ATTACHMENT F

ADMINISTRATIVE HEARING TRANSCRIPTS

DAY TWO – NOVEMBER 14, 2012

1 BEFORE THE
2 BOARD OF ADMINISTRATION
3 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
4 ERIC SAWYER, ADMINISTRATIVE LAW JUDGE
5
6
7 IN THE MATTER OF THE) APPLICABILITY OF GOVERNMENT CODE) SECTION 20638 TO MEMBER FRED) P.E.R.S. NO. GUIDO:) 9711
8) O.A.H. NO.
9 FRED GUIDO AND CITY OF CUDAHY,) 2012030387
10)
RESPONDENTS.)
11 _____)
12
13
14
VOLUME II
15
16
17 TRANSCRIPT OF PROCEEDINGS, TAKEN AT
18 320 WEST FOURTH STREET, SIXTH FLOOR,
19 LOS ANGELES, CALIFORNIA, COMMENCING
20 AT 9:10 A.M., ON WEDNESDAY, NOVEMBER
21 14, 2012, HEARD BEFORE ERIC SAWYER,
22 ADMINISTRATIVE LAW JUDGE, REPORTED
23 BY MAXINE MILLER, HEARING REPORTER.
24
25

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1 I N D E X

2

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
FRED GUIDO		8R	75J	110R
EMILY PEREZ DE FLORES	118J			
MICHAEL J. HENRY	126J	145R	149J	
EMILY PEREZ DE FLORES	154J			

D = DANIEL
J = JENSEN
R = RIEGER

1 E X H I B I T S

2

DEPARTMENT'S:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
34 - L.A.C.E.R.A. RETIREMENT PLANS A, B, AND C, GENERAL MEMBER	29	29
35 - L.A.C.E.R.A. RETIREMENT A AND B, SAFETY MEMBER	30	30
36 - L.A.C.E.R.A. PLANS A AND B, SAFETY	35	35
42 - L.A.C.E.R.A. RETIREMENT PLANS	42	42
45 - L.A.C.E.R.A. RETIREMENT PLANS A, B, C, GENERAL MEMBER	50	50

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RESPONDENT'S:		MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
224 -	CUSTOMER TOUCH POINT REPORT	176	176
225 -	CALPERS INTERNAL MANUAL REGARDING RECIPROCITY	123	123

3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

1 LOS ANGELES, CALIFORNIA, WEDNESDAY
2 NOVEMBER 14, 2012
3 9:10 A.M.
4
5 THE COURT: THIS IS THE MATTER OF THE
6 STATEMENT OF ISSUES AGAINST FRED GUIDO AND THE CITY
7 OF CUDAHY, AND THIS IS THE SECOND HEARING DAY. IT'S
8 NOVEMBER 24 -- NOVEMBER 14, 2012. IT'S 9:05 A.M.
9 WE'RE IN THE SAME VENUE.
10 COUNSEL FOR COMPLAINANT AND RESPONDENT
11 GUIDO ARE HERE. MR. GUIDO IS HERE AS WELL. A
12 REPRESENTATIVE OF CALPERS IS ALSO HERE. WE ARE
13 WAITING FOR THE ARRIVAL OF RESPONDENT'S WITNESS --
14 MR. HENRY, IS IT?
15 MR. JENSEN: YES. YES, YOUR HONOR.
16 THE COURT: OKAY.
17 -- AND UNTIL HE ARRIVES, WE'RE GOING TO
18 CONTINUE WITH THE CROSS-EXAMINATION OF MR. GUIDO, WHO
19 IS SEATED IN THE WITNESS CHAIR.
20 THE COURT: AND, MR. GUIDO, YOU UNDERSTAND
21 THAT TODAY YOU'RE UNDER THE SAME OATH THAT YOU TOOK
22 YESTERDAY?
23 THE WITNESS: YES.
24 THE COURT: OKAY. THEN WHEN YOU'RE READY,
25 MR. RIEGER.

1 FRED GUIDO,
2 HAVING BEEN PREVIOUSLY DULY SWORN IN,
3 RESUMED THE STAND AND TESTIFIED
4 FURTHER AS FOLLOWS:
5
6 CROSS-EXAMINATION (RESUMED)
7 BY MR. RIEGER:
8 Q. GOOD MORNING.
9 A. GOOD MORNING.
10 Q. COULD YOU REMIND ME, WHAT WAS YOUR ACTUAL
11 JOB TITLE WHEN YOU WERE WORKING FOR THE CITY COUNCIL
12 MEMBER -- EXCUSE ME -- BOARD OF SUPERVISORS MEMBER IN
13 LOS ANGELES COUNTY?
14 A. CHIEF OF STAFF.
15 Q. CHIEF OF STAFF. IN THAT ROLE -- OR IN THAT
16 JOB, DID YOU HAVE ANY ROLE IN LEGISLATIVE MATTERS IN
17 TERMS OF COUNTY LEGISLATION, ORDINANCES OR WHATEVER
18 IT IS?
19 A. YES.
20 Q. WHAT IS IT CALLED WHEN THE COUNTY PASSES A
21 LAW?
22 A. WELL, THEY HAVE ORDINANCES.
23 Q. ORDINANCES. ALL RIGHT. AND SO WHAT ROLE
24 DID YOU PLAY IN THAT PROCESS GENERALLY?
25 A. I WOULD -- AS NECESSARY AND DEPENDING ON

1 THE SENSITIVITY OF THE ORDINANCE AND HOW THE
2 ORDINANCE IMPACTED OUR DISTRICT, I WOULD PROVIDE
3 INPUT TO THE SUPERVISOR AS WELL AS ONE OF HIS POLICY
4 DEPUTIES, WHO IS MORE DIRECTLY RESPONSIBLE FOR THE
5 DEPARTMENT IN WHICH THAT ORDINANCE IS MOST CONNECTED
6 TO, SO TO SPEAK.
7 Q. SO WAS IT YOUR ROLE TO CAREFULLY READ AND
8 UNDERSTAND THE PROPOSED ORDINANCES TO HELP YOUR BOSS
9 UNDERSTAND THOSE?
10 A. AS NECESSARY, YES.
11 Q. AND TO MAKE SURE THAT YOUR BOSS AND OTHER
12 PEOPLE IN THE OFFICE WOULD UNDERSTAND WHAT THE IMPACT
13 OF THAT ORDINANCE WOULD BE?
14 A. ON OUR DISTRICT, YES.
15 Q. WAS THIS A BIG PART OF YOUR JOB?
16 A. NO. BECAUSE WE HAD A LEGISLATIVE DEPUTY
17 THAT HANDLED LEGISLATION.
18 Q. AND IS PART OF YOUR JOB -- WAS IT YOUR JOB
19 TO READ AND UNDERSTAND EXISTING ORDINANCES TO
20 UNDERSTAND HOW THEY MIGHT IMPACT YOUR BOSS'S ROLE ON
21 THE BOARD OF SUPERVISORS?
22 A. THAT WAS MORE THE RESPONSIBILITY OF EACH
23 POLICY DEPUTY AS IT PERTAINED TO THE DEPARTMENTS THEY
24 REPRESENTED.
25 Q. BUT AT TIMES, YOU HAD TO READ EXISTING

1 ORDINANCES TO UNDERSTAND WHAT THE LAW WAS?
2 A. YES.
3 Q. AND WHEN YOU DID THAT, WAS IT IMPORTANT TO
4 READ EACH WORD CAREFULLY SO THAT YOU UNDERSTOOD
5 EXACTLY WHAT THE ORDINANCE WAS SAYING?
6 A. YES.
7 Q. AND IN YOUR ROLE AS THE CHIEF OF STAFF OF
8 THE BOARD OF SUPERVISORS MEMBER, DID YOU UNDERSTAND
9 THAT THE TERMS OF THE LAW GOVERNED OVER -- LET ME
10 START OVER.
11 IF PEOPLE'S EXPECTATIONS WERE IN CONFLICT
12 WITH THE ACTUAL TERMS OF THE LAW, WHICH ONE WOULD
13 GOVERN, IN YOUR EXPERIENCE?
14 MR. JENSEN: OBJECTION; CALLS FOR A LEGAL
15 CONCLUSION, AND HE'S NOT AN ATTORNEY.
16 THE COURT: SUSTAINED.
17 BY MR. RIEGER:
18 Q. DID YOU -- IN YOUR EXPERIENCE AS THE CHIEF
19 OF STAFF, WAS IT IMPORTANT TO YOU TO MAKE SURE THAT
20 YOUR BOSS'S EXPECTATIONS ABOUT WHAT THE LAW WAS WERE
21 IN LINE WITH WHAT THE LAW ACTUALLY SAID?
22 A. NOT EXACTLY.
23 Q. WHY DO YOU SAY THAT?
24 A. BECAUSE MY ROLE IN OVERLOOKING THE
25 ORDINANCES, OR LAWS AS YOU REFER TO THEM, WAS MORE TO

1 UNDERSTAND EXACTLY THE IMPACT OF THOSE REGULATIONS OR
2 LAWS ON THE CITIZENS OR OUR COMMUNITIES THAT WE
3 REPRESENTED AND TRY TO ASSESS THE POLITICAL IMPACTS,
4 IF THERE WAS ANY NEGATIVE IMPLICATIONS OF THAT LAW
5 THAT COULD BE PERCEIVED BY THE PUBLIC OR BY THE MEDIA
6 IN SUCH A MANNER THAT WOULD LEAVE THE PUBLIC
7 DISGRUNTLED.
8 Q. SO WHEN YOU WERE ASSESSING THE IMPACT OF
9 THOSE LAWS, TO UNDERSTAND THE IMPACT, YOU WOULD READ
10 THE LAWS THEMSELVES; RIGHT?
11 A. I WOULD READ THE LAWS. IN SOME INSTANCES,
12 I WOULD READ THE LAWS. IN SOME INSTANCES, I WOULD
13 MEET WITH THE POLICY DEPUTIES THAT WERE MORE DIRECTLY
14 INVOLVED IN THOSE MATTERS AND WOULD PROVIDE ME --
15 WOULD SYNTHESIZE, SO TO SPEAK, WHAT THE ORDINANCE
16 WOULD DO.
17 IF IT WAS A SHOPPING CART ORDINANCE, FOR
18 INSTANCE, WE WOULD -- THE POLICY DEPUTY WHO
19 REPRESENTS A CERTAIN PART OF THE UNINCORPORATED AREA
20 OF OUR DISTRICT, WOULD SAY, WELL, BY ADOPTING THIS
21 ORDINANCE, YOU KNOW, WE WILL, IN EFFECT, PROCURE A
22 CONTRACTOR TO PICK UP SHOPPING CARTS THAT ARE IN THE
23 UNINCORPORATED AREA ON SO-AND-SO AND SO-AND-SO AND TO
24 MAKE SURE IT FULFILLED THE EXPECTATIONS OF THE PUBLIC
25 IN THAT INSTANCE.

1 OR IN SOME INSTANCES, WE MAY HAVE
2 ORDINANCES THAT MAY SOME ADVERSE IMPACT ON OUR
3 COMMUNITY WITH REGARD TO HOURS OF WATERING THEIR LAWN
4 AND STUFF LIKE THAT.
5 FOR INSTANCE, WORKING WITH PUBLIC WORKS TO
6 PUT UP A SIGN ON THE STREET TO REGULATE THE PARKING
7 SO THAT WE WOULD VET IT OUT THOROUGHLY WITH THE
8 COMMUNITY, WITH THE HOMEOWNERS' ASSOCIATION OF THOSE
9 UNINCORPORATED AREAS TO MAKE SURE WE BUFFETED ANY
10 CONCERNS THEY HAD.
11 Q. SO WHEN YOU TALK ABOUT THE PUBLIC
12 EXPECTATIONS, WHEN YOU'RE MEETING WITH THE DEPUTIES
13 AND YOU'RE ASKING FOR THEM TO SYNTHESIZE THE LAW,
14 WHAT YOU'RE TRYING TO DO IS MAKE SURE THAT THE LAW AS
15 WRITTEN IS MATCHING THE PUBLIC'S EXPECTATIONS; IS
16 THAT RIGHT?
17 A. IN THOSE CASES, YES.
18 Q. AND WHEN WE'RE TALKING ABOUT THE LAW, WE'RE
19 TALKING ABOUT THE ACTUAL WORDS AND THE LANGUAGE IN
20 THE LAW?
21 A. THAT'S CORRECT.
22 Q. YOU MENTIONED YESTERDAY DURING DIRECT
23 EXAMINATION THAT YOU THOUGHT THERE WERE ONE OR TWO
24 COUNTY DEPARTMENTS UNDER CALPERS. IS THERE A SECOND
25 ONE? DO YOU KNOW IF THERE'S A SECOND ONE?

1 A. I'M NOT SURE. I KNOW ONE FOR SURE, AND
2 THAT'S C.D.C.
3 Q. SO THE ONLY ONE YOU'RE SURE OF --
4 A. YES.
5 Q. -- IS THE COMMUNITY DEVELOPMENT?
6 I THINK YESTERDAY THERE WAS SOME QUESTIONS
7 ABOUT WHETHER -- WELL, I'LL JUST ASK YOU DIRECTLY.
8 ARE YOU AWARE OF AN OPENING IN THE
9 COMMUNITY DEVELOPMENT DEPARTMENT IN THE 2008 TIME
10 FRAME?
11 A. IN 2008, NO.
12 Q. AND HOW ABOUT 2009?
13 A. NO. I WOULDN'T HAVE BEEN BECAUSE I DIDN'T
14 MAKE ANY INQUIRY.
15 Q. I JUST WANTED TO CLARIFY SOME OF YOUR
16 TESTIMONY YESTERDAY. EXHIBIT 206 IN THE BLACK
17 BINDER, PLEASE.
18 ON THE SECOND PAGE OF EXHIBIT 206,
19 FGUIDO 9 --
20 A. UH-HUH. YES.
21 Q. -- WHEN YOU WERE TALKING ABOUT THIS
22 YESTERDAY, I THOUGHT I HEARD YOU SAY SOMETHING ABOUT
23 HOW YOU WERE REQUESTING THIS ESTIMATE TO FALL WITHIN
24 A 90-DAY WINDOW. DO YOU RECALL THAT TESTIMONY?
25 A. I BELIEVE I REMEMBER -- YES. I THINK -- I

1 BELIEVE I REMEMBER TESTIFYING.
2 Q. I BELIEVE YOU WERE SAYING -- WHAT IS THE
3 90-DAY WINDOW YOU WERE REFERRING TO?
4 A. WHEN I WAS MAKING REFERENCE TO 90 DAYS, I
5 WAS -- I WAS LOOKING AT, YOU KNOW, 90 DAYS OF WHAT
6 MY TENTATIVE -- WHEN I TENTATIVELY PLANNED TO RETIRE.
7 Q. SO THE 90-DAY WINDOW WOULD BE REQUESTING AN
8 ESTIMATE WITHIN 90 DAYS OF YOUR PLANNING TO RETIRE?
9 A. YEAH. BUT NOT IN EVERY CASE. IN SOME
10 INSTANCES I ASKED FOR AN ESTIMATE OF MY RETIREMENT
11 WHEN IT WAS NOT APPLICABLE TO MY RETIREMENT PLANS.
12 Q. AND ALL I'M TRYING TO DO, I JUST WANT TO
13 CLARIFY THE RECORD. I'M NOT -- TAKE MY WORD, I'M NOT
14 TRYING TO CATCH YOU ON ANYTHING. I JUST WANT TO
15 ESTABLISH THAT YOU WEREN'T -- WERE YOU ACTUALLY
16 THINKING OF RETIRING WITHIN 90 DAYS OF OCTOBER 2007?
17 A. YES. I THINK AT ONE POINT I WAS LOOKING AT
18 RETIRING SOMETIME IN '08, MAYBE MARCH OF '08, AND I
19 THINK I'D HAVE TO LOOK BACK AT MY ORIGINAL -- OR ONE
20 OF MY RETIREMENT ESTIMATES BECAUSE -- AND THEN I
21 REALIZED THAT I WAS FALLING SHORT OF MY EXPECTATIONS
22 IN TERMS OF MY RETIREMENT BENEFITS, AND SO I HUNG
23 ON -- EXCUSE ME -- I DECIDED TO STAY AN ADDITIONAL
24 YEAR.
25 Q. SO IN FGUIDO 9 IN EXHIBIT 206, DO YOU SEE

1 THAT RETIREMENT DATE LISTED ON THE PAGE? IT SAYS
2 "1/6/2009."
3 A. YES.
4 Q. WAS THAT THE RETIREMENT DATE YOU WERE
5 CONTEMPLATING WHEN YOU SUBMITTED THIS REQUEST IN
6 2007?
7 A. I BELIEVE SO.
8 Q. OKAY. SO I JUST WANT TO CLARIFY.
9 A. YES.
10 Q. YOU WEREN'T PLANNING ON RETIRING WITHIN --
11 AT THE TIME YOU SUBMITTED THE REQUEST THAT RESULTED
12 IN 206, YOU WERE NOT PLANNING ON RETIRING WITHIN 90
13 DAYS OF SUBMITTING THAT REQUEST, AM I RIGHT?
14 A. NO. I JUST CAN'T SPEAK TO MY STATE OF MIND
15 AT THAT TIME BUT, NO.
16 Q. YOU SAID YESTERDAY THAT WHEN YOU CAME INTO
17 THE CALPERS OFFICE TO RETIRE, THE CONCURRENT
18 RETIREMENT WAS VERY IMPORTANT TO YOU?
19 A. YES, IT WAS.
20 Q. OKAY. AND WHERE DID YOU LEARN ABOUT THE
21 REQUIREMENT FOR CONCURRENT RETIREMENT?
22 A. I HEARD ABOUT THAT FROM OTHER EMPLOYEES WHO
23 RETIRED FROM TWO SEPARATE SYSTEMS, AND I ALSO
24 REMEMBER AN L.A.C.E.R.A. PERSON TELLING ME ABOUT THE
25 IMPORTANCE OF RETIRING ON THE SAME DATE OR ENSURING

1 THAT I RETIRE ON THE SAME DATE.
2 Q. DID YOU EVER TALK WITH THOSE OTHER
3 EMPLOYEES ABOUT THE OTHER REQUIREMENTS OF
4 RECIPROCITY?
5 A. I DON'T RECALL EVER.
6 Q. DID YOU EVER TALK WITH THOSE L.A.C.E.R.A.
7 STAFF MEMBERS ABOUT THE OTHER REQUIREMENTS OF
8 RECIPROCITY?
9 A. I MAY HAVE.
10 Q. DO YOU RECALL WHAT THEY TOLD YOU ABOUT THE
11 OTHER REQUIREMENTS OF RECIPROCITY?
12 A. WELL, IN GENERAL, THAT I HAVE TO HAVE --
13 I'D HAVE TO HAVE RECIPROCITY ESTABLISHED BETWEEN BOTH
14 RETIREMENT SYSTEMS AND TO ENSURE THAT WHEN I RETIRE,
15 I RETIRE ON THE SAME DATE.
16 Q. DID YOU EVER TALK WITH THOSE -- WELL,
17 APPROXIMATELY WHAT TIME FRAME DID YOU HAVE THESE
18 DISCUSSIONS WITH THE L.A.C.E.R.A. STAFF MEMBERS?
19 A. MAYBE WITHIN A YEAR BEFORE I RETIRED.
20 Q. 2008?
21 A. UH-HUH, YES.
22 Q. SO DO YOU RECALL ANY DISCUSSIONS ABOUT WHAT
23 THE LEGAL REQUIREMENTS WERE TO ESTABLISH RECIPROCITY?
24 A. NO. WE DID NOT HAVE ANY DISCUSSIONS ABOUT
25 THAT OTHER THAN STRESSING THE IMPORTANCE OF GETTING

1 IN TOUCH WITH CALPERS TO MAKE SURE THAT ALL MY
2 PAPERWORK AND RECIPROCITY WAS IN ORDER.
3 Q. SO YOU WORKED FOR -- AT SOME POINT, YOU
4 LEFT THE BOARD OF SUPERVISORS OFFICE; IS THAT RIGHT?
5 A. YES.
6 Q. AND WHAT WAS THE DEPARTMENT YOU WENT TO?
7 A. DEPARTMENT OF PUBLIC WORKS.
8 Q. SO FOR APPROXIMATELY -- YOU WORKED FOR THE
9 LOS ANGELES COUNTY FOR APPROXIMATELY 13 YEARS IN THAT
10 SECOND STINT?
11 A. TWELVE-PLUS YEARS, YES.
12 Q. OKAY. AND THEN THERE WAS FOUR-PLUS YEARS
13 EARLIER IN THE '70S FOR THE DEPUTY SHERIFF'S --
14 A. FOUR-PLUS YEARS EARLIER, FOR A TOTAL OF 17
15 YEARS BETWEEN THE TWO.
16 THE COURT: REMEMBER TO LET HIM FINISH HIS
17 QUESTION BEFORE YOU START SPEAKING.
18 THE WITNESS: WELL, SOME OF THE ANSWERS ARE
19 SO EASY, YOU KNOW, I'M JUST JUMPING IN HERE.
20 THE COURT: WELL, BUT IT'S THE END OF THE
21 QUESTION THAT'S THE MOST IMPORTANT SOMETIMES.
22 MR. JENSEN: AND IF YOU COULD WAIT IN CASE
23 I IMPOSE AN OBJECTION AS WELL.
24 THE WITNESS: OKAY.
25 / / /

1 BY MR. RIEGER:
2 Q. IN ALL YOUR TIME WITH -- IN LOS ANGELES
3 COUNTY EMPLOYMENT, HAD YOU EVER HEARD ANY REFERENCE
4 TO A REQUIREMENT OF RECIPROCITY THAT YOU LEAVE ONE
5 SYSTEM AND JOIN THE NEXT SYSTEM WITHIN SIX MONTHS?
6 A. I RECALL SOME. I HAVE SOME RECOLLECTION OF
7 EITHER READING ABOUT IT OR -- READING ABOUT IT, YEAH,
8 NOT SPEAKING TO ANYONE ABOUT IT.
9 Q. DO YOU RECALL WHEN YOU WOULD HAVE READ
10 THAT?
11 A. IT MAY HAVE BEEN JUST AS I WAS STARTING TO
12 INQUIRE SOMETIME BEFORE LEAVING THE SUPERVISOR'S
13 OFFICE AND DETERMINING WHERE I WAS GOING TO GO,
14 DETERMINING WHAT I WAS GOING TO DO WHEN I LEFT THE
15 SUPERVISOR'S OFFICE.
16 Q. AND THAT WAS IN 2004?
17 A. '03.
18 Q. IT ACTUALLY HAPPENED IN 2003?
19 A. YES.
20 Q. OKAY. WHEN WAS THE EXACT TRANSFER DATE?
21 A. I THINK MAYBE THE 20TH.
22 Q. OF WHICH MONTH?
23 A. OCTOBER.
24 Q. SO THAT WAS YOUR TRANSFER FROM THE
25 SUPERVISOR'S OFFICE TO THE --

1 I'M SORRY. I FORGOT THE DEPARTMENT.
2 A. DEPARTMENT OF PUBLIC WORKS.
3 Q. -- DEPARTMENT OF PUBLIC WORKS?
4 A. UH-HUH.
5 Q. OCTOBER 20, 2003, APPROXIMATELY?
6 A. OR -- YES. SOMETIME IN THE LATTER PART OF
7 OCTOBER, MIDDLE OR THE LATTER PART OF OCTOBER.
8 Q. DO YOU RECALL WHERE YOU READ THAT THERE WAS
9 A SIX-MONTH REQUIREMENT?
10 A. I MAY HAVE -- I THINK I MAY HAVE READ IT IN
11 SOME KIND OF A HANDOUT THAT I RECEIVED OR OBTAINED --
12 Q. DO YOU RECALL --
13 A. -- OR IT MAY HAVE BEEN A NEWSLETTER, A
14 CALPERS OR L.A.C.E.R.A. NEWSLETTER, I THINK MAY HAVE
15 HAD SOME REFERENCE TO IT.
16 Q. YOU DON'T RECALL SPECIFICALLY WHICH ENTITY
17 SENT YOU THAT INFORMATION?
18 A. NO.
19 Q. COULD YOU PLEASE TURN TO EXHIBIT 6 IN THE
20 WHITE BINDER, VOLUME I IN THE WHITE BINDER.
21 IF YOU COULD PLEASE TURN TO PAGE 75,
22 P.E.R.S. 75.
23 A. YES.
24 Q. IT'S PAGE 3 OF THE PUBLICATION.
25 AND IT SAYS -- ON A PAGE ENTITLED

1 "ESTABLISHING RECIPROCITY," IT SAYS:
2 "YOU MUST ENTER EMPLOYMENT THAT
3 LEADS TO MEMBERSHIP IN THE NEW SYSTEM
4 WITHIN SIX MONTHS."
5 DO YOU SEE THAT SENTENCE THERE?
6 MR. JENSEN: OBJECTION, YOUR HONOR.
7 THERE'S NO FOUNDATION THAT HE SAW THIS DOCUMENT.
8 MR. RIEGER: I'M ASKING HIM IF HE'S SEES
9 THE SENTENCE.
10 MR. JENSEN: THE SENTENCE?
11 OBJECTION. THE DOCUMENT SPEAKS FOR ITSELF.
12 THE COURT: OVERRULED.
13 YOU CAN ANSWER.
14 THE WITNESS: WE'RE TALKING ABOUT THE FIRST
15 BULLET POINT?
16 BY MR. RIEGER:
17 Q. THE SECOND BULLET POINT.
18 A. I'M SORRY. YES.
19 Q. THAT SENTENCE THERE, IS THAT CONSISTENT
20 WITH YOUR RECOLLECTION OF WHAT YOU READ IN A
21 PUBLICATION AROUND OCTOBER 2003?
22 A. YES, IT IS.
23 Q. DOES JUST LOOKING AT -- WELL, TAKE A MOMENT
24 AND REVIEW THE COVER OF THIS PUBLICATION. AND
25 THEN MAYBE -- IF YOU COULD JUST TAKE A MOMENT TO

1 FAMILIARIZE YOURSELF WITH IT AND MAYBE FLIP THROUGH
2 IT.
3 A. OKAY.
4 Q. HAVE YOU HAD A CHANCE TO FAMILIARIZE
5 YOURSELF?
6 (NO AUDIBLE RESPONSE.)
7 BY MR. RIEGER:
8 Q. I'M SORRY. YOU HAVE TO ANSWER OUT LOUD.
9 A. YES. I'M SORRY.
10 Q. SO AFTER HAVING REVIEWED THIS, DO YOU
11 BELIEVE THAT THIS WAS THE PUBLICATION YOU WERE
12 READING THAT TOLD YOU ABOUT THE SIX-MONTH RULE?
13 A. I DON'T REMEMBER IF THIS WAS THE
14 PUBLICATION I WAS READING. I DO REMEMBER RECEIVING
15 OR READING A PUBLICATION OR A NEWSLETTER THAT
16 DISCUSSED RECIPROCITY.
17 IT DISCUSSED OTHER THINGS THAT I SHOULD DO,
18 YOU KNOW, WHEN PLANNING FOR RETIREMENT, AND THIS WAS
19 ONE OF THE AREAS THAT WAS COVERED.
20 Q. BUT YOU DO RECALL THAT IT HAD SUBSTANTIALLY
21 THE SAME LANGUAGE THAT YOU SEE IN BULLET POINT 2
22 THERE?
23 A. YES.
24 Q. HOW ABOUT THE -- DO YOU SEE BELOW THE THREE
25 BULLET POINTS THERE'S A PARAGRAPH THAT BEGINS WITH

1 THE WORD "IMPORTANT"?
2 "RECIPROCITY DOES NOT APPLY WHEN
3 EMPLOYMENT IN MEMBERSHIP CONTINUE IN
4 THE FIRST SYSTEM AND CONCURRENT
5 EMPLOYMENT RESULTS IN MEMBERSHIP IN
6 ANOTHER SYSTEM SINCE YOU HAVE NOT" --
7 A. YES.
8 Q. OKAY. DO YOU RECALL READING ESSENTIALLY
9 THE SAME LANGUAGE AS THAT IN A PUBLICATION AS WELL
10 AROUND OCTOBER 2003?
11 A. I DON'T REMEMBER THAT SPECIFICALLY. IT MAY
12 HAVE BEEN INCLUDED IN WHAT I READ, BUT I DO RECALL
13 THE SIX-MONTH -- THE SIX-MONTH CONDITION.
14 Q. BUT YOU DON'T HAVE ANY SPECIFIC
15 RECOLLECTION OF THIS CONCURRENT ISSUE?
16 A. I DON'T AT THIS TIME, NO.
17 Q. DO YOU HAVE ANY RECOLLECTION OF HEARING
18 ABOUT THAT RULE AGAINST CONCURRENT MEMBERSHIP?
19 A. YES, I HAVE.
20 Q. WHERE DID YOU HEAR ABOUT THAT?
21 A. SOMETIME CLOSER TO WHEN I RETIRED AND I
22 FOUND OUT THAT -- I RECEIVED THE CALPERS LETTER --
23 RATHER THE L.A.C.E.R.A. LETTER OF DENIAL.
24 Q. OH, OKAY. THE L.A.C.E.R.A. LETTER. OKAY.
25 SO YOU DON'T RECALL HEARING ABOUT THE CONCURRENT

1 RETIREMENT ISSUE UNTIL YOU HEARD FROM L.A.C.E.R.A.
2 ABOUT IT?
3 A. I DON'T -- I'M NOT SAYING I DIDN'T HEAR IT.
4 I'M SAYING I DON'T RECALL READING ABOUT IT.
5 Q. OKAY. SO HAD YOU HEARD ABOUT IT FROM OTHER
6 SOURCES LIKE OR OTHER EMPLOYEES OR --
7 A. NO. IT WOULD HAVE BEEN SOMETHING I MAY
8 HAVE READ -- I WOULD HAVE READ IN A DOCUMENT OR A
9 NEWSLETTER OR A RETIREMENT PACKAGE OR SOMETHING.
10 Q. SO YOU THINK YOU DID READ IT BEFORE HEARING
11 ABOUT IT FROM L.A.C.E.R.A. IN MAY OF 2009?
12 MR. JENSEN: OBJECTION; VAGUE AS TO TIME.
13 MR. RIEGER: I SAID BEFORE MAY OF 2009.
14 THE COURT: OVERRULED.
15 THE WITNESS: I MAY HAVE READ IT, YES.
16 BY MR. RIEGER:
17 Q. IT REQUIRES THE -- YOU MAY HAVE READ THAT?
18 A. CONCURRENT.
19 Q. CONCURRENT CREATES A PROBLEM?
20 A. YES.
21 Q. CONCURRENT SERVICE CREATES A PROBLEM?
22 A. YES.
23 Q. DID YOU UNDERSTAND BEFORE MAY 2009 THAT
24 THAT MIGHT BE A PROBLEM?
25 A. NO, I DIDN'T.

1 Q. WHEN YOU WERE A DEPUTY SHERIFF IN
2 LOS ANGELES COUNTY, THAT WAS FROM '73 TO '77?
3 A. YES.
4 Q. OKAY. AND YOU NEVER LEFT THE CITY COUNCIL
5 WHEN YOU TOOK THE -- YOU NEVER LEFT THE CITY COUNCIL,
6 THE CUDAHY JOB, AT THE TIME YOU BECAME A DEPUTY
7 SHERIFF; IS THAT RIGHT?
8 A. THAT'S RIGHT.
9 Q. AND YOU NEVER LEFT THE CUDAHY JOB -- EXCUSE
10 ME. LET ME START OVER.
11 YOU WERE A CITY COUNCIL MEMBER OF CUDAHY
12 BEFORE, DURING, AND AFTER YOUR EMPLOYMENT AS A DEPUTY
13 SHERIFF; IS THAT RIGHT?
14 A. THAT'S CORRECT.
15 Q. AND AT NO TIME IN THAT 12 YEARS DID YOU
16 EVER LEAVE THE CITY COUNCIL JOB; IS THAT RIGHT?
17 I'M SORRY. BETWEEN 1970 AND 1982, YOU
18 NEVER LEFT THE CITY COUNCIL JOB FOR ANY PERIOD; IS
19 THAT RIGHT?
20 A. THAT'S RIGHT.
21 Q. AND YOU LEFT THE CITY COUNCIL JOB IN 1982;
22 IS THAT RIGHT?
23 A. YES.
24 Q. AND THEN YOU CAME BACK TO WORK FOR
25 L.A.C.E.R.A. IN -- WAS IT 1996?

