMENTS; IS THAT
15 CORRECT?

16 A. CORRECT.

17 Q. NOW, MS. SPACCIA, WHEN YOU COMPLETED THIS
18 REQUEST FOR SERVICE CREDIT COST INFORMATION IN
19 EXHIBIT 12, IN MAY 15, 2004, THE SECOND PAGE OF THAT
20 DOCUMENT IS ACTUALLY A DOCUMENT THAT YOU PREPARED;
21 RIGHT? YOU ENTER THE INFORMATION AND GET THE
22 RESULTS?

23 A. IS THIS THE WORKSHEET ON THE WEBSITE FOR
24 CALPERS?

25 Q. I DON'T KNOW. IT'S YOUR DOCUMENT. IT

1 APPEARS TO ME, BUT I DON'T KNOW.

2 A. I THINK IT IS, YES.

3 Q. AND THE MONTHLY SALARY THERE, THE
4 \$8,525.83, THAT WAS WHAT YOUR SALARY WAS AT THAT
5 TIME? THAT'S WHAT YOU WERE BEING PAID BY BELL?

6 A. YES.

7 Q. OKAY. AND WHY DID YOU PICK THAT PARTICULAR
8 DATE TO SUBMIT IT, THE ACTUAL DATE BEING JUNE 30,
9 2004?

10 A. I WAS INSTRUCTED TO DO THAT. I DON'T KNOW
11 THE EXACT REASONING.

12 Q. WHO INSTRUCTED YOU TO DO THAT?

13 A. TO PURCHASE IT AS OF JUNE 30?

14 Q. YES.

15 A. ROBERT RIZZO.

16 THE COURT: WHERE DID YOU GET THE NUMBER
17 \$8525?

18 THE WITNESS: FROM THE PERSONNEL CLERK.

19 BY MR. KENNEDY:

20 Q. AND THE FOLLOWING MONTH, YOU WERE
21 ANTICIPATING THAT YOUR COMPENSATION OR REMUNERATION
22 FROM THE CITY WAS GOING TO INCREASE?

23 A. USUALLY, IN JULY OF EACH YEAR, YES.

24 Q. NOW, PAGE 23 IS THE ELECTION TO PURCHASE.
25 THAT OCCURRED IN AUGUST OF '04?

1 THE COURT: PAGE 23?

2 MR. KENNEDY: 23 OF EXHIBIT 12.

3 THE COURT: WHERE ARE YOU LOOKING?

4 MR. KENNEDY: IT'S ON THE BOTTOM RIGHT-HAND
5 CORNER, YOUR HONOR. IT SHOULD BE --

6 THE COURT: OKAY. THANK YOU.

7 MR. KENNEDY:

8 Q. NOW, THAT'S YOUR SIGNATURE AT THE BOTTOM?

9 A. YES.

10 Q. AND UP AT TOP IT SAYS "PAYMENT FROM CITY OF
11 BELL SURPLUS ACCOUNT"?

12 A. CORRECT.

13 Q. IS THAT YOUR HANDWRITING?

14 A. YES.

15 Q. AND WHY DID YOU WRITE THAT UP?

16 A. I BELIEVE THAT'S WHAT NANCY VEITENHANS TOLD
17 ME TO WRITE.

18 Q. IN AUGUST 2004, SHE TOLD YOU TO WRITE
19 "PAYMENT FROM THE CITY OF BELL SURPLUS ACCOUNT"?

20 A. YES.

21 Q. IS THAT WHERE THE MONEY CAME, FROM THIS
22 \$71,000?

23 A. I BELIEVE SO.

24 Q. OKAY. AND DID YOU REPORT THAT \$71,000 AS
25 PART OF YOUR INCOME FOR THAT YEAR ON YOUR TAX

1 RETURNS?

2 A. YES.

3 Q. OKAY. NOW, YOUR CURRENT BENEFIT LEVEL,
4 PENDING THIS HEARING, WAS THE FIVE YEARS OF SERVICE
5 CREDIT REMOVED FROM YOUR CALCULATIONS, IF YOU ARE
6 AWARE?

7 A. I'M SORRY?

8 Q. IN OTHER WORDS, IS THE CALCULATION OF
9 \$3,620 THAT YOU STARTED TO RECEIVE IN DECEMBER OF
10 2010, IS THAT INCLUSIVE THE FIVE YEARS OF AIR TIME?

11 A. YES.

12 Q. SORRY?

13 A. YES.

14 Q. OKAY. BUT YOU WERE ADVISED IN THE
15 DETERMINATION OF DECEMBER 2ND, 2010, THAT IT WOULD BE
16 SUBJECT TO AN ADJUSTMENT?

17 THE COURT: I'M CONFUSED HERE. DOES THE
18 3,600-AND-SOME-ODD DOLLARS INCLUDE OR EXCLUDE THE AIR
19 TIME?

20 MR. KENNEDY: INCLUDE.

21 THE COURT: IT INCLUDES?

22 MR. KENNEDY: IN THE CALCULATION IT
23 INCLUDES THE AIR TIME.

24 THE COURT: OKAY. WE'LL BE IN RECESS FOR
25 TEN MINUTES.

1 (WHEREUPON, A RECESS WAS HELD
2 FROM 2:54 P.M. TO 3:01 P.M.)

3 THE COURT: READY?

4 MR. KENNEDY: YES.

5 BY MR. KENNEDY:

6 Q. MS. SPACCIA, IN YOUR WORK HISTORY, HOW LONG
7 DID YOU WORK IN OR AROUND CITY GOVERNMENTS?

8 A. CITY, COUNTY, AND SPECIAL DISTRICTS
9 COMBINED, 30 YEARS. MAYBE A LITTLE MORE THAN 30
10 YEARS.

11 Q. SO WOULD YOU SAY YOU'RE SOMEWHAT
12 KNOWLEDGEABLE ABOUT HOW CITY AND COUNTY GOVERNMENTS
13 MAKE DECISIONS ON MATTERS, ESPECIALLY FISCAL MATTERS,
14 AS FAR AS DECISIONS OF \$71,000 TO YOU AND, I WOULD BE
15 SAFE TO SAY, HUNDREDS OF THOUSANDS OF DOLLARS FOR
16 OTHER INDIVIDUALS AT THE CITY OF BELL, THAT THAT WAS
17 OKAY?

18 A. WELL, FIRST OF ALL, THERE'S A PROCESS AT
19 THE CITY FOR PAYMENTS. SO NANCY VEITENHANS CAN'T
20 DICTATE WHAT HAPPENS AT THE CITY SIDE, BUT WHAT SHE
21 CAN DO IS TELL ME WHAT CALPERS NEEDS, AND I DID RELY
22 ON WHAT SHE SAID, YES.

23 Q. AS LONG AS THE C.A.O. APPROVED THE
24 PURCHASE, THAT SOMEHOW IT WOULD MAKE IT OKAY?

25 A. BECAUSE IT WAS LIKE OTHER CALPERS

1 PURCHASES. AND SHE CHECKED WITH SOMEONE, AND I'M
2 SORRY, I DON'T KNOW WHO.

3 Q. I'M SORRY?

4 A. SHE CHECKED WITH SOMEONE, BUT I DON'T KNOW
5 WHO THAT WAS.

6 Q. AND WHEN YOU SAY OTHER CALPERS PURCHASES,
7 IT'S LIKE WHAT OTHER KIND OF CALPERS PURCHASES?

8 A. ANY TYPES OF OTHER PURCHASES LIKE GOLDEN
9 HANDSHAKES. I'M FORGETTING SOME OF THE TERMS NOW.
10 LIKE A GOLDEN HANDSHAKE, FOR EXAMPLE.

11 Q. WELL, MR. BRAUN KEPT USING THE TERM "PRIOR
12 SERVICE" OR "PAST SERVICE"?

13 A. YEAH. I'M NOT SURE WHERE HE GETS THAT.

14 Q. IN ESTABLISHING YOUR KNOWLEDGE OF THE AIR
15 TIME, DID YOU READ ANY OF THE CALPERS STATUTES OR
16 CODES?

17 A. I DON'T RECALL.

18 Q. DID YOU EVER RECEIVE, IN YOUR CAPACITY AT
19 THE CITY OF BELL OR OTHERWISE, CIRCULARS FROM CALPERS
20 THAT HAD FREQUENTLY ASKED QUESTIONS AS FAR AS HOW THE
21 PROCESS WOULD BE FOR PURCHASING OF AIR TIME?

22 A. IF IT WAS FOR PURCHASING OF AIR TIME, I MAY
23 HAVE READ SOMETHING, BUT I DON'T RECALL. BUT I
24 DIDN'T RECEIVE CIRCULARS. NOT ME PERSONALLY, NO.

25 Q. BUT YOU WERE THE GO-TO PERSON FOR AIR

1 TIME --

2 A. OKAY.

3 Q. -- AT BELL; IS THAT CORRECT?

4 A. FOR THE MOST PART. NOT THE ONLY PERSON,
5 BUT YES.

6 Q. SO TO DO YOUR SERVICE ON THAT PROJECT, YOU
7 READ STATUTES?

8 THE COURT: NO.

9 MR. KENNEDY: NO?

10 THE COURT: SHE DIDN'T SAY SHE READ THE
11 STATUTES.

12 MR. KENNEDY: I'M ASKING HER NOW.

13 THE COURT: WELL, THEN ASK THAT QUESTION.

14 KENNEDY: AND YOU MAY HAVE READ SOME OTHER
15 HANDOUTS OR --

16 THE COURT: NO. DON'T LOAD UP THE QUESTION
17 BY SAYING "MAY HAVE READ SOME OTHER." ASK THE
18 QUESTION WITHOUT LOADING IT UP, PLEASE.

19 MR. KENNEDY: DID YOU READ --

20 THE COURT: DID YOU READ ANY STATUTES ABOUT
21 AIR TIME?

22 THE WITNESS: I DON'T RECALL.

23 THE COURT: DID YOU READ ANY REGULATIONS
24 ABOUT AIR TIME?

25 THE WITNESS: I REMEMBER READING SOMETHING,

1 BUT THAT WAS ON THE WEBSITE, THE CALPERS WEBSITE.

2 THE COURT: ANYTHING ELSE THAT YOU CAN
3 REMEMBER READING?

4 THE WITNESS: NO.

5 BY MR. KENNEDY:

6 Q. DID YOU READ THE REQUEST FOR COSTING
7 PACKET, THE AIR TIME PURCHASING PACKET THAT YOU WERE
8 SENT?

9 A. YES.

10 Q. NOW, OVER THE BREAK, YOU LOOKED AT THE
11 BUDGET?

12 A. YES.

13 Q. OKAY. THE AIR TIME PURCHASES, ARE THEY
14 APPROVED IN THE BUDGET?

15 A. ONLY THE ONES THAT WE ACTUALLY ISSUED
16 CHECKS FOR.

17 Q. OKAY. AND CAN YOU IDENTIFY WHERE THOSE
18 ARE?

19 A. WE WOULD HAVE -- WELL, HERE'S MY PROBLEM.
20 WITHOUT SEEING ALL OF THE CALPERS DOCUMENTS SUCH AS
21 MY -- I THINK YOUR EXHIBIT 12 WAS MINE -- RIGHT? --
22 MY PURCHASE, UNDER MY NAME? WAS THAT EXHIBIT 12?
23 YES.

24 I WOULD NEED TO SEE EACH OF THOSE TO KNOW
25 WHICH ONES WERE TAKEN OUT OF SURPLUS AND WHICH

1 ONES --

2 Q. CAN YOU FIND YOURS IN THE BUDGET?

3 A. IT WAS TAKEN OUT OF SURPLUS.

4 Q. SO IS THERE A LINE ITEM OR ANY PLACE IN
5 THERE THAT INDICATES TO SOMEBODY LOOKING AT THIS
6 BUDGET THAT THE CITY OF BELL IS PURCHASING FIVE YEARS
7 OF AIR TIME FOR THESE INDIVIDUALS?

8 A. NOT FOR THOSE THAT CAME OUT OF THE SURPLUS.
9 THE ONES THAT WERE INCLUDED IN THE BUDGET WERE THE
10 ONES THAT THE CITY HAD TO ISSUE CHECKS FOR.

11 Q. AND CAN YOU POINT TO WHERE THAT WOULD BE IN
12 THE BUDGET?

13 A. I CAN ONLY REMEMBER ONE. I KNOW THERE WERE
14 MORE. BUT I REMEMBER ONE PERSON, AND HIS WOULD HAVE
15 BEEN INCLUDED -- I LOST THE PAGE. HOLD ON.

16 PAGE 115.

17 Q. 115?

18 A. UNDER "SALARIES FULL-TIME."

19 Q. OKAY. THAT'S THE HEADING THAT SAYS
20 "GENERAL SERVICES CODE ENFORCEMENT"?

21 A. YES.

22 Q. AND WHERE IS THE LINE ITEM CONCERNING THE
23 PURCHASE OF THE AIR TIME?

24 A. THE FIRST LINE ITEM, "SALARIES FULL-TIME."

25 Q. OKAY. AND WHERE DOES IT -- INDICATE TO ME,

1 IF YOU CAN?

2 A. IT DOESN'T. THESE ARE NUMBERS ROLLED UP,
3 MADE UP OF -- FOR EXAMPLE, GENERAL SERVICES CODE
4 ENFORCEMENT, SALARIES FULL-TIME, I DON'T RECALL HOW
5 MANY EMPLOYEES WERE THERE. BUT THAT COULD BE TWO OR
6 THREE OR TEN EMPLOYEES' SALARIES AND OTHER PURCHASED.
7 AND THAT'S STANDARD IN A BUDGET.

8 Q. WELL, I'M AT A LOSS HERE. THEN HOW DO I
9 TELL FROM THAT WHAT ANYBODY --

10 A. YOU'D HAVE TO ASK. YOU'D GO BACK TO THE
11 WORKSHEETS.

12 Q. PLEASE ALLOW ME TO FINISH, IF I MAY.

13 THE COURT: LET'S JUST STOP HERE FOR A
14 MINUTE. LET'S SEE IF I CAN FIGURE THIS OUT.

15 YOUR TESTIMONY IS THAT YOU GOT FIVE YEARS
16 OF AIR TIME PAID BY BELL?

17 THE WITNESS: YES.

18 THE COURT: DO YOU HAVE ANYTHING IN WRITING
19 THAT SHOWS THAT?

20 THE WITNESS: YES.

21 THE COURT: WHAT DO YOU HAVE?

22 THE WITNESS: WELL, WITH ME? I'M NOT SURE
23 IF I HAVE ANYTHING OTHER THAN THIS.

24 THE COURT: AND BY "THIS," YOU'RE REFERRING
25 TO THE APPLICATION; RIGHT?

1 THE WITNESS: CORRECT.

2 THE COURT: AND THE APPLICATION SAYS, IN
3 PART, PAID FROM SURPLUS?

4 THE WITNESS: YES.

5 THE COURT: DO YOU HAVE ANY RECEIPT FROM
6 CALPERS SHOWING THAT PAYMENT WAS MADE FOR YOU,
7 SPECIFICALLY?

8 THE WITNESS: WHAT I HAVE IS -- AND I
9 FORGET WHAT IT'S CALLED. BUT EACH YEAR CALPERS
10 SUPPLIES A REPORT, AND IT LISTS EACH EMPLOYEE'S NAME
11 AND THEIR YEARS OF SERVICE CREDIT, AND IT SHOWS THE
12 ADDITIONAL FIVE YEARS GOING ON.

