

ATTACHMENT F
ADMINISTRATIVE HEARING TRANSCRIPTS

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DAY ONE – NOVEMBER 13, 2012

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I N D E X

FURTH.

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	REDIRECT
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VINCENT YU	24J	33R	46J	52R	61J
				60D	

FRED GUIDO	64J	180R			
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D = DANIEL

J = JENSEN

R = RIEGER

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1 LOS ANGELES, CALIFORNIA, TUESDAY

2 NOVEMBER 13, 2012

3 9:28 A.M.

4
5 THE COURT: THIS IS THE MATTER OF THE
6 STATEMENT OF ISSUES PERTAINING TO FRED GUIDO,
7 RESPONDENT, CITY OF CUDAHY, ALSO A RESPONDENT. THIS
8 IS BEFORE THE BOARD OF ADMINISTRATION OF THE
9 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM. THE
10 AGENCY CASE NUMBER IS 9711.

11 THIS CASE BEARS O.A.H. CASE NUMBER 2012030387.
12 TODAY IS NOVEMBER 13, 2012. IT'S APPROXIMATELY 9:30
13 A.M. WE'RE IN THE LOS ANGELES REGIONAL OFFICE OF
14 O.A.H., THE OFFICE OF ADMINISTRATIVE HEARINGS.

15 AT THIS TIME, I'LL ASK THE PARTIES TO IDENTIFY
16 THEMSELVES FOR THE RECORD. WE'LL BEGIN WITH CALPERS.

17 MR. RIEGER: GOOD MORNING, YOUR HONOR,
18 JEFFREY RYAN RIEGER OF THE LAW FIRM REED SMITH ON
19 BEHALF OF PETITIONER CALIFORNIA PUBLIC EMPLOYEES'
20 RETIREMENT SYSTEM, AND I HAVE WITH ME THE CALPERS
21 REPRESENTATIVE, MS. EMILY DE FLORES.

22 THE COURT: GOOD MORNING TO YOU BOTH.

23 MR. JENSEN: GOOD MORNING, YOUR HONOR.
24 REPRESENTING FRED GUIDO, I'M JOHN JENSEN. AND OUR
25 FIRST WITNESS, VINCENT YU, IS HERE IN THE COURTROOM

1 RIGHT NOW.

2 THE COURT: GOOD MORNING TO YOU BOTH.

3 MS. DANIEL: GOOD MORNING, YOUR HONOR.

4 JUANDA DANIEL FROM OLIVAREZ MADRUGA ON BEHALF OF THE
5 CITY OF CUDAHY. AND FOR THE PURPOSE OF THIS HEARING,
6 OUR INTERESTS ARE ALIGNED WITH CALPERS, AND WE'RE
7 SUPPORTING THEIR POSITION.

8 THE COURT: OKAY. THANK YOU VERY MUCH.

9 OKAY. I DID RECEIVE HEARING BRIEFS FROM
10 CALPERS AND FROM RESPONDENT, AND I READ THEM AND I THANK
11 YOU BOTH FOR SUBMITTING THEM. I ALSO RECEIVED
12 RESPONDENTS' REQUEST FOR OFFICIAL AND JUDICIAL NOTICE.

13 AND ESSENTIALLY, THESE WERE THE BRIEFS THAT
14 WERE SUBMITTED TO THE COURT OF APPEAL FOR THE THIRD
15 DISTRICT IN THE CASE THAT INVOLVES THE SAME -- WELL,
16 THAT INVOLVES CALPERS AND ANOTHER INDIVIDUAL.

17 AND WE GOT THIS FRIDAY -- I DIDN'T KNOW OF IT
18 UNTIL FRIDAY NIGHT. OVER THE WEEKEND, I LOOKED AT THE
19 REQUEST FOR OFFICIAL NOTICE AND I SCANNED THROUGH THE
20 BRIEFS JUST TO SEE WHAT THE CASE WAS ABOUT GENERICALLY
21 AND SOME OF THE ISSUES, BUT I DIDN'T REALLY SIT DOWN AND
22 READ THE BRIEFS.

23 BUT I WANTED TO FIRST INDICATE THAT I RECEIVED
24 IT, AND THEN ASK THE OTHER PARTIES WHAT YOUR THOUGHTS
25 WERE ON IT.

1 SO, MR. RIEGER, HAVE YOU -- I'M ASSUMING YOU
2 RECEIVED THIS?

3 MR. RIEGER: LIKE YOUR HONOR, I RECEIVED IT
4 ON FRIDAY. AS FAR AS THE DOCUMENTS PURPORTING TO BE
5 WHAT THEY ARE, I ASSUME THAT THEY ARE. YOU KNOW, I
6 ASSUME THOSE ARE THE ACTUAL BRIEFS THAT WERE FILED.

7 AS TO WHETHER THE COURT SHOULD TAKE OFFICIAL
8 NOTICE OF IT, I THINK PART OF OFFICIAL NOTICE IS YOU
9 SHOULD ONLY BE TAKING NOTICE OF RELEVANT MATTERS.

10 AND TO BE PERFECTLY HONEST, I DON'T KNOW WHAT
11 THE RELEVANCE IS OF THOSE BRIEFS. AND I'M NOT SURE THAT
12 I WOULD KNOW UNTIL I SEE MR. JENSEN'S CLOSING BRIEFING
13 IN THIS MATTER. SO I WOULD RECOMMEND THAT WE JUST DEFER
14 RESOLUTION OF THAT.

15 I MEAN, I CERTAINLY HAVEN'T HAD REASONABLE
16 TIME AT THIS POINT TO RESPOND TO THE OFFICIAL NOTICE
17 REQUEST, SO I THINK IT WOULD MAKE SENSE TO DEFER
18 RESOLUTION OF WHETHER OFFICIAL NOTICE WILL BE GRANTED
19 UNTIL A LATER DATE, PERHAPS ON A CLOSING BRIEFING ONCE
20 WE'VE HAD A RELEVANCE THEORY AND ONCE I'VE HAD A
21 REASONABLE OPPORTUNITY TO RESPOND.

22 THE COURT: OKAY. MS. DANIEL, ANY THOUGHTS
23 ON THIS.

24 MS. DANIEL: I CONCUR. ACTUALLY, MY OFFICE
25 RECEIVED THEM YESTERDAY, ON THE 12TH, AND SO I

1 SCANNED THEM AS DID THE OTHER PARTIES, AND I HAVEN'T
2 HAD A CHANCE TO REALLY DIGEST THEM.

3 BUT I CONCUR. ACTUALLY I HAD A QUESTION ON
4 THE RELEVANCE, SO I THINK A DEFERRAL OF THE ORDER WOULD
5 BE RELEVANT IN THIS CASE.

6 THE COURT: OKAY. THANK YOU.

7 MR. JENSEN: AND, YOUR HONOR, I'M FINE WITH
8 DEFERRING TOO. AS FAR AS THE RELEVANCE, I THINK IT
9 IS BOTH RELEVANT TO CALPERS' POSITION IN THESE
10 MATTERS.

11 I THINK THAT THESE EQUITABLE ESTOPPEL ISSUES
12 ARE BEING LITIGATED IN ANOTHER FORUM, WHICH I BELIEVE
13 THE APPELLATE COURT, THEY WILL TAKE A POSITION ON THIS
14 MATTER IN SOME WAY OR ANOTHER WHICH WILL AFFECT THE LAW
15 OF CALIFORNIA, AND I THINK IT'S IMPORTANT FOR THE RECORD
16 TO SHOW CALPERS' POSITION THAT THEY'VE TAKEN AND THAT
17 THEY'RE OPPOSING EQUITABLE ESTOPPEL.

18 WE TOLD YOUR HONOR ABOUT THIS CASE BEFORE AND
19 THAT WE'VE LITIGATED THESE MATTERS, AND SO WE WERE JUST
20 BEING FORTHRIGHT.

21 I DID SEND THE BRIEFS TO BOTH PARTIES AND
22 YOURSELF ON FRIDAY. I WAS NOT TRYING TO, YOU KNOW, GET
23 A RESOLUTION OF THIS PRIOR TO THE HEARING, BUT IT IS
24 KIND OF LIKE A HEARING BRIEF.

25 AND SO I'M FINE WITH DEFERRING, YOU KNOW, YOUR

1 RULING ON WHETHER TO ACCEPT IT AS OFFICIAL NOTICE, BUT I
2 THINK THAT IT IS AS A -- AS A COURT RECORD ON A SIMILAR
3 CASE, I THINK IT IS SUBJECT TO OFFICIAL AND JUDICIAL
4 NOTICE.

5 THE COURT: OKAY.

6 MR. JENSEN: IN PARTICULAR OF THE PARTY ON
7 THESE SAME ISSUES.

8 THE COURT: ALL RIGHT. I CAN ONLY TAKE
9 OFFICIAL NOTICE. BUT THEN, OF COURSE, I CAN TAKE
10 OFFICIAL NOTICE OF ITEMS THAT A SUPERIOR COURT CAN
11 TAKE JUDICIAL NOTICE OF, SO THERE'S NOT A TREMENDOUS
12 DIFFERENCE.

13 BUT I THINK IT MAKES SENSE TO DEFER THEN, AND
14 I'LL GET A BETTER SENSE OF THE ISSUES THAT YOU ALL ARE
15 RAISING. ALTHOUGH I ALWAYS THINK MORE INFORMATION IS
16 BETTER THAN LESS, SO I DON'T SEE IT BEING A BIG, MAJOR
17 PROBLEM ONE WAY OR THE OTHER.

18 I GOT THE IMPRESSION YOU BOTH ARE THE PARTIES
19 IN THAT CASE OR --

20 MR. JENSEN: NO. I AM THE ATTORNEY, AND
21 CALPERS IS REPRESENTED BY DIFFERENT COUNSEL.

22 THE COURT: IS IT IN-HOUSE COUNSEL FOR
23 CALPERS?

24 MR. RIEGER: I BELIEVE SO. I JUST KNOW
25 THAT IT'S NOT ME.

1 MR. JENSEN: CAN I SPEAK TO THAT?

2 MR. RIEGER: SURE.

3 MR. JENSEN: IT WAS LITIGATED IN SACRAMENTO
4 BUT BY -- PAUL HASTINGS (PHONETIC) WAS THE OUTSIDE
5 FIRM CALPERS WAS USING. AND I DON'T THINK PAUL
6 HASTINGS IS STILL ENGAGED BY CALPERS SO I'M NOT SURE
7 WHO THEY HAVE HANDLING IT.

8 THE COURT: THIS IS THE MATTER, THOUGH,
9 THAT JUDGE MONTOYA DID HERE INITIALLY, AND THEN THIS
10 IS THE APPEAL FROM THAT?

11 MR. JENSEN: YEAH. ACTUALLY, RIGHT. IT
12 STARTED AS A COMPLAINT FILED IN SACRAMENTO, AND THEN
13 JUDGE MONTOYA -- IT WAS BROUGHT DOWN TO THE O.A.H.
14 FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES ON THE
15 PENSION PART OF IT.

16 JUDGE MONTOYA HEARD THE MATTER, DID NOT RULE
17 ON THE CONSTITUTIONAL ISSUES, BUT DID PRESERVE THEM FOR
18 THE RECORD.

19 THERE IS SOME -- YEAH. IT'S A COMPLICATED
20 PROCEDURAL CASE, BUT IT DID GO THROUGH THE
21 ADMINISTRATIVE PROCESS HERE, AND THEN I BELIEVE THE
22 COMPLAINT AND PETITION FOR A WRIT OF ADMINISTRATIVE
23 MANDAMUS WAS ORIGINALLY -- WAS HEARD IN SACRAMENTO UNDER
24 TWO OR THREE JUDGES. AND THEN IT'S ON APPEAL.

25 THE COURT: OKAY. WHY DON'T WE TALK ABOUT

1 THIS AT THE END OF THE CASE. THAT WILL GIVE EVERYONE
2 A CHANCE TO REVIEW IT AND THEN GIVE US ALL A BETTER
3 SENSE OF FIGURING HOW THIS FITS INTO ALL OF THIS, AND
4 I'LL MAKE A DECISION THEN.

5 MR. RIEGER: I MEAN, I WOULD JUST SUBMIT
6 THAT PERHAPS WE COULD ALSO JUST DEAL WITH THIS IN THE
7 POST-TRIAL BRIEFING BECAUSE AT THAT POINT WE'LL KNOW
8 EXACTLY WHY THE -- WHY THEY'RE BEING OFFERED. BUT WE
9 CAN TALK LATER. THAT'S WHAT I MEANT BY DEFER.

10 THE COURT: OKAY.

11 MR. JENSEN: AND JUST TO ADDRESS THAT POINT
12 JUST BRIEFLY, THE ISSUES IN FRONT OF THE THIRD
13 DISTRICT COURT OF APPEAL ARE REALLY SORT OF THE
14 LARGER CONFLICT BETWEEN EQUITABLE ESTOPPEL AND THIS
15 IDEA THAT CALPERS IS LIMITED TO JUST PROVIDING A
16 RIGHT THAT IS IN STATUTE.

17 AND SO IT'S ALMOST A CONSTITUTIONAL BRIEF AND
18 A LARGER CONFLICT THAT'S PLAYING OUT IN CHAIDEZ WHICH
19 WOULD HAVE SOME EFFECT HERE, BUT THAT GIVES YOU SORT OF
20 THE BACKGROUND.

21 AND I'D LIKE TO NOTE MY CLIENT, FRED GUIDO,
22 HAS ENTERED THE COURTROOM.

23 THE COURT: OKAY. GOOD MORNING.

24 MR. GUIDO: GOOD MORNING.

25 THE COURT: OKAY. SO WHAT'S NEXT?

1 FEW MOMENTS, SIR, AND THEN MR. JENSEN WILL COME GET
2 YOU.

3 OKAY. THE WITNESS HAS LEFT THE HEARING ROOM.

4 ALL RIGHT. MR. JENSEN.

5 MR. JENSEN: GOOD MORNING AND THANK YOU,
6 YOUR HONOR.

7 FRED GUIDO SEEKS TO STOP CALPERS FROM RENEGING
8 ON ITS REPRESENTATIONS THAT MR. GUIDO ESTABLISHED
9 RECIPROCITY. RECIPROCITY ALLOWS A MEMBER OF TWO
10 RECIPROCAL RETIREMENT SYSTEMS, IN THIS CASE CALPERS AND
11 L.A.C.E.R.A., TO USE THE HIGHEST SALARY EARNED IN EITHER
12 SYSTEM AS THE FINAL COMPENSATION FOR THE PENSION TO BE
13 RECEIVED IN BOTH SYSTEMS.

14 THAT'S THE BENEFIT OF RECIPROCITY.

15 CALPERS REPEATEDLY AND SPECIFICALLY
16 REPRESENTED TO MR. GUIDO THAT HE HAD ESTABLISHED
17 RECIPROCITY. YEARS LATER, AFTER GUIDO RETIRED, CALPERS
18 ARGUES THAT GUIDO DID NOT FORMALLY MEET ALL OF THE
19 REQUIREMENTS OF RECIPROCITY.

20 HOWEVER, GUIDO DID NOT KNOW THAT TECHNICALLY
21 HE MAY NOT HAVE ESTABLISHED ALL THE REQUIREMENTS OF
22 RECIPROCITY, AND GUIDO RELIED, TO HIS DETRIMENT, ON
23 CALPERS' REPRESENTATIONS.

24 FOR EXAMPLE, WHEN MR. GUIDO WAS OFFERED THE
25 OPPORTUNITY TO TAKE AN AVAILABLE POSITION WHICH WOULD

1 HAVE ESTABLISHED RECIPROCITY, HE TURNED THE POSITION
2 DOWN BECAUSE HE BELIEVED HE HAD ALREADY ESTABLISHED
3 RECIPROCITY.

4 MIKE HENRY, THE LOS ANGELES HEAD OF
5 PERSONNEL -- THE HEAD OF PERSONNEL FOR L.A. COUNTY, WILL
6 TESTIFY TOMORROW THAT HENRY SPECIFICALLY TALKED TO GUIDO
7 ABOUT RECIPROCITY, OFFERED GUIDO THE AVAILABLE OPEN
8 POSITION WHICH WOULD HAVE ESTABLISHED RECIPROCITY, AND
9 THAT GUIDO SAID THAT HE HAD ALREADY HAD HIS RECIPROCITY
10 SO HE TURNED THE POSITION DOWN.

11 THAT WAS GUIDO'S RELIANCE ON CALPERS'
12 REPRESENTATIONS WHICH MADE HIM MAKE A DIFFERENT CHOICE
13 THAN HE WOULD HAVE OTHERWISE MADE. THE ELEMENTS OF
14 EQUITABLE ESTOPPEL APPLIED. CALPERS WAS APPRISED OF THE
15 FACTS AND IS THE PARTY TO BE ESTOPPED.

16 CALPERS INTENDED ITS LETTERS AND
17 REPRESENTATIONS TO INDUCE GUIDO'S RELIANCE AND ACTED TO
18 CAUSE GUIDO REASONABLY TO BELIEVE THAT HE COULD RELY ON
19 CALPERS' LETTERS THAT RECIPROCITY HAD BEEN ESTABLISHED.

20 GUIDO, AS THE PARTY ASSERTING ESTOPPEL, WAS
21 IGNORANT OF THE FACT THAT HE WAS NOT ENTITLED TO
22 RECIPROCITY AND THAT THE LETTERS WERE NOT CORRECT.
23 GUIDO SUFFERED INJURY IN RELIANCE UPON CALPERS' CONDUCT.

24 AND GUIDO'S INJURY IS TWOFOLD: FIRST, THE
25 REDUCED PENSION; AND SECOND, THE REMOVAL OF THE

1 OPPORTUNITY TO TIMELY ESTABLISH RECIPROCITY WITH ANOTHER
2 JOB. HAD HE TIMELY KNOWN, HE WOULD HAVE ESTABLISHED
3 RECIPROCITY.

4 AND THIS MORNING WE'LL OFFER THE TESTIMONY OF
5 VINCENT YU TO START TO SHOW THAT EVEN IN THE WEEKS
6 BEFORE MR. GUIDO RETIRED FROM L.A. COUNTY, GUIDO WAS AN
7 ATTRACTIVE CANDIDATE TO CALPERS-CONTRACTING AGENCY.

8 HAD GUIDO BEEN TIMELY INFORMED BY CALPERS THAT
9 RECIPROCITY HAD NOT BEEN ESTABLISHED, HE COULD AND WOULD
10 HAVE EASILY CURED IT BY TAKING A CALPERS -- A JOB WITH A
11 CALPERS-CONTRACTING AGENCY.

12 HOWEVER, GUIDO WOULD HAVE TO BE INFORMED BY
13 CALPERS PRIOR TO HIS RETIREMENT, BECAUSE RECIPROCITY
14 REQUIRES THE INDIVIDUAL TO SIMULTANEOUSLY RETIRE FROM
15 BOTH SYSTEMS. AFTER RETIREMENT, IT'S A DIFFERENT STORY.

16 AS EXPECTED, IT'S CALPERS' STORY IS THAT GUIDO
17 WAS APPRISED OF THE FACTS OR KNEW -- OR COULD NOT
18 REASONABLY BELIEVE THAT RECIPROCITY HAD BEEN
19 ESTABLISHED.

20 BUT GUIDO BELIEVED -- GUIDO INDICATED THAT HE
21 BELIEVED THAT RECIPROCITY HAD BEEN ESTABLISHED AND WAS
22 UNAWARE OF THE PROBLEM UNTIL THE SITUATION DEVELOPED.

23 IN ANY CASE, CALPERS LIKELY DISCOVERED THESE
24 ISSUES PRIOR TO GUIDO'S RETIREMENT, BUT CALPERS
25 UNREASONABLY WAITED UNTIL AFTER GUIDO RETIRED TO SEND

1 ITS FIRST LETTER DENYING RECIPROCITY.

2 SO I WOULD LIKE TO CALL THE FIRST WITNESS,
3 VINCENT YU.

4 THE COURT: ALL RIGHT. DO EITHER OF THE
5 OTHER PARTIES WANT TO GIVE AN OPENING STATEMENT AT
6 THIS TIME?

7 MR. RIEGER: I'D LIKE TO MAKE A BRIEF
8 OPENING STATEMENT, YOUR HONOR.

9 THE COURT: OKAY.

10 MR. RIEGER: THE PUBLIC ENTITIES DO
11 SOMETIMES MAKE MISTAKES.

12 SOMETIMES IT'S HUMAN ERROR, SOMETIMES IT'S
13 COMPUTER ERROR, SOMETIMES IT'S A COMBINATION OF BOTH,
14 AND SOMETIMES WHEN YOU HAVE A BIG ORGANIZATION THAT HAS
15 TO SERVE ONE-AND-A-HALF-MILLION PEOPLE, YOU HAVE CERTAIN
16 PROCEDURES THAT ARE SET UP TO DEAL WITH THE TYPICAL
17 CASES AND SOMETIMES THE ATYPICAL CASES SLIP THROUGH THE
18 CRACKS.

19 CALPERS MADE A MISTAKE HERE. WE'RE CONCEDED
20 THAT POINT. SO TO THE EXTENT WE'RE TALKING ABOUT AN
21 ELEMENT OF ESTOPPEL, DID MR. GUIDO RECEIVE BAD
22 INFORMATION? YES, HE RECEIVED BAD INFORMATION.

23 SO IN THIS HEARING, I DON'T KNOW IF IT'S GOING
24 TO TURN INTO SOME SORT OF CASE OF WHO DONE IT,
25 FINGER-POINTING ABOUT WHOSE FAULT IT WAS, HOW IT COULD

1 HAVE BEEN AVOIDED, WHAT COULD HAVE BEEN DONE BETTER.

2 MAYBE IT WILL TURN INTO THAT. MAYBE IT WON'T.

3 I HOPE IT DOESN'T BECAUSE I DON'T THINK IT'S WORTH THE
4 PARTIES' TIME. WE CONCEDED THE POINT. HE GOT BAD
5 INFORMATION.

6 SO THE QUESTION IN THIS CASE IS WHETHER THE
7 OTHER ELEMENTS -- THE FIRST QUESTION IN THIS CASE, WHICH
8 I ACTUALLY WILL ARGUE IS THE SECONDARY QUESTION -- I'LL
9 GET TO THE PRIMARY QUESTION IN A MOMENT -- BUT THE FIRST
10 QUESTION IN THIS CASE IS ON THE FACTUAL LEVEL: WILL
11 MR. GUIDO ESTABLISH HIS BURDEN OF PROOF -- BECAUSE IT IS
12 HIS BURDEN OF PROOF IN THE PROCEEDING -- WILL HE SATISFY
13 THAT BURDEN OF PROOF ON ALL OF THE ELEMENTS IN ESTOPPEL?

14 AND WE'LL SEE. WE'LL SEE HOW THE EVIDENCE
15 UNFOLDS.

16 I BELIEVE -- I SAY BELIEVE BECAUSE WE DON'T
17 HAVE DEPOSITIONS NORMALLY IN THESE PROCEDURES SO A LOT
18 OF THESE FACTS WILL COME OUT FOR THE FIRST TIME IN THIS
19 HEARING -- BUT I BELIEVE THAT THE EVIDENCE WILL BE
20 DEFICIENT ON AT LEAST A COUPLE OF THE ELEMENTS OF
21 ESTOPPEL IN TERMS OF WHAT MR. GUIDO KNEW OR SHOULD HAVE
22 KNOWN, AND THEN IN TERMS OF WHAT HE ACTUALLY DID DO TO
23 RELY ON THAT INFORMATION AND THE ALLEGED ACTIONS THAT HE
24 CLAIMS HE WOULD HAVE TAKEN OR COULD HAVE TAKEN HAD HE
25 HAD DIFFERENT INFORMATION.

1 WE'LL WAIT AND SEE HOW THE EVIDENCE PLAYS OUT.
2 IT IS OUR POSITION THAT HE WILL FAIL TO CARRY HIS BURDEN
3 OF PROOF ON SOME OF THE ELEMENTS OF ESTOPPEL EVEN THOUGH
4 HE WILL BE ABLE TO SHOW THAT HE RECEIVED BAD
5 INFORMATION.

6 SO BEYOND THAT, THIS CASE IS REALLY PRIMARILY
7 A LEGAL CASE. AT THE END OF THE DAY, AS A MATTER OF LAW
8 MR. GUIDO IS NOT ENTITLED TO ESTOPPEL BECAUSE APPLYING
9 ESTOPPEL HERE WOULD EXPAND HIS STATUTORY RIGHTS TO GIVE
10 HIM SOMETHING THAT HE WOULD NOT OTHERWISE HAVE BASED ON
11 HIS SERVICE.

12 IN THE OPENING STATEMENT, WE JUST HEARD WORDS
13 LIKE "FORMALLY" AND "TECHNICALLY." AND I WOULD SUBMIT
14 TO YOUR HONOR THAT THOSE ARE COUNSEL'S SHORTHAND FOR
15 WHAT REALLY MATTERS, WHICH IS LEGALLY. THAT'S WHAT
16 WE'RE DEALING WITH HERE. AND WE WILL EXPLAIN IN THE
17 POST-TRIAL BRIEFING.

18 I BELIEVE MOST OF THIS CASE WILL BE DEALT WITH
19 IN THE POST-TRIAL BRIEFING BECAUSE I BELIEVE IT'S MOSTLY
20 LEGAL MATTERS. AND WE WILL BRIEF FOR YOUR HONOR WHY IT
21 IS THAT EVEN IF MR. GUIDO DOES MEET HIS BURDEN OF PROOF
22 ON THE ELEMENTS OF ESTOPPEL, ESTOPPEL IS STILL NOT
23 AVAILABLE TO HIM.

24 IT'S A MATTER OF PUBLIC POLICY -- IT'S WELL
25 ESTABLISHED IN CALIFORNIA LAW -- THE IDEA THAT IF EVERY

1 TIME GOVERNMENT MADE A MISTAKE PEOPLE WERE ABLE TO
2 BENEFIT FROM THAT MISTAKE, THE LAWS WOULDN'T HAVE
3 MEANING ANYMORE AND THE LAW WOULD BE -- PEOPLE'S RIGHTS
4 WOULDN'T BE BASED ON WHAT THE LAW SAYS.

5 IT WOULD BE BASED ON WHAT THEY HEARD FROM A
6 GOVERNMENT OFFICIAL OR WHAT APPEARED IN A GOVERNMENT
7 DOCUMENT BY MISTAKE.

8 PUT SIMPLY, IT'S PART OF THE DEAL OF PUBLIC
9 EMPLOYMENT. PUBLIC EMPLOYEES GET A LOT OF THINGS THAT
10 PRIVATE EMPLOYEES DON'T GET, AND THEY DON'T GET SOME OF
11 THE THINGS THAT PRIVATE EMPLOYEES DO GET. THAT'S JUST
12 PART OF THE DEAL.

13 AND BECAUSE IT'S TAXPAYER MONEY, BECAUSE IT'S
14 PUBLIC MONEY, THE RULES ARE DIFFERENT. WE WILL BE
15 PUTTING THAT IN POST-TRIAL BRIEFING.

16 OTHERWISE, I THINK IN TERMS OF THE TESTIMONY
17 AND THE DOCUMENTS, IT WILL BE BEFORE YOUR HONOR, AND
18 WE'LL SEE HOW IT UNFOLDS. AND I WOULD JUST REMIND THE
19 COURT THAT IT IS MR. GUIDO'S BURDEN OF PROOF.

20 THE COURT: OKAY. THANK YOU.

21 MS. DANIEL, WOULD YOU LIKE TO ADD?

22 MS. DANIEL: NO. THE CITY WAIVES.

23 THE COURT: OKAY. THANK YOU.

24 OKAY. MR. JENSEN, YOU MAY BEGIN PRESENTING
25 YOUR EVIDENCE.

1 MR. JENSEN: WE'D LIKE TO CALL VINCENT YU.

2 THE COURT: COME ON UP AND HAVE A SEAT.

3 ONCE YOU GET SETTLED, THE COURT REPORTER WILL SWEAR

4 YOU IN.

5

6 VINCENT YU,

7 CALLED AS A WITNESS, AND SWORN IN BY

8 THE REPORTER, WAS EXAMINED AND

9 TESTIFIED AS FOLLOWS:

10

11 COURT REPORTER: YOU DO SOLEMNLY SWEAR THAT

12 THE TESTIMONY YOU SHALL GIVE IN THIS MATTER SHALL BE THE

13 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

14 THE WITNESS: I WILL.

15 THE COURT: AND GOOD MORNING.

16 THE WITNESS: GOOD MORNING.

17 THE COURT: FOR THE RECORD, WOULD YOU

18 PLEASE STATE AND SPELL YOUR NAME.

19 THE WITNESS: MY NAME IS VINCENT YU,

20 V-I-N-C-E-N-T; LAST NAME IS SPELLED Y-U. VINCENT IS

21 MY MIDDLE NAME, BUT THAT'S WHAT I NORMALLY GO BY.

22 THE COURT: OKAY. THANK YOU.

23 ALL RIGHT. WHEN YOU'RE READY, MR. JENSEN.

24 MR. JENSEN: THANK YOU, YOUR HONOR.

25 ///

1 DIRECT EXAMINATION

2 BY MR. JENSEN:

3 Q. GOOD MORNING, MR. YU.

4 A. GOOD MORNING.

5 Q. THANK YOU FOR BEING HERE THIS MORNING.

6 A. SURE.

7 Q. CAN YOU TELL US WHAT YOUR -- WHAT YOU DO AS
8 PAID EMPLOYMENT?

9 A. I HAVE TWO JOBS ACTUALLY. MY FULL-TIME
10 WORK, I AM AN EMPLOYEE OF LOS ANGELES COUNTY
11 DEPARTMENT OF PUBLIC WORKS. AND MY OTHER EMPLOYMENT
12 IS I AM A CITY COUNCIL MEMBER. I'M THE CURRENT MAYOR
13 OF THE CITY OF TEMPLE CITY.

14 Q. GREAT. AND HOW LONG HAVE YOU WORKED AT THE
15 LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS?

16 A. I STARTED IN 2002. DO YOU NEED THE MONTH?

17 Q. NO.

18 AND WHAT DO YOU DO AT THE DEPARTMENT OF PUBLIC
19 WORKS?

20 A. I AM AN ARCHITECT BY PROFESSION, BUT
21 CURRENTLY I AM DOING PROJECT MANAGEMENT. I OVERSEE A
22 SECTION OF PROJECT MANAGERS BUILDING BUILDINGS FOR
23 THE COUNTY OF LOS ANGELES.

24 Q. WONDERFUL. AND WHEN DID YOU BEGIN YOUR
25 ELECTED TENURE AT THE CITY?

1 A. I WAS ELECTED TO TEMPLE CITY CITY COUNCIL
2 MARCH 3, 2009.

3 Q. AND WHEN DID YOU BECOME MAYOR OF TEMPLE
4 CITY?

5 A. I BECAME MAYOR EARLIER THIS YEAR AND ALSO
6 IN MARCH. I DON'T REMEMBER THE EXACT DATE. IN OUR
7 FORM OF GOVERNMENT, WE ESSENTIALLY SORT OF ROTATE IN.
8 ESSENTIALLY THE CITY COUNCIL MEMBERS WOULD VOTE TO
9 SEE WHO WOULD BECOME MAYOR THAT YEAR.

10 SO IT'S NOT BY DIRECT ELECTION. SO EARLIER
11 THIS MARCH, I WAS ELECTED IN BY THE REST OF THE CITY
12 COUNCIL MEMBERS TO BECOME THE MAYOR.

13 Q. CONGRATULATIONS.

14 WHEN DID YOU FIRST BECOME ACQUAINTED WITH FRED
15 GUIDO?

16 A. I REALLY DON'T REMEMBER THE EXACT YEAR
17 BECAUSE MY ROLE AS AN ARCHITECT -- IT'S BEEN QUITE A
18 FEW. DEFINITELY I WOULD SAY BY 2006, 2007 WHEN FRED
19 CAME TO PUBLIC WORKS -- WELL, WE KNEW FRED FROM WAY
20 BACK AS A COUNTY EMPLOYEE.

21 BUT WHEN HE CAME TO PUBLIC WORKS, HE WAS HEAD
22 OF THE FACILITIES MANAGEMENT. AND BEING AN ARCHITECT,
23 ME AND MY STAFF HAD THE OPPORTUNITY TO WORK FOR
24 MR. GUIDO TO TAKE CARE OF VARIOUS PUBLIC WORKS
25 FACILITIES.

1 Q. AND GIVE ME JUST A QUICK BACKGROUND ON YOUR
2 ELECTION TO THE TEMPLE CITY CITY COUNCIL.

3 A. I WAS -- I HAD BEEN FOR SIX YEARS A
4 PLANNING COMMISSIONER AT THE CITY OF TEMPLE CITY.
5 AND TEMPLE CITY HAS GONE THROUGH A SHARE OF TROUBLES,
6 SO TO SPEAK, LONG BEFORE BELL. WE HAVE HAD A LOT OF
7 IRREGULARITIES, IN MY OPINION, IN MY CITY.

8 AND AS A RESULT OF THAT, A NUMBER OF
9 COUNCILMEN -- COUNCIL MEMBERS HAD KNOWN THAT THEY HAD TO
10 RESIGN. ONE WAS -- ONE HAS A MISDEMEANOR. TWO HAD
11 FELONY CHARGES OF CORRUPTION. A COUPLE OF THEM WENT TO
12 JAIL. ONE IS STILL IN JAIL. AND THERE HAD BEEN A LOT
13 OF ISSUES WITH MY CITY.

14 SO SORT OF RELUCTANTLY IN 2009 -- WELL, BACK
15 IN 2008, I WANTED TO -- A NUMBER OF US WANTED TO FIX THE
16 CITY, SO TO SPEAK. AND ONE OF MY GOALS AT THE TIME --
17 WELL, AT THE TIME WE HAD THE CITY MANAGER AND CITY
18 ATTORNEY WEARING THE SAME HAT -- I.E., THE SAME PERSON
19 BEING THE CITY ATTORNEY AND CITY MANAGER.

20 THAT REALLY WASN'T A VERY GOOD PRACTICE. SO
21 ONE OF MY GOALS LEADING UP TO THE 2009 ELECTION WAS
22 TO -- EVEN THOUGH I'M BUSY AS A FULL-TIME EMPLOYEE OF
23 THE COUNTY, I WANTED TO HELP WITH THE SITUATION AND RUN
24 FOR CITY COUNCIL.

25 Q. AND WITHIN THE CONTEXT OF -- WELL, AT THIS

1 TIME, DID YOU RUN -- IN THIS 2009 PERIOD, DID YOU RUN
2 INTO FRED GUIDO?

3 A. OH, YEAH. FRED AND I -- MR. GUIDO AND I
4 HAD WORKED ON VARIOUS PROJECTS TOGETHER AT THE COUNTY
5 AT THE DEPARTMENT OF PUBLIC WORKS, AND I KNEW OF
6 MR. GUIDO'S PAST EXPERIENCES: COUNCIL MEMBER, MAYOR,
7 AND ALSO CHIEF DEPUTY OF THE BOARD OFFICE.

8 SO IN PASSING, YOU KNOW, I ASKED MR. GUIDO FOR
9 ADVICE HOW TO RUN A CAMPAIGN, HOW TO -- OH, FIRST OF
10 ALL, WHETHER I SHOULD RUN OR NOT, THE MORE ESSENTIAL
11 QUESTION.

12 I MEAN, BASICALLY I'M LOOKING TO MR. GUIDO AS
13 SOMEBODY A LOT MORE EXPERIENCED, AS A MENTOR OF SORTS,
14 EVEN THOUGH WE NEVER REALLY HAD THAT KIND OF FORMAL
15 ARRANGEMENT.

16 BUT EVERY TIME I TALKED TO MR. GUIDO, I WOULD
17 ALWAYS SEEK HIS ADVICE. BECAUSE HE'S -- I'M A ROOKIE IN
18 POLITICS, BUT HE'S BEEN IN THE FIELD A LONG TIME, LONG
19 BEFORE I HAVE.

20 AND YOU HAVE TO UNDERSTAND, AT THE TIME, 2007,
21 2008, TEMPLE CITY I -- BECAUSE OF THE -- BECAUSE IT WAS
22 REALLY A MESS AT CITY HALL TEMPLE CITY, I REALLY HAD
23 NO -- I REALLY DON'T HAVE TOO MANY PEOPLE TO TURN TO TO
24 ASK REALLY SERIOUS QUESTIONS.

25 SO I -- I MEAN, I HAVE TALKED TO MR. GUIDO A

1 FEW TIMES TO SEEK HIS ADVICE OR HIS OPINIONS ON ITEMS
2 REGARDING THE CITY.

3 Q. AND AT SOME POINT, DID YOU APPROACH
4 MR. GUIDO ABOUT FILLING POSITIONS IN THE CITY --
5 TEMPLE CITY?

6 A. WELL, 2000 -- AFTER MARCH 2009, I WAS
7 ELECTED TO CITY COUNCIL, ME AND ANOTHER COUNCIL
8 MEMBER. ONE OF MY FIRST GOALS WAS TO RELIEVE THE
9 THEN-CITY MANAGER OF HIS DUTIES. AS A MATTER OF
10 FACT, MARCH OF -- NO, MAY 5, WE HAVE RELIEVED
11 MR. CHARLIE MARTIN OF HIS DUTY AS THE CITY MANAGER.

12 SO AROUND THAT TIME, I HAVE TALKED TO
13 MR. GUIDO ABOUT THE POSSIBILITY OF -- I THINK IT'S
14 AROUND THAT TIME I THINK HE WAS -- I DON'T REMEMBER THE
15 EXACT DATE, TO BE HONEST, BUT HE WAS CONTEMPLATING
16 RETIREMENT.

17 BEFORE AND AFTER -- I THINK EVEN BEFORE HE WAS
18 RETIRED -- DEFINITELY BEFORE HE WAS RETIRED, I WAS
19 TALKING TO HIM. I SAID -- I MEAN, IT GOES BACK TO THE
20 IDEA THAT I REALLY DIDN'T HAVE TOO MANY PEOPLE TO TURN
21 TO BECAUSE I CANNOT TRUST ANY CITY STAFF AT THE TIME. I
22 DON'T KNOW WHO TO TRUST.

23 SO I DID ASK MR. GUIDO IF AFTER HIS RETIREMENT
24 IF HE WOULD BE INTERESTED TO COME TO CITY, TEMPLE CITY,
25 TO WORK AS AN ADMINISTRATOR TO HELP ME OUT, HELP THE NEW

1 CITY COUNCIL OUT IN THAT TRANSITION PERIOD.

2 Q. AND WERE YOU AWARE WHETHER TEMPLE CITY WAS
3 A CALPERS-CONTRACTING AGENCY?

4 A. OH, YEAH, I WAS. AS SOON AS I WAS -- WELL,
5 I ALWAYS KNEW THAT, BUT AS SOON AS I WAS INSTALLED AS
6 A CITY COUNCIL MEMBER, I PERSONALLY JOINED THE
7 CALPERS AS WELL.

8 Q. WERE YOU AWARE OF WHETHER THE POSITION YOU
9 WERE OFFERING OR YOU OFFERED MR. GUIDO WAS A
10 CALPERS -- WAS SUBJECT TO CALPERS?

11 A. NO. WE REALLY DID NOT GET INTO SUCH
12 DETAIL. BUT HAD -- YOU KNOW, WE REALLY NEVER GOT
13 DOWN TO THE EMPLOYMENT TERMS. BUT HAD IT BEEN -- HAD
14 HE COME ONBOARD AS A FULL-TIME PERSON, I'M SURE WE
15 WOULD HAVE TO DEAL WITH THAT.

16 Q. AND LET ME ASK YOU, IN YOUR UNDERSTANDING,
17 WHAT WAS MR. GUIDO'S REPUTATION THAT MADE HIM
18 ATTRACTIVE TO YOU?

19 A. MR. GUIDO WAS ALWAYS KNOWN AMONG US, THE
20 COUNTY FOLKS, AS SOMEBODY WHO WAS VERY KNOWLEDGEABLE,
21 AND HE KNOWS HOW -- AND ALSO WORKING WITH HIM
22 PROFESSIONALLY, EVEN THOUGH HE WAS -- WE WERE REALLY
23 DEALING MORE WITH THE FACILITY SIDE.

24 HE IMPRESSED ME AS SOMEBODY WHO WAS VERY
25 ANALYTICAL AND KNOWS -- AND CAN REALLY THINK THINGS

1 THROUGH INSTEAD OF JUST THE ISSUES AT HAND. HE'S ALSO
2 LOOKING AT THE LONG-TERM POLITICAL IMPLICATIONS OF
3 THINGS.

4 SO THAT'S WHY I HAD ASKED MR. GUIDO FOR HELP
5 WHEN I WAS RUNNING AND ALSO AFTER I BECAME A COUNCILMAN.

6 Q. AND WERE YOU AWARE OF WHETHER -- OTHER
7 PEOPLE WHO THOUGHT THAT MR. GUIDO WAS AN ATTRACTIVE
8 POTENTIAL CANDIDATE FOR OTHER CITIES?