1 A. YES.
2 THE COURT: '96 IS WHEN YOU WENT TO WORK
3 FOR SUPERVISOR KNABE?
4 THE WITNESS: YES. DECEMBER 1, 1996.
5 THE COURT: THANK YOU.
6 BY MR. RIEGER:
7 Q. DID YOU EVER VISIT THE CALPERS WEBSITE?
8 A. I DID. I HAVE.
9 Q. DID YOU EVER VISIT THE CALPERS WEBSITE TO
10 SEEK INFORMATION ABOUT THE RULES OF RECIPROCITY?
11 A. NOT -- I THINK WHEN I VISITED THE CALPERS
12 WEBSITE IT WAS TO VISIT -- I DON'T KNOW. IT WAS
13 MOSTLY TO TRY -- I TRIED CALCULATING RATHER THAN
14 SUBMITTING A -- RATHER THAN SUBMITTING AN ESTIMATE
15 REQUEST FORM, I TRIED ENTERING THE DATA INTO THE
16 FIELDS PROVIDED TO GENERATE MY OWN ESTIMATE.
17 AND IN THE PROCESS OF DOING THAT, I DO
18 RECALL SURFING THE -- YOU KNOW, OPENING DIFFERENT
19 LINKS TO DIFFERENT AREAS.
20 Q. DO YOU RECALL OPENING ANY LINKS TO ANY
21 AREAS THAT DISCUSSED THE RULES OF RECIPROCITY?
22 A. I DON'T RECALL SPECIFICALLY OPENING ANY
23 LINKS THAT DISCUSSED RECIPROCITY.
24 Q. DO YOU RECALL LOOKING FOR ANY LINKS THAT
25 DISCUSSED RECIPROCITY?

1 A. I DON'T RECALL SPECIFICALLY ANY LINKS THAT
2 I OPENED WITH THE INTENTION OF FINDING OUT ANYTHING
3 ABOUT ANYTHING OTHER THAN TRYING TO GET TO THE -- TO
4 THE CALCULATING YOUR OWN ESTIMATE.
5 Q. DID YOU EVER VISIT THE L.A.C.E.R.A.
6 WEBSITE?
7 A. YES, I HAVE.
8 Q. DID YOU EVER LOOK INTO THE RULES OF
9 RECIPROCITY ON THE L.A.C.E.R.A. WEBSITE?
10 A. NO, NO.
11 Q. DID YOU EVER RECEIVE ANY INFORMATIONAL
12 MATERIALS FROM L.A.C.E.R.A.?
13 A. YES.
14 Q. WHAT KIND OF INFORMATIONAL MATERIALS DID
15 YOU RECEIVE?
16 A. I DON'T REMEMBER. I RECEIVED --
17 DURING WHAT PERIOD, I SHOULD ASK?
18 Q. BEFORE RETIREMENT.
19 A. OTHER THAN INFORMATION PERTAINING TO MY
20 RETIREMENT, I DON'T RECALL RECEIVING ANYTHING FROM
21 L.A.C.E.R.A.
22 Q. DID YOU EVER ASK L.A.C.E.R.A. FOR ANY
23 INFORMATION ABOUT THE RULES OF RECIPROCITY?
24 A. NO, I DIDN'T.
25 Q. DID YOU EVER ASK L.A.C.E.R.A. FOR ANY

1 INFORMATIONAL MATERIALS AT ALL?
2 A. I DON'T RECALL AT THIS TIME ASKING THEM FOR
3 ANYTHING OTHER THAN WHAT THEY MAY HAVE HANDED ME IN
4 CONJUNCTION WITH MY MEETING WITH THEM.
5 Q. WHICH MEETING ARE YOU REFERRING TO?
6 A. I THINK WHEN I WENT IN ONCE OR TWICE TO GET
7 AN ESTIMATE, BENEFIT ESTIMATE, AS WELL AS TO GET
8 CLARIFICATION ON BENEFICIARY REQUIREMENTS AS I WAS
9 GETTING CLOSER TO RETIREMENT.
10 Q. AND DO YOU RECALL WHAT THEY HANDED TO YOU
11 AT THAT TIME?
12 A. I DON'T.
13 Q. DID YOU SAVE ANYTHING THAT THEY HANDED TO
14 YOU AT THAT TIME?
15 A. I SAVED ALL THE -- THE ONLY THINGS I SAVED
16 FOR A WHILE WERE THE ESTIMATES THEY GENERATED AS WELL
17 AS -- THE ESTIMATES THEY GENERATED AND THE
18 PROJECTIONS BASED ON CERTAIN COST OF LIVING INCREASES
19 THAT WOULD HIT BEFORE I RETIRED.
20 Q. YOU DIDN'T SAVE ANY OTHER MATERIALS?
21 A. AND AGAIN, I DON'T REMEMBER WHAT MATERIAL
22 THEY HANDED ME. THEY WERE LIKE -- THEY WERE NOT
23 BOOKLETS OR ANYTHING. THEY WERE LIKE LEAFLETS, LIKE
24 INFORMATION OF WHAT I SHOULD DO AND -- YOU KNOW, AND
25 MAKING SURE THAT -- YOU KNOW, HEALTH BENEFITS,

1 LONG-TERM CARE -- LIKE I SAID, SPOUSAL, OR RATHER
2 BENEFICIARY -- BENEFICIARY OPTIONS.
3 Q. DO YOU RECALL ANY OF THAT INFORMATION --
4 EXCUSE ME.
5 DO YOU RECALL ANY OF THOSE MATERIALS
6 COMMUNICATING ANY INFORMATION ABOUT THE RULES OF
7 RECIPROCITY?
8 A. NO.
9 Q. ALL RIGHT. IF YOU COULD PLEASE TURN TO
10 EXHIBIT 34. THIS IS VOLUME II, ACTUALLY, OF THE
11 WHITE BINDER.
12 A. 34?
13 THE COURT: YES.
14 MR. RIEGER: YES.
15 BY MR. RIEGER:
16 Q. ARE YOU IN VOLUME II?
17 VOLUME II, IT'S THE OTHER WHITE BINDER.
18 NOW, THESE ARE PHOTOCOPIES OBVIOUSLY. YOU
19 CAN SEE FROM THE PHOTOCOPIES THAT IT'S A NARROW SORT
20 OF PAMPHLET. BUT DO YOU RECALL RECEIVING ANYTHING
21 THAT LOOKED LIKE WHAT YOU SEE IN EXHIBIT 34 FROM
22 L.A.C.E.R.A.?
23 A. YES, I DO.
24 Q. AND WHEN DID YOU RECEIVE EXHIBIT 34?
25 A. I DON'T RECALL, BUT IT WAS SOMETIME WITHIN

1 THE YEAR OR TWO OF MY RETIREMENT.
2 Q. A YEAR OR TWO BEFORE YOUR RETIREMENT?
3 A. UH-HUH, YES.
4 Q. SO ARE YOU CERTAIN -- I MEAN, TAKE A MOMENT
5 TO REVIEW EXHIBIT 34.
6 AND I JUST WANT TO ASK YOU, DO YOU REMEMBER
7 SPECIFICALLY RECEIVING THIS DOCUMENT?
8 A. I DO RECALL RECEIVING THIS DOCUMENT.
9 Q. YOU DO?
10 A. YES.
11 MR. RIEGER: OKAY. YOUR HONOR, I'D LIKE TO
12 OFFER EXHIBIT 34 IN EVIDENCE.
13 THE COURT: ANY OBJECTION?
14 MR. JENSEN: NO OBJECTION.
15 THE COURT: IT'S ADMITTED.
16 (DEPARTMENT'S EXHIBIT NUMBER 34 WAS
17 MARKED FOR IDENTIFICATION BY THE COURT AND
18 RECEIVED INTO EVIDENCE.)
19 BY MR. RIEGER:
20 Q. WOULD YOU PLEASE TURN TO EXHIBIT 35.
21 YOU'LL SEE THAT THIS IS BASICALLY THE SAME
22 DOCUMENT, BUT IT RELATES TO SAFETY MEMBERS AS OPPOSED
23 TO GENERAL MEMBERS.
24 A. YES.
25 Q. DO YOU RECALL RECEIVING THIS DOCUMENT AS IT

1 PERTAINED TO SAFETY MEMBERS?
2 A. I DO.
3 MR. RIEGER: YOUR HONOR, I'D LIKE TO OFFER
4 EXHIBIT 35 INTO EVIDENCE.
5 THE COURT: ANY OBJECTION?
6 MR. JENSEN: LET ME JUST TAKE A LOOK AT IT.
7 NO OBJECTION.
8 THE COURT: OKAY. IT'S ADMITTED.
9 (DEPARTMENT'S EXHIBIT NUMBER 35 WAS
10 MARKED FOR IDENTIFICATION BY THE COURT AND
11 RECEIVED INTO EVIDENCE.)
12 BY MR. RIEGER:
13 Q. DO YOU RECALL REVIEWING --
14 LET'S START WITH EXHIBIT 34. DO YOU RECALL
15 REVIEWING EXHIBIT 34?
16 A. I DO. I DID REVIEW EXHIBIT 34.
17 Q. DO YOU RECALL REVIEWING EXHIBIT 34 TO LEARN
18 ABOUT THE RULES OF RECIPROCITY?
19 A. YES, I DID.
20 Q. DO YOU RECALL READING ANYTHING IN
21 EXHIBIT 34 ABOUT -- WELL, WHAT DO YOU RECALL LEARNING
22 WHEN YOU REVIEWED EXHIBIT 34?
23 A. I JUST BASICALLY, YOU KNOW, LEARNED ABOUT
24 SERVICE CREDIT, YOU KNOW, VESTING ALLOWANCES AND ANY
25 TOPICS, SOME SCHEDULES ON CALCULATING YOUR BENEFIT --

1 I'M STILL LOOKING FOR -- I'M STILL LOOKING
2 FOR THE RECIPROCITY, BUT I REMEMBER --
3 Q. IF YOU TURN TO L.A. 38 OF EXHIBIT 34.
4 A. THANK YOU. YES.
5 -- RECIPROCITY AS WELL OTHER -- OTHER
6 TOPICS.
7 AND I DON'T RECALL SPECIFICALLY -- IF I
8 MIGHT ADD, I DON'T RECALL SPECIFICALLY IF I READ ALL
9 THE INFORMATION ON 34 OR IF I READ ALL THE
10 INFORMATION -- I WANT TO THINK I READ ALL THE
11 INFORMATION ON 35 MORE SPECIFICALLY BECAUSE MY
12 RETIREMENT BENEFITS WERE SUPPOSEDLY BIFURCATED
13 BECAUSE I HAD YEARS WITH SAFETY RETIREMENT AND YEARS
14 WITH GENERAL RETIREMENT.
15 PRETTY MUCH HAD AN UNDERSTANDING OF MY
16 LATTER YEARS BEING THE LAST 12 -- 12 YEARS WITH THE
17 GENERAL AS OPPOSED TO MY RECOLLECTION OF THE SAFETY.
18 SO I RECALL -- I CAN ONLY SAY I RECALL READING ONE OF
19 THESE TWO DOCUMENTS TO THE EXTENT THAT I INDICATED.
20 Q. OKAY. AND I'M SORRY. I'M JUST TRYING TO
21 PIN DOWN WHICH ONE THAT WAS.
22 DO YOU THINK YOU WOULD HAVE READ THE
23 GENERAL MEMBER DOCUMENT OR THE SAFETY?
24 A. I THINK IT WAS THE SAFETY. I'M ALMOST
25 CERTAIN IT WAS THE SAFETY. YES. YES.

1 Q. OKAY. IF YOU COULD TURN TO EXHIBIT 35,
2 PAGE 8, OF THE MANUAL -- OR 8 OF THE PUBLICATION,
3 L.A. 73.
4 A. YES.
5 Q. OKAY. DO YOU SEE IN THE -- IT'S TALKING
6 ABOUT RECIPROCAL BENEFITS; DO YOU SEE THAT?
7 A. YES.
8 Q. AND THEN DOWN AT THE BOTTOM, IT TALKS ABOUT
9 THE BENEFITS THAT YOU CAN RECEIVE. DO YOU SEE THAT?
10 A. YES, I SEE IT.
11 Q. AND THEN IN THE PARAGRAPH BEFORE THAT, IT
12 SAYS:
13 "IF YOU JOIN LOS ANGELES COUNTY
14 WITHIN SIX MONTHS AFTER TERMINATING
15 EMPLOYMENT COVERED BY ANOTHER
16 RECIPROCAL SYSTEM, IT HAS A
17 RECIPROCAL RELATIONSHIP WITH
18 L.A.C.E.R.A. AND DEFER YOUR
19 RETIREMENT BENEFITS TO THAT SYSTEM
20 THEN" --
21 AND THEN IT TELLS YOU THE BENEFITS; DO YOU
22 SEE THAT?
23 A. YES.
24 Q. DO YOU RECALL READING THAT?
25 A. I RECALL READING THIS, YES.

1 Q. AND WHEN DID YOU RECALL READING THAT?
2 A. AGAIN, I THINK IT WAS MAYBE A YEAR OR TWO
3 PRIOR TO RETIRING.
4 Q. COULD YOU PLEASE TURN TO EXHIBIT 36.
5 DO YOU RECALL RECEIVING A BOOKLET THAT
6 LOOKS LIKE WHAT YOU SEE IN EXHIBIT 36?
7 A. YES, I DO.
8 Q. JUST TAKE A MOMENT AND PERUSE IT. I JUST
9 WANT TO ASK YOU --
10 MR. RIEGER: ACTUALLY, I'LL JUST
11 OFFER EXHIBIT 36 INTO EVIDENCE. YOUR HONOR, I OFFER
12 EXHIBIT 36.
13 THE COURT: OKAY. ONE MOMENT.
14 OKAY. ANY OBJECTION?
15 MR. JENSEN: SOLELY TO THE -- IT SEEMS LIKE
16 ON THE FRONT PAGE THERE'S SOME DELINEATION IN
17 HANDWRITING: "A.S.D. 544 AT NUMBER 2009."
18 THE COURT: ON PAGE 101?
19 MR. JENSEN: YEAH, ON 101.
20 THE COURT: MINE DOESN'T HAVE ANY --
21 MR. JENSEN: IT'S LIKE --
22 MR. RIEGER: IT DOES. IT'S IN THE UPPER
23 LEFT-HAND CORNER, "A.S.D. 554, 2009."
24 THE COURT: I SEE.
25 MR. JENSEN: I DON'T KNOW IF THERE'S OTHER

1 HANDWRITTEN MATERIAL THROUGHOUT.
2 MR. RIEGER: THIS IS IT RIGHT HERE. IT'S
3 HOW IT CAME TO ME. I'VE GOT THE BOOKLET HERE. I
4 MEAN, I DIDN'T WRITE THIS, SO I DON'T KNOW WHAT TO
5 SAY.
6 MR. JENSEN: I'M JUST CURIOUS IF THERE'S
7 ANY OTHERS IN IT OR WHO WROTE THAT?
8 MR. RIEGER: I DON'T. THAT'S JUST --
9 THAT'S HOW IT CAME TO ME.
10 MR. JENSEN: ARE THERE ANY OTHER CHANGES TO
11 THE BOOK?
12 MR. RIEGER: I HAVE NO IDEA.
13 MR. JENSEN: CAN I TAKE A LOOK AT IT?
14 MR. RIEGER: SURE.
15 MR. JENSEN: AND, YOUR HONOR, I'M JUST
16 GOING TO THUMB THROUGH IT AND SEE IF THERE'S
17 ANYTHING --
18 MR. RIEGER: FOR THE RECORD, I'M JUST
19 HANDING THE ORIGINAL BOOKLET THAT WAS PHOTOCOPIED TO
20 MAKE THIS EXHIBIT TO COUNSEL.
21 THE COURT: OKAY.
22 MR. JENSEN: AND I'M JUST BRIEFLY LOOKING
23 THROUGH IT TO SEE IF THERE ARE ANY OTHER DELINEATIONS
24 OR CROSS-OUTS OR OTHERWISE COMPLETE...
25 AND IT APPEARS OTHER THAN THE HANDWRITING

1 ON THE TOP CORNER OF 101, THERE DOESN'T SEEM TO BE
2 ANY OTHER HANDWRITING. SO JUST WITH THAT
3 OBJECTION -- JUST WITH THAT NOTATION, I HAVE NO
4 OBJECTION.
5 THE COURT: OKAY. SO NOTED. 36 IS
6 ADMITTED.
7 (DEPARTMENT'S EXHIBIT NUMBER 36 WAS
8 MARKED FOR IDENTIFICATION BY THE COURT AND
9 RECEIVED INTO EVIDENCE.)
10 BY MR. RIEGER:
11 Q. DO YOU RECALL REVIEWING THIS PUBLICATION?
12 A. I RECALL REVIEWING IT BUT NOT READING IT
13 PAGE BY PAGE.
14 Q. DO YOU RECALL WHEN YOU WOULD HAVE REVIEWED
15 IT?
16 A. I DON'T -- I DON'T HAVE A TIMELINE ON
17 WHEN -- WHEN I RECEIVED IT OR WHEN I PICKED IT UP OR
18 WHEN I READ IT, BUT I REMEMBER THE LIGHT BULB ON THE
19 FRONT.
20 Q. OKAY. COULD YOU PLEASE TURN TO L.A. 119.
21 THAT'S PAGE 15 OF THE BOOKLET.
22 A. YES.
23 Q. DO YOU SEE THAT ON THE BOTTOM HALF OF THE
24 PAGE IT SAYS:
25 "REQUIREMENTS FOR ESTABLISHING

1 RECIPROCITY"?
2 DO YOU SEE THAT?
3 A. YES.
4 Q. OKAY. AND THE FIRST BULLET POINT SAYS:
5 "YOU MUST BECOME A MEMBER OF A
6 RECIPROCAL AGENCY" --
7 COURT REPORTER: CAN YOU PLEASE SLOW DOWN
8 WHEN YOU READ.
9 MR. RIEGER: OH.
10 COURT REPORTER: THANK YOU.
11 MR. RIEGER:
12 "YOU MUST BECOME A MEMBER OF A
13 RECIPROCAL AGENCY WITHIN SIX MONTHS
14 AFTER TERMINATING FROM L.A.C.E.R.A.
15 OR VICE VERSA."
16 BY MR. RIEGER:
17 Q. DO YOU RECALL REVIEWING THAT SENTENCE FROM
18 THIS PUBLICATION?
19 A. WELL, AS I INDICATED, I RECALL LOOKING AT
20 THE DOCUMENT BUT NO SPECIFICS ABOUT WHEN I READ IT.
21 I DID NOT READ IT PAGE BY PAGE. BUT I UNDERSTAND
22 THAT TO MEAN THE SAME AS WHAT I UNDERSTOOD ABOUT THE
23 OTHER SAFETY HANDOUTS THAT I RECEIVED.
24 Q. OKAY. AND THEN THE SECOND BULLET POINT
25 SAYS:

1 "YOUR EMPLOYMENT AT ONE PUBLIC
2 AGENCY MUST TERMINATE BEFORE
3 EMPLOYMENT AT THE NEXT PUBLIC AGENCY
4 BEGINS. OVERLAPPING SERVICE,
5 INCLUDING VACATION OR SICK TIME, MAY
6 DISQUALIFY YOU FOR RECIPROCITY."
7 DO YOU RECALL REVIEWING THAT SENTENCE IN
8 THIS PUBLICATION?
9 A. NO, I DON'T.
10 Q. BUT DO YOU RECALL THAT BEING CONSISTENT
11 WITH THINGS THAT YOU READ IN OTHER PUBLICATIONS?
12 A. WOULD I -- YES.
13 Q. OKAY. SO YOU WERE AWARE OF THIS RULE
14 BEFORE YOU RETIRED?
15 A. I WAS -- I BELIEVE I WAS AWARE OF THIS WHEN
16 I RETIRED; YES.
17 Q. AND YOU WERE AWARE OF THIS RULE BEFORE YOU
18 RECEIVED THE MAY 2009 COMMUNICATION FROM
19 L.A.C.E.R.A.?
20 A. YES.
21 Q. COULD YOU PLEASE TURN TO EXHIBIT 37.
22 DO YOU RECOGNIZE EXHIBIT 37?
23 A. NO, I DON'T.
24 Q. YOU DON'T RECALL EVER HAVING RECEIVED IT?
25 A. NO, I DON'T.

1 Q. I'M SORRY. I DIDN'T HEAR YOU.
2 A. NO, I DON'T.
3 Q. COULD YOU PLEASE TURN TO EXHIBIT 38.
4 A. YES.
5 Q. DO YOU RECALL EVER RECEIVING EXHIBIT 38?
6 A. OH, I DON'T RECALL RECEIVING THIS EXHIBIT,
7 BUT I MAY HAVE RECEIVED IT BECAUSE I REMEMBER WHEN I
8 LEFT L.A.C.E.R.A. I WITHDREW MY FUNDS THAT I HAD
9 AND --
10 Q. ARE YOU TALKING ABOUT IN THE '70S?
11 A. YES.
12 AND THIS, BECAUSE I WITHDREW IT AND BECAUSE
13 OF THE TAX IMPLICATIONS, I MAY HAVE RECEIVED THIS.
14 Q. DID YOU EVER REDEPOSIT THOSE FUNDS THAT YOU
15 WITHDREW?
16 A. I DID.
17 Q. WHEN DID YOU REDEPOSIT THOSE FUNDS THAT YOU
18 WITHDREW?
19 A. I REDEPOSITED THEM WITH L.A.C.E.R.A.
20 BETWEEN THE YEARS OF 1996 AND 2000 OR ROUGHLY
21 THEREABOUTS. THOSE FUNDS PLUS SIXFOLD.
22 Q. BECAUSE OF INTEREST?
23 (NO AUDIBLE RESPONSE.)
24 THE COURT: YES?
25 THE WITNESS: YES.

1 BY MR. RIEGER:
2 Q. COULD YOU PLEASE TURN TO EXHIBIT 39.
3 DO YOU RECALL RECEIVING EXHIBIT 39?
4 A. I DON'T RECALL SPECIFICALLY RECEIVING THIS
5 EXHIBIT. BUT NO DIFFERENT THAN THE PRIOR EXHIBIT, I
6 MAY HAVE RECEIVED IT IN CONJUNCTION WITH MY
7 WITHDRAWAL.
8 Q. COULD YOU PLEASE TURN TO EXHIBIT 41.
9 I THINK YOU MENTIONED YOU HAD VISITED THE
10 L.A.C.E.R.A. WEBSITE ON OCCASION?
11 A. ON ONE OCCASION, I BELIEVE, YES.
12 Q. OH, JUST ONE OCCASION?
13 A. ONE OR TWO.
14 Q. ONE OR TWO. DO YOU RECALL EVER LOOKING AT
15 A SCREENSHOT ON THE L.A.C.E.R.A. WEBSITE THAT LOOKS
16 LIKE EXHIBIT -- I'LL JUST ASK YOU TO TAKE A LOOK AT
17 EXHIBIT 41.
18 IT APPEARS TO BE MULTIPLE COPIES OF THE
19 SAME SCREENSHOT. THIS IS HOW THEY WERE PRODUCED TO
20 ME. THEY JUST APPEAR TO BE MULTIPLE COPIES OF THE
21 SAME SCREENSHOT. SO LET'S JUST FOCUS --
22 MR. JENSEN: LET ME NOTE THAT THEY DO NOT
23 SEEM TO BE IDENTICAL BECAUSE 186 SAYS DIFFERENT THAN
24 THE PRIOR PAGES, AND SOME OF THEM HAVE DATES AT THE
25 BOTTOM OF THEM. IN FACT, THEY APPEAR TO HAVE

1 DIFFERENT DATES.
2 BY MR. RIEGER:
3 Q. YEAH. SO I JUST WANT TO -- MY ONLY
4 QUESTION IS WHETHER YOU RECALL EVER SEEING A
5 SCREENSHOT ON THE L.A.C.E.R.A. WEBSITE THAT LOOKS
6 LIKE THE SCREENSHOTS THAT YOU SEE ON EXHIBIT 41?
7 MR. JENSEN: OBJECTION; VAGUE AS TO TIME.
8 MR. RIEGER: I'M TALKING ABOUT THE ONE OR
9 TWO TIMES THAT HE VISITED THE WEBSITE.
10 MR. JENSEN: THEN THERE'S -- THESE ARE
11 DIFFERENT PAGES AT DIFFERENT TIMES.
12 MR. RIEGER: I'LL JUST FOCUS ON THE FIRST
13 PAGE.
14 THE WITNESS: YES. I MAY HAVE BECAUSE,
15 I -- LIKE I SAID, I SURFED THE -- PRACTICALLY THE
16 ENTIRE SITE WHILE I HAD ACCESS TO IT.
17 BY MR. RIEGER:
18 Q. SO WHEN YOU SEE THE -- LOOKING AT
19 EXHIBIT 41, DO YOU RECALL WHEN YOU SURFED THE WEBSITE
20 EVER SEEING SOMETHING THAT SAID WITHIN SIX MONTHS YOU
21 MUST BECOME EMPLOYED BY ANOTHER PUBLIC AGENCY COVERED
22 BY A RECIPROCAL RETIREMENT SYSTEM WITHIN CALIFORNIA
23 TO QUALIFY FOR IT?
24 DO YOU RECALL SEEING SOMETHING LIKE THAT
25 WHEN YOU SURFED THE WEBSITE?

1 A. I DON'T RECALL SEEING THIS PAGE AS WELL AS
2 OTHER PAGES BECAUSE I WAS MORE FOCUSED ON TRYING TO
3 UNDERSTAND THE WEBSITE AS WELL AS TRYING TO -- I WAS
4 MORE INTERESTED IN GENERATING MY RETIREMENT
5 ALLOWANCE.
6 BUT I MAY HAVE SURFED THIS. I MAY HAVE
7 LOOKED AT IT, BUT I DIDN'T REALLY -- I DIDN'T READ
8 EVERY PAGE THAT I OPENED ON THE WEBSITE.
9 Q. AND I'M JUST ASKING FOR YOUR BEST
10 RECOLLECTION AS YOU SIT HERE TODAY WHETHER YOU READ
11 ABOUT THAT SIX-MONTH RULE WHEN YOU WERE ON THE
12 WEBSITE?
13 A. NO. BECAUSE I BELIEVE AROUND THAT TIME --
14 I MEAN, IT'S VAGUE, BUT I DON'T REMEMBER READING IT
15 SPECIFICALLY.
16 Q. IF YOU COULD PLEASE TURN TO EXHIBIT 42.
17 DO YOU RECALL RECEIVING A DOCUMENT THAT
18 LOOKS LIKE WHAT YOU SEE IN EXHIBIT 42?
19 A. I REMEMBER SEEING IT, BUT I DON'T REMEMBER
20 WHERE I RECEIVED IT OR FROM WHOM I RECEIVED IT.
21 Q. BUT YOU DO REMEMBER RECEIVING THIS
22 DOCUMENT?
23 A. IT LOOKS FAMILIAR.
24 MR. RIEGER: YOUR HONOR, I'D LIKE TO MOVE
25 EXHIBIT 42 INTO EVIDENCE.

1 MR. JENSEN: NO OBJECTION TO 42.
2 THE COURT: IT'S ADMITTED.
3 (DEPARTMENT'S EXHIBIT NUMBER 42 WAS
4 MARKED FOR IDENTIFICATION BY THE COURT AND
5 RECEIVED INTO EVIDENCE.)
6 BY MR. RIEGER:
7 Q. AND, MR. GUIDO, IF YOU COULD PLEASE TURN TO
8 EXHIBIT 43.
9 ACTUALLY, BEFORE WE TALK ABOUT 43, A FEW
10 MINUTES AGO YOU TESTIFIED THAT YOU WERE AWARE OF THE
11 CONCURRENT RULE BEFORE YOU RECEIVED THE LETTER FROM
12 L.A.C.E.R.A. IN MAY 2009; IS THAT RIGHT?
13 A. COULD YOU RESTATE THAT?
14 Q. I BELIEVE A FEW MINUTES AGO YOU TESTIFIED
15 THAT YOU WERE AWARE OF THAT CONCURRENT -- I'M SORRY.
16 I NEED TO BE MORE SPECIFIC.
17 WE WERE LOOKING AT THE RULE THAT SAID THAT
18 YOUR SERVICE -- YOU HAD TO TERMINATE SERVICE WITH ONE
19 SYSTEM BEFORE JOINING THE OTHER SYSTEM FOR
20 RECIPROCITY TO APPLY; DO YOU REMEMBER THAT RULE?
21 A. YES.
22 Q. OKAY. AND YOU TESTIFIED THAT YOU KNEW THAT
23 RULE BEFORE YOU RECEIVED THE LETTER FROM L.A.C.E.R.A.
24 IN MAY OF 2009; IS THAT RIGHT?
25 A. YES.