13 THE COURT: YOU HAVE A YEAR-END STATEMENT?

14 THE WITNESS: YES. THANK YOU.

15 THE COURT: OKAY.

16 BY MR. KENNEDY:

17 Q. WHAT I'M TRYING TO GET TO, THOUGH, IS YOU
18 INDICATED THAT ON THIS ONE THAT THE CITY APPROVED THE
19 PURCHASE OF THE AIR TIME?

20 A. YES.

21 Q. THROUGH THE BUDGET?

22 A. YES.

23 Q. THROUGH THE BUDGET PROCESS?

24 A. YES.

25 Q. THIS BUDGET IN FRONT OF US?

1 A. YES.

2 Q. AND I'M JUST TRYING TO FIND OUT HOW I CAN
3 TELL. THIS "PERSONNEL SERVICES" SAYS "SALARIES
4 FULL-TIME." THAT MAY NOT BE -- IS THAT AN
5 INDIVIDUAL'S, OR THAT'S JUST THE WHOLE COLLECTIVE
6 CODE ENFORCEMENT?

7 A. IT'S COLLECTIVE.

8 Q. SO I DON'T KNOW IF THAT'S REFLECTING
9 SALARIES OR REFLECTING PURCHASE OF AIR TIME OR JUST
10 SIMPLY PAYING OFF HOUSE PAYMENTS? I DON'T KNOW WHAT
11 THAT SAYS.

12 A. CORRECT. YOU'D HAVE TO GO TO THE
13 WORKSHEETS.

14 Q. NOW, IS THIS A COMPLETE COPY OF THE BUDGET?

15 A. I'M NOT SURE.

16 MR. ONSTOT: YOUR HONOR, FOR CLARIFICATION,
17 WHEN WE REFER TO THE BUDGET, COULD THE RECORD REFLECT
18 THAT THAT MEANS EXHIBIT 21 TO THE CALPERS EXHIBITS.

19 THE COURT: IT MAY.

20 MR. KENNEDY: THANK YOU, YOUR HONOR.

21 THE WITNESS: LOOKS LIKE IT IS.

22 BY MR. KENNEDY:

23 Q. AND HELP ME OUT HERE FOR JUST A SECOND. AS
24 FAR AS THE BUDGET ITSELF, THIS IS WHAT'S SUBMITTED TO
25 THE CITY COUNCIL AFTER IT'S REVIEWED AND THEY VOTE ON

1 IT, AND THAT BECOMES -- ITEMS INCLUDED IN THERE ARE
2 APPROVED BY THE CITY COUNCIL?

3 A. YES.

4 Q. NOW, CAN YOU SHOW ME WHERE ARE THE
5 CONTRACTS FOR EMPLOYEES?

6 A. THEY'RE NOT IN THE PERMANENT DOCUMENT FOR
7 PUBLIC CONSUMPTION. THEY'RE NOT SUBMITTED AS PART OF
8 THIS. THEY WERE INCLUDED AS -- IF YOU GO TO THE
9 RESOLUTION 2005-17, I BELIEVE IT WAS. IT REFERS TO
10 SUPPLEMENTAL REVISIONS AND AMENDMENTS.

11 Q. OKAY. WHICH ONE? 2000 --

12 A. I BELIEVE IT WAS -- IT'S IN THE BUDGET.
13 LET ME LOOK AGAIN.

14 Q. SO WHILE YOU'RE LOOKING FOR THAT, THE
15 ANSWER TO MY QUESTION WAS THAT ANY INDIVIDUAL'S
16 AGREEMENTS WERE NOT INCLUDED IN THIS DOCUMENT WHICH
17 IS THE ONE THAT IS SENT OUT FOR PUBLIC VIEW; RIGHT?

18 A. IT WAS INCLUDED WHEN IT WAS SUBMITTED TO
19 THE CITY COUNCIL. BUT WHEN IT WAS PRINTED, THEY WERE
20 REMOVED AND PUT IN THE PERSONNEL FILES. THAT'S MY
21 UNDERSTANDING.

22 Q. AND WHAT'S THE RESOLUTION AGAIN?

23 A. 2005-17.

24 Q. AND WAS THAT PART OF THE MAY, 2005 -- MAY
25 2ND, 2005, AGENDA?

1 A. I MAY HAVE THE WRONG NUMBER. I MAY BE
2 LOOKING AT THE WRONG RESOLUTION.

3 I'M SORRY. IT WAS 2005-15.

4 Q. 2005-15?

5 A. YES.

6 Q. AND THAT WAS PART OF AN AGENDA ITEM?

7 A. YES.

8 Q. AND WHAT AGENDA WOULD THAT BE?

9 A. THAT WAS FOR THE PROGRAM OF SERVICES FOR
10 2005 THROUGH JUNE 30, 2010, THE BUDGET DOCUMENT.

11 Q. THAT'S THE BUDGET DOCUMENT WE HAVE; RIGHT?

12 A. YES.

13 Q. OKAY. AND YOUR CONTRACTS -- OR NOBODY'S
14 CONTRACTS ARE ATTACHED TO THE DOCUMENT?

15 A. NOT IN THE ONE THAT YOU GAVE ME, NO.

16 Q. BUT THERE'S ANOTHER ONE?

17 A. THERE WAS A PACKET WHICH WAS NOT BOUND.

18 AND ALL OF THE EMPLOYMENT AGREEMENTS -- THERE WERE 12

19 EMPLOYMENT AGREEMENTS ALONG WITH THE BUDGET PACKET,

20 AND THEY'RE REFERRED TO IN THIS RESOLUTION AS -- IT

21 SAYS "INCLUDING SUPPLEMENTAL REVISIONS AND

22 AMENDMENTS." THEY WERE AMENDMENTS.

23 Q. CAN YOU REFER TO THE PAGE YOU'RE LOOKING

24 AT? IN WHAT EXHIBIT PACKAGE?

25 A. IN OUR BOOK, IT WOULD BE EXHIBIT 17.

1 Q. RESOLUTION NUMBER 2005-15, PROGRAM SERVICES
2 FISCAL YEAR?

3 A. CORRECT.

4 Q. AND IT'S ONE PAGE?

5 A. YES.

6 Q. ARE THERE MORE PAGES?

7 A. NO.

8 Q. IT'S NOT SIGNED. AND IS THERE A --

9 A. OKAY. THERE IS MORE THAN ONE PAGE. IT'S
10 NOT IN THE EXHIBIT. BUT IT'S IN YOUR BOOK.

11 Q. MY BOOK?

12 A. IT'S IN YOUR BOOK, THE BUDGET BOOK.

13 Q. OKAY.

14 A. PAGES 21 AND 22.

15 Q. THAT'S EXHIBIT 21 AT PAGES 21 AND 22.

16 OKAY. SO YOU'RE SAYING IF I HAD A COMPLETE
17 COPY OF THIS DOCUMENT, OF THIS RESOLUTION 2005-15, IT
18 WOULD HAVE ATTACHED TO IT YOUR CONTRACT?

19 A. NO. WHAT'S MISSING IS PAGE 2, WHICH IS THE
20 SIGNATURE PAGE.

21 WHAT I'M SAYING IS IF YOU HAD THE COMPLETE
22 PACKAGE -- IF YOU GO TO THE FIRST PAGE OF RESOLUTION
23 2005-15, THE FIRST PARAGRAPH THAT STARTS WITH THE
24 WORD "AND" --

25 Q. YES.

1 A. (READING.)

2 "THAT SAID ADOPTED PROGRAM OF
3 SERVICES, INCLUDING SUPPLEMENTAL
4 REVISIONS AND AMENDMENTS" --

5 THOSE ARE THE DOCUMENTS THAT WERE ADDED TO
6 THIS DOCUMENT, AND THEY WERE EMPLOYMENT AGREEMENTS.

7 Q. SO THEY WERE ADDED TO THIS DOCUMENT WHEN?

8 A. GOSH, THE DAY BEFORE I GAVE THEM TO
9 ROBERT RIZZO TO SUBMIT TO THE CITY CLERK TO BE COPIED
10 FOR THE CITY COUNCIL.

11 Q. NOW, I DON'T SEE THE ATTACHMENTS HERE.

12 A. RIGHT.

13 Q. SO IF I HAD THE COMPLETE VERSION OF
14 2005-15, ALL THOSE AGREEMENTS SHOULD BE ATTACHED TO
15 THAT?

16 A. ALL 12 AGREEMENTS WERE INCLUDED WITH THE
17 BUDGET PACKET, YES.

18 Q. BUT NOT THE OFFICIAL BUDGET PACKET?

19 A. NOT THE BOUND BUDGET DOCUMENT.

20 THE COURT: IF SOME GUY OFF THE STREET
21 WANTED TO FIND OUT HOW MUCH MONEY YOU WERE MAKING,
22 COULD HE GO SOMEWHERE AND LOOK THAT UP?

23 THE WITNESS: VERY EASILY.

24 THE COURT: WHERE WOULD HE FIND THAT?

25 THE WITNESS: HE WOULD SUBMIT A PUBLIC

1 RECORDS REQUEST, AND CITY CLERK WOULD PROVIDE A COPY
2 OF -- IT THEY WERE ASKING FOR MINE, IT WOULD BE A
3 COPY OF MY CONTRACT.

4 MR. KENNEDY: CAN WE TURN, THEN, TO THE
5 SMALL VOLUME.

6 IF I COULD DIRECT YOUR ATTENTION TO CALPERS
7 "VOLUME 7."

8 MR. BRAUN: CAN I APPROACH TO SEE WHAT IT
9 IS WE'RE TALKING ABOUT?

10 THE COURT: SURE. WE'RE TALKING ABOUT
11 TAB 7.

12 MR. KENNEDY: TAB 7.

13 BY MR. KENNEDY:

14 Q. NOW, THIS PURPORTS TO BE YOUR EMPLOYMENT
15 AGREEMENT WHEN YOU INITIALLY WENT TO WORK FOR THE
16 CITY OF BELL; CORRECT?

17 A. YES.

18 Q. AND AT THAT TIME, YOU WERE WORKING AS THE
19 ASSISTANT TO THE CHIEF ADMINISTRATIVE OFFICER; RIGHT?

20 A. YES.

21 Q. AND DID THAT POSITION EXIST BEFORE YOU WENT
22 TO WORK THERE?

23 A. IT WAS A RISK MANAGER, AND THEY CHANGED THE
24 TITLE.

25 Q. AND THE RISK MANAGER, WHO WAS THAT? DO YOU

1 KNOW?

2 A. PATRICIA CASJENS.

3 Q. DO YOU KNOW HOW MUCH PATRICIA CASJENS WAS
4 MAKING IN HER POSITION AS RISK MANAGER AT THAT TIME?

5 A. NO.

6 Q. SO WHAT DUTIES DID THE BELL MUNICIPAL CODE
7 ASSIGN TO YOU AS THE ASSISTANT TO THE CHIEF
8 ADMINISTRATIVE OFFICER?

9 A. I'M NOT SURE.

10 Q. IF I LOOK UNDER DUTIES, IT SAYS YOU SHALL:
11 "EXERCISE ALL POWERS, DUTIES AND
12 RESPONSIBILITIES SET FORTH IN THE
13 MUNICIPAL CODE."

14 YOU DON'T KNOW WHAT THOSE ARE?

15 A. NO.

16 Q. THEN IT SAYS:

17 "AND TO PERFORM OTHER SUCH PROPER
18 DUTIES AS ASSIGNED BY THE C.A.O."

19 WHAT DUTIES WERE THOSE AT THAT TIME?

20 A. AT THAT TIME IT WAS TO PROVIDE OVERSIGHT TO
21 THE FINANCE DEPARTMENT AND TO MENTOR THE ACCOUNTING
22 MANAGER.

23 Q. AND HOW WOULD YOU PROVIDE THAT OVERSIGHT?
24 WHAT WERE YOUR FUNCTIONS -- NOT FUNCTIONS, BUT WHAT
25 DID YOUR DUTIES INCLUDE?

1 A. I PREPARED THE BUDGETS, THE ANNUAL
2 FINANCIAL REPORTS. I DID GENERAL LEDGER ANALYSIS.
3 WHAT I DID NOT DO IS SUPERVISE THE STAFF OF FINANCE.

4 Q. ANY OTHER DUTIES ASSIGNED TO YOU AT THAT
5 TIME?

6 A. THERE PROBABLY WERE. IT'S JUST NOT COMING
7 TO MY MIND.

8 Q. AND YOUR CONDITIONS OF EMPLOYMENT PROVIDED
9 FOR A 30-DAY TERMINATION WITHOUT CAUSE?

10 A. I BELIEVE SO.

11 Q. EXCUSE ME?

12 A. I BELIEVE SO.

13 Q. SO YOU WERE ESSENTIALLY AN AT-WILL
14 EMPLOYEE; RIGHT?

15 A. SORRY?

16 Q. YOU WERE AN AT-WILL EMPLOYEE?

17 A. YES. I BELIEVE SO.

18 Q. AND YOUR FRINGE BENEFITS AT THAT TIME DID
19 NOT INCLUDE ANY DEFERRED COMP OR -- RIGHT?

20 A. NO.

21 Q. HOWEVER, YOUR CALPERS CONTRIBUTIONS WERE
22 PAID FOR BY THE CITY; RIGHT?

23 A. CORRECT.

24 Q. AND YOUR SALARY AT THAT TIME, YOU SAID WAS
25 \$3,935 PER PAY PERIOD. AND WHAT WAS THE PAY PERIOD?

1 A. EVERY TWO WEEKS.

2 Q. AND WHERE WOULD I GO TO FIND THAT OUT?

3 A. WHAT DO YOU MEAN?

4 Q. TO DETERMINE WHAT YOUR PAY PERIOD WAS,
5 WHERE WOULD I GO?

6 A. TO PAYROLL.

7 Q. IS IT WRITTEN DOWN SOMEPLACE? IS IT
8 SPECIFIED?

9 A. I DON'T KNOW HOW THE PERSONNEL DEPARTMENT
10 OR THE PAYROLL DEPARTMENT WAS --

11 THE COURT: ARE YOU SURE THE PAY PERIOD AT
12 THAT TIME WAS EVERY TWO WEEKS, OR WAS IT EVERY MONTH?

13 THE WITNESS: IT WAS EVERY TWO WEEKS.

14 ALWAYS EVERY TWO WEEKS.

15 BY MR. KENNEDY:

16 Q. NOW, YOU INDICATED BEFORE THAT YOU TOOK A
17 50 PERCENT REDUCTION FROM YOUR SALARY WHEN YOU WERE
18 WORKING FOR VENTURA?