9 A. I'M --

10 Q. WAS MR. GUIDO WELL-KNOWN IN YOUR EXPERIENCE
11 AMONGST OTHER CITIES THAT WERE CALPERS CONTRACTING
12 CITIES?

13 MR. RIEGER: OBJECTION; VAGUE.
14 FOUNDATION.

15 THE COURT: SUSTAINED.

16 BY MR. JENSEN:

17 Q. DID YOU -- WERE YOU AWARE OF OTHER
18 INDIVIDUALS AT OTHER -- WERE YOU AWARE OF MR. GUIDO'S
19 REPUTATION AMONG -- AMONG -- WELL, LET ME JUST
20 RESTATE IT.

21 WERE YOU AWARE OF OTHER INDIVIDUALS THAT WERE
22 INTERESTED IN MR. GUIDO, TO HIRE MR. GUIDO?

23 A. I WAS AWARE --

24 MR. RIEGER: OBJECTION; FOUNDATION.
25 SPECULATION.

1 THE COURT: YOU CAN ANSWER YES OR NO.

2 THE WITNESS: NO.

3 BY MR. JENSEN:

4 Q. AND DID YOU HAVE THE POWER TO HIRE
5 MR. GUIDO AT THAT TIME?

6 A. NO, SIR. I AM ONE OF THE FIVE CITY COUNCIL
7 MEMBERS.

8 Q. HOWEVER, IN YOUR OPINION, WOULD -- HAD
9 MR. GUIDO EXPRESSED INTEREST, DO YOU THINK THAT HE
10 WOULD HAVE BEEN HIRED FOR THAT POSITION --

11 MR. RIEGER: OBJECTION; CALLS FOR
12 SPECULATION.

13 BY MR. JENSEN:

14 Q. -- AS CITY MANAGER?

15 THE COURT: HOLD ON. ALL RIGHT. LET HIM
16 FINISH THE QUESTION BEFORE --

17 MR. RIEGER: I APOLOGIZE.

18 THE COURT: -- SO YOU GUYS DON'T SPEAK AT
19 THE SAME TIME.

20 MR. RIEGER: OKAY.

21 THE COURT: OKAY.

22 MR. JENSEN: LET ME JUST REPHRASE IT.

23 THE COURT: ALL RIGHT.

24 BY MR. JENSEN:

25 Q. IN YOUR EXPERIENCE, IN YOUR KNOWLEDGE, DO

1 YOU THINK THAT HAD MR. GUIDO BEEN INTERESTED THAT HE
2 WOULD HAVE BEEN HIRED AT THE CITY OF TEMPLE CITY IN A
3 CALPERS POSITION?

4 MR. RIEGER: OBJECTION; CALLS FOR
5 SPECULATION. FOUNDATION.

6 THE COURT: SUSTAINED ON BOTH.

7 BY MR. JENSEN:

8 Q. IN YOUR EXPERIENCE, WHAT IS THE PROCESS FOR
9 HIRING A CITY MANAGER?

10 A. WELL, AS A MATTER OF FACT, WE'VE GONE
11 THROUGH THAT AFTER WE RELIEVED THE THEN-CITY MANAGER
12 OF HIS DUTIES.

13 WELL, GENERALLY IT'S A RECRUITMENT AND THEN
14 INTERVIEW PROCESS AND THEN THE CITY COUNCIL MEMBERS
15 WOULD INTERVIEW EACH CANDIDATE AND THEN EVENTUALLY WE'LL
16 PUT THAT TO A VOTE.

17 Q. AND WHO WAS HIRED TO REPLACE THE CITY
18 MANAGER WHO WAS RELIEVED?

19 A. MR. JOSE PULIDO WAS HIRED. HE CAME ONBOARD
20 OCTOBER 6, 2009.

21 Q. AND IS HE CURRENTLY IN A CALPERS --

22 A. YES.

23 Q. -- POSITION?

24 AND DID YOU ENCOURAGE MR. GUIDO TO APPLY FOR
25 CITY MANAGER TO -- FOR THE CITY MANAGER POSITION AT THE

1 CITY -- TEMPLE CITY?

2 A. YES. I'VE TALKED TO MR. GUIDO SEVERAL
3 TIMES ABOUT THAT.

4 MR. JENSEN: OKAY, YOUR HONOR. NO FURTHER
5 QUESTIONS.

6 THE COURT: OKAY. THANK YOU.

7 MR. RIEGER, DO YOU HAVE ANY QUESTIONS?

8 MR. RIEGER: I DO, YOUR HONOR.

9

10 CROSS-EXAMINATION

11 BY MR. RIEGER:

12 Q. THANK YOU FOR BEING HERE, MR. YU.

13 A. SURE. NO PROBLEM, MR. RIEGER.

14 Q. IN YOUR DIRECT TESTIMONY YOU TALKED ABOUT A
15 PROCESS INVOLVING RECRUITMENT AND INTERVIEWS?

16 A. UH-HUH.

17 Q. IS THAT RIGHT?

18 A. CORRECT.

19 Q. WAS THERE ANY OTHER PART OF THAT PROCESS TO
20 HIRE THE CITY MANAGER ASIDE FROM -- WELL, ACTUALLY,
21 LET ME BREAK THIS DOWN.

22 WHAT'S INVOLVED IN RECRUITMENT?

23 A. WELL, RECRUITMENT WOULD -- FIRST OF ALL, WE
24 HIRE A RECRUITMENT PERSON TO REPRESENT US, AND WE
25 PLACE ADS IN A MAGAZINE OF WESTERN CITIES.

1 Q. APPROXIMATELY WHAT TIME FRAME DID YOU DO
2 THAT AS PART OF YOUR CITY MANAGER SEARCH IN 2009?

3 A. I DON'T REMEMBER THE EXACT DATE, BUT I
4 IMAGINE IT WAS ABOUT JUNE OR SO OR SHORTLY AFTER WE
5 RELIEVED MR. MARTIN OF HIS DUTIES AS A CITY MANAGER.
6 AND HE WAS RELIEVED MARCH -- I'M SORRY -- MAY 5, SO I
7 IMAGINE SHORTLY AFTER THAT.

8 Q. OKAY. SO THERE WOULD HAVE BEEN ADS PLACED
9 IN ABOUT JUNE 2009 TO ADVERTISE THE POSITION AND
10 ENCOURAGE CANDIDATES TO APPLY; IS THAT ABOUT RIGHT?

11 A. YES, I WOULD SAY SO.

12 Q. WHAT WOULD BE THE NEXT STEP IN THE
13 RECRUITMENT PROCESS?

14 A. IT WOULD BE TO HAVE THE RECRUITMENT PERSON
15 TALK TO THE PROSPECTIVE CANDIDATES AND MAKE A
16 RECOMMENDATION TO US, ALTHOUGH WE HAVE -- AS COUNSEL
17 MEMBERS WE HAVE FULL ACCESS TO ALL THE APPLICATIONS.

18 IT'S NOT LIKE HE -- I MEAN, HE SORT OF DOES
19 THE SCREENING AND MAKES HIS RECOMMENDATION, BUT WE ALSO
20 REVIEW THEM AND ALSO INTERACT WITH THIS RECRUITMENT
21 PERSON.

22 Q. AND THE RECRUITMENT PERSON IS AN OUTSIDE --

23 A. YES.

24 Q. -- CONSULTANT?

25 A. YES.

1 Q. JUST PLEASE LET ME FINISH THE SENTENCE, IF
2 YOU CAN.

3 A. YES. I'M SORRY.

4 Q. MOSTLY FOR THE COURT REPORTER.

5 A. YES.

6 Q. DO YOU RECALL WHEN THIS OUTSIDE RECRUITER
7 WOULD HAVE CONDUCTED THIS SCREENING PROCESS FOR THE
8 CITY MANAGER POSITION IN 2009?

9 A. PROBABLY ABOUT AUGUST OR SO, AUGUST,
10 SEPTEMBER.

11 Q. AND WAS THAT ABOUT THE SAME TIME FRAME --

12 A. WAIT A MINUTE. LET ME BACKTRACK A LITTLE,
13 IF I MAY. BECAUSE HE CAME ONBOARD ABOUT OCTOBER, AND
14 HE NEEDED FOUR WEEKS. SO PROBABLY AUGUST, SEPTEMBER;
15 YES.

16 Q. AND WAS THAT ABOUT THE SAME TIME FRAME YOU
17 MAY HAVE ALSO BEEN REVIEWING CANDIDATES?

18 A. YES.

19 Q. SO DID THOSE CANDIDATE APPLICATIONS --
20 ABOUT WHAT TIME FRAME DID THOSE COME IN?

21 A. I DON'T REMEMBER. PROBABLY IN AUGUST.

22 Q. CERTAINLY LATER THAN JUNE; WOULD THAT BE
23 FAIR?

24 A. THAT WOULD BE FAIR, YES.

25 Q. AND THAT WOULD BE CERTAINLY LATER THAN

1 JUNE 2009?

2 A. RIGHT.

3 Q. WHAT WOULD HAVE BEEN THE NEXT STEP IN THE
4 RECRUITMENT PROCESS?

5 A. IT IS FOR THE CITY TO CONDUCT INTERVIEWS
6 BETWEEN THE CANDIDATES. THE CITY COUNCIL WOULD
7 INTERVIEW THE CANDIDATES.

8 Q. AND HOW DOES THAT HAPPEN?

9 A. WELL, WE MAKE ARRANGEMENTS FOR EACH OF THEM
10 TO COME IN.

11 WELL, FIRST IT'S A PROCESS BETWEEN THE
12 RECRUITER AND THE CITY COUNCIL. AND THEN WE HAVE A
13 MEETING, AND THEN WE ZERO INTO THE LAST TWO OR THREE
14 CANDIDATES, MAYBE FIVE -- I'VE FORGOTTEN THE NUMBER --
15 AND HAVE TWO SUBSEQUENT INTERVIEWS WITH THE CITY COUNCIL
16 AND THE CANDIDATES.

17 Q. SO DO YOU HOLD A CLOSED SESSION, PERSONNEL
18 EXCEPTION --

19 A. YES.

20 Q. THE CITY COUNCIL OPERATES UNDER THE BROWN
21 ACT; ARE YOU FAMILIAR WITH THAT?

22 A. YES.

23 Q. THE RALPH M. BROWN ACT?

24 A. YES.

25 Q. AND WHAT DOES THE RALPH M. BROWN ACT

1 REQUIRE?

2 A. NOTICE, AS YOU WERE POINTING OUT, AND ALSO
3 THE CITY COUNCIL MEMBERS NOT DISCUSS, AT LEAST THE
4 MAJORITY OF THEM, NOT DISCUSS THINGS AMONG
5 THEMSELVES.

6 Q. SO BASICALLY, THE CITY COUNCIL HAS TO
7 CONDUCT ITS BUSINESS IN PUBLICLY AGENDIZED AND
8 NOTICED MEETINGS?

9 A. ABSOLUTELY.

10 Q. AND THEN THERE'S A PERSONNEL EXCEPTION THAT
11 ALLOWS THE CITY COUNCIL TO MEET BEHIND CLOSED DOORS
12 IN ORDER TO CONSIDER EMPLOYMENT MATTERS; IS THAT
13 RIGHT?

14 A. THAT'S CORRECT.

15 Q. AND SO WERE THESE MEETINGS OF THE CITY
16 COUNCIL FOR RECRUITING A NEW CITY MANAGER HELD IN
17 CLOSED SESSION JUST LIKE A PERSONNEL SESSION?

18 A. YES. UH-HUH.

19 THE COURT: IS THAT YES?

20 THE WITNESS: YES.

21 BY MR. RIEGER:

22 Q. SO INITIALLY, IT WOULD HAVE BEEN A
23 WINNOWING DOWN OF THE CANDIDATES WITH THE RECRUITER;
24 IS THAT RIGHT?

25 A. YES.

1 Q. AND THEN YOU WOULD HAVE HAD FURTHER
2 CLOSED-MEETING SESSIONS TO INTERVIEW THE CANDIDATES;
3 IS THAT RIGHT?

4 A. RIGHT.

5 Q. AND THEN ULTIMATELY, THE HIRING OF THE
6 CANDIDATE AND THE DECISION TO ACTUALLY HIRE AND ENTER
7 INTO A CONTRACT WOULD HAVE OCCURRED IN OPEN SESSION?

8 A. THE DISCUSSION WOULD HAVE TAKEN PLACE IN
9 THE CLOSED SESSION WHEN THE DECISION WAS MADE. BUT
10 THE EMPLOYMENT CONTRACT AND THE EVENTUAL APPROVAL OF
11 THE EMPLOYMENT CONTRACT WAS DONE IN OPEN SESSION.

12 Q. AND HOW MANY PEOPLE SIT ON THE CITY
13 COUNCIL?

14 A. FIVE.

15 Q. AND DOES IT OPERATE BY MAJORITY VOTE?

16 A. YES.

17 Q. ARE YOU ONE OF THOSE CITY COUNCIL MEMBERS?

18 A. YES.

19 Q. SO IT WOULD HAVE REQUIRED AT LEAST TWO
20 OTHER CITY COUNCIL MEMBERS TO AGREE TO HIRE MR. GUIDO
21 IN ORDER FOR HIM TO GET THE JOB; IS THAT RIGHT?

22 A. THAT IS CORRECT.

23 Q. IF MR. GUIDO HAD APPLIED FOR THE CITY
24 MANAGER POSITION IN JUNE OF 2009, WOULD YOU HAVE
25 CONSIDERED HIS APPLICATION?

1 A. YES, WE CERTAINLY WOULD HAVE.

2 Q. WOULD HE HAVE BEEN CONSIDERED ON EQUAL
3 FOOTING -- LET ME REPHRASE THAT.

4 WOULD HE HAVE BEEN TREATED FAIRLY AS COMPARED
5 TO THE OTHER APPLICANTS IF HE HAD SUBMITTED AN
6 APPLICATION FOR THE CITY MANAGER POSITION IN JUNE OF
7 2009?

8 A. I THINK SO. I THINK SO. HE'S WELL-KNOWN
9 IN THE COMMUNITY AND THE COUNTY, AND THREE OF THE
10 FIVE COUNCIL MEMBERS HAVE IN ONE WAY OR ANOTHER
11 ASSOCIATED WITH THE COUNTY OF LOS ANGELES. THAT'S
12 COUNTING MYSELF AND TWO OTHERS.

13 Q. SO IF MR. GUIDO HAD APPLIED IN JUNE OF
14 2009, I ASSUME HE WOULD HAVE BEEN PUT THROUGH THE
15 SAME RECRUITMENT PROCESS THAT YOU JUST DESCRIBED?

16 A. ABSOLUTELY.

17 Q. AND HE WOULD HAVE BEEN GIVEN DUE
18 CONSIDERATION BY THE COUNCIL?

19 (THE WITNESS NODDED.)

20 BY MR. RIEGER:

21 Q. THERE WOULD HAVE BEEN INTERVIEWS CONDUCTED
22 OF HIM?

23 (THE WITNESS NODDED.)

24 BY MR. RIEGER:

25 Q. YOU HAVE TO ANSWER VERBALLY.

1 A. YES, YES. I'M SORRY.

2 Q. DID ANY OF THIS RECRUITMENT PROCESS HAPPEN
3 WITH MR. GUIDO?

4 A. NO.

5 Q. WHY NOT?

6 A. I DON'T REMEMBER THE EXACT DATES, BUT I
7 THINK SOMEWHERE AROUND MAY, JUNE, SOMEWHERE IN THERE,
8 I BELIEVE MR. GUIDO TOLD ME THAT HE WAS NOT
9 INTERESTED IN COMING TO TEMPLE CITY, SO I DID NOT
10 PURSUE THAT ANYMORE.

11 Q. IF HE HAD COME BACK TO YOU A MONTH AFTER
12 SAYING THAT AND SAID, "I'VE CHANGED MY MIND; I AM
13 INTERESTED," WOULD YOU HAVE CONSIDERED HIS
14 APPLICATION?

15 A. OH, CERTAINLY. BECAUSE TO BE FAIR TO ALL
16 CANDIDATES, I MEAN, WE WOULD HAVE TO CONSIDER ANYBODY
17 THAT APPLIED.

18 Q. SO HIS INITIAL STATEMENT TO YOU THAT HE
19 WOULD NOT BE APPLYING WOULD NOT HAVE PRECLUDED HIM
20 FROM APPLYING LATER; IS THAT RIGHT?

21 A. NOT FROM THE CITY'S POINT OF VIEW; NO.

22 Q. I'M SORRY. I'M PRETTY SURE YOU ALREADY
23 TESTIFIED TO THIS. I JUST WANT TO MAKE SURE I HEARD
24 IT.

25 DID YOU SAY -- WERE THERE ANY DISCUSSIONS WITH

1 MR. GUIDO -- BETWEEN YOU AND MR. GUIDO ABOUT
2 RECIPROCITY?

3 A. YES.

4 Q. THERE WERE. WHAT WERE THOSE DISCUSSIONS?

5 A. I THINK MR. GUIDO TOLD ME THAT THERE HAD
6 BEEN SOME KIND OF RECIPROCITY BETWEEN CALPERS AND
7 L.A.C.E.R.A.

8 Q. DO YOU RECALL ANYTHING ELSE ABOUT THAT
9 CONVERSATION OR ABOUT WHY YOU WERE TALKING ABOUT
10 THAT?

11 A. YEAH. I THINK THAT WAS THE TIME WHEN I
12 WAS -- EVEN BEFORE I WAS -- WHEN I WAS IN -- I WAS
13 CAMPAIGNING FOR MY POSITION, AND I MENTIONED
14 SOMETHING TO MR. GUIDO.

15 AND HE SAID, "VINCE, YOU KNOW, THERE ARE" --
16 HE BELIEVED AT THE TIME THERE WAS RECIPROCITY BETWEEN
17 THE TWO SYSTEMS.

18 Q. WAS THIS IN CONNECTION WITH YOUR
19 DISCUSSIONS ABOUT HIM BECOMING THE CITY MANAGER OR --

20 A. NO. NO. THAT WAS IN RELATIONSHIP TO ME
21 RUNNING FOR CITY OFFICE BECAUSE I'M ON L.A.C.E.R.A.

22 Q. OKAY. DID YOU HAVE ANY DISCUSSIONS IN THE
23 CONTEXT -- LET ME BACK UP.

24 DID THE CONCEPT OF RECIPROCITY ARISE IN YOUR
25 DISCUSSIONS WITH MR. GUIDO WHEN YOU WERE TALKING TO HIM

1 ABOUT THE CITY MANAGER POSITION AT TEMPLE CITY?

2 A. NO, NOT IN REGARDS TO TEMPLE CITY. BECAUSE
3 THE DISCUSSION OF RECIPROCITY TOOK PLACE BEFORE I
4 BECAME A COUNCIL MEMBER.

5 Q. ARE YOU FAMILIAR WITH THE REQUIREMENT OF
6 RECIPROCITY, THAT YOU HAVE TO JOIN YOUR RECIPROCAL
7 AGENCY WITHIN SIX MONTHS OF LEAVING YOUR OLD AGENCY?

8 A. I CAN'T SAY I'M TOTALLY FAMILIAR WITH THAT,
9 BUT I HEARD ABOUT IT.

10 Q. OKAY. DID YOU EVER DISCUSS THAT
11 REQUIREMENT WITH MR. GUIDO?

12 A. NO.

13 Q. ARE YOU FAMILIAR WITH THE RULE THAT
14 PRECLUDES RECIPROCITY WHEN SERVICE IS CONCURRENT
15 BETWEEN TWO RETIREMENT SYSTEMS? IN OTHER WORDS,
16 YOU'RE WORKING FOR BOTH AT THE SAME TIME AND NEVER
17 LEFT EITHER?

18 A. ACTUALLY, I'VE NEVER LOOKED THAT UP, BUT I
19 KIND OF HEARD. PEOPLE TOLD ME THAT.

20 Q. DID YOU HAVE ANY DISCUSSION WITH MR. GUIDO
21 ABOUT THAT?

22 A. NO.

23 Q. HOW MANY CANDIDATES APPLIED FOR THE CITY
24 MANAGER POSITION IN 2009?

25 A. I BELIEVE THERE WERE ABOUT 20 -- 18 TO 20

1 CANDIDATES.

2 Q. AND THEN THE CITY COUNCIL NARROWED THAT
3 DOWN TO TWO FOR INTERVIEWS?

4 A. WE NARROWED IT DOWN TO FIVE. AND THEN OF
5 THE FIVE, WE WHITTLED IT DOWN TO TWO AND THEN HAD THE
6 SECOND INTERVIEWS.

7 Q. OKAY. SO THERE WAS A FIRST ROUND OF
8 INTERVIEWS WITH FIVE CANDIDATES?

9 A. UH-HUH.

10 Q. AND THEN THERE WAS A SECOND ROUND --
11 I'M SORRY. YOU SAID "YES"?

12 A. YES.

13 Q. AND THEN THERE WAS A SECOND ROUND OF
14 INTERVIEWS WITH TWO CANDIDATES?

15 A. YES.

16 Q. AND THEN AFTER THAT, THE BOARD VOTED TO
17 HIRE THEIR FAVORITE CANDIDATE OUT OF THE
18 APPROXIMATELY 18 TO 20 WHO APPLIED?

19 A. RIGHT.

20 Q. DO YOU RECALL IF THERE WAS A CUT-OFF DATE
21 FOR PEOPLE TO APPLY FOR THE CITY MANAGER JOB?

22 A. I'M SURE THERE IS ONE, BUT I DON'T REMEMBER
23 WHAT DATE.

24 Q. IT CERTAINLY WOULD HAVE BEEN AFTER
25 JUNE 2009, THOUGH?

1 MR. JENSEN: YOUR HONOR, HE JUST TESTIFIED
2 THAT HE DID NOT KNOW.

3 MR. RIEGER: I'M JUST TRYING TO NARROW IT
4 DOWN TO HIS BEST RECOLLECTION.

5 MR. JENSEN: OBJECTION; MISSTATES FACTS.

6 THE COURT: ALL RIGHT. I'LL OVERRULE THE
7 OBJECTION, BUT WE DON'T WANT YOU TO GUESS OR
8 SPECULATE. THE QUESTION IS: DO YOU HAVE A
9 RECOLLECTION IF JUNE WAS THE DEADLINE?

10 THE WITNESS: I DON'T RECALL. IT'S ALL IN
11 THE PUBLIC RECORDS.

12 MR. RIEGER: OKAY. I'M SORRY. THE
13 QUESTION WAS ACTUALLY AFTER JUNE.

14 THE COURT: DOES THAT RING ANY BELLS?

15 THE WITNESS: AGAIN, IT WOULD BE FOR ME
16 DEDUCING IT AND NOT SO MUCH FROM MEMORY.

17 THE COURT: OKAY.

18 BY MR. RIEGER:

19 Q. WAS THE CITY MANAGER POSITION SUBJECT TO
20 CIVIL SERVICE RULES?

21 A. NO.

22 Q. IS THE CITY MANAGER POSITION AN AT-WILL
23 POSITION?

24 A. YES.

25 Q. SO THE CITY COUNCIL -- WHO WOULD DETERMINE

1 WHETHER TO TERMINATE THE CITY MANAGER?

2 A. THE CITY COUNCIL.

3 Q. AND COULD IT DO THAT WITHOUT CAUSE?

4 A. YES.

5 Q. AND COULD THE CITY COUNCIL TERMINATE THE
6 CITY MANAGER AT ANY TIME WITHOUT CAUSE?

7 A. YES.

8 Q. SO IN THEORY, THE CITY COUNCIL COULD HAVE
9 TERMINATED THE CITY MANAGER ONE WEEK AFTER THE CITY
10 MANAGER STARTED THE JOB; IS THAT RIGHT?

11 A. YES. BUT THERE'S A PRICE TO PAY FOR THAT.

12 Q. WHAT IS THE PRICE TO PAY?

13 A. THERE'S A SEVERANCE PAY PACKAGE GENERALLY
14 IN MOST EMPLOYMENT CONTRACTS.

15 Q. SO THAT WOULD HAVE BEEN A SEVERANCE PACKAGE
16 NEGOTIATED WITH THE PARTICULAR CITY MANAGER?

17 A. YES. BUT IT'S ALSO STIPULATED IN THE
18 CONTRACT AS TO HOW MANY MONTHS YOU HAVE TO PAY.

19 Q. BUT THAT CONTRACT IS NEGOTIATED WITH THE --

20 A. CORRECT.

21 Q. -- CITY MANAGER?

22 AND IF THEY -- IF THE CITY IS WILLING TO PAY
23 ANY SEVERANCE, THOUGH, IT COULD FIRE THE CITY MANAGER
24 THE DAY AFTER IT HIRED THE CITY MANAGER; IS THAT RIGHT?

25 A. YES.

1 Q. THE DECISION TO TERMINATE A CITY MANAGER
2 WOULD ALSO BE MADE BY MAJORITY VOTE; IS THAT RIGHT?

3 A. CORRECT.

4 MR. RIEGER: I HAVE NO MORE QUESTIONS,
5 YOUR HONOR.

6 THE COURT: ALL RIGHT. THANK YOU.

7 MS. DANIEL: I HAVE NOTHING.

8 THE COURT: NO QUESTIONS, MS. DANIEL?

9 MS. DANIEL: NO QUESTIONS.

10 THE COURT: ALL RIGHT. ANY FOLLOW-UP?

11 MR. JENSEN: YES, YOUR HONOR.

12

13 REDIRECT EXAMINATION

14 BY MR. JENSEN:

15 Q. WHEN YOU ORIGINALLY APPROACHED MR. GUIDO,
16 HAD THE CITY INTENDED TO GO THROUGH A FORMAL
17 RECRUITMENT PROCESS?

18 A. NOT YET.

19 Q. AND IS THE CITY REQUIRED TO GO THROUGH A
20 FORMAL RECRUITMENT PROCESS?

21 A. I DON'T BELIEVE SO.

22 Q. COULD THE CITY JUST HIRE MR. GUIDO OR
23 ANOTHER CANDIDATE WITH A MAJORITY VOTE OF THE CITY
24 COUNCIL?

25 A. I'M PRETTY SURE, YES.

1 Q. AND YOU MENTIONED THREE PEOPLE ON THE
2 COUNCIL ARE ALIGNED WITH THE COUNTY?

3 A. YES.

4 Q. CAN YOU EXPLAIN THAT?

5 A. WE HAVE ONE COUNCIL MEMBER WHO HAD BEEN, I
6 BELIEVE, A DEPUTY DIRECTOR FOR HEALTH SERVICES FOR A
7 NUMBER OF YEARS AND WHO HAS SINCE RETIRED AND WAS
8 SITTING ON CITY COUNCIL THEN AND SITTING ON CITY
9 COUNCIL TODAY.

10 THERE IS ALSO A COUNCIL MEMBER -- WELL,
11 ACTUALLY, I THINK I HAVE MISSPOKE.

12 THE THIRD COUNCIL MEMBER WAS NOT ON THE CITY
13 COUNCIL AT THE TIME WHEN WE HAD THIS CONVERSATION, BUT
14 HE WAS DEPUTY DIRECTOR OF PUBLIC WORKS.

15 Q. AND DID YOU HAVE ANY CONVERSATIONS WITH
16 ANOTHER CITY COUNCILMAN ABOUT MR. GUIDO?

17 A. WELL, YES. ACTUALLY, AT THE CLOSED SESSION
18 WHERE WE RELIEVED MR. MARTIN OF HIS DUTIES, I HAD
19 BROUGHT UP THE POSSIBILITY OF HAVING MR. GUIDO STEP
20 IN TO TAKE OVER THE CITY'S ADMINISTRATION AT THAT
21 CLOSED SESSION.

22 Q. AND TELL US MORE ABOUT THAT CONVERSATION.

23 A. BECAUSE THE CITY MUST HAVE SOMEBODY TO TAKE
24 OVER AS THE CHIEF ADMINISTRATOR, IN ORDER TO RELIEVE
25 MR. MARTIN OF HIS DUTIES, WE NEED TO NOMINATE

1 SOMEBODY TO TAKE OVER AS THE CHIEF ADMINISTRATOR.

2 SO IN THE CLOSED SESSION, I HAD MENTIONED THE
3 POSSIBILITY OF HAVING MR. GUIDO STEP IN AS THE
4 ADMINISTRATOR. I BELIEVE THEN -- THE COUNCIL MEMBER WAS
5 FROM HEALTH SERVICES, COUNTY. I BELIEVE HE REMEMBERED
6 MR. GUIDO.

7 BUT AT THE TIME WE -- BECAUSE THE REST OF THE
8 CITY COUNCIL MEMBERS DID NOT -- THEY WERE NOT FAMILIAR
9 WITH MR. GUIDO, SO THE PLAN WAS TO APPOINT SOMEBODY
10 INTERIM, ACTING -- AS AN ACTING INTERIM, AND THEN TO
11 LOOK FOR OTHER AVENUES.

12 SO THE CONVERSATION DID COME UP DURING THE
13 MAY 5 CLOSED SESSION REGARDING MR. GUIDO, SO I HAVE --
14 SO ALL FIVE COUNCIL MEMBERS THEN HAD HEARD ME TALK ABOUT
15 MR. GUIDO.

16 Q. AND DID YOU SUBSEQUENTLY TALK TO MR. GUIDO?

17 A. YES.

18 Q. AND WHAT DID YOU -- WHAT WAS THE SUBSTANCE
19 OF THAT CONVERSATION?

20 A. I DON'T EXACTLY REMEMBER WHAT DAY AND TIME
21 AND HOW MANY CONVERSATIONS, BUT I BELIEVE SHORTLY
22 AFTER THAT MR. GUIDO TOLD ME HE WASN'T INTERESTED IN
23 COMING TO TEMPLE CITY. SO ESSENTIALLY, AFTER THAT I
24 DROPPED -- I DROPPED THE SUBJECT.

25 BECAUSE I WAS GOING TO ARRANGE TO HAVE AN

1 INFORMAL MEETING FOR MR. GUIDO WITH ALL THE COUNCIL
2 MEMBERS.

3 IF -- I -- IF MEMORY SERVES ME RIGHT, I WAS
4 GOING TO ARRANGE SOMETHING AT THE CONTRACT CITY
5 CONFERENCE FOR THE COUNCIL MEMBERS TO MEET WITH
6 MR. GUIDO, BUT BECAUSE HE -- YOU KNOW, MR. GUIDO SAID HE
7 WASN'T INTERESTED SO I NEVER PURSUED THAT.

8 Q. AND THIS WAS PRIOR TO THE START OF THE
9 FORMAL RECRUITMENT PROCESS?

10 A. RIGHT.

11 Q. AND WAS THERE AN URGENCY TO FILL THAT
12 POSITION?

13 A. OH, YES. BECAUSE OUR FORMAL GOVERNMENT --
14 THE CITY MANAGER, THE CITY COUNCIL -- THE FORMAL
15 GOVERNMENT FOR A SMALL CITY, THE CITY COUNCIL DOES
16 NOT DO THE DAY-TO-DAY RUNNING OF THE CITY, SO WE
17 NEEDED A CHIEF ADMINISTRATOR TO OVERSEE EVERYTHING.

18 Q. YOU MENTIONED THAT YOU HAD DISCUSSED
19 RECIPROCITY WITH MR. GUIDO WHEN YOU WERE INITIALLY --

20 A. YES; UH-HUH.

21 Q. CAN YOU TELL US MORE ABOUT THAT DISCUSSION.

22 MR. RIEGER: I'M SORRY. CAN I HAVE THE
23 QUESTION READ?

24 THE COURT: OKAY. WOULD YOU, PLEASE.

25 ///

1 (THE RECORD WAS READ AS FOLLOWS:

2 Q. YOU MENTIONED THAT YOU HAD DISCUSSED
3 RECIPROCITY WITH MR. GUIDO WHEN YOU WERE
4 INITIALLY --

5 A. YES; UH-HUH.)

6 MR. JENSEN: COULD I FINISH THE QUESTION?

7 THE COURT: YES.

8 BY MR. JENSEN:

9 Q. -- WHEN YOU WERE INITIALLY CONSIDERING A
10 CAMPAIGN FOR CITY COUNCIL OF TEMPLE CITY; IS THAT
11 CORRECT?

12 A. YES.

13 Q. CAN YOU TELL US THE NATURE OF THAT
14 DISCUSSION OF RECIPROCITY?

15 A. YES. I ACTUALLY HAVE A PRETTY VIVID MEMORY
16 OF THAT BECAUSE I WAS SITTING IN MR. GUIDO'S OFFICE.
17 ACTUALLY, I WAS ASKING MR. GUIDO IF HE WOULDN'T MIND
18 ME ASKING HIM QUESTIONS ABOUT RUNNING FOR OFFICE.

19 I BELIEVE THAT WAS PROBABLY THE INITIAL
20 CONVERSATION BECAUSE HE AND I KNEW EACH OTHER AND WE
21 TALKED ABOUT THINGS -- OF OTHER THINGS, BUT I BELIEVE
22 THAT WAS THE FIRST TIME I EVER MENTIONED I WAS RUNNING
23 FOR OFFICE, I WAS CONSIDERED RUNNING FOR OFFICE WITH
24 MR. GUIDO, AND I WAS ASKING IF HE WOULDN'T MIND ME
25 ASKING HIM QUESTIONS, ASKING FOR HIS ADVICE.

1 AND IT WAS IN THAT CONTEXT THE ISSUE OF
2 RECIPROCITY CAME UP. I BELIEVE MR. GUIDO BROUGHT IT UP
3 HIMSELF. HE WAS SAYING SOMETHING TO THE EFFECT THAT
4 THERE IS SOME KIND OF RECIPROCITY THAT YOU CAN LOOK AT
5 BETWEEN THE TWO SYSTEMS, THE CITY BEING CALPERS AND YOU
6 AS AN EMPLOYEE OF THE CITY COUNCIL.

7 Q. AND DID AT THAT POINT MR. GUIDO INDICATE
8 THAT HE HAD ACHIEVED RECIPROCITY?

9 MR. RIEGER: OBJECTION; LEADING.

10 THE COURT: OVERRULED.

11 YOU CAN ANSWER.

12 THE WITNESS: I BELIEVE THAT CONVERSATION
13 DID COME UP. HE WAS SAYING SOMETHING TO THE EFFECT
14 THAT AS A CITY EMPLOYEE AND A COUNTY EMPLOYEE, THERE
15 IS RECIPROCITY BETWEEN THE TWO SYSTEMS. AND HE EVEN
16 ADVISED ME TO LOOK INTO THAT, THAT POSSIBILITY. THAT
17 WOULD BE TO MY ADVANTAGE.

18 I DON'T BELIEVE HE ACTUALLY TOLD ME HE HAD IT,
19 BUT THE IMPLICATION WAS HE HAS IT. THAT'S WHY HE'S
20 WANTING ME, AS A ROOKIE COUNCIL MEMBER, TO ALSO LOOK AT
21 THE SAME THING.

22 MR. JENSEN: YOUR HONOR, IF I CAN JUST LOOK
23 AT MY NOTES FOR A SECOND AND --

24 THE COURT: SURE.

25 MR. JENSEN: -- I APPRECIATE YOUR JUST

1 WAITING A SECOND TO MAKE SURE THAT I...

2 I HAVE NO FURTHER QUESTIONS FOR MR. YU.

3 THE COURT: OKAY.

4 ANY RECROSS, MR. JENSEN?

5 MR. RIEGER: RIEGER.

6 MR. JENSEN: MR. RIEGER.

7 THE COURT: I'M SORRY, MR. RIEGER.

8 MR. RIEGER: JUST BRIEFLY, A COUPLE MATTERS

9 THAT CAME UP.

10 THE WITNESS: SURE.

11

12 RECCROSS-EXAMINATION

13 BY MR. RIEGER:

14 Q. THE CONFERENCE THAT YOU WERE TALKING ABOUT

15 SETTING UP THE INFORMAL MEETING, DO YOU RECALL THE

16 DATE OF THAT CONFERENCE?

17 A. I DON'T REMEMBER, BUT I THINK IT'S SOMETIME

18 IN MAY EVERY YEAR. THE CALIFORNIA CONTRACT CITIES

19 ASSOCIATION MEETING AND CONFERENCE IN INDIAN WELLS, I

20 BELIEVE IT IS MAY EVERY YEAR.

21 Q. IT WOULD HAVE BEEN AT LEAST AFTER MAY 5

22 BECAUSE I THINK YOU SAID THERE WAS A CLOSED SESSION?

23 A. YES, YES.

24 Q. HIRING A CITY MANAGER IS PART OF THE

25 BUSINESS THAT'S BEFORE THE CITY COUNCIL; IS THAT

1 RIGHT?

2 A. YES.

3 Q. AND THE BROWN ACT REQUIRES ALL DISCUSSION
4 OF CITY BUSINESS TO OCCUR AT NOTICED MEETINGS; IS
5 THAT RIGHT?

6 A. YES.

7 Q. AND AS WE DISCUSSED EARLIER, THERE ARE
8 SOMETIMES EXCEPTIONS THAT ALLOW YOU TO GO INTO CLOSED
9 SESSION; IS THAT RIGHT?

10 A. CORRECT.

11 Q. BUT EVEN CLOSED SESSIONS HAVE TO BE
12 PROPERLY NOTICED AND AGENDIZED; IS THAT RIGHT?

13 A. YES.

14 Q. AND THE BROWN ACT IS VIOLATED ANYTIME A
15 MAJORITY OF THE BOARD DISCUSSES RELEVANT BOARD
16 BUSINESS OUTSIDE OF AN AGENDIZED MEETING; IS THAT
17 RIGHT?

18 MR. JENSEN: OBJECTION, YOUR HONOR. HE'S
19 ASKING FOR A LEGAL OPINION OF A LAY WITNESS ABOUT A
20 SPECULATIVE EVENT.

21 THE COURT: SUSTAINED.

22 MR. RIEGER: I'M JUST ASKING THE WITNESS
23 ABOUT HIS KNOWLEDGE.

24 THE COURT: I SUSTAINED THE OBJECTION SO
25 YOU CAN --

1 MR. RIEGER: I'LL REASK IT. I'LL START
2 OVER. THANK YOU.

3 BY MR. RIEGER:

4 Q. I UNDERSTAND YOU'RE NOT A LAWYER, BUT I'M
5 JUST ASKING FOR YOUR UNDERSTANDING OF THE BROWN ACT.
6 THE BROWN ACT IS IMPLICATED ANYTIME A QUORUM OF THE
7 BOARD DISCUSSES BOARD BUSINESS; IS THAT RIGHT?

8 A. YOU'RE RIGHT.

9 Q. AND YOU CAN ACTUALLY VIOLATE THE BROWN ACT
10 THROUGH SERIAL COMMUNICATIONS --

11 MR. JENSEN: OBJECTION, YOUR HONOR.

12 BY MR. RIEGER:

13 Q. -- AS WELL?

14 MR. JENSEN: THIS IS THE SAME -- THE SAME
15 QUESTION. LEGAL OPINION. HE'S JUST ANSWERING BEFORE
16 I CAN GET THE OBJECTION IN SO I HAVE TO INTERRUPT THE
17 QUESTION.

18 THE COURT: ALL RIGHT. BUT DON'T INTERRUPT
19 THE QUESTION BECAUSE THEN WE DON'T KNOW ON THE RECORD
20 WHAT THE QUESTION WAS, AND IF THE ANSWER BEGINS, YOU
21 CAN ALWAYS MOVE TO STRIKE.

22 MR. JENSEN: AND IF I COULD JUST INSTRUCT
23 THE WITNESS TO WAIT UNTIL I OBJECT OR DON'T OBJECT
24 JUST A MINUTE BEFORE ANSWERING -- OR A SECOND?

25 THE COURT: SO REMEMBER, WAIT BEFORE -- TO

1 ANSWER UNTIL THE ATTORNEYS ARE DONE SPEAKING BECAUSE
2 YOU NEVER KNOW IF THERE IS GOING TO BE MORE.

3 SO HAD YOU FINISHED YOUR QUESTION?

4 MR. RIEGER: I'M NOT SURE. MAYBE I CAN
5 START OVER?

6 THE COURT: OKAY. LET'S REDO.

7 BY MR. RIEGER:

8 Q. TO YOUR KNOWLEDGE -- I'M NOT ASKING AS A
9 LAWYER OR A JUDGE, BUT TO YOUR KNOWLEDGE, THE BROWN
10 ACT ALSO DOES NOT ALLOW FOR SERIAL COMMUNICATIONS
11 THAT INCORPORATE A MAJORITY OF THE BOARD; IS THAT
12 RIGHT?

13 MR. JENSEN: OBJECTION, YOUR HONOR. ASKS
14 FOR A LEGAL OPINION, AND IT CALLS FOR THE SPECULATION
15 ABOUT A MEETING THAT DIDN'T OCCUR.

16 THE COURT: SUSTAINED.

17 MR. RIEGER: COULD WE HAVE A MOMENT OUTSIDE
18 THE PRESENCE OF THE WITNESS TO DISCUSS THE PURPOSE OF
19 THE QUESTIONS?

20 THE COURT: YOU AND MR. JENSEN OR --

21 MR. RIEGER: NO. WITH YOUR HONOR.

22 THE COURT: NO. WE DON'T NEED THAT. I
23 UNDERSTAND THE POINT, BUT IT'S STILL -- I DON'T NEED
24 THE WITNESS TO TELL ME EITHER HIS UNDERSTANDING OF
25 THE LAW OR HIS LAY UNDERSTANDING OF THE LAW.