1 Q. DO YOU RECALL APPROXIMATELY HOW MUCH LONGER
2 BEFORE YOU RECEIVED THAT LETTER YOU WERE AWARE OF
3 THAT RULE? HOW FAR BACK DID YOUR KNOWLEDGE GO?
4 A. CAN YOU KIND OF REFRESH MY MEMORY ON THE
5 2009 --
6 Q. I'LL JUST ASK YOU, TO THE BEST OF YOUR
7 RECOLLECTION, APPROXIMATELY WHEN DID YOU BECOME FIRST
8 AWARE OF THE RULE THAT YOU HAD TO TERMINATE
9 MEMBERSHIP -- EXCUSE ME -- TERMINATE EMPLOYMENT WITH
10 ONE EMPLOYER BEFORE STARTING EMPLOYMENT WITH THE
11 OTHER EMPLOYER IN ORDER FOR RECIPROCITY TO APPLY?
12 A. TO MY BEST ESTIMATE, IT WAS AROUND 2003.
13 Q. OKAY. SO THAT'S CONSISTENT WITH WHEN YOU
14 LEARNED THE SIX-MONTH RULE AS WELL; IS THAT RIGHT?
15 A. THAT'S RIGHT.
16 Q. OKAY. SO IN 2003, YOU WERE AWARE THAT FOR
17 RECIPROCITY TO APPLY YOU HAD TO JOIN YOUR SECOND
18 SYSTEM WITHIN SIX MONTHS AFTER TERMINATING WITH YOUR
19 FIRST SYSTEM; IS THAT RIGHT?
20 A. YES, THAT'S RIGHT.
21 Q. AND YOU WERE AWARE SPECIFICALLY THAT YOU
22 HAD TO TERMINATE WITH YOUR FIRST SYSTEM; IS THAT
23 RIGHT?
24 A. YES.
25 Q. IN OTHER WORDS, YOU COULDN'T JUST WORK FOR

1 BOTH ALL AT THE SAME TIME LIKE YOU DID IN THE '70S?
2 A. THAT'S RIGHT.
3 Q. AND I'M REFERRING TO YOUR TIME WITH THE
4 DEPUTY SHERIFF AND THE CITY COUNCIL OF CUDAHY.
5 A. THAT'S CORRECT.
6 Q. OKAY. SO EXHIBIT 43, IF YOU COULD -- DO
7 YOU RECALL RECEIVING EXHIBIT 43, SOMETHING THAT LOOKS
8 LIKE EXHIBIT 43?
9 MR. JENSEN: OBJECTION; VAGUE AS TO TIME.
10 BY MR. RIEGER:
11 Q. EVER?
12 A. I DON'T RECALL.
13 Q. SO THIS DOCUMENT DOESN'T LOOK FAMILIAR TO
14 YOU?
15 A. WELL, ALL THESE DOCUMENTS LOOK FAMILIAR TO
16 ME BECAUSE WHEN I TURN THROUGH THE PAGES, THEY ALL
17 BASICALLY SAY THE SAME THING.
18 SO I'M AT A LOSS AS TO DELINEATE WHICH ONES
19 I RECALL RECEIVING AND WHICH ONES I RECALL REVIEWING
20 AND READING, BECAUSE, LIKE I SAID, IF I THUMB THROUGH
21 SOMETHING AND I SEE THE SAME THING, "SELECTING A
22 PLAN," "SOCIAL SECURITY ELIGIBILITY," I READ THAT AND
23 I WAS FAMILIAR WITH THOSE THINGS, SO I WOULD NOT
24 ALWAYS READ THEM.
25 IN THIS CASE, I JUST DON'T EVEN REMEMBER

1 EVEN RECEIVING THIS.
2 Q. AND I'M JUST ASKING FOR YOUR BEST
3 RECOLLECTION.
4 A. BECAUSE IT ALL KIND OF BECOMES A -- IT KIND
5 OF MELDS IN MY MIND, AND I CAN'T SORT OUT ALL THESE
6 DOCUMENTS, WHETHER I, IN FACT, RECEIVED THEM OR DID
7 NOT.
8 Q. OKAY. SO YOUR BEST RECOLLECTION IS THAT
9 YOU DON'T KNOW ONE WAY OR THE OTHER WHETHER YOU
10 RECEIVED EXHIBIT 43?
11 A. NO.
12 Q. OKAY. IF YOU COULD PLEASE TURN TO
13 EXHIBIT 44.
14 DO YOU EVER RECALL REVIEWING A PUBLICATION
15 THAT LOOKS LIKE EXHIBIT 44?
16 A. I DON'T HAVE ANY RECOLLECTION OF READING
17 THIS PUBLICATION.
18 Q. PLEASE TURN TO EXHIBIT 45.
19 I'M SORRY. I THINK YOU SAID "READING." DO
20 YOU HAVE ANY RECOLLECTION OF EVER EVEN SEEING IT?
21 A. I DON'T.
22 Q. OKAY. TURN TO EXHIBIT 45, PLEASE.
23 A. YES.
24 Q. DO YOU RECALL RECEIVING THIS PUBLICATION?
25 A. WHEN -- CAN YOU GIVE ME AN ESTIMATE OF

1 WHEN?
2 Q. JUST IF YOU EVER -- DOES IT LOOK FAMILIAR
3 TO YOU? DO YOU BELIEVE YOU EVER RECEIVED IT?
4 A. I'M CONFUSED WITH ANOTHER ONE NOW BECAUSE
5 THERE'S ANOTHER ONE THAT HAD A LIGHT BULB ON IT. I
6 DID RECEIVE ONE, AND I DON'T -- I DO REMEMBER
7 RECEIVING ONE, AND I CAN'T REMEMBER DISTINGUISHING
8 BETWEEN WHICH ONE I DID RECEIVE SO I'M NOT SURE I
9 RECEIVED THIS.
10 IT LOOKS FAMILIAR. IT MAY HAVE BEEN THE
11 ONE I REFERENCED PREVIOUSLY THAT HAD THE ROUND LIGHT
12 BULB ON IT.
13 Q. OKAY. IF YOU COULD PLEASE TURN TO
14 L.A. 318. THAT'S PAGE 15 OF EXHIBIT 45.
15 AND SO DO YOU SEE THE DISCUSSION OF
16 REQUIREMENTS FOR ESTABLISHING RECIPROCITY ON THAT
17 PAGE?
18 A. YES, I DO.
19 Q. OKAY. SO I'M JUST -- WE'VE SEEN TWO THAT
20 HAVE A LIGHT BULB ON THEM. DOES READING THIS PAGE
21 REMIND YOU OF WHICH ONE YOU RECEIVED?
22 A. NO, IT DOESN'T.
23 MR. RIEGER: YOUR HONOR, I'D LIKE TO OFFER
24 EXHIBIT 45 INTO EVIDENCE.
25 MR. JENSEN: I THINK HE'S TESTIFIED THAT HE

1 DOESN'T KNOW WHICH OF THE TWO HE'S RECEIVED, SO IT'S
2 LACK OF FOUNDATION. I BELIEVE HE HASN'T
3 AUTHENTICATED HIS RECEIPT OF THIS DOCUMENT OR IS
4 CONFUSED WITH THE OTHER ONE, OR AS OPPOSED TO THE
5 OTHER ONE.
6 MR. RIEGER: I'M OFFERING -- WE HAVE TWO
7 THAT HAVE LIGHT BULBS ON THEM. HE'S CERTAINLY
8 RECEIVED AT LEAST ONE OF THEM. THEY BOTH SAY THE
9 SAME THING.
10 I JUST WANT IT INTO EVIDENCE SO THERE'S NOT
11 SOME HOLE WHERE I'M GOING TO HEAR LATER THAT -- THEY
12 BOTH SAY THE SAME THING.
13 WE KNOW THAT HE RECEIVED ONE OF THEM. SO
14 I'M ASKING THEM BOTH TO BE INTO EVIDENCE WITH THE
15 UNDERSTANDING THAT THE WITNESS'S MEMORY IS NOT
16 PERFECT ON THIS SUBJECT.
17 MR. JENSEN: WELL, IF THEY BOTH SAY THE
18 SAME THING, YOU DON'T NEED THEM BOTH IN. THAT WOULD
19 BE CUMULATIVE.
20 AND IN REFERENCE TO 36 AND 45, THEY SEEMS
21 LIKE THEY REFER TO DIFFERENT PLANS. SO IF YOU WANT
22 TO DEVELOP IT, JEFF -- MR. RIEGER, IN ORDER TO LAY
23 THE FOUNDATION FOR IT, I MEAN --
24 MR. RIEGER: I'D LIKE TO OFFER THEM INTO
25 EVIDENCE FOR THE PURPOSE OF WHAT I'VE ARTICULATED,

1 AND THAT'S MY REQUEST.
2 MR. JENSEN: THE PURPOSE THAT HE'S RECEIVED
3 THEM OR THAT THEY EXIST?
4 MR. RIEGER: I'M JUST TRYING TO DEAL WITH
5 AN IMPERFECT MEMORY. WE ALREADY HAVE ONE OF THESE
6 INTO EVIDENCE. THE WITNESS HAS ALREADY SAID THAT THE
7 FIRST LIGHT BULB DOCUMENT THAT HE DID RECEIVE.
8 BUT I BELIEVE HIS MORE RECENT TESTIMONY HAS
9 PERHAPS CALLED THAT INTO QUESTION, AND NOW IT'S
10 EITHER THAT ONE OR THIS ONE. AND THEY BOTH SAY THE
11 SAME THING WITH RESPECT TO RECIPROCITY.
12 I'M JUST ASKING THAT THERE NOT BE A HOLE IN
13 THE EVIDENCE WHEN WE HAVE A VERY CLEAR CONCLUSION IN
14 HIS TESTIMONY THAT HE RECEIVED AT LEAST ONE OF THESE.
15 THE COURT: SO 36 IS FOR SAFETY MEMBERS AND
16 45 IS FOR GENERAL MEMBERS. IS THAT THE WAY THESE
17 BREAK DOWN?
18 MR. RIEGER: YEAH. BUT THE WITNESS'S
19 TESTIMONY WAS BASED ON THE LIGHT BULB. THAT WAS MY
20 ISSUE.
21 HE'S NOW UNCERTAIN WHICH ONE OF THESE HE
22 RECEIVED, SO I THINK IT'S APPROPRIATE FOR THEM BOTH
23 TO BE IN EVIDENCE BASED ON THE FACT THAT HE KNOWS HE
24 RECEIVED AT LEAST ONE OF THE THEM.
25 THE COURT: ALL RIGHT. I DON'T HAVE A

1 PROBLEM WITH THESE BOTH BEING IN EVIDENCE GIVEN THE
2 STATE OF THE RESPONDENT'S TESTIMONY AS LONG AS
3 THERE'S NO ISSUE ABOUT THE AUTHENTICITY OF THESE,
4 THAT THESE ARE AS THEY PURPORT TO BE.
5 SO ABSENT ANY INFORMATION LIKE THAT, I
6 THINK I CAN ADMIT BOTH OF THEM, AND I'LL JUST HAVE TO
7 MAKE A DECISION IF IT'S MATERIAL.
8 MR. JENSEN: RIGHT. AND THE ONLY -- THE
9 ONLY OBSERVATION I WAS MAKING IS THAT IF THERE'S A
10 QUESTION OF HIS RECEIPT OF THE INFORMATION, HE'S
11 TESTIFIED HE'S RECEIVED EXHIBIT 36 AND HE HASN'T
12 TESTIFIED HE'S RECEIVED 45.
13 THE COURT: WELL, HE'S -- MY UNDERSTANDING
14 IS HE INITIALLY SAID HE RECEIVED 36 BECAUSE OF THE
15 LIGHT BULB.
16 THEN WHEN HE SAW THIS, HE SAW THE LIGHT
17 BULB AND HE SAID, "WELL, NOW, I'M NOT SURE IF I GOT
18 ONE OF THESE OR BOTH OF THESE, BUT THE LIGHT BULB
19 RINGS A BELL. SO I THINK IT'S CLOSE ENOUGH."
20 MR. JENSEN: YEAH. IT'S NOT A -- IT'S NOT
21 WORTH MAKING A BIG DEAL AS LONG AS THE OBJECTIONS ARE
22 NOTED.
23 THE COURT: THEY'RE NOTED. OVERRULED.
24 I'LL ADMIT 45.
25 / / /

1 (DEPARTMENT'S EXHIBIT NUMBER 45 WAS
2 MARKED FOR IDENTIFICATION BY THE COURT AND
3 RECEIVED INTO EVIDENCE.)
4 THE COURT: OKAY. GO AHEAD.
5 BY MR. RIEGER:
6 Q. MR. GUIDO, IF YOU COULD TURN TO EXHIBIT 36,
7 PLEASE.
8 A. YES.
9 Q. DO YOU RECALL EVER RECEIVING OR REVIEWING
10 EXHIBIT 46?
11 MR. JENSEN: IS IT 36 OR 46?
12 MR. RIEGER: 46. DID I SAY 36?
13 THE COURT: YES.
14 MR. RIEGER: I'M SORRY. I THOUGHT I SAID
15 46.
16 THE WITNESS: NO, I DON'T RECALL RECEIVING
17 IT.
18 BY MR. RIEGER:
19 Q. EXHIBIT 47 LOOKS QUITE A BIT LIKE ONE
20 YOU'VE ALREADY SAID YOU DON'T RECALL SEEING, BUT I
21 STILL WANT TO ASK YOU. EXHIBIT 47 LOOKS A LITTLE
22 DIFFERENT FROM 43 SO I JUST WANT TO ASK YOU, DO YOU
23 RECALL EVER RECEIVING OR REVIEWING EXHIBIT 47?
24 A. IF YOU HELP ME WITH A DATE, I MIGHT BE ABLE
25 TO --

1 Q. I JUST WANT YOUR BEST RECOLLECTION BASED --
2 AND IF YOU TAKE TIME TO REVIEW IT, TAKE ALL THE TIME
3 YOU NEED. I JUST WANT YOUR BEST RECOLLECTION IF YOU
4 RECALL AS YOU SIT HERE TODAY RECEIVING IT.
5 A. I CAN'T SAY.
6 Q. OKAY.
7 A. I CAN'T SAY.
8 Q. IF YOU COULD PLEASE TURN TO EXHIBIT 48.
9 DO YOU RECALL RECEIVING THE DOCUMENT THAT
10 LOOKS LIKE EXHIBIT 48?
11 A. I VAGUELY REMEMBER RECEIVING THIS IN A
12 PACKET WHEN I -- WHEN I RESUMED EMPLOYMENT WITH THE
13 COUNTY IN 2006 -- WAIT; I'M SORRY -- 1996.
14 Q. OKAY. SO YOU RECALL RECEIVING A DOCUMENT
15 THAT LOOKS LIKE EXHIBIT 48?
16 A. I BELIEVE SO; YES.
17 Q. DID YOU READ THAT DOCUMENT?
18 A. I DON'T RECALL READING THIS DOCUMENT
19 BECAUSE IT WAS GIVEN TO ME WITH -- WITH ABOUT TWO OR
20 THREE POUNDS OF OTHER MATERIAL WHEN I -- WHEN I MET
21 WITH THE EXECUTIVE OFFICE IN THE COUNTY WHEN I
22 STARTED WORKING THERE.
23 Q. OKAY. IF YOU COULD PLEASE TURN TO
24 EXHIBIT 49, WHICH IT APPEARS TO BE ESSENTIALLY THE
25 SAME AS EXHIBIT 48; WOULD YOU AGREE?

1 MR. JENSEN: OBJECTION. HE'S NOT QUALIFIED
2 TO DETERMINE THE DIFFERENCES BETWEEN TWO
3 PUBLICATIONS.
4 MR. RIEGER: I'LL WITHDRAW THE QUESTION.
5 IT'S OKAY.
6 BY MR. RIEGER:
7 Q. I'M SORRY. WHEN DID YOU SAY YOU BELIEVED
8 YOU RECEIVED THE DOCUMENT THAT LOOKED LIKE
9 EXHIBIT 48?
10 A. WHEN I STARTED -- WHEN I WENT BACK TO WORK
11 FOR THE COUNTY OF LOS ANGELES IN 1996.
12 Q. I'LL MOVE ON TO EXHIBIT 50.
13 I'LL JUST -- SORRY. MR. GUIDO, HAVE YOU --
14 DO YOU RECALL EVER SEEING A DOCUMENT THAT LOOKS LIKE
15 EXHIBIT 50? PLEASE TAKE YOUR TIME TO REVIEW IT.
16 AS YOU CAN SEE, IT'S ALSO A COPY OF WHAT
17 APPEARS TO BE A BOOKLET. IT'S NARROW SO I'D JUST
18 LIKE TO ASK YOU IF YOU RECALL RECEIVING A BOOKLET
19 ABOUT "L.A.C.E.R.A. WITHDRAWAL/RECIPROCITY."
20 A. I DON'T RECALL. I MAY HAVE RECEIVED IT
21 WHEN I WITHDREW MY FUNDS.
22 Q. YOU DON'T RECALL ONE WAY OR THE OTHER EVER
23 RECEIVING THIS?
24 A. I WANT TO -- I WANT TO SAY THAT I MAY HAVE
25 SEEN THIS, YES, IN MAYBE '70 -- I REALLY CAN'T SAY.

1 I DON'T RECALL RECEIVING IT. IF YOU GIVE ME A
2 TIMELINE ON IT --
3 Q. THAT'S OKAY. IF YOU DON'T RECALL, THAT'S
4 FINE.
5 A. OKAY.
6 MR. RIEGER: YOUR HONOR, WHAT TIME ARE WE
7 GOING TO TAKE OUR MORNING BREAK?
8 THE COURT: 10:30, GENERALLY. BUT IF THIS
9 IS A GOOD TIME, WE CAN DO IT NOW. YOUR CALL.
10 MR. RIEGER: NOW WOULD BE NICE, ACTUALLY,
11 IF THAT'S OKAY WITH EVERYONE ELSE.
12 MR. JENSEN: AND, YOUR HONOR, IF I CAN JUST
13 UPDATE. THERE SEEMS TO BE SOME KIND OF SCHEDULING
14 CONFUSION WITH MR. HENRY. HE KNEW HE WAS SCHEDULED
15 TODAY, SO I'M TRYING TO GET HIM HERE AS SOON AS
16 POSSIBLE.
17 HE'S UNDER SUBPOENA, SO IT MAY HAVE BEEN A
18 PROBLEM WITH MY OFFICE. IT MAY HAVE BEEN A PROBLEM
19 WITH HIS SCHEDULING. I'M NOT QUITE SURE. BUT HE IS
20 AWARE HE WAS ON CALL TODAY, AND WE'LL GET HIM HERE AS
21 SOON AS WE CAN.
22 MR. RIEGER: I WOULD LIKE TO FINISH WITH
23 MR. GUIDO SINCE WE HAVE HIM ON THE STAND. THAT WOULD
24 BE MY INTENTION.
25 THE COURT: HOW MUCH LONGER DO YOU THINK

1 YOUR CROSS WILL BE?
2 MR. RIEGER: I DON'T THINK IT'S GOING TO BE
3 MORE THAN 30 MINUTES.
4 MR. JENSEN: IF I CAN JUST TELL MY --
5 INFORM MY OFFICE SO THAT HE CAN CALL HIM AND TRY AND
6 GET HIM TO COME -- IT WILL BE AFTER LUNCH OR
7 SOMETHING LIKE THAT?
8 MR. RIEGER: WELL, IF HE CAN BE HERE BY
9 11:00, WE CAN PROBABLY -- OH, I'M SORRY. THERE'S
10 GOING TO BE REDIRECT. I'M SORRY.
11 THE COURT: OKAY. LET'S GO OFF THE RECORD.
12 (WHEREUPON, A RECESS WAS HELD
13 FROM 10:21 A.M. TO 10:43 A.M.)
14 THE COURT: OKAY. LET'S GO BACK ON THE
15 RECORD.
16 WE'RE BACK FROM OUR MORNING RECESS.
17 MS. DANIEL HAS JOINED US.
18 MR. RIEGER, YOU MAY CONTINUE.
19 MR. RIEGER: THANK YOU.
20 BY MR. RIEGER:
21 Q. MR. GUIDO, YESTERDAY YOU TESTIFIED ABOUT
22 SOME COMMUNICATIONS YOU'VE HAD WITH MR. PELLMAN AND
23 MR. HONG, TWO ATTORNEYS; DO YOU RECALL THAT
24 TESTIMONY?
25 A. YES.

1 Q. DID YOU EVER ASK MR. PELLMAN OR MR. HONG
2 WHETHER YOU MIGHT STILL BE ABLE TO ACCOMPLISH YOUR
3 GOAL OF INCREASING YOUR CALPERS PENSION BY TAKING A
4 CALPERS JOB AT THAT TIME?
5 A. NO. THE MEETING FOCUSED STRICTLY ON
6 GETTING UNDERSTANDING OF THE LETTER I RECEIVED FROM
7 L.A.C.E.R.A. AND FINDING OUT HOW IT WAS THAT I HAD
8 CORRESPONDENCE FROM CALPERS UP UNTIL THE TIME I
9 RETIRED AND I ESTABLISHED RECIPROCITY.
10 AND SO THE DISCUSSIONS ALL FOCUSED ON THAT,
11 TRYING TO GET AN UNDERSTANDING FROM AT LEAST ONE
12 AGENCY.
13 Q. DID YOU EVER ASK ANYONE AT CALPERS IF YOU
14 COULD STILL ACCOMPLISH YOUR GOALS OF INCREASING YOUR
15 CALPERS FINAL COMPENSATION BY TAKING A
16 CALPERS-COVERED JOB AFTER YOU LEARNED THAT
17 RECIPROCITY HAD BEEN DENIED?
18 A. WELL, I DIDN'T BELIEVE RECIPROCITY HAD BEEN
19 DENIED BECAUSE I FELT UNEQUIVOCALLY CLEAR THAT I HAD
20 ESTABLISHED RECIPROCITY.
21 THERE WAS NO DOUBT IN MY MIND THAT I DID
22 NOT, FOR HAVING TAKEN ALL THE MEASURES I WAS REQUIRED
23 TO DO AT THE TIME I SUBMITTED MY -- AT THE TIME I
24 MADE MY INQUIRIES, THE RECONFIRMATION, RECEIVED A
25 SECOND LETTER SUBMITTING MY APPLICATION FOR

1 RETIREMENT, THERE WASN'T ANY DOUBT IN MY MIND.
2 IT NEVER CROSSED MY MIND TO TRY TO UNWIND
3 THE WHOLE PROCESS.
4 Q. OKAY. BUT ON -- SOON AFTER JUNE 5, YOU DID
5 LEARN THAT CALPERS WAS BASING YOUR ALLOWANCE ON YOUR
6 CUDAHY COMPENSATION; IS THAT CORRECT?
7 A. YES.
8 Q. AND THEN WITHIN A MONTH AFTER THAT, YOU HAD
9 VERY CLEAR INDICATION FROM CALPERS THAT CALPERS WAS
10 DENYING RECIPROCITY; ISN'T THAT RIGHT?
11 A. THAT'S CORRECT.
12 Q. OKAY. SO ONCE YOU KNEW THAT RECIPROCITY
13 HAD BEEN DENIED BY CALPERS, DID YOU EVER ASK THOSE
14 TWO LAWYERS WHETHER YOU COULD STILL ACCOMPLISH YOUR
15 GOAL OF INCREASING YOUR CALPERS RETIREMENT ALLOWANCE
16 BY TAKING A JOB WITH A CALPERS-COVERED EMPLOYER?
17 MR. JENSEN: I'M GOING TO ASSERT AN
18 OBJECTION ABOUT ATTORNEY-CLIENT PRIVILEGE. I
19 PROBABLY SHOULD HAVE DONE IT ON THE EARLIER INQUIRY,
20 BUT I WANT TO ASSERT THAT PRIVILEGE. AND IF
21 MR. GUIDO WANTS TO WAIVE IT, THAT'S HIS RIGHT TO.
22 MR. RIEGER: AND MY RESPONSE IS THAT I
23 THINK HE WAIVED IT YESTERDAY BY TALKING ABOUT HIS
24 CONVERSATION. I THINK IT'S WAIVED ANYWAY BY VIRTUE
25 OF THIS PROCEEDING AND HIS KNOWLEDGE OF THAT ISSUE.

1 AND I THINK MR. JENSEN IS RIGHT. HE DID
2 NEED TO ASSERT IT EARLIER IF HE WANTED TO. I THINK
3 IT'S BEEN WAIVED TODAY AS WELL.
4 MR. JENSEN: IT'S ACTUALLY A DIFFERENT
5 CONVERSATION WITH A DIFFERENT SUBJECT OF THE
6 CONVERSATION.
7 SO WITH RESPECT TO WHETHER HE TOOK
8 ANOTHER -- WHETHER HE ASKED -- WHETHER HE WAS GOING
9 TO TAKE ANOTHER CALPERS JOB IS A SEPARATE INQUIRY
10 INTO WHATEVER MR. RIEGER IS INQUIRING RIGHT NOW WITH
11 RESPECT TO THE PRIVILEGE OF THE ATTORNEY-CLIENT
12 COMMUNICATIONS.
13 THE COURT: ALL RIGHT. SO WHAT WAS THE
14 TESTIMONY FROM MR. GUIDO THAT YOU BELIEVE CONSTITUTES
15 HIS WAIVING THE PRIVILEGE?
16 MR. RIEGER: WELL, HE YESTERDAY DISCUSSED
17 HIS COMMUNICATIONS WITH HIS LAWYERS AT THE TIME --
18 HIS TESTIMONY YESTERDAY WAS THAT HE GOT THIS LETTER
19 FROM L.A.C.E.R.A. IN MAY, AND SOON AFTER GETTING THE
20 LETTER, HE CONSULTED WITH LAWYERS, AND HE TESTIFIED
21 ABOUT THOSE COMMUNICATIONS THAT HE HAD WITH THOSE
22 LAWYERS.
23 SO I THINK THAT HAS ALREADY WAIVED THE
24 PRIVILEGE WITH RESPECT TO HIS COMMUNICATIONS. I
25 DON'T BELIEVE HE'S ALLOWED TO PICK AND CHOOSE WHICH

1 SENTENCES OR CONCEPTS HE CHOOSES TO WAIVE FROM THOSE
2 COMMUNICATIONS, FIRST OF ALL.
3 SECOND OF ALL, IN THESE PROCEEDINGS, HIS
4 KNOWLEDGE ABOUT THE RULES OF RECIPROCITY IS AT ISSUE.
5 SO TO THE EXTENT HE RECEIVED KNOWLEDGE FROM HIS
6 LAWYERS, I THINK THE RECEIPT OF THAT KNOWLEDGE, THE
7 PRIVILEGE DOES NOT APPLY BECAUSE IT'S AT ISSUE IN
8 THIS HEARING.
9 AND THEN, LASTLY, AS I SAID JUST A FEW
10 MINUTES AGO, I ALREADY ELICITED SOME ANSWERS. THERE
11 WAS NO OBJECTION. THERE WAS TESTIMONY. SO I THINK
12 FOR ALL THOSE REASONS, WHATEVER PRIVILEGE ATTACHES IS
13 WAIVED.
14 THE COURT: ALL RIGHT. I DON'T AGREE WITH
15 THE SECOND CONCEPT. THERE'S NO STATE OF MIND
16 EXCEPTION TO THE ATTORNEY-CLIENT PRIVILEGE.
17 SO JUST BECAUSE -- JUST BECAUSE HE MAY OR
18 MAY NOT HAVE ACCESS TO DISCUSSIONS WITH ATTORNEYS AND
19 HIS KNOWLEDGE OF EVENTS ARE RELEVANT, IT DOESN'T MEAN
20 THAT HE NO LONGER HAS AN ATTORNEY-CLIENT PRIVILEGE.
21 THE FIRST POINT, IF I'M REMEMBERING THE
22 TESTIMONY CORRECTLY, WHAT THE TESTIMONY YESTERDAY
23 WAS, THE GIST OF IT WAS THAT THE ATTORNEYS WERE
24 REPORTING BACK TO HIM WHAT THE AUTHORITIES AT
25 L.A.C.E.R.A. AND/OR CALPERS HAD TOLD HIM, AND IT

1 SEEMED LIKE IT WAS LIMITED TO THAT AS OPPOSED TO THIS
2 IS WHAT THEY'RE GENERALLY ADVISING ME.
3 DO I --
4 MR. RIEGER: WELL, I THINK HE DID TALK
5 ABOUT HIS COMMUNICATIONS WITH THEM. I THINK HE SAID
6 SOMETHING ABOUT HOW THEY WERE SURPRISED TO SEE IT. I
7 DON'T RECALL EXACTLY HOW DETAILED HE GOT YESTERDAY,
8 BUT HE CERTAINLY DID TALK ABOUT THE COMMUNICATIONS.
9 I WOULD RESPECTFULLY DISAGREE ON THE SECOND
10 POINT. I MEAN, I --
11 THE COURT: ALL RIGHT. SO THE SECOND POINT
12 I'VE ALREADY MADE MY DECISION.
13 MR. RIEGER: OKAY. SO I WOULDN'T PUSH IT
14 THEN.
15 SO I THINK, TO ME, IT'S A QUESTION OF
16 WHETHER HE GETS TO PICK AND CHOOSE WHICH ASPECTS OF
17 HIS COMMUNICATION WITH HIS LAWYERS. I MEAN, WITHOUT
18 PUSHING THE SECOND POINT, BUT PARTICULARLY IN LIGHT
19 OF THE FACT THAT HIS KNOWLEDGE --
20 THE COURT: ALL RIGHT. THAT'S NOT AN
21 EXCEPTION TO THE ATTORNEY-CLIENT PRIVILEGE SO FORGET
22 THAT.
23 MR. RIEGER: OKAY. YEAH. I'M NOT
24 ASSERTING THAT AS ITS OWN BASIS.
25 I'M SAYING IN LIGHT OF THE FACT THAT HE WAS

1 PROVIDING TESTIMONY YESTERDAY ABOUT COMMUNICATIONS HE
2 HAD WITH THESE LAWYERS IN A VERY RELEVANT TIME
3 PERIOD, I DON'T THINK THAT THE ATTORNEY-CLIENT
4 PRIVILEGE ALLOWS HIM TO PICK AND CHOOSE WHICH WORDS
5 HE TALKS ABOUT AND WHICH ONES HE DOESN'T.
6 I MEAN, I THINK HE'S OPENED THE DOOR TO THE
7 COMMUNICATION. I'LL REST ON THAT, AND I'LL ACCEPT
8 YOUR HONOR'S ORDER, WHATEVER IT MAY BE.
9 THE COURT: ALL RIGHT. SO THE ISSUE IN MY
10 MIND, MR. JENSEN, IS IF THERE'S ALREADY BEEN
11 TESTIMONY AS TO WHAT THESE ATTORNEYS HAVE ALREADY
12 TOLD HIM IN THE SCOPE OF THEIR ASSIGNMENT FOR HIM,
13 AND THEN JUST A FEW MOMENTS AGO HIS ANSWERING THE
14 QUESTION ABOUT DID THEY -- WAS THERE DISCUSSION ABOUT
15 TRYING TO RECALIBRATE THE CALPERS BENEFIT AND GETTING
16 A NEW JOB AND THINGS OF THAT MATTER, DOES THAT NOT
17 WAIVE THE PRIVILEGE?
18 MR. JENSEN: I THINK TO THE EXTENT THAT IF
19 THEY -- HE ANSWERED THAT QUESTION, I DON'T THINK IT
20 WAIVED EVERYTHING ELSE THAT THEY MIGHT HAVE
21 DISCUSSED.
22 I MEAN, MR. RIEGER ASKED A QUESTION ABOUT A
23 SPECIFIC THING WHICH MR. GUIDO ANSWERED, BUT I DON'T
24 THINK THAT WAS THE SUBSTANCE OF THE COMMUNICATION.
25 AND JUST BECAUSE HE HAPPENED TO ANSWER THAT ONE

1 QUESTION, WHICH WAS -- IT DOESN'T OPEN THE DOOR TO
2 ALL THE OTHER COMMUNICATIONS THAT MAY HAVE OCCURRED.
3 I THINK WHAT MR. GUIDO TESTIFIED TO
4 YESTERDAY WAS THAT HE REASONABLY RELIED ON
5 COMMUNICATIONS THAT WERE FROM L.A.C.E.R.A. AND THAT
6 HE REASONABLY SOUGHT ADVICE ABOUT SOMETHING THAT WAS
7 A CHANGE IN HIS -- IN HIS EXPECTATION, AND HE WAS
8 GIVEN REASONABLE REASON TO PROCEED WITH HIS
9 RETIREMENT AND NOT -- AND NOT HAVE THAT NOTICE
10 INTERRUPT WITH WHAT HIS EXPECTATION WAS WITH CALPERS,
11 WHICH WAS A SEPARATE PARTY.
12 SO I DON'T THINK HE WAIVES THE WHOLE SCOPE
13 OF THE ATTORNEY-CLIENT COMMUNICATION. I MEAN, IT'S
14 MR. GUIDO'S OPTION TO TESTIFY ABOUT THAT, AND I THINK
15 MR. RIEGER'S SPECIFIC QUESTION ABOUT THAT ONE ASPECT
16 DOESN'T EVEN FOCUS ON WHAT THE COMMUNICATION WAS.
17 HE ACTUALLY ASKED IF SOMETHING OCCURRED,
18 AND MR. GUIDO SAID NO, IT DIDN'T OCCUR. SO I
19 THINK -- YOU KNOW, HE ASKED IF THEY (SIC) WERE
20 CONSIDERING GETTING ANOTHER CALPERS JOB, AND HE SAID
21 NO, WHICH WOULD BE OUTSIDE THE SCOPE OF THE
22 ATTORNEY-CLIENT COMMUNICATION ANYWAY.
23 THE COURT: ALL RIGHT. IT SEEMS -- I DON'T
24 WANT TO HAVE SOMEBODY WAIVE AN ATTORNEY-CLIENT
25 PRIVILEGE INADVERTENTLY, AND IT SEEMS LIKE THIS