19 A. NOT A 50 PERCENT, NO.

20 Q. OH, 50,000.

21 A. ALMOST 50,000.

22 Q. AND WHAT WAS YOUR SALARY WHEN YOU WERE
23 WORKING FOR VENTURA, YOUR HIGHEST SALARY?

24 A. I BELIEVE IT WAS 130-SOMETHING.

25 Q. HOW MUCH PER MONTH, DO YOU REMEMBER?

1 A. NO.

2 Q. SO 130 PER YEAR. IF I'M TRANSLATING THIS,
3 EVERY TWO WEEKS, YOU'RE MAKING \$8,252.

4 A. OKAY.

5 Q. AND THERE YOU WERE MAKING WHAT, \$10,000?

6 A. 11,700 AND SOMETHING.

7 Q. SO YOU WENT -- AT \$8,252 YOU'RE AT ABOUT
8 \$100,000. SO IT'S ABOUT \$30,000.

9 NOW, WAS THIS DOCUMENT EVER SUBMITTED TO
10 THE CITY COUNCIL FOR APPROVAL?

11 A. YES.

12 Q. WAS IT EVER INCLUDED IN AN AGENDA PACKAGE?

13 A. YES.

14 Q. THE DOCUMENT ITSELF?

15 A. YES.

16 Q. THE CITY REVIEWED IT AND APPROVED IT?

17 A. YES.

18 Q. THIS IS THE DOCUMENT, NUMBER 7, THE JULY 1,
19 2003?

20 A. YES.

21 Q. NOW, THE NEXT TAB IS EXHIBIT 8 PURPORTS TO
22 BE AN ADDENDUM 1 TO THAT AGREEMENT; CORRECT?

23 A. YES.

24 Q. OH, AND BY THE WAY, WHAT CLASSIFICATION
25 WERE YOU FOR PURPOSES OF -- FOR BELL? DID THEY PUT

1 YOU IN A CLASSIFICATION WHEN YOU FIRST STARTED?

2 A. IN '03, I WAS IN THE ADMINISTRATIVE
3 MANAGEMENT CLASSIFICATION.

4 Q. WERE THERE OTHER PEOPLE IN THAT
5 CLASSIFICATION?

6 A. YES.

7 Q. WHO WAS THAT?

8 A. OH, MY. DO YOU WANT NAMES?

9 Q. YES.

10 A. OFF OF THE TOP OF MY HEAD, LOURDES GARCIA,
11 ERIC EGGENA, LOUIS RAMIREZ, ANNETTE PERETZ, AND --

12 Q. AND WHAT DUTIES DID THEY HAVE? WERE
13 THEY -- WERE YOU A DIRECTOR OR DEPARTMENT HEAD?

14 A. I KIND OF WAS, BUT I DIDN'T HAVE THE
15 SUPERVISORY RESPONSIBILITY. LOURDES GARCIA HAD THAT.
16 IT WAS MY JOB TO JUST FINISH PREPPING HER TO TAKE
17 OVER THE DIRECTOR POSITION.

18 Q. SO YOU WERE ACTUALLY UNDER THE TUTELAGE OF
19 LOURDES GARCIA?

20 A. SHE WAS UNDER MINE.

21 Q. SHE WAS UNDER YOURS. SO YOU WERE OVER
22 LOURDES GARCIA?

23 A. FOR TWO YEARS, YES.

24 Q. AND ERIC EGGENA, WHAT WAS HE?

25 A. HE WAS A DIRECTOR.

1 Q. DIRECTOR OF WHAT?

2 A. AT THE TIME, HE MAY HAVE BEEN CALLED THE
3 CITY PROSECUTOR. HE EVENTUALLY BECAME THE DIRECTOR
4 OF GENERAL SERVICES.

5 Q. AND MR. RAMIREZ?

6 A. HE WAS, I BELIEVE, WHAT THEY CALL THE
7 DEPUTY CITY ENGINEER.

8 Q. AND PERETZ?

9 A. HER TITLE CHANGED, BUT I BELIEVE AT THAT
10 TIME SHE WAS DIRECTOR OF PARKS AND RECREATION.

11 Q. SO THE CITY PROSECUTOR, TWO DEPUTY
12 DIRECTORS, LOURDES GARCIA, AND YOURSELF?

13 A. POLICE CHIEF.

14 Q. EXCUSE ME?

15 A. AND THE POLICE CHIEF.

16 Q. AND THE POLICE CHIEF. OKAY. THAT WAS THE
17 CLASSIFICATION THEY PUT YOU IN.

18 AND HOW DID YOUR DUTIES -- IN RELATION TO
19 THESE OTHER PEOPLE, HOW WERE THEY SIMILAR?

20 A. WE WERE EACH RESPONSIBLE FOR, FOR EXAMPLE,
21 OUR BUDGETS, FOR OUR DEPARTMENT'S PERFORMANCE. AND
22 WE EACH PROVIDED THAT OVERALL DIRECTION.

23 Q. OKAY. SO YOU WERE THE DEPARTMENT HEAD OVER
24 FINANCIAL?

25 A. YES.

1 Q. AND THAT'S WHAT YOU WERE HIRED TO DO?

2 A. YES.

3 Q. NOW, ADDENDUM 1 TO THIS AGREEMENT IS
4 JULY 1, 2004?

5 A. YES.

6 Q. SAME DUTIES?

7 A. YES.

8 Q. OKAY. SAME CLASSIFICATION?

9 A. I BELIEVE THE CLASSIFICATION CHANGED IN
10 '04.

11 Q. SORRY? YOU CAME IN '04?

12 A. I BELIEVE IT CHANGED IN '04, IF I RECALL
13 CORRECTLY.

14 Q. YOU CHANGED. OKAY. WERE YOU --
15 THE COURT: WHAT WAS IT? EXECUTIVE?
16 THE WITNESS: TO EXECUTIVE. I REPLACED
17 PATRICIA CASJENS.

18 SEE, HE COULDN'T PUT ME THERE IN 2003
19 BECAUSE SHE WAS ALREADY THERE. SO HE HAD TO WAIT
20 UNTIL SHE WAS OFF THE PAYROLL.
21 BY MR. KENNEDY:

22 Q. NOW, ADDENDUM NUMBER 1 TO YOUR AGREEMENT
23 SAYS YOUR SALARY SHALL INCREASE BY \$1,065. CAN YOU
24 SHOW ME WHERE ON THE DOCUMENT -- IF I RECEIVED
25 ADDENDUM NUMBER 1, DO I NEED TO GO AND REFER TO

1 ANOTHER DOCUMENT TO SEE WHAT WAS BEING INCREASED?

2 A. YOU WOULD REFER TO THE ORIGINAL AGREEMENT,

3 YES.

4 THE COURT: YOU WOULD SEE 7.

5 BY MR. KENNEDY:

6 Q. SO NOW I WOULD NEED TO HAVE 7, AND I HAVE
7 8 -- RIGHT? -- TO KNOW WHAT YOUR SALARY WAS INCREASED
8 TO. AND I NEED TO KNOW OF ANOTHER DOCUMENT TO GET
9 THE PAY PERIOD; RIGHT?

10 A. THAT I DON'T KNOW.

11 Q. WELL, THE PAY PERIOD IS NOT SPECIFIED, IS
12 IT?

13 A. I SUPPOSE NOT.

14 Q. IS THERE A REASON WHY THE PAY PERIOD IS NOT
15 SPECIFIED?

16 A. NO.

17 Q. NO?

18 A. WELL, NOT THAT I KNOW OF. THIS WAS A COPY
19 FROM -- THESE AGREEMENTS WERE PREPARED ORIGINALLY BY
20 THE CITY ATTORNEY. I DON'T KNOW WHY HE CHOOSE THAT.

21 Q. DID YOU EVER FIND OUT WHY?

22 A. BUT I KNOW THAT WE, AS A CITY, ALWAYS
23 REFERRED TO THEM AS "PAY PERIODS."

24 Q. DO OTHER PEOPLE HAVE PAY PERIODS THAT
25 SPECIFY THE SALARY SCHEDULE ON A MONTHLY BASIS?

1 A. NOT AT THE CITY OF BELL.

2 Q. OKAY. DOES THE CITY OF BELL HAVE SALARY
3 SCHEDULES?

4 A. THE PAY SCHEDULES, YES.

5 Q. THEY HAD PAY SCHEDULES. IN THOSE PAY
6 SCHEDULES, AT LEAST SOME OF THEM, YOUR POSITION WAS
7 INCLUDED?

8 A. YES.

9 Q. AND THEY STATE THAT THE PAY PERIODS WERE BY
10 MONTH?

11 A. THEY STATE WHAT?

12 Q. DO YOU KNOW WHETHER OR NOT THOSE PAY
13 PERIODS WERE LISTED BIMONTHLY?

14 A. I DON'T KNOW. I'D HAVE TO LOOK AT ONE.

15 Q. OKAY.

16 A. BIMONTHLY IS DIFFERENT THAN --

17 Q. NO. EXCUSE ME. ON A MONTHLY BASIS. I'M
18 SORRY.

19 A. OKAY.

20 Q. NOW, WAS THIS DOCUMENT SUBMITTED TO THE
21 CITY COUNCIL FOR APPROVAL?

22 A. I'M SORRY. WHICH DOCUMENT?

23 Q. THIS IS DOCUMENT NUMBER 8.

24 A. YES.

25 Q. AND YOU KNOW THAT WHY?

1 A. IT'S ON THE COUNCIL AGENDA AND IN THE
2 MINUTES.

3 Q. BUT NUMBER 7, I THOUGHT YOU TESTIFIED, WAS
4 ACTUALLY SUBMITTED WITH THE AGENDA PACKET; RIGHT?

5 YOUR FIRST AGREEMENT WAS SUBMITTED,
6 PHYSICALLY, WITH THE AGENDA PACKET AT THE HEARING?

7 A. I PRESUME SO. I DIDN'T WORK ON THE AGENDA.
8 SO I DON'T KNOW.

9 Q. WELL, YOU TESTIFIED EARLIER THAT THIS HAD
10 BEEN APPROVED BY THE CITY COUNCIL.

11 A. BECAUSE IT WAS ON THE AGENDA DOCUMENT. YOU
12 CAN SEE IT IN THE EXHIBITS THAT WE WENT THROUGH
13 EARLIER.

14 Q. AND YOU MAKE THE SAME PRESUMPTIONS
15 CONCERNING THIS DOCUMENT, THAT IT WAS PRESENTED
16 BECAUSE IT WAS ON THE AGENDA?

17 A. YES.

18 Q. TURN TO EXHIBIT NUMBER 9. AND THAT
19 PURPORTS TO BE ADDENDUM NUMBER 2 TO YOUR AGREEMENT;
20 RIGHT?

21 A. YES.

22 Q. LOOKS LIKE A MULTI-YEAR AGREEMENT?

23 A. CORRECT.

24 Q. AND SAME DUTIES. WERE YOU PERFORMING THE
25 SAME DUTIES AT THAT TIME?

1 A. NO. THE FINANCE WAS TAKEN AWAY FROM ME.

2 Q. SO WHEN YOU SAY FINANCE WAS TAKEN AWAY FROM
3 YOU, YOUR DUTIES THAT YOU WERE DESCRIBING BEFORE, AS
4 FAR AS PREPARING THE BUDGET AND ACCOUNTING AND ALL
5 THAT, THEY WERE TAKEN AWAY?

6 A. EXACTLY.

7 Q. AND WHAT WERE YOUR DUTIES NOW?

8 A. MY DUTIES WERE WHATEVER I WAS ASSIGNED TO
9 DO, AND IT VARIED. I ONLY HAD -- GOSH. I'M NOT SURE
10 IF I HAD ANY REPEATING DUTIES OTHER THAN AN ANNUAL
11 CAR SHOW.

12 BUT I HAD SPECIAL ASSIGNMENTS, YOU KNOW,
13 THINGS LIKE HELPING PEOPLE WITH THERE ADDITIONAL
14 RETIREMENT SERVICE CREDIT. IF WE WANTED TO PUT ON
15 SOME SORT OF LOAN MODIFICATION ASSISTANCE PROGRAM FOR
16 THE RESIDENTS, IT WAS MY RESPONSIBILITY TO FIGURE OUT
17 HOW TO DO THAT.

18 Q. SO WAS ANYBODY ELSE IN THE CITY AT THAT
19 TIME DOING THOSE KIND OF FUNCTIONS OR THOSE KIND OF
20 ASSIGNMENTS?

21 A. NO. IT WAS MYSELF, AND THERE WAS ALSO ONE
22 OTHER INDIVIDUAL WHO WAS ALSO SORT OF FREELANCE
23 THAT -- HE HAD SPECIAL ASSIGNMENTS BUT WASN'T PART OF
24 THE DAILY MANAGEMENT.

25 Q. NOW, AT THE TIME YOU WERE HIRED IN JULY

1 2003, WASN'T LEE SMITH HIRED AT THE SAME TIME?

2 A. WHO.

3 Q. LEE SMITH?

4 A. THAT SOUNDS VAGUELY FAMILIAR.

5 Q. WASN'T THERE A SPECIAL AGENT OR SPECIAL

6 ASSISTANT TO THE CHIEF OF POLICE?

7 A. HE WAS IN THE POLICE DEPARTMENT.

8 Q. AND HE DID SPECIAL ASSIGNMENTS; RIGHT?

9 A. HE DID SOMETHING UNDERCOVER. I DON'T

10 REMEMBER WHAT HE DID. IT WAS ENTIRELY DIFFERENT THAN

11 MINE.

12 Q. ALL RIGHT. YOU'VE NEVER SEEN HIS CONTRACT?

13 A. NO.

14 Q. YOU DON'T KNOW IF HIS CONTRACT WAS EVER

15 SUBMITTED TO THE COUNCIL?

16 A. SEE, IT WAS SO LONG AGO. I MAY HAVE EVEN

17 TYPED IT. I JUST DON'T REMEMBER.

18 Q. OKAY. NOW, AS FAR AS ADDENDUM 2 GOES,

19 LET'S LOOK BACK HERE. YOU'RE STILL AN AT-WILL

20 EMPLOYEE; RIGHT?

21 A. YES, I AM.

22 Q. AND YOUR SALARY NOW -- THE EFFECTIVE DATE

23 IN YOUR SALARY IS CHANGING. ONCE AGAIN, THIS IS PER

24 PAY PERIOD. THAT'S EVERY TWO WEEKS?

25 A. CORRECT.

1 Q. NOW, THIS DOCUMENT WAS SUBMITTED TO THE
2 CITY COUNCIL?

3 A. YES.

4 Q. AND HOW DO YOU KNOW THAT?

5 A. WELL, I KNOW THAT I PACKAGED IT. BECAUSE I
6 TYPED ALL 12 CONTRACTS, AND I PACKAGED IT WITH THE
7 BUDGET. AND I GAVE IT TO ROBERT RIZZO, WHO THEN SET
8 IT ON THE CITY CLERK'S DESK TO BE INCLUDED AS THE --

9 Q. I'M SORRY. YOU SAW HIM SET IT ON THE CITY
10 CLERKS DESK?

11 A. YES. TO BE PROCESSED.

12 Q. AND WAS IT REFLECTED IN THE AGENDA?

13 A. I DON'T KNOW. WELL, AS PART OF THE -- WHAT
14 WAS IT CALLED? -- SUPPLEMENTAL REVISIONS AND
15 AMENDMENTS, YES.

16 Q. OKAY. CAN YOU SHOW ME WHERE IN THE
17 SUPPLEMENTAL REVISIONS AND AMENDMENTS IT REFLECTS
18 THIS AGREEMENT ATTACHED?