1 THAT POINT -- WE DON'T NEED IT. I DON'T NEED
2 IT, AND IT DOES CALL FOR A LEGAL CONCLUSION SO...

3 BY MR. RIEGER:

4 Q. MR. YU, WAS THE PLAN TO HAVE A MEETING WITH
5 A CORE OF THE BOARD AT THE CONFERENCE IN INDIAN
6 WELLS?

7 MR. JENSEN: OBJECTION, YOUR HONOR. IT'S A
8 SPECULATIVE QUESTION ABOUT -- FIRST ASKS FOR A LEGAL
9 CONCLUSION ABOUT THE QUORUM OF THE BOARD, AND SECOND
10 IT'S SPECULATIVE ABOUT THE MEETING.

11 THE COURT: OKAY. DO YOU UNDERSTAND WHAT
12 MR. RIEGER IS ASKING YOU, MR. YU?

13 THE WITNESS: I WOULD HAVE TO SPECULATE
14 WHAT HE'S ASKING. I'M NOT SURE.

15 THE COURT: ALL RIGHT. WHY DON'T YOU
16 REPHRASE.

17 BY MR. RIEGER:

18 Q. JUST TO BE CLEAR, ALL I'M ASKING IS A
19 FOLLOW-UP OF SOME OF YOUR TESTIMONY ON REDIRECT.

20 YOU SAID THAT YOU WERE PLANNING ON BRINGING UP
21 MR. GUIDO AT THE CONFERENCE, AND I WAS WONDERING HOW YOU
22 WERE PLANNING ON BRINGING THAT UP.

23 A. BECAUSE TWO OF US ALREADY KNEW MR. GUIDO,
24 IF THE OTHER COUNCIL MEMBERS WANTED TO MEET WITH
25 MR. GUIDO, THAT'S WHAT I'M SUGGESTING, THAT THEY CAN.

1 Q. THE INDIAN WELLS CONFERENCE WAS NOT A
2 NOTICED MEETING OF THE CITY COUNCIL; IS THAT RIGHT?

3 MR. JENSEN: OBJECTION, YOUR HONOR. IT
4 CALLS FOR A LEGAL CONCLUSION ABOUT A NOTICED MEETING,
5 AND IT'S SPECULATING ABOUT AN EVENT THAT DIDN'T
6 OCCUR.

7 THE COURT: OVERRULED.

8 YOU CAN ANSWER THAT.

9 THE WITNESS: WOULD YOU MIND REPEATING THAT
10 QUESTION AGAIN? I JUST WANT TO MAKE SURE I GOT IT.

11 BY MR. RIEGER:

12 Q. THE BROWN ACT REQUIRES LOCAL AGENCIES TO
13 POST AGENDAS FOR MEETINGS; IS THAT RIGHT?

14 MR. JENSEN: YOUR HONOR --

15 THE WITNESS: CORRECT.

16 MR. JENSEN: -- I MOVE TO STRIKE THAT AS
17 ANOTHER LEGAL CONCLUSION. HE'S ASKING THE WITNESS
18 ABOUT BROWN ACT LAW. FIRST IT'S IRRELEVANT.

19 AND SECOND OF ALL, HE'S ASKING FOR LEGAL
20 CONCLUSIONS AND TESTIMONY ABOUT SOMETHING THAT IS REALLY
21 IRRELEVANT TO THIS PROCESS, I MEAN ABOUT DETERMINING HIS
22 PENSION, I THINK.

23 THE COURT: ALL RIGHT. I'LL SUSTAIN THE
24 OBJECTION AS TO HOW IT WAS PHRASED, THE QUESTION.

25 ///

1 BY MR. RIEGER:

2 Q. AS MAYOR AND A CITY COUNCIL MEMBER, ARE YOU
3 AWARE OF A PRACTICE OF THE CITY TO POST AGENDAS AT
4 LEAST 72 HOURS BEFORE EACH MEETING OF THE CITY?

5 A. YES.

6 Q. AND IN SOME CASES, YOU CAN HAVE A SPECIAL
7 MEETING WHERE YOU POST THE NOTICE AT LEAST 24 HOURS
8 BEFORE; IS THAT RIGHT?

9 A. YES.

10 Q. WAS ANY MEETING AGENDA POSTED FOR THE
11 INDIAN WELLS CONFERENCE ON MAY 5?

12 A. NO. BECAUSE IT NEVER TOOK PLACE. I MEAN,
13 WE NEVER ACTUALLY MADE THE ARRANGEMENT, NUMBER ONE,
14 AND IT WASN'T MY INTENT FOR THAT TO BE A
15 DETERMINATION FOR HIRING MR. GUIDO OR NOT. IT'S JUST
16 THAT PEOPLE, IF THEY SO CHOOSE TO, COULD MEET WITH
17 MR. GUIDO AND FIND OUT WHO HE IS.

18 Q. IN YOUR DISCUSSIONS WITH MR. GUIDO ABOUT
19 THE RECIPROCITY THAT YOU TALKED ABOUT ON REDIRECT,
20 DID MR. GUIDO EVER TALK TO YOU ABOUT -- WELL, DID HE
21 GO INTO ANY FURTHER DETAIL OTHER THAN THE FACT THAT
22 RECIPROCITY MIGHT HELP YOU OUT?

23 MR. JENSEN: OBJECTION AS TO "HELP YOU
24 OUT." IT'S VAGUE AND AMBIGUOUS.

25 THE COURT: ALL RIGHT. COULD YOU CLARIFY.

1 BY MR. RIEGER:

2 Q. DID HE EVER GO INTO -- I BELIEVE ON
3 DIRECT -- REDIRECT EXAMINATION YOU SAID MR. GUIDO
4 TOLD YOU YOU SHOULD LOOK INTO RECIPROCITY BECAUSE IT
5 MIGHT BE A BENEFIT TO YOU; IS THAT RIGHT?

6 A. RIGHT.

7 Q. DID YOU GO INTO ANY FURTHER DETAIL AS TO
8 HOW IT MIGHT BENEFIT YOU?

9 A. I THINK WE DISCUSSED IT, BUT IT PROBABLY
10 HAD SOMETHING TO DO WITH THE NUMBER OF YEARS BEING
11 ADDED TOGETHER OR SOMETHING LIKE THAT, THAT THE YEARS
12 IN CALPERS COULD BE ADDED TO L.A.C.E.R.A. OR VICE
13 VERSA.

14 Q. BUT YOU DON'T REMEMBER SPECIFICALLY?

15 A. NO. BECAUSE I DON'T REMEMBER THE EXACT --
16 BECAUSE HE SAID THAT, "VINCE, YOU NEED TO LOOK INTO
17 IT TO MAKE SURE." AND SUBSEQUENTLY, I, BECAUSE I'M
18 NOT EVEN IN RETIREMENT -- CONTEMPLATING RETIREMENT
19 YET, SO I HAVEN'T ACTUALLY THINK (SIC) ABOUT MY OWN
20 RETIREMENT.

21 Q. DID HE TALK TO YOU AT THAT TIME ABOUT HIS
22 UNDERSTANDING OF THE REQUIREMENTS TO ESTABLISH
23 RECIPROCITY?

24 A. NO, WE DIDN'T TALK ABOUT THAT.

25 MR. RIEGER: I HAVE NO MORE QUESTIONS,

1 YOUR HONOR.

2 THE COURT: OKAY. THANK YOU.

3 ANYTHING, MS. DANIEL?

4 MS. DANIEL: JUST ONE, YOUR HONOR.

5

6 RE-CROSS-EXAMINATION

7 BY MS. DANIEL:

8 Q. MR. YU, IN YOUR DEALINGS WITH THE BROWN ACT
9 AS THE CITY COUNCIL MEMBER FOR THE CITY OF -- TEMPLE
10 CITY, ARE YOU AWARE OF ANY GEOGRAPHICAL
11 LIMITATIONS -- GEOGRAPHICAL LIMITATIONS AS TO WHERE
12 YOU CAN CONDUCT BUSINESS OF THE CITY?

13 A. NO.

14 Q. YOU'RE NOT AWARE OF ANY GEOGRAPHICAL
15 LIMITATIONS AS TO WHERE YOU CAN OR CANNOT HAVE
16 MEETINGS OUTSIDE OF THE CITY OR IN THE CITY?

17 MR. JENSEN: OBJECTION, YOUR HONOR. ASKED
18 AND ANSWERED.

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER.

21 THE WITNESS: I THINK ANY MEETING -- ANY
22 MEETINGS IS POTENTIALLY -- IRREGARDLESS OF
23 GEOGRAPHICAL AREA WOULD HAVE TO FOLLOW THE BROWN ACT.

24 MS. DANIEL: NO FURTHER QUESTIONS.

25 MR. JENSEN: YOUR HONOR, JUST ONE

1 FOLLOW-UP.

2

3 FURTHER REDIRECT EXAMINATION

4 BY MR. JENSEN:

5 Q. HAVE YOU BEEN TO THE CALIFORNIA LEAGUE OF
6 CITIES MEETINGS BEFORE?

7 A. YEAH.

8 Q. AND TYPICALLY, HOW MANY COUNCIL MEMBERS
9 ATTEND?

10 A. GENERALLY MOST OF THEM. ALL OF THEM.

11 THE COURT: HOLD ON. REFERRING TO TEMPLE
12 CITY OR THE CITY COUNCIL OF OTHER CITIES OR --

13 MR. JENSEN: I WAS REFERRING TO THE -- I
14 WAS REFERRING TO THE TEMPLE CITY.

15 BY MR. JENSEN:

16 Q. HOW MANY OF THE OTHER TEMPLE CITY COUNCIL
17 MEMBERS --

18 A. GENERALLY ALL FIVE OF US WILL GO.

19 Q. AND DO YOU SEE OTHER COUNCIL MEMBERS AT THE
20 CALIFORNIA LEAGUE OF CITIES?

21 A. I DO.

22 Q. AND ARE YOU AWARE OF HOW MANY MEMBERS --
23 HOW MANY COUNCIL MEMBERS OF OTHER CITIES ATTEND THE
24 CALIFORNIA CONTRACT --

25 MR. RIEGER: OBJECTION; RELEVANCE.

1 THE COURT: WHAT'S THE RELEVANCE OF THIS?

2 MR. JENSEN: THE RELEVANCE IS THIS IS A
3 BROWN ACT MEETING. SO IF THIS IS -- IF THE
4 CALIFORNIA LEAGUE OF CITIES IS A BROWN ACT VIOLATION
5 OR REQUIRES A NOTICE, THEN EVERY CITY ATTENDING HAS
6 TO HAVE NOTICE IN ORDER TO GO TO THE BROWN -- GO TO
7 THE CALIFORNIA LEAGUE OF CITIES.

8 THE COURT: OKAY. I'LL SUSTAIN THE
9 OBJECTION.

10 BY MR. JENSEN:

11 Q. SO --

12 MR. JENSEN: ACTUALLY, I HAVE NO FURTHER
13 QUESTIONS.

14 THE COURT: OKAY. ANY FOLLOW-UP?

15 MR. RIEGER: NO, YOUR HONOR.

16 THE COURT: ANY FOLLOW-UP?

17 MS. DANIEL: NO, YOUR HONOR.

18 THE COURT: OKAY. THANK YOU VERY MUCH,
19 MR. YU. YOU'RE FREE TO GO.

20 OKAY. LET'S GO OFF THE RECORD.

21 (WHEREUPON, A RECESS WAS HELD

22 FROM 10:41 A.M. TO 10:57 A.M.)

23 THE COURT: LET'S GO BACK ON THE RECORD.

24 WE'RE BACK FROM OUR MORNING RECESS, AND,

25 MR. JENSEN, YOU MAY CALL YOUR NEXT WITNESS.

1 MR. JENSEN: THANK YOU, YOUR HONOR. I'D
2 LIKE TO CALL FRED GUIDO.

3 THE COURT: OKAY. PLEASE COME UP AND HAVE
4 A SEAT.

5 I'LL ASK THE COURT REPORTER TO SWEAR YOU IN.

6
7 FRED GUIDO,
8 CALLED AS A WITNESS, AND SWORN IN BY
9 THE REPORTER, WAS EXAMINED AND
10 TESTIFIED AS FOLLOWS:

11
12 COURT REPORTER: YOU DO SOLEMNLY SWEAR THAT
13 THE TESTIMONY YOU SHALL GIVE IN THIS MATTER SHALL BE THE
14 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

15 THE WITNESS: I DO.

16 THE COURT: GOOD MORNING.

17 THE WITNESS: GOOD MORNING.

18 THE COURT: FOR THE RECORD, WOULD YOU
19 PLEASE STATE AND SPELL YOUR NAME.

20 THE WITNESS: YES. FRED GUIDO, G-U-I-D-O.

21 THE COURT: OKAY. THANK YOU.

22 WHEN YOU'RE READY.

23 MR. JENSEN: THANK YOU, YOUR HONOR.

24 ///

25 ///

1 DIRECT EXAMINATION

2 BY MR. JENSEN:

3 Q. MR. GUIDO, TELL US WHAT WAS THE ELECTED --
4 WHAT WAS THE CIRCUMSTANCES AROUND THE ELECTED OFFICE
5 THAT YOU SOUGHT WITH THE CITY OF CUDAHY? WHEN DID
6 YOU FIRST BECOME A CITY COUNCILPERSON OF THE CITY OF
7 CUDAHY?

8 A. 1970.

9 Q. AND HOW LONG DID YOU SERVE AS A CITY
10 COUNCILPERSON FOR THE CITY OF CUDAHY?

11 A. FOR 12 YEARS.

12 Q. AND WERE YOU AWARE WHETHER THE CITY OF
13 CUDAHY WAS A CALPERS-CONTRACTING AGENCY AT THAT TIME?

14 MR. RIEGER: OBJECTION; VAGUE AS TO TIME.

15 THE COURT: I'M SORRY?

16 MR. RIEGER: OBJECTION; VAGUE AS TO TIME.

17 I DON'T KNOW WHAT "AT THAT TIME" HE'S REFERRING TO.

18 MR. JENSEN: MAYBE I SHOULD MAKE IT MORE
19 SPECIFIC.

20 THE COURT: OKAY.

21 BY MR. JENSEN:

22 Q. MR. GUIDO, WHEN YOU FIRST BECAME A CITY
23 COUNCILPERSON OF THE CITY OF CUDAHY, WAS CUDAHY A
24 CALPERS-CONTRACTING AGENCY?

25 A. IT WAS.

1 Q. AND AT SOME -- AT WHAT -- DID YOU BECOME
2 AWARE AT SOME POINT THAT CUDAHY EXTENDED CALPERS
3 BENEFITS TO ELECTED OFFICIALS?

4 A. YES.

5 Q. AND DO YOU KNOW WHEN THAT HAPPENED?

6 A. IT WAS SOMETIME DURING THE YEAR 1975.

7 Q. AND DO YOU REMEMBER THE CIRCUMSTANCES
8 BEHIND THAT EXTENSION OF CALPERS BENEFITS TO ELECTED
9 OFFICIALS?

10 A. YES.

11 Q. TELL US THOSE CIRCUMSTANCES, TO THE BEST OF
12 YOUR RECOLLECTION.

13 A. NUMEROUS CITIES -- ELECTED OFFICIALS OF
14 NUMEROUS CITIES WERE MEMBERS OF THE CALPERS PUBLIC
15 RETIREMENT SYSTEM IN CONJUNCTION WITH THEIR ELECTIVE
16 SERVICE, AND THE CITY COUNCIL EXPRESSED AN INTEREST
17 IN HAVING ITS COUNCIL MEMBERS ALSO BE A PART OF THE
18 PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

19 Q. AND DID YOU TAKE PART IN ANY OF THOSE
20 DISCUSSIONS OR NEGOTIATIONS?

21 A. YES.

22 Q. AND WHAT WAS YOUR ROLE IN THOSE
23 DISCUSSIONS?

24 A. WELL, I VOTED FOR THE CITY. I VOTED FOR
25 THE CITY TO PERMIT THE COUNCIL MEMBERS TO BECOME A

1 PART OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT
2 SYSTEM.

3 Q. AND SO YOU PERSONALLY AT THAT TIME THOUGHT
4 THE CALPERS BENEFITS IMPORTANT?

5 A. YES.

6 Q. AND DID YOU ELECT TO PURCHASE YOUR PRIOR
7 CITY COUNCIL TIME AFTER THE CITY COUNCIL MEMBERS WERE
8 ABLE TO BECOME MEMBERS OF CALPERS?

9 A. I'M NOT SURE IF WE WERE ABLE TO PURCHASE
10 OUR TIME, BUT I DO KNOW THAT AN ARRANGEMENT WAS MADE
11 WITH THE CITY CLERK AND A CALPERS REPRESENTATIVE FOR
12 THE COUNCIL MEMBERS TO PURCHASE THEIR TIME BACK TO
13 THE DATE OF THEIR ELECTION TO THE CITY COUNCIL.

14 Q. AND HOW LONG DID YOU SERVE AS CITY
15 COUNCILPERSON FOR THE CITY OF CUDAHY?

16 A. TWELVE YEARS.

17 Q. AND UPON LEAVING THE CITY OF CUDAHY, DID
18 YOU LEAVE YOUR CALPERS CONTRIBUTIONS ON DEPOSIT?

19 A. YES.

20 Q. AND WHAT WAS YOUR -- WHEN DID YOU GO TO
21 WORK FOR THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT?

22 A. MARCH OF 1973.

23 Q. AND IN WHAT CAPACITY DID YOU WORK FOR THE
24 SHERIFF?

25 A. I WAS A DEPUTY SHERIFF.

1 Q. AND WERE YOU A SWORN OFFICER?

2 A. YES.

3 Q. AND WHERE DID YOU PERFORM YOUR DEPUTY
4 SHERIFF DUTIES?

5 A. DURING THAT PERIOD OF TIME I WAS EMPLOYED
6 WITH THE COUNTY AS A DEPUTY SHERIFF, PART OF IT WAS
7 THE L.A. COUNTY SHERIFF'S ACADEMY, PART OF IT WAS IN
8 THE JAIL SYSTEM, AND PART OF IT WAS IN THE CIVIL
9 DIVISION.

10 Q. AND WERE YOU A MEMBER OF A RETIREMENT
11 SYSTEM OF THE LOS ANGELES COUNTY EMPLOYEES'
12 RETIREMENT ASSOCIATION AS A RESULT OF YOUR SHERIFF'S
13 EMPLOYMENT?

14 A. YES.

15 Q. DO YOU REMEMBER WHEN YOU BEGAN ACCRUING
16 L.A.C.E.R.A. SERVICE CREDIT?

17 A. I BELIEVE IT WAS AS OF MY HIRE DATE.

18 Q. AND WHAT WAS YOUR EMPLOYMENT SUBSEQUENT TO
19 YOUR LOS ANGELES COUNTY SHERIFF'S JOB?

20 A. I -- OUTSIDE ADVERTISING OF SOUTHERN
21 CALIFORNIA.

22 Q. AND WHEN DID YOU COME TO WORK FOR
23 LOS ANGELES COUNTY SUPERVISOR DON KNABE?

24 A. THE DATE HE WAS SWORN INTO OFFICE, WHICH
25 WAS, I BELIEVE, DECEMBER 1, 1996.

1 Q. AND WHAT WAS (SIC) YOUR JOB DUTIES FOR
2 SUPERVISOR KNABE?

3 A. MY JOB DUTIES INVOLVED OVERSEEING THE L.A.
4 DOWNTOWN OFFICE OPERATIONS, INCLUDING SIX FIELD
5 OFFICES WHICH CONSISTED OF APPROXIMATELY 13 DEPUTIES,
6 AND MAYBE 13 OR 14 OFFICE STAFF AS WELL AS SERVING AS
7 A SUPERVISOR'S ASSISTANT OR LIAISON WITH THE OTHER
8 BOARD OFFICES AS NECESSARY.

9 Q. AND WERE YOU IN A RETIREMENT SYSTEM
10 ASSOCIATED WITH YOUR WORK FOR SUPERVISOR KNABE?

11 A. YES.

12 Q. AND WHAT RETIREMENT SYSTEM WAS THAT?

13 A. L.A. COUNTY -- L.A.C.E.R.A. BASICALLY
14 LOS ANGELES COUNTY RETIREMENT SYSTEM -- ASSOCIATION.
15 I CAN'T REMEMBER THE LAST. ASSOCIATION, MAYBE.

16 Q. AND AT A CERTAIN POINT IN 2003, YOU -- DID
17 YOU START CONSIDERING DIFFERENT JOB OPTIONS?

18 A. YES.

19 Q. CAN YOU GIVE ME A LITTLE BIT OF BACKGROUND
20 ON WHAT WAS HAPPENING DURING THAT TIME PERIOD IN
21 2003?

22 A. WELL, I WAS -- YOU WANT ME TO SUMMARIZE
23 BASICALLY?

24 I WAS SPENDING LONG HOURS WORKING REAL LONG
25 DAYS, WEEKENDS, BEING ON CALL ALL THE TIME. AND AFTER

1 SEVEN-AND-A-HALF YEARS, I WAS -- I WAS BURNT OUT OF THE
2 JOB -- SEVEN YEARS OR SO -- AND I SAW THE SUPERVISOR
3 DIDN'T HAVE ANY FORMIDABLE OPPOSITION FOR HIS THIRD
4 TERM.

5 AND I HAD SOME -- I HAD STARTED TO THINK IN MY
6 MIND THAT I WANTED -- I WAS ABOUT 55, I GUESS. I WAS
7 THINKING LONG TERM OF MAYBE RETIRING AT 60, AND I
8 THOUGHT I WOULD LIKE TO MOVE INTO ANOTHER DEPARTMENT OF
9 THE COUNTY WHERE I COULD WORK NORMAL WORKING HOURS AND
10 SPEND MORE TIME WITH MY WIFE AND MY CHILDREN, WHO WERE
11 IN THEIR TEENS.

12 MR. JENSEN: YOUR HONOR, MAY I APPROACH THE
13 WITNESS? I WANT TO SHOW HIM ONE OF THE EXHIBITS IN
14 THE BOOK.

15 THE COURT: OKAY.

16 BY MR. JENSEN:

17 Q. SO, MR. GUIDO, IN FRONT OF YOU THERE'S
18 THREE NOTEBOOKS. AND ONE OF THEM IS -- IN THE BLACK
19 NOTEBOOK THERE'S A LIST OF EXHIBITS. AND I'M GOING
20 TO TURN TO -- IT'S A LITTLE HARD FOR ME TO READ --
21 IT'S EXHIBIT 201. I'VE GOT IT.

22 CAN YOU TAKE A MOMENT TO LOOK AT THIS
23 DOCUMENT. FAMILIARIZE YOURSELF WITH IT.

24 A. YES.

25 Q. DO YOU RECOGNIZE THIS DOCUMENT?

1 A. YES, I DO.

2 Q. AND WHAT IS THIS DOCUMENT?

3 A. IT'S A LETTER DATED OCTOBER 6, 2003,
4 FOLLOWING UP ON AN INQUIRY I MADE REGARDING MY STATUS
5 WITH CALPERS AND MY RETIREMENT -- AND A RETIREMENT
6 ESTIMATE PROJECTING WHAT I FORESAW AS POSSIBLY BEING
7 MY FINAL, SINGLE-HIGHEST BEST-YEAR SALARY.

8 Q. AND DID YOU RECEIVE THIS LETTER?

9 A. YES, I DID.

10 MR. JENSEN: YOUR HONOR, I DON'T KNOW HOW
11 YOU WANT TO DO THE EXHIBITS, IF WE SHOULD GO THROUGH
12 THEM AND INTRODUCE THEM ONE BY ONE OR SHOULD I OFFER
13 201 INTO EVIDENCE RIGHT NOW OR DO YOU WANT TO DO IT
14 AFTERWARDS?

15 THE COURT: I THINK IT'S BEST TO OFFER IT
16 AT THAT TIME. IN CASE THERE'S ANY PROBLEMS WE HAVE
17 THE WITNESS AVAILABLE TO ADDRESS, BUT I'LL LEAVE IT
18 UP TO YOU.

19 MR. JENSEN: YES. I JUST -- PROCEDURALLY,
20 I JUST -- SO I'D LIKE TO OFFER INTO EVIDENCE 201.

21 THE COURT: ANY OBJECTION?

22 MR. RIEGER: NO OBJECTION.

23 THE COURT: IT'S ADMITTED.

24 ///

25 ///

1 (RESPONDENT'S EXHIBIT NUMBER 201 WAS
2 MARKED FOR IDENTIFICATION BY THE COURT
3 AND RECEIVED INTO EVIDENCE.)

4 BY MR. JENSEN:

5 Q. SO, MR. GUIDO, I'D LIKE YOU TO LOOK AT THIS
6 DOCUMENT. IT'S OCTOBER 6, 2003.

7 A. UH-HUH.

8 Q. IT SAYS:

9 "THANK YOU FOR YOUR RECENT
10 RETIREMENT ESTIMATE REQUEST."

11 CAN YOU TELL US WHAT THAT MEANS TO YOU?

12 A. WELL, THEY'RE ACKNOWLEDGING MY REQUEST FOR
13 A BENEFIT ESTIMATE -- RETIREMENT BENEFIT ESTIMATE
14 BASED ON MY YEARS OF SERVICE AND MY PROJECTED SINGLE
15 HIGHEST YEAR OF INCOME.

16 Q. AND LET ME ASK WHAT YOU DID IN THE MONTHS
17 IMMEDIATELY PRIOR TO THIS LETTER. DID YOU MAKE ANY
18 INQUIRIES OF ANYONE REGARDING YOUR RETIREMENT
19 BENEFITS IN THE SEVERAL --

20 A. YES.

21 I'M SORRY.

22 Q. -- IN THE SEVERAL MONTHS PRIOR TO OCTOBER
23 2003?

24 A. YES.

25 Q. AND CAN YOU TELL ME WHAT THOSE INQUIRIES

1 WERE?

2 A. WELL, ESSENTIALLY, I WAS TRYING TO -- I
3 NEVER -- NEVER PAID MUCH ATTENTION TO RETIREMENT. IT
4 WAS ONE OF THOSE THINGS THAT WAS FAR OFF IN MY MIND.

5 AS A YOUNG PERSON WHEN I FIRST JOINED CALPERS
6 AND BECAME A DEPUTY SHERIFF, IT WAS ONE OF THOSE THINGS
7 I DIDN'T EVEN WANT TO THINK ABOUT BECAUSE IT WAS KIND OF
8 LIKE HAVING A FOOT IN THE GRAVE, SO TO SPEAK, WHEN I GET
9 TO THAT POINT IN MY LIFE.

10 AND SO I THOUGHT I NEEDED TO REALLY GET
11 TOGETHER AND FIGURE OUT WHAT DO I HAVE GOING FOR ME HERE
12 IF I WANT TO RETIRE IN FIVE YEARS.

13 SO I INITIATED A CALL TO CALPERS TO FIND OUT
14 EXACTLY -- I KNEW HOW MANY YEARS I HAD WITH CALPERS BUT
15 TO FIND OUT EXACTLY THE STATE OR STATUS OF THOSE
16 BENEFITS AND HOW THEY INTERRELATED OR CORRELATED WITH MY
17 COUNTY SERVICE AND SO THAT I COULD TAKE STEPS TO MOVE
18 FORWARD OUT OF THE SUPERVISOR'S OFFICE INTO ANOTHER
19 POSITION, WHETHER IT BE WITH THE COUNTY OR EVEN POSSIBLY
20 WITH ANOTHER CITY THAT HAD CALPERS MEMBERSHIP OR SOME
21 KIND OF GOVERNMENT MEMBERSHIP STATUS.

22 Q. AND DID YOU LEARN ANYTHING IN THOSE
23 INQUIRIES PRIOR TO MAKING A RETIREMENT ESTIMATE
24 REQUEST?

25 A. YES.

1 Q. AND WHAT DID YOU LEARN?

2 A. WELL, I WAS TOLD THAT I HAD ESSENTIALLY
3 ESTABLISHED RECIPROCITY WITH L.A.C.E.R.A. AND THAT --
4 THAT THE YEARS WOULD BE COMBINED -- COULD BE COMBINED
5 BASED ON MY HIGHEST YEAR OF EARNINGS FOR MY
6 RETIREMENT BENEFIT.

7 Q. AND WHO TOLD YOU -- CAN YOU DESCRIBE WHO
8 TOLD YOU THAT INFORMATION?

9 A. WELL, IT WAS A CALL I MADE. IT WAS A CALL
10 I MADE TO CALPERS PRIOR TO THE DATE OF THIS LETTER OR
11 TWO -- A COUPLE DIFFERENT CALLS THAT I MADE PRIOR TO
12 RECEIVING THIS LETTER THAT PRECIPITATED THE MAILING
13 OF THIS LETTER.

14 Q. AND DID YOU SAY THAT IN THOSE TELEPHONE
15 CONVERSATIONS YOU WERE TOLD THAT YOU HAD ESTABLISHED
16 RECIPROCITY?

17 A. IN ONE OF THE CONVERSATIONS, YES.

18 Q. AND WHAT DID THAT MEAN TO YOU?

19 A. WELL, WHEN IT WAS EXPLAINED TO ME THAT I
20 COULD USE BOTH THE YEARS OF MY CALPERS YEARS THAT I
21 ACCUMULATED IN THE CITY OF CUDAHY AND THE YEARS THAT
22 I HAD WITH THE COUNTY OF LOS ANGELES, THEY WOULD BE
23 COMBINED AND THAT WOULD BE USED TO CALCULATE MY
24 RETIREMENT BENEFIT.

25 MR. JENSEN: AND, YOUR HONOR, EXHIBIT 201,

1 IS THAT IN?

2 THE COURT: YES.

3 BY MR. JENSEN:

4 Q. MR. GUIDO, CAN YOU TURN TO EXHIBIT 203.

5 A. YES.

6 Q. WAS THIS THE RETIREMENT ALLOWANCE ESTIMATE
7 REQUEST YOU MADE PRIOR TO OCTOBER 6, 2003?

8 A. YES.

9 Q. AND CAN YOU TELL ME, IN PART 2 IT SAYS,
10 "ESTIMATE INFORMATION," AND THERE APPEARS TO BE A
11 CROSS-OUT OF "COUNTY OF LOS ANGELES" AND THEN
12 INPUTTING OF THE "CITY OF CUDAHY." IS THAT IN YOUR
13 HANDWRITING?

14 A. YES, IT IS.

15 Q. AND CAN YOU TELL ME WHAT THAT -- WHY THAT
16 WAS CROSSED OUT AND THE OTHER WRITTEN IN?

17 A. I'D HAVE TO SPECULATE THAT I JUST READ IT
18 WRONG OR MISUNDERSTOOD IT. I FIGURED OUT IT SHOULD
19 HAVE THE "CITY OF CUDAHY" INSTEAD OF THE "COUNTY OF
20 LOS ANGELES."

21 Q. AND LET ME JUST DIRECT YOUR ATTENTION TO
22 PART 7. IT SAYS:

23 "OTHER CALIFORNIA PUBLIC
24 RETIREMENT SYSTEMS."

25 DID YOU FILL IN THIS AMOUNT? DID YOU FILL IN

1 THIS INFORMATION IN PART 7?

2 A. YES, I DID.

3 Q. AND DID YOU HAVE ANY GUIDANCE FROM ANYONE
4 IN FILLING -- IN FILLING IN THIS INFORMATION?

5 A. NO, I DIDN'T.

6 MR. JENSEN: AND SO, YOUR HONOR, I'D

7 LIKE --

8 BY MR. JENSEN:

9 Q. SO DO YOU RECOGNIZE THIS DOCUMENT IN 203?

10 A. YES, I DO.

11 MR. JENSEN: AND, YOUR HONOR, I'D LIKE TO
12 MOVE 203 INTO EVIDENCE.

13 THE COURT: ANY OBJECTION?

14 MR. RIEGER: NO OBJECTION EXCEPT JUST TO
15 NOTE FOR THE RECORD THAT IT DOES APPEAR TO BE PART OF
16 A DOCUMENT. SO I DON'T -- I DON'T KNOW IF THE
17 COMPLETE DOCUMENT IS SOMEWHERE ELSE.

18 MR. JENSEN: AND THIS IS WHAT I UNDERSTOOD
19 TO BE THE DOCUMENT. IF THERE'S OTHER PAGES, I WOULD
20 SURELY LET MR. RIEGER OR THE CITY OF CUDAHY AUGMENT
21 THE RECORD AND HAVE THE FULL DOCUMENT IN. THIS IS
22 THE INFORMATION I HAVE.

23 THE COURT: OKAY. I'M SORRY, MS. DANIEL.
24 DID YOU WANT TO BE HEARD ON THIS?

25 MS. DANIEL: NO. I'M SORRY. I THOUGHT YOU

1 WERE LOOKING AT ME, YOUR HONOR.

2 THE COURT: OH, NO PROBLEM.

3 MR. RIEGER: JUST TO BE CLEAR, I'M NOT
4 OBJECTING FOR IT COMING IN FOR WHAT IT IS. IT JUST
5 DOESN'T APPEAR TO BE A COMPLETE DOCUMENT.

6 THE COURT: OKAY. I'LL ADMIT 203 AND JUST
7 MAKE A NOTE OF YOUR CONCERN, MR. RIEGER.

8 IT'S ADMITTED.

9 (RESPONDENT'S EXHIBIT NUMBER 203 WAS
10 MARKED FOR IDENTIFICATION BY THE COURT
11 AND RECEIVED INTO EVIDENCE.)

12 MR. JENSEN: THANK YOU, YOUR HONOR.

13 BY MR. JENSEN:

14 Q. AND, MR. GUIDO, DID YOU SEND THIS TO
15 CALPERS?

16 A. YES, I DID.

17 Q. AND DID YOU RECEIVE ANY RETURN
18 CORRESPONDENCE FROM CALPERS AS A RESULT OF SENDING IN
19 THIS ESTIMATE?

20 A. YES.

21 Q. AND CAN YOU IDENTIFY WHICH DOCUMENT THAT
22 IS?

23 A. WELL, I RECEIVED A BENEFIT -- ALLOWANCE
24 ESTIMATE THAT INDICATED THAT IF I WERE TO RETIRE ON
25 THIS DATE, BASICALLY THIS LEVEL OF COMPENSATION USING

1 MY YEARS THAT I HAVE, I WOULD BE ENTITLED TO A
2 CERTAIN LEVEL OF RETIREMENT BENEFIT OF APPROXIMATELY
3 3,000 -- 2900, \$3,000 A MONTH.

4 Q. AND, MR. GUIDO, I TURN YOUR ATTENTION TO
5 EXHIBIT 202. GIVE YOU A MOMENT TO LOOK AT THAT
6 DOCUMENT.

7 AND DO YOU RECOGNIZE THIS DOCUMENT?

8 A. YES.

9 Q. AND WHAT IS THIS DOCUMENT?

10 A. THIS IS THE RESPONSE I RECEIVED AS A RESULT
11 OF THE RETIREMENT ALLOWANCE ESTIMATE REQUEST I MAILED
12 IN.

13 Q. NOW, LET ME TURN YOUR ATTENTION BACK TO
14 EXHIBIT 201.

15 A. YES.

16 Q. SO WE'VE IDENTIFIED YOUR RETIREMENT
17 ESTIMATE REQUEST, AND ON EXHIBIT 203, YOU HAD
18 INDICATED THAT YOU WERE A MEMBER OF ANOTHER PUBLIC
19 RETIREMENT SYSTEM, L.A.C.E.R.A.; IS THAT CORRECT?

20 A. THAT'S CORRECT.

21 Q. AND SO WHEN YOU RECEIVED THIS EXHIBIT 201,
22 DID YOU -- DID YOU BELIEVE THAT CALPERS HAD REVIEWED
23 YOUR ACCOUNT AND HAD DETERMINED THAT RECIPROCITY HAD
24 BEEN ESTABLISHED BETWEEN CALPERS AND L.A.C.E.R.A.?

25 MR. RIEGER: OBJECTION; LEADING.

1 COMPOUND.

2 THE COURT: SUSTAINED.

3 BY MR. JENSEN:

4 Q. WITH RESPECT TO THE SECOND PARAGRAPH OF --
5 WITH RESPECT TO THIS DOCUMENT IN 201, WHAT
6 INFORMATION WAS IMPORTANT TO YOU?

7 A. WELL, THE FACT THAT I HAD ESTABLISHED
8 RECIPROCITY WAS IMPORTANT TO ME BECAUSE IT PERMITTED
9 ME TO MAKE A DECISION TO STAY WITH -- TO MAKE A
10 DECISION TO PURSUE A DEPARTMENT OF MY CHOICE AS
11 OPPOSED TO A DEPARTMENT THAT WAS -- THAT WAS CALPERS
12 OR EVEN POSSIBLY GO OUTSIDE TO SEEK EMPLOYMENT WITH A
13 CITY.

14 Q. NOW, PRIOR TO THIS TIME, HAD YOU HAD AN
15 OPINION ABOUT WHETHER RECIPROCITY APPLIED TO YOUR
16 CASE?

17 A. NO.

18 Q. AND SO WAS -- WAS THIS IMPORTANT
19 INFORMATION TO YOU?

20 A. THIS WAS.

21 Q. AND AT THE CITY OF CUDAHY, WERE YOU AN
22 ELECTED OR APPOINTED OFFICER?

23 A. I WAS AN ELECTED OFFICER -- ELECTED
24 OFFICER; YES.

25 Q. DID YOU LOOK AT THE SECOND PARAGRAPH AS

1 HAVING ANY EFFECT ON YOUR CITY OF CUDAHY TIME?

2 MR. RIEGER: OBJECTION; VAGUE.

3 THE COURT: SUSTAINED.

4 CAN YOU CLARIFY THAT.

5 MR. JENSEN: YES.

6 BY MR. JENSEN:

7 Q. DID YOU CONSIDER THE SECOND PARAGRAPH ABOUT
8 ELECTED OR APPOINTED OFFICER HAVING ANY EFFECT ON
9 YOUR CITY OF CUDAHY ELECTED OR APPOINTED
10 COUNCILPERSON TIME?

11 A. I'M SORRY. COULD YOU RESTATE THAT AGAIN?

12 Q. WERE YOU AN ELECTED OR APPOINTED OFFICIAL
13 IN THE CITY OF CUDAHY?

14 A. I WAS AN ELECTED OFFICIAL.

15 Q. WERE YOU AN ELECTED OFFICIAL BEFORE 1994?

16 A. NO.

17 WAIT A MINUTE. I'M SORRY.

18 YES, I WAS AN ELECTED OFFICIAL PRIOR TO 1994.

19 Q. WERE YOU EVER AN ELECTED OFFICIAL AFTER
20 1994?

21 A. NO.

22 Q. DID YOU LOOK AT THIS LANGUAGE OF ELECTED OR
23 APPOINTED OFFICER AS HAVING ANY EFFECT ON YOUR
24 SITUATION?

25 A. YES.

1 Q. AND WHAT EFFECT WOULD IT HAVE?

2 A. I LOOKED AT IT AS AN ENTITLEMENT LETTER
3 THAT ENTITLED ME TO HAVE THE BENEFITS OF THE 12 YEARS
4 THAT I ACCRUED UNDER CALPERS TO BE COMBINED WITH MY
5 L.A.C.E.R.A. YEARS, THAT THERE WAS A MARRIAGE
6 BASICALLY THAT PAVED THE WAY FOR ME TO COMBINE BOTH
7 YEARS TOGETHER FOR MY RETIREMENT BENEFIT.

8 Q. I WANT TO POINT YOUR ATTENTION TO THE
9 SECOND SENTENCE OF THE THIRD PARAGRAPH. AND IT SAYS:

10 "PLEASE FILL OUT THE ATTACHED
11 ESTIMATE REQUEST FORM AND COMPLETE
12 PART 7 AT THE BOTTOM SO THAT WE WILL
13 HAVE THE INFORMATION NEEDED TO
14 CALCULATE YOUR RETIREMENT BENEFITS."

15 DO YOU SEE THAT?

16 A. YES.

17 Q. CAN I DIRECT YOUR ATTENTION BACK TO
18 EXHIBIT 3 -- I MEAN 203.

19 A. ALL RIGHT.

20 Q. AND IT INDICATES -- IT DIRECTS YOU TO FILL
21 OUT PART 7. DO YOU SEE PART 7 ON EXHIBIT 203?

22 A. YES.

23 Q. SO DO YOU THINK THAT THE TIMING WAS THAT
24 YOU RECEIVED THE OCTOBER 6 LETTER FIRST AND
25 SUBSEQUENTLY FILLED OUT THIS RETIREMENT ESTIMATE IN

1 EXHIBIT 203 AS IT'S DIRECTING YOU TO FILL IN PART 7?

2 MR. RIEGER: OBJECTION; LEADING.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER.

5 THE WITNESS: YES.

6 BY MR. JENSEN:

7 Q. SO WHAT DID YOU DO AFTER RECEIVING THIS
8 OCTOBER 6, 2003, LETTER?

9 A. WELL, I WAS IN THE PROCESS OF LOOKING AT
10 AVAILABLE POSITIONS IN THE COUNTY FOR PURPOSES OF
11 MOVING ON FROM SUPERVISOR KNABE'S OFFICE TO ANOTHER
12 DEPARTMENT OF THE COUNTY.