1 SITUATION IS ANALOGOUS TO AN INSURANCE BAD-FAITH
2 CASE.
3 FOR EXAMPLE, IF A CARRIER RETAINS AN
4 ATTORNEY TO DO COVERAGE OPINION AND THEN SAYS WE
5 RELIED ON THE ADVICE OF THE ATTORNEY IN MAKING OUR
6 DECISION, ONCE THEY DO THAT, THEY WAIVE THE ENTIRE
7 PRIVILEGE ON THAT POINT, NOT JUST BITS AND PIECES OF
8 IT.
9 SO IF IT'S MR. GUIDO'S INTENTION TO USE THE
10 INFORMATION HE RECEIVED FROM THE TWO ATTORNEYS,
11 MR. PELLMAN AND HONG, TO THEN ARGUE IN THIS MATTER AS
12 A MATTER OF FACT THAT SOME OF HIS THINKING WAS BASED
13 ON WHAT THEY WERE TELLING HIM AT THE EVENTS IN
14 QUESTION, THEN I THINK THAT WOULD PROBABLY WAIVE THE
15 PRIVILEGE.
16 SO I THINK IF HE WANTS TO GO FORWARD WITH
17 THAT EVIDENCE AND RELY ON IT IN THAT CASE, THEN I
18 HAVE TO OPEN UP THE QUESTIONING TO MR. RIEGER. IF HE
19 DOESN'T, THEN I THINK THE WAY WE CAN FIX THIS IS TO
20 STRIKE ALL THAT TESTIMONY AND MOVE ON AND PROTECT THE
21 PRIVILEGE.
22 MR. JENSEN: AND LET ME JUST TAKE HIM OUT
23 CONFIDENTIALLY AND TALK TO HIM ABOUT IT BECAUSE I
24 DON'T KNOW WHAT THE SCOPE OF THAT COMMUNICATION WAS.
25 MR. RIEGER: AND, YOUR HONOR, I'M FINE WITH

1 THAT. I AGREE WE SHOULD BE CAUTIOUS. IF HE WANTS TO
2 CONSULT WITH HIS CLIENT, THAT'S FINE. I JUST WANT TO
3 CLARIFY ONE THING.
4 I'M NOT REALLY ASKING A NEW QUESTION.
5 MAYBE WE CAN GO BACK TO THE RECORD AND CONFIRM THAT.
6 I ASKED THE QUESTION AND THEN HIS ANSWER WAS NO, BUT
7 THEN HE QUALIFIED IT BECAUSE HE WAS SAYING THAT HE
8 DIDN'T REALLY KNOW RECIPROCITY WAS DENIED. AND THIS
9 WAS JUST A FOLLOW-UP QUESTION.
10 HE ALREADY ANSWERED MY QUESTION. HE SAID
11 HE DIDN'T CONSULT WITH THEM. AND THEN HE SAID THAT
12 WAS BECAUSE I DIDN'T THINK RECIPROCITY WAS DENIED,
13 AND THEN I ESTABLISHED THAT HE DID KNOW RECIPROCITY
14 WAS DENIED A LITTLE BIT LATER, AND I'M REALLY JUST
15 FOLLOWING UP.
16 THE COURT: ON THE QUESTION ABOUT WHETHER
17 HE ASKED THE ATTORNEYS ABOUT TAKING A CALPERS JOB AT
18 THAT TIME WOULD REDEFINE HIS BENEFITS?
19 MR. RIEGER: YEAH. I ALREADY ASKED THAT
20 QUESTION, HE ALREADY ANSWERED IT, AND THEN HE
21 QUALIFIED IT BY SAYING HE HAD NO REASON TO ASK THE
22 QUESTION. AND I WAS JUST FOLLOWING UP, ESTABLISHING
23 THAT HE DID HAVE REASON TO ASK THE QUESTION. SO IT'S
24 NOT EVEN A NEW LINE OF INQUIRY.
25 HAVING SAID THAT, YOU KNOW, IF WE NEED TO

1 TAKE A BREAK, THAT'S FINE.
2 THE COURT: WELL, MY CONCERN, THOUGH, IS --
3 OKAY. THAT MAKES SENSE, BUT, YOU KNOW, IS THE
4 FOLLOW-UP LIMITED TO THAT OR IS THIS GOING TO KEEP
5 GOING? SO I'M TRYING TO HEAD THIS OFF AT THE PASS.
6 MR. RIEGER: YOU KNOW, IT'S LIMITED TO
7 THAT, BUT ALSO, I MAY ASK HIM QUESTIONS ABOUT HIS
8 ABILITY TO ASK THESE QUESTIONS EVEN IF HE DIDN'T, BUT
9 I DON'T THINK I'M GOING TO GO INTO ANY OTHER -- I
10 DON'T THINK I'M GOING TO GO INTO ANY OTHER REALMS OF
11 COMMUNICATION WITH HIS LAWYERS.
12 I THINK IT'S JUST THIS.
13 MR. JENSEN: AND, YOUR HONOR, JUST FOR
14 PURPOSES OF ALLOWING HIM TO INQUIRE TO THE FULL
15 EXTENT THAT HE WANTS TO IN CROSS SO THAT I CAN
16 REDIRECT HIM -- I MEAN, IT'S MR. GUIDO'S OPTION
17 WHETHER HE WANTS TO COMMUNICATE TO ME IN PRIVATE OR
18 WAIVE IT HERE.
19 HE'S HEARING THIS CONVERSATION. I DON'T --
20 I DON'T KNOW SO I CAN'T REALLY DO IT FOR HIM. HE IS
21 THE OWNER OF THE PRIVILEGE, AND I DON'T THINK IT'S
22 BEEN WAIVED SO FAR.
23 BUT IF HE DOES INTEND TO RELY ON IT, YOUR
24 RULING IS CLEAR THAT WE WANT TO ALLOW THAT INQUIRY
25 INTO IT TO THE FULL EXTENT, AND THAT'S MR. GUIDO'S

1 DECISION.
2 THE COURT: ALL RIGHT. WHAT I'LL DO IS,
3 MR. RIEGER, I'LL LET YOU FOLLOW UP TO THAT ONE
4 QUESTION. AND THEN WE'LL TAKE A SHORT RECESS, AND
5 MR. GUIDO AND MR. JENSEN, YOU GUYS CAN CHAT ABOUT IT.
6 AND THEN YOU CAN COME BACK IN AND TELL US
7 WHAT YOU WANT TO DO, AND THEN WE'LL LEAVE IT UP TO
8 MR. RIEGER TO FOLLOW UP AS HE DEEMS FIT.
9 OKAY. SO YOU WANTED TO ASK THAT FOLLOW-UP
10 ON THE PRIOR QUESTION.
11 BY MR. RIEGER:
12 Q. SO, MR. GUIDO, EARLIER YOU TESTIFIED THAT
13 YOU DID NOT ASK YOUR ATTORNEYS IF THERE WAS A WAY TO
14 ACCOMPLISH YOUR GOALS OF INCREASING YOUR CALPERS
15 BENEFIT BY TAKING A CALPERS-COVERED JOB; IS THAT
16 RIGHT?
17 A. THAT'S CORRECT.
18 MR. JENSEN: AND JUST FOR THE PURPOSE OF
19 THE RECORD, I CONTINUE TO ASSERT THE ATTORNEY-CLIENT
20 PRIVILEGE.
21 THE COURT: OKAY. OVERRULED.
22 GO AHEAD.
23 BY MR. RIEGER:
24 Q. AND SO I TAKE IT FROM YOUR FOLLOW-UP
25 RESPONSE THAT YOU WERE REFERRING TO THE INITIAL

1 COMMUNICATIONS IN MAY; IS THAT RIGHT?
2 A. YES.
3 Q. OKAY. BECAUSE IN MAY, YOU STILL BELIEVED
4 YOU HAD RECIPROCITY WITH CALPERS; IS THAT RIGHT?
5 A. YES.
6 Q. OKAY. SO NOW, IN JUNE, YOU DID LEARN THAT
7 CALPERS HAD DENIED RECIPROCITY; IS THAT RIGHT?
8 A. YES.
9 Q. SO AFTER YOU LEARNED THAT CALPERS HAD
10 DENIED RECIPROCITY, AT THAT POINT, DID YOU EVER
11 CONSULT WITH YOUR LAWYERS ABOUT WHETHER YOU COULD
12 STILL ACCOMPLISH YOUR GOAL OF INCREASING YOUR CALPERS
13 TIME ALLOWANCE BY TAKING A JOB WITH A CALPERS-COVERED
14 EMPLOYER?
15 A. NO.
16 THE COURT: WAS THAT THE FOLLOW-UP?
17 MR. RIEGER: THAT'S THE FOLLOW-UP.
18 THE COURT: OKAY. WE'RE GOING TO GO OFF
19 THE RECORD.
20 (WHEREUPON, A RECESS WAS HELD
21 FROM 10:58 A.M. TO 11:12 A.M.)
22 THE COURT: LET'S GO BACK ON THE RECORD.
23 OKAY. WE'RE BACK FROM A BRIEF RECESS.
24 MR. JENSEN?
25 MR. JENSEN: YES, YOUR HONOR. MR. GUIDO

1 AND I HAVE HAD AN EXTENSIVE CONVERSATION. HE AND THE
2 ATTORNEYS ARE PERSONAL FRIENDS, AND THERE ARE OTHER
3 MATTERS AS WELL THAT THEY HAVE DISCUSSED. BUT
4 MR. GUIDO RECEIVED THIS -- HAD THESE COMMUNICATIONS
5 AND RELIED ON THEM IN THIS MATTER.
6 SO TO THE EXTENT -- YOU KNOW, THIS IS
7 IMPORTANT TESTIMONY FOR HIM. SO TO THE EXTENT THAT
8 THAT IS MATERIAL IN THIS SITUATION, WHICH WE BELIEVE
9 IT IS, THEN HE WILL WAIVE THE ATTORNEY-CLIENT
10 PRIVILEGE, AND I'VE ASKED HIM TO AFFIRM THAT WITH
11 RESPECT TO THOSE COMMUNICATIONS.
12 THE COURT: OKAY. DO YOU AGREE, MR. GUIDO?
13 THE WITNESS: YES.
14 THE COURT: OKAY. JUST SO I'M CLEAR, THERE
15 WERE OTHER PERSONAL MATTERS UNRELATED TO THIS
16 SITUATION THAT HE WAS COMMUNICATING WITH MR. PELLMAN
17 AND MR. HONG?
18 MR. JENSEN: AND MAYBE MR. GUIDO CAN SPEAK
19 TO THOSE -- I MEAN, NOT TO THOSE AND THE SITUATION,
20 BUT THEY WERE PERSONAL FRIENDS AND THERE WERE OTHER
21 COMMUNICATIONS TOO.
22 SO TO THE EXTENT THAT THE WAIVER OF, YOU
23 KNOW, ATTORNEY-CLIENT-PRIVILEGE DISCUSSION IS RELATED
24 FOR THIS MATTER IS NARROW WITH RESPECT TO THE
25 COMMUNICATIONS ABOUT THE -- REALLY THE L.A.C.E.R.A.

1 DENIAL LETTER IS WHAT HE'S RELYING ON AND HIS
2 COMMUNICATIONS WITH CALPERS.
3 OTHER MATTERS, ESPECIALLY PERSONAL MATTERS
4 OR OTHER ATTORNEY-CLIENT MATTERS, HE DOES NOT WAIVE
5 THOSE.
6 MR. RIEGER: I WON'T ASK ABOUT OTHER
7 ATTORNEY-CLIENT MATTERS OR PERSONAL MATTERS.
8 THE COURT: OKAY. SO WE'RE GOING TO STEER
9 CLEAR OF THE OTHER PERSONAL MATTERS AND JUST FOCUS ON
10 THE L.A.C.E.R.A. AND CALPERS RETIREMENT APPLICATION
11 MATTERS.
12 JUST SO I'M ALSO CLEAR, WHEN I HEAR
13 "PERSONAL FRIENDS," I THINK ABOUT SITUATIONS WHERE
14 YOU COULD JUST CHAT WITH SOMEONE WHO HAPPENS TO BE AN
15 ATTORNEY AND NOT NECESSARILY DEVELOP AN
16 ATTORNEY-CLIENT RELATIONSHIP BECAUSE YOU'RE TALKING
17 WITH SOMEONE WHO HAPPENS TO BE AN ATTORNEY.
18 SO ARE YOU ARGUING THAT THERE ACTUALLY WAS
19 AN ATTORNEY-CLIENT RELATIONSHIP THAT WAS CREATED BY
20 THEIR COMMUNICATIONS OR --
21 MR. JENSEN: MY UNDERSTANDING IS THERE WAS
22 NO COMPENSATION PAID, BUT HE SOUGHT THEM IN A FORMAL
23 SETTING FOR ADVICE ABOUT THIS MATTER. AND I THINK
24 THAT FALLS WITHIN THE ATTORNEY-CLIENT PRIVILEGE
25 COVERAGE.

1 SO EVEN NONCOMPENSATED MATTERS WHICH ARE
2 ADVISORY, EVEN IF YOU'RE PERSONAL FRIENDS, IT FALLS
3 WITHIN THE CONUNDRUM OF POTENTIAL OF
4 ATTORNEY-CLIENT -- I MEAN, THE POTENTIAL OF ATTORNEY
5 CLIENT BEGINNING OF THE RELATIONSHIP. BUT THERE WAS,
6 AS I UNDERSTAND, NO COMPENSATION PAID FOR IT.
7 HOWEVER, THERE WAS -- THE SUBSTANCE OF THE
8 MEETING WAS AN HOUR OR SO, SO IT WAS NOT A CASUAL
9 DISCUSSION, AS I UNDERSTAND IT.
10 THE COURT: OKAY. YOUR THOUGHTS ON THIS,
11 MR. RIEGER?
12 MR. RIEGER: WELL, I MEAN, I THINK
13 MR. JENSEN HAS BASICALLY ARTICULATED THE CORRECT RULE
14 OF ATTORNEY-CLIENT PRIVILEGE. COMPENSATION IS NOT
15 DISPOSITIVE.
16 I THINK THESE MATTERS WOULD BE PRIVILEGED
17 HAD THEY NOT BEEN PUT AT ISSUE HERE. THEY'VE NOW
18 CLEARLY BEEN WAIVED, SO I THINK WE'RE ALL ON THE SAME
19 PAGE.
20 THE COURT: OKAY. JUST GIVE ME ONE MOMENT.
21 OKAY. THANK YOU ALL FOR CLARIFYING THAT.
22 SO YOU MAY CONTINUE, MR. RIEGER.
23 BY MR. RIEGER:
24 Q. SO, MR. GUIDO -- I'M SORRY. I AM GOING TO
25 ASK A COUPLE MORE QUESTIONS. NOW THAT THE PRIVILEGE

1 HAS CLEARLY BEEN WAIVED, I AM GOING TO ASK A COUPLE
2 MORE QUESTIONS ABOUT YOUR COMMUNICATIONS WITH THE
3 LAWYERS.
4 YOU MENTIONED THAT AS FAR BACK AS 2003 YOU
5 KNEW THAT TO ESTABLISH RECIPROCITY YOU HAD TO
6 TERMINATE EMPLOYMENT WITH THE FIRST EMPLOYER AND
7 BEGIN EMPLOYMENT WITH THE SECOND EMPLOYER WITHIN
8 SIX MONTHS; IS THAT RIGHT?
9 A. YES.
10 Q. DID YOU EVER ASK MR. PELLMAN OR MR. HONG IF
11 THEY AGREED WITH YOUR UNDERSTANDING ON THAT POINT?
12 A. I NEVER HAD ANY DISCUSSIONS WITH THEM AT
13 ALL WHATSOEVER REGARDING MY RETIREMENT OR ANY ASPECT
14 OF MY RETIREMENT PLANS AND MY RETIREMENT FILING UNTIL
15 20 -- I CAN'T REMEMBER BUT UNTIL THAT TIME BASICALLY,
16 THAT GENERAL TIME I RECEIVED THAT LETTER.
17 Q. AND I'M ASKING YOU ABOUT THOSE
18 COMMUNICATIONS IN MAY OF 2009. AT THAT TIME, YOU
19 WERE AWARE OF THIS SIX-MONTH RULE THAT I'VE JUST
20 ARTICULATED?
21 A. YES.
22 Q. AND YOU HAD BEEN AWARE OF THAT SINCE 2003?
23 A. YES.
24 Q. AND I'M JUST ASKING YOU IF YOU CONFIRMED
25 THAT YOUR UNDERSTANDING ABOUT THE SIX-MONTH RULE WAS

1 CORRECT. DID YOU ASK YOUR LAWYERS IF YOUR
2 UNDERSTANDING OF THAT SIX-MONTH RULE WAS CORRECT?
3 MR. JENSEN: OBJECTION; MISSTATES HIS
4 TESTIMONY. HE WAS AWARE, BUT THAT WASN'T NECESSARILY
5 HIS UNDERSTANDING OF THE RULE.
6 THE COURT: ALL RIGHT. OVERRULED.
7 YOU CAN ANSWER.
8 THE WITNESS: CAN YOU REPEAT THE QUESTION,
9 PLEASE?
10 BY MR. RIEGER:
11 Q. DID YOU EVER ASK MR. PELLMAN OR MR. HONG
12 ABOUT THE RULE THAT REQUIRES YOU TO TERMINATE
13 EMPLOYMENT AND BEGIN EMPLOYMENT WITH A NEW EMPLOYER
14 WITHIN SIX MONTHS TO ESTABLISH RECIPROCITY?
15 A. NO.
16 Q. YOU ALSO TESTIFIED EARLIER THAT YOU WERE
17 AWARE AS FAR BACK AS 2003 THAT YOU ACTUALLY DID HAVE
18 TO TERMINATE EMPLOYMENT WITH THE FIRST EMPLOYER IN
19 ORDER FOR RECIPROCITY TO APPLY; IS THAT RIGHT? DID
20 YOU TESTIFY IN THAT MANNER EARLIER?
21 A. YES, SEVERAL TIMES.
22 Q. OKAY. DID YOU EVER ASK -- WHEN YOU WERE
23 COMMUNICATING WITH MR. PELLMAN AND MR. HONG AFTER YOU
24 GOT YOUR DENIAL LETTER FROM L.A.C.E.R.A., DID YOU
25 EVER ASK MR. PELLMAN OR MR. HONG ABOUT THE RULE THAT

1 YOU ACTUALLY HAD TO TERMINATE EMPLOYMENT IN ORDER FOR
2 RECIPROCITY TO APPLY?
3 A. I DON'T RECALL HAVING THAT DISCUSSION WITH
4 THEM.
5 Q. DID YOU EVER ASK THEM AT ALL WHETHER THEY
6 THOUGHT L.A.C.E.R.A. WAS RIGHT TO DENY RECIPROCITY?
7 A. I NEVER HAD THAT -- WELL, THEY THOUGHT IT
8 WAS STRANGE THAT I WAS BEING DENIED RECIPROCITY BY
9 L.A.C.E.R.A. WHEN I HAD ALREADY -- MY RETIREMENT WAS
10 ALREADY BASED ON MY L.A.C.E.R.A. -- THE AGENCY THAT I
11 RETIRED FROM WAS THE L.A.C.E.R.A. AGENCY AND DID
12 NOT -- IT DID NOT AFFECT MY CALPERS YEARS OR TENURE.
13 Q. SO IN JUNE, YOU LEARNED THAT CALPERS HAD
14 DENIED RECIPROCITY; IS THAT RIGHT?
15 MR. JENSEN: OBJECTION; VAGUE AS TO TIME.
16 VAGUE AS TO YEAR.
17 MR. RIEGER: JUNE OF 2009.
18 BY MR. RIEGER:
19 Q. IN EARLY JUNE, YOU RECEIVED A LETTER THAT
20 CALCULATED A BENEFIT WITHOUT YOUR L.A.C.E.R.A. FINAL
21 COMPENSATION; IS THAT RIGHT?
22 A. YES.
23 Q. AND THEN YOU INQUIRED OF CALPERS IN JUNE,
24 AND ON JUNE 30 CALPERS FORMALLY RESPONDED EXPLAINING
25 THAT YOU DON'T HAVE RECIPROCITY; ISN'T THAT RIGHT?

1 A. YES.
2 Q. DID YOU EVER INQUIRE OF MR. PELLMAN OR
3 MR. HONG WHETHER CALPERS WAS CORRECT AS A MATTER OF
4 LAW TO DENY RECIPROCITY?
5 A. NO. MR. PELLMAN AND MR. HONG, MORE
6 SPECIFICALLY MR. HONG SINCE HE HAD CONVERSATIONS, WAS
7 MY LINK WITH L.A.C.E.R.A. TO GET A CLARIFICATION ON
8 HOW OR WHY I WOULD RECEIVE A LETTER FROM THEM.
9 THAT WAS THE EXTENT OF THEIR INVOLVEMENT IN
10 MY CASE -- IN MY DISCUSSIONS WITH THEM, AND THEY WERE
11 MY LINK, MY COMMUNICATION LINK, IN PROVIDING ME
12 FEEDBACK FROM THAT END.
13 Q. THIS NEXT QUESTION MAY HAVE ALREADY BEEN
14 ASKED. I APOLOGIZE. THERE WAS A BREAK, SO IF THIS
15 HAS ALREADY BEEN ASKED, I APOLOGIZE IN ADVANCE, BUT I
16 JUST WANT TO MAKE SURE.
17 DID YOU EVER ASK ANYONE AT CALPERS IF YOU
18 WERE STILL ABLE TO ACCOMPLISH YOUR GOALS OF
19 INCREASING YOUR FINAL COMPENSATION BY TAKING A
20 CALPERS-COVERED POSITION, YOU KNOW, AFTER YOU LEARNED
21 THAT CALPERS HAD DENIED RECIPROCITY?
22 A. NO. I FIGURED IN MY MIND THAT I HAD
23 RETIRED, AND IN MY MIND, IT NEVER CROSSED MY MIND HOW
24 I COULD UNRETIRE AFTER RETIRING FROM AN AGENCY.
25 BECAUSE IF I RETIRED FROM -- IF I WOULD

1 UNRETIRE FROM ONE, I WOULD BE COMPELLED TO HAVE TO
2 UNRETIRE FROM THE OTHER, AND IT WOULD HAVE BEEN A
3 CONUNDRUM OF IF IT COULD BE EVEN DONE.
4 I MEAN, I WOULD HAVE TO RETIRE FROM BOTH,
5 AND THEN I WOULD HAVE TO -- I WOULD HAVE TO HAVE THE
6 BLESSINGS OF BOTH TO BE ABLE TO DO THAT.
7 Q. DID YOU LOOK INTO THAT POSSIBILITY AT ALL?
8 A. IT NEVER -- NO. NEVER CROSSED MY MIND.
9 Q. NOT AT ANY TIME? NOT EVEN UP UNTIL TODAY?
10 A. I THINK IN PASSING I THOUGHT OF IT, BUT AT
11 THAT TIME, IT NEVER CROSSED MY MIND.
12 Q. ONCE YOU LEARNED THAT L.A.C.E.R.A. HAD
13 DENIED RECIPROCITY, DID YOU MAKE ANY EFFORT TO GET
14 THE JOB AT TEMPLE CITY AS THE CITY MANAGER?
15 A. NO, I DIDN'T. BECAUSE IT WASN'T ANY
16 BENEFIT TO ME AT THAT POINT.
17 Q. ONCE YOU WERE DENIED RECIPROCITY BY
18 L.A.C.E.R.A., DID YOU MAKE ANY EFFORT TO GET ANY
19 OTHER CALPERS-COVERED JOB?
20 A. NO.
21 Q. IS THAT TRUE UP UNTIL TODAY'S DATE?
22 A. THAT'S CORRECT.
23 MR. RIEGER: I HAVE NO MORE QUESTIONS,
24 YOUR HONOR.
25 THE COURT: OKAY. MS. DANIEL, DO YOU HAVE

1 ANY QUESTIONS FOR MR. GUIDO?
2 MS. DANIEL: NOT AT THIS TIME, YOUR HONOR.
3 THE COURT: OKAY. THANK YOU.
4 ANY REDIRECT?
5 MR. JENSEN: YES.
6
7 REDIRECT EXAMINATION
8 BY MR. JENSEN:
9 Q. MR. GUIDO, IF I CAN --
10 MR. JENSEN: YOUR HONOR, ARE WE GOING TO
11 NOON APPROXIMATELY?
12 THE COURT: YES.
13 MR. JENSEN: OKAY.
14 MR. RIEGER: I'M SORRY. WHAT WAS THE
15 QUESTION? I WAS RIPPING PAPER.
16 MR. JENSEN: I WAS ASKING --
17 THE COURT: WE'RE GOING UNTIL NOON.
18 MR. JENSEN: -- JUDGE SAWYER HOW LONG WE
19 WERE GOING.
20 MR. RIEGER: OKAY. THANK YOU. SORRY ABOUT
21 THAT.
22 BY MR. JENSEN:
23 Q. MR. GUIDO, CAN I TURN YOUR ATTENTION TO
24 EXHIBIT 6 IN THE CALPERS BINDER.
25 THE COURT: SO THE OTHER VOLUME.

1 THE WITNESS: THANK YOU.
2 BY MR. JENSEN:
3 Q. SO I JUST WANT TO CLARIFY SOME OF YOUR
4 TESTIMONY.
5 DID YOU EVER RECEIVE THIS DOCUMENT WHEN YOU
6 CHANGED RETIREMENT SYSTEMS?
7 MR. RIEGER: OBJECTION; ASKED AND ANSWERED.
8 THE COURT: OVERRULED.
9 YOU CAN ANSWER.
10 THE WITNESS: NO.
11 BY MR. JENSEN:
12 Q. MR. RIEGER HAD YOU READ FROM PAGE 3, WHICH
13 IS BATES STAMPED P.E.R.S. 75.
14 A. YES.
15 Q. AND I WANT JUST TO POINT YOUR ATTENTION TO
16 THE LITTLE ASTERISKS THERE AT THE END OF THE SECOND
17 PARAGRAPH.
18 CAN YOU READ THAT TO US?
19 THE COURT: READ IT SLOWLY.
20 THE WITNESS: I'VE GOT TO FIND IT FIRST
21 HERE.
22 THE COURT: OKAY.
23 THE WITNESS: OKAY.
24 BY MR. JENSEN:
25 Q. CAN YOU READ IT ALOUD TOO? MR. GUIDO, CAN

1 YOU READ IT ALOUD?
2 A. THE THIRD BULLET POINT?
3 Q. NO. WHERE IT SAYS -- STARTING "ELIGIBILITY
4 FOR RECIPROCITY"?
5 A. I'M SORRY. MAYBE I'M ON THE WRONG PAGE.
6 THE COURT: NO, NO. YOU'RE RIGHT. THE
7 SECOND BULLET POINT.
8 THE WITNESS: OH, I'M SORRY. OKAY.
9 BY MR. JENSEN:
10 Q. IT'S LIKE A STARRED -- IT STARTS
11 "ELIGIBILITY FOR RECIPROCITY."
12 A. (READING):
13 "ELIGIBILITY FOR RECIPROCITY IS
14 DETERMINED BY THE RETIREMENT LAWS IN
15 EFFECT AT THE TIME OF MOVEMENT
16 BETWEEN EMPLOYERS AND RETIREMENT
17 SYSTEMS. CURRENT CALPERS LAW
18 REQUIRES MOVEMENT WITHIN SIX MONTHS."
19 Q. OKAY. MR. RIEGER JUST HAD A BUNCH OF --
20 YOU LOOK AT A BUNCH OF DOCUMENTS THAT DESCRIBED
21 DIFFERENT REQUIREMENTS OF RECIPROCITY, AND YOU
22 TESTIFIED THAT IN 2003 YOU WERE AWARE THAT
23 RECIPROCITY -- TO ESTABLISH RECIPROCITY REQUIRED ONE
24 TO MOVE FROM ONE RETIREMENT SYSTEM-COVERED JOB TO A
25 CALPERS-COVERED JOB WITHIN SIX MONTHS.

1 CAN YOU EXPLAIN TO US HOW YOU BELIEVED THAT
2 YOU STILL HAD RECIPROCITY EVEN THOUGH THESE DOCUMENTS
3 DESCRIBED THESE REQUIREMENTS?
4 A. I ASSUMED THAT WHEN I MADE AN INQUIRY OF
5 CALPERS BACK IN '03 AND PROVIDED THEM WITH ALL THE
6 INFORMATION THEY ASKED ME TO PROVIDE THEM, THAT THEIR
7 DETERMINATION WAS OBVIOUSLY BASED ON WHATEVER THE
8 RETIREMENT LAWS WERE AT THAT TIME.
9 Q. AT WHICH TIME, MR. GUIDO?
10 A. AT THE TIME I JOINED CALPERS IN 1975.
11 Q. AND WHEN YOU TESTIFIED THAT YOU UNDERSTOOD
12 THESE REQUIREMENTS IN 2003, WHAT DID YOU DO? DID YOU
13 MAKE ANY INQUIRIES OF CALPERS?
14 A. CAN YOU REPEAT THAT QUESTION?
15 Q. YOU TESTIFIED THAT IN 2003 YOU REALIZED OR
16 WERE AWARE THAT THERE WAS A SIX-MONTH REQUIREMENT TO
17 CHANGE RETIREMENT SYSTEMS?
18 A. CORRECT.
19 Q. ONCE YOU WERE AWARE OF THAT, DID YOU MAKE
20 INQUIRY OF CALPERS?
21 A. YES, I DID.
22 Q. DESCRIBE THE NATURE OF THAT INQUIRY.
23 A. WELL, I KNEW THAT I WAS PREPARING TO
24 POSSIBLY CHANGE JOBS AND I KNEW I HAD OPTIONS AND I
25 WANTED TO MAKE SURE THAT SINCE I WAS PLANNING TO

1 RETIRE FIVE YEARS OUT THAT I HAD RECIPROCITY WITH --
2 I WANTED TO MAKE SURE I HAD RECIPROCITY.
3 I WANTED TO MAKE SURE I DID WHAT I NEEDED
4 TO DO TO ESTABLISH RECIPROCITY OR LINK THE TWO IN
5 WHATEVER MANNER THAT BENEFITED MY RETIREMENT
6 BENEFITS.
7 AND IT WAS THE OUTCOME OF MY INQUIRY AND
8 THE OUTCOME OF MY DISCUSSION THAT I RECEIVED THE
9 LETTER INDICATING I HAD ESTABLISHED RECIPROCITY BASED
10 ON THE INFORMATION I PROVIDED THEM.
11 Q. SO LET ME GET THIS TIMELINE STRAIGHT. DID
12 YOU FIRST BECOME AWARE OF THESE RULES ABOUT A
13 SIX-MONTH TIME TO CHANGE RETIREMENT SYSTEMS AND NO
14 OVERLAPPING SERVICE AND THEN MAKE THE INQUIRIES TO
15 CALPERS?
16 A. YES.
17 Q. AND WHAT DID YOU -- TELL US HOW YOU
18 UNDERSTOOD THOSE REQUIREMENTS AFTER YOUR INQUIRIES TO
19 CALPERS.
20 A. WELL, I HAD A GENERAL UNDERSTANDING THAT
21 THE CONDITIONS TO MEET RECIPROCITY WERE ESSENTIALLY
22 THOSE WHICH MR. RIEGER OUTLINED, THAT YOU HAVE TO
23 CHANGE AGENCIES WITHIN SIX MONTHS AND THAT YOU
24 COULDN'T HAVE ANY CONCURRENT EMPLOYMENT AS WELL AS
25 OTHER CONDITIONS THAT HE ALLUDED TO.