19 A. YOU HAVE TO FIND THAT RESOLUTION AGAIN. IS
20 THAT WHAT YOU'RE ASKING?

21 Q. WHAT I'M ASKING IS ARE YOU AWARE THAT THE
22 AGENDA -- AFTER JULY OF 2004, NO AGENDA FOR THE CITY
23 OF BELL HAD ANY REFERENCE TO YOUR CONTRACTS AT ALL?

24 A. I'M AWARE THAT AS -- IT WOULD HAVE BEEN
25 JANUARY OF '06, THAT THAT'S THE CASE, YES.

1 Q. THIS AGREEMENT WOULD HAVE BEEN IN WHAT
2 AGENDA, THIS EXHIBIT 9?

3 A. MAY 2ND, 2005.

4 Q. MAY 2ND, 2005?

5 A. YES. THERE WERE 12 EMPLOYMENT AGREEMENTS,
6 AND THEY ALL LOOKED THE SAME, JUST DIFFERENT NAMES.

7 Q. SO IF I GIVE YOU A COMPLETE COPY OF THE MAY
8 2ND, 2005, AGENDA, I WILL FIND THIS AGREEMENT IN IT?

9 A. I DON'T KNOW. I KNOW THAT THEY ENDED UP IN
10 THE PERSONNEL FILES. THAT'S ALL I KNOW.

11 ACTUALLY, I SHOULDN'T EVEN SAY THAT I KNOW
12 THAT BECAUSE I'VE NEVER ACTUALLY SEEN THEM MYSELF.

13 Q. IF I GIVE YOU A COPY OF THE MAY 2ND, 2005,
14 AGENDA, WILL IT SHOW THAT SOME ADDENDUM 2 WAS
15 APPROVED BY THE CITY COUNCIL?

16 A. IT SHOWS THAT THE BUDGET AND ITS
17 SUPPLEMENTAL REVISIONS AND AMENDMENTS WERE APPROVED,
18 YES.

19 Q. NO. I'M ASKING THE QUESTION -- IN THE JULY
20 2003 AGENDA, THERE'S A LINE ENTRY THAT SHOWS APPROVAL
21 OF YOUR CONTRACT IN 2003; CORRECT?

22 A. IN 2003, CORRECT.

23 Q. AND WAS A COPY ACTUALLY ATTACHED TO THE
24 AGENDA?

25 A. THAT I DON'T KNOW.

1 Q. AND IN 2004 THERE IS A LINE ITEM IN THE
2 AGENDA THAT SAYS APPROVAL OF ADDENDUM TO YOU
3 CONTRACT; RIGHT?

4 A. OKAY.

5 Q. I'M ASKING DO YOU KNOW THAT?

6 A. I DON'T KNOW.

7 Q. AND I'M ASKING YOU IN JULY 2005, WAS THERE
8 A LINE ITEM IN THE AGENDA THAT INDICATED AN
9 ADDENDUM 2 TO YOUR CONTRACT?

10 A. THERE WOULD HAVE BEEN THE BUDGET LINE ITEM
11 WITH THE AMENDMENTS. IT WAS DIFFERENT.

12 Q. SO TO FIND THAT THERE WAS A PUBLICLY
13 NOTICED ADDENDUM TO YOUR AGREEMENT, YOU'RE BASICALLY
14 SAYING LOOK AT THE LINE ITEM THAT REFERS TO THE CITY
15 OF BELL, AND THAT SUFFICES?

16 A. NO. THERE WERE EMPLOYMENT AGREEMENTS
17 ATTACHED TO THE BUDGET PACKET.

18 Q. I'M A MEMBER OF THE PUBLIC. IF I'M A
19 MEMBER OF THE PUBLIC, AND I'M GIVING NOTICE TO THE
20 PUBLIC AS TO WHAT THE CHANGES WERE BEING MADE TO YOUR
21 CONTRACT, TO YOUR SALARY --

22 A. YES.

23 Q. -- DO I GET A COPY FROM THE BACK COUNTER,
24 AN AGENDA, AND INCLUDED IN THERE IS YOUR CONTRACT?

25 A. I BELIEVE SO. I DIDN'T DO THE CITY CLERK

1 WORK. I HONESTLY DON'T KNOW WHAT THEY PRESENTED.

2 Q. IF I GAVE YOU A COPY OF THE AGENDA THAT IS
3 A COMPLETE COPY THAT WAS PRESENTED TO THE CITY
4 COUNCIL AND YOUR AGREEMENT ISN'T IN THERE --

5 A. RIGHT.

6 Q. -- WOULD YOU SAY THAT IT WASN'T SUBMITTED
7 TO THE COUNCIL FOR THEIR APPROVAL?

8 A. I'M NOT SURE I WOULD SAY THAT. I WOULD SAY
9 SOMETHING'S FUNNY, AND SOMEBODY HAS SOME EXPLAINING
10 TO DO.

11 Q. NOW, AT THIS TIME, YOUR RESPONSIBILITIES GO
12 DOWN TO ESSENTIALLY CAR SHOWS AND CONSULTING WITH
13 PEOPLE ON AIR TIME; IS THAT CORRECT?

14 A. NO, THAT'S NOT CORRECT.

15 Q. OKAY. HERE WE ARE IN JULY 2005. WHAT ARE
16 YOUR DUTIES?

17 A. MY DUTIES WERE DUTIES AS ASSIGNED, AND THEY
18 VARIED CONTINUALLY.

19 IF AN INDIVIDUAL WAS THREATENING SEXUAL
20 HARASSMENT, I MAY HAVE HANDLED IT, AND I MAY NOT HAVE
21 HANDLED IT. BUT IN SOME CASES I DID.

22 Q. YOU HAD FALLEN OUT OF FAVOR AT THIS TIME,
23 YOU SAID, BY MR. RIZZO; RIGHT?

24 A. WELL, I DON'T LIKE TO THINK THAT WAY, BUT
25 POSSIBLY, YES.

1 Q. SO AT THIS TIME, WOULD THIS CONTRACT -- YOU
2 RECEIVED A PROJECTED INCREASE OF A SALARY OF \$10,833,
3 WHICH IS WHAT IT WAS IN 2004 -- NO. I TAKE IT BACK.

4 THAT IS THE CHANGE; RIGHT? NO.

5 THE COURT: WHAT IS YOUR QUESTION, SIR?

6 MR. KENNEDY: I'M SORRY, YOUR HONOR. I'M
7 TRYING TO LOOK AT TWO THINGS AT ONE TIME.

8 THE COURT: WHAT TIME PERIOD ARE YOU
9 LOOKING AT?

10 MR. KENNEDY: I'M LOOKING AT JULY 2005.

11 THE COURT: \$14,230 A MONTH IS HER EARNINGS
12 AT THE TIME.

13 BY MR. KENNEDY:

14 Q. AND IT INCREASED UP TO IN EXCESS OF
15 \$25,000 -- CORRECT? -- BY 2008?

16 A. I'M NOT SURE, OFF THE TOP OF MY HEAD.

17 Q. WELL, IT'S \$9,615 PER MONTH?

18 A. OKAY.

19 Q. AND IT'S BIWEEKLY PAY; RIGHT?

20 A. PAY PERIOD. RIGHT. SO ABOUT \$19,000.

21 Q. DID YOU PREPARE THIS, BY THE WAY?

22 A. YES.

23 Q. YOU PREPARED THIS AGREEMENT?

24 A. I TYPED IT FROM A TEMPLATE.

25 MR. ONSTOT: LET THE RECORD REFLECT HE'S

1 REFERRING TO EXHIBIT NUMBER 9.

2 THE COURT: YES. CALPERS EXHIBIT PACKET
3 NUMBER 9.

4 MR. KENNEDY: NUMBER 9.

5 THE WITNESS: I TYPED ALL THE AGREEMENTS
6 EXCEPT THE FRAUDULENT ONES, FOR THE RECORD.

7 BY MR. KENNEDY:

8 Q. SO AT THIS TIME, IN JULY OF 2005, IF I WERE
9 TO DETERMINE WHAT COMPENSATION YOU WERE GETTING FROM
10 THE CITY OF BELL, I WOULD FIRST HAVE TO LOOK AT THE
11 \$7,115 BIWEEKLY; RIGHT?

12 A. YES.

13 Q. AND THEN THE OTHER COMPENSATION I WOULD
14 LOOK AT WOULD BE WHAT? WOULD BE THE DEFERRED COMP;
15 CORRECT?

16 A. OKAY. YES.

17 Q. OKAY. SO THAT WOULD BE AN ADDITIONAL HOW
18 MUCH?

19 A. IT VARIED. IN THE 40,000, BUT IT WAS A ONE
20 LUMP CONTRIBUTION.

21 Q. AND AGAIN WE'RE TALKING ABOUT A -- AND YOU
22 WERE ACTUALLY GROSSED UP ON THAT, WEREN'T YOU? ISN'T
23 IT ALSO INCLUDING PAYMENTS OF YOUR TAXES AND SOCIAL
24 SECURITY, CALPERS BENEFITS AND CONTRIBUTIONS? THOSE
25 WERE ALL PAID BY THE CITY TOO; RIGHT?

1 A. NOT AT THAT TIME, NO.

2 Q. STILL AN AT-WILL; RIGHT?

3 A. YES.

4 Q. ON TAB NUMBER 10, THIS IS NOW FOR THE
5 PERIOD OF JULY 1, 2006. NOW, WAS THIS DOCUMENT EVER
6 SUBMITTED TO THE CITY COUNCIL FOR ITS APPROVAL?

7 A. I DON'T BELIEVE SO, NO.

8 Q. AND IN THIS ONE WE HAVE YOUR SALARY
9 INCREASED. WE HAVE TO NOW GO BACK TO THE PRIOR
10 AGREEMENT, TO WHAT THE BASE SALARY IS; CORRECT?

11 A. YES.

12 Q. AND ALSO REFER BACK TO -- DO WE REFER BACK
13 TO ANY OTHER DOCUMENTS?

14 THE COURT: ARE WE NOW REFERRING AGAIN TO
15 CALPERS NUMBER 10?

16 MR. KENNEDY: I'M REFERRING TO CALPERS 9 AS
17 FAR AS -- THIS IS THE ADDENDUM TO CALPERS 9. 10 IS
18 THE ADDENDUM TO CALPERS 9.

19 THE COURT: I'M CONFUSED AS TO WHAT
20 DOCUMENTS YOU'D LIKE ME TO LOOK AT, PLEASE. JUST
21 TELL ME WHAT DOCUMENT YOU'D LIKE ME TO LOOK AT.

22 MR. KENNEDY: CALPERS 10.

23 THE COURT: OKAY. CALPERS 10; RIGHT?

24 MR. KENNEDY: CALPERS 10.

25 THE COURT: THANK YOU. AND HER ANSWER WAS

1 THAT IT WAS NOT APPROVED BY THE CITY COUNCIL?

2 MR. KENNEDY: IT WAS NOT APPROVED BY THE
3 CITY COUNCIL.

4 BY MR. KENNEDY:

5 Q. YOU'RE STILL AN AT-WILL EMPLOYEE; CORRECT?

6 A. YES.

7 Q. YOUR SALARY IS INCREASED BY \$200 PER PAY
8 PERIOD, AND THAT REFLECTS THE CONVERSION OF THE
9 CAFETERIA PLAN; RIGHT?

10 A. CORRECT.

11 Q. AND THERE WAS A CITY RESOLUTION APPROVING
12 IT, WASN'T THERE, THE CONVERSION?

13 A. THE CONVERSION, I DON'T RECALL.

14 Q. AND ALSO SECTION 5 AT THAT TIME, ALTHOUGH
15 YOU'VE CHANGED YOUR POSITION TODAY, IT ALSO INCLUDED
16 THE 401(A); RIGHT?

17 A. RIGHT.

18 Q. SO IF I WERE TO DETERMINE YOUR SALARY BASED
19 ON THIS ADDENDUM, I NEED TO GO BACK TO EXHIBIT 9 TO
20 DETERMINE WHAT THE PAY PERIOD WAS; MULTIPLY OUT THE
21 PAY PERIOD TIMES \$7,884; ADD INTO IT \$433 PER MONTH
22 FOR THE CAFETERIA PLAN; AND THEN SOMEHOW DETERMINE
23 WHAT YOU'RE GETTING AS A 401(A); RIGHT?

24 A. NO. THAT DOESN'T SOUND RIGHT.

25 Q. LOOKING AT EXHIBIT 10, EXPLAIN TO ME HOW I

1 WOULD DETERMINE YOUR PAY RATE?

2 A. YOU LOOK AT EXHIBIT 9, IT SAYS \$7,884.65
3 PER PAY PERIOD, AND YOU ADD \$200 TO THAT.

4 Q. OKAY. AND SO THEN IF I WANTED TO SEE A
5 MONTH'S DEPICTION OF THAT, I WOULD DO THE MATH.
6 TIMES IT BY --

7 A. MULTIPLY BY 26 AND DIVIDE BY 12, YES.

8 Q. AND ON TOP OF THAT, I WOULD ALSO ADD
9 APPROXIMATELY \$4,000 FOR THE 401(A)?

10 A. WELL, WE RECEIVED IT IN AN LUMP SUM,
11 THOUGH. SO WE DIDN'T RECEIVE IT EACH PAYROLL.

12 Q. BUT IF I ANALYZED IT, IT WOULD BE ABOUT
13 \$4,000.

14 A. OKAY.

15 Q. WHERE WOULD I FIND THAT IN THE BUDGET?

16 A. IN THE RETIREMENT FUND IN THE BUDGET.

17 Q. IN THE BUDGET?

18 A. YES.

19 Q. AND CAN YOU POINT TO THE BUDGET, WHERE THAT
20 WOULD BE.

21 A. PAGE 102.

22 Q. OKAY. I'M AT 102.

23 A. YOU SEE THE HEADERS, "ADMINISTRATION."
24 THEN AS YOU GO DOWN IT SAYS "POLICE."

25 Q. YES.

1 A. THEN IT SAYS "MISCELLANEOUS."

2 Q. YES.

3 A. AND IT'S MISCELLANEOUS, AND IT'S NUMBER
4 0189, "DEFERRED COMPENSATION."

5 Q. AND THIS, I DETERMINE, RELATES TO YOU HOW?

6 A. THAT'S PART OF THE DEFERRED COMPENSATION
7 CONTRIBUTION.

8 THE COURT: SO YOU'RE A PART OF THAT?

9 THE WITNESS: YES.

10 BY MR. KENNEDY:

11 Q. WHERE IT SAYS "FISCAL YEAR" -- I SEE THESE
12 FIGURES THAT GO FROM -- IN 2002, 50,000 TO 2009,
13 99,000.

14 A. '05, '06 IS THE FIRST TIME YOU SEE IT GO UP
15 TO THE 88,900.

16 Q. OH. I THOUGHT THE DEFERRED COMPENSATION IS
17 WHAT WE WERE TALKING ABOUT.

18 A. YES.

19 Q. I'M LOOKING AT THE LINE ON "DEFERRED
20 COMPENSATION." I DON'T SEE --

21 THE COURT: LET ME SEE IF I CAN FIGURE OUT
22 WHAT YOU'RE TELLING US. THERE'S REALLY TWO PEOPLE
23 THAT GET THE DEFERRED COMPENSATION.