13 Q. DID YOU GO SEE ANYONE AT THIS TIME?

14 A. YES.

15 Q. DID YOU SEE MIKE HENRY?

16 A. YES.

17 Q. AND WHAT IS MIKE -- I'M SORRY. IS THAT HIS
18 NAME?

19 A. YES.

20 Q. AND WHAT IS HIS POSITION?

21 A. DIRECTOR OF PERSONNEL. THAT'S MY
22 INTERPRETATION OF HIS POSITION AS WE KNOW IT,
23 DIRECTOR OF PERSONNEL FOR THE COUNTY OF LOS ANGELES.

24 Q. AND WHY DID YOU GO SEE HIM?

25 A. WELL, I HAD -- I MAY HAVE HINTED TO HIM

1 BEFORE THAT I WAS THINKING OF MOVING ON AND
2 ESSENTIALLY WANTED TO MOVE ON, YOU KNOW, TO ANOTHER
3 COUNTY DEPARTMENT THAT COULD -- THAT WAS OF INTEREST
4 TO ME, ONE, AND A COUNTY DEPARTMENT THAT HAD A
5 POSITION THAT OFFERED A COMPARABLE SALARY TO WHICH I
6 WAS MAKING IN SUPERVISOR KNABE'S OFFICE.

7 Q. AND DID THE SUBJECT OF RECIPROCITY COME UP
8 WITH MR. HENRY?

9 A. AT SOME POINT DURING OUR DISCUSSIONS, YES.

10 Q. CAN YOU CHARACTERIZE FOR US HOW RECIPROCITY
11 CAME UP IN THOSE DISCUSSIONS BETWEEN YOU AND MIKE
12 HENRY?

13 A. WELL, I DON'T RECALL. YOU KNOW, HE
14 RECRUITS ALL THE TOP EXECUTIVES FOR THE COUNTY OF LOS
15 ANGELES, THE DEPARTMENT HEADS. AND HE, YOU KNOW,
16 SAID, YOU KNOW -- YOU KNOW, THE COUNTY HAS THE
17 DEPARTMENT WITH CALPERS. YOU KNOW, DO YOU HAVE
18 ANY -- HOW MANY YEARS DO YOU HAVE?

19 I THINK IT STARTED OUT WITH THE NUMBER OF
20 YEARS I HAD WITH THE COUNTY OF LOS ANGELES, WHICH AT
21 THAT TIME WAS ABOUT 12. AND WE TALKED ABOUT OTHER
22 PUBLIC EMPLOYMENT OPPORTUNITIES OR JOBS THAT I MAY HAVE
23 HAD. AND WE TALKED ABOUT, YOU KNOW, WHAT ARE YOUR
24 PLANS.

25 IT WAS JUST A GENERAL DISCUSSION. YOU KNOW,

1 "FRED, HOW LONG DO YOU PLAN TO WORK AT THE COUNTY? HOW
2 MUCH LONGER DO YOU PLAN TO WORK AT THE COUNTY?"

3 I SAID, "YOU KNOW, I'D LIKE TO WORK ANOTHER OR
4 FIVE OR SIX MORE YEARS."

5 AND HE SAYS, "WELL, DO YOU HAVE OTHER YEARS OF
6 SERVICE THAT YOU'RE LOOKING AT, MILITARY OR OTHER
7 GOVERNMENTAL AGENCIES"?

8 I SAID, "WELL, I'VE GOT 12 YEARS WITH
9 CALPERS."

10 AND I THINK FROM THAT DISCUSSION CAME OUT, YOU
11 KNOW, IF I HAD ESTABLISHED RECIPROCITY WITH THEM,
12 BECAUSE THERE IS A DEPARTMENT IN THE COUNTY THAT HAD AN
13 AVAILABLE POSITION THAT OFFERED A CALPERS POSITION AS
14 WELL AS OTHER DEPARTMENTS THAT WERE UNDER L.A.C.E.R.A.

15 Q. AND WHAT IS YOUR UNDERSTANDING -- WELL, IS
16 IT FAIRLY UNIQUE THAT THERE'S A DEPARTMENT OF THE
17 COUNTY THAT IS A CALPERS-CONTRACTING AGENCY?

18 A. IT IS. BECAUSE I THINK THERE'S ONLY ONE,
19 MAYBE TWO, DEPARTMENTS IN THE ENTIRE COUNTY OF
20 LOS ANGELES OF THE 38 DEPARTMENTS THAT IS COVERED BY
21 CALPERS AS OPPOSED TO L.A.C.E.R.A.

22 Q. AND WHAT WAS YOUR UNDERSTANDING -- WHAT WAS
23 THE NAME OF THAT DEPARTMENT?

24 A. COMMUNITY DEVELOPMENT DEPARTMENT.

25 Q. AND TO YOUR UNDERSTANDING, DID THEY HAVE A

1 POSITION THAT WAS AVAILABLE FOR YOU TO TAKE?

2 A. YES.

3 Q. AND HOW DID YOU UNDERSTAND THAT?

4 A. WELL, BEING A COUNTY EXECUTIVE AT MY LEVEL,
5 YOU KNOW, THE DEPARTMENTS -- MANY DEPARTMENTS HAVE
6 FUNDED POSITIONS THAT ARE NOT OFTENTIMES FILLED.

7 AND SO HE HAD THE PULSE OF ALL THE DEPARTMENTS
8 THAT HAD VACANCIES THAT WERE EITHER IN THE PROCESS OF
9 FILLING THEM OR IN THE PROCESS OF, YOU KNOW, HIRING
10 PEOPLE TO FILL THOSE POSITIONS.

11 Q. AND DID MR. HENRY INDICATE TO YOU THAT THAT
12 JOB WAS AVAILABLE TO YOU?

13 A. YES.

14 Q. AND WHAT WAS THE PAY AT THAT JOB?

15 A. WE DIDN'T -- HE KNEW MY -- HE KNEW WHAT MY
16 REQUIREMENTS WERE OBVIOUSLY, BUT WE DIDN'T TALK ABOUT
17 THE SPECIFICS OF ANY OF THE JOBS THAT WERE AVAILABLE,
18 WHAT THEIR SALARIES WERE.

19 THERE MAY HAVE BEEN SOME RANGES INVOLVED IN
20 THEM, BUT I THINK THERE WAS SOME DISCRETION OF PUTTING
21 ME AT THE RANGE WHERE I COULD ENJOY THE SAME SALARY
22 LEVEL I LEFT SUPERVISOR KNABE'S OFFICE WITH AT THE TIME.

23 Q. HAD YOU KNOWN THAT RECIPROCITY HAD NOT BEEN
24 ESTABLISHED, WHAT WOULD HAVE YOU DONE?

25 A. IT WOULD HAVE BEEN AN EASY DECISION JUST TO

1 GO WITH THE COMMUNITY DEVELOPMENT DEPARTMENT.

2 Q. AND SO WHAT INFORMATION -- WHY DID YOU NOT
3 TAKE THAT POSITION?

4 A. BECAUSE I KNEW -- I KNEW THAT I HAD
5 ESTABLISHED RECIPROCITY AND I HAD RECEIVED, NOT ONLY
6 VERBALLY, BUT I HAD ALSO RECEIVED WRITTEN
7 DOCUMENTATION BY VIRTUE OF EXHIBIT 201.

8 TO ME, IT WAS NOT A -- IT WAS NOT AN ISSUE, SO
9 I TOOK A DEPARTMENT THAT I THOUGHT I WOULD FIND
10 EMPLOYMENT THERE A LITTLE BIT MORE INTERESTING THAN THE
11 OTHER DEPARTMENTS, INCLUDING C.D.C.

12 Q. WAS IT -- WHEN YOU SAY IT'S "MORE
13 INTERESTING," DID YOU BALANCE THE DIFFERENT THOSE
14 DIFFERENT -- HOW DID YOU BALANCE THE POTENTIAL DRAWS
15 OF THE DIFFERENT POSITIONS THAT WERE OFFERED TO YOU?

16 A. WELL, AFTER I KNEW THAT I -- YOU KNOW,
17 C.D.C. WAS ON THE TABLE, BUT I DIDN'T PURSUE THAT
18 ONE, AND THERE WERE OTHER ONES ON THE TABLE AS WELL.
19 IT WAS A COMBINATION OF A COUPLE OF THINGS.

20 ONE IS NOT ONLY -- NOT ONLY THE JOB THAT WAS
21 AVAILABLE WITH THOSE DEPARTMENTS, BUT ALSO THE CULTURE
22 OF THE DEPARTMENT MEANT A LOT TO ME BECAUSE I WORKED
23 WITH ALL 38 DEPARTMENTS AND THE DEPARTMENT HEADS AND
24 MANY OF THEIR LIEUTENANTS.

25 AND I WANTED TO WORK IN AN ENVIRONMENT THAT

1 HAD A DECENT STRUCTURE, THAT HAD -- THAT HAD A GOOD
2 REPUTATION WITH THE BOARD OF SUPERVISORS, NOT A POSITION
3 THAT WOULD BE OUT IN FRONT OF THE BOARD MEETINGS EVERY
4 WEEK GETTING HARANGUED BY THE BOARD BECAUSE EVENTUALLY
5 ALL THE TOP LIEUTENANTS OF THOSE DEPARTMENTS HAVE TO
6 ANSWER UP WHEN THINGS ARE GOING BAD.

7 AND SO I WANTED TO GO TO PUBLIC WORKS BECAUSE
8 PUBLIC WORKS WAS ALWAYS LOOKED UPON AS A REPUTABLE
9 DEPARTMENT OF THE COUNTY. THEY WERE A PARALEGAL
10 ORGANIZATION THAT HAD GOOD STRUCTURE AND WELL RESPECTED
11 BY THE BOARD.

12 SO THAT WAS THE DECISION-MAKING PROCESS I WENT
13 THROUGH IN GOING TO PUBLIC WORKS.

14 Q. AND WITH THESE OTHER FACTORS IN MIND ABOUT
15 THE POTENTIAL FOR BEING BROUGHT IN FRONT OF THE
16 BOARD, HAD YOU UNDERSTOOD THAT RECIPROCITY HAD NOT
17 BEEN ESTABLISHED, WHAT WOULD HAVE BEEN YOUR JOB
18 DECISION?

19 MR. RIEGER: OBJECTION; ASKED AND
20 ANSWERED.

21 THE COURT: OVERRULED.

22 YOU CAN ANSWER.

23 THE WITNESS: COMMUNITY DEVELOPMENT
24 DEPARTMENT.

25 ///

1 BY MR. JENSEN:

2 Q. AND WAS THAT THE CALPERS-CONTRACTING
3 AGENCY?

4 A. YES.

5 Q. AND WHY WOULD YOU HAVE CHOSEN THAT?

6 A. WELL, I CERTAINLY WOULD WANT TO TAKE
7 ADVANTAGE OF THE BENEFITS THAT I WOULD BE LEGALLY
8 ENTITLED TO MARRY THOSE YEARS IF THEY HAD NOT BEEN
9 REPRESENTED TO ME AS BEING JOINED SOMEHOW.

10 Q. SO WHAT FORMALITIES -- WERE THERE ANY
11 FORMALITIES YOU ENGAGED IN WITH MIKE HENRY TO HAVE
12 THESE DIFFERENT OPTIONS PRESENTED TO YOU?

13 A. BASICALLY, MEETING WITH THE DEPARTMENT HEAD
14 AND -- YOU KNOW, AND SPEAKING TO THE DEPARTMENT HEAD
15 ABOUT MY INTEREST AND WHAT MY STRENGTHS WERE, WHAT I
16 THOUGHT I COULD BRING TO THE DEPARTMENT IN TERMS OF
17 NOT ONLY IN AN OPERATIONAL SENSE FROM MY BACKGROUND,
18 BUT ALSO ULTIMATELY MY RELATIONSHIP WITH THE
19 DIFFERENT BOARD OFFICES.

20 Q. SO AT THIS TIME IN 2003, WERE YOU
21 CONTEMPLATING IMMEDIATE RETIREMENT?

22 A. NO.

23 Q. WHAT WAS YOUR EXPECTATION OF YOUR FUTURE
24 WORK OR YOUR FUTURE EXPECTED RETIREMENT DATE?

25 A. I WAS KIND OF LOOKING AT RETIRING AT AROUND

1 60.

2 Q. AND WAS THERE ANY REASON YOU CHOSE AGE 60?

3 A. I CHOSE 60 BECAUSE I WORKED HARD ALL MY
4 LIFE AND --

5 Q. MR. GUIDO, DO YOU WANT A BREAK?

6 A. NO. EXCUSE ME.

7 YOU KNOW, I WORKED PRETTY HARD ALL MY LIFE
8 SINCE I WAS A TEENAGER. AND I DIDN'T DO A LOT IN MY
9 LIFE, AND I THOUGHT RETIRING EARLY WOULD ALLOW ME TO DO
10 A LOT OF THINGS I DIDN'T DO.

11 I WANTED TO HAVE MORE TIME WITH MY PARENTS AND
12 JUST -- I DIDN'T WANT TO -- I DIDN'T WANT TO END UP LIKE
13 A LOT OF PEOPLE THAT I SEE WORKING IN THE COUNTY THAT
14 JUST CAN'T GET ENOUGH YEARS, 65, 70, JUST LIKE YOU SEE
15 PEOPLE IN CONGRESS 75, 80, 85.

16 AND I JUST WANTED TO -- I KNEW I WORKED HARD
17 ALL MY LIFE, AND I WAS ALWAYS PROUD OF WHAT I'D DONE AND
18 I JUST I KNEW I WANTED TO SAY, HEY. I WANTED TO RETIRE
19 WITH MAYBE A LITTLE LESS BUT DO THINGS I'D NEVER DONE
20 BECAUSE I JUST NEVER HAVE DONE A LOT OF THINGS IN LIFE.

21 SORRY ABOUT THAT.

22 THE COURT: THAT'S OKAY. YOU WANT TO TAKE
23 A BREAK OR --

24 THE WITNESS: NO. JUST KEEP GOING.

25 MR. JENSEN: SO, YOUR HONOR, IS 202 IN?

1 THE COURT: YOU HAVE NOT OFFERED 202 YET.

2 MR. JENSEN: IF I COULD OFFER 202 INTO
3 EVIDENCE.

4 THE COURT: OKAY. ANY OBJECTION TO
5 EXHIBIT 202?

6 MR. RIEGER: IT'S ALSO NOT COMPLETE -- I'LL
7 JUST MAKE THAT NOTE -- BUT FOR WHAT IT IS, AN
8 INCOMPLETE DOCUMENT, THERE'S NO OBJECTION TO IT
9 COMING INTO EVIDENCE.

10 THE COURT: OKAY. JUST OUT OF CURIOSITY,
11 IS THE REST OF IT SOMEPLACE ELSE OR --

12 MR. RIEGER: I'M NOT 100 PERCENT SURE, BUT
13 I JUST NOTE, FOR EXAMPLE, YOU CAN SEE ON THE NEXT
14 PAGE, IT SAYS:

15 "SEE" -- "PLEASE SEE COMPLETE
16 INFORMATION ON THE NEXT PAGE," AND
17 THERE IS NO NEXT PAGE.

18 SO, I MEAN, IT IS WHAT IT IS. IT CAN COME
19 INTO EVIDENCE. I'M JUST NOTING IT.

20 THE COURT: OKAY. SO NOTED.

21 MR. JENSEN: AND FOR THE RECORD, THE NEXT
22 PAGE IS -- IT'S BATES-STAMPED THE NEXT PAGE AS 203,
23 BUT I DON'T KNOW WHAT THE NEXT PAGE IS OF THE
24 DOCUMENT. IT'S DIFFERENT THAN 203.

25 THE COURT: OKAY. ANYTHING, MS. DANIEL?

1 MS. DANIEL: NO.

2 THE COURT: OKAY. ALL RIGHT. I'LL ADMIT
3 202.

4 (RESPONDENT'S EXHIBIT NUMBER 202 WAS
5 MARKED FOR IDENTIFICATION BY THE COURT
6 AND RECEIVED INTO EVIDENCE.)

7 THE WITNESS: TO FINISH THAT THOUGHT, ALSO
8 MY WIFE HAD RETIRED THE PREVIOUS YEAR AFTER TEACHING
9 38 YEARS. SO THAT WAS IN PART PART OF -- YOU KNOW,
10 IT WAS A LITTLE BIT OF EVERYTHING; SO, YEAH.
11 BY MR. JENSEN:

12 Q. I JUST WANT TO TURN YOUR ATTENTION TO
13 EXHIBIT 204.

14 A. YES.

15 Q. CAN YOU TAKE A MINUTE TO REVIEW THIS
16 DOCUMENT, PLEASE.

17 A. UH-HUH.

18 Q. DO YOU RECOGNIZE THIS DOCUMENT?

19 A. YES, I DO.

20 Q. AND WHAT IS THIS DOCUMENT, TO THE BEST OF
21 YOUR UNDERSTANDING?

22 A. JUST BASICALLY, IT'S A DOCUMENT THAT
23 INDICATES THAT IF I WAS MOVING MY BENEFITS OR SERVICE
24 CREDIT FROM ONE AGENCY, AND I GUESS THAT MONEY, FUNDS
25 THAT I MAY HAVE HAD ON DEPOSIT WITH THE AGENCY AND

1 HOW I HAVE TO GO ABOUT MOVING THEM IF I WANTED TO
2 ROLL THEM OVER OR PASS THEM ON.

3 Q. WAS THIS WITH RESPECT TO YOUR 457 OR WITH
4 RESPECT TO YOUR -- WHAT FUNDS ARE WE TALKING ABOUT
5 HERE?

6 A. I'M ASSUMING IT HAS TO DO WITH THE MONEYS I
7 HAD ON DEPOSIT WITH CALPERS IN THE CITY OF CUDAHY.

8 Q. AND DO YOU KNOW WHAT PRECIPITATED THIS
9 LETTER TO YOU?

10 A. I DON'T AT THE MOMENT. IT MAY HAVE BEEN
11 THE INQUIRY OF -- NO. I DON'T RECALL AT THE MOMENT.

12 Q. AND DOES THIS DATE, JULY 27, 2007, HAVE ANY
13 SIGNIFICANCE TO YOU?

14 A. NO. BECAUSE IT JUST DIDN'T APPLY TO ME.

15 Q. AND LET ME JUST TURN YOUR ATTENTION TO THE
16 SECOND PAGE WHERE IT IS UNDERLINED. IT SAYS:

17 "IF YOU WISH TO LEAVE YOUR FUNDS
18 ON DEPOSIT, YOU DO NOT NEED TO
19 RESPOND TO THIS LETTER."

20 A. THAT'S CORRECT.

21 Q. AND DID YOU HAVE FUNDS ON DEPOSIT?

22 A. I DID.

23 Q. AND WHAT WERE THOSE FUNDS ON DEPOSIT FOR?

24 A. I GUESS THEY WERE FUNDS ON DEPOSIT FOR THE
25 YEARS I SERVED ON THE CUDAHY CITY COUNCIL.

1 Q. AND DID YOU HAVE MORE THAN FIVE YEARS OF
2 SERVICE AT THIS TIME?

3 A. YES.

4 Q. AND DID YOU BELIEVE -- OR WITH RESPECT TO
5 THE SECOND PARAGRAPH ON PAGE 1, BATES-STAMPED
6 FGUIDO 37, THAT YOU WERE A VESTED CALPERS MEMBER?

7 A. YES, I WAS VESTED.

8 MR. JENSEN: OKAY. I'D LIKE TO OFFER 204
9 INTO EVIDENCE.

10 THE COURT: ANY OBJECTION?

11 MR. RIEGER: THE ENTIRETY OF 204 IS BEING
12 OFFERED?

13 THE COURT: IS THAT THE OFFER?

14 MR. JENSEN: I BELIEVE IT'S A -- 34 THROUGH
15 47.

16 MR. RIEGER: HUH?

17 MR. JENSEN: I'M SORRY. BATES-STAMPED
18 FGUIDO 37 THROUGH 45.

19 MR. RIEGER: SO THE ENTIRETY OF
20 EXHIBIT 204?

21 MR. JENSEN: THE ENTIRETY.

22 MR. RIEGER: AND THERE'S NO OBJECTION TO
23 THAT.

24 THE COURT: OKAY. IT'S ADMITTED.

25 ///

1 (RESPONDENT'S EXHIBIT NUMBER 204 WAS
2 MARKED FOR IDENTIFICATION BY THE COURT
3 AND RECEIVED INTO EVIDENCE.)

4 BY MR. JENSEN:

5 Q. AND, MR. GUIDO, I JUST WANT TO TURN YOUR
6 ATTENTION TO BATES-STAMP PAGE 42 ON THAT EXHIBIT 204.

7 A. UH-HUH, YES.

8 Q. IT SAYS:

9 "ELECTION TO COORDINATE
10 RETIREMENT WHEN CHANGING TO
11 NONRECIPROCAL SYSTEMS."

12 DO YOU SEE L.A.C.E.R.A. MENTIONED AS A
13 NONRECIPROCAL SYSTEM?

14 A. NO.

15 Q. NOW, LET ME TURN YOUR ATTENTION TO THE PAGE
16 BEFORE THAT, 42.

17 "ELECTION TO COORDINATE
18 RETIREMENT WHEN CHANGING RETIREMENT
19 SYSTEMS."

20 DO YOU SEE THAT?

21 A. YES.

22 Q. AND DO YOU SEE THAT THE COUNTY OF
23 LOS ANGELES IS LISTED AS A RECIPROCAL SYSTEM?

24 A. YES.

25 Q. DID YOU FILL IN THIS FORM?

1 A. I DON'T RECALL FILLING IN THIS FORM.

2 Q. AND AS OF THIS DATE IN 2007, WHAT DID YOU
3 BELIEVE WAS THE STATUS OF YOUR RECIPROCITY?

4 A. THE SAME AS IT WAS IN 2003 WHEN I SPOKE TO
5 THE CALPERS ANALYST AND RECEIVED THE LETTER FROM
6 CALPERS.

7 Q. AND SO WERE YOU UNDER THE UNDERSTANDING
8 THAT YOU HAD TO ELECT AGAIN TO ESTABLISH RECIPROCITY?

9 A. NO.

10 Q. AND WITH RESPECT TO THE EARLIER LETTER --
11 EARLIER PAGE OF THIS LETTER WHERE IT SAYS:

12 "IF YOU WISH TO LEAVE YOUR
13 FUNDS ON DEPOSIT, YOU DO NOT NEED TO
14 RESPOND TO THIS LETTER."

15 -- WHAT WAS YOUR UNDERSTANDING OF WHETHER
16 YOU NEEDED TO FILE THIS ELECTION TO COORDINATE
17 RETIREMENT IN 2007?

18 A. IT WAS NEVER MY UNDERSTANDING THAT I HAD TO
19 FILE IT NOR WAS I EVER INSTRUCTED TO FILE IT.

20 Q. I WANT TO MOVE TO --

21 MR. JENSEN: 204 IS IN?

22 THE COURT: YES.

23 MR. JENSEN: OKAY. I WANT TO MOVE TO
24 EXHIBIT 205.

25 / / /

1 BY MR. JENSEN:

2 Q. DO YOU RECOGNIZE THIS DOCUMENT, MR. GUIDO?

3 A. 205?

4 Q. YES.

5 A. YES.

6 Q. AND WHAT IS THIS DOCUMENT?

7 A. IT'S A RETIREMENT ALLOWANCE ESTIMATE

8 REQUEST.

9 Q. AND IS THIS HANDWRITING YOUR HANDWRITING?

10 A. YES, IT IS.

11 Q. AND DID YOU GET ANY HELP IN FILLING IN THIS

12 DOCUMENT?

13 A. NO, I DID NOT.

14 Q. AND DID YOU MAKE ANY INQUIRIES ABOUT YOUR

15 RETIREMENT PRIOR TO MAKING THIS ESTIMATE REQUEST?

16 A. I BELIEVE I DID.

17 Q. DID YOU CALL CALPERS AND MAKE INQUIRIES AT

18 ANY TIME BETWEEN 2003 AND 2007?

19 A. YES.

20 Q. AND PLEASE TELL US THE NATURE OF THOSE

21 INQUIRIES.

22 A. I CAN'T REMEMBER THEM ALL SPECIFICALLY.

23 THEY VARIED. SOME HAD TO DO WITH RETIREMENT

24 ALLOWANCE ESTIMATE REQUESTS THAT I SUBMITTED. SOME

25 HAD TO DO WITH OTHER BENEFIT INFORMATION SUCH AS A

1 BENEFICIARY.

2 Q. LET'S FOCUS ON THE RECIPROCITY ISSUE. DID
3 YOU MAKE -- WELL, DID YOU MAKE ANY INQUIRIES ABOUT
4 RECIPROCITY IN THAT TIME PERIOD?

5 A. YES, I DID.

6 Q. TELL US WHAT YOU -- WHO YOU CALLED AND WHAT
7 YOU SAW.

8 A. WELL, I WAS A LITTLE -- I WAS A LITTLE
9 CLOSER TO --

10 IN BETWEEN WHAT PERIOD AGAIN?

11 Q. 2003 AND 2007.

12 WELL, IT'S UNCLEAR. ACTUALLY, IT LOOKS
13 LIKE -- WELL, LET'S JUST FOCUS ON THIS ONE RETIREMENT
14 ESTIMATE IN FRONT OF US. DID YOU MAKE ANY INQUIRIES TO
15 CALPERS IN THE SIX MONTHS PRIOR TO MAKING THIS ALLOWANCE
16 ESTIMATE REQUEST?

17 MR. RIEGER: OBJECTION; FOUNDATION. I
18 MEAN, THE PROBLEM IS WE HAVEN'T ESTABLISHED WHEN THIS
19 REQUEST WAS MADE SO I DON'T KNOW HOW HE COULD SPEAK
20 TO SIX MONTHS BEFORE.

21 THE COURT: SUSTAINED.

22 BY MR. JENSEN:

23 Q. OKAY. WHEN DID YOU NEXT START MAKING
24 RETIREMENT INQUIRIES?

25 MR. RIEGER: OBJECTION; VAGUE. I DON'T

1 KNOW WHAT "NEXT" MEANS.

2 BY MR. JENSEN:

3 Q. I'LL ASK IT THIS WAY: SUBSEQUENT TO 2003,
4 WHEN DID YOU NEXT MAKE INQUIRIES ABOUT YOUR
5 RETIREMENT FROM CALPERS?

6 A. I BELIEVE IT WAS IN 2008.

7 Q. AND WHAT --

8 A. THERE MAY -- EXCUSE ME. I MAY HAVE MADE
9 OTHER INQUIRIES ALONG THE WAY SUCH AS RETIREMENT
10 ALLOWANCE ESTIMATE REQUESTS AS WELL AS OTHER GENERAL
11 INQUIRIES.

12 BUT IT WASN'T UNTIL 2008 THAT I THEN HAD MY
13 SIGHTS SET ON A RETIREMENT DATE, AND I WANTED TO
14 BASICALLY FIRM THINGS UP, AS I WAS TOLD THAT I SHOULD TO
15 MAKE SURE THAT, YOU KNOW, I KNOW WHAT KIND OF
16 BENEFICIARY, HEALTH INSURANCE.

17 YOU KNOW, I CAN OBTAIN A FORMAL RETIREMENT
18 ALLOWANCE ESTIMATE AS IT WAS EXPLAINED TO ME, AND SO IT
19 WAS AT THAT TIME THAT I STARTED LOOKING AT RETIREMENT
20 AND FORMALIZING WHAT I HAD TO PREPARE.

21 Q. LET ME JUST TURN YOUR ATTENTION TO
22 EXHIBIT 206.

23 UNDER THE SECOND PAGE OF 206, I JUST WANT
24 TO -- DO YOU RECOGNIZE THIS DOCUMENT? IT'S BATES
25 STAMPED FGUIDO 9.

1 A. I'M LOOKING 0AT -- THE FIRST ONE UNDER 206
2 IS FGUIDO 8, AND THEN THE SECOND PAGE, IS THAT WHAT
3 YOU'RE TALKING ABOUT?

4 Q. YES. IT SHOULD BE FGUIDO 9.
5 DO YOU SEE A DATE AT THE TOP OF THAT?

6 A. I DO.

7 Q. AND WHAT IS THAT DATE?

8 A. OCTOBER 2, '07.

9 Q. AND WITH REFERENCE TO THIS, DID YOU MAKE
10 ANY INQUIRIES TO CALPERS IN THE THREE MONTHS
11 PRECEDING THIS PERIOD OF OCTOBER 2, 2007?

12 A. YES. I DID BECAUSE I WAS LOOKING AT THE
13 JANUARY RETIREMENT. SO I THINK I WAS TRYING TO
14 FUNCTION WITHIN THE 90-DAY PERIOD AS TO START TO --
15 START PULLING THINGS TOGETHER.

16 Q. SO WITH REFERENCE TO THAT OCTOBER 2007,
17 DOES IT REFRESH YOUR RECOLLECTION ABOUT THE EXHIBIT
18 IN -- ABOUT THE DOCUMENT IN EXHIBIT 205, THE DATE OF
19 THAT DOCUMENT?

20 A. COULD YOU PLEASE REPEAT THAT?

21 Q. I'M JUST WONDERING IF -- I'M JUST WONDERING
22 IF THE DOCUMENT, THE REQUEST FOR ALLOWANCE THAT'S IN
23 EXHIBIT 205, IS THE REQUEST BY YOU THAT GENERATED
24 CALPERS' RESPONSE IN EXHIBIT 206.

25 A. YES, IT IS.

1 Q. OKAY. AND IF WE LOOK AT THE DATE ON THE
2 SECOND PAGE OF 206 AS BEING OCTOBER 2, 2007, THEN DO
3 YOU KNOW HOW MUCH EARLIER YOUR REQUEST WAS SENT TO
4 CALPERS?

5 A. HOW MUCH EARLIER?

6 Q. THAN OCTOBER 2007.

7 A. I WAS LOOKING AT THAT FOR A DATE HERE AND
8 I --

9 Q. IF THE ANSWER IS NO, YOU CAN JUST SAY NO.

10 A. NO. NO.

11 MR. JENSEN: OKAY. I'D LIKE TO JUST OFFER
12 205 AND 206 INTO EVIDENCE.

13 THE COURT: OKAY. ANY OBJECTIONS TO
14 EITHER?

15 MR. RIEGER: NO OBJECTIONS EXCEPT JUST TO
16 CONTINUALLY NOTE THEY DO APPEAR TO BE INCOMPLETE.
17 BUT THEY ARE WHAT THEY ARE, AND IT'S FINE IF THEY
18 COME INTO EVIDENCE.

19 THE COURT: OKAY. 206 YOU THINK IS ALSO
20 INCOMPLETE?

21 MR. RIEGER: WELL, IT DOES SAY -- IT HAS
22 THE SAME ISSUE AS THE LAST ONE WE LOOKED AT WHERE IT
23 TALKS ABOUT "SEE THE FOLLOWING PAGE FOR MORE
24 INFORMATION," AND THERE'S NO FOLLOWING PAGE.

25 AND THEN 205 HAS THE SAME ISSUE AS ANOTHER ONE

1 WE LOOKED AT. AND YOU CAN ACTUALLY SEE HERE, BECAUSE
2 IT'S A BETTER COPY, IT'S PAGE 1 OF 2, WHICH WAS THE
3 ISSUE WITH THE OTHER ONE. I MEAN, THEY ARE WHAT THEY
4 ARE. I'M JUST NOTING FOR THE RECORD THEY'RE NOT
5 COMPLETE.

6 THE COURT: OKAY. ANYTHING, MS. DANIEL?

7 MS. DANIEL: NOTHING FURTHER.

8 THE COURT: OKAY. SO NOTED. I'LL ADMIT
9 205 AND 206.

10 (RESPONDENT'S EXHIBIT NUMBERS 205 AND
11 206 WERE MARKED FOR IDENTIFICATION BY
12 THE COURT AND RECEIVED INTO EVIDENCE.)

13 MR. JENSEN: AND, YOUR HONOR, I JUST WANT
14 TO QUICKLY FINISH UP SOMETHING BEFORE WE DO A
15 STOPPING --

16 THE COURT: OKAY.

17 MR. JENSEN: -- POINT FOR LUNCH.

18 BY MR. JENSEN:

19 Q. MR. GUIDO, IF YOU CAN REFER TO EXHIBIT 206.
20 WHAT IS THIS DOCUMENT?

21 A. IT'S A RESPONSE TO A RETIREMENT ALLOWANCE
22 FORM.

23 Q. DID YOU RECEIVE THIS DOCUMENT?

24 A. YES.

25 Q. AND ON THE THIRD PAGE, WHICH IS BATES

1 STAMPED GUIDO 10, WHAT WAS YOUR UNDERSTANDING OF THE
2 INFORMATION PROVIDED IN THIS TABULAR FORM?

3 A. WELL, MY INFORMATION, YOU KNOW, BASICALLY
4 ON FGUIDO 10, IT JUST BASICALLY SUMMARIZED MY YEARS
5 OF SERVICE WITH THE CITY OF CUDAHY, THE FORMULA FOR
6 CALCULATING MY BENEFITS. IT SHOWED MY PERCENTAGE OF
7 FINAL COMPENSATION AND FINAL COMPENSATION.

8 Q. AND WHAT DID YOU UNDERSTAND THIS
9 INFORMATION ON PAGE 10, FGUIDO 10, TO MEAN TO YOU?

10 A. WELL, IT BASICALLY PROVIDED ME WITH
11 INFORMATION, CRITICAL INFORMATION THAT WAS USED TO
12 CALCULATE MY RETIREMENT BENEFITS.

13 Q. DID YOU BELIEVE THAT THIS DOCUMENT
14 INDICATED THAT RECIPROCITY HAD BEEN ESTABLISHED?

15 A. YES.

16 Q. AND DID YOU RELY ON THIS INFORMATION IN
17 THIS DOCUMENT IN ANY WAY?

18 A. YES, I DID.

19 Q. AND HOW DID YOU RELY ON IT?

20 A. WELL, IT REAFFIRMED MY BENEFIT AMOUNT THAT
21 WAS EXPRESSED IN PREVIOUS CORRESPONDENCE TO ME AND
22 THAT RECIPROCITY WAS NOT AN ISSUE AND THAT ON
23 RETIREMENT, BASED ON THE OPTION I SELECTED, I WOULD
24 BE ENTITLED TO RECEIVE THE PRESCRIBED DOLLARS THERE
25 BASED ON THE INDIVIDUAL OPTIONS.

1 Q. AND IF YOU HAD KNOWN THAT RECIPROCITY WAS
2 NOT ESTABLISHED, WHAT WOULD HAVE YOU DONE AT THIS
3 TIME?

4 A. I WOULD HAVE TAKEN STEPS TO MOVE TO A
5 RETIREMENT -- TO A CALPERS RETIREMENT SYSTEM THAT
6 WOULD HAVE ESTABLISHED RECIPROCITY WITH L.A.C.E.R.A.

7 Q. AND AT THIS POINT, WERE YOU AWARE OF ANY
8 JOB OPPORTUNITIES THAT WERE AVAILABLE TO YOU IN THE
9 RELATIVE NEAR FUTURE?

10 A. IN JANUARY OF '09?

11 Q. THIS WOULD BE -- WE'RE TALKING ABOUT
12 OCTOBER 2, 2007.

13 A. YES.

14 Q. AND WHAT WERE THOSE?

15 A. SEPARATE AND APART FROM THE COUNTY C.D.C.
16 POSITION, I HAD AN OPPORTUNITY TO GO TO WORK FOR A
17 COUPLE OF DIFFERENT CITIES IN AN ADMINISTRATIVE
18 CAPACITY.

19 Q. AND WERE YOU AWARE WHETHER THOSE CITIES
20 WERE CALPERS CONTRACTING AGENCIES?

21 A. THEY WERE.

22 Q. AND WHY DID YOU NOT EXPLORE THOSE POTENTIAL
23 JOBS?

24 A. WELL, ONE, I HAD -- ONE, I HAD RECIPROCITY
25 ESTABLISHED. IT WAS NOT AN ISSUE. IT WAS CLEAR TO

1 ME I HAD ESTABLISHED RECIPROCITY.

2 SECOND WAS THAT I DIDN'T WANT TO GO TO WORK
3 FOR ANOTHER CITY WHEN I WAS SO CLOSE TO RETIRING.

4 MR. JENSEN: YOUR HONOR, IT'S ONE MINUTE
5 BEFORE 12:00. IS THIS AN OKAY TIME TO BREAK?

6 THE COURT: SURE. ABSOLUTELY. WE'LL TAKE
7 OUR LUNCH BREAK AT THIS TIME, AND WE'LL RESUME AT
8 1:30.

9 WE'RE OFF THE RECORD.

10 (WHEREUPON, A LUNCHEON RECESS WAS
11 HELD FROM 12:00 P.M. TO 1:34 P.M.)

12 ///

13 ///

14 ///

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25

1 LOS ANGELES, CALIFORNIA, TUESDAY

2 NOVEMBER 13, 2012

3 1:34 P.M.

4

5 THE COURT: LET'S GO BACK ON THE RECORD.

6 WE'RE BACK ON FROM OUR LUNCH BREAK. WE'RE

7 CONTINUING WITH THE DIRECT EXAMINATION OF MR. GUIDO.

8 AND, MR. JENSEN, YOU CAN CONTINUE.

9 MR. JENSEN: THANK YOU, YOUR HONOR.

10 OVER LUNCH, I REALIZED I FORGOT TO DISCUSS

11 SOMETHING THAT OCCURRED, SO WE'RE GOING TO RETRACE A

12 LITTLE BIT OUR STEPS.

13

14 DIRECT EXAMINATION (RESUMED)

15 BY MR. JENSEN:

16 Q. MR. GUIDO, AT SOME POINT, DID YOU TAKE A --

17 WHEN YOU WERE AT LOS ANGELES COUNTY, DID YOU TAKE A

18 CIVIL SERVICE EXAM?

19 A. YES, I DID.

20 Q. AND CAN YOU TELL ME WHEN YOU TOOK THAT EXAM

21 APPROXIMATELY?

22 A. I TOOK IT SOMETIME SHORTLY AFTER I INFORMED

23 MR. HENRY THAT I WAS INTERESTED IN PURSUING A

24 POSITION IN -- A DEPARTMENT POSITION.

25 Q. AND HOW WAS THE TEST PRESENTED TO YOU?

1 A. WELL, IT'S VAGUE. I REMEMBER I FILLED OUT
2 SOME WRITTEN ANSWERS TO TESTS, BUT THE CRITICAL PART
3 OF THE TEST WAS MOSTLY AN INTERVIEW BY A PANEL OF
4 DIFFERENT DEPARTMENT EXECUTIVES, COUNTYWIDE
5 DEPARTMENT EXECUTIVES.

6 Q. AND WAS IT YOUR UNDERSTANDING THAT THIS
7 TEST WOULD APPLY TO THE COMMUNITY DEVELOPMENT JOB AS
8 WELL AS THE DEPARTMENT OF WATER AND POWER?

9 A. TO THE BEST OF MY KNOWLEDGE, THE CIVIL
10 SERVICE EXAM THAT I TOOK APPLIED TO ALL -- TO THE
11 BEST OF MY KNOWLEDGE, IT APPLIES TO ALL TYPE OF
12 ADMINISTRATIVE POSITIONS IN THE DEPARTMENTS.

13 Q. AND DID YOU SUCCEED ON THE TEST?

14 A. YES, I DID.

15 Q. AND APPROXIMATELY WHAT DATE WAS THAT?

16 A. I WANT TO THINK IT WAS SOMETIME IN
17 SEPTEMBER OR AUGUST, LATE AUGUST, SEPTEMBER OF '03.

18 Q. NOW, I WANT TO MOVE FORWARD TO THIS PERIOD
19 THAT WE WERE DISCUSSING BEFORE THE BREAK WHICH WE
20 IDENTIFIED PURSUANT TO EXHIBIT 206 AS APPROXIMATELY
21 OCTOBER OF 2007.

22 TELL US YOUR STATE OF MIND WITH RESPECT TO
23 RETIREMENT AT THIS PERIOD.

24 A. IN 2007, I WAS STARTING TO COLLECT SOME
25 THOUGHTS ON WHEN I WOULD WANT TO RETIRE AND TRYING TO

1 FIGURE OUT, AS THE CULTURE IN L.A. COUNTY, WHERE OUR
2 COST-OF-LIVING INCREASE HITS BASICALLY AS WELL AS
3 WHERE YOUR TENURE MATURES FROM YEAR TO YEAR SO
4 THAT -- YOU KNOW, SO THAT I COULD RETIRE TAKING
5 ADVANTAGE OF THE MOST RECENT COST-OF-LIVING INCREASE
6 AS WELL AS ANNUAL YEARS OF SERVICE THAT I HAD ON THE
7 BOOKS.

8 I'M NOT SURE I WOULD SAY THAT, BUT BASICALLY
9 NUMBER OF YEARS INCREASED BY THE NUMBER OF YEARS I HAD
10 WITH THE COUNTY AS WELL AS THE MOST RECENT
11 COST-OF-LIVING INCREASE; YEAH.