1 AND SO IN LIGHT OF THAT, I WANTED TO FIND
2 OUT HOW I COULD REMARRY MY, OR RECONNECT RATHER, MY
3 COUNTY TIME WITH MY CALPERS TIME TO TAKE ADVANTAGE OF
4 THE 12 YEARS THAT I HAD WITH CALPERS.
5 Q. SO AT THIS TIME, WERE YOU SEEKING TO
6 ESTABLISH RECIPROCITY, OR DID YOU BELIEVE RECIPROCITY
7 ALREADY EXISTED IN 2003?
8 A. AT WHICH TIME?
9 Q. IN 2003 WHEN YOU SAW THESE REQUIREMENTS,
10 WERE YOU SEEKING TO ESTABLISH OR REMARRY YOUR TIME OR
11 WERE YOU SEEKING A CLARIFICATION OF YOUR EXISTING
12 STATUS, PUT ON NOTICE OF THESE OTHER REQUIREMENTS?
13 A. BOTH. I WAS TRYING TO SEEK CLARIFICATION
14 TO UNDERSTAND WHAT I HAD AND WHAT I WOULD HAVE TO DO
15 TO ESTABLISH RECIPROCITY IF IT WAS AVAILABLE.
16 Q. AND ARE YOU FAMILIAR WITH THE CONCEPT OF
17 BEING GRANDFATHERED IN?
18 A. YES.
19 Q. CAN YOU EXPLAIN HOW YOUR UNDERSTANDING --
20 WHAT YOUR UNDERSTANDING OF THAT IS.
21 A. LET ME SEE IF I CAN -- GRANDFATHERING IS
22 THAT YOU ARE -- THAT ONE CAN BECOME --
23 GRANDFATHERING, MY MIND IS A LITTLE --
24 Q. IF YOU DON'T --
25 A. GRANDFATHERING MEANS BASICALLY -- IS THAT

1 YOU'RE ENTITLED TO A BENEFIT -- ALTHOUGH THE LAW HAS
2 CHANGED, YOU'RE ENTITLED TO A BENEFIT BECAUSE YOU HAD
3 A CERTAIN STATUS OR A CERTAIN SITUATION -- I DON'T
4 KNOW WHAT IT IS -- PREEXISTING LIKE ZONING OR
5 WHATEVER THAT ALLOWS YOU TO CONTINUE WITH THE SAME
6 BENEFITS YOU HAD NOTWITHSTANDING THE CHANGES IN THE
7 LAW OR ZONING OR WHATEVER.
8 Q. AND DOES THAT --
9 A. THAT'S MY UNDERSTANDING OF GRANDFATHERING.
10 Q. DID THAT CONCEPT PLAY ANY PART IN YOUR
11 UNDERSTANDING OF YOUR RECIPROCITY BENEFITS?
12 A. YES.
13 Q. AND CAN YOU EXPLAIN THAT?
14 A. WELL, AS I SAID, I JUST FIGURED THAT SINCE
15 ONCE I RECEIVED THAT LETTER INDICATING I HAD
16 ESTABLISHED RECIPROCITY, I WAS OF THE MINDSET THAT I
17 WAS BASICALLY ESSENTIALLY GRANDFATHERED BY WHATEVER
18 THE PREVAILING STATUTES WERE AT THAT TIME THAT
19 ENTITLED ME TO HAVE ESTABLISHED RECIPROCITY.
20 Q. AND JUST TO CLARIFY, ARE YOU TALKING ABOUT
21 THE LAWS IN EFFECT IN 2003 OR YOUR UNDERSTANDING OF
22 THE LAWS THAT WERE IN EFFECT AT THE TIME YOU CHANGED
23 RETIREMENT SYSTEMS?
24 A. I ASSUMED THAT THE DETERMINATION WAS MADE
25 ON THE LAWS THAT WERE IN EFFECT AT THE TIME I JOINED

1 CALPERS AND HAD MY RELATIONSHIP WITH L.A.C.E.R.A.
2 Q. SO I WANT TO GET TO THE ESSENTIAL MOTIVE
3 BEHIND YOUR -- WELL, FIRST, DESCRIBE WHAT YOUR
4 INQUIRY OF CALPERS -- I BELIEVE IT WAS TO A CONNIE
5 MALLOY IN OCTOBER 2003. DO YOU RECALL THAT
6 CONVERSATION?
7 A. THAT WAS -- MY QUESTION WITH CONNIE MALLOY
8 IN 2003 WAS BASICALLY -- WAS A GENERAL INQUIRY OF
9 FINDING OUT, YOU KNOW, WHERE I HAD TO GO OR WHO I'D
10 HAVE TO SPEAK TO. SHE GAVE ME SOME INFORMATION ON
11 WHO I NEEDED TO TALK TO OR DIVISION I NEEDED TO TALK
12 TO IN SACRAMENTO.
13 Q. AND DID YOU MAKE ANY SUBSEQUENT INQUIRIES?
14 A. I DID.
15 Q. AND CAN YOU DESCRIBE THE NATURE OF THOSE
16 SUBSEQUENT INQUIRIES TO CALPERS ABOUT RECIPROCITY?
17 A. WELL, I JUST -- I CALLED AND SPOKE TO
18 SOMEONE THERE AND BASICALLY DISCUSSED MY -- MY STATUS
19 AND PROVIDED INFORMATION.
20 I WAS A COUNTY EMPLOYEE WITH L.A.C.E.R.A.
21 AND I WAS CONTEMPLATING RETIREMENT IN THE NEXT
22 FIVE YEARS AND I WANTED TO FIND OUT EXACTLY HOW MY
23 BENEFITS LINED UP WITH L.A.C.E.R.A. WHERE I COULD
24 TAKE ADVANTAGE OF MY NINE YEARS OF SERVICE WITH
25 CALPERS.

1 Q. AND CAN YOU TELL US HOW DETAILED THE
2 INFORMATION WAS THAT YOU PROVIDED TO THIS CALPERS
3 CONTACT?
4 A. I DON'T RECALL THE LEVEL OF DETAIL, BUT I
5 PROVIDED HER -- IT WAS A WOMAN. I DON'T REMEMBER THE
6 WOMAN'S NAME, BUT I PROVIDED HER WITH -- I ANSWERED
7 ALL THE QUESTIONS SHE HAD ABOUT MY -- ABOUT MY
8 SERVICE IN BOTH SYSTEMS.
9 Q. AND DO YOU KNOW IF -- COULD YOU TELL
10 WHETHER SHE HAD REFERENCE TO OTHER INFORMATION SUCH
11 AS -- ABOUT YOU SUCH AS ON THE COMPUTER?
12 A. I CAN'T SAY. I DON'T KNOW THAT.
13 Q. AND SO AT THIS POINT, AFTER TALKING TO THE
14 CALPERS REPRESENTATIVE, DID YOU FEEL LIKE THESE
15 ISSUES ABOUT THE SIX-MONTH REJOINING A DIFFERENT
16 AGENCY AND THE BREAK IN SERVICE WERE RESOLVED?
17 A. IT SOUNDED SPECIOUSLY FAVORABLE, BUT I
18 NEVER RECEIVED A CONFIRMATION ON IT UNTIL I RECEIVED
19 A LETTER.
20 Q. WHAT DOES "SPECIOUSLY FAVORABLE" MEAN?
21 A. WELL, IT SOUNDED LIKE THE INFORMATION I HAD
22 WAS GOOD IN THAT -- I CAN'T RECALL THE DISCUSSION,
23 BUT IT WAS ENCOURAGING. LET'S PUT IT OUT. LET'S SAY
24 ENCOURAGING.
25 Q. WHICH INFORMATION THAT YOU HAD? YOU HAVE

1 TO CLARIFY WHAT YOU UNDERSTOOD FROM HER CONVERSATION
2 WITH RESPECT TO THESE TWO ISSUES THAT YOU UNDERSTOOD
3 AT THE TIME, THE SIX-MONTH BREAKUP OF SERVICE AND THE
4 OVERLAPPING SERVICE.
5 A. IT MAY HAVE BEEN HER REFERENCE TO THE YEARS
6 OF SERVICE I HAD THERE AND THE FACT THAT I WAS WITH
7 L.A.C.E.R.A. AND THAT -- I DON'T RECALL HER EXACT
8 WORDS, BUT BASED ON INFORMATION I GAVE HER REGARDING
9 MY PERIOD OF TIME THAT I WORKED THERE AND MY YEARS OF
10 SERVICE WITH L.A.C.E.R.A., THE WAY SHE RELATED IT, IT
11 SOUNDED FAVORABLE THAT I HAD ESTABLISHED THAT I HAD
12 RECIPROCITY, BUT IT REQUIRED MORE INVESTIGATION.
13 Q. AND WERE YOU UNDER THE UNDERSTANDING THAT
14 THEY WERE UNDER -- THAT CALPERS WAS UNDERTAKING THIS
15 INVESTIGATION?
16 A. I USED THE WORD "INVESTIGATION," BUT IT HAD
17 TO BE LOOKED INTO. I MEAN, YOU KNOW, I DON'T WANT TO
18 MAKE "INVESTIGATION" SOUNDS LIKE IT WAS LOOKED
19 INTO -- IT WOULD HAVE TO BE LOOKED INTO FURTHER.
20 Q. AND WHAT WAS THE NEXT EVENT THAT HAPPENED
21 REGARDING RECIPROCITY?
22 A. I RECEIVED THE LETTER IN 2003.
23 Q. AND LET'S JUST TAKE A LOOK AT THIS LETTER.
24 IS THIS THE LETTER THAT IS IN EXHIBIT 201?
25 A. YES.

1 Q. AND WITH RESPECT TO THIS LANGUAGE THAT:
2 "CALPERS HAS REVIEWED YOUR
3 ACCOUNT AND HAS DETERMINED THAT
4 RECIPROCITY HAS BEEN ESTABLISHED
5 BETWEEN CALPERS AND L.A.C.E.R.A."?
6 A. YES.
7 Q. AND THEN IT SAYS:
8 "SINCE YOU HAVE ESTABLISHED
9 RECIPROCITY."
10 DID YOU UNDERSTAND THAT TO BE A PERSONAL
11 RESOLUTION OF THESE -- THE RECIPROCITY REQUIREMENTS
12 IN YOUR SITUATION?
13 MR. RIEGER: OBJECTION; LEADING.
14 THE COURT: SUSTAINED.
15 BY MR. JENSEN:
16 Q. WHAT DID YOU UNDERSTAND THIS SECOND
17 PARAGRAPH STARTING WITH "CALPERS HAS REVIEWED YOUR
18 ACCOUNT" -- WHAT DID YOU UNDERSTAND THAT TO MEAN?
19 A. I DIDN'T UNDERSTAND IT TO MEAN IT WAS A
20 RESOLUTION OTHER THAN IT WAS A CONCLUSION THAT I HAD,
21 IN FACT, ESTABLISHED RECIPROCITY.
22 Q. AND WHAT DO YOU MEAN BY "CONCLUSION"?
23 A. WELL, IT SATISFIED MY INQUIRY TO WHERE MY
24 STATE -- TO WHERE MY OF RELATIONSHIP WAS BETWEEN THE
25 TWO AGENCIES.

1 Q. AND DID YOU UNDERSTAND THAT CALPERS HAD
2 REVIEWED YOUR ACCOUNT?
3 A. YES.
4 Q. AND WHAT DID YOU UNDERSTAND "REVIEWED YOUR
5 ACCOUNT" TO MEAN?
6 A. GOING BACK TO WHAT I SAID EARLIER, TO LOOK
7 INTO TO. I GUESS YOU COULD USE THE TERM INVESTIGATE,
8 TO VALIDATE THAT RECIPROCITY HAD BEEN ESTABLISHED.
9 Q. AND IT SAYS IN THIS LAST SENTENCE OF
10 PARAGRAPH 3:
11 "WE'VE ALSO INCLUDED THE
12 PUBLICATION 'WHEN YOU CHANGE
13 RETIREMENT SYSTEMS.'"
14 DID THEY INCLUDE THAT PUBLICATION?
15 MR. RIEGER: OBJECTION; FOUNDATION.
16 THE COURT: WHAT'S MISSING?
17 MR. RIEGER: IF HE ASKED IF HE RECEIVED IT,
18 I GUESS THAT'S LEGITIMATE. HE ASKED IF THEY INCLUDED
19 IT.
20 THE COURT: OKAY. OVERRULED.
21 DO YOU UNDERSTAND WHAT MR. JENSEN IS
22 ASKING?
23 THE WITNESS: COULD YOU RESTATE THE
24 QUESTION?
25 / / /

1 BY MR. JENSEN:
2 Q. WAS THE PUBLICATION "WHEN YOU CHANGE
3 RETIREMENT SYSTEMS" INCLUDED WITH THIS OCTOBER 6,
4 2003, LETTER?
5 A. NO.
6 Q. DID IT RAISE ANY QUESTIONS IN YOUR MIND
7 THAT THEY SAID THAT THEY INCLUDED THIS PUBLICATION
8 BUT IT WAS NOT INCLUDED?
9 A. NO. ACTUALLY, I WAS PLEASED TO FIND OUT
10 THAT I HAD ESTABLISHED RECIPROCITY, AND, YOU KNOW,
11 I -- YOU KNOW, I WASN'T CONCERNED ABOUT THAT BECAUSE
12 I WASN'T REALLY CHANGING RETIREMENT SYSTEMS.
13 SO WHATEVER THAT PUBLICATION WAS, I DIDN'T
14 SEE IT AFFECTING ME BECAUSE I HAD NO -- I WASN'T -- I
15 HAD NO INTENTIONS OF CHANGING RETIREMENT SYSTEMS
16 SINCE I -- SINCE I KNEW I HAD RECIPROCITY AS TO --
17 PRIOR TO I WOULD HAVE CHANGED -- I WOULD HAVE -- IT
18 WOULD HAVE MEANT SOMETHING TO ME, NOT HAVING RECEIVED
19 IT, HAD I FOUND OUT I DIDN'T HAVE RECIPROCITY, AND
20 THEN THIS PUBLICATION WOULD HAVE BEEN MISSING BECAUSE
21 THEN I FELT THAT WOULD HAVE HAD VALUABLE INFORMATION
22 FOR ME TO UNDERSTAND HOW I MIGHT BE ABLE TO TAKE
23 ADVANTAGE OF WHAT I SHOULD KNOW WHEN I CHANGED
24 RETIREMENT SYSTEMS.
25 Q. SO EFFECTIVELY, SINCE YOU HAD ALREADY

1 ESTABLISHED RECIPROCITY AND ALREADY CHANGED
2 RETIREMENT SYSTEMS, DID YOU THINK THAT THOSE
3 REQUIREMENTS THAT YOU SUBSEQUENTLY LEARNED, DID THOSE
4 APPLY TO YOU?
5 A. NO.
6 Q. AND SO LET ME ASK YOU ABOUT THIS 2008
7 PERIOD. AT THAT POINT, YOU WERE CONSIDERING
8 DIFFERENT OPPORTUNITIES; IS THAT CORRECT?
9 A. WHEN?
10 Q. IN 2008. WERE YOU IN 2008 -- WAIT. NOW
11 I'M MESSING UP THE TIME. SORRY.
12 IN 2008, WERE YOU CONSIDERING RETIREMENT?
13 A. YES, I WAS.
14 Q. AND WERE YOU AT THAT POINT REQUESTING
15 RECIPROCITY, OR WERE YOU REQUESTING RETIREMENT
16 ESTIMATES BASED ON RECIPROCITY?
17 A. RETIREMENT BENEFITS BASED ON RECIPROCITY.
18 Q. AND SO --
19 A. I WASN'T ACTUALLY. I MEAN, I WAS
20 REQUESTING RETIREMENT BENEFITS. THE ISSUE OF
21 RECIPROCITY NEVER CROSSED MY MIND AT THAT POINT, BUT
22 I DID ASK THEM TO REAFFIRM THAT I HAD RECIPROCITY.
23 Q. PLEASE TURN YOUR ATTENTION TO EXHIBIT 210.
24 AT THIS TIME, AROUND APRIL 3, 2009, DID
25 L.A.C.E.R.A. INDICATE TO YOU THAT RECIPROCITY HAD NOT

1 BEEN ESTABLISHED?
2 A. NO.
3 Q. AND SO WHAT REALLY IS THE NATURE OF THIS --
4 OF THIS LETTER THAT YOU ARE SENDING TO L.A.C.E.R.A.
5 REGARDING YOUR CALPERS-CREDITED SERVICE TIME?
6 A. I WAS -- I WAS JUST SATISFYING A REQUEST OF
7 ONE OF THE -- OF ONE OF THE L.A.C.E.R.A. PEOPLE THAT
8 I PROVIDE THEM WITH BASICALLY INFORMATION INDICATING
9 I HAD RECIPROCITY WITH CALPERS AND THAT -- AND AS AN
10 ASIDE, I NOTED THAT -- YOU KNOW, THAT THE FORM ALSO
11 OMITTED TO MENTION MY SERVICE TIME UNDER OTHER PUBLIC
12 AGENCIES.
13 Q. DID YOU THINK THAT L.A.C.E.R.A. COULD DENY
14 RECIPROCITY AT THIS POINT?
15 A. I DIDN'T -- I REALLY DIDN'T UNDERSTAND WHAT
16 ROLE THEY HAD IN DENYING ME.
17 Q. I'M TALKING ABOUT IN THIS PERIOD WHEN YOU
18 WRITE THIS LETTER, ARE YOU MAKING A REQUEST OF
19 L.A.C.E.R.A. TO ESTABLISH RECIPROCITY OR ARE YOU --
20 WHAT ARE YOU DOING?
21 A. I'M JUST SATISFYING THEIR INQUIRY.
22 Q. NOW, LET ME JUST TURN TO THIS LETTER IN
23 EXHIBIT 214.
24 L.A.C.E.R.A. SENDS YOU THIS LETTER
25 INDICATING RECIPROCITY IS DENIED?

1 A. YES.
2 Q. AND I WANT YOU TO TELL ME WHAT WAS THE
3 NATURE OF YOUR FIRST INQUIRY OF THE ATTORNEYS?
4 A. TO SEEK OUT CLARIFICATION ON WHAT THIS
5 MEANT SINCE I REALLY DIDN'T HAVE ANY RECIPROCITY
6 ISSUES WITH L.A.C.E.R.A.
7 Q. AND WHO DID YOU SEE FIRST, PELLMAN OR HONG?
8 A. I BELIEVE I PLACED A CALL INTO MR. PELLMAN.
9 Q. AND DID YOU TELL HIM ABOUT THE -- WELL,
10 WHAT DID YOU TELL HIM?
11 A. WE HAD A BRIEF DISCUSSION OVER THE FACTS
12 SURROUNDING THIS LETTER AND -- AND EXPLAINED THAT I
13 ALSO HAD OTHER CORRESPONDENCE TELLING ME I HAD
14 RECIPROCITY. IT HAD BEEN ESTABLISHED.
15 AND THEN WE -- HE -- WE MET TOGETHER WITH
16 MR. HONG AT MR. HONG'S OFFICE SINCE IT WAS NEAR THE
17 NOON HOUR AND -- AND DISCUSSED THE CORRESPONDENCE I
18 HAD AND MY LETTERS FROM CALPERS TOGETHER.
19 Q. AND WHAT DID YOU THINK AFTER RECEIVING THE
20 INFORMATION FROM THE ATTORNEYS?
21 A. AFTER RECEIVING --
22 Q. I MEAN, DID THE ATTORNEYS AT SOME POINT
23 GIVE YOU SOME INFORMATION ABOUT HOW YOU SHOULD
24 INTERPRET THIS LETTER WITH RESPECT TO YOUR
25 UPCOMING -- WITH RESPECT TO YOUR RECIPROCITY?

1 A. NO.
2 Q. AND SO DID YOU, AFTER CONSULTING WITH YOUR
3 ATTORNEYS, BELIEVE THAT RECIPROCITY HAD BEEN DENIED?
4 A. NO.
5 Q. WHEN YOU FILED YOUR RETIREMENT APPLICATION,
6 WAS IT ON THE BASIS OF RECIPROCITY BEING ESTABLISHED?
7 A. YES, IT WAS.
8 Q. AND NOW, AFTER -- DID YOU RETIRE
9 CONCURRENTLY FROM BOTH SYSTEMS?
10 A. YES, I DID.
11 Q. AND AFTER YOU RETIRED CONCURRENTLY, WHAT
12 WERE YOUR -- COULD HAVE YOU EASILY GONE BACK TO THE
13 LOS ANGELES COUNTY AND SAID THERE HAD BEEN A MISTAKE
14 AND THAT YOU WANTED YOUR OLD JOB BACK?
15 MR. RIEGER: OBJECTION; VAGUE AND
16 FOUNDATION.
17 THE COURT: OVERRULED.
18 YOU CAN ANSWER.
19 THE WITNESS: I BELIEVE I COULD HAVE.
20 BY MR. JENSEN:
21 Q. AND AT THAT POINT, DID YOU CONSIDER DOING
22 THAT AFTER -- AFTER YOU HAD RECEIVED THE CALPERS
23 DENIAL OF RECIPROCITY IN LATE JUNE?
24 A. NO.
25 Q. AND WHY NOT?

1 A. AS I INDICATED EARLIER, THE COUNSEL IS THAT
2 I RETIRED FROM BOTH SYSTEMS. I DIDN'T BELIEVE I HAD
3 AN OPTION TO BE ABLE TO GO BACK THROUGH AND UNRETIRE.
4 I WOULD NOT ONLY BE UNRETIRING FROM ONE BUT HAVING TO
5 UNRETIRE FROM BOTH SYSTEMS.
6 Q. AND AT THIS POINT --
7 A. I WOULDN'T EVEN KNOW IF THERE WAS EVEN A
8 JOB FOR ME AT THAT POINT EITHER IF I COULD HAVE.
9 Q. AND COUNSEL HAS MADE SOME REFERENCE THAT
10 YOU SHOULD PERHAPS GO SEEK TO GET TWO JOBS, FIRST AN
11 L.A. COUNTY JOB AND THEN RETIRE FROM THAT AND THEN
12 IMMEDIATELY OR WITHIN SIX MONTHS SEEK A CALPERS JOB.
13 MR. RIEGER: OBJECTION; MISSTATES THE
14 RECORD. I DIDN'T SUGGEST ANYTHING, AND I CERTAINLY
15 DIDN'T SUGGEST THAT.
16 THE COURT: I'LL SUSTAIN THAT OBJECTION.
17 BY MR. JENSEN:
18 Q. OKAY. WHAT WAS -- I MEAN, IN YOUR -- AT
19 THIS POINT IN YOUR LIFE, CAN YOU IMAGINE -- WELL,
20 WHAT ARE THE PROSPECTS OF YOU GOING BACK TO WORK
21 FULL-TIME FOR LOS ANGELES COUNTY AND THEN RETIRING
22 AND THEN WITHIN SIX MONTHS WORKING FOR A
23 CALPERS-CONTRACTING AGENCY IN A FULL-TIME POSITION?
24 MR. RIEGER: OBJECTION; VAGUE AND
25 RELEVANCE.

1 THE COURT: HOW IS IT NOT RELEVANT?
2 MR. RIEGER: I'M NOT SURE I SHOULD DO THIS
3 IN FRONT OF THE WITNESS, BUT WOULD YOU LIKE ME TO?
4 MR. JENSEN: DO YOU WANT HIM TO BE EXCUSED?
5 I MEAN --
6 MR. RIEGER: YEAH. MAYBE.
7 THE COURT: WELL, IT SEEMS LIKE IT WOULD BE
8 A RELEVANT INQUIRY, SO IS THERE SOMETHING OTHER THAN
9 RELEVANCE OR --
10 MR. RIEGER: WELL, I GUESS PART OF IT IS
11 IT'S A VERY LONG STRING, AND I THOUGHT IT WAS VAGUE.
12 BUT THE OTHER PART IS THERE'S AN ASSUMPTION IN THE --
13 HE'S MAKING ASSUMPTIONS ABOUT WHAT I WAS GETTING AT
14 BY MY QUESTION. THOSE ASSUMPTIONS ARE FLAWED, AND SO
15 HIS QUESTION IS IRRELEVANT.
16 THE FACT IS HE TERMINATED HIS LOS ANGELES
17 EMPLOYMENT. AND IF WE'RE EVEN TALKING ABOUT
18 RECIPROCITY, LEAVING ASIDE OTHER OPTIONS AVAILABLE TO
19 HIM, ALL HE NEEDS TO DO IS JOIN A RECIPROCAL SYSTEM
20 WITHIN SIX MONTHS. HE DOESN'T NEED TO GO BACK AND
21 THEN LEAVE AGAIN.
22 SO THAT PART OF THE QUESTION IS IRRELEVANT.
23 I DON'T KNOW IF THIS MATTERS A WHOLE LOT. I JUST
24 THINK HE'S MISSTATING THE RECORD, I MEAN, IN TERMS OF
25 WHAT MY QUESTIONS WERE.

1 THE COURT: OKAY. I DON'T WANT TO HAVE YOU
2 WASTE TIME WITH REDIRECT AND RECROSS IF YOU GUYS ARE
3 JUST CHASING EACH OTHER AROUND IN A CIRCLE AND NOT
4 PRECISELY RESPONDING TO THE OTHER'S POINTS. SO
5 THAT'S THE CONCERN I HAVE.
6 MR. JENSEN: IT'S JUST AT THIS POINT RIGHT
7 NOW, THE POINT IS WHAT ARE MR. GUIDO'S OPTIONS?
8 MR. RIEGER: YOU KNOW, I'LL JUST WITHDRAW
9 THE OBJECTION. MY FIRST OBJECTION WAS SUSTAINED
10 BECAUSE HE MADE REFERENCE TO WHAT I WAS IMPLYING. I
11 APPRECIATE THAT SUSTAINING.
12 BEYOND THAT, I'LL WITHDRAW THE OBJECTION.
13 HE CAN CONTINUE. I DON'T WANT TO WASTE THE COURT'S
14 TIME.
15 THE COURT: WHY DON'T YOU ASK IT AGAIN
16 BECAUSE I'M NOT SURE IF MR. GUIDO HAS IT IN MIND.
17 THE WITNESS: THANK YOU.
18 THE COURT: YOU'RE WELCOME.
19 BY MR. JENSEN:
20 Q. MR. GUIDO, WHAT -- I MEAN, WHAT ARE YOUR
21 REALISTIC EMPLOYMENT OPTIONS AT THIS POINT?
22 A. POST RETIREMENT?
23 Q. RIGHT NOW. TODAY.
24 A. I HAVE TO THINK ABOUT THAT.
25 I WOULD SAY THAT, WITH A SENSE OF HUMILITY,

1 I THINK IF I HAD TO, I COULD -- IT MIGHT BE
2 DIFFICULT. YOU KNOW, IT'S KIND OF AWKWARD PUTTING 64
3 OR 65 ON A JOB APPLICATION. BUT, YOU KNOW, I WOULD
4 HAVE TO LEAN ON PEOPLE THAT WOULD DO ME A FAVOR
5 MAYBE.
6 YOU KNOW, I'M NOT -- I DON'T CONSIDER
7 MYSELF A PRIME CANDIDATE AT A SENIOR-CITIZEN AGE TO
8 FIND A JOB, ESPECIALLY IN TODAY'S JOB MARKET, AND
9 PARTICULARLY IN TODAY'S JOB MARKET IN GOVERNMENT.
10 PEOPLE ARE LAYING PEOPLE OFF AND TRIMMING BUDGETS AS
11 OPPOSED TO HIRING.
12 SO I DON'T KNOW. I THINK MY -- I MEAN, I
13 MIGHT BE ABLE TO FIND SOMETHING, BUT, I MEAN, I THINK
14 IT WOULD BE VERY DIFFICULT.
15 MR. JENSEN: YOUR HONOR, WHAT I'D LIKE TO
16 DO IS JUST LOOK AT MY NOTES OVER LUNCH AND THEN
17 FINISH THE REDIRECT, IF I CAN, AND NOT CLOSE REDIRECT
18 NOW IF THAT'S -- OR WOULD YOU LIKE ME TO GO TEN MORE
19 MINUTES AND THEN BREAK FOR LUNCH?
20 THE COURT: HOW MUCH MORE TIME DO YOU THINK
21 YOU NEED?
22 MR. JENSEN: I DON'T REALLY KNOW. BUT
23 THERE'S BEEN A LOT OF TESTIMONY, AND I THINK I WOULD
24 LIKE, YOU KNOW, TO JUST MAKE SURE THAT MY NOTES ARE
25 SATISFIED. I CAN DO SOME OF -- I'M NOT SURE HOW -- I

1 DON'T WANT TO HAVE TO GO THROUGH EACH ONE OF THE
2 EXHIBITS THAT MR. RIEGER PUT INTO EVIDENCE.
3 THE COURT: OKAY. WHY DON'T WE BREAK NOW.
4 THAT WILL LET YOU FOCUS YOUR REDIRECT AND EXPEDITE
5 IT.
6 MR. RIEGER: SINCE WE HAVE A COUPLE
7 MINUTES, COULD YOUR HONOR PLEASE DO ME THE FAVOR OF
8 LETTING ME KNOW EXACTLY WHAT IS IN EVIDENCE? I
9 KNOW -- I THINK WE ALREADY WENT THROUGH MR. GUIDO'S
10 BINDER. SO I'M REALLY JUST ASKING ABOUT TODAY FROM
11 MY BINDER.
12 THE COURT: SO I'LL JUST TELL YOU WHAT'S
13 BEEN ADMITTED.
14 IS THAT WHAT YOU'RE ASKING?
15 MR. RIEGER: YES.
16 THE COURT: OKAY. EXHIBIT 14.
17 YESTERDAY 4 WAS ADMITTED.
18 MR. RIEGER: YES. THAT WAS MY FIRST
19 QUESTION. OKAY.
20 THE COURT: SO TODAY I'VE ADMITTED EXHIBITS
21 14 AND 34 THROUGH 36.
22 MR. RIEGER: 34, 35, 36.
23 THE COURT: CORRECT. 42 AND 45.
24 THERE WERE A NUMBER OF OTHER EXHIBITS THAT
25 WERE IDENTIFIED BUT NOT OFFERED.