24 THE WITNESS: CORRECT.

25 THE COURT: THERE IS YOU AFTER YOU BECOME

1 AN ADMINISTRATIVE PERSON AND MR. RIZZO.

2 THE WITNESS: CORRECT.

3 THE COURT: AND IF WE TAKE A LOOK AT THE
4 PERIOD '04, '05, \$60,000 IS JUST MR. RIZZO ON HIS
5 OWN?

6 THE WITNESS: TRUE. BUT IT WAS ALSO
7 INCORRECT IN THAT THERE WAS ANOTHER PERSON RECEIVING
8 IT. THEY JUST WEREN'T BUDGETING PROPERLY FOR IT.

9 THE COURT: AND THEN THE NEXT YEAR IT JUMPS
10 TO \$88,900.

11 THE WITNESS: YES.

12 THE COURT: AND THAT IS YOU AND MR. RIZZO.

13 THE WITNESS: YES.

14 THE COURT: AND SO YOUR ASSUMPTION IS THAT
15 YOU'RE \$38,900 OF THAT?

16 THE WITNESS: YES. 40-SOMETHING.

17 THE COURT: BUT IN TERMS OF THE ACTUAL ---
18 WHO GETS WHAT, THAT'S NOT SET FORTH IN THAT BUDGET.
19 THIS IS HOW YOU RECONSTRUCT AND INTERPRET IT?

20 THE WITNESS: RIGHT. IT'S NOT WRITTEN BY
21 NAME OR POSITION TITLE.

22 THE COURT: RIGHT. YOUR NAME DOESN'T
23 APPEAR ANYWHERE ON HERE?

24 THE WITNESS: NO.

25 ///

1 BY MR. KENNEDY:

2 Q. DOES YOUR POSITION APPEAR ON HERE?

3 A. EXIST IN THE BUDGET?

4 Q. HOW DO I DETERMINE YOUR SALARY, YOUR
5 COMPENSATION FOR THE BUDGET?

6 THE COURT: WHO ELSE CAN TELL US ABOUT THIS
7 BESIDES YOU?

8 THE WITNESS: THE PAYROLL PERSON DID A
9 LABOR DISTRIBUTION REPORT.

10 THE COURT: WHO WAS THAT?

11 THE WITNESS: AT THAT TIME HER NAME WAS
12 ANNA MONTOYA.

13 THE COURT: ANYONE ELSE?

14 THE WITNESS: DURING THIS TIME, NO.

15 THE COURT: SO IT'S YOU AND ANNA MONTOYA
16 WHO CAN ESTABLISH THAT 40-ODD THOUSAND DOLLARS IS
17 YOUR COMPENSATION?

18 THE WITNESS: YES.

19 BY MR. KENNEDY:

20 Q. NOW, OTHER THAN THIS ADDENDUM NUMBER 2 ON
21 CALPERS EXHIBIT 9, ARE THOSE FIGURES ANYWHERE
22 REFLECTED IN THE BUDGET?

23 A. YES.

24 Q. WHERE?

25 A. WELL, YOU'D HAVE TO HAVE THE LABOR

1 DISTRIBUTION REPORT BECAUSE THAT SORTS IT BY NAME.
2 AND EACH EMPLOYEE IS ALLOCATED THROUGHOUT THE BUDGET.
3 SO, WHERE MINE WAS ALLOCATED, I BELIEVE, AT
4 THE TIME WAS FUND 86 AND 87, RISK MANAGEMENT, THE
5 RISK MANAGEMENT FUNDS. SO YOU WOULD FIND MY SALARY
6 IN THERE.

7 Q. BUT ONLY BY THE -- BECAUSE OF THE
8 ALLOCATION TO SORT OF A STEP-DOWN PROCESS DETERMINING
9 SO MANY PERCENTAGE HERE, SO MUCH PERCENTAGE THERE,
10 I'D HAVE TO KNOW THE ALLOCATION.

11 A. THROUGH THE LABOR DISTRIBUTION.

12 Q. LABOR DISTRIBUTION?

13 A. CORRECT. YEAH. AND MINE WAS 50/50.

14 Q. NOW, IF WE GO TO NOW EXHIBIT 11, THIS IS AN
15 ENTIRELY NEW AGREEMENT; CORRECT?

16 A. YES.

17 Q. NOW, YOU'RE ASSISTANT CHIEF ADMINISTRATIVE
18 OFFICER?

19 A. YES.

20 THE COURT: OKAY, ONCE AGAIN, I HAVE A
21 TRICK HERE. THIS IS MY EXHIBIT 11. I DON'T HAVE
22 ONE.

23 MR. BRAUN: IT WAS 23 IN OURS. THAT'S THE
24 AGREEMENT OF THE 30TH OF JUNE.

25 MR. KENNEDY: JUNE 30 OF 2008?

1 MR. BRAUN: YEAH. IT'S 23 IN OURS. THAT'S
2 THE AGREEMENT OF THE 30TH OF JUNE?

3 MR. KENNEDY: JUNE 30TH, 2008.

4 MR. BRAUN: YEAH. IT'S 23 IN OURS.

5 THE COURT: I DON'T HAVE AN EXHIBIT 11 IN
6 CALPERS. WOULD YOU PREFER THAT I USE THE
7 RESPONDENT'S 23?

8 HE HANDED ME SOMETHING. YOU WANT TO TAKE A
9 LOOK BEFORE HE HANDS IT TO ME?

10 MR. BRAUN: IT APPEARS THE SAME.

11 MR. KENNEDY: OKAY. NOW, THIS AGREEMENT
12 REFLECTS A CHANGE IN POSITION?

13 THE COURT: HOW ABOUT GIVING ME A CHANCE TO
14 PUT MY EXHIBIT BOOK BACK TOGETHER.

15 THANK YOU.

16 BY MR. KENNEDY:

17 Q. YOUR POSITION NOW IS ASSISTANT CHIEF
18 ADMINISTRATIVE OFFICER?

19 A. CORRECT.

20 Q. AND YOUR DUTIES NOW ARE?

21 A. THE SAME. THE ONLY CHANGE IS THAT, AS PER
22 THE CHARTER, IF THE C.A.O. WERE TO BE INCAPACITATED
23 OR ABSENT FOR A LONG PERIOD OF TIME, THEN I WOULD
24 TAKE HIS PLACE DURING THAT TENURE.

25 THE COURT: WHAT HAPPENED WAS, BEFORE THIS,

1 YOU WERE CALLED THE ASSISTANT TO THE CHIEF?

2 THE WITNESS: YES.

3 THE COURT: AND THEN THE CITY CHARTER WAS
4 PASSED, AND IT SAYS THE ASSISTANT CHIEF SHALL HAVE
5 THESE RESPONSIBILITIES; RIGHT?

6 THE WITNESS: IT SAID THAT THE ASSISTANT
7 CHIEF WOULD HAVE THE RESPONSIBILITY OF TAKING OVER
8 FOR THE C.A.O., WHERE BEFORE --

9 THE COURT: I GOT THAT. AND THEN WHAT THEY
10 WANTED TO MAKE SURE IS THAT YOU WOULD BE THE PERSON
11 TO TAKE OVER. SO THEY GAVE YOU A DIFFERENT TITLE FOR
12 THE SAME JOB.

13 THE WITNESS: CORRECT.

14 BY MR. KENNEDY:

15 Q. SO YOUR DUTIES ARE, AT THIS TIME, STILL
16 SPECIAL ASSIGNMENTS, HELPING PEOPLE WITH AIR TIME,
17 CAR SHOWS, SKATEBOARD ACTIVITIES?

18 A. WHAT I'D LIKE TO DO TOMORROW, IF IT'S OKAY,
19 IS BRING IN A LIST OF SOME OF THE PROJECTS THAT I
20 WORKED ON. BECAUSE I FEEL LIKE YOU'RE DEMEANING WHAT
21 I DID. AND I WORKED AT A VERY HIGH LEVEL.

22 YOU TALK ABOUT SKATE PARKS AS IF IT'S
23 NOTHING. DEVELOPING A SKATE PARK IS NOT AN EASY
24 PROJECT. HAVE YOU EVER TRIED IT?

25 Q. HOW HIGH A LEVEL DID YOU WORK?

1 A. I WORKED AT THE HIGHEST LEVEL I NEEDED TO
2 WORK AT.

3 Q. AND WHAT LEVEL IS THAT?

4 A. YOU KNOW WHAT THE LOWEST LEVEL I WORKED AT,
5 THOUGH? WAS WHEN I WOULD SIT AND TYPE THESE
6 CONTRACTS. BECAUSE IT WAS SECRETARIAL. IT WAS
7 MENIAL. ALL I WAS DOING WAS TYPING. SO MY DUTIES
8 VARIED SIGNIFICANTLY.

9 Q. ANYBODY ELSE PERFORM THE SAME TYPE OF
10 DUTIES YOU PERFORMED?

11 A. THERE WAS ANOTHER INDIVIDUAL, YES.

12 Q. WHO WAS THAT?

13 A. HIS NAME WAS RICARDO GONZALEZ, AND HE
14 WORKED AT A LOWER LEVEL THAN I DID, BUT HE ALSO WAS
15 SPECIAL ASSIGNMENTS.

16 Q. WHEN YOU SAY LOWER LEVEL, WHAT DO YOU MEAN?

17 A. WELL, THE EXPERIENCE REQUIRED TO BE ABLE TO
18 DO IT WASN'T THE SAME LEVEL.

19 FOR EXAMPLE, RICARDO WASN'T ABLE TO DO WHAT
20 I WOULD CALL RESEARCH AND DEVELOPMENT PROJECTS. BUT
21 HE COULD DO RESEARCH PROJECTS, BUT HE WOULDN'T BE
22 ABLE TO DEVELOP, DO STARTUP PROGRAMS, FOR EXAMPLE.

23 Q. AND HOW MUCH WAS MR. RICARDO PAID AT THAT
24 TIME?

25 A. I THINK WE'D HAVE TO LOOK -- I THINK WE

1 HAVE THE AGREEMENT HERE. WE'D HAVE TO LOOK.

2 Q. AND MR. GONZALEZ WAS --

3 A. HE WAS SIMILAR TO THE DIRECTOR'S LEVEL.

4 Q. AND HE'S SIMILAR TO YOUR LEVEL, AT LEAST,
5 AS FAR AS THE GROUP OR CLASS OF EMPLOYMENT?

6 A. MY LEVEL WAS CHANGED TO EXECUTIVE
7 MANAGEMENT. HE WAS STILL ADMINISTRATIVE MANAGEMENT.

8 Q. AS FAR AS THE DUTIES THAT YOU PERFORMED,
9 THE SIMILAR DUTIES?

10 A. SIMILAR TO --

11 Q. RICARDO GONZALEZ?

12 A. WELL, WE SAID SIMILAR BECAUSE NEITHER OF US
13 WERE ON THE ORGANIZATIONAL CHART. NEITHER OF US WERE
14 ON PART OF THE DAILY ASSIGNMENTS. WE WERE BOTH
15 SPECIAL ASSIGNMENTS.

16 Q. SO IF I WANTED TO LOOK AT SOME COMPARABLE
17 PERSON TO DETERMINE FUNCTION OR THE CLASS OR THE
18 GROUP THAT YOU WERE INVOLVED IN, IT WOULD BE
19 MR. GONZALEZ?

20 A. NO.

21 Q. NO. OKAY.

22 A. IT WOULD BE THE EXECUTIVE MANAGEMENT
23 CLASSIFICATION.

24 Q. SO YOU PERFORMED THE SAME FUNCTIONS -- YOU
25 WOULD CLASSIFY YOURSELF THEN WITH THE C.A.O., THE

1 CITY COUNCIL; RIGHT?

2 A. THAT'S HOW IT WAS ON THE DOCUMENTS.

3 Q. WELL, I'M JUST ASKING WHAT YOUR DUTIES
4 WERE.

5 A. YES.

6 Q. SO YOU PERFORMED THE SAME DUTIES AND
7 FUNCTIONS AS THE C.A.O. AND THE CITY COUNCIL?

8 A. NO. THE WAY IT WAS EXPLAINED TO ME, IT'S
9 KIND OF LIKE THE PRESIDENT AND THE VICE PRESIDENT.

10 AND THE VICE PRESIDENT DOES NOT GET
11 INVOLVED IN THE DAILY OPERATIONS AND THE DAILY
12 MANAGEMENT OF THE COUNTRY. HE GOES OFF ON SPECIAL
13 PROJECTS.

14 BUT HE'S THERE AND READY AT ANY GIVEN TIME
15 THAT HE'S NEEDED IN ORDER TO SERVE IN THAT CAPACITY.
16 I DON'T KNOW HOW TO EXPLAIN IT ANY OTHER WAY.

17 Q. OKAY. AND MR. GONZALEZ WAS THE SAME TYPE
18 OF PERSON?

19 A. NO.

20 Q. OKAY.

21 A. NO. THAT'S WHY HE WAS NOT THE ASSISTANT
22 C.A.O.

23 Q. OKAY. BUT AS FAR AS THE FUNCTIONS THAT HE
24 PERFORMED IN THE CITY, HE DID SPECIAL PROJECTS LIKE
25 YOU DID SPECIAL PROJECTS?

1 A. HE ATTENDED CHAMBER OF COMMERCE MEETINGS.
2 HE DID ANALYSIS PERIODICALLY. HE DID RESEARCH
3 PROJECTS. YES.

4 I DID SOME OF THOSE AND THEN SOME
5 DEVELOPMENT PROJECTS.

6 Q. ANYBODY ELSE IN THE CITY DO THOSE KINDS OF
7 PROJECTS?

8 A. NO.

9 Q. JUST YOU AND MR. GONZALEZ?

10 A. YES.

11 Q. YOU WERE SORT OF A CLASS OF TWO?

12 A. NOT REALLY. WE JUST WEREN'T PART OF THE
13 DAILY MANAGEMENT.

14 Q. NOW, CAN YOU DESCRIBE TO ME WHAT THE
15 DISTINCTIONS IN YOUR MIND ARE BETWEEN CLASSIFICATION
16 OF A SENIOR MANAGEMENT ANALYST AND YOU? I'M TALKING
17 ABOUT THE ACTUAL DUTIES YOU PERFORMED.