12 Q. CAN I TURN YOUR ATTENTION TO EXHIBIT 207,
13 PLEASE.

14 A. OKAY.

15 Q. DO YOU RECOGNIZE THIS DOCUMENT?

16 A. YES, I DO.

17 Q. AND DID YOU RECEIVE THIS DOCUMENT?

18 A. I DID RECEIVE IT.

19 Q. AND WHAT DID YOU UNDERSTAND WERE YOUR
20 RECIPROCAL RETIREMENT RIGHTS UPON RECEIVING THIS
21 LETTER?

22 A. JUST AS A -- IT WAS A REAFFIRMATION THAT I
23 DID HAVE RECIPROCITY -- THAT I HAD ESTABLISHED
24 RECIPROCITY AND THAT THEY USED MY MOST RECENT SALARY
25 AT THE TIME I RETIRED AS A BASIS OF DETERMINING MY

1 RETIREMENT BENEFITS.

2 Q. AND WHEN YOU SAW THAT IN THE SECOND
3 SENTENCE IT SAYS:

4 "CALPERS HAS REVIEWED YOUR
5 ACCOUNT AND DETERMINED THAT
6 RECIPROCITY HAS BEEN ESTABLISHED" --

7 A. EXCUSE ME. CAN I GET MY GLASSES? SORRY.
8 OKAY. I'M SORRY.

9 Q. I JUST WANT TO GET YOUR UNDERSTANDING OF
10 THIS SECOND SENTENCE, IN PARTICULAR ABOUT WHAT YOUR
11 UNDERSTANDING WAS, THE NATURE OF CALPERS' REVIEW OF
12 YOUR ACCOUNT.

13 A. MY UNDERSTANDING WAS THAT BASED ON MY
14 RETIREMENT -- MY MONTHLY SALARY AT THE TIME I WAS
15 PROJECTING RETIREMENT THAT THEY PROVIDED ME WITH AN
16 ESTIMATE AND THAT THAT ESTIMATE THAT I PROVIDED THEM
17 HAD NOT BEEN VERIFIED BY MY EMPLOYER AND THAT IF THAT
18 NUMBER THAT I PRESENTED TO THEM WAS ANY DIFFERENT
19 THAN WHAT I REPRESENT -- ANY DIFFERENT THAN WHAT I
20 PROVIDED THEM, THAT IT COULD AFFECT THE ESTIMATE THEY
21 PROVIDED ME.

22 Q. DO YOU SEE ON THE BOTTOM OF THE PAGE WHERE
23 IT SAYS -- IT'S STAMPED "UNOFFICIAL" UPSIDE DOWN?

24 A. YES.

25 Q. DID YOU UNDERSTAND THIS TO -- WELL,

1 ACTUALLY, LET ME TURN YOUR ATTENTION BACK TO
2 EXHIBIT 201.

3 A. OKAY.

4 Q. WHEN YOU RECEIVED THIS, WAS IT STAMPED
5 "UNOFFICIAL"?

6 A. YOU KNOW, I'M LOOKING AT A COPY OF THAT
7 DOCUMENT. I DIDN'T PAY THAT MUCH ATTENTION TO IT,
8 BUT I'M ASSUMING THAT IF IT'S NOT STAMPED
9 "UNOFFICIAL" THAT THE ONE I RECEIVED WAS NOT STAMPED.

10 Q. SO DID YOU PAY ANY -- DID YOU NOTE ANY
11 SIGNIFICANCE TO THIS STAMPING OF "UNOFFICIAL" ON THIS
12 OCTOBER 2008 DOCUMENT?

13 A. ONLY INSOFAR AS WHAT MY FINAL COMPENSATION
14 AMOUNT THAT I DECLARED ON MY FORM WAS CONCERNED.

15 Q. DURING THE, SAY, THREE MONTHS PRIOR TO THIS
16 OCTOBER 2008 LETTER, DID YOU MAKE ANY INQUIRIES OF
17 CALPERS? DID YOU CALL CALPERS?

18 A. YES, I DID.

19 Q. AND CAN YOU DESCRIBE THE NATURE OF THOSE
20 INQUIRIES?

21 A. WELL, SINCE IT WAS GETTING CLOSE TO MY
22 RETIREMENT, I JUST WANTED TO REASCERTAIN ALL THE
23 FACTS THAT I HAD THAT WERE PROVIDED ME WERE CORRECT,
24 AND I ALSO WANTED A FINAL SALARY -- OR BENEFIT
25 ESTIMATE.

1 AND THE PERSON OR THE ANALYST I SPOKE TO
2 AGREED TO SEND ME A LETTER RECONFIRMING RECIPROCITY.
3 AND EITHER WITH THAT LETTER OR SHORTLY THEREAFTER, THEN
4 I ALSO RECEIVED THE MOST RECENT BENEFIT ESTIMATE BASED
5 ON MY FINAL COMPENSATION AMOUNT OF \$11,838 A MONTH.

6 MR. JENSEN: AND, YOUR HONOR, JUST FOR
7 HOUSEKEEPING, I'D LIKE TO MOVE 207 INTO EVIDENCE.

8 THE COURT: OKAY. ANY OBJECTION?

9 MR. RIEGER: NO OBJECTION.

10 THE COURT: OKAY. IT'S ADMITTED.

11 (RESPONDENT'S EXHIBIT NUMBER 207 WAS
12 MARKED FOR IDENTIFICATION BY THE COURT
13 AND RECEIVED INTO EVIDENCE.)

14 MR. JENSEN: THANK YOU, YOUR HONOR.

15 AND 206 IS ADMITTED AS WELL?

16 THE COURT: YES.

17 MR. JENSEN: YES?

18 BY MR. JENSEN:

19 Q. OKAY. MR. GUIDO, DID YOU SUPPLY THE
20 NUMBER 11,838 TO CALPERS?

21 A. YES, I DID.

22 Q. AND IN THE EXHIBIT 206, THE NUMBER IS
23 SLIGHTLY DIFFERENT. IT'S 11,775. DID YOU SUPPLY
24 THAT NUMBER AS WELL?

25 A. I RECALL SUPPLYING -- SUBMITTING -- I

1 RECALL SUBMITTING THREE OR FOUR BENEFIT ESTIMATES
2 BETWEEN THE PERIOD OF 2003 AND 2008. IN EACH
3 INSTANCE, I PROVIDED MY -- WHAT I BELIEVE WOULD HAVE
4 BEEN MY PROJECTED SALARY AT THE TIME OF MY PLANNED
5 RETIREMENT DATE.

6 Q. OKAY. NOW, WITH RESPECT TO THIS -- TURN TO
7 EXHIBIT 208. I WANT TO TURN YOUR ATTENTION TO THE
8 SECOND PAGE OF 208.

9 DID YOU REVIEW THIS -- THIS TABBED -- TABBED
10 SPREADSHEET ON THE TOP OF PAGE -- MARKED FGUIDO 22?

11 A. YES, I DID.

12 Q. AND WHAT DID YOU UNDERSTAND BY THAT
13 INFORMATION?

14 A. AGAIN, IT WAS, YOU KNOW, JUST A SUMMARY OF
15 MY YEARS OF SERVICE WITH THE CITY OF CUDAHY AND THAT
16 BASED ON THOSE YEARS OF SERVICE AND BASED ON THE
17 BENEFIT-FACTOR CALCULATION THEY USE AND MY HIGHEST
18 COMPENSATION, THEY SUBMIT -- THEY PROVIDED ME WITH MY
19 BENEFIT ALLOWANCES --

20 MR. JENSEN: AND, YOUR HONOR, I'D LIKE TO
21 OFFER --

22 THE WITNESS: -- OR BENEFIT ALLOWANCE
23 OPTIONS.

24 MR. JENSEN: I'D LIKE TO OFFER 208 INTO
25 EVIDENCE.

1 THE COURT: ANY OBJECTION TO 208?

2 MR. RIEGER: NO, YOUR HONOR.

3 THE COURT: ALL RIGHT. IT'S ADMITTED.

4 (RESPONDENT'S EXHIBIT NUMBER 208 WAS

5 MARKED FOR IDENTIFICATION BY THE COURT

6 AND RECEIVED INTO EVIDENCE.)

7 BY MR. JENSEN:

8 Q. AND, MR. GUIDO, UP TO THIS TIME IN YOUR
9 COMMUNICATIONS WITH CALPERS, HAD THERE EVER BEEN ANY
10 INDICATION TO YOU THAT RECIPROCITY DID NOT APPLY?

11 A. NO.

12 Q. SO WHAT DID YOU BELIEVE AS OF OCTOBER 2008?

13 A. WELL, I BELIEVED THAT AS OF 2008, PRIOR TO
14 MY RETIREMENT, I BELIEVED THAT I HAD ESTABLISHED
15 RECIPROCITY AND THAT I WAS ELIGIBLE TO RECEIVE, YOU
16 KNOW, RETIREMENT BENEFITS OF APPROXIMATELY \$3,000 A
17 MONTH BASED ON ALL THE INFORMATION I PROVIDED THEM.

18 Q. AND --

19 A. NOT ONLY ALL THE INFORMATION I PROVIDED
20 THEM BUT ALL THE INFORMATION THAT THEY REQUESTED FROM
21 ME TO MAKE THAT DETERMINATION.

22 Q. I'M GOING TO TURN YOUR ATTENTION TO 2000 --
23 I MEAN, EXHIBIT 209. AND IT'S OUT OF ORDER IN THE
24 EXHIBIT. THE FIRST PAGE OF THE APPLICATION IS
25 ACTUALLY AT THE END OF THE EXHIBIT, WHICH IS MAYBE MY

1 FAULT.

2 BUT, MR. GUIDO, DO YOU RECOGNIZE THIS EXHIBIT
3 IN 209?

4 A. VAGUELY.

5 Q. WHY DON'T YOU REFER TO THE LAST PAGE OF IT
6 THAT'S BATES STAMPED FGUIDO 30?

7 MR. RIEGER: I'M WILLING TO, IF EVERYBODY
8 IS WANTS TO SWITCH THE LAST PAGE TO THE FIRST SO
9 THERE'S NO CONFUSION, I'M HAPPY TO DO THAT. IF WE
10 WANT TO TAKE A MOMENT JUST TO GET THEM IN ORDER.

11 THE COURT: OKAY.

12 MR. JENSEN: THAT'S FINE WITH ME,
13 YOUR HONOR. IT WAS INADVERTENT -- INADVERTENT
14 OUT-OF-ORDER PAGE.

15 IF I MAY APPROACH THE WITNESS AND DO THAT?

16 THE COURT: SURE.

17 THE WITNESS: THE FIRST PAGE IS --

18 THE COURT: SO THE FIRST PAGE IS FGUIDO 30?

19 MR. JENSEN: YES, YOUR HONOR.

20 THE COURT: AND THEN THE REST REMAINS AS --

21 MR. JENSEN: I BELIEVE SO. I THINK IT'S

22 THE FULL APPLICATION, BUT I WANT TO HAVE -- I'D LIKE

23 MR. GUIDO TO LOOK AT IT AND TELL US WHAT IT IS.

24 THE WITNESS: YES.

25 / / /

1 BY MR. JENSEN:

2 Q. SO HAVE YOU SEEN THIS DOCUMENT BEFORE?

3 A. YES.

4 Q. AND WHAT IS THIS DOCUMENT?

5 A. IT'S MY SERVICE RETIREMENT ELECTION
6 APPLICATION.

7 Q. AND IS THAT YOUR SIGNATURE ON WHAT'S BATES
8 STAMPED FGUIDO 28?

9 A. YES.

10 Q. DID YOU FILL IN THIS APPLICATION?

11 A. YES, I DID.

12 Q. DID YOU HAVE ANY HELP IN FILLING THIS OUT?

13 A. I DID.

14 Q. AND TELL US THE NATURE OF THE HELP THAT YOU
15 RECEIVED.

16 A. THE HELP I SOUGHT OUT WAS FROM THE ANALYST
17 WHO ACCEPTED MY SERVICE RETIREMENT ELECTION
18 APPLICATION AT THE GLENDALE OFFICE.

19 Q. OKAY. SO --

20 A. AND IT WAS SPECIFIC TO ONE AREA.

21 Q. STEP BACK AND TELL US WHAT YOU -- HOW YOU
22 PREPARED THE APPLICATION.

23 A. WELL, I -- YOU KNOW, I PROVIDED THEM ALL
24 THE INFORMATION. I PROVIDED -- I FILLED IN THE
25 APPLICATION AS REQUIRED.

1 THE ONLY AREA THAT WAS A LITTLE UNCERTAIN TO
2 ME WAS THE AREA ON THE BOTTOM OF PAGE 1, WHERE IT
3 SAID -- WHERE IT SAYS:

4 "OTHER CALIFORNIA PUBLIC
5 RETIREMENT SYSTEMS, ARE YOU A MEMBER
6 OF THOSE?"

7 IT WAS LINE 2, AND IT SAID:

8 "DATE OF RETIREMENT, BEGINNING
9 DATE OF SERVICE IS APRIL 4, 1973,
10 AND ENDING SERVICE CREDIT DUE ON
11 MAY 31, 2009."

12 AND I HAD PENCILED THAT IN. I REMEMBER
13 SPECIFICALLY PENCILING THAT IN AT THE TIME I MET WITH
14 THE GLENDALE OFFICE ANALYST.

15 AND I EXPLAINED TO THIS LADY THAT I
16 UNDERSTAND -- I UNDERSTOOD THE IMPORTANCE OF RETIRING
17 FROM BOTH SYSTEMS ON THE SAME DATE, AND I WANTED TO BE
18 ABSOLUTELY SURE THAT THERE WAS NO CONFUSION BETWEEN MY
19 LAST DATE AND MY ACTUAL RETIREMENT DATE WITH THE COUNTY
20 OF LOS ANGELES, L.A.C.E.R.A., AND CALPERS.

21 BECAUSE WITH L.A.C.E.R.A. --

22 SORRY.

23 Q. GO AHEAD. FINISH.

24 A. -- WITH L.A.C.E.R.A. I KNEW THAT MY
25 RETIREMENT DATE WAS THE ACTUAL -- MY FIRST DATE I DID

1 NOT GO TO WORK, AND JUNE 1 WAS MY OFFICIAL FIRST DATE
2 I DIDN'T GO BACK TO WORK. AND I DIDN'T KNOW HOW IT
3 CUED WITH CALPERS' INTERPRETATION OF MY RETIREMENT
4 DATE SINCE THAT WAS CRITICAL.

5 AND SHE TOLD ME THAT MY DATE OF RETIREMENT
6 WOULD ALSO BE JUNE 1, 2009, BECAUSE I HAD HEARD FROM
7 OTHERS THAT HAD RETIRED THAT TO BE ABSOLUTELY
8 CRITICAL -- CERTAIN THAT YOU RETIRE ON THE SAME DATE
9 BECAUSE SOMETIMES PEOPLE THINK THEY'RE RETIRING AT THE
10 SAME TIME BUT SOMETIMES YOUR LAST DATE OF WORK IS YOUR
11 RETIREMENT DATE AS OPPOSED TO THE FIRST DATE YOU DID NOT
12 GO TO WORK.

13 Q. JUST SO THE RECORD IS CLEAR, WHO DID YOU
14 ASK?

15 A. THE ANALYST, OR THE LADY THAT REVIEWED MY
16 APPLICATION AND SUBMITTED IT.

17 Q. AND WHERE WERE YOU AT THIS TIME?

18 A. THIS WAS AT THE GLENDALE PUBLIC -- CALPERS
19 OFFICE.

20 Q. SO TELL US AGAIN. WHERE DID YOU GO?

21 A. WELL, I WENT TO THE GLENDALE CALPERS OFFICE
22 TO FILE MY APPLICATION.

23 Q. AND JUST VERY CLEARLY, WHY DID YOU GO TO
24 THE GLENDALE OFFICE?

25 A. I WENT THERE BECAUSE I WANTED TO MAKE SURE,

1 FIRST OF ALL, I PROVIDED ALL THE NECESSARY
2 INFORMATION I NEED TO PROVIDE ON MY APPLICATION.

3 AND SECONDLY, I WANTED TO MAKE CERTAIN THAT I
4 SPOKE FACE-TO-FACE WITH SOMEONE WHO COULD GIVE ME VALID
5 INFORMATION ON MY RETIREMENT DATE SO THAT I COULD FILL
6 IT IN RIGHT THERE WHEN I SUBMITTED IT.

7 Q. HAD YOU PREVIOUSLY MADE AN APPOINTMENT AT
8 THE CALPERS OFFICE?

9 A. I DON'T RECALL IF IT WAS -- I MADE AN
10 APPOINTMENT OR IF I WALKED INTO THE OFFICE.

11 Q. AND SO DESCRIBE WHO YOU SAW WHEN YOU WALKED
12 INTO THE OFFICE.

13 A. WELL, I SAW A LADY WHO GREETED ME THERE,
14 AND SHE TOLD ME -- SHE TOOK MY NAME, MY INFORMATION,
15 AND THEN I SAT DOWN AND WAITED FOR, YOU KNOW,
16 20 MINUTES, A HALF HOUR OR SO, UNTIL AN ANALYST
17 BECAME AVAILABLE.

18 AND I THINK AS SOON AS THIS PERSON CAME
19 BACK FROM LUNCH, SHE HANDLED MY APPLICATION.

20 Q. AND AT THE TIME, SHE WAS GIVING YOU
21 ADVICE -- IN WHAT CAPACITY WERE YOU SEEKING HER
22 ADVICE?

23 A. WELL, I WAS IN THE PROCESS OF SUBMITTING MY
24 RETIREMENT SERVICE APPLICATION. I WANTED -- WELL,
25 SHE TOOK IT AND REVIEWED IT.

1 BEFORE I GAVE IT TO HER, I SAID, "I WANT TO
2 CLARIFY THIS ONE POINT HERE." OR I GAVE HER THE
3 APPLICATION. SHE SAW IT WAS NOT COMPLETED. IT WAS ONLY
4 PENCILED IN.

5 AND THEN WE WENT THROUGH THE PROCESS OF
6 TALKING ABOUT WHAT WOULD BE CONSIDERED THE FIRST
7 RETIREMENT DATE TO COORDINATE WITH -- TO SQUARE WITH THE
8 L.A.C.E.R.A. RETIREMENT DATE.

9 AND SHE CONTINUED TO REVIEW THE APPLICATION
10 AGAINST HER DATABASE THAT SHE HAD THERE AT THE COMPUTER.
11 AND SHE WENT THROUGH EVERY PAGE AND, YOU KNOW, SQUARING
12 INFORMATION WITH WHAT SHE HAD IN FRONT OF HER.

13 Q. SO SHE TOOK YOUR APPLICATION, AND SHE
14 CONSULTED WITH A COMPUTER. IS THAT --

15 A. IF YOU WANT TO CALL IT CONSULTING WITH IT.
16 BUT SHE JUST BASICALLY WAS COMPARING INFORMATION WITH
17 WHAT I HAD ON THE APPLICATION.

18 Q. AND DID SHE CONFIRM THAT YOU HAD
19 RECIPROCITY?

20 A. YES, SHE DID.

21 Q. AND THEN WHAT DID YOU DO AFTER THAT?

22 A. WELL, I BASICALLY SIGNED IT. I DIDN'T SIGN
23 IT UNTIL I SUBMITTED IT IN CASE SHE NEEDED TO SEE
24 MY -- OH, NO. I THINK I HAD NOTARIZED -- I HAD IT
25 ALREADY NOTARIZED, I THINK. I'M TRYING TO REMEMBER

1 NOW.

2 I BELIEVE I GAVE IT TO HER -- YEAH. I HAD
3 NOTARIZED IT BECAUSE MY WIFE HAD ALSO HAD TO HAVE IT
4 SIGNED AND NOTARIZED. AND I SUBMITTED IT TO HER, AND
5 SHE SAID THE ONLY THING THAT WAS OMITTED FROM MY
6 APPLICATION WAS A GOVERNMENT PHOTO I.D. OF MY WIFE.

7 Q. AND COULD YOU SEE ON THE FIRST PAGE THERE
8 SEEMS TO BE A STAMP OF SOME KIND?

9 A. YES.

10 Q. AND WHO APPLIED THAT STAMP?

11 A. SHE DID.

12 Q. AND DID SHE ACCEPT YOUR APPLICATION?

13 A. YES.

14 Q. AND AT THAT POINT, WHAT DID YOU -- WHAT DID
15 YOU BELIEVE WAS LEFT TO DO, IF ANYTHING, TO GUARANTEE
16 YOUR RETIREMENT RIGHTS?

17 A. WELL, SHE TOLD ME THAT SHE -- SHE ACCEPTED
18 MY APPLICATION AND DATE-STAMPED IT. SHE PROVIDED ME
19 A COPY OF IT, AND SHE TOLD ME THAT SHE WOULD BE
20 SUBMITTING IT FORTHWITH.

21 AND THAT WITH REGARDS TO MY WIFE'S PHOTO I.D.,
22 TO SEND IT DIRECTLY TO SACRAMENTO TO THE, I WANT TO SAY
23 MEMBER SERVICES DIVISION OR BENEFITS SERVICES DIVISION,
24 WHICH I DID THE FOLLOWING DAY.

25 MR. JENSEN: YOUR HONOR, I'D LIKE TO OFFER

1 209 INTO EVIDENCE. IT'S A MULTIPAGE DOCUMENT BATES
2 STAMPED FGUIDO 26 TO FGUIDO 30.

3 THE COURT: ANY OBJECTION?

4 MR. RIEGER: NO OBJECTION.

5 MS. DANIEL: I'M NOTING THAT THE
6 APPLICATION SEEMS TO BE INCOMPLETE. I HAVE FOUR
7 PAGES AND IT SAYS "1 OF 7." THEN I HAVE A COPY 1 OF
8 1.

9 MR. JENSEN: HOW MANY PAGES DO YOU HAVE?

10 MS. DANIEL: FOUR.

11 MR. JENSEN: YOUR HONOR, MAY I CHECK WITH
12 HER? I SEEM TO HAVE FIVE.

13 MR. RIEGER: SOMETHING IS OFF HERE.

14 MR. JENSEN: YOU KNOW, I SUPPLIED THE
15 DOCUMENTS HOW I RECEIVED THEM, SO I APOLOGIZE IF
16 THERE'S, YOU KNOW --

17 THE COURT: YOU HAVE FIVE PAGES OR FOUR?

18 MS. DANIEL: I HAVE FOUR OF THE 1 OF 7, AND
19 THEN THE LAST PAGE IS 1 OF 1. SO IT'S A SEPARATE
20 DOCUMENT, IT APPEARS TO BE.

21 MR. JENSEN: IT'S A DIRECT -- HER SEPARATE
22 DOCUMENT IS THE DIRECT DEPOSIT AUTHORIZATION.

23 THE COURT: OKAY.

24 MR. JENSEN: AND, YOU KNOW, I --

25 MR. RIEGER: IF IT WOULD HELP, I'LL JUST

1 OFFER THAT EXHIBIT 14 IN MY BINDER IS A COMPLETE COPY
2 OF L.A.C.E.R.A.'S RETIREMENT APPLICATION. IF YOU
3 WANT TO AUTHENTICATE 14 AND USE THAT INSTEAD, THAT
4 WOULD BE FINE.

5 MR. JENSEN: AND WHAT WE COULD DO IS JUST,
6 I MEAN, BECAUSE I DON'T KNOW THAT THE -- THEY'RE NOT
7 EXACTLY DUPLICATES --

8 MR. RIEGER: THEY'RE NOT?

9 MR. JENSEN: -- BECAUSE THEY'RE BLOCKED OUT
10 DIFFERENTLY. BUT IF YOU WANT TO SAY THAT P.E.R.S. IS
11 OFFERING 14 AS A COMPLETE VERSION OF OUR 209, THEN
12 I'M WILLING TO ACCEPT THAT. BUT WITHOUT GOING
13 THROUGH IT PAGE BY PAGE, I REALLY...

14 MR. RIEGER: I'M JUST TRYING TO HELP. IF
15 YOU WANT TO TAKE A COUPLE MINUTES WITH THE WITNESS
16 AND JUST AUTHENTICATE 14, IT'S FINE WITH ME. I DO
17 THINK IF WE HAVE THE FULL COPY IT MAKES SENSE TO HAVE
18 THAT IN THE RECORD.

19 MR. JENSEN: YEAH. THAT'S FINE. BUT I
20 STILL WANT TO OFFER 209 IN BECAUSE THAT'S THE
21 DOCUMENT I RECEIVED FROM MY CLIENT AS A COPY. BUT IF
22 WE CAN OFFER -- YOU KNOW, I'D LIKE TO OFFER, I GUESS,
23 HIS 14 IN FOR PURPOSES OF COMPLETENESS.

24 BY MR. JENSEN:

25 Q. IF YOU'LL TAKE A LOOK --

1 MR. JENSEN: MAY I APPROACH THE WITNESS?

2 THE COURT: YES.

3 ///

4 BY MR. JENSEN:

5 Q. THIS 14 HAS ALL THE PAGES IN IT. IT'S
6 BLOCKED OUT DIFFERENTLY. I DON'T KNOW IF IT'S
7 EXACTLY THE SAME, BUT THIS HAS EIGHT PAGES IN IT
8 APPARENTLY, AND THE ONE THAT I HAVE IS -- DOESN'T
9 HAVE ALL THE PAGES.

10 I DON'T THINK IT'S CONSEQUENTIAL, BUT IT WOULD
11 BE NICE TO HAVE THE FULL --

12 A. THIS ONE HAS THE DEATH BENEFIT AND --

13 Q. JUST TAKE A LOOK AND SEE IF THIS IS YOUR
14 SIGNATURE ON THE LAST PAGE.

15 A. YES.

16 MR. JENSEN: SO, YOUR HONOR, I'LL ALSO
17 OFFER 14 AS A CALPERS VERSION OF THE COMPLETE
18 APPLICATION.

19 THE COURT: OKAY. ANY OBJECTION TO 14?

20 MR. RIEGER: NO. I'LL JUST NOTE 209 DOES
21 HAVE A DIRECT DEPOSIT AUTHORIZATION AS THE LAST PAGE,
22 WHICH DOESN'T REALLY SEEM LIKE IT'S PART OF THAT
23 DOCUMENT. BUT AGAIN, I'M JUST -- YOU KNOW, ALL OF
24 THESE ARE TRUE AND CORRECT COPIES OF DOCUMENTS FROM
25 HIS FILE. I'M NOT OBJECTING TO ANY OF IT BUT --

1 THE COURT: OKAY. MY UNDERSTANDING IS THE
2 OFFER IS 14 AND 209. SO THERE'S NO OBJECTION TO 14.
3 ANY OBJECTION TO 209 ALSO COMING IN?

4 MR. RIEGER: THEY CAN BOTH COME IN FOR WHAT
5 THEY ARE. SURE.

6 THE COURT: ALL RIGHT. I'LL ADMIT BOTH
7 THEN, AND I'LL COMPARE AND CONTRAST WHEN I REVIEW
8 THEM.

9 (DEPARTMENT'S EXHIBIT NUMBER 14 WAS
10 MARKED FOR IDENTIFICATION BY THE COURT AND
11 RECEIVED INTO EVIDENCE.)

12 (RESPONDENT'S EXHIBIT NUMBER 209 WAS
13 MARKED FOR IDENTIFICATION BY THE COURT
14 AND RECEIVED INTO EVIDENCE.)

15 THE COURT: OKAY.

16 BY MR. JENSEN:

17 Q. MR. GUIDO, LET ME DIRECT YOUR ATTENTION TO
18 THE LAST PAGE OF 209, WHICH IS THE DIRECT DEPOSIT
19 AUTHORIZATION. IT'S STAMPED FGUIDO 209.

20 IS THAT YOUR SIGNATURE ON THE BOTTOM OF THE
21 PAGE?

22 A. YES.

23 Q. WHAT DID YOU INTEND TO DO BY FILLING OUT
24 THIS DIRECT DEPOSIT APPLICATION?

25 A. I WANTED TO HAVE MY BENEFITS DIRECTLY

1 DEPOSITED TO OUR CHECKING ACCOUNT.

2 Q. AND THERE'S A STAMP ON THE TOP OF THIS.

3 WAS THAT STAMP APPLIED BY CALPERS AT THE SAME TIME?

4 A. YES, IT WAS.

5 Q. DID CALPERS ACCEPT THIS DOCUMENT?

6 A. YES, THEY DID.

7 Q. DID CALPERS ACTUALLY SUBSEQUENTLY PROVIDE A

8 BENEFIT TO YOU THROUGH DIRECT DEPOSIT?

9 A. YES, THEY DID.

10 Q. NOW, UP TO THIS POINT, WHICH IS APRIL 7, I

11 THINK, OF 2009 --

12 IS THAT CORRECT?

13 A. UH-HUH, YES.

14 Q. -- HAD YOU RECEIVED ANY INFORMATION THAT

15 THE RECIPROCITY WAS IN QUESTION?

16 A. NO.

17 Q. I WANT TO TURN YOUR ATTENTION TO

18 EXHIBIT 210.

19 DO YOU RECOGNIZE THIS DOCUMENT?

20 A. YES, I DO.

21 Q. AND WHAT IS THIS DOCUMENT?

22 A. WELL, IT'S A LETTER RESPONDING TO A REQUEST

23 OF CAL -- OR L.A.C.E.R.A., A L.A.C.E.R.A.

24 REPRESENTATIVE, PROVIDING THEM WITH MY LETTER

25 INDICATING HAVING ESTABLISHED RECIPROCITY BETWEEN THE

1 TWO SYSTEMS.

2 Q. SO WHY WERE YOU SENDING THE CALPERS LETTER
3 TO L.A.C.E.R.A.?

4 A. BECAUSE THEY ASKED ME TO.

5 Q. WHO ASKED YOU TO?

6 A. THE -- MS. LILY ABRAHAMS (PHONETIC).

7 Q. IN WHAT CONTEXT DID SHE ASK YOU?

8 A. I DON'T RECALL THE CONTEXT IN WHICH SHE
9 ASKED ME. SHE JUST ASKED ME TO FORWARD A COPY TO
10 HER.

11 I KNOW THAT -- I WAS TOLD THAT BY AN ANALYST
12 IN A PREVIOUS MEETING THERE THAT THEIR FILES ARE NOT ALL
13 COMPLETE IN TERMS OF A LOT OF THEIR FILES WERE PURGED AT
14 SOME POINT IN TIME THROUGH THE YEARS, AND THEY MAY NOT
15 HAVE COMPLETE INFORMATION.

16 SO I'M ASSUMING WHEN I GOT THIS INQUIRY FROM
17 MS. ABRAHAMS THAT SHE WAS LOOKING FOR SOME VALIDATION.

18 Q. AND WHAT WAS YOUR UNDERSTANDING OF WHO
19 SUPPLIED THE RECIPROCAL BENEFIT?

20 MR. RIEGER: OBJECTION; VAGUE.

21 THE COURT: WHY DON'T YOU CLARIFY.

22 MR. JENSEN: YEAH.

23 BY MR. JENSEN:

24 Q. WHO DID RECIPROCITY -- WELL, WHO WERE
25 YOU -- WHO WERE YOU -- WHICH WAS THE AGENCY YOU WERE

1 EMPLOYED BY CURRENTLY?

2 A. I WAS EMPLOYED BY L.A. COUNTY, WHICH WAS
3 COVERED BY L.A.C.E.R.A.

4 Q. OKAY. AND SO FROM WHO WERE YOU SEEKING THE
5 RECIPROCAL BENEFIT?

6 A. FROM CALPERS.

7 Q. SO WHAT PART DID L.A.C.E.R.A. HAVE IN YOUR
8 MIND IN PROVIDING THE RECIPROCAL BENEFIT?

9 A. REALLY NONE IN MY MIND BECAUSE, YOU KNOW,
10 MY BENEFITS FROM LOS ANGELES COUNTY DID NOT HINGE ON
11 WHAT MY HIGHEST -- MY HIGHEST YEAR OF COMPENSATION
12 WAS WITH CALPERS, AND I WAS RETIRING FROM
13 L.A.C.E.R.A.

14 Q. AND SO WHAT WAS THE -- WHEN DID YOU SUBMIT
15 A RETIREMENT APPLICATION TO L.A.C.E.R.A.?

16 A. CAN I LOOK BACK BECAUSE I'M NOT SURE OF THE
17 DATE?

18 Q. HERE'S AN EASIER QUESTION. DID YOU SUBMIT
19 RETIREMENT APPLICATIONS -- WELL, I'LL GET TO THAT.

20 DID YOU HAVE -- WHEN DID YOU SUBMIT THE
21 L.A.C.E.R.A. APPLICATION FOR RETIREMENT?

22 A. MAYBE JUST A -- I CAN'T REMEMBER THE DATE,
23 BUT MAYBE NO MORE THAN JUST A FEW DAYS EARLIER THAN I
24 SUBMITTED THE CALPERS APPLICATION.

25 Q. AND YOU MENTIONED THIS SIMULTANEOUS

1 RETIREMENT DATE WAS IMPORTANT. AND WHY IN YOUR MIND
2 WAS THAT IMPORTANT?

3 A. BECAUSE IT WAS -- IT WAS MENTIONED TO ME
4 FROM OUR PERSONNEL OFFICE, L.A. COUNTY PERSONNEL
5 OFFICE, AND IT WAS ALSO STRESSED TO ME BY
6 L.A.C.E.R.A.

7 Q. AND WAS THAT TO GAIN THE BENEFITS OF
8 RECIPROCITY TO FILE IT SIMULTANEOUS?

9 A. YES. NOT TO FILE THEM SIMULTANEOUS --
10 EXCUSE ME. NOT TO FILE THEM SIMULTANEOUSLY BUT TO
11 ENSURE THAT I'M RETIRING ON THE SAME DATE BASED ON
12 THEIR UNDERSTANDING OF WHAT MY RETIREMENT DATE WAS.

13 Q. SO THE EFFECTIVE DATE OF THE RETIREMENT --

14 A. THAT'S CORRECT.

15 Q. -- WAS THE SAME?

16 SO IN THAT CONTEXT, LOOKING AT EXHIBIT 210, IT
17 SAYS:

18 "THE RETIREMENT BENEFIT ESTIMATE
19 FORM I RECENTLY RECEIVED FAILED TO
20 NOTE CREDITED SERVICE TIME UNDER
21 OTHER PUBLIC AGENCIES."

22 CAN YOU EXPLAIN THAT?

23 A. YOU KNOW, YES. WHEN I RECEIVED THE FORM, I
24 NOTICED THAT -- THAT IT FAILED TO NOTE BASICALLY THE
25 CREDIT TIME OF SERVICE UNDER OTHER PUBLIC AGENCIES.

1 AND SO I BROUGHT IT TO HER ATTENTION FOR WHATEVER
2 SIGNIFICANCE IT MAY HAVE BEEN TO THEM TO NOTE THAT.

3 Q. AND THIS WAS A RETIREMENT BENEFIT ESTIMATE
4 FROM L.A.C.E.R.A.; IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. NOW, I WANT TO BRIEFLY TURN YOUR ATTENTION
7 TO AN EXHIBIT THAT'S IN CALPERS EXHIBIT 4. AND THERE
8 ARE SOME -- THERE IS ANNUAL MEMBER'S STATEMENTS, AND
9 WE CAN CHOOSE JUST ANY OF THEM.

10 A. IS THIS THE CAL --

11 Q. YEAH. IT'S EXHIBIT 4. AND I WANT TO TURN
12 YOUR ATTENTION TO FGUIDO PAGE 58 JUST AS AN EXAMPLE.

13 MR. JENSEN: YOUR HONOR, IF I MAY APPROACH
14 JUST TO MAKE SURE HE'S ON THE RIGHT PAGE?

15 THE COURT: YES.

16 MR. JENSEN: THANK YOU.

17 BY MR. JENSEN:

18 Q. MR. GUIDO, DO YOU RECOGNIZE THIS DOCUMENT?

19 A. YES, I DO.

20 Q. AND WHAT IS THIS DOCUMENT?

21 A. IT'S AN ANNUAL MEMBER STATEMENT OF MY
22 SERVICE RECORDS AND BENEFITS WITH CALPERS.

23 THE COURT: I'M SORRY. WHAT PAGE ARE WE
24 ON?

25 MR. JENSEN: I'M SORRY, YOUR HONOR. IT'S

1 IN EXHIBIT 4 OF THE CALPERS BINDER, AND IT IS BATES
2 STAMPED FGUIDO 58.

3 THE COURT: THANK YOU.

4 MR. JENSEN: AND IT'S JUST AN EXEMPLAR OF
5 CALPERS MEMBER'S -- ANNUAL MEMBER'S STATEMENT.

6 BY MR. JENSEN:

7 Q. MR. GUIDO, DID YOU RECEIVE THIS DOCUMENT?

8 A. YES.

9 Q. AND JUST LOOKING AT THE 2008 MEMBER
10 STATEMENT, IT IS A FOUR-PAGE DOCUMENT BATES STAMPED
11 FGUIDO 58 TO FGUIDO 61.

12 COULD YOU BRIEFLY LOOK AT THAT, MR. GUIDO?

13 A. UH-HUH.

14 Q. AND IF I CAN JUST TURN YOUR ATTENTION TO
15 THE BOX ON THE FRONT PAGE OF 58?

16 A. OKAY.

17 Q. AND UNDER YOUR MEMBERSHIP STATUS, THERE'S
18 SOME INFORMATION. AND WHAT DID YOU UNDERSTAND THAT
19 INFORMATION TO MEAN?

20 A. THAT MY SERVICE CREDIT TOTALED 12.24 YEARS
21 OF SERVICE.

22 Q. AND WITH REFERENCE TO THE PAGES IN THIS
23 DOCUMENT, IS THERE ANY -- ANY REFERENCE TO THE FINAL
24 COMPENSATION THAT YOU WOULD BE ENTITLED TO FROM
25 CALPERS?

1 A. NO.

2 Q. COULD YOU TELL FROM LOOKING AT THIS ANNUAL
3 MEMBER STATEMENT WHETHER YOU HAD RECIPROCITY OR YOU
4 DIDN'T HAVE RECIPROCITY?

5 A. I DID.

6 OH, NO. WAIT. RESTATE THE QUESTION. I'M
7 SORRY.

8 Q. JUST FROM LOOKING AT THE MEMBER -- ANNUAL
9 MEMBER STATEMENT, COULD YOU TELL WHETHER RECIPROCITY
10 HAD BEEN ESTABLISHED OR NOT?

11 A. NO.

12 MR. JENSEN: NOW, I'D LIKE TO ENTER INTO
13 EVIDENCE THAT PART OF EXHIBIT 4, AND MAYBE MR. RIEGER
14 WILL WRAP IT UP WITH THE OTHER ONES. BUT JUST FGUIDO
15 58 THROUGH 61, AND I APOLOGIZE FOR NOT SEPARATELY
16 USING THIS AS AN EXAMPLE.

17 THE COURT: OKAY. ANY OBJECTION TO PAGES
18 58 THROUGH 61?

19 MR. RIEGER: IT IS MY INTENTION TO PUT ALL
20 OF EXHIBIT 4 INTO EVIDENCE. IF YOU WANT TO JUST
21 ADMIT A FEW PAGES RIGHT NOW, THAT'S FINE WITH ME, BUT
22 THESE ALL CAME FROM MR. GUIDO.

23 THE COURT: OKAY. SO WE CAN ADMIT THE FEW
24 NOW OR ALL OF THEM IF YOU --

25 MR. JENSEN: I DON'T WANT TO ADMIT ALL OF

1 THEM NOW BECAUSE I DON'T KNOW HOW HE'S INTENDING TO
2 USE THEM. THIS IS JUST A -- I'D LIKE TO ADMIT THIS
3 AND SUBJECT TO HIM WANTING TO ADMIT ALL THE OTHERS IS
4 FINE. THEY ARE ALL AUTHENTIC, AND THERE'S NO LACK OF
5 FOUNDATION OR ANYTHING.

6 THE COURT: OKAY. WELL, FOR NOW, I'LL
7 SUBMIT 58 THROUGH 61.

8 (DEPARTMENT'S EXHIBIT NUMBER 4 WAS MARKED FOR
9 IDENTIFICATION BY THE COURT AND PAGES 58 THROUGH
10 61 WERE RECEIVED INTO EVIDENCE.)

11 MR. JENSEN: THANK YOU, YOUR HONOR.

12 NOW, I WANT TO TURN THE COURT AND MR. GUIDO'S
13 ATTENTION BACK TO THIS EXHIBIT 210, WHICH IS A LETTER
14 THAT MR. GUIDO WROTE TO L.A.C.E.R.A.

15 MR. RIEGER: I'M SORRY. JOHN, CAN YOU TELL
16 ME WHERE YOU ARE AGAIN?

17 MR. JENSEN: YEAH. I'M ON 210.

18 MR. RIEGER: 210. THANK YOU.

19 MR. JENSEN: BACK HERE (INDICATING).

20 BY MR. JENSEN:

21 Q. OKAY. UNFORTUNATELY, WE DON'T HAVE THE
22 L.A.C.E.R.A. DOCUMENT HERE, BUT THERE'S THIS QUESTION
23 ABOUT L.A.C.E.R.A.'S FAILURE TO INCLUDE CREDIT
24 SERVICE TIME ON THE RETIREMENT BENEFIT ESTIMATE FROM
25 L.A.C.E.R.A.