1 MR. RIEGER: THAT'S RIGHT. OKAY. SO
2 THAT'S WHY I JUST WANTED TO MAKE SURE I KNEW WHICH
3 ONES IT WAS. SO 4, 14 AND 34 THROUGH 36, 42 AND 45?
4 THE COURT: YES.
5 MR. RIEGER: THANK YOU VERY MUCH.
6 THE COURT: YOU BET.
7 OKAY. ANYTHING ON THE RECORD?
8 MR. JENSEN: WE DO EXPECT TO HAVE MR. HENRY
9 BACK. IT MAY BE CLOSER TO 2:00. SO IF WE'RE BACK
10 IN, YOU KNOW, AN HOUR AND A HALF, I CAN FINISH UP THE
11 REDIRECT AND HE CAN RECROSS HIM AND THEN WE CAN TAKE
12 HENRY.
13 THE COURT: OKAY.
14 MR. JENSEN: THAT'S THE HOPE.
15 THE COURT: THAT SOUNDS GOOD. ALL RIGHT.
16 I'M SEE YOU AT 1:30.
17 OFF THE RECORD.
18 (WHEREUPON, A LUNCHEON RECESS WAS
19 HELD FROM 11:59 A.M. TO 1:37 P.M.)
20 ///
21 ///
22 ///
23
24
25

1 LOS ANGELES, CALIFORNIA, WEDNESDAY
2 NOVEMBER 14, 2012
3 1:37 P.M.
4
5 THE COURT: LET'S GO BACK ON THE RECORD.
6 WE'RE BACK FROM OUR LUNCH BREAK, AND WE ARE
7 CONTINUING WITH THE REDIRECT EXAMINATION OF
8 MR. GUIDO.
9 SO WHEN YOU'RE READY, MR. JENSEN.
10 MR. JENSEN: THANK YOU, YOUR HONOR.
11
12 REDIRECT EXAMINATION (RESUMED)
13 BY MR. JENSEN:
14 Q. SO BEFORE THE BREAK, YOU MENTIONED THAT
15 SEVERAL ISSUES CAME TO YOUR ATTENTION IN 2003 ABOUT
16 THE RULES OR REQUIREMENTS OF RECIPROCITY; DO YOU
17 RECALL THAT?
18 A. YES, I DO.
19 Q. AND YOU ALSO TESTIFIED THAT YOU MADE
20 INQUIRIES TO CALPERS BASED ON YOUR KNOWLEDGE OF THOSE
21 RECIPROCITY REQUIREMENTS; IS THAT CORRECT?
22 A. YES.
23 Q. CAN YOU DETAIL WHAT IS -- TELL US WHAT YOU
24 DID AND THE SPECIFIC -- OR THE INFORMATION THAT YOU
25 PROVIDED TO CALPERS AT THAT TIME IN 2003, IN

1 OCTOBER 2003.
2 A. I BELIEVE IT WAS --
3 Q. SORRY. LOOKING FOR MY -- THERE IT IS.
4 SPECIFICALLY TELL US THE SEQUENCE OF EVENTS
5 OF WHO YOU REMEMBER TALKING TO AT CALPERS AND WHAT
6 INFORMATION HE PROVIDED.
7 MR. RIEGER: I'M SORRY. WHAT TIME FRAME
8 ARE WE TALKING ABOUT HERE?
9 MR. JENSEN: WE'RE TALKING ABOUT
10 OCTOBER 2003.
11 THE WITNESS: I THINK MY DISCUSSION
12 STARTED, IF I CAN RECALL CORRECTLY, AROUND SEPTEMBER.
13 I CAN BE SPECIFIC IF I LOOKED AT THOSE --
14 BY MR. JENSEN:
15 Q. DO YOU NEED TO REFRESH YOUR RECOLLECTION
16 ABOUT THE DATE OF THE CALL?
17 A. NO. IT'S JUST BASICALLY I SPOKE TO TWO
18 PEOPLE. ONE I REMEMBER IS CONNIE MALLOY WHO I SPOKE
19 BECAUSE I KNOW HER FROM THE PAST, AND I MADE A
20 GENERAL INQUIRY ABOUT THE FACT THAT I WAS RETIRING.
21 WE TALKED ABOUT RECIPROCITY.
22 AND SHE LOOKED AT MY INFORMATION, AND SHE
23 TOLD ME THAT -- SHE REFERRED ME TO SOMEONE IN MEMBER
24 SERVICES OR BENEFITS SERVICES DIVISION IN SACRAMENTO
25 WHO COULD HELP ME.

1 AND SO I -- WE TALKED A LITTLE BIT ABOUT
2 MY -- WHAT I WAS WANTING TO DO AND ABOUT RECIPROCITY,
3 AND SHE REFERRED ME TO THIS PERSON IN SACRAMENTO --
4 NOT A PERSON, A DIVISION -- WHICH I PLACED A CALL AND
5 I SPOKE TO THAT PERSON -- I DON'T KNOW IF THAT PERSON
6 WAS AN ANALYST OR A DESK PERSON -- AND EXPLAINED THAT
7 I WAS PLANNING TO SWITCH JOBS, AND I WANTED TO MAKE
8 SURE BEFORE I SWITCHED JOBS WHAT I WOULD NEED TO HAVE
9 IN PLACE TO BE ABLE TO TAKE ADVANTAGE OF MY YEARS OF
10 SERVICE UNDER BOTH SYSTEMS, CALPERS AND L.A.C.E.R.A.
11 AND --
12 Q. AND DID YOU COMMUNICATE TO CALPERS YOUR
13 TIMES OF EMPLOYMENT WITH THE CITY OF CUDAHY AND THE
14 SHERIFF'S DEPARTMENT AND WITH THE SUPERVISOR'S
15 OFFICE?
16 A. I'M NOT SURE I PROVIDED HER WITH ALL THAT
17 INFORMATION, BUT I GAVE HER A BRIEF SUMMARY OF MY
18 EMPLOYMENT TENURE WITH CALPERS AND L.A.C.E.R.A.,
19 WHERE I WAS AT AT THAT JUNCTURE, AND THAT I WANTED TO
20 BE -- TAKE WHATEVER STEPS OR MEASURES NECESSARY TO
21 ESTABLISH RECIPROCITY.
22 I CAN'T -- I WASN'T SURE I USED THE TERM
23 "RECIPROCITY," BUT I -- BASICALLY, SHE KNEW WHAT I
24 WAS ASKING.
25 AND SHE ASKED ME A FEW QUESTIONS PERTAINING

1 TO WHO I WAS EMPLOYED BY AND BASICALLY THE PERIOD OF
2 TIME THAT I WAS EMPLOYED IN THOSE ORGANIZATIONS, AND
3 SHE MAY HAVE ASKED SOME OTHER QUESTIONS. I DON'T
4 RECALL ALL OF THEM, BUT THAT WAS THE GIST OF OUR
5 DISCUSSION.
6 Q. DID YOU PROVIDE HER WITH THE DATES OF YOUR
7 EMPLOYMENT WITH THE CITY OF CUDAHY?
8 A. I BELIEVE I DID OR -- I BELIEVE I DID.
9 Q. DID YOU PROVIDE HER WITH THE DATES OF YOUR
10 EMPLOYMENT WITH THE SHERIFF'S DEPARTMENT?
11 A. YES, I DID.
12 Q. DID YOU PROVIDE HER WITH THE DATES OF YOUR
13 EMPLOYMENT WITH THE SUPERVISOR'S OFFICE?
14 A. I TOLD HER THAT I WAS CURRENTLY EMPLOYED
15 WITH THE COUNTY OF LOS ANGELES. I DIDN'T
16 SPECIFICALLY SAY "THE SUPERVISOR'S OFFICE."
17 Q. BUT DID YOU TELL HER THE START DATE OF YOUR
18 POSITION WITH THE SUPERVISOR'S OFFICE?
19 A. YES, I DID. I TOLD HER WHEN I RESUMED
20 EMPLOYMENT WITH THE COUNTY.
21 Q. DO YOU -- AFTER PROVIDING THIS INFORMATION,
22 DID IT RESOLVE IN YOUR MIND ANY QUESTION ABOUT THE --
23 YOUR KNOWLEDGE OF THE RECIPROCITY REQUIREMENT, AGAIN
24 CONCURRENT EMPLOYMENT?
25 A. DID IT --

1 Q. YOU WERE AWARE PRIOR TO THIS TIME THAT
2 THERE WAS A RULE AGAINST CONCURRENT EMPLOYMENT?
3 A. CORRECT.
4 Q. DID YOUR KNOWLEDGE OF THAT PRECIPITATE IN
5 PART YOUR CALL TO CALPERS REGARDING THIS?
6 A. THAT AS WELL AS THE SPLIT IN SERVICE
7 TIME --
8 Q. AND AFTER THIS CALL --
9 A. -- THE GAP.
10 Q. SORRY.
11 AFTER THIS CALL, DID YOUR -- DID YOU -- HOW
12 DID YOU FEEL ABOUT THOSE ISSUES OR YOUR KNOWLEDGE
13 WITH RESPECT TO YOUR STATUS AS ATTAINING RECIPROCITY?
14 A. AS I INDICATED EARLIER, FROM THE FEEDBACK I
15 GOT FROM HER FROM WHATEVER DATA SHE LOOKED AT, I GOT
16 THE IMPRESSION THAT IT WAS A FAVORABLE SITUATION BUT
17 SHE NEEDED TO CHECK -- TO LOOK INTO IT FURTHER AND
18 GET BACK TO ME.
19 Q. AND UPON RECEIPT OF THE LETTER THAT'S IN
20 EXHIBIT 201, HOW DID YOU FEEL LIKE ANY -- HOW DID YOU
21 FEEL ABOUT ANY UNCERTAINTY YOU HAD ABOUT RECIPROCITY
22 WAS ADDRESSED?
23 A. WELL, I FELT -- I FELT RELIEVED THAT I HAD
24 ESTABLISHED -- I HAD ESTABLISHED RECIPROCITY AND FELT
25 COMFORTABLE WITH WHAT MY PLANS WERE TO MOVE ON TO A

1 DIFFERENT COUNTY DEPARTMENT.
2 Q. AND I'M JUST GOING TO BRIEFLY GO THROUGH
3 SOME OF THE DOCUMENTS THAT MR. RIEGER WENT THROUGH.
4 CAN YOU LOOK AT EXHIBIT 7.
5 A. OKAY.
6 MR. JENSEN: I'M SORRY. IS EXHIBIT 7 IN
7 EVIDENCE, YOUR HONOR?
8 THE COURT: IT HAS NOT BEEN MOVED.
9 MR. JENSEN: LET'S GO TO THE FIRST ONE --
10 EXHIBIT 14 IS THE FIRST ONE IN?
11 THE COURT: 4 IS IN AND 14.
12 MR. JENSEN: I'M JUST LOOKING FOR A MEMBER
13 BOOKLET. I BELIEVE THE FIRST ONE IN IS 34.
14 BY MR. JENSEN:
15 Q. CAN I TURN YOU TO -- IT'S IN THE SECOND
16 VOLUME.
17 A. YES. OKAY.
18 Q. YOU INDICATED THAT YOU RECEIVED EXHIBIT 34?
19 A. YES, I DID.
20 Q. AND I JUST WANT TO POINT YOUR ATTENTION TO
21 THE LANGUAGE ON -- IT'S BATES STAMPED L.A. 28 IN 34.
22 IT'S PAGE 7 OF THIS MEMBER BOOKLET.
23 CAN YOU BRIEFLY REVIEW THIS --
24 A. WHAT WERE THOSE PAGES AGAIN?
25 MR. JENSEN: YOUR HONOR, MAY I APPROACH

1 JUST --

2 THE COURT: YES.

3 MR. JENSEN: -- TO MAKE SURE WE'RE ON THE

4 SAME PAGE?

5 THE COURT: YES.

6 BY MR. JENSEN:

7 Q. I HAVE L.A. 28.

8 A. 28. OKAY.

9 Q. AND I JUST WANT TO POINT YOUR ATTENTION TO

10 THE FINAL PARAGRAPH THERE THAT SAYS:

11 "RECIPROCITY PROVISIONS DEFINE

12 THE FINANCIAL OBLIGATIONS OF EACH

13 SYSTEM."

14 CAN YOU BRIEFLY -- ACTUALLY, THAT IS NOT

15 THE PARAGRAPH. IT WOULD BE -- OKAY. WELL, LET'S

16 JUST -- IT SAYS:

17 "IF YOU JOINED LOS ANGELES

18 COUNTY WITHIN SIX MONTHS."

19 DID YOU FEEL LIKE THOSE LIMITATIONS APPLIED

20 TO YOUR CASE?

21 A. YES.

22 Q. SO DID YOU FEEL LIKE RECIPROCITY WOULD BE

23 ESTABLISHED FOR YOU ONLY IF YOU HAD BECOME A

24 L.A.C.E.R.A. MEMBER WITHIN SIX MONTHS OF YOUR CALPERS

25 EMPLOYMENT?

1 A. YES.
2 Q. BUT YOU TESTIFIED THAT YOU BELIEVED THAT
3 RECIPROCITY HAD BEEN ESTABLISHED. SO I'M JUST --
4 A. YES.
5 Q. DID THIS INFORMATION CHANGE YOUR BELIEF
6 THAT RECIPROCITY HAD BEEN ESTABLISHED?
7 A. WELL, IT DEPENDS ON WHAT DATE WE'RE TALKING
8 ABOUT HERE.
9 Q. CAN YOU JUST EXPLAIN YOUR UNDERSTANDING?
10 A. MY UNDERSTANDING IS THAT THERE MAY HAVE
11 BEEN SOME ISSUES WITH RECIPROCITY. AND WHEN I IN
12 2003, SEPTEMBER OR OCTOBER, PURSUED CLARIFICATION OF
13 THAT THROUGH MY ATTEMPT TO -- IN MY DISCUSSIONS WITH
14 TWO DIFFERENT CALPERS PEOPLE, I PROVIDED THEM THE
15 INFORMATION THEY ASKED OF ME.
16 I PROVIDED THEM WITH THE -- I PROVIDED THE
17 SECOND PERSON WITH ALL THE INFORMATION SHE NEEDED,
18 AND I WAS TOLD THAT IT WAS ENCOURAGING, THAT I HAD
19 ESTABLISHED RECIPROCITY.
20 ANY KNOWLEDGE I HAD OF THE RECIPROCITY
21 REQUIREMENTS AFTER I SPOKE TO THIS INDIVIDUAL AND
22 AFTER I RECEIVED MY 2003 LETTER INDICATING THAT I HAD
23 ESTABLISHED RECIPROCITY, IT CHANGED MY MIND AS TO HOW
24 THIS LANGUAGE AND THIS REQUIREMENT APPLIED TO MY
25 SITUATION, THINKING THAT I HAD ESTABLISHED

1 RECIPROCITY BACK EARLIER IN 1975 WHEN I FIRST JOINED
2 CALPERS THROUGH SOME CURRENT LEGISLATION THAT WAS IN
3 EFFECT AT THAT TIME.
4 SO I WAS AWARE OF THIS RECIPROCITY
5 REQUIREMENT LEADING UP TO MY INQUIRIES IN 2003, AND I
6 WAS EQUALLY AWARE AND SOUGHT INFORMATION REGARDING
7 RECIPROCAL BENEFITS AFTER THAT TIME.
8 AFTER MY INQUIRIES, I DID NOT CONCERN
9 MYSELF WITH IT SINCE I HAD LEARNED THAT I HAD
10 ESTABLISHED RECIPROCITY. IT WAS CLEAR IN MY MIND
11 THAT I WAS NOT AFFECTED OR BOUND BY THIS BECAUSE I
12 PRESUMEDLY HAD ESTABLISHED IT AT A TIME WHEN THIS WAS
13 NOT IN EFFECT.
14 Q. AND DOES THAT SAME UNDERSTANDING OF YOUR
15 RECIPROCITY SITUATION, DID THAT EXIST EVEN THOUGH YOU
16 RECEIVED THESE OTHER MEMBER PAMPHLETS AND THESE OTHER
17 NEWSLETTERS?
18 A. YES.
19 Q. AND DID THAT RECIPROCITY BELIEF EXIST --
20 WELL, WHEN DID THAT RECIPROCITY -- WHEN DID YOU FIRST
21 BELIEVE THAT CALPERS HAD DENIED YOU OR WAS NOT GOING
22 TO GRANT YOU THE RECIPROCITY BENEFITS?
23 A. WHEN I RECEIVED THEIR LETTER ON JUNE 30 AS
24 AN OFFICIAL NOTIFICATION THAT I DID NOT -- THAT THERE
25 WAS CONFUSION AND THAT FOR REASONS THEY ALLUDED TO

1 GOING BACK TO THESE STATUTES THAT WERE CURRENTLY IN
2 PLACE THAT I DID NOT -- THAT IT WAS NOT APPLICABLE TO
3 ME.
4 RECIPROCITY WAS NOT APPLICABLE IN MY CASE.
5 Q. OKAY. LET ME JUST BRIEFLY ADDRESS THAT
6 SIX-MONTH PERIOD AFTER YOU RETIRED STARTING FROM YOUR
7 RETIREMENT DATE OF --
8 WHAT WAS IT, JUNE 1?
9 A. JUNE 1, 2009.
10 Q. WHAT WAS THE LIKELIHOOD IN YOUR MIND THAT
11 YOU WOULD FIND AN ACCEPTABLE POSITION WITH YOUR
12 EXPERIENCE AND YOUR QUALIFICATIONS IN THE CALPERS
13 CONTRACTING AGENCY WITHIN -- BEFORE JUNE 1 OF 2009?
14 A. WELL, BEFORE JUNE 1 OF 2009, YOU KNOW, I
15 FELT THAT I COULD HAVE PURSUED OTHER OPPORTUNITIES.
16 Q. DO YOU THINK YOU WOULD HAVE -- I MEAN, WITH
17 YOUR STATE OF KNOWLEDGE THAT EVEN THE TEMPLE CITY
18 POSITION WASN'T FILLED BEFORE JUNE 1, 2009, WOULD
19 HAVE YOU BEEN ABLE TO START WORK AT A CALPERS
20 CONTRACTING AGENCY IN AN EXECUTIVE-LEVEL POSITION
21 PRIOR TO DECEMBER 1, 2009?
22 MR. RIEGER: I'M SORRY. OBJECTION; CALLS
23 FOR SPECULATION.
24 MR. JENSEN: LET ME JUST PHRASE IT IN THIS
25 WAY.

1 BY MR. JENSEN:

2 Q. WITH YOUR UNDERSTANDING OF YOUR EMPLOYMENT

3 SITUATION AFTER YOU RECEIVED CALPERS' DENIAL LETTER

4 ON JUNE 30, YOU HAD THE OPTION TO GO SEEK EMPLOYMENT

5 WITH A CALPERS CONTRACTING AGENCY TO ESTABLISH

6 RECIPROCITY AT THAT POINT WITHIN SIX MONTHS OF YOUR

7 RETIREMENT.

8 MY QUESTION TO YOU IS: WHAT DO YOU THINK

9 AT THAT TIME WAS YOUR LIKELY PROSPECTS OF BEING HIRED

10 IN THAT POSITION BEFORE THAT SIX-MONTH DEADLINE?

11 MR. RIEGER: OBJECTION; VAGUE, CALLS FOR

12 SPECULATION.

13 THE COURT: SUSTAINED.

14 BY MR. JENSEN:

15 Q. SO WHAT -- LET ME JUST PHRASE IT THIS WAY:

16 WHAT WERE YOUR JOB -- WHAT WERE YOUR REALISTIC JOB

17 PROSPECTS WITH A CALPERS CONTRACTING AGENCY PRIOR TO

18 JUNE 30, 2009?

19 MR. RIEGER: OBJECTION; VAGUE. CALLS FOR

20 SPECULATION.

21 MR. JENSEN: FROM HIS EXPERIENCE.

22 THE COURT: JUNE 30?

23 MR. JENSEN: I THINK THAT'S THE DATE OF THE

24 DENIAL LETTER.

25 THE COURT: OKAY.

1 MR. RIEGER: SO FAR THE QUESTIONS HAVE BEEN
2 ABOUT JUNE 1 BUT...
3 MR. JENSEN: OKAY. LET ME CORRECT THAT IN
4 MR. GUIDO'S MIND.
5 BY MR. JENSEN:
6 Q. AS OF JUNE 30 WHEN YOU RECEIVED
7 KNOWLEDGE -- YOU RECEIVED INFORMATION THAT CALPERS
8 WAS DENYING RECIPROCITY, WHAT WERE YOUR REALISTIC JOB
9 PROSPECTS OF BEING HIRED BY A CALPERS CONTRACTING
10 AGENCY IN THE NEXT FIVE MONTHS?
11 A. WELL, I'D LIKE TO THINK IN MY MIND
12 POSITIVE, BUT I DIDN'T KNOW -- REALLY DIDN'T KNOW
13 BECAUSE I HAD NOT MADE ANY -- YOU KNOW, I DIDN'T MAKE
14 ANY CONTACTS. I DIDN'T PURSUE ANY AVENUES.
15 SOMETIMES LANDING A JOB TAKES MONTHS BEFORE
16 THEY MATERIALIZE, YOU KNOW, SO IT'S HARD -- IT'S HARD
17 TO SPECULATE.
18 I MAY HAVE BEEN ABLE TO FIND SOMETHING, BUT
19 I DON'T -- YOU KNOW, IT NEVER CROSSED MY MIND,
20 THOUGH, BECAUSE I NEVER THOUGHT -- I NEVER THOUGHT OF
21 THE NECESSITY OF HAVING TO GO OUT AND LOOK FOR A JOB
22 BECAUSE I HAD RETIRED.
23 AND TO ME, THAT WAS -- THE DOOR WAS CLOSED
24 AND BEING ABLE TO BACK OUT OF RETIREMENT FROM THE TWO
25 SYSTEMS AFTER I RETIRED.

1 MR. JENSEN: AND NO FURTHER QUESTIONS,
2 ALTHOUGH I RESERVE THE REREDIRECT, I GUESS, IF HE
3 RECROSSES.
4 THE COURT: OKAY. ANY FURTHER FOLLOW-UP,
5 MR. RIEGER?
6 MR. RIEGER: YES, PLEASE.
7
8 RECROSS-EXAMINATION
9 BY MR. RIEGER:
10 Q. MR. GUIDO, IF YOU COULD TURN BACK TO
11 EXHIBIT 6 ON PAGE -- IT'S PAGE 3 OF THE MANUAL, AND
12 IT'S P.E.R.S. 75.
13 NOW, ARE YOU SAYING THAT YOUR BELIEF THAT
14 YOU WERE GRANDFATHERED IN TO SOME PRIOR SET OF RULES
15 WAS BASED ON READING THIS ASTERISK IN THIS MANUAL?
16 A. NO.
17 Q. SO WHAT WAS THE BASIS OF YOUR UNDERSTANDING
18 THAT YOU WERE GRANDFATHERED IN TO SOME PRIOR RULE?
19 A. WHEN I RECEIVED A LETTER, MY FIRST LETTER,
20 INDICATING THAT RECIPROCITY WAS ESTABLISHED.
21 Q. I'M SORRY. YOUR FIRST -- DID YOU SAY
22 SOMETHING ABOUT A LAWYER?
23 A. WHEN I RECEIVED MY FIRST LETTER -- I'M
24 SORRY -- INDICATING THAT RECIPROCITY WAS ESTABLISHED.
25 Q. OKAY. SO HAD YOU EVER READ THE CONTENT OF

1 THIS ASTERISK BEFORE RECEIVING THAT LETTER?
2 A. NO.
3 Q. SO YOU HAD NEVER READ ANYTHING THAT TALKED
4 ABOUT HOW RECIPROCITY APPLIES -- EXCUSE ME. LET ME
5 START OVER.
6 THIS ASTERISK SAYS:
7 "ELIGIBILITY FOR RECIPROCITY IS
8 DETERMINED BY THE RETIREMENT LAWS IN
9 EFFECT AT THE TIME OF MOVEMENT
10 BETWEEN EMPLOYERS AND RETIREMENT
11 SYSTEMS. CURRENT CALPERS LAW
12 REQUIRES MOVEMENT WITHIN SIX MONTHS."
13 YOU'RE TELLING ME YOU HAD NEVER READ
14 ANYTHING TO THAT EFFECT BEFORE RECEIVING YOUR FIRST
15 LETTER FROM CALPERS IN 2003?
16 A. WHEN I RECEIVED THE LETTER IN 2003, IT WAS
17 MY CONCLUSION THAT I WAS GRANDFATHERED BASED ON MY
18 ELIGIBILITY TO HAVE ESTABLISHED RECIPROCITY BECAUSE I
19 KNEW THAT THERE WAS A SIX-MONTH WINDOW AND I KNEW
20 THAT BECAUSE OF THE CONCURRENT EMPLOYMENT ISSUE, IT
21 WAS A PROBLEM.
22 BUT IT WASN'T BASED ON HAVING READ THIS OR
23 READ ANYTHING SIMILAR TO THIS IN ANY OTHER DOCUMENTS.
24 IT WAS MY OWN CONCLUSION FROM HAVING RECEIVED THE
25 LETTER IN 2003.

1 Q. HAD YOU READ -- DID YOU HAVE ANY
2 INFORMATION -- NO MATTER HOW YOU RECEIVED IT, DID YOU
3 HAVE ANY INFORMATION THAT CAUSED YOU TO BELIEVE THAT
4 THERE WAS ACTUALLY A DIFFERENT RULE THAT APPLIED BACK
5 WHEN YOU PROVIDED YOUR SERVICE TO THE CITY OF CUDAHY?
6 A. NO.
7 Q. SO THIS WAS A COMPLETE ASSUMPTION THAT YOU
8 MADE THAT THERE WAS SOME OTHER LAW AND THAT YOU WERE
9 GRANDFATHERED INTO IT?
10 A. BASED ON THE LETTER I RECEIVED. THE LETTER
11 DIDN'T EXPLAIN TO ME THAT I WAS GRANDFATHERED. THE
12 LETTER JUST BASICALLY TOLD ME THAT THEY REVIEWED MY
13 ACCOUNT, AND THEY DETERMINED THAT RECIPROCITY WAS
14 ESTABLISHED. HENCE, IT SATISFIED MY CONCERN.
15 IT SATISFIED MY INQUIRY FOR PURPOSES OF
16 WHAT I WANTED TO DO TO MOVE FORWARD WITH MY CAREER
17 PATH OVER THE NEXT FIVE YEARS.
18 Q. DID YOU EVER MAKE ANY INQUIRY OF ANYONE AT
19 CALPERS ABOUT WHETHER THERE WAS A DIFFERENT RULE THAT
20 APPLIED AT A PRIOR TIME OTHER THAN THE SIX-MONTH
21 RULE?
22 A. NO. I WAS -- I WAS PLEASED THAT I HAD THIS
23 LETTER. I DIDN'T FEEL I HAD A DUTY TO INVESTIGATE TO
24 FIND HOW THEY CAME TO THAT CONCLUSION.
25 I FELT THAT I GAVE THEM OR PROVIDED THEM

1 INFORMATION THEY NEEDED IN A FACTUAL AND CONCISE AND
2 HONEST MANNER, AND IT WAS FOR THEM TO DETERMINE -- AS
3 PROFESSIONALS IN THAT ORGANIZATION TO MAKE THAT
4 DETERMINATION.
5 Q. SO I JUST -- ON THE REDIRECT, IT SOUNDED
6 LIKE THERE WAS SOME LINKAGE BETWEEN THE LANGUAGE IN
7 THIS MANUAL AND YOUR UNDERSTANDING, AND I JUST WANT
8 TO MAKE CLEAR THERE WAS NO LINKAGE BETWEEN THE
9 LANGUAGE IN THIS MANUAL AND YOUR BELIEF THAT YOU WERE
10 GRANDFATHERED IN?
11 A. CLARIFICATION: THE LANGUAGE IN THE MANUAL
12 SPECIFICALLY TO THIS ASTERISK AREA INVOLVING
13 ELIGIBILITY?
14 Q. YES.
15 A. NO.
16 Q. THERE WAS NO LINKAGE BETWEEN THAT LANGUAGE
17 AND YOUR BELIEF THAT YOU WERE GRANDFATHERED IN?
18 A. NO.
19 Q. TO THIS DAY, HAVE YOU EVER LOOKED IN TO SEE
20 IF THERE WAS A DIFFERENT RULE OTHER THAN THE
21 SIX-MONTH RULE THAT APPLIED AT SOME PRIOR TIME?
22 A. COULD YOU RESTATE THAT QUESTION, PLEASE?
23 I'M SORRY.
24 Q. YEAH. YOU UNDERSTOOD THAT THE SIX-MONTH
25 RULE APPLIED, AT LEAST AS OF 2003?

1 A. YES.
2 Q. AND TO THIS DAY, HAVE YOU EVER MADE ANY
3 INQUIRY ABOUT WHETHER THERE WAS ANOTHER RULE THAT WAS
4 DIFFERENT FROM THE SIX-MONTH RULE THAT APPLIED AT
5 SOME TIME PRIOR TO 2003?
6 A. NO. I NEVER MADE ANY FORMAL INQUIRIES.
7 Q. SO I THINK YOU --
8 A. I FIGURED IF THERE WAS IT WOULD HAVE -- IT
9 WOULD HAVE BEEN SPELLED OUT IN MY DENIAL LETTER THAT
10 IT WAS IN EFFECT AND IT WAS DENIED BECAUSE OF
11 WHATEVER REASONS. BUT THE LETTER WAS DEVOID OF THAT
12 AND REMAINED SPECIFIC ON SIX MONTHS AS IT INDICATED.
13 Q. SO I THINK ON REDIRECT YOU TESTIFIED THAT
14 WHEN YOU FIRST CAME TO CALPERS IN 2003 YOU DID NOT
15 THINK YOU HAD RECIPROCITY AND THAT YOU WERE ACTUALLY
16 COMING TO CALPERS TO SEE HOW YOU COULD ESTABLISH
17 RECIPROCITY. I THINK YOU USED THE PHRASE "REMARRY
18 THE TWO SYSTEMS"; IS THAT RIGHT?
19 A. SEEK CLARIFICATION, YEAH, TO COMBINE THE
20 YEARS TOGETHER.
21 MR. RIEGER: COULD I JUST HAVE A COUPLE
22 MINUTES OF --
23 THE COURT: YES.
24 MR. RIEGER: -- DEAD AIR?
25 THE COURT: OFF THE RECORD.

1 (WHEREUPON, A RECESS WAS HELD
2 FROM 2:04 P.M. TO 2:08 P.M.)
3 THE COURT: LET'S GO BACK ON THE RECORD.
4 ANY FURTHER RECROSS?
5 MR. RIEGER: NO MORE, YOUR HONOR.
6 THE COURT: OKAY. MS. DANIEL, DO YOU HAVE
7 ANY QUESTIONS ON RECROSS?
8 MS. DANIEL: NO QUESTIONS, YOUR HONOR.
9 THE COURT: OKAY. ANY REREDIRECT?
10 MR. JENSEN: NO, YOUR HONOR. I THINK WE
11 CAN RELEASE MR. GUIDO.
12 THE COURT: OKAY. THANK YOU VERY MUCH,
13 MR. GUIDO. YOU CAN RETURN TO COUNSEL'S TABLE.
14 OKAY. THE NEXT WITNESS IS MR. HENRY, WHO
15 WE ARE WAITING FOR HIS ARRIVAL?
16 MR. JENSEN: WE ARE WAITING. HE IS IN
17 TRANSIT. I MEAN, I DON'T KNOW HOW MR. RIEGER FEELS
18 ABOUT STARTING WITH MS. DE FLORES.
19 MR. RIEGER: I'M GENERALLY OKAY WITH IT,
20 EXCEPT THAT I'D LIKE -- I'M SORRY. I MANY HAVE
21 MISSED IT EARLIER.
22 DO YOU HAVE ANY IDEA WHEN HE'S GOING TO
23 SHOW UP?
24 MR. JENSEN: HE IS IN TRANSIT. I MEAN,
25 THIS IS ALL I -- BUT HE'S COMING. SO, I MEAN, I

1 BELIEVE -- I MEAN, HE'S SUPPOSED TO -- I THINK HE
2 TOLD US THAT HE HAS A DOCTOR'S APPOINTMENT FOR HIS
3 WIFE, AND HE'LL BE DONE AT 2:30 HERE. SO THAT MAY BE
4 THE EXPECTATION, THAT HE ARRIVES AT 2:30.
5 BUT IF WE COULD JUST LAY SOME FOUNDATIONAL
6 MATTERS.
7 THE COURT: OKAY. SO THIS WOULD BE A
8 WITNESS IN YOUR CASE IN CHIEF BASICALLY, OF THE
9 PERSON MOST KNOWLEDGEABLE FROM CALPERS ON CERTAIN
10 TOPICS?
11 MR. JENSEN: YES, YOUR HONOR.
12 THE COURT: AND MS. DE FLORES WOULD BE
13 PROVIDED AS THAT PERSON?
14 MR. JENSEN: RIGHT. CALPERS HAS INDICATED
15 THAT SHE'S, YEAH, THE PERSON --
16 THE COURT: OKAY.
17 MR. RIEGER: AND I'M OKAY. IF HE WANTS TO
18 CALL MS. DE FLORES NOW AND BREAK IT UP WHEN MR. HENRY
19 SHOWS UP, WE'RE OKAY WITH THAT.
20 MR. JENSEN: THANK YOU. I APPRECIATE THAT.
21 THE COURT: OKAY.
22 MR. JENSEN: THANK YOU, YOUR HONOR.
23 THE COURT: COME UP AND HAVE A SEAT. ONCE
24 YOU GET SETTLED, THE COURT REPORTER WILL SWEAR YOU
25 IN.