18 A. NO.

19 Q. YOU CAN'T?

20 A. NO.

21 Q. OKAY.

22 A. I'M NOT SURE WHAT A SENIOR MANAGEMENT
23 ANALYST IS.

24 Q. IS YOUR FUNCTION SIMILAR TO ONE -- YOU
25 RECEIVED --

1 THE COURT: ONE SECOND.

2 DID ANYONE EVER CONTACT YOU FROM CALPERS
3 AND ASK YOU WHAT YOU DID?

4 THE WITNESS: NO.

5 BY MR. KENNEDY:

6 Q. NOW, IN THIS AGREEMENT YOUR BASIC SALARY --
7 TO FIND OUT WHAT YOUR SALARY IS -- ON EXHIBIT
8 NUMBER 11 ON PAGE 2, IT SAYS "BASIC SALARY," -- I
9 HAVE TO GO BACK TO THE JULY 1ST, 2005, AGREEMENT;
10 CORRECT?

11 A. OKAY. YES.

12 Q. OKAY. THAT WAS CARRIED FORWARD -- NOW, IF
13 I HAD THE 2005, CARRYING THAT FORWARD TO THIS MONTH,
14 IN EXHIBIT 11, NOW I INCLUDE -- THEY GROSS YOU UP.
15 IN OTHER WORDS THEY'RE PAYING YOUR F.I.C.A.,
16 MEDICARE, SOCIAL SECURITY PAYMENTS IN ADDITION TO THE
17 SALARY; RIGHT?

18 A. YES.

19 Q. AND THEN THEY'RE GIVING YOU, EFFECTIVE
20 SEPTEMBER 2008, A 20 PERCENT INCREASE OF PAY?

21 A. YES.

22 Q. AND THAT WAS FOR THESE ADDITIONAL DUTIES
23 YOU WERE TAKING ON?

24 A. FOR THE ADDITIONAL RESPONSIBILITY.

25 Q. AND FROM THERE ON, IT'S 12 PERCENT PER

1 YEAR?

2 A. PROVIDED THE PERFORMANCE FACTOR WAS THERE,
3 WHICH WAS ADDRESSED IN THE SECOND PARAGRAPH. BECAUSE
4 THE FOLLOWING YEAR, I DID NOT RECEIVE AN INCREASE.

5 Q. AND THEN I WOULD HAVE TO GO TO THE BUDGET
6 SOMEHOW AND THROUGH ALLOCATION METHODOLOGY FIND OUT
7 HOW MUCH YOU WERE GETTING AS FAR AS THE GOVERNMENTAL
8 MONEY PURCHASE PLAN. THAT'S THE 401(A); RIGHT?

9 A. TO FIND OUT HOW MUCH --

10 Q. HOW MUCH THAT WAS.

11 A. THE MONEY PURCHASE PLAN?

12 Q. RIGHT.

13 A. YOU WOULD JUST LOOK UP 401(A), AND WHATEVER
14 THE MAXIMUM 401(A) WAS IS WHAT WAS ALLOWED.

15 Q. I DON'T SEE THAT IN THERE. IT JUST SAYS:

16 "FUNDING OF GOVERNMENTAL MONEY
17 PURCHASE PLAN WILL CONTINUE AS PER
18 EXISTING AGREEMENT."

19 A. CORRECT.

20 Q. AND WHAT EXISTING AGREEMENT WAS THAT?

21 A. IT WOULD HAVE PROBABLY BEEN '05. MIGHT
22 HAVE BEEN '06. I'M NOT SURE.

23 Q. AND THAT'S WHERE IT SAYS:

24 "INCLUDE FUNDING FOR GOVERNMENTAL
25 PURCHASE PLAN 401(A)?"

1 A. YES.

2 Q. DIDN'T SAY ANYTHING ABOUT MAXIMUM?

3 A. NO.

4 Q. BUT SOMEHOW I'D HAVE TO FIGURE IT WAS THE
5 MAXIMUM?

6 A. YES. THERE WAS AN AGREEMENT WITH I.C.M.A.
7 WHICH WAS ESTABLISHED, I BELIEVE, IN THE YEAR 2000 IF
8 I REMEMBER RIGHT. IT WAS BEFORE I WORKED THERE.

9 AND WITHIN THAT AGREEMENT, IT WAS FOR THE
10 MAXIMUM EACH YEAR.

11 Q. NOW, WAS THIS DOCUMENT, AS FAR AS YOU KNOW,
12 EVER SUBMITTED TO THE CITY COUNCIL FOR ITS APPROVAL?

13 A. NO. IT WASN'T REQUIRED.

14 Q. WAS IT EVER PUBLICLY NOTICED ANYWHERE THAT
15 YOU'RE AWARE OF?

16 A. WHAT DOES THAT MEAN?

17 Q. DID THE CITY OF BELL OR WHOEVER, ANYBODY,
18 HAVE THE AUTHORITY TO DO THIS, PUBLICLY NOTICED?

19 A. IT WAS PROBABLY AVAILABLE. I DON'T KNOW IF
20 THEY NOTICED IT.

21 Q. AND I WOULD COME INTO THE CITY OF BELL AND
22 ASK FOR IT ACROSS A COUNTER, AND THEY WOULD GIVE IT
23 TO ME?

24 A. YES.

25 Q. "MAY I SEE MS. SPACCIA'S AGREEMENT?"

1 A. YES. YOU FILL OUT A PIECE OF PAPER, A
2 LITTLE FORM.

3 Q. AND THROUGH A PUBLIC RECORDS ACT, THEY
4 WOULD GIVE ME THIS AGREEMENT?

5 A. YES.

6 Q. AND THE BUDGET AND THE PRIOR AGREEMENTS AND
7 THE 401(A)?

8 A. IF YOU REQUESTED THOSE, YES.

9 Q. COULD I DIRECT YOUR ATTENTION, PLEASE, TO
10 EXHIBIT 15. NOW, IS THIS THE TYPE OF PUBLIC RECORDS
11 REQUEST THAT YOU'RE TALKING ABOUT?

12 THE COURT: EXHIBIT 15?

13 MR. KENNEDY: 14. EXCUSE ME. 14.

14 THE WITNESS: IT LOOKS LIKE THE FORM.

15 BY MR. KENNEDY:

16 Q. NOW, HAVE YOU SEEN THIS DOCUMENT BEFORE?

17 A. I SAW IT IN DISCOVERY, YES.

18 Q. DISCOVERY IN?

19 A. WITH THE D.A.'S OFFICE.

20 Q. AND THIS IS THE PUBLIC RECORD REQUEST
21 APPARENTLY SEEKING THE DESCRIPTION FOR COMPENSATION
22 FOR THE CITY COUNCIL, MR. RIZZO, AND LOOKS LIKE
23 ATTORNEYS; RIGHT?

24 MR. BRAUN: YOUR HONOR, I'M GOING TO OBJECT
25 AT THIS POINT. YOUR HONOR, THE REASON IS BECAUSE

1 WE'RE GOING OFF INTO AN AREA THAT MS. SPACCIA HAD
2 NOTHING TO DO WITH.

3 AS YOU MAY KNOW, THIS WAS THE BEGINNING OF
4 THE END FOR RIZZO WHEN HE AND LOURDES GARCIA AND
5 VALDEZ FABRICATED SOME CONTRACTS TO RESPOND TO THESE
6 REQUEST. BUT THERE'S NO EVIDENCE OR ANYONE WHO
7 ALLEGES THAT MS. SPACCIA HAD ANYTHING TO DO WITH
8 THAT.

9 THE WITNESS: I HAVE NO KNOWLEDGE OF THIS.

10 THE COURT: HOLD ON.

11 COUNSEL?

12 MR. KENNEDY: THE TESTIMONY WAS THAT IF
13 SOMEONE WALKED IN AND ASKED FOR COPIES OF AGREEMENTS
14 THAT THEY WOULD BE GIVEN A PUBLIC RECORDS REQUEST,
15 AND THIS IS A PRECISE EXAMPLE OF THAT, FOR SOMEONE
16 WHO WALKED IN AND ASKED FOR A PUBLIC RECORDS REQUEST.

17 THE COURT: THE OBJECTION IS SUSTAINED.

18 DO YOU HAVE A REQUEST FOR HER?

19 MR. KENNEDY: NO.

20 BY MR. KENNEDY:

21 Q. THE FOLLOWING DOCUMENT, WE'VE HAD
22 FOUNDATION REGARDING -- WE HAVE STIPULATED TO A
23 SERIES OF E-MAIL EXCHANGED BETWEEN YOU AND
24 MR. RANDY ADAMS; CORRECT?

25 A. YES.

1 Q. AND THIS IS IN 2009?

2 A. OKAY.

3 Q. YOUR FUNCTION THEN IS WHAT AT THE CITY OF
4 BELL?

5 A. MY FUNCTION?

6 Q. YEAH. WERE YOU IN CHARGE OF NEGOTIATING
7 AGREEMENTS WITH MR. ADAMS?

8 A. NO.

9 Q. WERE YOU ASSIGNED TO NEGOTIATE AGREEMENTS
10 WITH MR. ADAMS?

11 A. I WAS TOLD TO GO AND TELL HIM HE COULD NOT
12 HAVE ALL OF THE THINGS HE WAS REQUESTING.

13 THE COURT: FIRST OF ALL, WHO IS MR. ADAMS?

14 MR. KENNEDY: YOU'D LIKE THE WITNESS TO
15 ANSWER?

16 THE COURT: YES, PLEASE.

17 THE WITNESS: HE WAS THE CANDIDATE THAT
18 ROBERT RIZZO WANTED TO HIRE FOR THE CHIEF OF POLICE.
19 BY MR. KENNEDY:

20 Q. AND YOUR PARTICIPATION IN THE NEGOTIATIONS
21 FOR BRINGING MR. ADAMS INTO HIRE WITH THE CITY OF
22 BELL WAS WHAT?

23 A. DO YOU WANT ME TO START FROM THE BEGINNING?

24 Q. SURE.

25 A. OKAY. RANDY ADAMS WAS RECRUITED FOR THE

1 ORANGE COUNTY SHERIFF. ROBERT RIZZO LIVED IN
2 HUNTINGTON BEACH AND WAS AWARE OF WHO THE CANDIDATES
3 WERE.

4 I MENTIONED THAT I KNEW RANDY ADAMS. I HAD
5 WORKED WITH HIM AT THE CITY OF VENTURA, THAT WAS HE
6 WAS A GOOD GUY, I THOUGHT. AND THAT WAS IT.

7 AND ABOUT A YEAR LATER, ROBERT RIZZO ASKED
8 ME IF I WOULD MAKE CONTACT WITH HIM AND ASK HIM IF HE
9 WOULD CONSIDER WORKING FOR THE CITY OF BELL.

10 SO I MADE THAT TELEPHONE CONTACT WITH HIM.
11 AND THEN A SERIES OF MEETINGS WERE ARRANGED WITH
12 ROBERT RIZZO AND RANDY ADAMS. AND AT ONE POINT
13 RANDY ADAMS'S REQUEST WAS -- WELL, HIS REQUEST WAS --
14 WELL, IN MY OPINION, IT WAS OUTRAGEOUS.

15 Q. WHAT REQUEST WAS THAT?

16 A. HIS REQUEST FOR SALARIES AND BENEFITS. HE
17 WAS REQUESTING SOMETHING LIKE \$450,000 A YEAR PLUS --
18 GOSH, OFF THE TOP OF MY HEAD, I CAN'T REMEMBER.

19 THERE WAS ALL THESE OTHER -- HE WANTED A
20 VEHICLE. HE WANTED THE TENURED EMPLOYMENT APPROVALS.
21 HE WANTED DEFERRED COMPENSATION. HE WANTED A
22 5 PERCENT C.O.L.A. WITH CALPERS. I FORGET WHAT ELSE
23 HE WAS ASKING FOR.

24 SO ROBERT RIZZO ASKED ME TO GO MEET WITH
25 HIM, WHICH I DID, AND TELL HIM THAT HE COULD NOT HAVE

1 ALL OF THESE THINGS. AND ROBERT RIZZO TOLD ME WHICH
2 ITEMS HE WAS NOT GOING TO GIVE HIM. SO I WAS THE
3 MESSENGER IN THAT TRANSACTION.

4 Q. SO BASICALLY YOU WERE THE INTERMEDIARY IN
5 THESE NEGOTIATIONS?

6 A. ONLY TO THAT ONE MEETING. BECAUSE THEN
7 AFTER THAT, THEY MET AND NEGOTIATED AND RENEGOTIATED
8 AND RENEGOTIATED AND FINALLY CAME TO AN AGREEMENT OF
9 WHICH I THEN TYPED.

10 Q. SO YOU WERE JUST A CORRESPONDENT BETWEEN
11 MR. RIZZO AND MR. ADAMS AND THEN ASCRIBED TO THE
12 AGREEMENTS?

13 A. CORRECT.

14 THE COURT: WOULD YOU LIKE ME TO READ THE
15 E-MAILS NOW?

16 MR. KENNEDY: PARDON?

17 THE COURT: WOULD YOU LIKE ME TO READ THE
18 E-MAILS OR NOT?

19 MR. KENNEDY: YES, YOUR HONOR.

20 MR. BRAUN: I OBJECT TO THE E-MAILS.

21 THE COURT: OVERRULED.

22 MR. KENNEDY: NOW, SPECIFICALLY LOOKING AT
23 THE --

24 THE COURT: WOULD YOU LIKE ME TO READ THEM
25 NOW OR LATER?

1 MR. KENNEDY: YES, YOUR HONOR. THAT'S
2 FINE. YOU CAN READ THEM NOW IF YOU LIKE, YOUR HONOR.

3 MR. BRAUN: PERHAPS YOU CAN ALSO READ
4 MR. ADAMS'S ORIGINAL DEMAND THAT PUTS THEM IN
5 CONTEXT.

6 THE WITNESS: YES, PLEASE.

7 THE COURT: OKAY. I'VE READ IT.

8 MR. KENNEDY: THANK YOU.

9 BY MR. KENNEDY:

10 Q. MS. SPACCIA, COULD I ASK YOU TO PLEASE
11 START WITH THE APRIL 29 -- APRIL 16, 2009, E-MAIL
12 FROM YOU IN RESPONSE TO MR. ADAMS'S E-MAILS THE SAME
13 DAY?

14 MR. ONSTOT: LET THE RECORD REFLECT THAT IS
15 EXHIBIT 15, CALPERS EXHIBIT 15.

16 THE COURT: YES.

17 BY MR. KENNEDY:

18 Q. I ASSUME THAT WAS JUST A JOCLAR RESPONSE
19 ON YOUR PART AS TO "PIGS GETTING FAT AND HOGS GETTING
20 SLAUGHTERED?"

21 A. IT WAS ACTUALLY MEANT MORE AS A WAY OF
22 TRYING TO SAY QUIT BEING A HOG BECAUSE HIS DEMAND
23 LETTER, WHICH IS OUR EXHIBIT 39, LAYS OUT WHAT HE WAS
24 ASKING FOR.