1 WHAT DID THAT MEAN TO YOU UPON RECEIPT OF
2 THE L.A.C.E.R.A. FORM?

3 A. I'M NOT -- I'M NOT SURE THAT IT REGISTERED
4 ANY SIGNIFICANCE WITH ME BECAUSE OTHER THAN THE FACT
5 THAT IT WAS VOID OR THERE WAS NO INFORMATION IN THAT
6 FIELD BOX AND THAT I OFFERED IT JUST AS A CASUAL
7 OBSERVATION. I OFFERED IT TO THEM FOR THEIR
8 OBSERVATION.

9 Q. AND SO DID L.A.C.E.R.A. ACCEPT THESE
10 DOCUMENTS THAT ARE IN EXHIBIT 210?

11 A. YES.

12 MR. RIEGER: OBJECTION; VAGUE.

13 THE COURT: WHAT'S MISSING?

14 MR. RIEGER: AS TO "ACCEPT." I JUST DON'T
15 EVEN KNOW WHAT HE MEANS BY "ACCEPT."

16 THE COURT: OKAY. CAN YOU CLARIFY.

17 MR. JENSEN: YES.

18 BY MR. JENSEN:

19 Q. DID YOU SUPPLY THESE DOCUMENTS TO
20 L.A.C.E.R.A.?

21 A. I DID.

22 Q. DID THEY TURN THEM AWAY?

23 A. NO. THEY ACCEPTED THEM.

24 MR. JENSEN: YOUR HONOR, WELL, LET'S
25 JUST -- CAN I MOVE TO ADMIT 210?

1 MR. RIEGER: NO OBJECTION.

2 THE COURT: OKAY. 210 IS ADMITTED.

3 (RESPONDENT'S EXHIBIT NUMBER 210 WAS
4 MARKED FOR IDENTIFICATION BY THE COURT
5 AND RECEIVED INTO EVIDENCE.)

6 BY MR. JENSEN:

7 Q. I WANT YOU TO TURN YOUR ATTENTION TO
8 EXHIBIT 211.

9 IT SAYS "C" ON THE BOTTOM. DID YOU RECEIVE A
10 COPY OF THIS LETTER?

11 A. YES, I DID.

12 Q. AND WHAT DID YOU UNDERSTAND BY THIS LETTER?

13 A. I GUESS FOR THEM TO SUPPLY THEM WITH
14 INFORMATION REGARDING MY SERVICE OF CALPERS.

15 Q. AND THIS IS -- WAS THIS LETTER GENERATED IN
16 RESPONSE TO -- DO YOU BELIEVE TO --

17 WELL, LET ME ASK YOU, HAD YOU FILED YOUR
18 APPLICATION FOR RETIREMENT WITH L.A.C.E.R.A. YET?

19 A. AT THIS POINT, YES.

20 Q. OKAY. AND HAD YOU MADE ANY INQUIRIES AFTER
21 SUBMITTING THIS LETTER -- WELL, LET ME STEP BACK A
22 SECOND AND COLLECT THIS.

23 MR. JENSEN: LET'S ADMIT -- YOUR HONOR, I'D
24 LIKE TO MOVE TO ADMIT 211.

25 THE COURT: ANY OBJECTION?

1 MR. RIEGER: I'M JUST NOT SURE WE HAVE A
2 FOUNDATION FOR IT YET. I WAS GOING TO PUT THIS IN
3 MYSELF, BUT HAVE WE ESTABLISHED THE FOUNDATION FOR
4 THIS?

5 MR. JENSEN: MR. GUIDO RECEIVED IT.

6 MR. RIEGER: HE DID TESTIFY TO THAT?

7 THE COURT: YES.

8 MR. RIEGER: THAT'S GOOD ENOUGH FOR ME.

9 OKAY. NO OBJECTION.

10 THE COURT: OKAY. IT'S ADMITTED.

11 (RESPONDENT'S EXHIBIT NUMBER 211 WAS
12 MARKED FOR IDENTIFICATION BY THE COURT
13 AND RECEIVED INTO EVIDENCE.)

14 BY MR. JENSEN:

15 Q. UPON RECEIPT OF THAT LETTER, WHAT DID YOU
16 THINK? WAS THERE ANY QUESTION RAISED IN YOUR MIND
17 ABOUT WHETHER YOU HAD ESTABLISHED RECIPROCITY ON THAT
18 DATE?

19 A. NO.

20 Q. AND NOW LET ME MOVE TO 212.

21 THIS APPEARS TO BE -- DID YOU RECEIVE A COPY
22 OF THE SECOND PAGE OF THIS LETTER?

23 A. FRANKLY, IN LOOKING AT THIS LETTER, I DON'T
24 RECALL EVEN RECEIVING THIS LETTER BUT -- BUT -- THE
25 FIRST NOR THE SECOND PAGE, BUT IT DOES SHOW MY NAME

1 ON IT SO -- BUT I DON'T RECALL IT.

2 MR. RIEGER: JOHN, ISN'T THIS THE SAME

3 LETTER?

4 MR. JENSEN: THE FIRST PAGE LOOKS LIKE IT'S

5 THE SAME. BUT THE SECOND LETTER, IT'S HARD TO KNOW.

6 THE SECOND PAGE IS NOT. IT'S CLEARLY NOT IN THE

7 FIRST.

8 BY MR. JENSEN:

9 Q. SO, MR. GUIDO, LET ME JUST FOCUS ON THE

10 SECOND PAGE OF IT. IT SAYS:

11 "VERIFICATION OF PUBLIC

12 SERVICE."

13 WERE YOU PRESENTED WITH THIS VERIFICATION?

14 A. I DON'T RECALL RECEIVING IT.

15 Q. LET'S MOVE ON. LET ME TURN YOUR ATTENTION

16 TO 213.

17 DID YOU -- THIS IS AN INTERESTED MEMBERSHIP

18 ADVICE. IT DOES NOT APPEAR THAT IT WAS C.C.'D TO YOU.

19 WAS THIS -- DID YOU EVER RECEIVE A COPY OF THIS?

20 A. IT DOESN'T LOOK FAMILIAR.

21 Q. OKAY. SO LET'S TURN TO 214.

22 DO YOU RECOGNIZE THIS DOCUMENT?

23 A. YES.

24 Q. AND DID YOU RECEIVE THIS DOCUMENT?

25 A. YES.

1 Q. AND WHAT DID YOU THINK UPON RECEIVING THIS
2 DOCUMENT?

3 A. WHEN I RECEIVED IT, I DIDN'T THINK -- IT
4 WAS CLEAR IN MY MIND THAT I HAD RECIPROCITY AND
5 THAT -- THAT DUE TO A LACK OF EXCHANGE OF INFORMATION
6 OR INFORMATION ON FILE THAT IT HAD TO BE CLARIFIED
7 BECAUSE I WAS GETTING CLOSE TO RETIREMENT.

8 Q. AND WAS THIS THE FIRST INFORMATION THAT
9 YOU'D RECEIVED FROM ANYONE --

10 A. YES.

11 Q. -- REGARDING --

12 A. I'M SORRY.

13 Q. -- THAT QUESTIONED YOUR RECIPROCITY?

14 A. YES.

15 Q. AND WHAT DID YOU DO WHEN YOU RECEIVED THIS
16 LETTER?

17 A. I CONSULTED AN ATTORNEY, SOMEONE WHO HAD
18 SOME UNDERSTANDING OF RETIREMENT LAW THAT I COULD --

19 Q. AND WHAT WAS YOUR UNDERSTANDING OF WHAT
20 HAPPENED NEXT?

21 WELL, FIRST OF ALL, WHEN DID YOU RECEIVE THIS
22 LETTER?

23 A. I RECEIVED THIS LETTER ON A SATURDAY OF
24 WHATEVER THAT -- THAT WAS A WEEKEND. I REMEMBER
25 RECEIVING IT ON A WEEKEND, WHICH WOULD HAVE TO BE A

1 SATURDAY OBVIOUSLY, A THREE-DAY WEEKEND. SO I WANT
2 TO SAY MAYBE IT WAS THE 23RD, 24TH.

3 Q. AND WHEN WAS YOUR -- WHEN WAS THE
4 RETIREMENT DATE THAT YOU HAD FILED TO BE THE
5 EFFECTIVE DATE?

6 A. MY EFFECTIVE DATE OF RETIREMENT WAS JUNE 1.
7 BUT MY LAST DAY OF WORK WAS MAY 28.

8 Q. AND SO YOU SAID YOU CONSULTED AN ATTORNEY.
9 WHAT WAS YOUR UNDERSTANDING OF WHAT HAPPENED?

10 A. WELL, HE COULDN'T -- I SHARED THIS
11 INFORMATION WITH AN ATTORNEY, AND HE WAS CONFUSED BY
12 IT AND CONSULTED ANOTHER ATTORNEY, WHO ALSO HAD SOME
13 RETIREMENT LAW BACKGROUND WHOM I KNEW -- WHO I KNEW
14 ALSO.

15 AND WE MET TO REVIEW MY FILE AND THE LETTERS I
16 HAD RECEIVED AND EVERYTHING I'D RECEIVED AND PRESENTED
17 THEM WITH THEM. AND THEY WERE STUNNED THAT I WOULD GET
18 SUCH A NOTIFICATION AT SUCH A LATE HOUR. AND EVEN MORE
19 PERPLEXED OVER THE FACT THAT I WAS GETTING THIS LETTER
20 FROM L.A.C.E.R.A.

21 Q. WHY DID THAT --

22 A. BECAUSE THAT WAS THE AGENCY I WAS RETIRING
23 FROM AND RECIPROCITY HAD -- DID NOT IMPINGE ON WHAT
24 MY FINAL SALARY WAS WITH THEM -- WITH CALPERS AS
25 OPPOSED TO THE AGENCY I RETIRED FROM.

1 Q. SO DID YOU THINK L.A.C.E.R.A. COULD DENY
2 YOU RECIPROCITY?

3 A. WELL, THAT'S WHY I CHECKED. THAT'S WHY I
4 CHECKED WITH COUNSEL.

5 Q. BUT DID YOU THINK THAT L.A.C.E.R.A. COULD
6 DENY YOU RECIPROCITY?

7 A. NO. BECAUSE IT WAS NOT BINDING. I MEAN,
8 THEY DIDN'T HAVE -- THEY EXPLAINED TO ME THAT IT WAS
9 NOT IN THEIR PURVIEW WHAT MONEY -- HOW MUCH MONEY I
10 MADE FROM CALPERS BECAUSE THE MONEY I WAS RETIRING
11 AND BASED MY RETIREMENT ON WAS PREDICATED ON MY FINAL
12 RETIREMENT SALARY WITH L.A.C.E.R.A.

13 Q. AND WHO WERE THE ATTORNEYS YOU SPOKE WITH?

14 A. A GENTLEMAN BY THE NAME OF BILL PELLMAN AND
15 AN ATTORNEY BY THE NAME OF NOWLAND HONG, H-O-N-G,
16 HONG.

17 Q. AND DID THEY COMMUNICATE TO YOU THAT THEY
18 CONTACTED SOMEONE ELSE?

19 A. I THINK THEY -- THEY -- WELL, THEY DID.
20 THEY THOUGHT -- YOU KNOW, I WAS SUGGESTING IF I
21 SHOULD GET ON THE PHONE, BUT I WANTED TO MAKE SURE
22 WHERE I WAS WITH THEM. I WANTED TO MAKE SURE I WAS
23 GETTING GOOD GUIDANCE ON HOW TO HANDLE IT WITH
24 L.A.C.E.R.A.

25 INSTEAD, THEY THOUGHT BECAUSE OF THE TIME

1 ELEMENT BETWEEN MEETING WITH THEM ON THE 26TH AND THE
2 FACT THAT MY LAST DAY OF EMPLOYMENT WAS THE 28TH, THEY
3 SOUGHT OUT TO CALL THE CHIEF ATTORNEY, CHIEF COUNSEL AT
4 L.A.C.E.R.A., WHO THEY BOTH WERE ACQUAINTED WITH.

5 Q. DID THEY IDENTIFY THAT INDIVIDUAL?

6 A. YES.

7 Q. AND WHO WAS THAT?

8 A. I DON'T KNOW HIS FIRST NAME BUT HIS LAST
9 NAME IS MUJIR (PHONETIC).

10 Q. AND WHAT DID -- WHAT WAS THE SUBSTANCE OF
11 THE COMMUNICATION THAT YOU RECEIVED IN RESPONSE?

12 A. WELL, I GUESS MR. MUJIR WAS -- WAS ALSO
13 CONFUSED ABOUT WHY A LETTER WOULD BE COMING FROM
14 L.A.C.E.R.A., AND SO HE TOLD -- I DON'T REMEMBER -- I
15 THINK IT WAS MR. HONG THAT HE WOULD HAVE TO CHECK
16 WITH HIS PEOPLE AND FIND OUT WHAT, YOU KNOW,
17 PRECIPITATED THIS LETTER COMING FROM THEM.

18 SINCE I WAS NOT REALLY SEEKING OUT RECIPROCITY
19 WITH L.A.C.E.R.A., IT HAD NO BASIS ON MY L.A.C.E.R.A.
20 BENEFITS.

21 Q. DID YOU BELIEVE AT THIS TIME, EVEN AFTER
22 RECEIVING THIS LETTER, THAT YOU WERE ENTITLED TO
23 RECIPROCITY?

24 A. YES. YES, I WAS.

25 Q. AND DID THE --

1 A. I HAD LETTERS. I HAD ALL THE SUPPORT. I
2 HAD ALL THE DOCUMENTATION, INFORMATION I PROVIDED
3 CALPERS AND L.A.C.E.R.A. I DID NOT HAVE ANY DOUBT IN
4 MY MIND THERE WAS ANY REASON, JUSTIFIABLE REASON, TO
5 DENY ME WHAT BENEFITS THEY TOLD ME I WAS ENTITLED TO.

6 Q. WHAT WAS THE EXPLANATION GIVEN TO YOU
7 REGARDING WHY -- THE EFFECT OF L.A.C.E.R.A.'S LETTER?

8 A. I NEVER -- I NEVER GOT A CLEAR
9 UNDERSTANDING. MR. MUIR GOT IN TOUCH WITH MR. HONG
10 AND EXPLAINED TO HIM THAT, YOU KNOW, THAT -- I
11 CAN'T -- I CAN'T EXPLAIN IT WITH ANY -- ANY GREAT
12 DETAIL AND SPECIFICITY. ALL I DO KNOW IS THAT THEY
13 DO EXCHANGE INFORMATION.

14 AND SINCE ONE FELT THAT AFTER LOOKING AT THE
15 RECORD THAT SOMEONE MADE A MISTAKE OR ERRED -- I ONLY
16 HEARD THIS SECONDHAND -- IS THAT THAT WAS THE REASON WHY
17 THEY SENT THE LETTER. BUT HE COULDN'T IDENTIFY ANYONE
18 THAT THEY HAD SPOKE TO AT CALPERS, TO THE BEST OF MY
19 RECOLLECTION.

20 Q. SO WAS THE ESSENCE OF THE COMMUNICATION TO
21 YOU THAT YOU UNDERSTOOD WAS THAT RECIPROCITY REMAINED
22 INTACT EVEN AFTER THIS LETTER?

23 A. YES.

24 Q. DID CALPERS CONTACT YOU PRIOR TO YOUR
25 RETIREMENT DATE ABOUT THIS RECIPROCITY ISSUE?

1 A. NO. BUT THERE WAS -- THERE WAS DIALOGUE
2 BETWEEN CALPERS AND L.A.C.E.R.A., BETWEEN COUNSEL OF
3 CALPERS AND L.A.C.E.R.A.

4 Q. DID CALPERS EVER TELL YOU PRIOR TO YOUR
5 RETIREMENT DATE THAT RECIPROCITY WAS DENIED?

6 A. NO.

7 MR. JENSEN: YOUR HONOR, I'D LIKE TO MOVE,
8 I GUESS IT'S 214, INTO EVIDENCE AS SOMETHING THAT
9 MR. GUIDO RECEIVED.

10 THE COURT: OKAY. ANY OBJECTION TO 214?

11 MR. RIEGER: NO.

12 THE COURT: ALL RIGHT. IT'S ADMITTED.

13 (RESPONDENT'S EXHIBIT NUMBER 214 WAS
14 MARKED FOR IDENTIFICATION BY THE COURT
15 AND RECEIVED INTO EVIDENCE.)

16 BY MR. JENSEN:

17 Q. I WANT TO JUST --

18 A. AS A MATTER OF FACT -- AS A MATTER OF FACT,
19 MR. MUIR OFFERED TO SPEAK TO THE CHIEF COUNSEL AT
20 CALPERS TO FIND OUT -- YOU KNOW, MADE AN INQUIRY OF
21 THEM, LIKE, FOR INSTANCE, WE FOUND OUT FROM
22 L.A.C.E.R.A. THAT MR. GUIDO HAD NOT -- HAD RECEIVED
23 THIS LETTER AND HOW IS IT THAT IF IT HAD BEEN AN
24 ISSUE THAT THEY HAD NOT RECEIVED A LETTER FROM
25 CALPERS?

1 AND HIS NAME WAS PETER MIXUM (PHONETIC). I
2 REMEMBER THAT.

3 AND IT WAS RELATED TO ME BY MR. HONG THROUGH
4 MR. MUIR THAT THEY WERE NOT SURE WHY THE LETTER CAME
5 FROM L.A.C.E.R.A. AND THAT THEY WOULD HAVE TO LOOK INTO
6 IT.

7 AND THEN THEY FOUND OUT THAT I HAD TWO LETTERS
8 INDICATING THAT I HAD ESTABLISHED RECIPROCITY NOW THAT I
9 WAS BEING INFORMED BY CAL -- BY L.A.C.E.R.A. THAT I DID
10 NOT HAVE IT, AND I DIDN'T HAVE -- AND IT WASN'T BASED ON
11 WHAT L.A.C.E.R.A.'S BENEFITS WERE TO ME BUT WHAT
12 CALPERS' REPORTED ESTIMATES TO ME WERE ALL ABOUT.

13 AND SO MR. MIXUM TOLD MR. MUIR THAT THEY
14 WOULD --

15 MR. RIEGER: YOUR HONOR, I HAVE TO
16 INTERPOSE AN OBJECTION HERE. THIS IS LIKE TRIPLE
17 HEARSAY. WE'VE GOT LIKE MR. MIXUM TOLD MR. MUIR TOLD
18 MR. GUIDO. I THINK THERE MIGHT EVEN HAVE BEEN
19 SOMEONE ELSE IN THAT LINK.

20 MR. JENSEN: HE'S JUST RELATING HIS
21 UNDERSTANDING OF EVENTS. IF NOTHING ELSE, IT'S
22 ADMINISTRATIVE HEARSAY IN SUPPORT OF THIS IDEA THAT
23 THERE WAS AN ERROR MADE. IT'S IMPORTANT TO HIS
24 UNDERSTANDING OF THE EFFECT OF THE LETTER.

25 THE COURT: WELL, HE CAN TELL ME HIS

1 UNDERSTANDING, BUT WE ARE EVEN BEYOND THE SECOND
2 LEVEL OF HEARSAY, SO I THINK THAT EVEN STRETCHES
3 ADMINISTRATIVE HEARSAY A BIT SO --

4 MR. JENSEN: I WOULD RATHER AT LEAST GIVE
5 HIM THE CHANCE TO EXPLAIN IT WITHOUT USING THE NAMES,
6 AND THEN, YOU KNOW, TO EXPLAIN HIS UNDERSTANDING OF
7 WHAT HIS STATUS WAS.

8 THE COURT: OKAY. YOU CAN CERTAINLY DO
9 THAT. BUT I THINK IT'S A FAIR OBJECTION FOR THE
10 WITNESS TO RECOUNT WHAT ONE PERSON TOLD HIM ANOTHER
11 PERSON SAID, ESPECIALLY ON A LEGAL ISSUE OR A
12 TECHNICAL ISSUE LIKE THIS. SO I'LL SUSTAIN THE
13 OBJECTION.

14 MR. JENSEN: I SEE.

15 BY MR. JENSEN:

16 Q. SO, MR. GUIDO, IN SORT OF A BRIEF -- YOU
17 KNOW, WITHOUT NECESSARILY ATTRIBUTING THE COMMENTS TO
18 ANY PARTICULAR PERSON, YOUR UNDERSTANDING OF THE
19 AFTERMATH OF THIS LETTER, IF YOU CAN JUST PROVIDE
20 THAT TO US.

21 A. YES. ON THE 28TH, THE EVENING OF THE 28TH,
22 MR. HONG TOLD ME THAT THEY HAD HEARD BACK FROM
23 CALPERS AND THAT THEY WERE LOOKING INTO THE MATTER
24 AND THEY WOULD GET BACK TO ME DIRECTLY.

25 MR. RIEGER: YOUR HONOR, JUST TO CLARIFY.

1 MY HEARSAY OBJECTION STANDS. I'M PERFECTLY FINE WITH
2 THE WITNESS ANSWERING FOR NONHEARSAY PURPOSES.

3 I JUST WANTED TO MAKE SURE THAT -- THAT WAS
4 REALLY THE SAME QUESTION SO I HAVE THE SAME OBJECTION TO
5 THE EXTENT IT'S OFFERED FOR THE TRUTH OF THE MATTER
6 ASSERTED BY ANYONE DOWNSTREAM. I'M HOPING THAT RULING
7 STANDS FOR THE QUESTION.

8 THE COURT: OKAY. WELL, I GUESS THE
9 QUESTION IS: ARE YOU OFFERING THAT FOR THE TRUTH OF
10 THE MATTER ASSERTED OR FOR SOME OTHER PURPOSE?

11 MR. JENSEN: WELL, I'M OFFERING IT FOR HIS
12 RELIANCE ON A CERTAIN AMOUNT OF AUTHORITY THAT IS
13 CONTRARY TO THIS LETTER AND HIS UNDERSTANDING AND
14 MAKING INQUIRIES AND BEING TOLD THAT THE LETTER HAS
15 DEFECTS IN IT.

16 AND I THINK THAT IT DOESN'T MATTER WHO SAID IT
17 AS LONG AS IT WAS -- YOU KNOW, THESE ARE OFFICIAL
18 INQUIRIES BY HIS ATTORNEY AND COMMUNICATED TO HIM. AND
19 I THINK THAT'S IMPORTANT.

20 MR. RIEGER: I THINK IF IT'S BEING OFFERED
21 FOR EFFECT ON THE LISTENER, I HAVE NO OBJECTION TO
22 THAT. I JUST WANT TO MAKE SURE THE RECORD IS CLEAR
23 THAT I DON'T THINK THE QUESTION CHANGED. MY
24 OBJECTION THEREFORE WAS THE SAME.

25 TO THE EXTENT IT'S OFFERED FOR THE TRUTH OF

1 THE MATTER ASSERTED BY SOMEONE AT CALPERS, IT'S TWO OR
2 THREE DOWN THE CHAIN. AND I THINK EVEN FOR
3 ADMINISTRATIVE HEARSAY, THAT WOULD NOT BE ADMISSIBLE.

4 MR. JENSEN: AND, YOUR HONOR, I'M NOT
5 OFFERING IT FOR THE TRUTH OF WHAT THOSE
6 INDIVIDUALS -- THE SPECIFIC STATEMENTS.

7 BUT I AM OFFERING IT FOR THE PURPOSE OF HIS
8 STATE OF MIND ABOUT WHETHER THIS IS A REPRESENTATION
9 THAT HE -- THAT WOULD CAUSE HIM NOT TO BELIEVE THAT
10 RECIPROCITY PREVAILED.

11 AND SO IT'S IMPORTANT ABOUT HIS BELIEF AND
12 WHETHER IT'S A REASONABLE BELIEF. AND SO IN A CERTAIN
13 WAY, THE AUTHORITY BEHIND THE PEOPLE THAT TOLD HIM THERE
14 WAS A MISTAKE IS IMPORTANT.

15 BUT THAT'S -- YOU KNOW IT'S NOT FOR THE TRUTH
16 OF THE MATTER ASSERTED ABOUT WHAT THE INDIVIDUAL SAID
17 BUT THAT THERE WERE REPRESENTATIONS MADE TO HIM FROM
18 HIGH LEVELS OF THESE RETIREMENT SYSTEMS THAT THIS WAS
19 NOT SOMETHING THAT HE NEEDED TO WORRY ABOUT.

20 MR. RIEGER: I THINK I WAS FINE WITH
21 EVERYTHING UNTIL THE END ABOUT REPRESENTATIONS MADE
22 TO HIM BY THE RETIREMENT SYSTEMS, PLURAL. IT SOUNDED
23 LIKE HE'S OFFERING IT FOR ITS EFFECT ON THE LISTENER.
24 IF THAT'S WHAT HE'S OFFERING IT FOR, I WITHDRAW THE
25 OBJECTION.

1 IF THERE'S ANY IMPLICATION THAT IT'S BEING
2 OFFERED FOR THE TRUTH OF THE MATTER ASSERTED BY A
3 CALPERS REPRESENTATIVE, THAT'S MY OBJECTION.

4 THE COURT: ALL RIGHT. I THINK THAT -- I
5 THINK WHAT I'LL DO IS I'LL ADMIT IT IN TERMS OF HIS
6 RELIANCE ON WHAT HIS ATTORNEY THAT HE RETAINED TOLD
7 HIM. BUT IT'S NOT ADMITTED FOR THE TRUTH OF ANY
8 STATEMENTS ATTRIBUTED TO CALPERS.

9 MR. JENSEN: AND, YOUR HONOR, WE'RE REALLY
10 JUST -- THESE ARE REALLY STATEMENTS FROM L.A.C.E.R.A.
11 THAT WERE UNDERMINING THEIR OWN LETTER, AND SO THAT'S
12 REALLY THE IMPORTANT PART OF IT. AND I DON'T THINK
13 MR. RIEGER REPRESENTS L.A.C.E.R.A.

14 THE COURT: OKAY.
15 BY MR. JENSEN:

16 Q. THE QUESTION I HAVE TO YOU, MR. GUIDO, IS:
17 IF YOU HAD BELIEVED RECIPROCITY WAS BROKEN, WHAT
18 WOULD YOU HAVE DONE?

19 A. I WOULD HAVE MADE A DECISION TO STEP BACK
20 AND REGROUP AND RECONSIDER MY OPTIONS TO PURSUE
21 EMPLOYMENT ELSEWHERE IN THE COUNTY OR OUTSIDE THE
22 COUNTY.

23 Q. WERE YOU UNDER THE UNDERSTANDING THAT --

24 A. TO NOT JEOPARDIZE MY BENEFITS WITH CALPERS.

25 Q. WERE YOU UNDER THE UNDERSTANDING THAT THAT

1 COMMUNITY DEVELOPMENT COMMISSION POSITION THAT WAS A
2 CALPERS-CONTRACTING AGENCY WOULD BE AVAILABLE TO YOU
3 AT THIS TIME?

4 A. I'M ASSUMING THAT IT COULD HAVE BEEN MADE
5 AVAILABLE TO ME AT THAT TIME SINCE I DON'T BELIEVE
6 ANY POSITIONS WERE FILLED THERE, HIGH-LEVEL
7 POSITIONS.

8 MR. RIEGER: OBJECTION; FOUNDATION.

9 MR. JENSEN: FOR HIS BELIEF.

10 MR. RIEGER: CALLS FOR SPECULATION.

11 MR. JENSEN: FOR THE PURPOSES OF HIS --

12 MR. RIEGER: HE HAS NO BASIS FOR THE
13 BELIEF. THAT'S MY PROBLEM. THIS IS, LIKE,
14 FOUR YEARS LATER. IT'S LITERALLY HALF A DECADE LATER
15 HE'S ASKING HIM IF HE BELIEVED THE POSITION WAS STILL
16 OPEN. WE HAVE NO FOUNDATION THAT IT WAS.

17 THE COURT: ALL RIGHT. I'LL SUSTAIN.

18 YOU CAN REASK AND CLARIFY.

19 BY MR. JENSEN:

20 Q. MR. GUIDO, DID YOU -- WERE YOU INFORMED OF
21 YOUR AVAILABLE OPTIONS HAD YOU CHOSEN TO STAY AT THE
22 COUNTY?

23 A. NOT AT THAT TIME.

24 Q. LET'S BRING IN THE SITUATION WITH TEMPLE
25 CITY.

1 IS IT THE CITY OF TEMPLE OR TEMPLE CITY?

2 A. I THINK IT'S TEMPLE CITY.

3 Q. TEMPLE CITY. OKAY. TELL US WHEN --

4 COINCIDENTALLY DURING THIS PERIOD, THERE WAS

5 ~~DISCUSSIONS WITH VICTOR (SIC) YU -- NOT DISCUSSIONS~~

6 BUT VICTOR YU APPROACHED YOU. CAN YOU GIVE US SOME

7 BACKGROUND ON IT?

8 A. YES. VINCENT YU. HE APPROACHED ME

9 SOMETIME IN MAYBE APRIL ABOUT -- HE KNEW I WAS

10 RETIRING. I HAD ANNOUNCED MY RETIREMENT, AND HE

11 APPROACHED ME ABOUT MY AVAILABILITY TO POSSIBLY -- IF

12 I HAD ANY INTEREST IN TAKING A POSITION WITH THE CITY

13 AS CITY MANAGER.

14 MR. JENSEN: AND, YOUR HONOR, I THINK WE'RE

15 ALL A LITTLE TIRED. CAN WE TAKE A LITTLE BREAK --

16 IT'S 3:30 (SIC) -- OR DO YOU WANT ME TO CONTINUE

17 THROUGH THIS OR --

18 THE COURT: I WAS PLANNING ON DOING IT AT

19 3:00. WE STARTED AT 1:30 SO --

20 MR. JENSEN: OH, IT'S ACTUALLY ONLY --

21 OKAY. 20 MORE MINUTES. THAT'S FINE. THAT'S GREAT.

22 THE COURT: ARE YOU OKAY?

23 MR. JENSEN: I'M JUST ACTUALLY LOOKING AT

24 THE WITNESS, AND HE SEEMS A LITTLE TIRED. BUT THAT'S

25 FINE.

1 MR. RIEGER: I WOULDN'T MIND A BREAK NOW IF
2 HE WANTS ONE. I THINK IT'S THE COURT'S DISCRETION.

3 MR. JENSEN: NO, NO. WE CAN GO FOR 20
4 MINUTES.

5 THE COURT: ARE YOU OKAY, MR. GUIDO?

6 THE WITNESS: YEAH.

7 MR. JENSEN: WE CAN GO.

8 THE WITNESS: AFTER THE LONG HOUR DRIVE --

9 THE COURT: I'M SORRY?

10 THE WITNESS: AFTER THE LONG THREE-HOUR
11 DRIVE HERE, I'M POOPED.

12 THE COURT: WHERE ARE YOU COMING FROM?

13 THE WITNESS: SAN JUAN CAPISTRANO. BUT
14 TOMORROW MORNING I'LL MAKE SURE TO START A LITTLE
15 EARLY.

16 BY MR. JENSEN:

17 Q. SO HOW DID YOU -- HOW DID YOU UNDERSTAND
18 THAT YOU WERE IN A POSITION THAT VINCENT YU WAS SORT
19 OF SEEKING YOUR EMPLOYMENT OR YOUR INTEREST IN
20 EMPLOYMENT WITH TEMPLE CITY?

21 A. WELL, VINCENT -- LIKE, VINCENT YU
22 APPROACHED ME SEVERAL MONTHS EARLIER AND CONSULTED
23 WITH ME ABOUT HIS INTEREST IN RUNNING FOR CITY
24 COUNCIL OR THE FACT THAT HE WAS RUNNING FOR CITY
25 COUNCIL.

1 AND WE SHARED SOME IDEAS ABOUT HIS CAMPAIGN,
2 AND I GAVE HIM SOME LITTLE -- YOU KNOW, HE WAS SEEKING
3 SOME ADVICE, AND I SHARED WITH HIM SOME OF MY PERSONAL
4 EXPERIENCES RUNNING FOR CITY COUNCIL.

5 AND ALSO WE TALKED A LITTLE BIT ABOUT THE
6 PROBLEMS THAT THEY WERE HAVING IN TEMPLE CITY WHICH
7 PROMPTED HIM TO RUN BECAUSE THERE WERE SOME -- THERE
8 WERE SOME ISSUES THERE INVOLVING COUNCIL MEMBERS WITH
9 CORRUPTION AND THINGS LIKE THAT.

10 AND HE WAS ALSO REALLY CONCERNED THAT THE CITY
11 MANAGER WAS ALSO THE CITY ATTORNEY, AND IT DIDN'T SIT
12 WELL WITH HIM ABOUT A CITY MANAGER WITH AS MANY YEARS AS
13 HE HAD BEEN SITTING AS CITY ATTORNEY.

14 SO THEN HE ENDED UP RUNNING FOR CITY COUNCIL,
15 AND ONCE HE GOT ELECTED, HE SPOKE TO ME MORE ABOUT --
16 AND THAT'S IN LIGHT OF THE FACT THAT I HAD ANNOUNCED I
17 WAS GOING TO BE RETIRING -- IF I MIGHT BE INTERESTED IN
18 GOING TO WORK FOR TEMPLE CITY AS CITY MANAGER.

19 AND IN THE BEGINNING, IT SOUNDED LIKE
20 SOMETHING THAT MIGHT BE OF INTEREST TO ME, KEEPING IN
21 MIND THAT I HAD ALREADY SUBMITTED MY RETIREMENT
22 APPLICATIONS TO L.A.C.E.R.A. AND TO CALPERS.

23 AND SO I SAID -- I SAID, YOU KNOW, I WOULD
24 LOOK AT IT, BUT I SAID YOU CAUGHT ME MIDSTREAM HERE WITH
25 MY PLAN TO RETIRE AND HAVING SUBMITTED MY APPLICATION TO

1 BOTH AGENCIES.

2 SO I CHECKED WITH CALPERS TO FIND OUT, YOU
3 KNOW, HOW I MIGHT BE ABLE TO TAKE A FULL-TIME POSITION
4 AND WITH ALL THE RAMIFICATIONS WITH THE FACT THAT I WAS
5 PLANNING TO RETIRE, AND I WAS TOLD THAT BASICALLY, YOU
6 KNOW, YOU REALLY CAN'T TAKE A FULL-TIME POSITION IF
7 YOU'RE PLANNING TO RETIRE.

8 THERE'S LIMITED HOURS OR AMOUNT OF MONEY YOU
9 CAN MAKE BASICALLY IF I TOOK A POSITION LIKE THAT.

10 AND I ASKED IF I COULD POSTPONE, YOU KNOW, IF
11 THAT WAS -- IF I COULD POSTPONE MY CALPERS RETIREMENT,
12 AND THIS LADY TOLD ME IF I WAS RETIRING FROM TWO
13 SYSTEMS, I WOULD HAVE TO POSTPONE MY RETIREMENT FROM
14 BOTH SYSTEMS.

15 AND AFTER, SHE SENT ME SOME STUFF ON -- SHE
16 SENT ME SOME MATERIAL IN THE MAIL ABOUT WORKING AFTER
17 RETIREMENT THAT WASN'T ENTIRELY THE KIND OF INFORMATION
18 I WAS LOOKING FOR, BUT SHE SENT ME SOME INFORMATION IN
19 THE MAIL. AND I THOUGHT LONG AND HARD OVER IT.

20 AND I SAID, "I'M SO FAR DOWN THE ROAD HERE AND
21 THEN TO START PULLING THE PLUG ON ONE OR BOTH" -- I
22 SAID, "I ALWAYS REALLY WANTED TO RETIRE ABOUT NOW."

23 AND I TOLD HIM -- I SAID, "I REALLY
24 APPRECIATE YOUR CONFIDENCE IN ME BECAUSE ANOTHER
25 COUNCIL MEMBER WHO WORKED FOR THE COUNTY KNEW ME AND

1 THOUGHT I WOULD DO A GOOD JOB."

2 AND LIKE MR. YU INDICATED, HE WANTED ME AND
3 ANOTHER COUNCIL MEMBER. AND I SAID, "NO. I'M GOING TO
4 PASS. I REALLY APPRECIATE IT."

5 I SAID, "I WOULD BE HAPPY TO GIVE YOU ANY
6 ADVICE YOU THINK YOU MIGHT BE INTERESTED IN OBTAINING
7 FROM ME," BUT I SAID -- I SAID, "AT THIS POINT, I'M
8 JUST PLANNING TO RETIRE."

9 AND I WAS TOUCHED OVER THEIR CONFIDENCE IN ME
10 AND THEIR INTEREST OVER MY CANDIDACY FOR THE JOB.

11 SO HE THANKED ME, AND WE STAYED IN TOUCH UNTIL
12 I RETIRED. AND THAT WAS THE EXTENT OF MY DIALOGUE WITH
13 HIM THAT MAYBE INVOLVED FIVE MEETINGS WITH HIM OVER
14 THE -- OVER THE SIX MONTHS, MAYBE FIVE, SIX MINUTES,
15 PARTLY ON HIS CANDIDACY AND PARTLY INVOLVING OTHER
16 INTERESTS IN BRINGING ME ONBOARD.

17 Q. WERE YOU UNDER THE UNDERSTANDING THAT YOU
18 WOULD HAVE TO GO THROUGH A RECRUITMENT PROCESS?

19 A. NO. AT THAT TIME, THEY -- TIME WAS OF THE
20 ESSENCE WITH THEM. THEY WANTED TO BRING SOMEONE
21 ONBOARD, AND THERE WAS NO MENTION, AS I RECALL, OF
22 DISCUSSIONS, YOU KNOW, OF FILING AN APPLICATION
23 THROUGH A CONSULTANT OR GOING THROUGH THE VETTING OR
24 RECRUITMENT PROCESS.

25 Q. NOW, WHAT PART DID YOUR BELIEF THAT YOU HAD

1 ESTABLISHED RECIPROCITY PLAY IN YOUR DECLINING THE --
2 OR NOT EXPRESSING INTEREST IN THE TEMPLE CITY
3 POSITION?

4 MR. RIEGER: OBJECTION; STATES FACTS NOT IN
5 EVIDENCE AND LEADING.

6 THE COURT: SUSTAINED.

7 BY MR. JENSEN:

8 Q. WHAT FACTORS DID YOU TAKE INTO
9 CONSIDERATION WHEN DECLINING TO -- WELL, WHEN YOU
10 EXPRESSED A LACK OF INTEREST IN THE TEMPLE CITY
11 POSITION?

12 A. CAN YOU REFRAME THAT QUESTION?

13 Q. I MEAN, WHAT WERE YOU ASSUMING OR DID YOU
14 BELIEVE TO BE THE CASE WHEN YOU DECLINED TO EXPRESS
15 INTEREST IN TEMPLE CITY?

16 MR. RIEGER: OBJECTION; VAGUE.

17 THE COURT: SUSTAINED.

18 BY MR. JENSEN:

19 Q. WERE THERE EMPLOYMENT OR -- WHAT WERE THE
20 ASSUMPTIONS WITH RESPECT TO YOUR RETIREMENT BENEFITS
21 THAT YOU -- UNDERLAY THE FOUNDATION THAT YOU WERE NOT
22 INTERESTED IN THE TEMPLE CITY POSITION?

23 MR. RIEGER: OBJECTION; ASSUMES FACTS NOT
24 IN EVIDENCE. LEADING.

25 THE COURT: JUST GIVE ME ONE MOMENT.

1 ALL RIGHT. I'LL OVERRULE THE OBJECTION.

2 I WANT TO MAKE SURE, THOUGH, THAT YOU'RE
3 ANSWERING THE QUESTION. DO YOU UNDERSTAND WHAT YOU'RE
4 BEING ASKED?

5 THE WITNESS: VAGUELY.

6 THE COURT: OKAY. WHY DON'T WE CLARIFY.

7 MR. JENSEN: YEAH. LET ME REASK THE
8 QUESTION.

9 BY MR. JENSEN:

10 Q. YOU INDICATED THAT -- WELL, WHY DID YOU NOT
11 EXPRESS INTEREST IN THE TEMPLE CITY POSITION?

12 A. BECAUSE I WASN'T INTERESTED IN GOING BACK
13 IN AND RESCINDING MY RETIREMENT PLAN FROM BOTH
14 SYSTEMS. AND, YOU KNOW, AFTER -- YOU KNOW, I HAD
15 ALREADY IN MY MIND HAD, AS I SAID EARLIER, PLANNED TO
16 RETIRE AT 60, OR IN THIS CASE, 60 1/2 OR WHATEVER.

17 AND I THOUGHT ABOUT IT LONG AND HARD, AND MY
18 WIFE AND I TALKED ABOUT IT. AND I SAID, "YOU KNOW WHAT?
19 IT WOULD BE REALLY NICE TO GO IN AND HELP THEM, YOU
20 KNOW, REORGANIZE AND RESTRUCTURE THE CITY, BUT," I SAID,
21 "IT WOULD BE A GREAT CHALLENGE AND SOMETHING I WOULD
22 LOVE TO DO.