1 EMILY PEREZ DE FLORES,
2 CALLED AS A WITNESS, AND SWORN IN BY
3 THE REPORTER, WAS EXAMINED AND
4 TESTIFIED AS FOLLOWS:
5
6 COURT REPORTER: YOU DO SOLEMNLY SWEAR THAT
7 THE TESTIMONY YOU SHALL GIVE IN THIS MATTER SHALL BE
8 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
9 TRUTH?
10 THE WITNESS: YES.
11 THE COURT: AND GOOD AFTERNOON.
12 THE WITNESS: GOOD AFTERNOON.
13 THE COURT: FOR THE RECORD, WOULD YOU
14 PLEASE STATE AND SPELL YOUR NAME.
15 THE WITNESS: EMILY PEREZ DE FLORES,
16 E-M-I-L-Y P-E-R-E-Z D-E F-L-O-R-E-S.
17 THE COURT: IS THIS D-E, IS THAT CAPITAL
18 "D" OR --
19 THE WITNESS: SMALL D-E, SPACE, CAPITAL
20 "F."
21 THE COURT: OKAY. THANK YOU. AND TRY TO
22 KEEP YOUR VOICE UP IF YOU CAN SO EVERYONE CAN HEAR
23 WHAT YOU'RE STAYING.
24 THE WITNESS: OKAY.
25 THE COURT: OKAY. WHEN YOU'RE READY.

1 MR. JENSEN: THANK YOU, YOUR HONOR.
2
3 DIRECT EXAMINATION
4 BY MR. JENSEN:
5 Q. GOOD AFTERNOON, MS. DE FLORES. IS THAT
6 CORRECT?
7 A. YES, THAT'S FINE.
8 Q. CAN YOU TELL US WHAT YOUR CURRENT
9 EMPLOYMENT IS?
10 A. I'M A STAFF SERVICES MANAGER II IN THE
11 CUSTOMER ACCOUNT SERVICES DIVISION OF CALPERS. I
12 OVERSEE THE MEMBERSHIP REPORTING AREA.
13 Q. AND CAN YOU ELUCIDATE US -- TELL US WHAT
14 MEMBERSHIP REPORTING IS.
15 A. MEMBERSHIP REPORTING DEALS WITH MEMBERS
16 ELIGIBILITY INTO P.E.R.S.; MEMBERSHIP INTO CALPERS,
17 ENROLLMENT, YOU KNOW, HAVING STAFF ENROLL; STAFF
18 REVIEW MEMBER ACCOUNT INFORMATION AND MAKE
19 CORRECTIONS AS NEEDED.
20 Q. AND ARE YOU A MANAGER?
21 A. YES, I AM A MANAGER.
22 Q. APPROXIMATELY HOW MANY PEOPLE DO YOU
23 OVERSEE?
24 A. I OVERSEE CURRENTLY ABOUT 27-AND-A-HALF
25 POSITIONS.

1 Q. AND HOW MANY EMPLOYEES ARE IN THOSE
2 27-AND-A-HALF POSITIONS?
3 A. 26.
4 Q. AND WHAT ARE YOUR DAY-TO-DAY JOB
5 RESPONSIBILITIES?
6 A. MY DAY-TO-DAY JOB RESPONSIBILITIES ARE A
7 LOT. SO I HAVE MEETINGS THAT I ATTEND TO REGARDING
8 POLICIES, LAWS, RULES. I HAVE MEETINGS WITH OTHER
9 AREAS OF CALPERS, OTHER UNITS AS WE ESTABLISH
10 POLICIES AND RULES.
11 THERE'S ALSO LEGISLATION WHEN THAT PASSES.
12 WE NEED TO CONFER AND ENSURE THAT WE'RE PROCESSING
13 THOSE LAWS AND RULES CORRECTLY. I REVIEW STAFF'S
14 WORK. I'M THE -- I'M THE MANAGER WHO APPROVES AND
15 DENIES MEMBERSHIP ELIGIBILITY BASED ON STAFF'S
16 ANALYSIS AND RESEARCH AND RECOMMENDATION.
17 AND WHAT ELSE DO I DO? I DO A LOT. BUT
18 THAT'S -- THAT'S THE MAIN JOBS THAT I'M RESPONSIBLE
19 FOR.
20 Q. AND IS IT FAIR TO SAY THAT YOU MAKE
21 INTERNAL CALPERS POLICY?
22 MR. RIEGER: OBJECTION; VAGUE.
23 THE COURT: SUSTAINED.
24 BY MR. JENSEN:
25 Q. WHAT IS YOUR RELATIONSHIP -- WHAT

1 INVOLVEMENT DO YOU HAVE IN CALPERS' INTERNAL
2 POLICIES?
3 A. I HAVE TO -- IF THERE'S AN ISSUE THAT
4 ARISES, I EITHER DIRECT STAFF TO DO AN ISSUE PAPER OR
5 ISSUE MEMO WITH REGARDS TO THE ISSUE ULTIMATELY
6 REQUESTING A REQUEST FOR LEGAL OPINION SO THAT WE CAN
7 ASSIST IN DETERMINING OR ESTABLISHING A POLICY.
8 Q. AND SO IF -- WHAT RESPONSIBILITY DO YOU
9 HAVE IF IT IS INDICATED THAT A POLICY IS NOT
10 CONSISTENT WITH THE LEGISLATION?
11 MR. RIEGER: OBJECTION; VAGUE.
12 THE COURT: OVERRULED.
13 DO YOU UNDERSTAND WHAT HE'S ASKING?
14 THE WITNESS: CAN YOU REPEAT THE QUESTION?
15 BY MR. JENSEN:
16 Q. IF A SITUATION ARISES WHERE POLICIES ARE
17 NOT CONSISTENT OR RECOGNIZED TO BE NOT CONSISTENT
18 WITH LEGISLATION, WHAT ROLE DO YOU PLAY OR DO YOU
19 PLAY A ROLE WITHIN THAT PROCESS?
20 MR. RIEGER: OBJECTION; INCOMPLETE
21 HYPOTHETICAL. VAGUE.
22 MR. JENSEN: I CAN REPHRASE IT JUST FOR
23 PURPOSES OF EXPEDITING IT.
24 THE COURT: DO YOU UNDERSTAND WHAT HE'S
25 ASKING YOU?

1 THE WITNESS: NOT REALLY.
2 BY MR. JENSEN:
3 Q. HAS IT EVER ARISEN THAT A POLICY IS NOT
4 IMPLEMENTING LEGISLATION FULLY?
5 A. NOT TO MY RECOLLECTION. I HAVEN'T
6 ENCOUNTERED A NEED TO BRING FORTH ANY REGULATIONS OR
7 A CHANGE IN LEGISLATION TO CLARIFY A LAW.
8 Q. ACTUALLY, WHAT I WAS ASKING YOU, HAVE YOU
9 EVER ENDEAVORED TO IMPROVE CALPERS' INTERNAL POLICIES
10 OR PRACTICES?
11 A. I WANT TO SAY THAT THE POLICY, NO;
12 PROCESSES, YES: HOW WE PROCESS WORK VERSUS ACTUALLY
13 HERE'S A POLICY AND FOLLOW IT.
14 MR. RIEGER: I'LL JUST SAY THIS IS MY VAGUE
15 OBJECTION. HE'S USING WORDS LIKE "POLICY," SO I
16 JUST -- I'M SORRY. I PROBABLY SHOULDN'T HAVE SAID
17 THAT NOW, BUT I JUST WANTED TO -- YOU CAN STRIKE
18 THAT. I'M SORRY.
19 I JUST WANTED TO EXPLAIN THIS IS MY VAGUE
20 OBJECTION TO THIS LINE OF QUESTIONING. I'LL PROBABLY
21 MAKE IT AGAIN.
22 MR. JENSEN: I'M GOING TO MAKE A QUESTION.
23 IF HE OBJECTS...
24 BY MR. JENSEN:
25 Q. SO LET ME JUST TURN -- WELL, LET ME JUST

1 MOVE ON.
2 ARE YOU INVOLVED IN -- WERE YOU INVOLVED IN
3 ANY POLICY-MAKING REGARDING THE PROCESS FOR
4 DETERMINING RECIPROCITY?
5 MR. RIEGER: OBJECTION; VAGUE.
6 THE COURT: OVERRULED.
7 THE WITNESS: NO.
8 BY MR. JENSEN:
9 Q. CAN I DIRECT YOUR ATTENTION TO EXHIBIT 225
10 IN THE BLACK BINDER.
11 THE COURT: OKAY. I THINK SHE'S THERE.
12 BY MR. JENSEN:
13 Q. DO YOU RECOGNIZE THIS DOCUMENT?
14 A. YES.
15 Q. AND WHAT IS THIS DOCUMENT?
16 A. THIS DOCUMENT IS THE PROCEDURES USED WHEN
17 CALCULATING A RETIREMENT BENEFIT WHEN A PERSON
18 SUBMITS AN APPLICATION FOR RETIREMENT.
19 Q. DO YOU EVER IN YOUR WORK CONSULT THIS
20 DOCUMENT IN 225?
21 A. I HAVE NEVER HAD TO CONSULT THIS DOCUMENT.
22 Q. AND WHY IS THAT?
23 A. BECAUSE I NEVER WORKED IN THE
24 RETIREMENT-PROCESSING AREA OF CALPERS, THE BENEFITS
25 SERVICES DIVISION WHO CALCULATES THE RETIREMENT

1 BENEFITS AT RETIREMENT.
2 Q. CAN YOU VERIFY THAT THIS IS A CALPERS
3 MANUAL FOR PROCESSING RECIPROCITY?
4 MR. RIEGER: OBJECTION; VAGUE. I THINK IT
5 ALSO MISSTATES THE TESTIMONY.
6 THE COURT: WHY DON'T YOU REPHRASE.
7 BY MR. JENSEN:
8 Q. WHAT IS THIS DOCUMENT?
9 A. THIS DOCUMENT IS USED WHEN PROCESSING OR
10 CALCULATING A RETIREMENT BENEFIT AT THE TIME WHEN A
11 MEMBER SUBMITS AN APPLICATION FOR RETIREMENT.
12 MR. JENSEN: AND, YOUR HONOR, I'D LIKE TO
13 JUST MOVE THIS INTO EVIDENCE AS A CALPERS DOCUMENT
14 THAT SHE'S AUTHENTICATED.
15 MR. RIEGER: NO OBJECTION.
16 THE COURT: OKAY. IT'S ADMITTED.
17 (RESPONDENT'S EXHIBIT NUMBER 225 WAS
18 MARKED FOR IDENTIFICATION BY THE COURT
19 AND RECEIVED INTO EVIDENCE.)
20 BY MR. JENSEN:
21 Q. ARE YOU AWARE OF -- WELL, WHY DON'T YOU
22 DESCRIBE FOR US WHAT YOUR UNDERSTANDING OF
23 RECIPROCITY IS.
24 A. RECIPROCITY IS AFFORDED TO MEMBERS WHO MOVE
25 FROM ONE SYSTEM TO ANOTHER WITHIN A CERTAIN AMOUNT OF

1 TIME, WHICH PROVIDES CERTAIN BENEFITS SUCH AS FINAL
2 COMPENSATION EXCHANGE, CONTRIBUTION RATE --
3 MR. JENSEN: YOUR HONOR, JUST A MOMENT.
4 THE COURT: OKAY. LET'S GO OFF THE RECORD.
5 (WHEREUPON, THERE WAS AN INTERRUPTION
6 AT THE DOOR)
7 THE COURT: LET'S GO BACK ON THE RECORD.
8 OKAY. SO WHAT WE'RE GOING TO DO IS WE HAD
9 AN INTERRUPTION BECAUSE THE NEXT WITNESS IS HERE.
10 SO, MS. DE FLORES, WE'LL HAVE YOU JUST ANSWER THE
11 PENDING QUESTION, WHICH IS WHAT YOUR UNDERSTANDING OF
12 RECIPROCITY IS.
13 YOU WERE IN THE MIDST OF ANSWERING IT. SO
14 WHY DON'T YOU JUST TELL US AGAIN WHAT YOUR
15 UNDERSTANDING IS, AND WE'LL EXCUSE YOU AND HEAR FROM
16 THE OTHER WITNESS.
17 THE WITNESS: SO MY UNDERSTANDING OF
18 RECIPROCITY IS THE ABILITY FOR MEMBERS TO MOVE FROM
19 ONE SYSTEM TO ANOTHER WITHIN A CERTAIN AMOUNT OF TIME
20 AND AFFORDED CERTAIN BENEFITS; PORTABILITY OF FINAL
21 COMPENSATION, VESTING -- MEETING VESTING
22 REQUIREMENTS; OH, AGE-RATED CONTRIBUTIONS SO
23 DEPEND -- KIND OF LIKE AN INSURANCE PLAN.
24 WITH THE COUNTY RETIREMENT SYSTEMS, THE
25 EARLIER AGE OF ENTRY INTO MEMBERSHIP WILL AFFORD YOU

1 A LOWER CONTRIBUTION RATE.

2 CALPERS DOESN'T USE THAT BENEFIT BECAUSE

3 OURS ARE SET BY STATUTE -- OR BY CONTRACT. SO WE

4 DON'T USE THAT BENEFIT OF RECIPROCITY NORMALLY.

5 MR. JENSEN: THANK YOU, MS. DE FLORES.

6 CAN WE FOLLOW UP -- JUST BRIEFLY EXCUSE

7 MS. DE FLORES SO WE CAN HEAR MR. HENRY?

8 THE COURT: YES, PLEASE. IF YOU'LL RETURN

9 TO COUNSEL TABLE, AND WE'LL CALL YOU UP LATER ON THIS

10 AFTERNOON.

11 MR. JENSEN: AND THANK YOU, MS. DE FLORES,

12 FOR YOUR UNDERSTANDING, AND, YOUR HONOR, AS WELL.

13 THE COURT: GOOD AFTERNOON.

14 MR. HENRY: GOOD AFTERNOON.

15 THE COURT: I'LL ASK THE COURT REPORTER TO

16 SWEAR THE WITNESS IN.

17 ///

18 ///

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1 MICHAEL J. HENRY,
2 CALLED AS A WITNESS, AND SWORN IN BY
3 THE REPORTER, WAS EXAMINED AND
4 TESTIFIED AS FOLLOWS:
5
6 COURT REPORTER: YOU DO SOLEMNLY SWEAR THAT
7 THE TESTIMONY YOU SHALL GIVE IN THIS MATTER SHALL BE
8 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
9 TRUTH?
10 THE WITNESS: I DO.
11 THE COURT: AND FOR THE RECORD, WOULD YOU
12 PLEASE STATE AND SPELL YOUR NAME.
13 THE WITNESS: MICHAEL J. HENRY,
14 M-I-C-H-A-E-L, MIDDLE INITIAL "J," HENRY, H-E-N-R-Y.
15 THE COURT: THANK YOU.
16 WHEN YOU'RE READY.
17 MR. JENSEN: THANK YOU, YOUR HONOR.
18
19 DIRECT EXAMINATION
20 BY MR. JENSEN:
21 Q. AND THANK YOU, MR. HENRY.
22 A. YOU'RE WELCOME.
23 Q. I APPRECIATE YOU JOINING US THIS AFTERNOON.
24 COULD YOU BRIEFLY TELL US YOUR WORK HISTORY
25 FROM 2000 UNTIL THE DATE THAT YOU RETIRED.

1 A. FROM 2004, I WAS DIRECTOR OF HUMAN
2 RESOURCES FOR L.A. COUNTY. ACTUALLY THE TITLE IS
3 PERSONNEL DIRECTOR, WHICH IS A BOARD-APPOINTED
4 POSITION -- A DEPARTMENT-APPOINTED POSITION, AND I
5 RAN THE HUMAN RESOURCES DEPARTMENT.
6 WE DID COMPENSATION IN COOPERATION WITH THE
7 C.E.O.'S OFFICE. WE DID BENEFITS, ALL THE DIFFERENT
8 THINGS THAT YOU DO IN HUMAN RESOURCES, INCLUDING
9 SOMETIMES PLACEMENT AND SELECTION.
10 Q. AND APPROXIMATELY HOW MANY EMPLOYEES DOES
11 THE COUNTY OF LOS ANGELES --
12 A. AROUND THAT TIME, WE WERE ABOUT -- OH, THE
13 COUNTY OF LOS ANGELES, DID YOU SAY?
14 Q. YES.
15 A. AT THAT TIME, WE WERE ABOUT 100,000.
16 Q. AND --
17 A. IN MY DEPARTMENT?
18 Q. IN YOUR DEPARTMENT.
19 A. IN MY DEPARTMENT, WAS ABOUT 200, 250 AROUND
20 THAT TIME.
21 Q. AND WHAT WAS THE DATE OF YOUR RETIREMENT?
22 A. I RETIRED IN APRIL 2009.
23 Q. AND ARE YOU FAMILIAR WITH FRED GUIDO?
24 A. YES, I AM.
25 Q. AND HOW DO YOU KNOW MR. GUIDO?

1 A. MR. GUIDO -- I CAME TO KNOW HIM WHEN
2 SUPERVISOR DON KNABE WAS ELECTED TO THE 4TH DISTRICT
3 AND HE NAMED FRED GUIDO AS HIS CHIEF DEPUTY.
4 AS I MENTIONED BEFORE, I WAS APPOINTED BY
5 THE COUNTY BOARD OF SUPERVISORS, WHICH THERE WERE
6 FIVE, AND ALL OF THEM HAD A SIMILAR STRUCTURE: THE
7 SUPERVISOR AS THE HEAD, THEN THE CHIEF DEPUTY, AND
8 ALL THE OTHER STAFF. SO I KNEW ALL THE BOARD STAFF,
9 IF YOU WILL.
10 Q. AND DO YOU RECALL A PERIOD WHEN MR. GUIDO
11 APPROACHED YOU ABOUT POTENTIAL JOBS THAT WERE
12 AVAILABLE IN THE LOS ANGELES COUNTY WHEN HE WAS
13 TRANSITIONING OUT OF BEING A SUPERVISOR'S DEPUTY?
14 A. YES, I DO.
15 Q. AND TELL US YOUR RECOLLECTION OF THAT.
16 A. I RECALL THAT FRED, I THINK MAYBE, CALLED
17 ME AND BASICALLY SAID, "I WANT TO MOVE ON. I WANT TO
18 DO SOMETHING DIFFERENT AND CAN YOU HELP ME FIND SOME
19 OTHER EMPLOYMENT IN THE COUNTY."
20 AND SO I ASKED HIM FOR A RESUME. THAT'S
21 WHAT I ALWAYS DID WITH THESE TYPES OF SITUATIONS, AND
22 THEN HAD A CONVERSATION WITH HIM.
23 I DON'T KNOW IF IT WAS ON THE PHONE OR HE
24 CAME TO MY OFFICE, BUT WE TALKED ABOUT WHAT KINDS OF
25 THINGS HE WAS INTERESTED IN, WHAT HE HAD DONE IN THE

1 PAST, AND WE ALSO TALKED ABOUT, BECAUSE OF HIS AGE,
2 HIS BENEFITS AND WHERE HE WAS AT IN TERMS OF
3 RETIREMENT AND THAT KIND OF THING.
4 Q. AND DO YOU RECALL WHETHER THE ISSUE OF
5 RECIPROCITY WITH -- BETWEEN CALPERS AND L.A.C.E.R.A.
6 CAME UP WITH RESPECT TO MR. GUIDO?
7 A. YES. AND I CAN'T RECALL WHETHER IT WAS ON
8 THE PHONE OR WHETHER IT WAS ONE OF THE CONVERSATIONS
9 WE HAD OVER THE TIME THAT I WAS LOOKING FOR
10 EMPLOYMENT FOR HIM, BUT IT DID COME UP. AND HE HAD
11 INDICATED TO ME THAT HE HAD RECIPROCITY FROM CALPERS.
12 AND THE REASON THAT IT CAME UP IS THAT IN
13 THE COUNTY OF LOS ANGELES, THERE'S ONLY ONE
14 DEPARTMENT THAT HAS CALPERS AS ITS RETIREMENT SYSTEM.
15 THE REST OF THE COUNTY IS UNDER THE LOS ANGELES
16 COUNTY RETIREMENT ASSOCIATION, L.A.C.E.R.A.
17 SO THAT'S VERY IMPORTANT IN TERMS OF IF YOU
18 NEEDED MORE TIME TO GET CALPERS -- TO BE ELIGIBLE FOR
19 CALPERS, THEN THAT WAS THE ONLY DEPARTMENT THAT WAS
20 AVAILABLE TO HIM.
21 AND SO WE HAD A PRETTY DEEP CONVERSATION
22 ABOUT THAT AND SO FORTH, AND HE FELT HE WAS OKAY. HE
23 INDICATED HE HAD, I BELIEVE, A LETTER FROM
24 L.A.C.E.R.A. -- FROM CALPERS SAYING HE HAD
25 RECIPROCITY, SO THAT WAS NOT AN ISSUE.

1 Q. DO YOU RECALL ABOUT THE DATE OF THIS?
2 A. YOU KNOW, THE REASON I'M HAVING A PROBLEM
3 WITH IT, THERE WERE TWO CASES LIKE THIS, BOTH AT THE
4 BOARD-OFFICE LEVEL IN DIFFERENT OFFICES.
5 ONE WAS A GUY -- I CAN MENTION HIS NAME,
6 CHUCK BOOKERHAMMER -- WHO ALSO HAD THE SAME PROBLEM,
7 AND I GET THE TWO CONFUSED BECAUSE THEY WERE SOMEWHAT
8 AT THE SAME LEVEL. IT WAS SOMETIME IN 2000 -- MAYBE
9 2000 -- THE BEST I CAN RECOLLECT.
10 Q. AND DO YOU RECALL WHETHER THERE WAS A
11 POSITION OPEN IN THE DEPARTMENT THAT HAD CALPERS
12 BENEFITS FOR MR. GUIDO AT THE TIME HE WAS LOOKING?
13 A. I HAD ALREADY CHECKED. AND, YES, THERE WAS
14 A POSITION AT HIS LEVEL, AND THEY WERE WILLING TO
15 TAKE HIM.
16 Q. AND WHAT DO YOU MEAN "WILLING TO TAKE HIM"
17 IN THIS --
18 A. WELL, I CAN'T -- I WASN'T IN THE POSITION
19 TO MAKE THEM HIRE HIM. I COULD ONLY OFFER HIM TO
20 THEM AND GIVE THEM THE CREDENTIALS AND SHOW HOW HE
21 FIT IN THAT PARTICULAR POSITION. AND THEY WERE
22 WILLING TO BRING HIM ONBOARD.
23 Q. AND BY "BRING HIM ONBOARD," YOU MEAN --
24 A. YES.
25 MR. RIEGER: OBJECTION; HEARSAY.

1 THE COURT: DO YOU WANT TO BE HEARD ON
2 HEARSAY?
3 MR. JENSEN: I THINK IT IS HIS -- IT'S
4 REALLY HIS EFFECT ON -- I DON'T THINK IT'S HEARSAY.
5 I MEAN, I THINK WE'RE OFFERING IT FOR THE EFFECT ON
6 MR. HENRY ABOUT WHAT THE STATEMENTS WERE. I MEAN, I
7 CAN GO THROUGH THE HEARSAY EXCEPTIONS, BUT, I MEAN, I
8 THINK IT'S -- I DON'T THINK IT'S HEARSAY.
9 I MEAN, WE'RE ASSERTING IT FOR THE TRUTH OF
10 THE MATTER ASSERTED THAT THERE WERE JOBS AVAILABLE,
11 BUT MR. HENRY WAS IN THE POSITION TO BE ABLE TO REFER
12 MR. GUIDO.
13 AND I THINK THAT'S PART OF THE -- WELL, WE
14 CAN DEVELOP IT THROUGH HIS PLACEMENT POSITION, BUT I
15 BELIEVE, YOU KNOW, IT FALLS WITHIN ONE OF THE HEARSAY
16 EXCEPTIONS.
17 THE COURT: AND THAT EXCEPTION IS?
18 MR. JENSEN: WELL, IT WOULD BE MR. HENRY'S
19 STATE OF MIND ABOUT OFFERING THE POSITION, AND I
20 COULD GO THROUGH THE LIST. I MEAN, I THINK MR. HENRY
21 IS MAKING AN INQUIRY, AND IT'S A RESPONSE TO HIS
22 INQUIRY.
23 AND I THINK IT'S MR. HENRY'S POSITION TO BE
24 ABLE TO KNOW THOSE SITUATIONS AND TO OFFER MR. GUIDO
25 THAT POSITION SO --

1 MR. RIEGER: AND, YOUR HONOR -- I'M SORRY.
2 THE COURT: IF YOU'RE OFFERING IT FOR THE
3 TRUTH OF THE MATTER ASSERTED, MR. HENRY'S STATE OF
4 MIND ISN'T RELEVANT TO THAT OR THE ISSUES IN THIS
5 CASE.
6 MR. JENSEN: YEAH. WELL, I MEAN, BUT IT
7 IS -- I MEAN, IT IS THAT THE POSITION IS AVAILABLE,
8 IF I CAN JUST HAVE A MOMENT TO DISCUSS IT. ARE YOU
9 INCLINED TO BAR ITS ADMISSION AS HEARSAY?
10 THE COURT: WELL, I'M NOT THINKING -- AN
11 EXCEPTION IS NOT COMING TO MIND READILY, SO I WOULD
12 BE INCLINED TO SUSTAIN THE OBJECTION. IT COULD COME
13 IN AS ADMINISTRATIVE HEARSAY FOR THE LIMITED PURPOSES
14 THAT THAT AFFORDS UNLESS YOU CAN TELL ME AN
15 EXCEPTION.
16 MR. JENSEN: YEAH. AND LET ME JUST TAKE A
17 MOMENT TO TAKE A LOOK AT IT.
18 MR. RIEGER: AND, YOUR HONOR, I'LL JUST SAY
19 I'M NOT OBJECTING TO THE FACT THAT THERE WAS AN OPEN
20 POSITION.
21 I UNDERSTAND THAT THAT WAS PART OF
22 MR. HENRY'S JOB, THAT HE WOULD HAVE KNOWN IF THERE
23 WAS AN OPEN POSITION. I'M SOLELY OBJECTING TO THE
24 STATEMENT THAT THEY WERE WILLING TO TAKE HIM.
25 AND IF HE WANTS TO OFFER IT FOR SOME

1 NONHEARSAY PURPOSE, OF COURSE I WOULD NOT OBJECT TO
2 THAT, BUT I VERY STRENUOUSLY OBJECT TO THE IDEA THAT
3 ANY DEPARTMENT WAS WILLING TO TAKE MR. GUIDO,
4 PARTICULARLY WHEN THIS WITNESS HAS JUST SAID THAT HE
5 WAS NOT IN THE POSITION TO REQUIRE THAT, THAT
6 SOMEBODY ELSE HAD TO MAKE THE DECISION.
7 I WANT TO BE CLEAR. I'M OBJECTING TO THIS
8 COMING IN EVEN AS ADMINISTRATIVE HEARSAY.
9 BECAUSE AS I UNDERSTAND ADMINISTRATIVE
10 HEARSAY, THAT IT CAN COME IN TO SUPPLEMENT OTHER
11 EVIDENCE BUT THAT IT CAN'T COME IN ON ITS OWN, AND I
12 DON'T BELIEVE WE HAVE ANY EVIDENCE IN THIS RECORD
13 THAT ANYBODY OF AUTHORITY WAS WILLING TO TAKE MR.
14 GUIDO INTO ANY PARTICULAR JOB.
15 SO I WOULD OBJECT TO THIS COMING IN ON ANY
16 BASIS FOR THE TRUTH OF THE MATTER ASSERTED.
17 THE COURT: OKAY. ALL RIGHT. ONE MOMENT.
18 MR. JENSEN: AND, YOUR HONOR, I WAS
19 REFERRING TO THE CONTEMPORANEOUS STATEMENTS THAT'S
20 OFFERED TO EXPLAIN UNDERSTANDABLE CONDUCT.
21 I MEAN, THEY ARE ENGAGING IN THIS PLACEMENT
22 DECISION. AND MR. HENRY UNDERSTANDS THAT THIS ISSUE
23 IS GOING ON, AND HE'S TRYING TO PLACE MR. HENRY -- I
24 MEAN MR. GUIDO, AND HE'S HEARING THAT THEY WOULD TAKE
25 HIM. AND I THINK THAT THAT IS SUFFICIENT EXCEPTION.