25 AND ROBERT RIZZO TOLD ME TO -- THIS IS WHEN

1 HE TOLD ME THAT I NEEDED TO GO SEE HIM AND TELL HIM
2 THAT HE WAS ASKING FOR WAY TOO MUCH.

3 SO WE HAD A TELEPHONE CONVERSATION, AND WE
4 WERE JOUSTING BACK AND FORTH. AND THIS WAS -- IN A
5 WAY, I WAS TRYING TO BE NICE. I WAS TRYING TO BE
6 FUNNY.

7 BUT I WAS BASICALLY TRYING TO SAY, "YOU
8 KNOW WHAT? YOU'RE GOING TO HAVE IT REALLY GOOD
9 BECAUSE WE ALL GET PAID WELL HERE. AND YOU ALREADY
10 KNOW THAT. SO DON'T BE A HOG. BECAUSE TOMORROW HE
11 COULD TAKE THAT AWAY FROM YOU."

12 Q. ON MAY 27, 2009, THE E-MAIL THAT YOU SENT
13 TO MR. ADAMS STARTED OFF WITH THIS PAGE 4 OF
14 EXHIBIT 15.

15 AND YOU REFER TO THE FIRST LINE, "THE
16 WORKERS' COMP LETTER." WHAT WAS THAT?

17 IT SAYS:

18 "YES, THE WORKERS' COMP LETTER
19 HAS ALREADY BEEN DONE ON OUR
20 LETTERHEAD, AND YOU WILL HAVE THAT
21 AS WELL."

22 CAN YOU JUST TELL ME WHAT THAT WAS?

23 A. I DON'T REMEMBER EXACTLY. HE WAS
24 REQUESTING A LETTER FROM THE CITY THAT WAS -- THAT HE
25 ACTUALLY WROTE, AND WE TRANSFERRED IT ONTO

1 LETTERHEAD.

2 BUT WHAT HE WAS SAYING WAS THAT HE DID NOT
3 WANT THE CITY OF BELL TO DISPUTE HIS DISABILITY
4 RETIREMENT BECAUSE OF SOME --

5 THE COURT: TAKE A LOOK AT EXHIBIT 15, PAGE
6 14. IS THAT THE LETTER YOU REFERRED TO?

7 MR. KENNEDY: THAT'S THE LANGUAGE, YOUR
8 HONOR.

9 THE WITNESS: YES.

10 THE COURT: THANK YOU.

11 MR. KENNEDY: I WAS ASKING MORE AN
12 EXPLANATION --

13 THE COURT: THANK YOU. NEXT QUESTION.

14 BY MR. KENNEDY:

15 Q. NOW, YOU SAID YOU READ OVER THE REVISIONS.
16 THE NEXT SENTENCE IN THAT PARAGRAPH:

17 "I READ OVER THE CONTRACT REVISIONS.
18 ALL CHANGES ARE FINE WITH THE FOLLOWING
19 EXCEPTIONS."

20 NOW, ARE YOU JUST COMMUNICATING WHAT
21 MR. RIZZO TOLD YOU?

22 A. YES.

23 Q. OKAY. AND ON SUB PART 2, YOU INSTRUCT HIM:

24 "NOT TO INCLUDE THE SENTENCE YOU
25 ADDED TO SECTION 5."

1 WHAT WAS HIS SENTENCE THAT HE WAS TRYING TO
2 ADD?

3 A. I'LL HAVE TO LOOK IT UP AGAIN. "THE CITY
4 OF BELL HAS 26 PAY PERIODS PER YEAR."

5 Q. AND WHY WAS THAT NOT TO BE INCLUDED?

6 A. ACTUALLY, IT WAS EXPLAINED TO BE MORE THAN
7 JUST THAT. ROBERT RIZZO WAS UPSET WITH RANDY ADAMS,
8 FOR LACK OF A BETTER WORD, NITPICKING OF THE
9 CONTRACT. BECAUSE THE CONTRACT WAS A TEMPLATE THAT
10 WAS USED FOR YEARS AND YEARS AND YEARS.

11 AND HE FELT THAT -- THERE WAS A COUPLE
12 THINGS GOING ON. HE FELT THAT RANDY NEEDED TO EITHER
13 DECIDE TO TAKE THE JOB OR JUST STOP BECAUSE HE WAS
14 ASKING FOR TOO MUCH AS IT WAS.

15 Q. WAS ASKING FOR SPECIFICITY AS TO THE PAY
16 PERIOD TOO MUCH?

17 A. YES.

18 Q. WHY WAS THAT?

19 A. IN THIS CASE, HE FELT IT WAS BECAUSE WE HAD
20 AN INDIVIDUAL WHO WAS ALSO A CANDIDATE WHO WAS AN
21 INTERNAL EMPLOYEE FOR THE CHIEF THE POLICE, WHO --

22 WHAT HE DIDN'T WANT TO HAPPEN WAS HE DIDN'T
23 WANT THIS PERSON TO GET AHOLD OF THIS AGREEMENT UNTIL
24 HE HAD A CHANCE -- THIS IS WHAT HE TOLD ME -- UNTIL
25 HE HAD A CHANCE TO MEET AND DISCUSS IT WITH THE CITY

1 COUNCIL.

2 SO HE WANTED THE LACK OF SPECIFICITY IN
3 CASE IT ENDED UP IN HIS HANDS.

4 Q. IN THE NEXT SENTENCE YOU SAY, THOUGH, THAT:

5 "WE HAVE CRAFTED OUR AGREEMENTS
6 CAREFULLY, NOT TO DRAW ATTENTION TO
7 OUR PAY."

8 A. WE, THE CITY.

9 Q. WE, THE CITY?

10 A. WE, THE CITY.

11 Q. SO YOU'RE SPEAKING AS AN EMPLOYEE OF THE
12 CITY BY SAYING -- AND THAT INCLUDES YOUR AGREEMENT?

13 A. IT WAS THE SAME AGREEMENT THAT WAS THERE
14 BEFORE I WENT TO WORK THERE, YES.

15 Q. SO YOU UNDERSTOOD THAT YOUR AGREEMENT WAS
16 CRAFTED CAREFULLY NOT TO DRAW ATTENTION TO THE PAY?

17 A. WELL, WHAT HE TOLD ME WAS WE DON'T WANT --
18 THE COURT: LET'S JUST STOP THERE. THIS
19 ALL SOUNDS PRETTY SNEAKY TO ME.

20 IT SOUNDS LIKE YOU DON'T WANT THE PUBLIC TO
21 KNOW HOW MUCH YOU WERE GETTING, AND THAT'S WHY YOU
22 USE THE WORD "PAY PERIOD" INSTEAD OF SALARY. ISN'T
23 THAT THE CASE?

24 THE WITNESS: AND IF THAT IS --

25 THE COURT: NO. ISN'T THAT IN FACT THE

1 CASE? THAT'S TRUE; ISN'T IT?

2 THE WITNESS: HONESTLY, I DON'T KNOW.

3 THE COURT: THEN WHY WOULD YOU PUT THAT IN
4 YOUR LETTER IF YOU DON'T KNOW?

5 THE WITNESS: BECAUSE I WAS TRYING TO RELAY
6 WHAT ROBERT RIZZO WAS RELAYING TO ME.

7 THE COURT: SO WHAT YOU WERE TOLD BY RIZZO
8 WAS THAT YOU WOULD CALL IT A PAY PERIOD SO THAT YOU
9 WOULDN'T DRAW ATTENTION TO THE PAY; TRUE?

10 THE WITNESS: HE MAY HAVE SAID THAT TO ME.

11 THE COURT: WELL, YOU WOULDN'T PUT THAT IN
12 ON YOUR OWN WITHOUT HIM SAYING THAT, WOULD YOU?

13 THE WITNESS: NO.

14 THE COURT: AND IN FACT, YOU WOULDN'T PUT
15 THAT IN IF YOU DIDN'T UNDERSTAND THAT TO BE THE CASE,
16 WOULD YOU? THAT'S EXACTLY WHAT YOU UNDERSTOOD.

17 COME ON NOW, YOU'RE UNDER OATH.

18 THE WITNESS: I KNOW.

19 THE COURT: AND THAT'S EXACTLY WHAT YOU
20 MEANT. YOU WROTE EXACTLY WHAT YOU MEANT; DIDN'T YOU?

21 THE WITNESS: CAN I READ IT AGAIN?

22 THE COURT: YOU WROTE IT. YOU CAN READ IT.
23 I'LL TELL YOU HOW I READ IT. THERE IS ONLY ONE WAY
24 TO READ IT. WHY DON'T YOU TAKE YOUR TIME AND READ
25 IT.

1 THE WITNESS: YES. AND WHAT I WAS
2 REFERRING TO WAS WHEN I SAID, "FROM SOMEONE TAKING
3 THE TIME TO ADD UP YOUR SALARY," I WAS REFERRING TO
4 ONE PARTICULAR INDIVIDUAL THAT ROBERT RIZZO DID NOT
5 WANT --

6 HE WASN'T TRYING TO HOLD IT FROM THE
7 PUBLIC; HE WAS TRYING TO HOLD IT FROM THIS INDIVIDUAL
8 WHO WAS A CAPTAIN WHO WAS TRYING TO CIRCUMVENT THE
9 PROCESS WITH THE CITY COUNCIL AND GET THE CITY
10 COUNCIL TO APPOINT HIM THE POLICE CHIEF.

11 THE COURT: IS THAT WHAT YOU'RE TELLING ME?

12 THE WITNESS: YES.

13 THE COURT: THAT'S THE ONLY REASON FOR
14 THAT?

15 THE WITNESS: YES.

16 THE COURT: THAT'S THE ONLY REASON FOR
17 THAT?

18 THE WITNESS: THAT WAS IT. THAT WAS WHAT
19 WAS HAPPENING. THAT'S WHAT I WAS TOLD.

20 THE COURT: SURE. OKAY.

21 THE WITNESS: THAT THIS INDIVIDUAL WAS
22 TRYING TO FIND OUT BECAUSE -- AND HE DID ATTEMPT TO
23 CIRCUMVENT.

24 THE COURT: OKAY. THANK YOU.

25 ///

1 BY MR. KENNEDY:

2 Q. THE NEXT PARAGRAPH, THE THIRD SENTENCE IN
3 THE NEXT PARAGRAPH -- SECOND SENTENCE:

4 "IT'S A SHAME THAT HE'S NOT" --
5 "THAT HE IS SO UNWILLING TO RECOGNIZE
6 WHAT YOU, I THINK, ALREADY HAVE."

7 AND IT SAYS:

8 "WE HAVE PAINSTAKINGLY AND
9 CAREFULLY WITH OUR ATTORNEY'S
10 ASSISTANCE MADE SURE OF WHAT
11 AUTHORITY BOB HAS VERSUS THE CITY
12 COUNCIL."

13 NOW, WHAT WAS YOUR UNDERSTANDING OF THAT
14 AUTHORITY OF BOB VERSUS THE CITY COUNCIL, AND WHO WAS
15 THIS ATTORNEY THAT YOU'RE SPEAKING OF?

16 A. THE ATTORNEY WAS TOM BROWN. HE WAS SPECIAL
17 COUNSEL FOR THE CITY.

18 THE COURT: WHO IS HE EMPLOYED BY? WHAT
19 PARTNERSHIP?

20 THE WITNESS: BROWN, WHITE, AND NEWHOUSE, I
21 BELIEVE.

22 AND WHAT I WAS REFERRING TO WAS A CITY
23 CHARTER THAT RANDY ADAMS HAD BEEN GIVEN. AND SO,
24 AGAIN, ROBERT RIZZO WAS UPSET THAT RANDY WAS ASKING
25 FOR CITY COUNCIL -- HE WAS ASKING FOR THE GENERAL LAW

1 DOCUMENTS AND FOR CITY COUNCIL APPROVAL.

2 AND ROBERT RIZZO SAID, "NO, HE ALREADY
3 KNOWS. HE'S ALREADY MET WITH TOM BROWN. TOM BROWN
4 HAS ALREADY TOLD HIM THAT I HAVE THE AUTHORITY. AND
5 SO YOU LET HIM KNOW."

6 Q. WAS THE AUTHORITY THAT YOU WERE REFERRING
7 TO -- YOU ARE REFERRING TO THIS PARAGRAPH, THE
8 RESOLUTION 519?

9 A. RESOLUTION --

10 Q. I'M SORRY. RESOLUTION 2006-42?

11 A. CORRECT.

12 Q. THAT PURPORTEDLY GAVE THE AUTHORITY TO
13 MR. RIZZO TO ENTER INTO CONTRACTS FOR LABOR AND
14 MATERIALS?

15 A. CORRECT.

16 Q. BUT NOT FOR REGULAR EMPLOYEES?

17 A. NO. IT WAS OUR UNDERSTANDING THAT IT DID
18 INCLUDE REGULAR EMPLOYEES.

19 Q. SO WHY NOT JUST GIVE HIM -- YOU SAID YOU'RE
20 "NOT INTERESTED IN EDUCATING YOU NOW" ON THAT, WHAT
21 THAT AUTHORITY WAS. WHY NOT JUST GIVE HIM A COPY OF
22 THE RESOLUTION?

23 A. I BELIEVE HE HAD IT WITH THE CITY CHARTER.

24 Q. HE'S ASKING, IS HE NOT, IN THIS? AND
25 YOU'RE RESPONDING TO IT.

1 "I'D LIKE SOMETHING IN WRITING THAT SAYS
2 THE CITY COUNCIL HAS APPROVED THIS OR WHAT RIZZO'S
3 AUTHORITY IS."

4 A. NO. HE WASN'T SAYING THAT HE NEEDED --

5 Q. WHAT'S THIS SENTENCE HERE, "WE HAVE
6 PAINSTAKINGLY" --

7 IT SAYS:

8 "YOUR ATTORNEY'S SUGGESTION THAT
9 YOU RECEIVE SOMETHING IN WRITING
10 INDICATING WHAT BOB'S AUTHORITY IS TO
11 ISSUE THIS CONTRACT."

12 A. RIGHT. RIGHT.

13 Q. IF THE AUTHORITY IS, YOU BELIEVE, SET FORTH
14 THERE, WHY NOT JUST GIVE HIM A COPY OF THE
15 RESOLUTION?

16 A. I AGREE WITH YOU. I WAS TOLD BY
17 ROBERT RIZZO, WHO WAS VERY UPSET, AND I WAS TOLD WHAT
18 TO SAY TO RANDY ADAMS.

19 AND I PROBABLY DIDN'T DO IT VERY WELL, BUT
20 I TRIED MY BEST. THERE WERE A NUMBER OF THINGS THAT
21 HE ASKED ME TO MAKE SURE THAT HE GOT THE MESSAGE ON.

22 Q. NOW, IF I COULD DIRECT YOUR ATTENTION TO
23 PAGE 15 IN THAT EXHIBIT 15. AND IT'S YOUR E-MAIL
24 BETWEEN MR. ADAMS AND YOURSELF, DATED APRIL 23, 2009.