23 "BUT I'M JUST BLESSED WHERE I AM RIGHT NOW AND
24 WANT TO RETIRE WHEN I WANT TO RETIRE." AND I SAID, "YOU
25 KNOW, SOMETIMES YOU CAN'T HAVE EVERYTHING." AND MY WIFE

1 AGREED, AND I SAID I CAN'T TAKE THE POSITION.

2 Q. WAS THE AMOUNT OF YOUR RETIREMENT BENEFITS
3 A FACTOR IN DECLINING THE TEMPLE CITY OFFER?

4 A. NO. IT WAS JUST THAT I WAS PLANNING TO
5 RETIRE. AND I WAS PLEASED WITH THE BENEFITS I WAS
6 GOING TO RECEIVE, AND I DIDN'T NEED TO PAD MY
7 RETIREMENT ANYMORE. AND, YOU KNOW, I WANTED TO MOVE
8 ON WITH MY LIFE.

9 Q. WERE YOU AT THIS TIME COUNTING ON \$3,000 IN
10 PENSION BENEFITS FROM CALPERS?

11 A. YES, I WAS.

12 Q. AND IF YOU HAD NOT HAD THAT \$3,000 IN
13 CALPERS, WOULD YOU HAVE MADE DIFFERENT CHOICES?

14 A. YES, I WOULD HAVE.

15 Q. WHAT WOULD THOSE CHOICES HAVE BEEN?

16 A. I WOULD CERTAINLY HAVE TAKEN UP THE OPTION
17 OF TAKING THE POSITION AT C.D.C. OR, YOU KNOW, TAKING
18 A POSITION, HAD THAT NOT BEEN AVAILABLE, AT THE CITY
19 OR IN THIS CASE WITH MR. YU IN TEMPLE CITY, IF THERE
20 WAS A CONSENSUS AMONG THE TEMPLE CITY COUNCIL MEMBERS
21 TO BRING ME ONBOARD.

22 I ALWAYS FELT CONFIDENT I COULD REESTABLISH
23 MYSELF EVEN THOUGH I WAS IN MY -- I WAS 60 BECAUSE I'VE
24 HAD PEOPLE ASK ME ALL THE TIME, "WHEN ARE YOU GOING TO
25 COME TO WORK FOR US?"

1 BECAUSE THEY KNEW MY RELATIONSHIP WITH THE
2 COUNTY AND WITH THE DEPARTMENTS, AND A LOT OF CITIES
3 VALUE THAT RELATIONSHIP, CONTRACT CITIES, BECAUSE A LOT
4 OF THE BENEFITS AND A LOT OF THE COORDINATION OF
5 SERVICES AND FUNDS THAT THEY RECEIVE HINGE ON THEIR
6 RELATIONSHIP WITH NOT ONLY THE COUNTY SUPERVISORS, BUT
7 ALSO THE DIFFERENT COUNTY -- DEPARTMENTS IN THE COUNTY.

8 AND THEY KNEW I HAD COUNTYWIDE EXPOSURE IN THE
9 COUNTY. AND, I WAS -- YOU KNOW, I ALWAYS USED TO CHIDE
10 PEOPLE YOU REALLY DON'T WANT ME, BUT I KNOW THAT PEOPLE
11 WOULD HAVE HIRED ME IF I WOULD HAVE EXPRESSED AN
12 INTEREST.

13 IT MAY NOT HAVE BEEN ON A DAY'S NOTICE OR
14 ANYTHING, BUT I KNOW I COULD HAVE PROCURED EMPLOYMENT
15 WITH A CITY SOMEWHERE IN THE COUNTY.

16 Q. AND CAN YOU GIVE ME SOME CONCRETE EXAMPLES
17 OF POTENTIAL JOB OPPORTUNITIES YOU HAD AS OF, YOU
18 KNOW, MAY 20, 2009?

19 A. I CAN'T REMEMBER ANY SPECIFIC JOB
20 OPPORTUNITIES OTHER THAN THE ONE IN TEMPLE CITY AND
21 THE ONE WITH C.D.C. AT THIS TIME, BUT FREQUENTLY I'D
22 BE ASKED BY CITY MANAGERS.

23 Q. AND WERE THOSE JOBS THAT HAD CALPERS
24 BENEFITS WITH THEM?

25 A. I BELIEVE MOST CITIES ARE COVERED BY

1 CALPERS; YES. AS A MATTER OF FACT, THEY ARE.

2 MR. RIEGER: OBJECTION; FOUNDATION.

3 NONRESPONSIVE.

4 THE COURT: I'LL GRANT THE MOTION. I'LL

5 STRIKE IT. YOU CAN LAY THE FOUNDATION.

6 ///

7 BY MR. JENSEN:

8 Q. ARE YOU FAMILIAR WITH MOST OF THE CONTRACT

9 CITIES IN LOS ANGELES COUNTY?

10 MR. RIEGER: OBJECTION; VAGUE.

11 THE COURT: OVERRULED.

12 YOU CAN ANSWER THAT.

13 THE WITNESS: YES, I AM.

14 BY MR. JENSEN:

15 Q. AND ARE YOU FAMILIAR WITH HOW MANY OF THOSE

16 CITIES HAVE CALPERS-CONTRACTED RETIREMENT BENEFITS?

17 MR. RIEGER: OBJECTION; VAGUE.

18 THE COURT: OVERRULED.

19 YOU CAN ANSWER.

20 THE WITNESS: I DON'T KNOW SPECIFICALLY,

21 BUT MOST OF THEM ARE GENERAL LAW CITIES, AND MOST

22 GENERAL LAW CITIES ARE COVERED BY THE CALPERS PUBLIC

23 EMPLOYEES' RETIREMENT SYSTEM.

24 BY MR. JENSEN:

25 Q. AND WOULD -- GETTING BACK TO THIS PERIOD OF

1 TIME OF, LET'S SAY, MAY 26, 2009, IF YOU HAD
2 UNDERSTOOD THAT THIS RECIPROCITY DENIAL LETTER HAD
3 EFFECT, YOU HAD ONLY TWO MORE DAYS OF EMPLOYMENT,
4 WHAT WOULD HAVE YOU DONE, IF ANYTHING, IN THOSE
5 TWO DAYS?

6 A. I WOULD HAVE POSTPONED MY RETIREMENT.

7 Q. I WANT TO TURN YOUR ATTENTION TO 216.

8 MR. RIEGER: WAS 215 OFFERED?

9 THE COURT: IT'S NOT IDENTIFIED YET.

10 MR. JENSEN: I HAVEN'T OFFERED 215. I'VE
11 OFFERED 214.

12 ACTUALLY, WHAT WAS IT? YEAH; 214.

13 I'M GOING TO GO TO 216.

14 BY MR. JENSEN:

15 Q. WELL, DO YOU RECOGNIZE THE DOCUMENT IN
16 EXHIBIT 216?

17 A. YES, I DO.

18 Q. AND THIS IS A THREE-PAGE DOCUMENT BATES
19 STAMPED FGUIDO 214 THROUGH 216.

20 DID YOU RECEIVE THIS DOCUMENT?

21 A. YES.

22 Q. AND WHEN DID YOU RECEIVE IT?

23 A. I DON'T KNOW THE SPECIFIC DATE, BUT I'D
24 HAVE TO SPECULATE WITHIN A SHORT MATTER OF DAYS AFTER
25 JUNE 5.

1 Q. AND WHAT DID YOU DO WHEN YOU SAW THIS
2 DOCUMENT? WHAT DID YOU BELIEVE THIS DOCUMENT --

3 A. WELL, I BELIEVE THAT WHEN I RECEIVED THIS
4 DOCUMENT WITH, YOU KNOW, A CERTAIN DOLLAR-AMOUNT
5 STIPEND, BUT I FIGURED THAT, WELL, THIS WAS GOING
6 DOWN A DIFFERENT TRACK BASED ON THAT DENIAL LETTER I
7 RECEIVED FROM CALPERS AND THAT THE FULL VETTING
8 PROCESS OF THE ATTORNEYS THAT WERE INVOLVED IN MY
9 CASE HAD NOT TAKEN EFFECT.

10 Q. OKAY. YOU MENTIONED YOU RECEIVED A CALPERS
11 DENIAL LETTER. AS OF THIS DATE, DID YOU RECEIVE A
12 CALPERS DENIAL --

13 A. NO. I'M SORRY. I MISSPOKE.
14 IT WAS BASED ON THE L.A.C.E.R.A. DENIAL
15 LETTER.

16 Q. AND SO WHAT DID YOU BELIEVE WITH RESPECT TO
17 YOUR RECIPROCITY AFTER RECEIVING THIS DOCUMENT IN
18 216?

19 A. WELL, WHEN I SAW THAT, I CONSULTED AGAIN,
20 AND I'M TRYING TO REMEMBER THE TIME FRAME BECAUSE
21 IT'S BEEN A FEW YEARS NOW. WHEN I RECEIVED THIS, I
22 WROTE A LETTER -- I WROTE A LETTER. YEAH. I WAS
23 TOLD THAT -- NO. I WROTE A LETTER BASICALLY --

24 Q. LET ME --

25 A. I WROTE A LETTER TO CALPERS. SORRY.

1 Q. DID YOU EVER RECEIVE A DENIAL OF
2 RECIPROCITY LETTER FROM CALPERS?

3 A. SOMETIME LATER ON IN JUNE, I BELIEVE IT
4 WAS.

5 Q. WHEN DID YOU FIRST RECEIVE INFORMATION FROM
6 CALPERS THAT YOUR BENEFIT WAS NOT GOING TO BE \$3,000?

7 A. ON JUNE 30, 2009.

8 Q. AND LET'S FOCUS BACK ON THIS DOCUMENT, 216.
9 WHAT WAS YOUR STATUS AS OF JUNE 6 OR 7 WHEN
10 YOU RECEIVED THIS LETTER?

11 A. I WAS RETIRED.

12 Q. AND AT THIS POINT, WHAT -- WHAT WERE YOUR
13 OPPORTUNITIES FOR TRYING TO ESTABLISH RECIPROCITY?

14 MR. RIEGER: OBJECTION; CALLS FOR A LEGAL
15 CONCLUSION.

16 THE COURT: OVERRULED.

17 YOU CAN ANSWER.

18 THE WITNESS: I WASN'T REALLY SURE SINCE I
19 WAS STILL WAITING FOR A FORMAL RESPONSE.

20 BY MR. JENSEN:

21 Q. AND DID YOU HAVE THE OPPORTUNITY TO --

22 MR. JENSEN: WELL, YOUR HONOR, CAN WE PICK
23 THIS UP AFTER THE BREAK?

24 THE COURT: SURE.

25 ALL RIGHT. WE'LL TAKE OUR AFTERNOON BREAK AT

1 THIS TIME.

2 GO OFF THE RECORD AND RESUME AT 3:15.

3 (WHEREUPON, A RECESS WAS HELD

4 FROM 3:00 P.M. TO 3:20 P.M.)

5 THE COURT: LET'S GO BACK ON THE RECORD.

6 ALL RIGHT. SO WE'RE CONTINUING WITH THE

7 DIRECT EXAMINATION OF MR. GUIDO.

8 PLEASE CONTINUE.

9 MR. JENSEN: THANK YOU, YOUR HONOR.

10 BY MR. JENSEN:

11 Q. I'M JUST GOING TO RETRACE A LITTLE BIT

12 BECAUSE -- NOW THAT I HAVE MY DIET COKE.

13 SO, MR. GUIDO, IF YOU RECEIVED THIS

14 RECIPROCITY DENIED LETTER FROM L.A.C.E.R.A., AND --

15 MR. RIEGER: ARE WE LOOKING AT A PARTICULAR

16 EXHIBIT RIGHT NOW?

17 MR. JENSEN: WE CAN LOOK AT EXHIBIT 214, IF

18 THAT'S INTO THE -- IN EVIDENCE.

19 BY MR. JENSEN:

20 Q. AND TELL US AGAIN WHY YOU UNDERSTOOD THAT

21 THIS LETTER HAD NOT AFFECTED YOUR UNDERSTANDING OF

22 THE AMOUNT OF CALPERS BENEFIT THAT YOU WOULD RECEIVE?

23 A. WELL, LIKE I SAID, IT WAS -- IT WAS CLEAR

24 IN MY MIND THAT EVERYTHING I WAS REQUIRED TO PROVIDE

25 AND EVERYTHING I SUBMITTED TO THEM HAD BEEN VETTED

1 OUT AND IT WAS APPROVED.

2 AND ALSO, IT WAS CONFUSING TO ME WHY I WOULD
3 BE RECEIVING A LETTER FROM CALPERS AND NOT -- RATHER
4 L.A.C.E.R.A. AND NOT CALPERS STATING -- IF THERE WAS AN
5 ISSUE WITH MY RECIPROCITY WHY WOULD I NOT BE DENIED BY
6 THE AGENCY WHICH I WAS SEEKING RETIREMENT BENEFITS FROM
7 AS OPPOSED TO THE ONE THAT DID NOT HAVE ANY ISSUE WITH
8 THE BENEFITS I WAS RECEIVING.

9 SO IT WAS SOMETHING THAT REQUIRED SOME
10 CLARIFICATION.

11 Q. AND LET ME TURN YOUR ATTENTION TO WHERE WE
12 LEFT OFF RIGHT BEFORE THE BREAK, WHICH IS
13 EXHIBIT 216.

14 DID YOU RECEIVE THIS LETTER?

15 A. YES, I DID.

16 Q. AND DO YOU REMEMBER ABOUT WHEN YOU RECEIVED
17 IT?

18 A. SHORTLY AFTER -- ABOUT A FEW DAYS AFTER
19 JUNE 5.

20 Q. AND ON THE SECOND SENTENCE, IT SAYS:

21 "YOUR MONTHLY RETIREMENT BENEFIT

22 IS \$69.79 BASED ON THE RETIREMENT

23 DATE OF JUNE 1, 2009."

24 WHAT DID YOU UNDERSTAND BY THAT PIECE OF
25 INFORMATION?

1 A. WELL, I UNDERSTOOD THAT THAT WAS MY
2 RETIREMENT BENEFIT FOR THE FIRST MONTH OF HAVING
3 RETIRED, AND YET IN MY MIND, IT WAS NOT FULFILLING
4 THE OUTCOME OF THE INQUIRY WE MADE -- OR I MADE
5 SEEKING OUT CLARIFICATION.

6 Q. SO AT THIS TIME ON RECEIPT OF THIS LETTER
7 IN EXHIBIT 216, DID YOU BELIEVE THAT CALPERS WAS
8 TELLING YOU THAT RECIPROCITY HAD BEEN DENIED?

9 A. NO.

10 Q. AND CAN I TURN YOUR ATTENTION TO THE THIRD
11 PAGE OF THIS.

12 AND WE HAVE THIS TABULAR FORM. IS THIS
13 DIFFERENT THAN WHAT YOU HAD BEEN LED TO EXPECT?

14 A. PAGE 16?

15 Q. YES.

16 A. YES.

17 MR. JENSEN: AND SO, YOUR HONOR, I'D LIKE
18 TO PUT INTO EVIDENCE EXHIBIT 216.

19 THE COURT: ANY OBJECTION?

20 MR. RIEGER: NO, YOUR HONOR.

21 THE COURT: OKAY. IT'S ADMITTED.

22 (RESPONDENT'S EXHIBIT NUMBER 216 WAS
23 MARKED FOR IDENTIFICATION BY THE COURT
24 AND RECEIVED INTO EVIDENCE.)

25 / / /

1 BY MR. JENSEN:

2 Q. CAN I TURN YOUR ATTENTION TO EXHIBIT 218?

3 A. UH-HUH.

4 Q. MR. GUIDO, DO YOU RECOGNIZE THIS DOCUMENT?

5 A. YES.

6 Q. AND WHAT IS THIS DOCUMENT?

7 A. IT BASICALLY IS BRINGING TO CALPERS'
8 ATTENTION THE DISCREPANCY BETWEEN WHAT I HAD BEEN
9 INFORMED WAS MY RETIREMENT BENEFIT OF \$3,000 A MONTH
10 VERSUS THE BENEFIT I RECEIVED IN MY FIRST PAY, WHICH
11 WAS \$69.

12 Q. AND DID YOU SEND THIS LETTER TO CALPERS?

13 A. YES, I DID.

14 MR. JENSEN: YOUR HONOR, I'D LIKE TO ADMIT
15 218 INTO EVIDENCE.

16 MR. RIEGER: NO OBJECTION.

17 THE COURT: OKAY. IT'S ADMITTED.

18 (RESPONDENT'S EXHIBIT NUMBER 218 WAS
19 MARKED FOR IDENTIFICATION BY THE COURT
20 AND RECEIVED INTO EVIDENCE.)

21 MR. JENSEN: AND I WANT TO TAKE A LOOK AT
22 219.

23 BY MR. JENSEN:

24 Q. DO YOU RECOGNIZE THIS DOCUMENT?

25 A. YES, I DO.

1 Q. AND WHAT IS THIS DOCUMENT?

2 A. IT'S BASICALLY A DENIAL LETTER APOLOGIZING
3 FOR CONFUSION AND THAT MY -- INFORMING ME THAT
4 RECIPROCITY WILL NOT APPLY.

5 Q. AND DID YOU RECEIVE THIS LETTER IN RESPONSE
6 TO YOUR LETTER OF JUNE 16?

7 A. I'M UNSURE IF I RECEIVED THIS IN RESPONSE
8 TO MY LETTER OF JUNE 16 OR IF IT WAS IN RESPONSE TO
9 THE FOLLOW-UP I WAS TOLD THAT I WOULD BE RECEIVING
10 FROM CALPERS AT THE TIME AN INQUIRY WAS MADE TO THE
11 LEGAL DEPARTMENTS.

12 Q. AND I JUST WANT TO TURN YOUR ATTENTION TO
13 THE FOURTH PARAGRAPH DOWN. IT SAYS:

14 "WE UNDERSTAND THAT YOU WERE
15 PREVIOUSLY TOLD THAT RECIPROCITY HAD
16 BEEN ESTABLISHED BETWEEN CALPERS AND
17 L.A.C.E.R.A. AND" --

18 THE COURT: SLOWER.

19 MR. JENSEN: -- "AND CALPERS
20 WOULD USE THE HIGHEST COMPENSATION
21 EARNED UNDER EITHER SYSTEM."

22 DO YOU SEE THAT SENTENCE?

23 THE WITNESS: I'M SORRY. I DIDN'T KNOW YOU
24 WERE REFERRING TO ME.

25 / / /

1 BY MR. JENSEN:

2 Q. WHAT WAS YOUR UNDERSTANDING OF THAT FOURTH
3 PARAGRAPH DOWN BEGINNING WITH "WE UNDERSTAND THAT YOU
4 WERE PREVIOUSLY TOLD"?

5 A. MY UNDERSTANDING OF THAT IS BASICALLY THAT
6 I WAS -- RECIPROCITY WAS BEING DENIED AND THAT I
7 WOULD NOT BE RECEIVING THE QUOTED BENEFITS THEY
8 PROVIDED ME OVER THE PAST THREE YEARS -- OR
9 FOUR YEARS.

10 Q. AND DID THEY AT ANY TIME EXPLAIN TO YOU
11 ANYTHING ABOUT YOUR ABILITY TO RELY ON THE
12 REPRESENTATIONS THAT THEY HAD MADE TO YOU?

13 A. PLEASE RESTATE THAT.

14 Q. DID CALPERS EVER SAY TO YOU ANYTHING ABOUT
15 WHETHER YOU WERE ENTITLED TO RELY ON CALPERS'
16 PREVIOUS REPRESENTATIONS?

17 A. NO.

18 MR. JENSEN: I'D LIKE TO OFFER 219 INTO
19 EVIDENCE.

20 THE COURT: ANY OBJECTION?

21 MR. RIEGER: NO. EXCEPT THERE DOES SEEM TO
22 BE A PAGE IN HERE THAT DOESN'T BELONG.

23 MR. JENSEN: WHICH PAGE IS THAT?

24 MR. RIEGER: THE LAST PAGE.

25 MR. JENSEN: I BELIEVE ON THE LAST SENTENCE

1 OF THE FIRST PAGE IT SAYS:
2 "A COPY OF L.A.C.E.R.A.'S DENIAL
3 LETTER IS ENCLOSED FOR YOUR
4 REFERENCE."
5 MR. RIEGER: OH, I APOLOGIZE. THAT'S FINE.
6 YEAH. NO OBJECTION TO 219.
7 THE COURT: ALL RIGHT. IT'S ADMITTED.
8 (RESPONDENT'S EXHIBIT NUMBER 219 WAS
9 MARKED FOR IDENTIFICATION BY THE COURT
10 AND RECEIVED INTO EVIDENCE.)
11 BY MR. JENSEN:
12 Q. AND, MR. GUIDO, DID YOU RESPOND TO CALPERS'
13 JUNE 30, 2009, LETTER?
14 CAN I DRAW YOUR ATTENTION TO EXHIBIT 220.
15 A. YES.
16 Q. DO YOU RECOGNIZE THIS LETTER?
17 A. YES.
18 Q. DID YOU WRITE THIS LETTER?
19 A. YES.
20 Q. WHAT WAS THE PURPOSE OF YOU WRITING THIS
21 LETTER?
22 A. WELL, I THINK -- I DIDN'T READ THE ENTIRE
23 LETTER HERE, BUT I BELIEVE THEY TOLD ME THAT I COULD
24 APPEAL. I GUESS THE LAST PARAGRAPH OF THE LETTER
25 DATED JUNE 30 INDICATED THAT IF I CHOSE TO I COULD

1 APPEAL THIS DECISION. AND SO THIS WAS MY APPEAL
2 LETTER THAT I WROTE ON JUNE 20.

3 YES. THIS IS MY APPEAL LETTER I WROTE ON
4 JUNE -- THIS IS THE -- YEAH, THE LETTER I WROTE AROUND
5 THE 20TH OF JUNE THEY DID NOT RECEIVE. WHEN I CHECKED
6 BACK WITH THEM, IT WAS SENT REGISTERED -- BY REGISTERED
7 LETTER, AND THEN I CAUSED TO HAVE ONE SENT OVERNIGHT TO
8 THEM ON THE 28TH -- 27TH OR 28TH.

9 I SENT THEM TWO COPIES OF THIS LETTER.

10 MR. JENSEN: YOUR HONOR, I'D LIKE TO OFFER
11 220 INTO EVIDENCE.

12 MR. RIEGER: NO OBJECTION TO 220.

13 THE COURT: OKAY. IT'S ADMITTED.

14 (RESPONDENT'S EXHIBIT NUMBER 220 WAS
15 MARKED FOR IDENTIFICATION BY THE COURT
16 AND RECEIVED INTO EVIDENCE.)

17 MS. DANIEL: I WOULD JUST NOTE THAT THE
18 LETTER DOES NOT INCLUDE SOME OF THE ENCLOSURES THAT
19 ARE REFERENCED.

20 MR. RIEGER: YEAH. I APPRECIATE THAT FROM
21 COUNSEL AS WELL. JUST ANOTHER NOTATION THAT IT MIGHT
22 NOT BE COMPLETE BUT NO OBJECTION TO 220 COMING IN.

23 THE COURT: OKAY. SO NOTED. THANK YOU.

24 BY MR. JENSEN:

25 Q. AND I BELIEVE 221 IS JUST ANOTHER COPY OF

1 THIS LETTER, MR. GUIDO?

2 A. OH, YES. THERE WE GO. YEAH. YEAH. I
3 SENT ONE ON 7/22. THE ORIGINAL WAS SENT ON 7/22, AND
4 THEN I SENT IT AGAIN 7/28.

5 MR. JENSEN: I DON'T THINK WE NEED TO PUT
6 THAT IN.

7 LET'S LOOK AT 222.

8 MR. RIEGER: I'M SORRY. DON'T NEED TO PUT
9 WHAT IN?

10 MR. JENSEN: 221. IT'S A COPY OF 220.

11 BY MR. JENSEN:

12 Q. LOOK AT EXHIBIT 222.

13 DO YOU RECOGNIZE THE DOCUMENT AT 222?

14 A. UH-HUH. YES.

15 Q. DID YOU RECEIVE THIS DOCUMENT?

16 A. I DID.

17 Q. AND I'M GOING TO DIRECT YOUR ATTENTION TO
18 THE SECOND PARAGRAPH.

19 A. UH-HUH.

20 Q. (READING):

21 "WE APOLOGIZE FOR ANY CONFUSION

22 AND ASSURE YOU THAT CALPERS REMAINS

23 COMMITTED TO ASSISTING OUR MEMBERS."

24 AND WHAT DID YOU UNDERSTAND BY THEM

25 REPRESENTING TO YOU THAT THERE WAS A CONFUSION?

1 A. I DON'T KNOW BECAUSE I HEARD OR RECEIVED
2 CORRESPONDENCE -- RECEIVED OR HEARD THAT THEY MADE AN
3 ERROR, AND THEN THIS LETTER SAYS "CONFUSION." SO I'M
4 NOT SURE.

5 YOU KNOW, I HAVE TO GO WITH WHAT I HAVE HERE
6 THAT SAYS "CONFUSION," BUT I THOUGHT I'D SEEN OTHER
7 CORRESPONDENCE IN MY FILE SAYING THAT THEY "ERRED."

8 Q. AND WITH RESPECT TO CALPERS ADMITTING THAT
9 IT MADE ERRORS AND THAT IT -- AND THAT IT WORKED
10 COLLECTIVELY WITH L.A.C.E.R.A., WHAT WAS YOUR
11 UNDERSTANDING PRIOR TO YOUR RETIREMENT OF WHAT ERRORS
12 WERE MADE?

13 MR. RIEGER: I'M SORRY. CAN I HAVE THAT
14 QUESTION READ BACK?

15 MR. JENSEN: WHAT WAS YOUR UNDERSTANDING
16 OF --

17 MR. RIEGER: IT WAS THE FIRST PART. THERE
18 WAS A LONG BREAK.

19 I'M SORRY. YOUR HONOR, MAY I HAVE THE
20 QUESTION READ --

21 THE COURT: WHY DON'T YOU TAKE ANOTHER RUN
22 AT IT.

23 MR. JENSEN: OKAY.

24 THE COURT: THAT MIGHT BE QUICKER.

25 / / /

1 BY MR. JENSEN:

2 Q. THERE'S REPRESENTATIONS THAT ERRORS HAD
3 BEEN MADE INCLUDING WITH RESPECT TO THIS EXHIBIT 222.
4 WHAT IS YOUR UNDERSTANDING OF THE ERRORS THAT WERE
5 MADE?

6 MR. RIEGER: OBJECTION. I DON'T KNOW.
7 FOUNDATION. SPECULATION. IT'S THE LEAD-UP THAT I'M
8 HAVING A PROBLEM WITH. HE'S CHARACTERIZING THE
9 LETTER AND THEN ASKING THE WITNESS HIS UNDERSTANDING
10 OF THE CHARACTERIZATION. FOUNDATION.

11 MR. JENSEN: I MEAN, CALPERS IS ADMITTING
12 IT MAKES ERRORS AND THAT IT WORKS CLOSELY WITH
13 L.A.C.E.R.A., AND IT'S SAYING ALL THESE ERRORS --
14 CERTAIN THINGS ARE ERRORS AND CERTAIN THINGS ARE NOT
15 ERRORS, AND THEN AFTER THE FACT SAYING THAT CERTAIN
16 REPRESENTATIONS CAN BE RELIED ON BUT CERTAIN OTHER
17 REPRESENTATIONS CAN'T BE.

18 AND I WAS JUST ASKING MR. GUIDO'S
19 UNDERSTANDING OF WHICH COMMUNICATIONS WERE ERRONEOUS.

20 MR. RIEGER: THAT WAS A VERY LONG
21 EXPLANATION AND NOT NECESSARILY SUPPORTED BY THIS
22 DOCUMENT. I CONCEDED IN MY OPENING STATEMENT THAT AN
23 ERROR WAS MADE HERE BUT BEYOND -- I JUST DON'T
24 UNDERSTAND THE QUESTION HE'S ASKING.

25 OBJECT TO THE FORM OF THE QUESTION,

1 FOUNDATION, SPECULATION.

2 THE COURT: OKAY. IS THE QUESTION JUST IN
3 REGARDS TO EXHIBIT 222 OR JUST IN GENERAL? OVERALL?

4 MR. JENSEN: WELL, I THINK EXHIBIT 222 IS
5 THE JUMPING-OFF POINT FOR HIS UNDERSTANDING OF THIS
6 LETTER AND THE CONSTRUCTION OF THE ERRORS THAT WERE
7 MADE, AND I THINK IT'S A FAIR QUESTION.

8 I MEAN, CALPERS IS BASICALLY INFORMING HIM
9 THERE WERE ERRORS AND --

10 THE COURT: IN THIS LETTER, YOU'RE SAYING?

11 MR. JENSEN: YES. THAT'S CORRECT.

12 THE COURT: ALL RIGHT. SO IS THE QUESTION
13 THEN BASED ON IN THIS LETTER WHAT ERRORS ARE YOU
14 UNDERSTANDING THIS TO INVOLVE OR --

15 MR. JENSEN: THAT'S -- THAT'S CORRECT.
16 THAT WAS THE QUESTION I JUST ASKED OF HIM, IS WHAT
17 WAS HIS UNDERSTANDING OF THE ERRORS THAT WERE MADE
18 PRIOR TO HIS RETIREMENT.

19 THE COURT: OKAY. WHY DON'T YOU JUST --
20 FOR NOW LET'S FOCUS ON THE LETTER. WE'LL START
21 THERE, AND THEN MR. JENSEN CAN MOVE YOU ALONG.

22 BY MR. JENSEN:

23 Q. OKAY. UPON RECEIVING THIS LETTER, WHAT
24 WERE YOU UNDERSTANDING THE ERRORS THAT THEY WERE
25 REFERRING TO?

1 A. I'M NOT -- I WAS UNSURE I HAD AN
2 UNDERSTANDING OF WHAT THE ERRORS INVOLVED. IT WAS
3 NEVER EXPLAINED TO ME.

4 Q. AT ONE POINT, YOU -- DID YOU BELIEVE THAT
5 L.A.C.E.R.A.'S DENIAL-OF-RECIPROCITY LETTER WAS IN
6 ERROR?

7 A. YES.

8 MR. RIEGER: OBJECTION; LEADING.

9 THE COURT: OVERRULED. HE ANSWERED.

10 GO AHEAD.

11 BY MR. JENSEN:

12 Q. AND WITH RESPECT TO THIS LETTER, 222, DID
13 CALPERS SPECIFY WHICH ERRORS WERE MADE?

14 A. NO. BECAUSE THIS LETTER ONLY MAKES
15 REFERENCE TO THE FACT THAT THERE WAS CONFUSION AND NO
16 ERRORS.

17 Q. AND WHAT DO YOU UNDERSTAND THAT THEY WERE
18 REFERRING TO WHEN THEY SPOKE ABOUT CONFUSION?

19 MR. RIEGER: OBJECTION; FOUNDATION. I

20 GET --

21 YOU KNOW, I'LL WITHDRAW IT. IF IT'S HIS
22 UNDERSTANDING, THAT'S FINE. I'LL WITHDRAW THE
23 OBJECTION.

24 THE COURT: OKAY. GO AHEAD. YOU CAN
25 ANSWER.

1 THE WITNESS: I DIDN'T HAVE AN
2 UNDERSTANDING. I DIDN'T HAVE AN UNDERSTANDING.

3 MR. JENSEN: YOUR HONOR, I'D LIKE TO OFFER
4 222 INTO EVIDENCE.

5 THE COURT: OKAY. ONE MOMENT.

6 THE WITNESS: THE --

7 THE COURT: HOLD ON. HOLD ON.

8 ALL RIGHT. ANY OBJECTION TO 222?

9 MR. RIEGER: NO OBJECTION TO 222.

10 THE COURT: OKAY. ALL RIGHT. IT'S
11 ADMITTED.

12 (RESPONDENT'S EXHIBIT NUMBER 222 WAS
13 MARKED FOR IDENTIFICATION BY THE COURT
14 AND RECEIVED INTO EVIDENCE.)

15 MR. JENSEN: THANK YOU, YOUR HONOR.

16 BY MR. JENSEN:

17 Q. I'D LIKE TO JUST TURN YOUR ATTENTION TO
18 224, AND I'M JUST GOING TO ASK FOR YOUR RECOLLECTION
19 ABOUT TIMING.

20 AND ON THE LAST PAGE OF THIS, THERE IS A DATE
21 OF OCTOBER 2, 2003, AND WAS THAT THE FIRST TIME THAT YOU
22 CONTACTED CALPERS REGARDING RECIPROCITY?

23 A. YES.

24 Q. AND FOR THE PERIOD FROM 2003 --

25 A. I BELIEVE IT WAS THE FIRST TIME. YES.

1 Q. -- THROUGH -- IF YOU CAN TURN TO PAGE 3,
2 AND THE NOTE "4/24/2009."

3 A. UH-HUH.

4 Q. DOES THAT JIBE YOUR RECOLLECTION OF WHEN
5 YOU CONFIRMED THAT RECIPROCITY WAS STILL IN EFFECT
6 WITH CALPERS AND L.A.C.E.R.A.?

7 MR. RIEGER: OBJECTION; LEADING.

8 THE COURT: OVERRULED.

9 YOU CAN ANSWER.

10 THE WITNESS: IT WAS ONE OF MY INQUIRIES.

11 MR. RIEGER: OBJECTION; NONRESPONSIVE.

12 THE COURT: GRANTED. I'LL STRIKE THE

13 ANSWER.

14 BY MR. JENSEN:

15 Q. FOR HOW MANY YEARS DID YOU -- WERE YOU IN
16 THE UNDERSTANDING THAT CALPERS WAS GOING TO PROVIDE
17 YOU WITH RECIPROCAL BENEFITS?

18 A. SIX -- SIX YEARS.

19 Q. HOW MANY INQUIRIES DID YOU MAKE OF CALPERS
20 OVER THAT SIX-YEAR PERIOD REGARDING RECIPROCITY
21 APPROXIMATELY?

22 A. MAYBE THREE, FOUR. THREE.

23 Q. AND HOW IMPORTANT WAS ESTABLISHING
24 RECIPROCAL CALPERS BENEFITS FOR YOU OVER THAT PERIOD
25 OF TIME?

1 A. IT WAS VERY IMPORTANT TO ME.

2 Q. AND WHAT ACTIONS DID YOU TAKE IN RELIANCE
3 OF CALPERS' REPRESENTATIONS THAT YOU --

4 MR. RIEGER: OBJECTION; ASKED AND ANSWERED
5 SEVERAL TIMES.

6 MR. JENSEN: IT'S A BROADER QUESTION.

7 THE COURT: ALL RIGHT. OVERRULED.

8 YOU CAN ANSWER.

9 MR. JENSEN: LET ME FINISH.

10 BY MR. JENSEN:

11 Q. WHAT ACTIONS DID YOU TAKE IN RELIANCE ON
12 CALPERS' REPRESENTATIONS THAT \$3,000-APPROXIMATE
13 PENSION WOULD BE PROVIDED FROM CALPERS UNDER
14 RECIPROCITY?

15 A. WELL, I DIDN'T TAKE ANY SPECIFIC ACTION
16 OTHER THAN IT DROVE THE DIRECTION IN WHICH I PURSUED
17 MY -- I ENDED MY CAREER.

18 Q. DID YOU DECLINE TAKING OTHER JOBS?

19 A. YES, I DID.

20 Q. DID YOU INVEST MONEY IN A CERTAIN WAY?

21 MR. RIEGER: OBJECTION; LEADING.

22 THE COURT: SUSTAINED.

23 BY MR. JENSEN:

24 Q. ARE THERE ANY OTHER ACTIVITIES THAT YOU
25 UNDERTOOK ON AN EXPECTATION OF RECEIVING A \$3,000

1 RECIPROCAL PENSION BENEFIT?

2 A. NOT THAT I CAN THINK OF.

3 Q. DO YOU HAVE ANY OTHER INVESTMENT FUNDS?

4 A. YES.

5 Q. DID YOU INVEST THOSE WITH THE EXPECTATION
6 THAT YOU'D BE RECEIVING A \$3,000 PENSION BENEFIT FROM
7 CALPERS?

8 MR. RIEGER: OBJECTION; LEADING AND ASKED
9 AND ANSWERED.

10 THE COURT: SUSTAINED.

11 MR. JENSEN: JUST LET ME TAKE A LOOK FOR A
12 MOMENT AT MY NOTES TO MAKE SURE WE HAVE...

13 ACTUALLY, CAN I TURN YOUR ATTENTION TO 217.

14 ARE WE GOING TO 4:30?

15 THE COURT: YES.

16 BY MR. JENSEN:

17 Q. CAN I TURN YOUR ATTENTION TO 217,

18 MR. GUIDO.

19 DID YOU RECEIVE A COPY OF THIS LETTER?

20 A. I DON'T RECALL.

21 MR. JENSEN: JUST ONE MORE MINUTE AND

22 THEN...

23 BY MR. JENSEN:

24 Q. MR. GUIDO, WERE YOU AWARE OF ANOTHER PERSON

25 IN THE LOS ANGELES COUNTY EMPLOYMENT WHO WORKED FOR A

1 SUPERVISOR AND THEN TOOK A CALPERS JOB SHORTLY BEFORE
2 RETIREMENT?

3 MR. RIEGER: OBJECTION; RELEVANCE.

4 THE COURT: WHAT'S THE RELEVANCE?

5 MR. JENSEN: A SIMILARLY SITUATED PERSON
6 WHO DID ESTABLISH RECIPROCITY SIMILAR TO WHAT WAS
7 AVAILABLE TO HIM.

8 MR. RIEGER: INCOMPLETE HYPOTHETICAL. IT'S
9 A RELEVANCE OBJECTION.

10 MR. JENSEN: IT'S NOT A HYPOTHETICAL. I
11 WAS ASKING IF HE'S AWARE OF THE PERSON.

12 MR. RIEGER: OKAY. WELL, I DON'T THINK
13 HE'S ESTABLISHED THE RELEVANCE OF WHAT HAPPENED WITH
14 ANOTHER PERSON WHO OBVIOUSLY IS GOING TO HAVE A
15 COMPLETELY DIFFERENT HISTORY. AND EVEN IF -- EVEN IF
16 THE HISTORY WAS EXACTLY THE SAME, IT STILL DOESN'T
17 CHANGE THE LAW. SO MY OBJECTION IS JUST RELEVANCE.

18 MR. JENSEN: WELL, IT ACTUALLY GOES TO THE
19 ESTOPPEL QUESTION. IF HE WAS AWARE OF ANOTHER PERSON
20 SIMILARLY SITUATED, THEN HE'D BE ENTITLED TO IT AS
21 WELL.

22 THE COURT: WELL, BUT I DON'T WANT TO SPEND
23 TIME LITIGATING ANOTHER MATTER THAT'S NOT BEFORE ME.

24 MR. JENSEN: IT'S JUST A QUESTION OF HIS
25 KNOWLEDGE OF THIS SITUATION, WHETHER HE COULD HAVE

1 CURED THE RECIPROCITY BY GOING TO ANOTHER POSITION IN
2 L.A. COUNTY.

3 THERE IS A FACTUAL SCENARIO OF ANOTHER PERSON
4 SIMILARLY SITUATED PRIOR TO HIM THAT ESTABLISHED
5 RECIPROCITY WHILE WORKING FOR L.A. COUNTY ONCE HE WAS
6 AWARE THAT RECIPROCITY WAS IN QUESTION, AND IT GOES TO
7 HIS REASONABLE BELIEF AND WHAT HIS OPTIONS WERE.

8 THE COURT: OKAY. YOU KNOW, I'M GOING TO
9 SUSTAIN THE OBJECTION.

10 MR. JENSEN: OKAY. THAT'S FINE.

11 THE COURT: I JUST THINK IT'S A STEP BEYOND
12 WHAT'S PROBATIVE.

13 MR. JENSEN: AND THEN, YOUR HONOR, I HAVE
14 NO FURTHER QUESTIONS. I RESERVE REDIRECT.

15 THE COURT: OKAY. DID YOU WANT TO OFFER
16 224?

17 MR. JENSEN: DID WE NOT DO 224? I CAN'T
18 OFFER 224 BECAUSE IT'S NOT -- IT'S A CALPERS
19 DOCUMENT -- EXCEPT FOR THE PURPOSE OF REFRESHING HIS
20 RECOLLECTION.

21 THE COURT: OH, OKAY.

22 MR. JENSEN: BUT I THINK THE TESTIMONY --
23 ACTUALLY, LET ME JUST ASK ONE SORT OF LAST FOLLOW-UP
24 QUESTION, NOT FOLLOW-UP BUT...

25 / / /

1 BY MR. JENSEN:

2 Q. MR. GUIDO, SO WHEN DID YOU UNDERSTAND
3 THAT -- WHEN DID YOU FIRST UNDERSTAND THAT
4 RECIPROCITY HAD BEEN DENIED BY CALPERS?

5 A. THEIR JUNE 30 LETTER.

6 Q. SO AFTER YOU RETIRED?

7 A. YES.

8 MR. JENSEN: NO FURTHER QUESTIONS.

9 THE COURT: OKAY. ARE YOU READY?

10 MR. RIEGER: I AM. I'VE BEEN KEEPING TRACK
11 OF WHAT'S BEEN ADMITTED, BUT COULD I ASK YOUR HONOR
12 TO JUST QUICKLY GO THROUGH LIST OF WHAT'S BEEN
13 ADMITTED?

14 THE COURT: YES. OKAY. 201, 202, 203.
15 ACTUALLY 201 THROUGH 211 HAVE ALL BEEN ADMITTED.
16 THEN 214, 216, 218, 219, 220, 222. THOSE HAVE BEEN
17 OFFERED AND ADMITTED. THERE WERE SOME OTHERS THAT
18 WERE IDENTIFIED BUT NOT OFFERED.

19 MR. RIEGER: AND PART OF 4, I BELIEVE.

20 THE COURT: CORRECT. ON YOURS, EXHIBIT 14
21 AND FOR 4, PAGES 58 THROUGH 61.

22 MR. JENSEN: AND, YOUR HONOR, I BELIEVE 212
23 IS IN.

24 THE COURT: 212 WAS NOT OFFERED.

25 MR. JENSEN: IT WAS NOT OFFERED?

1 THE COURT: IT'S BEEN IDENTIFIED.

2 MR. JENSEN: ACTUALLY, THAT'S RIGHT. IT'S
3 A SEPARATE -- GOT IT. I'M SORRY.

4 MR. RIEGER: IF YOU WANT, YOU CAN --

5 MR. JENSEN: NO, NO, NO. IT'S A DUPLICATE
6 OF -- OKAY.

7 THANK YOU, YOUR HONOR. I THINK THAT'S
8 CORRECT.

9 THE COURT: MS. DANIEL, DO YOU MIND IF
10 MR. RIEGER GOES FIRST OR --

11 MS. DANIEL: YES. I DON'T ANTICIPATE ANY
12 QUESTIONS UNLESS HE FALLS ASLEEP.

13 THE COURT: OKAY. WHEN YOU'RE READY.

14 MR. RIEGER: I'M READY. THANK YOU, YOUR
15 HONOR.

16

17 CROSS-EXAMINATION

18 BY MR. RIEGER:

19 Q. GOOD AFTERNOON, MR. GUIDO. COULD YOU
20 PLEASE TURN TO EXHIBIT 4 IN THE CALPERS BINDER.

21 COULD YOU PLEASE JUST TAKE A MOMENT OR AS LONG
22 AS YOU NEED TO REVIEW. I KNOW IT'S SORT OF A THICK
23 EXHIBIT, BUT THEY'RE ALL FAIRLY SIMILAR DOCUMENTS. IF
24 YOU COULD TAKE A MOMENT TO FLIP THROUGH EXHIBIT 4 AND
25 FAMILIARIZE YOURSELF WITH IT.

1 MR. JENSEN: THE 90-PAGE DOCUMENT?

2 BY MR. RIEGER:

3 Q. DID THE DOCUMENTS IN EXHIBIT 4 -- WERE
4 THESE PRODUCED FROM YOUR FILES?

5 A. I'M ASSUMING THEY WERE.

6 Q. WHY DO YOU MAKE THAT ASSUMPTION?

7 A. BECAUSE I DIDN'T LOOK AT ALL OF THEM, AND I
8 DIDN'T LOOK IF THEY WERE ALL ADDRESSED TO ME, BUT
9 THEY APPEAR TO BE MINE GOING BACK TO 1993, MY ANNUAL
10 STATEMENTS. I JUST THUMBED THROUGH THEM.

11 MR. RIEGER: YOUR HONOR, I KNOW MR. -- IF
12 YOU COULD INDULGE ME FOR A MOMENT. IT IS A LONG
13 EXHIBIT.

14 COULD WE -- I'M HAPPY TO GO THROUGH EACH ONE
15 BY ONE IF I NEED TO, BUT I'M HOPING THAT I CAN JUST GET
16 A STIPULATION FROM COUNSEL THAT THESE ARE -- THEY'RE
17 FGUIDO DOCUMENTS. THEY WERE ALL PRODUCED FROM HIS FILE.
18 THESE WERE ALL IN HIS POSSESSION.

19 MR. JENSEN: I'D HAVE TO LOOK THROUGH THEM.

20 MR. RIEGER: FGUIDO 52 THROUGH --

21 THE COURT: ALL RIGHT. LET'S GO OFF THE
22 RECORD.

23 (WHEREUPON, A DISCUSSION WAS HELD
24 OFF THE RECORD.)

25 THE COURT: LET'S GO BACK ON THE RECORD.

1 BY MR. RIEGER:

2 Q. MR. GUIDO, DO YOU RECOGNIZE FGUIDO 52?

3 A. YES.

4 Q. DID THIS COME FROM YOUR FILES?

5 A. YES.

6 Q. ARE THESE FILES YOU KEPT AT HOME?

7 A. YES.

8 Q. OKAY. CAN YOU PLEASE TURN TO FGUIDO 53.

9 A. YES.

10 Q. DID THIS COME FROM YOUR FILES?

11 A. YES.

12 Q. FGUIDO 54, DID THIS COME FROM YOUR FILES?

13 A. YES.

14 Q. OKAY. FGUIDO -- WHY DON'T WE JUST TAKE A

15 MOMENT AND -- FGUIDO 55 THROUGH 57, DID THESE ALL

16 COME FROM YOUR FILES?

17 A. THEY ALL CAME FROM MY FILES WITH THE

18 EXCEPTION -- THEY ALL APPEAR TO HAVE COME FROM MY

19 FILES WITH THE EXCEPTION OF 57. THAT DOESN'T LOOK

20 FAMILIAR BUT MAY HAVE COME FROM MY FILES.

21 Q. ARE YOU AWARE OF HOW YOUR COUNSEL BATES

22 STAMPED THE DOCUMENTS IN THE LOWER RIGHT CORNER?

23 A. YES.

24 Q. IS THIS THE STAMP THAT WAS USED FOR THE

25 DOCUMENTS THAT YOU PROVIDED TO HIM?

1 A. THEY APPEAR TO BE. I MEAN, THAT APPEARS TO
2 BE THE STAMP THAT HE USED; YES.

3 Q. CAN YOU TELL ME WHAT -- I KNOW SOME OF
4 THESE DOCUMENTS ARE A LITTLE DIFFERENT, SO LET'S JUST
5 FOCUS ON ONE AT A TIME.

6 CAN YOU TELL ME WHAT THE FIRST, 52, IS?

7 A. OKAY. LOOKS LIKE AN ANNUAL -- COPY OF AN
8 ANNUAL STATEMENT FOR THE YEAR ENDING JUNE 30, 1977.

9 Q. IS THIS THE ANNUAL STATEMENT YOU RECEIVED
10 FROM P.E.R.S.?

11 A. YES.

12 Q. AND DID YOU RECEIVE IT IN 1977?

13 A. YES.

14 Q. AND THEN THE NEXT TWO PAGES LOOK LIKE THEY
15 CAME FROM L.A.C.E.R.A. ARE THESE THE ANNUAL
16 STATEMENTS FROM L.A.C.E.R.A.?

17 A. YES.

18 Q. AND DID YOU RECEIVE THOSE IN 1974 AND 1975?

19 A. YES.

20 Q. AND THEN IT SKIPS OVER TO SOME -- WELL,
21 THEY GO BACK.

22 FGUIDO 55, IS THAT ANOTHER P.E.R.S. ANNUAL
23 STATEMENT YOU RECEIVED IN 1976?

24 A. YES, IT IS.

25 Q. AND THEN FGUIDO 56, IS THAT A L.A.C.E.R.A.

1 AN ANNUAL STATEMENT YOU RECEIVED AROUND 1976 OR 1977?

2 A. THAT'S CORRECT.

3 Q. AND THEN FGUIDO 57, IS THAT A P.E.R.S.

4 ANNUAL STATEMENT YOU RECEIVED IN 1982?

5 A. IT DOES -- I MAY HAVE RECEIVED IT. IT JUST
6 DOESN'T LOOK FAMILIAR TO ME. I'M SORRY.

7 Q. SO NOW THE DOCUMENTS CHANGE A LITTLE BIT.

8 IF YOU COULD TAKE JUST A MOMENT TO FLIP THROUGH.

9 WE'VE GOT THE ANNUAL MEMBER STATEMENTS. IT APPEARS

10 THEY'RE RUNNING FROM -- WHY DON'T WE DO THIS ONE AT A
11 TIME.

12 FGUIDO 58 THROUGH 61, DO YOU RECOGNIZE THIS
13 DOCUMENT?

14 MR. JENSEN: THAT'S IN EVIDENCE.

15 MR. RIEGER: WHAT'S THAT?

16 MR. JENSEN: 58 THROUGH 61 IS IN EVIDENCE.

17 MR. RIEGER: YEAH. THAT'S ALREADY IN

18 EVIDENCE, SO WE CAN SKIP OVER THAT.

19 BY MR. RIEGER:

20 Q. SO FGUIDO 62 THROUGH 65?

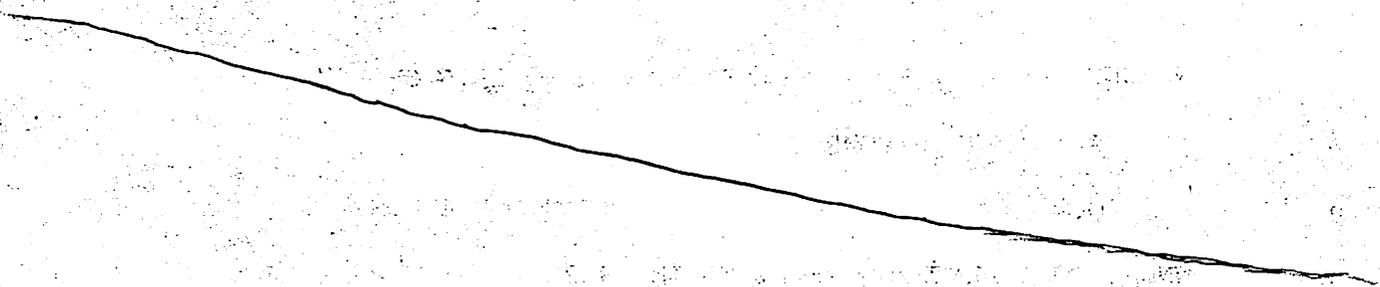
21 A. UH-HUH.

22 Q. DO YOU RECOGNIZE THAT DOCUMENT?

23 A. YES.

24 Q. I'M SORRY. YOU DO RECOGNIZE IT?

25 A. I RECOGNIZE THESE DOCUMENTS FROM THE



1 STANDPOINT THAT THE COVER PAGES ARE ALL SOMEWHAT
2 IDENTICAL WITH THE EXCEPTION OF THE FISCAL YEAR THAT
3 THEY APPLY TO. SO FROM THAT STANDPOINT WITHOUT
4 READING ALL THE SUBSEQUENT PAGES OF THOSE DOCUMENTS,
5 THEY ARE DOCUMENTS THAT I RECEIVED AND I PROVIDED TO
6 MY ATTORNEY FOR THIS HEARING.

7 I CANNOT ATTEST TO THE SPECIFICITY OF THE
8 INFORMATION CONTAINED IN THEM, BUT I CAN TELL YOU THAT I
9 DID RECEIVE ANNUAL MEMBER STATEMENTS.

10 AND TO THE EXTENT THAT THEY HAVE NOT BEEN
11 CHANGED OR ALTERED FROM THE DOCUMENTS MY ATTORNEY HAS
12 GIVEN YOU, THEY'RE ALL MY DOCUMENTS THAT I RECEIVED AND
13 WERE MAILED TO ME.

14 Q. AND THAT IS THE CASE FOR ALL THE DOCUMENTS
15 THAT APPEAR IN EXHIBIT 4?

16 A. YES, SIR.

17 MR. RIEGER: YOUR HONOR, I'D LIKE TO OFFER
18 ALL OF EXHIBIT 4 INTO EVIDENCE.

19 THE COURT: OKAY. ANY OBJECTIONS?

20 MR. JENSEN: NO OBJECTIONS. THERE ARE SOME
21 BLACKOUTS, BUT I BELIEVE THESE ARE THE DOCUMENTS WE
22 BATES STAMPED AND PROVIDED TO COUNSEL.

23 THE COURT: AND IT LOOKS LIKE THE HOME
24 ADDRESS HAS BEEN REDACTED ON THE STATEMENTS AND THE
25 SOCIAL SECURITY AND BIRTH MONTH.

1 OKAY. ALL RIGHT. EXHIBIT 4 IS ADMITTED
2 ENTIRELY.

3 (DEPARTMENT'S EXHIBIT NUMBER 4 WAS RECEIVED
4 INTO EVIDENCE.)

5 BY MR. RIEGER:

6 Q. MR. GUIDO, IF YOU COULD PLEASE TURN TO
7 FGUIDO 59.

8 THE COURT: IT'S IN VOLUME II?

9 MR. RIEGER: NO, STILL VOLUME I. IT'S
10 EXHIBIT 4, FGUIDO 59. I'M SORRY. I'M STILL ON
11 EXHIBIT 4.

12 THE WITNESS: EXHIBIT 4. THANK YOU.

13 BY MR. RIEGER:

14 Q. DO YOU SEE THE AFTER-TAX CONTRIBUTIONS? IT
15 LISTS \$821.41.

16 A. YES.

17 Q. DID YOU UNDERSTAND THAT THAT WAS THE TOTAL
18 AMOUNT OF CONTRIBUTIONS THAT YOU MADE TOWARD CALPERS?

19 A. YES.

20 Q. TO FUND YOUR BENEFITS?

21 A. YES.

22 Q. AND THAT THOSE WERE THE CONTRIBUTIONS THAT
23 WERE MADE IN THE '70S WHEN YOU WORKED WITH -- YOU
24 WERE A COUNCIL MEMBER IN THE CITY OF CUDAHY?

25 A. CUDAHY, YEAH.

1 Q. I'M SORRY. CUDAHY.

2 A. THE CITY ATTORNEY, OUT OF RESPECT TO HER.

3 Q. WHAT WERE YOUR JOB RESPONSIBILITIES WITH
4 THE CITY OF CUDAHY?

5 A. I WAS AN ELECTED MEMBER OF THE CITY
6 COUNCIL, AND MY JOB RESPONSIBILITIES CONSISTED OF
7 ADDRESSING AND DEALING WITH ALL POLICY ISSUES OF THE
8 CITY AS WELL AS THE SERVICES THAT ARE PROVIDED TO THE
9 CITY BY ITS EMPLOYEES AND/OR THE COUNTY OF
10 LOS ANGELES, INCLUDING RESPONSIBILITY FOR ALL THE
11 BUDGETARY -- BUDGETARY RESPONSIBILITIES -- BUDGETARY
12 FUNCTIONS.

13 Q. AND FOR ABOUT FOUR YEARS, DID YOU HAVE A
14 FULL-TIME JOB WITH THE -- AS A DEPUTY SHERIFF IN LOS
15 ANGELES?

16 A. YES.

17 Q. I'M SORRY. FROM 1973 TO '77, YOU HAD A
18 FULL-TIME JOB; IS THAT RIGHT?

19 A. YES.

20 Q. DID YOU HAVE A FULL-TIME JOB BEFORE 1973
21 WHEN YOU WERE WORKING ON THE CUDAHY --

22 A. CUDAHY.

23 Q. -- CUDAHY CITY COUNCIL?

24 A. YES.

25 Q. WHAT WAS YOUR FULL-TIME JOB BEFORE BECOMING



[The following text is extremely faint and illegible due to the quality of the scan. It appears to be a series of paragraphs of text, possibly containing a list or a detailed report. The text is mostly centered and occupies the majority of the page's content area.]

1 A DEPUTY SHERIFF IN 1973?

2 A. I WORKED -- I WORKED FOR MY PARENTS.

3 Q. WAS THAT -- THAT WAS A FAMILY BUSINESS?

4 A. THAT'S CORRECT.

5 Q. WHAT KIND OF BUSINESS WAS THAT?

6 A. IT WAS A RETAIL GROCERY.

7 Q. AND THEN AFTER YOU LEFT THE DEPUTY SHERIFF

8 JOB, I BELIEVE YOU SAID YOU WORKED FOR AN OUTDOOR

9 ADVERTISING COMPANY; IS THAT RIGHT?

10 A. I WORKED FOR GANNETT OUTDOOR COMPANY.

11 Q. WAS THAT A FULL-TIME JOB?

12 A. YES, IT WAS.

13 THE COURT: GANNETT, YOU SAID?

14 THE WITNESS: GANNETT, G-A-N-N-E-T-T.

15 THE COURT: THANK YOU.

16 BY MR. RIEGER:

17 Q. HOW OFTEN DID THE CUDAHY CITY COUNCIL HAVE
18 MEETINGS?

19 A. THE CITY COUNCIL MET AT LEAST ONCE A MONTH.

20 Q. WAS THE CUDAHY CITY COUNCIL JOB A FULL-TIME
21 JOB?

22 A. IT WAS AT TIMES A FULL-TIME JOB AND AT
23 OTHER TIMES A PART-TIME JOB.

24 Q. WHAT DO YOU MEAN BY "AT TIMES IT WAS A
25 FULL-TIME JOB"?

1 A. WELL, THERE WERE TIMES THAT I -- WE MET AS
2 MANY AS SIX TIMES, FIVE OR SIX TIMES A MONTH. THERE
3 WERE TIMES THAT I ATTENDED EVENTS FOR THE CITY
4 REPRESENTING THE CITY AT THE CHAMBER OF COMMERCE. I
5 WAS ALSO THROUGHOUT THE YEARS -- FOR MANY YEARS A
6 DELEGATE TO THE LEAGUE OF CALIFORNIA CITIES.

7 I SERVED ON THE EXECUTIVE BOARD OF CALIFORNIA
8 CONTRACT CITIES FOR MANY YEARS INCLUDING SERVING AS ITS
9 PRESIDENT IN 1976, AND THOSE JOBS REQUIRED -- THOSE
10 POSITIONS REQUIRED ADJUNCT RESPONSIBILITIES FROM THE
11 CITY THAT WOULD REQUIRE ME TO TRAVEL TO SACRAMENTO, TO
12 WASHINGTON TO REPRESENT THE ASSOCIATION ON NUMEROUS
13 LEGISLATIVE ACTIVITIES.

14 Q. AND WHAT DO YOU MEAN WHEN YOU SAID THAT AT
15 OTHER TIMES IT WAS A PART-TIME JOB?

16 A. WELL, THERE WERE TIMES THAT I DIDN'T --
17 THERE WASN'T THAT INTENSITY OF -- WE DIDN'T HAVE THAT
18 MANY MEETINGS. I WASN'T REQUIRED TO TRAVEL. AND I
19 WASN'T SPENDING, YOU KNOW, 120, 130 HOURS OR EVEN
20 MORE A MONTH ON THAT JOB.

21 Q. IN YOUR RECOLLECTION, DO MOST OF THE CITY
22 OF CUDAHY CITY COUNCIL MEMBERS HAVE OTHER FULL-TIME
23 JOBS LIKE YOU DID?

24 A. I -- WHEN I SERVED, THREE OF THE FIVE
25 COUNCIL MEMBERS WERE RETIRED. ONE COUNCIL MEMBER WAS

1 SENIOR IN AGE BUT HAD A SMALL BUSINESS, SO HE DID
2 HAVE A JOB. SO ASIDE FROM THE ONE COUNCIL MEMBER, I
3 WAS THE ONLY ONE WHO HAD A FULL-TIME JOB.

4 Q. GOING BACK TO -- AT THE TIME YOU WERE THE
5 CITY COUNCIL MEMBER AT CUDAHY, YOUR PAY WAS \$150 A
6 MONTH FOR THE ENTIRE 12 YEARS; IS THAT RIGHT?

7 A. YES.

8 Q. AND THE CONTRIBUTIONS THAT YOU PAID TOWARD
9 CALPERS WERE BASED ON THAT \$150-A-MONTH PAY; IS THAT
10 RIGHT?

11 A. THAT'S CORRECT.

12 Q. AND THE CONTRIBUTIONS WITH THE CITY OF
13 CUDAHY PAID TOWARD CALPERS WERE ALSO BASED ON THAT
14 \$150 A MONTH; IS THAT CORRECT?

15 A. YES.

16 Q. DID YOU READ THE -- ANY OF THE MEMBER
17 STATEMENTS IN EXHIBIT 4 AT THE TIME THAT YOU RECEIVED
18 THEM?

19 A. I WOULD SAY I THUMBED THROUGH THEM LIKE A
20 LOT OF MAIL, AND IF I SAW THAT IT WAS PERTINENT TO
21 KEEP, I WOULD KEEP IT. IF I SAW, YOU KNOW, ANY AREAS
22 THAT REQUIRED ATTENTION, I WOULD READ THEM. BUT FOR
23 THE MOST PART, I WOULD JUST RECEIVE AND FILE THESE
24 DOCUMENTS.

25 Q. DID YOU EVER CONSULT ANY OF THESE DOCUMENTS

1 WHEN YOU STARTED BECOMING INTERESTED IN WHETHER YOU
2 HAD RECIPROCITY?

3 A. NO.

4 Q. IF YOU COULD PLEASE TURN TO EXHIBIT 8.

5 ON EXHIBIT 8, THE THIRD PARAGRAPH, THERE'S A
6 SENTENCE THAT SAYS:

7 "WE HAVE ALSO INCLUDED THE
8 PUBLICATION 'WHEN YOU CHANGE
9 RETIREMENT SYSTEMS,' WHICH EXPLAINS
10 RECIPROCITY IN FULL DETAIL."

11 DO YOU SEE THAT?

12 A. WELL, I DON'T KNOW. I'M ON SECTION 8. ARE
13 YOU TALKING ABOUT PAGE 8?

14 Q. LET ME ACTUALLY -- TO KEEP THE RECORD MORE
15 CLEAR, LET ME ACTUALLY REFER TO THE OTHER EXHIBIT
16 BINDER SO WE DON'T HAVE TO LOOK AT -- LET ME START
17 OVER HERE ON THE EXHIBIT NUMBER: EXHIBIT 201 IN
18 THE -- 201 IN THE BLACK BINDER. I'M GOING TO TRY TO
19 REFER TO THOSE WHENEVER I CAN.

20 SO THE THIRD PARAGRAPH, THE LAST SENTENCE THAT
21 SAYS:

22 "WE HAVE ALSO INCLUDED THE
23 PUBLICATION 'WHEN YOU CHANGE
24 RETIREMENT SYSTEMS,' WHICH EXPLAINS
25 RECIPROCITY IN FULL DETAIL."

1 DO YOU SEE THAT SENTENCE?

2 A. I'M SORRY. ARE WE TALKING ABOUT FGUIDO 008
3 OR THE FIRST PAGE UNDER 208?

4 THE COURT: 201.

5 MR. RIEGER: 201. 201. I'M SORRY. YEAH.
6 WE WERE ON 8 BEFORE. NOW WE'RE ON 201.

7 THE WITNESS: OKAY. I'M SORRY.

8 BY MR. RIEGER:

9 Q. SO 201, THIRD PARAGRAPH:

10 "WE HAVE ALSO INCLUDED THE
11 PUBLICATION 'WHEN YOU CHANGE
12 RETIREMENT SYSTEMS,' WHICH EXPLAINS
13 RECIPROCITY IN FULL DETAIL."

14 DO YOU RECALL RECEIVING THAT PUBLICATION
15 THAT'S REFERENCED IN THIS LETTER?

16 A. I DON'T KNOW.

17 Q. DO YOU RECALL INQUIRING OF -- DO YOU
18 SPECIFICALLY RECALL NOT RECEIVING IT OR DO YOU JUST
19 NOT RECALL ONE WAY OR THE OTHER?

20 A. I DON'T RECALL ONE WAY OR THE OTHER.

21 MR. JENSEN: OBJECTION; ASKED AND ANSWERED.

22 CAN I INSTRUCT THE WITNESS JUST TO --

23 THE WITNESS: I'M SORRY.

24 MR. JENSEN: -- WAIT FOR MY OBJECTIONS?

25 THE COURT: REMEMBER TO LET HIM FINISH

1 BEFORE YOU START SPEAKING.

2 OKAY. GO AHEAD.

3 THE WITNESS: MY ANSWER IS NO, I DON'T

4 RECALL ONE WAY OR THE OTHER.

5 BY MR. RIEGER:

6 Q. DO YOU EVER RECALL READING A PUBLICATION

7 ABOUT RECIPROCITY THAT WAS PUBLISHED BY CALPERS?

8 A. WHEN?

9 Q. AT ANY TIME.

10 A. I MAY HAVE -- I THINK I PERUSED A DOCUMENT

11 I RECEIVED ABOUT WHEN RETIRING.

12 Q. AROUND THE TIME OF YOUR RETIREMENT, YOU

13 MEAN?

14 A. I DON'T RECALL WHEN IT WAS. EITHER WHEN I

15 FIRST INQUIRED ABOUT RETIRING OR SOMETIME ALONG THE

16 WAY.

17 Q. DO YOU RECALL WHETHER THAT DOCUMENT WAS THE

18 "WHEN YOU CHANGE RETIREMENT SYSTEMS" DOCUMENT?

19 MR. JENSEN: OBJECTION; ASKED AND ANSWERED.

20 HE'S ALREADY SAID HE DOESN'T KNOW.

21 THE COURT: OKAY. IT'S CROSS. I'LL GIVE

22 HIM SOME LEEWAY.

23 MR. JENSEN: IT'S FINE. I JUST DON'T WANT

24 IT TO...

25 THE COURT: OKAY. YOU CAN ANSWER.

1 OVERRULED.

2 THE WITNESS: COULD YOU REPEAT IT?

3 BY MR. RIEGER:

4 Q. I'M JUST WONDERING, DO YOU RECALL WHETHER
5 THE DOCUMENT -- YOU SAID YOU PERUSED SOME SORT OF
6 PUBLICATION.

7 A. YES.

8 Q. AND I'M JUST ASKING FOR YOUR BEST
9 RECOLLECTION WHETHER THAT DOCUMENT WAS THE "WHEN YOU
10 CHANGE RETIREMENT SYSTEMS" PUBLICATION THAT'S
11 REFERENCED HERE?

12 A. I DON'T RECALL READING ANYTHING SPECIFIC
13 ABOUT THAT OTHER THAN LOOKING THROUGH IT AND READING
14 ANYTHING THAT WOULD PIQUE MY INTEREST IN TERMS OF
15 REQUIRING ME TO KNOW SOMETHING THAT I DIDN'T KNOW OR
16 DIDN'T HAVE KNOWLEDGE OF IT.

17 Q. I'M SORRY. BUT I'M NOT SURE THE QUESTION
18 WAS ANSWERED. I'M JUST CURIOUS IF YOU RECALL
19 WHETHER THE -- WHAT THE PUBLICATION WAS THAT YOU
20 READ, WHETHER IT WAS THIS PUBLICATION REFERENCED
21 HERE?

22 A. I DON'T RECALL.

23 Q. COULD YOU PLEASE TURN -- IF WE COULD GO
24 BACK NOW TO THE CALPERS BINDER, PLEASE.

25 DO YOU RECALL HAVING SEEN THIS PUBLICATION

1 BEFORE?

2 MR. JENSEN: WHICH DOCUMENT?

3 MR. RIEGER: I'M SORRY. DID I NOT --

4 EXHIBIT 6. OH, I'M SORRY. I GUESS I DIDN'T
5 SAY THAT.

6 MR. JENSEN: YOUR HONOR, I THINK THAT'S
7 ASKED AND ANSWERED FOR THE FOURTH OR FIFTH TIME.

8 MR. RIEGER: I HAVEN'T EVEN SHOWN HIM THE
9 DOCUMENT YET. I'M JUST ASKING HIM IF HE'S SEEN THIS
10 DOCUMENT BEFORE.

11 THE COURT: OVERRULED.

12 DO YOU HAVE 6 IN FRONT OF YOU?

13 YES?

14 THE WITNESS: YEAH.

15 THE COURT: HE DOES.

16 THE WITNESS: I MAY HAVE SEEN IT. I MAY
17 HAVE RECEIVED IT. I DON'T KNOW WHEN I RECEIVED IT,
18 AT WHAT TIME, BUT IT WAS DURING THE PERIOD I WAS
19 PLANNING TO RETIRE OR BEFORE. BUT IT LOOKS LIKE
20 SOMETHING I HAD RECEIVED AT SOME POINT.

21 BY MR. RIEGER:

22 Q. SO YOU DO BELIEVE THAT YOU HAVE RECEIVED IT
23 AT SOME POINT?

24 A. YES.

25 Q. BUT YOU DON'T RECALL WHEN YOU RECEIVED IT?

1 A. NO.

2 Q. DO YOU RECALL WHETHER YOU HAVE READ THIS
3 DOCUMENT?

4 A. I DID NOT. I DID NOT READ THIS DOCUMENT,
5 WHICH LEADS ME TO BELIEVE THAT I RECEIVED IT BEFORE I
6 PLANNED ON RETIRING.

7 Q. SO YOU SPECIFICALLY RECALL NOT READING
8 THIS?

9 A. I MAY HAVE THUMBED THROUGH IT JUST TO LOOK
10 AT IT, BUT I JUST -- RETIREMENT WASN'T ON MY MIND AT
11 THAT POINT. AND I WASN'T CHANGING RETIREMENT
12 SYSTEMS, SO IT DID NOT PIQUE MY INTEREST.

13 Q. IF YOU COULD PLEASE TURN TO EXHIBIT 7.
14 DO YOU RECOGNIZE THIS DOCUMENT?

15 A. NOT SPECIFICALLY, NO.

16 Q. YOU DON'T RECALL RECEIVING THIS EVER?

17 A. I DON'T RECALL RECEIVING THIS DOCUMENT.

18 Q. SO YOU DON'T RECALL ONE WAY OR THE OTHER?

19 A. NO. THAT'S CORRECT.

20 IS THERE A DATE ON THIS?

21 Q. THERE IS AN OPERATIVE DATE. IF IT HELPS
22 REFRESH YOUR RECOLLECTION, I'LL JUST POINT YOU
23 TOWARDS THE P.E.R.S. 153. AT THE BOTTOM, IT SAYS
24 "AUGUST 2002." I'M JUST POINTING IT OUT BECAUSE YOU
25 ASKED.

1 A. YEAH. DATE OF PUBLICATION OR --

2 Q. WELL, I CAN'T TESTIFY. YOU ASKED SO I'M
3 POINTING IT --

4 A. I DON'T KNOW. IT WOULD NOT REGISTER WITH
5 ME BECAUSE, LIKE I SAID, I WASN'T LOOKING TO RETIRE
6 DURING THAT PERIOD.

7 Q. SO IF YOU COULD PLEASE TURN TO EXHIBIT 204
8 IN THE BLACK BINDER.

9 A. OKAY.

10 Q. I BELIEVE YOU TESTIFIED ON DIRECT
11 EXAMINATION THAT YOU DID RECEIVE THIS?

12 A. YES, I DID.

13 Q. AND YOU DID READ THIS ONE?

14 A. YES. I -- LIKE I SAID UNDER DIRECT, I
15 JUST -- I LOOKED IT OVER. I DIDN'T READ IT LINE BY
16 LINE, BUT I NOTICED THAT IT DID NOT REALLY PERTAIN TO
17 ME SINCE I WAS NOT -- I HAD NO -- I HAD NO INTENTIONS
18 OF CHANGING RETIREMENT SYSTEMS AND FILED IT.

19 Q. IN 2007, THIS WAS AT A TIME WHEN YOU WERE
20 PAYING ATTENTION TO YOUR CALPERS BENEFITS; IS THAT
21 RIGHT?

22 A. YES, I WAS.

23 Q. AND YOU WERE VERY INTERESTED IN THE RULES
24 OF RECIPROCITY AT THAT TIME; IS THAT RIGHT?

25 A. YES.

1 Q. IF YOU COULD TURN TO FGUIDO 41, PLEASE.

2 THE COURT: IT'S IN 204.

3 BY MR. RIEGER:

4 Q. IN 204.

5 A. OKAY. THANK YOU.

6 Q. IN FGUIDO 41, EXHIBIT 204, ABOUT
7 FOUR-FIFTHS OF THE WAY DOWN THE PAGE IN ALL CAPS, IT
8 SAYS:

9 "IN ORDER TO ESTABLISH RECIPROCITY
10 BETWEEN CALPERS AND THE OTHER SYSTEM,
11 YOU MUST," AND THEN IT TELLS YOU THE
12 RULES OF RECIPROCITY.

13 DO YOU RECALL EVER READING THIS FORM -- THIS
14 SECTION OF THIS FORM?

15 A. I DON'T BELIEVE I RECALL RECEIVING THIS. I
16 WASN'T SURE -- I'M NOT SURE IF I EVER RECEIVED THIS
17 FORM.

18 Q. I BELIEVE YOU TESTIFIED ON DIRECT THAT YOU
19 RECEIVED ALL OF EXHIBIT 204. IS THAT NOT ACCURATE?

20 A. I RECEIVED -- I REMEMBER RECEIVING THE ONE
21 DATED -- NUMBER 37, 38, AND I DON'T RECALL RECEIVING
22 41, 42. I DON'T RECALL THIS.

23 IF I DID RECEIVE IT, I DIDN'T -- I DON'T
24 RECALL TESTIFYING THAT I DID RECEIVE IT, BUT HAD I
25 RECEIVED IT, IT WOULD NOT HAVE APPLIED TO MY SITUATION

1 AFTER READING IT BECAUSE I WASN'T CHANGING RETIREMENT
2 SYSTEMS.

3 Q. THE FGUIDO STAMP ON THE BOTTOM RIGHT-HAND
4 CORNER INDICATES THAT THIS WAS IN YOUR FILES, THOUGH;
5 IS THAT CORRECT?

6 A. I DON'T RECALL.

7 Q. YOU TESTIFIED EARLIER THAT YOU WERE
8 FAMILIAR WITH THE FGUIDO DESIGNATION?

9 A. I AM.

10 Q. AND THAT REPRESENTS DOCUMENTS THAT YOUR
11 COUNSEL RECEIVED FROM YOU AND PRODUCED TO US; IS THAT
12 RIGHT?

13 A. I KNOW. BUT I JUST DON'T RECALL READING
14 THIS. I DID RECEIVE IT. LIKE I SAID, I DON'T RECALL
15 READING IT.

16 Q. RIGHT NOW I'M JUST FOCUSING ON WHETHER IT
17 DID COME FROM YOUR FILES.

18 A. I DON'T HAVE ANY RECOLLECTION OF THIS
19 DOCUMENT COMING FROM MY FILES, IF IT DID.

20 MR. RIEGER: I'M SORRY. I'M JUST TRYING TO
21 FIGURE OUT WHAT MAKES SENSE IN THE SPACE OF
22 FIVE MINUTES.

23 THE COURT: WOULD THIS BE A GOOD TIME TO
24 STOP?

25 MR. RIEGER: I THINK IT WOULD, YEAH; AND WE

1 CAN PICK IT UP TOMORROW.

2 THE COURT: OKAY. SOUNDS LIKE A PLAN.

3 MR. JENSEN: YOUR HONOR, I JUST WANT TO
4 NOTE FOR THE RECORD, WE'RE GOING TO HAVE AN
5 INTERRUPTION IN MR. GUIDO'S CROSS BECAUSE WE HAVE A
6 WITNESS COMING IN, MIKE HENRY, IN THE MORNING, AND
7 WE'VE KIND OF DISCUSSED THIS ALREADY WITH COUNSEL AS
8 FAR AS SCHEDULING.

9 SO I JUST WANTED TO BRING THAT TO YOUR --

10 MR. RIEGER: I HAVE NO OBJECTION TO THAT.
11 THE ONLY REASON I WANT TO BREAK NOW IS I'M AFRAID
12 THAT IT WILL CHOP UP HIS TESTIMONY, THE NEXT LINE.
13 THAT'S ALL.

14 THE COURT: THAT MAKES SENSE. I THINK THIS
15 IS PART OF THE PLAN YOU GUYS ENVISIONED. SO ALL
16 RIGHT. WE'LL CALL IT A DAY. WE'LL RESUME TOMORROW
17 AT 9:00.

18 WILL MR. HENRY BE HERE AT 9:00?

19 MR. JENSEN: YOUR HONOR, I HOPE SO.

20 THE COURT: I MEAN, THAT'S WHEN YOU TOLD
21 HIM --

22 MR. JENSEN: THAT'S RIGHT. HE'S UNDER
23 SUBPOENA, TOO, SO I BELIEVE FOR 9:00 O'CLOCK TOMORROW
24 MORNING. AND HE'S ALREADY BY RETURN RECEIPT AGREED
25 TO APPEAR. AND SO WITH A LITTLE BIT OF LUCK, WE'LL

1 GET STARTED AT 9:00 O'CLOCK.

2 THE COURT: OKAY. ANYTHING TO PUT ON THE
3 RECORD TODAY OR SHALL WE SIGN OFF?

4 MR. JENSEN: YOUR HONOR, NO.

5 THE COURT: OKAY.

6 MR. RIEGER: I DON'T KNOW IF IT NEEDS TO BE
7 ON THE RECORD OR NOT. I'LL JUST SAY TODAY WAS THE
8 FIRST I LEARNED OF THE ATTORNEYS THAT HE CONSULTED.

9 THAT HAS NOT BEEN DISCLOSED IN ANY PRIOR
10 DISCOVERY, SO I JUST WANT TO ALERT THE COURT AND THE
11 PARTIES THAT I MAY NEED TO CALL THEM, AND I DON'T KNOW
12 IF THAT'S GOING TO FIT IN THESE FOUR DAYS. I HAVEN'T
13 MADE THAT JUDGMENT YET.

14 I JUST LEARNED ABOUT IT FOR THE FIRST TIME
15 TODAY THAT HE CONSULTED THESE ATTORNEYS BEFORE HE
16 RETIRED. I'M NOT ASKING FOR ANYTHING JUST YET. I'M
17 JUST SAYING THAT THAT MIGHT CAUSE SCHEDULING PROBLEMS IF
18 I NEED TO CALL THEM AS WITNESSES.

19 MR. JENSEN: AND, YOUR HONOR, HE'S, I'M
20 SURE, FREE TO TRY TO COMPEL TESTIMONY. THESE
21 INDIVIDUALS, I BELIEVE, ARE FAIRLY WELL-KNOWN
22 INDIVIDUALS IN LOS ANGELES AND, YOU KNOW, SO I DIDN'T
23 INTEND TO CALL THEM AS A WITNESS.

24 BUT THERE PROBABLY IS ATTORNEY-CLIENT
25 PRIVILEGE ISSUES, I IMAGINE, SO IT'S A LITTLE MORE

1 COMPLICATED, BUT I'M WILLING TO DISCUSS THE MATTER WITH
2 MR. GUIDO AND WITH MR. RIEGER IF THIS BECOMES AN
3 IMPORTANT ISSUE BUT --

4 MR. RIEGER: WE DON'T NEED TO RESOLVE IT
5 ALL RIGHT NOW. I THINK THE PRIVILEGE HAS BEEN WAIVED
6 BECAUSE I THINK MR. GUIDO HAS TALKED ABOUT HIS
7 COMMUNICATIONS WITH THEM. HE RELATED HIS KNOWLEDGE
8 IN THIS CASE. HE'S PUT THAT KNOWLEDGE AT ISSUE.

9 I DON'T KNOW IF I NEED TO CALL THEM. WE'RE
10 STILL GOING TO GO THROUGH HIS TESTIMONY. I'M JUST
11 LETTING EVERYONE KNOW NOW THAT THIS IS THE FIRST I'VE
12 LEARNED OF IT. IT WAS NOT IN THE DISCOVERY RESPONSES.

13 THE COURT: OKAY. SO NOTED. JUST KEEP ME
14 POSTED.

15 MR. RIEGER: I WILL. YEAH. IT'S ONLY FOR
16 LOGISTICAL PURPOSES. I'M NOT ACCUSING ANYBODY OF
17 ANYTHING. I JUST WANT TO MAKE SURE YOU UNDERSTAND
18 THAT.

19 THE COURT: OKAY. ALL RIGHT. ANYTHING ON
20 YOUR END, MS. DANIEL?

21 MR. RIEGER: NOTHING FROM ME.

22 THE COURT: OKAY. WE'LL GO OFF THE RECORD,
23 THEN.

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(WHEREUPON, AT THE HOUR OF
4:27 P.M., THE PROCEEDINGS
WERE ADJOURNED.)

-000-

1 STATE OF CALIFORNIA)
) SS

2 COUNTY OF LOS ANGELES)

3

4 I, MAXINE MILLER, HEARING REPORTER FOR THE STATE
5 OF CALIFORNIA, HEREBY CERTIFY:

6 THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME AT
7 THE TIME AND PLACE THEREIN SET FORTH;

8 THE PROCEEDINGS WERE RECORDED STENOGRAPHICALLY BY
9 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 FOR
13 NOR RELATED TO ANY PARTY TO SAID ACTION, NOR IN ANY WAY
14 INTERESTED IN THE OUTCOME THEREOF.

15 IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY
16 NAME THIS 6TH DAY OF DECEMBER, 2012.

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