25 MR. ADAMS CAME TO WORK FOR THE CITY OF BELL

1 WHEN?

2 A. SOMETIME IN 2009.

3 Q. AND HERE YOU ARE, AND YOU ARE -- THE
4 PURPOSE OF THIS E-MAIL IS TO TRANSMIT TO HIM OR TELL
5 HIM -- LET ME ASK YOU: WHAT IS THE PURPOSE OF THIS
6 E-MAIL COMMUNICATION, "HELLO, RANDY"?

7 A. RIGHT. I'M JUST LETTING HIM KNOW THAT
8 THERE'S SEVERAL DOCUMENTS THAT WILL NEED TO BE
9 PREPARED. I'M ASKING, REALLY, FOR HIS AGREEMENT.

10 Q. (READING.)

11 "THERE WILL BE SEVERAL DOCUMENTS
12 NEEDING TO BE PREPARED."

13 A. RIGHT.

14 Q. AND ONE OF THEM IS AN EMPLOYMENT AGREEMENT?

15 A. CORRECT.

16 Q. AND BY THAT TIME IT HADN'T BEEN PREPARED;
17 RIGHT?

18 THE COURT: WELL, THE NEXT PARAGRAPH SAYS,
19 ONCE YOU GET THEM PREPARED. SO YOU'RE GOING TO
20 PREPARE THEM; RIGHT?

21 THE WITNESS: YES. I WAS GOING TO DRAFT
22 IT.

23 THE COURT: AND THEN YOU WERE GOING TO
24 FORWARD THEM TO HIM.

25 THE WITNESS: YES.

1 THE COURT: AND THEN YOU'RE GOING TO MEET
2 AND DISCUSS THEM WITH HIM. THESE ARE ALL THINGS YOU
3 SAY YOU'RE GOING TO DO?

4 THE WITNESS: YES.

5 THE COURT: YOU MEANT THAT, DIDN'T YOU?

6 THE WITNESS: YES.

7 THE COURT: YOU MEANT FOR HIM TO BE CAREFUL
8 ON ALL THE ISSUES?

9 THE WITNESS: YES.

10 THE COURT: OKAY.

11 BY MR. KENNEDY:

12 Q. ITEM NUMBER 2 IS AN INDEPENDENT CONTRACTING
13 CONSULTANT AGREEMENT?

14 A. YES.

15 Q. AND WHAT WAS THAT?

16 A. ROBERT RIZZO HAD ASKED HIM TO DO SOME WORK
17 BEFORE HIS INITIAL EMPLOYMENT DATE, BUT I DON'T --

18 ALL I RECALL IS IT HAD SOMETHING TO DO WITH
19 AN INVESTIGATION. SO HE WAS GOING TO DO IT ON A
20 CONSULTING BASIS.

21 Q. AND WHEN YOU INDICATE HERE:

22 "AS YOU MIGHT SURMISE" -- IT SAYS,
23 "I WANT YOU TO BE COMFORTABLE WITH ALL
24 THESE ISSUES."

25 AND YOU SAY IN YOUR LAST SENTENCE:

1 "AS YOU MIGHT SURMISE ALREADY,
2 THERE ARE VERY SPECIFIC REASONS WHY IT
3 WOULD NOT AT ALL BE ADDRESSED AS ONE
4 ALL-ENCOMPASSING CONTRACT."

5 A. RIGHT.

6 Q. WHAT WOULD BE SURMISED? WHAT IS THAT?

7 A. WELL, BECAUSE THE EMPLOYMENT CONTRACT WOULD
8 GO THROUGH THE PERSONNEL AND PAYROLL PROCESS. THE
9 INDEPENDENT CONTRACTOR AGREEMENT WOULD GO THROUGH THE
10 ACCOUNTS PAYABLE PROCESS, WHICH IS AN ENTIRELY
11 DIFFERENT PROCESS.

12 THE MEDICAL RETIREMENT ACCEPTANCE LETTER
13 WAS A LETTER THAT HE SPECIFICALLY WAS ASKING FOR,
14 WHICH REALLY, ACCORDING TO ROBERT RIZZO, FOR US, HAD
15 NO SPECIFIC RELEVANCE BECAUSE HE DIDN'T -- HE WASN'T
16 GOING TO CONTEST HIS PRIOR INJURIES.

17 AND THEN THE VEHICLE INDEMNIFICATION LETTER
18 HAD TO BE SEPARATE BECAUSE IT WAS GOING TO BE PUT IN
19 WITH OUR INSURANCE DOCUMENTS.

20 Q. MS. SPACCIA, YOU DRAFTED HOW MANY DOCUMENTS
21 THAT ULTIMATELY WERE SIGNED BY INDIVIDUALS FOR
22 MR. ADAMS?

23 A. OH, FOR MR. ADAMS?

24 Q. YES.

25 A. I DRAFTED ONE DOCUMENT, AND THERE WERE

1 SEVERAL VERSION OF THAT DOCUMENT.

2 Q. DID YOU DRAFT A DOCUMENT THAT INCLUDED HIS
3 SALARY AS CHIEF OF POLICE AT \$17,000 DOLLARS?

4 A. NO, I DID NOT. I HAD NO KNOWLEDGE OF THAT.

5 Q. AND ANOTHER ONE THAT'S INDEPENDENT
6 CONSULTANT ON LAW ENFORCEMENT MANAGEMENT --

7 A. CORRECT. I HAD NO KNOWLEDGE UNTIL LATE
8 AUGUST 2010. I HAD NO IDEA THEY WERE DOING THIS.

9 Q. YOU DIDN'T DRAFT THESE?

10 A. NO. I WAS AT THE CITY OF MAYWOOD.

11 Q. AND YOU DIDN'T DRAFT THE DOCUMENT THAT
12 PROVIDED A \$38,000-A-MONTH SALARY FOR MR. ADAMS AS
13 CHIEF OF POLICE?

14 A. I DID THE ORIGINAL AGREEMENT, WHATEVER THAT
15 AMOUNT WAS.

16 Q. IF YOU WOULD PLEASE TURN TO -- I BELIEVE
17 IT'S UNDER TAB NUMBER 18.

18 THERE'S A SERIES OF THREE AGREEMENTS THERE
19 FOR MR. ADAMS. COULD YOU IDENTIFY FOR ME WHICH ONE
20 YOU PREPARED?

21 A. I DID NOT DO THE FIRST ONE. I SEE IT SAYS
22 "SPECIAL POLICE COUNSEL."

23 Q. THAT'S EXHIBIT 18. IT STARTS AT PAGE TWO.

24 A. I DID NOT PREPARE THAT. AND THIS WAS IN
25 LOURDES GARCIA'S TESTIMONY. SHE PREPARED THESE

1 DOCUMENTS.

2 Q. AND THE NEXT ONE?

3 A. AND IT DOESN'T LOOK LIKE I PREPARED THAT
4 ONE. NO, I DID NOT PREPARE THE SECOND ONE.

5 THE COURT: WHICH PAGE DOES THE SECOND
6 START AT?

7 MR. KENNEDY: THE SECOND ONE STARTS AT
8 PAGE --

9 THE WITNESS: PAGE 9.

10 I WAS ASKED ONCE TO PREPARE A BACK-DATED
11 CONTRACT, AND I REFUSED.

12 Q. ARE THESE BACK-DATED CONTRACTS?

13 A. YES.

14 Q. WHEN WERE THESE SIGNED?

15 A. I DON'T KNOW.

16 Q. WERE THEY SIGNED IN MAY OF 2009?

17 A. I DON'T KNOW.

18 Q. YOU SAID THEY WERE BACK-DATED?

19 A. RIGHT.

20 Q. BACK-DATED TO WHAT?

21 A. WHAT I LEARNED THROUGH THE DISCOVERY IS
22 THAT THEY PREPARED THESE IN 2010. SO TO ME IT'S
23 BACK-DATING A CONTRACT; ISN'T IT?

24 MR. ONSTOT: LET THE RECORD REFLECT THAT
25 COUNSEL AND THE WITNESS ARE REFERRING TO CALPERS

1 EXHIBIT 18.

2 MR. KENNEDY: AND THAT WOULD BE PAGES 2
3 THROUGH 14.

4 THE COURT: IT WILL.

5 BY MR. KENNEDY:

6 Q. NOW, THE LAST CONTRACT, DID YOU PREPARE
7 THAT, ON EXHIBIT 18, PAGE 16?

8 A. IF ITS SALARY EQUATES TO \$457,000 A YEAR,
9 YES.

10 THE COURT: HOLD ON.

11 MR. KENNEDY: STARTING AT PAGE 16.

12 BY MR. KENNEDY:

13 Q. SORRY. DID YOU PREPARE THIS AGREEMENT?

14 A. I WOULD NEED A CALCULATOR TO FEEL CONFIDENT
15 TO SAY THAT I DID.

16 THE COURT: YOU TAKE 17,577, MULTIPLY IT BY
17 26.

18 THE WITNESS: YES.

19 THE COURT: AND IT COMES UP TO \$457,000.

20 THE WITNESS: OKAY. THEN THIS IS PROBABLY
21 THE ONE THAT I PREPARED.

22 THE COURT: AT THE LAST PAGE OF THAT, OF
23 YOUR PAGE 21, IT IS SIGNED, THE ONE THAT YOU'RE
24 LOOKING AT?

25 THE WITNESS: YES.

1 THE COURT: SIGNED BY MR. RIZZO AND BY
2 MR. ADAMS.

3 THE WITNESS: CORRECT.

4 THE COURT: THANK YOU.

5 BY MR. KENNEDY:

6 Q. AND DO YOU KNOW IF THESE WERE EVER
7 SUBMITTED TO THE CITY COUNCIL FOR APPROVAL?

8 A. I DON'T BELIEVE SO.

9 Q. NOW, IF I ASK YOU TO LOOK AT TAB 16,
10 PLEASE -- AND THIS PURPORTS TO BE A CONTRACT FOR
11 MR. RIZZO?

12 A. OKAY.

13 Q. DID YOU DRAFT THIS AGREEMENT? IT STARTS IN
14 JULY 1, 2009.

15 A. DOES THAT SAY JULY 2009?

16 Q. I BELIEVE IT DOES.

17 A. I DON'T REMEMBER PREPARING ANY IN 2009.

18 Q. LOOK AT TAB 17. I'M SORRY. MAYBE IT'S 8.
19 I TAKE IT BACK. I BELIEVE IT'S 8.

20 A. YES.

21 Q. IT'S 8?

22 A. EXHIBIT 8 IS JULY --

23 Q. NO. I'M SORRY. I'M TALKING ABOUT EXHIBIT
24 16, THE CONTRACT THERE IS, I BELIEVE, DATED 2008 NOT
25 2009. I'M SORRY.

1 THE COURT: YOU CAN'T TELL BY LOOKING AT
2 IT. IT'S A BIG BLOB. IT WOULD BE UNFAIR TO ASK WHAT
3 THE YEAR WAS.

4 THE WITNESS: SO I WAS --

5 THE COURT: THERE'S NO QUESTION PENDING.

6 BY MR. KENNEDY:

7 Q. PLEASE LOOK AT EXHIBIT NO. 17 AND LOOK AT
8 PAGE 2 OF EXHIBIT 17. AND IT'S A PURPORTED AGREEMENT
9 WITH MR. RIZZO AS C.A.O. WITH HIS BASIC SALARY
10 SHOWING \$18,455. AND, AGAIN, I THINK WE HAVE A
11 CLEANER COPY OF THIS, BUT IT PURPORTS TO BE
12 SEPTEMBER 1 OF 2008.

13 I NOTICE ON PAGE 3, AN INCREASE WILL HAPPEN
14 THE NEXT YEAR ON JULY 1, 2009. DID YOU PREPARE THIS
15 AGREEMENT?

16 A. NO, I DID NOT.

17 Q. OKAY. AND IF YOU COULD LOOK THROUGH THE
18 OTHER AGREEMENTS, THE NEXT AGREEMENT THERE IS ONE
19 PURPORTED TO BE SEPTEMBER 1, 2008. AND THIS IS
20 MR. RIZZO AS EXECUTIVE DIRECTOR OF, IT LOOKS LIKE,
21 THE BELL PUBLIC FINANCING AUTHORITY?

22 A. YES. I RECOGNIZE THESE FROM DISCOVERY.
23 THESE WERE PREPARED BY LOURDES GARCIA. I HAD NO
24 KNOWLEDGE OF THESE AT ALL.

25 Q. YOU HAD NO KNOWLEDGE OF THESE?

1 A. NO.

2 Q. DO YOU KNOW WHY THEY WERE PREPARED BY
3 LOURDES GARCIA?

4 A. I DO NOT. BECAUSE I WAS ASSIGNED TO TYPE
5 THE CONTRACTS. SO WHY SHE WAS TYPING CONTRACTS IS A
6 QUESTION THAT WILL ALWAYS REMAIN UNANSWERED TO ME.

7 Q. OH, BY THE WAY, WHEN YOU FIRST WENT TO WORK
8 FOR THE CITY OF BELL, YOU SAID YOU WERE WORKING
9 PART-TIME FOR BELL AND PART-TIME FOR ARVIN?

10 A. YES.

11 Q. AND WHEN DID YOU CEASE WORKING PART-TIME
12 FOR ARVIN?

13 A. I DON'T REMEMBER EXACTLY. IT WAS PROBABLY
14 SOMETIME IN 2002. 2001, 2002.

15 Q. SO YOU WERE BASICALLY WORKING PART-TIME FOR
16 ARVIN WHILE YOU WERE DOING CONSULTING?

17 A. I WAS ACTUALLY WORKING MORE THAN PART-TIME
18 FOR ARVIN. I WAS WORKING PART-TIME FOR THE CITY OF
19 BELL AT THAT TIME.

20 Q. COULD I ASK YOU TO LOOK AT THE BIG VOLUME,
21 VOLUME II.

22 A. IS IT OVER THERE?

23 Q. IT SHOULD BE UP THERE.

24 A. WHERE?

25 Q. THAT'S THE --

1 THE COURT: WE'LL BE IN RECESS UNTIL
2 TOMORROW. WE GOT A COURT REPORTER WITH YOUNGSTERS.
3 (WHEREUPON, AT THE HOUR OF
4 4:40 P.M., THE PROCEEDINGS
5 WERE ADJOURNED.)

6 -000-
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1 STATE OF CALIFORNIA)
)SS

2 COUNTY OF LOS ANGELES)

3

4 I, REYNA OTA, HEARING REPORTER FOR THE STATE
5 OF CALIFORNIA, HEREBY CERTIFY:

6 THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME
7 AT THE TIME AND PLACE THEREIN SET FORTH;

8 THE PROCEEDINGS WERE RECORDED STENOGRAPHICALLY
9 BY ME AND WERE THEREAFTER TRANSCRIBED;

10 THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT
11 TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

12 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL
13 FOR NOR RELATED TO ANY PARTY TO SAID ACTION, NOR IN
14 ANY WAY INTERESTED IN THE OUTCOME THEREOF.

15 IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED
16 MY NAME THIS 26TH DAY OF SEPTEMBER, 2012.

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