1 THE COURT: OKAY. WHICH SECTION IS THAT?
2 MR. JENSEN: THAT WOULD BE CONTEMPORANEOUS
3 STATEMENTS. AND IT'S IN EVIDENCE CODE 1241, AND IT'S
4 "PEOPLE VERSUS MARCHIALETTE," WHICH IS 45 CAL.APP.3D
5 974 [119 CAL.RPTR. 816].
6 THE COURT: (READING):
7 "IF OFFERED TO EXPLAIN, QUALIFY,
8 OR MAKE UNDERSTANDABLE CONDUCT OF THE
9 DECLARANT AND WAS MADE WHILE THE
10 DECLARANT WAS ENGAGED IN SUCH
11 CONDUCT."
12 I DON'T THINK THAT'S APPLICABLE HERE.
13 MR. JENSEN: WELL, I THINK THE SITUATION IS
14 THAT HE IS -- HE IS TRYING TO PLACE MR. GUIDO, AND
15 HE'S INQUIRING ABOUT THE DEPARTMENT AND THEY SAID
16 THEY'LL TAKE HIM.
17 AND I THINK THAT THAT'S -- IT'S --
18 MR. HENRY IS SAYING THAT'S PART OF HIS JOB IS
19 PLACEMENT, AND I THINK THAT -- I MEAN, THAT IS, YOU
20 KNOW, IT'S ONE OF THESE SITUATIONS THAT IS -- IT IS
21 AN EXCEPTION TO THE HEARSAY RULE, BUT I CAN BRIEF
22 OTHER ONES AS WELL, SO IF YOU WOULD, YOU KNOW, LIKE
23 ME TO.
24 AND ALSO, HE IS SPEAKING ON BEHALF OF THE
25 COUNTY. SO, YOU KNOW, THESE ARE LIKE ADMISSIONS OR

1 ADOPTIVE ADMISSIONS, I MEAN, THAT POSITIONS ARE
2 AVAILABLE AND OPEN.
3 THE COURT: BUT THE COUNTY IS NOT YOUR
4 OPPONENT IN THIS CASE. IT'S NOT A PARTY.
5 MR. JENSEN: BUT IT DOESN'T HAVE TO BE --
6 IT DOESN'T HAVE TO BE A PARTY OPPONENT TO BE AN
7 ADOPTIVE ADMISSION, I DON'T THINK.
8 MR. RIEGER: IT HAS TO BE AN ADMISSION
9 ADVERSE TO INTEREST, AND THERE'S NO ADVERSE TO
10 INTEREST HERE.
11 MR. JENSEN: WELL, I MEAN, I THINK THAT THE
12 COUNTY IS OPPOSING RECIPROCITY AS WELL. I MEAN,
13 THEY'VE DENIED RECIPROCITY, AND HERE HE'S SAYING THAT
14 THERE'S A POSITION AVAILABLE WHICH WOULD HAVE
15 ESTABLISHED RECIPROCITY.
16 SO I THINK THAT THAT'S A SUFFICIENT
17 ADVERSITY, YOU KNOW, TO HAVE AN ADMISSION AGAINST
18 INTEREST AS WELL.
19 MR. RIEGER: IF THERE --
20 THE COURT: HOLD ON. HOLD ON.
21 MR. RIEGER: I'M SORRY.
22 THE COURT: I THINK THAT'S APPLES AND
23 ORANGES. IF THERE'S SOME STATEMENT ABOUT
24 RECIPROCITY, BUT WE'RE TALKING ABOUT OTHER POSITIONS
25 AVAILABLE IN OTHER DEPARTMENTS AND STATEMENTS OF

1 OTHER PEOPLE ABOUT WHETHER THEY WOULD HIRE MR. GUIDO
2 OR NOT. THAT'S DIFFERENT.
3 MR. JENSEN: ACTUALLY, I THINK MR. HENRY IS
4 ADOPTING THAT IN THIS COURT RIGHT NOW, AND HE'S
5 OFFERING -- I MEAN, HE'S CURRENTLY TESTIFYING ABOUT
6 THE -- HE'S ADOPTING THAT ADMISSION OF THE
7 AVAILABILITY. IT'S NOT THE THIRD PARTY. IT'S
8 MR. HENRY, WHO IS SUBJECT TO CROSS-EXAMINATION.
9 THE COURT: OKAY. I DON'T THINK THAT'S THE
10 PROPER CONSTRUCTION OF THAT EXCEPTION SO I THINK --
11 AND I THINK MR. RIEGER IS CORRECT.
12 THE ISSUE HERE IS MR. HENRY HAS BEEN CLEAR
13 THAT HE COULD REFER MR. GUIDO TO THAT OTHER
14 DEPARTMENT OR THOSE OTHER DEPARTMENTS. IT'S STILL
15 THEIR DECISION ON WHETHER TO HIRE MR. GUIDO OR NOT.
16 MR. HENRY DOESN'T HAVE THAT DECISION TO MAKE.
17 SO THE ADDITIONAL COMMENT ABOUT WHETHER
18 THESE PEOPLE WERE WILLING TO HIRE HIM OR NOT, I THINK
19 THAT'S BEYOND THE USE OF THE HEARSAY. WE'RE TAKING
20 THIS ONE STEP BEYOND WHAT YOU'RE OFFERING IT FOR.
21 SO I THINK WE WOULD NEED SOMEONE TO COME
22 FORWARD AND SAY "YES, WE WERE FAMILIAR WITH MR. GUIDO
23 AND, YES, WE WOULD HAVE HIRED HIM" TO PROVE THE POINT
24 THAT MR. GUIDO WOULD HAVE GOTTEN THE JOB.
25 MR. JENSEN: WELL, MAYBE I CAN JUST DEVELOP

1 THAT THROUGH MR. HENRY WHO THAT PERSON WOULD BE AND
2 WHAT -- BECAUSE I WAS UNDER THE UNDERSTANDING THAT HE
3 WAS ABLE TO BE PLACED IN THAT POSITION.
4 SO THERE'S A THIN SORT OF LINE ABOUT THIS
5 ISSUE ABOUT A JOB BEING AVAILABLE FOR HIM AND HIM
6 BEING RIGHT FOR IT AND SEEKING APPROVAL, AND I'D JUST
7 LIKE TO DEVELOP THAT WITH THE WITNESS.
8 THE COURT: YOU CAN IF YOU WANT. THE OTHER
9 ISSUE IN TERMS OF ADMINISTRATIVE HEARSAY, IS THERE
10 ANY OTHER ADMISSIBLE EVIDENCE IN THE RECORD SO FAR
11 REGARDING THIS OTHER POSITION THAT THIS TESTIMONY
12 WOULD EXPLAIN, SUPPLEMENT, OR CORROBORATE?
13 MR. JENSEN: WELL, I THINK MR. GUIDO HAS
14 TESTIFIED THAT HE BELIEVED THE JOB WAS AVAILABLE AS
15 WELL. BUT I MEAN --
16 THE COURT: BUT THERE'S NO DISPUTE ABOUT
17 WHETHER IT'S AVAILABLE. THE ISSUE, YOU'RE TAKING IT
18 THE NEXT STEP AND SAYING HE WOULD HAVE BEEN HIRED,
19 WHICH IS BEYOND IT BEING AVAILABLE.
20 MR. JENSEN: WELL, I UNDERSTAND. AND, I
21 MEAN, THE ULTIMATE ISSUE OF THAT IS WHAT I'D LIKE TO
22 DEVELOP WITH MR. HENRY, BUT I THINK THAT THE QUESTION
23 IS HE WOULD ONLY HAVE BEEN HIRED INTO IT IF HE NEEDED
24 IT; RIGHT?
25 HE WOULDN'T HAVE GONE TO TAKE THE POSITION

1 UNLESS HE BELIEVED HE NEEDED RECIPROCITY.
2 SO IT'S KIND OF LIKE -- YOU KNOW, IT'S
3 USING THIS OPPORTUNITY, WHICH IS HIS LOST OPPORTUNITY
4 THAT HE COULD HAVE OTHERWISE PROCEEDED UPON AND TAKEN
5 HAD HE KNOWN THAT RECIPROCITY WASN'T ESTABLISHED.
6 BUT BECAUSE HE BELIEVED RECIPROCITY WAS ESTABLISHED,
7 HE DIDN'T TAKE THAT POSITION -- THAT JOB, AND
8 THEREFORE IT'S KIND OF TAKING MY BURDEN OF SHOWING
9 THAT CALPERS DENIED HIM THE INFORMATION TO BE ABLE TO
10 PROCEED IN THIS MANNER TO BE ABLE TO GET RECIPROCITY
11 BY SAYING, WELL, HE ONLY WOULD HAVE ESTABLISHED -- HE
12 ONLY WOULD HAVE ESTABLISHED RECIPROCITY IF HE TOOK
13 THE JOB, BUT THE ESTOPPEL ISSUE IS REALLY ABOUT LOST
14 OPPORTUNITIES AND OPPORTUNITIES HE WOULD HAVE TAKEN
15 HAD HE BEEN CORRECTLY INFORMED.
16 THE COURT: OKAY. WELL, YOU CAN CERTAINLY
17 ARGUE THAT POINT AND WITH REGARD TO THERE WAS AN OPEN
18 POSITION. THE OBJECTION IS THE NEXT LEVEL, WHICH IS
19 NOT ONLY WAS IT OPEN BUT MR. GUIDO WOULD HAVE BEEN
20 HIRED.
21 AND I DO HAVE A CONCERN ABOUT THAT SORT OF
22 HEARSAY BEING ADMITTED UNLESS THERE'S AN EXCEPTION,
23 WHICH I DON'T BELIEVE THERE IS.
24 AND USING IT AS ADMINISTRATIVE HEARSAY, IT
25 CAN'T GO IN THE RECORD UNLESS I CAN USE IT PROPERLY.

1 SO IF THERE ISN'T ANY OTHER EVIDENCE THAT'S BEEN
2 ADMISSIBLE, I HAVE NO USE FOR THIS BECAUSE I CAN'T
3 USE IT TO EXPLAIN, SUPPLEMENT, OR CORROBORATE OTHER
4 INFORMATION.
5 SO WHAT I'LL DO IS I'LL STRIKE THE
6 TESTIMONY REGARDING, QUOTE, UNQUOTE, "THEY WERE
7 WILLING TO HIRE HIM."
8 THE REST OF THE TESTIMONY REMAINS ABOUT THE
9 POSITION BEING OPEN AND MR. HENRY REFERRING MR. GUIDO
10 THERE OR WOULD HAVE REFERRED HIM. IF YOU WANT TO
11 DEVELOP THE REST OF THIS, YOU CAN.
12 MR. JENSEN: LET ME JUST -- I MEAN, REALLY
13 THE QUESTION THAT WE'RE BRINGING MR. HENRY IN IS THIS
14 ISSUE ABOUT THE DIFFERENT OPPORTUNITIES THAT
15 PRESENTED TO MR. GUIDO AT THAT TIME BASED ON HIS
16 KNOWLEDGE.
17 AND WHETHER HE -- I MEAN, THE ULTIMATE
18 ISSUE OF WHETHER HE WOULD HAVE BEEN HIRED INTO THAT
19 IS NOT REALLY WHAT'S AT STAKE BUT THAT HE FORSWORE
20 THAT OPPORTUNITY BASED ON THE INFORMATION THAT HE HAD
21 I THINK IS REALLY WHAT WE'RE SAYING IN THIS ESTOPPEL
22 CASE.
23 THE COURT: OKAY. THEN YOU MAKE THAT
24 ARGUMENT. RIGHT NOW THE OBJECTION IS JUST THAT NEXT
25 LEVEL OF QUOTE, UNQUOTE, "THEY WOULD HAVE HIRED HIM."

1 SO THAT'S ALL I'M RULING ON RIGHT NOW.
2 MR. JENSEN: OKAY. AND I APPRECIATE THE
3 RESPONSE. I'D JUST LIKE TO LEAVE THAT HEARSAY
4 EXCEPTION ISSUE. I MEAN, I UNDERSTAND YOUR RULING.
5 THE COURT: OKAY. LET'S GO FORWARD. I'VE
6 RULED ON YOUR OBJECTION, SO NEXT QUESTION.
7 MR. RIEGER: YOUR HONOR, IF I MAY, JUST A
8 BRIEF --
9 THE COURT: I'VE ALREADY MADE A RULING.
10 I'VE RESPONDED TO YOUR OBJECTION. LET'S GO FORWARD.
11 WE'RE GOING TO HAVE ANOTHER QUESTION, AND THAT'S IT.
12 MR. RIEGER: I JUST WANTED TO MAKE SURE
13 THAT IT'S ALL STRICKEN BECAUSE MY COMMENT CAME IN THE
14 TESTIMONY, AND I DIDN'T WANT TO INTERRUPT HIM.
15 THE COURT: I'VE INDICATED ON THE RECORD
16 THAT THAT HAS BEEN STRICKEN SO WE'RE GOING TO GO
17 FORWARD.
18 MR. RIEGER: THANK YOU.
19 THE COURT: SO NEXT QUESTION.
20 BY MR. JENSEN:
21 Q. AND THANK YOU, MR. HENRY.
22 WERE YOU AWARE OF -- YOU MENTIONED ANOTHER
23 INDIVIDUAL WHO -- WHO WAS, YOU SAID, IN A SIMILAR
24 SITUATION TO MR. GUIDO. CAN YOU EXPLAIN WHAT THAT
25 WAS?

1 MR. RIEGER: OBJECTION; RELEVANCE.
2 THE COURT: DO YOU WANT TO BE HEARD ON
3 THAT?
4 MR. JENSEN: YES, YOUR HONOR. THIS IS THE
5 INDIVIDUAL WHO IS ADVISING MR. GUIDO AT THIS TIME
6 BASED ON HIS KNOWLEDGE.
7 AND HE IS EXPERIENCED WITH THIS OTHER
8 INDIVIDUAL, AND I THINK HE HAD FORMED HIS EXPRESSION
9 OF OPINION TO MR. GUIDO ABOUT HIS AVAILABILITIES AND
10 WHAT WERE THE RAMIFICATIONS OF HIS DIFFERENT CHOICES.
11 THE COURT: IS THIS THE PERSON WE DISCUSSED
12 YESTERDAY? THERE WAS A QUESTION YESTERDAY ABOUT SOME
13 OTHER PERSON THAT WAS -- THAT HAD A SIMILAR
14 SITUATION.
15 MR. JENSEN: I DON'T KNOW IF IT'S THE SAME
16 PERSON. I THINK THERE WERE TWO INDIVIDUALS. AND WE
17 DID TOUCH ON IT YESTERDAY, AND THERE WAS A RELEVANCE
18 OBJECTION.
19 BUT THIS IS REALLY A QUESTION ABOUT
20 MR. HENRY'S UNDERSTANDING AND HIS ADVICE TO MR. GUIDO
21 AND WHAT WERE -- WHAT WERE THE RAMIFICATIONS OF HIS
22 POTENTIAL OPTIONS.
23 THE COURT: OKAY. I JUST DON'T WANT TO
24 LITIGATE ANOTHER PERSON'S SITUATION WHEN WE'RE JUST
25 DEALING WITH MR. GUIDO.

1 SO YOU CAN CERTAINLY ASK QUESTIONS ABOUT
2 THE DISCUSSION THEY HAD WITH EACH OTHER, BUT BRINGING
3 IN THE OTHER PERSON, I DON'T WANT TO HAVE THIS
4 DEVOLVE INTO WHAT WAS THAT OTHER PERSON'S SITUATION
5 AND, YOU KNOW, USING TIME THAT'S ULTIMATELY NOT
6 PROBATIVE FOR ME.
7 MR. JENSEN: I UNDERSTAND, YOUR HONOR, AND
8 I'LL BE JUST VERY BRIEF. ONE OR TWO QUESTIONS AND
9 WE'LL MOVE ON.
10 THE COURT: OKAY. WELL, LET'S SEE WHERE
11 WE -- I'LL GIVE HIM SOME LEEWAY, AND YOU CAN OBJECT
12 OR MOVE TO STRIKE IF THE RELEVANCY DOTS HAVEN'T BEEN
13 CONNECTED.
14 OKAY. SO GO AHEAD.
15 BY MR. JENSEN:
16 Q. AND, MR. HENRY, WERE YOU AWARE OF ANOTHER
17 INDIVIDUAL WHO HAD A SIMILAR SITUATION TO MR. GUIDO
18 PRIOR TO MR. GUIDO?
19 MR. RIEGER: OBJECTION; VAGUE AS TO
20 "SIMILAR SITUATION."
21 THE COURT: OVERRULED.
22 YOU CAN ANSWER.
23 THE WITNESS: YES.
24 BY MR. JENSEN:
25 Q. AND DID YOU MENTION THAT SITUATION OR DID

1 YOU TAKE THAT -- LET ME STRIKE THAT.
2 DID YOU TAKE THAT SITUATION INTO
3 CONSIDERATION WHEN YOU WERE TALKING TO MR. GUIDO?
4 MR. RIEGER: OBJECTION; VAGUE. RELEVANCE.
5 THE COURT: OVERRULED.
6 YOU CAN ANSWER.
7 THE WITNESS: YES.
8 BY MR. JENSEN:
9 Q. AND TELL US HOW YOU DID SO.
10 A. WELL, THERE WERE BASICALLY TWO CASES THAT
11 WERE VERY SIMILAR THAT I WAS DEALING WITH AROUND THE
12 SAME TIME.
13 THIS OTHER CASE WAS AN INDIVIDUAL WHO HAD
14 NOT ESTABLISHED RECIPROCITY AND KNEW THAT THEY HAD
15 NOT AND WAS LOOKING FOR A SIMILAR POSITION, WHICH WAS
16 THE ONLY POSSIBLE POSITION FOR HIM WITHIN THE COUNTY
17 WAS THE DEPARTMENT THAT HAD THE TIES TO CALPERS.
18 AND HE WAS PLACED IN CALPERS AND DID WORK
19 THERE FOR A NUMBER OF YEARS AND RETIRED.
20 Q. TO YOUR KNOWLEDGE, DID HE ESTABLISH
21 RECIPROCITY?
22 MR. RIEGER: OBJECTION; RELEVANCE.
23 THE WITNESS: YES, HE ESTABLISHED
24 RECIPROCITY.
25 THE COURT: HOLD ON.

1 SUSTAINED.
2 THE WITNESS: YEAH. HE ESTABLISHED --
3 THE COURT: THAT'S OKAY. I SUSTAINED THE
4 OBJECTION SO HE'S GOING TO ASK YOU ANOTHER QUESTION.
5 I'LL STRIKE THE ANSWER.
6 BY MR. JENSEN:
7 Q. AND SO, MR. HENRY, WHAT WAS THE SUBSTANCE
8 OF YOUR ADVICE TO MR. GUIDO AT THAT TIME?
9 A. WELL, BECAUSE OF HIS AGE, I WANTED TO MAKE
10 SURE THAT -- AND THE FACT THAT HE DID NOT HAVE A
11 LONG-TERM WORKING RELATIONSHIP WITH LOS ANGELES
12 COUNTY, I WANTED TO MAKE SURE THAT HE KNEW WHAT ALL
13 OF HIS OPTIONS WERE AND HAD BASICALLY EXPLORED ALL OF
14 HIS OPTIONS BEFORE TAKING ANOTHER JOB.
15 SO THAT'S PRETTY MUCH...
16 Q. AND HOW DETAILED WERE YOU ABOUT DESCRIBING
17 TO MR. GUIDO HIS OPTIONS?
18 A. WELL, THERE WAS TWO BASIC OPTIONS. ONE, IF
19 HE HADN'T ESTABLISHED RECIPROCITY, THEN YOU SHOULD GO
20 TO THIS ONE DEPARTMENT THAT HAD CALPERS SO THAT YOU
21 COULD ESTABLISH RECIPROCITY.
22 IF YOU ALREADY HAD IT, THEN THERE WERE MANY
23 OTHERS -- I THINK 30, 35 DEPARTMENTS -- THAT YOU
24 COULD LOOK AT AND THAT HAD -- MAY HAVE OPENINGS FOR
25 HIM. AND HE EVENTUALLY ENDED UP IN PUBLIC WORKS.

1 Q. AND IN YOUR EXPERIENCE, IS RECIPROCITY ONE
2 OF -- IS IT A DIFFICULT RETIREMENT ISSUE?
3 MR. RIEGER: OBJECTION; VAGUE.
4 THE COURT: SUSTAINED.
5 BY MR. JENSEN:
6 Q. IN YOUR EXPERIENCE, DO YOU HAVE MANY
7 INQUIRIES ABOUT THE EFFECT OF RECIPROCITY?
8 A. NOT OFTEN. PROBABLY MAYBE HALF A DOZEN
9 DURING MY CAREER THAT I'VE HAD THAT KIND OF
10 SITUATION.
11 MR. JENSEN: AND I HAVE NO FURTHER
12 QUESTIONS FOR MR. HENRY.
13 THE COURT: OKAY. THANK YOU.
14 MR. RIEGER?
15
16 CROSS-EXAMINATION
17 BY MR. RIEGER:
18 Q. GOOD AFTERNOON, MR. HENRY.
19 A. GOOD AFTERNOON, SIR.
20 Q. WE SPOKE ON THE PHONE ABOUT A WEEK AGO; IS
21 THAT RIGHT?
22 A. YES.
23 Q. AND YOU TOLD ME AT THAT TIME THAT
24 MR. GUIDO -- THAT YOU DON'T RECALL ANY APPLICATIONS
25 OR INTERVIEWS BY MR. GUIDO WITH THE COMMUNITY

1 DEVELOPMENT DEPARTMENT; DO YOU RECALL TELLING ME
2 THAT?
3 A. I RECALL SAYING I'M NOT AWARE OF ANY
4 APPLICATIONS OR INTERVIEWS. I WOULD HAVE SENT HIS
5 RESUME OVER TO THEM, THOUGH.
6 Q. SO TO YOUR BEST RECOLLECTION, YOU DON'T
7 RECALL MR. GUIDO ACTUALLY APPLYING FOR THE COMMUNITY
8 DEVELOPMENT --
9 I'M SORRY. IT WAS THE COMMUNITY
10 DEVELOPMENT DEPARTMENT WAS THE CALPERS COVERAGE
11 OUTFIT; RIGHT?
12 A. YEAH.
13 Q. OKAY. SO YOU DON'T RECALL MR. GUIDO EVER
14 APPLYING FOR THAT JOB; ISN'T THAT RIGHT?
15 A. I DON'T RECALL HIM EVER APPLYING FOR THAT
16 JOB.
17 Q. AND YOU DON'T RECALL HIM EVER INTERVIEWING
18 FOR THAT JOB; IS THAT RIGHT?
19 A. I DON'T RECALL HIM EVER INTERVIEWING FOR
20 THAT JOB.
21 Q. AND ULTIMATELY, YOU WERE NOT THE PERSON WHO
22 WAS IN A POSITION TO HIRE HIM FOR THAT JOB; ISN'T
23 THAT RIGHT?
24 A. I WAS NOT THE AUTHORITY POINT FOR
25 DETERMINING WHO WOULD WORK FOR THE COUNTY. I JUST

1 REFERRED THEM TO THE DEPARTMENT. BUT I WAS THE
2 DIRECTOR OF PERSONNEL, WHICH HAD THE JOB IN TERMS OF
3 HUMAN RESOURCES FOR THE COUNTY.
4 Q. BUT YOUR JOB WAS JUST TO REFER HIM TO THAT
5 DEPARTMENT IF HE WANTED TO APPLY AND THEN SOMEBODY
6 ELSE WOULD MAKE THE DECISION WHETHER TO HIRE HIM?
7 A. WELL, I DON'T THINK -- THE TRANSACTION WAS
8 A LITTLE MORE DETAILED IN THAT I WOULD MAKE CONTACT
9 WITH THE DEPARTMENT, TALK WITH THEM ABOUT WHAT
10 OPPORTUNITIES THERE WERE IN THEIR DEPARTMENT, AND IF
11 THEY HAD ONE, THEN I WOULD REFER MR. GUIDO OR ANYONE
12 ELSE TO THAT POSITION.
13 AND WHILE THEY WOULDN'T BE OBLIGATED TO
14 TAKE THE POSITION, THEY WOULD HAVE TO TELL ME WHY --
15 OR TAKE THE PERSON, NOT THE POSITION BUT TAKE THE
16 PERSON.
17 Q. IS THE COMMUNITY DEVELOPMENT JOB A CIVIL
18 SERVICE JOB?
19 A. I DON'T BELIEVE IT IS. IT'S UNDER -- IT'S
20 A QUASI-COUNTY DEPARTMENT BECAUSE THE BOARD OF
21 SUPERVISORS APPOINTED THE DEPARTMENT HEAD, BUT I
22 DON'T BELIEVE IT'S UNDER CIVIL SERVICE OR CERTAINLY
23 NOT PART OF L.A.C.E.R.A. AS ALL OTHER COUNTY
24 DEPARTMENTS WERE L.A.C.E.R.A., THE LOS ANGELES COUNTY
25 RETIREMENT ASSOCIATION.

1 Q. WAS IT AN AT-WILL JOB TO YOUR BEST
2 RECOLLECTION?
3 A. I DON'T THINK IT WAS AN AT-WILL JOB.
4 Q. SO IS THERE SOMETHING BETWEEN CIVIL SERVICE
5 AND AT WILL THAT IT WOULD HAVE BEEN?
6 A. I'M JUST NOT SURE ABOUT THAT. I'M SORRY.
7 IT'S BEEN A LONG TIME SINCE I'VE DEALT --
8 Q. NO. I UNDERSTAND. I MEAN, IS THERE
9 ANOTHER JOB CLASS? I MEAN, CIVIL SERVICE HAS CERTAIN
10 RULES --
11 A. THERE'S UNCLASSIFIED. THERE'S CLASSIFIED.
12 AND I'M NOT SURE EXACTLY WHERE C.D.C. IS.
13 Q. OKAY. SO IS UNCLASSIFIED DIFFERENT THAN AT
14 WILL?
15 A. UNCLASSIFIED JUST MEANS YOU'RE NOT A
16 CLASSIFIED EMPLOYEE. IT'S CLOSER TO AT WILL, BUT
17 IT'S NOT TOTALLY AT WILL.
18 MR. RIEGER: IF I COULD JUST HAVE A MOMENT.
19 I MAY BE DONE.
20 THE COURT: OKAY.
21 MR. RIEGER: I HAVE NO MORE QUESTIONS, YOUR
22 HONOR.
23 THE COURT: OKAY. THANK YOU.
24 MS. DANIEL, DO YOU HAVE ANY QUESTIONS FOR
25 MR. HENRY?

1 MS. DANIEL: NO QUESTIONS, YOUR HONOR.
2 THE COURT: OKAY. ANY FOLLOW-UP?
3 MR. JENSEN: YES, YOUR HONOR.
4
5 REDIRECT EXAMINATION
6 BY MR. JENSEN:
7 Q. WHAT WAS MR. GUIDO'S POSITION WHEN HE CAME
8 TO YOU?
9 A. HE WAS THE ASSISTANT -- WELL, HE WAS THE
10 CHIEF DEPUTY, THE NUMBER TWO SPOT IN SUPERVISOR
11 KNABE'S --
12 MS. DANIEL: YOUR HONOR, I'M GOING TO
13 OBJECT TO THIS BEING BEYOND THE SCOPE OF CROSS.
14 THE COURT: HOW DOES THIS RELATE TO THE
15 CROSS?
16 MR. JENSEN: MR. RIEGER ELICITED TESTIMONY
17 THAT THEY WOULD HAVE TO -- THAT DEPARTMENT'S HEAD
18 WOULD HAVE TO RESPOND TO MR. HENRY'S SUGGESTIONS OF
19 THOSE PEOPLE THAT HE SUGGESTED FOR THE JOB.
20 THE COURT: OKAY. OVERRULED. WE'LL SEE
21 WHERE THIS GOES.
22 THE WITNESS: WHAT WAS THE QUESTION AGAIN?
23 THE COURT: I THINK YOU ANSWERED IT. YOU
24 WERE SAYING HE WAS THE NUMBER TWO?
25 THE WITNESS: YEAH, HE WAS THE CHIEF DEPUTY

1 TO SUPERVISOR DON KNABE.
2 BY MR. JENSEN:
3 Q. AND DID YOU CONSIDER THAT AN IMPORTANT
4 POSITION?
5 A. VERY IMPORTANT POSITION.
6 Q. AND HOW WOULD MR. GUIDO'S POSITION ENTER
7 INTO YOUR RECOMMENDATION FOR A DEPARTMENT HEAD TO
8 HIRE MR. GUIDO?
9 MR. RIEGER: OBJECTION; INCOMPLETE
10 HYPOTHETICAL, CALLS FOR SPECULATION.
11 THE COURT: OKAY. I'LL OVERRULE IT.
12 WE DON'T WANT YOU TO SPECULATE. WE JUST
13 WANT YOU TO GIVE US YOUR BEST --
14 OKAY. GO AHEAD.
15 THE WITNESS: IT CARRIED A LOT OF WEIGHT.
16 BY MR. JENSEN:
17 Q. AND WHAT DO YOU MEAN BY "CARRIED A LOT OF
18 WEIGHT"?
19 A. WELL, THE COUNTY BOARD OF SUPERVISORS ARE
20 THE POINT AUTHORITY FOR ALL THE DEPARTMENT HEADS. IF
21 MR. GUIDO WANTED TO GO TO A CERTAIN DEPARTMENT AND
22 THEY HAD AN OPENING, THEN THAT DEPARTMENT HEAD WOULD
23 RESPOND APPROPRIATELY.
24 Q. AND WHAT DO YOU MEAN BY "RESPOND
25 APPROPRIATELY"?

1 A. UNLESS THERE WAS SOMETHING IN MR. GUIDO'S
2 BACKGROUND OR SOME OTHER REASON, PERHAPS THE POSITION
3 HAD TO BE FROZEN FOR SOME OTHER -- IF IT WAS AN OPEN
4 POSITION, MR. GUIDO WOULD HAVE A RIGHT TO THAT
5 POSITION.
6 Q. AND WHAT YOU MEAN "A RIGHT TO THAT
7 POSITION"?
8 A. WELL, THE DEPARTMENT HEAD WOULD HAVE TO
9 EXPLAIN WHY THEY WOULDN'T TAKE MR. GUIDO. AND IF
10 THERE WAS A SOLID ANSWER THERE, FINE. THAT'S FINE.
11 MR. GUIDO WOULDN'T GO THERE.
12 BUT IF THERE WAS NO SOLID ANSWER FOR NOT
13 TAKING HIM, THEN THAT DEPARTMENT HEAD WOULD HAVE TO
14 ANSWER TO WHY NOT. I CAN'T PUT IT ANY CLEARER.
15 Q. AND WHAT WOULD YOU CONSIDER SOLID REASONS
16 FOR NOT ACCEPTING --
17 A. WELL, LIKE I MENTIONED, SOMETHING IN HIS
18 BACKGROUND THAT CONTRADICTED THE DEPARTMENT'S MISSION
19 IN THAT REGARD OR THE POSITION WAS FROZEN AND THE
20 DOLLARS WERE BEING USED FOR SOME OTHER SITUATION,
21 THEREFORE THE POSITION REALLY IS NOT AVAILABLE.
22 BUT IF HIS BACKGROUND WAS CLEAN AND THERE
23 WERE NO OTHER ISSUES, IT WOULD BE DIFFICULT FOR A
24 DEPARTMENT HEAD TO SAY NO.
25 Q. AND WERE YOU ACQUAINTED WITH MR. GUIDO'S

1 BACKGROUND?
2 A. YES, I WAS.
3 MR. RIEGER: OBJECTION; BEYOND THE SCOPE.
4 MR. JENSEN: THIS IS ALL --
5 THE COURT: OVERRULED.
6 BY MR. JENSEN:
7 Q. AND WAS THERE ANYTHING IN MR. GUIDO'S
8 BACKGROUND THAT WOULD, IN YOUR OPINION, CAUSE A
9 DEPARTMENT HEAD TO REFUSE TO ACCEPT HIS EMPLOYMENT?
10 MR. RIEGER: VAGUE AND INCOMPLETE
11 HYPOTHETICAL.
12 MS. DANIEL: AND CALLS FOR SPECULATION.
13 MR. RIEGER: AND CALLS FOR SPECULATION.
14 THE COURT: OKAY. OVERRULED.
15 YOU CAN ANSWER.
16 THE WITNESS: I REVIEWED MR. GUIDO'S --
17 WOULD HAVE REVIEWED MR. GUIDO'S RESUME, AND IF
18 THERE'S ANYTHING IN THERE THAT I WOULD HAVE COME UPON
19 THAT WOULD HAVE CAUSED A PROBLEM IN THAT POSITION OR
20 ANY OTHER POSITION, I WOULD LET MR. GUIDO KNOW THAT
21 AND PROBABLY WOULDN'T GO ANY FURTHER.
22 I DON'T KNOW IF -- DID THAT ANSWER YOUR
23 QUESTION?
24 BY MR. JENSEN:
25 Q. AND DID YOU BRING THE -- WAS THERE AN OPEN

1 POSITION IN C.D.C. AT THAT TIME?
2 A. YES, THERE WAS.
3 Q. AND DID YOU BRING THAT OPEN POSITION TO
4 MR. GUIDO'S ATTENTION?
5 A. YES, I DID.
6 Q. AND DO YOU RECALL MR. GUIDO'S RESPONSE TO
7 THAT?
8 MR. RIEGER: OBJECTION; BEYOND THE SCOPE.
9 THE COURT: SUSTAINED.
10 MR. JENSEN: YOUR HONOR, I HAVE NO FURTHER
11 QUESTIONS FOR MR. HENRY.
12 THE COURT: OKAY. ANY FOLLOW-UP,
13 MR. RIEGER?
14 MR. RIEGER: NO, YOUR HONOR.
15 THE COURT: MS. DANIEL, ANY FOLLOW-UP?
16 MS. DANIEL: NO, YOUR HONOR.
17 THE COURT: OKAY. THANK YOU VERY MUCH,
18 MR. HENRY. YOU'RE FREE TO GO.
19 LET'S GO OFF THE RECORD.
20 (WHEREUPON, A RECESS WAS HELD
21 FROM 3:04 P.M. TO 3:23 P.M.)
22 THE COURT: LET'S GO BACK ON THE RECORD.
23 OKAY. WE'RE BACK FROM OUR AFTERNOON BREAK,
24 AND WE'RE NOW RESUMING THE TESTIMONY OF
25 MS. DE FLORES.

1 AND YOU UNDERSTAND YOU'RE STILL UNDER THE
2 SAME OATH THAT YOU TOOK EARLIER TODAY?
3 THE WITNESS: YES.
4 THE COURT: OKAY. AND CONTINUING WITH HER
5 DIRECT EXAMINATION. SO, MR. JENSEN, YOU CAN TAKE UP
6 WHERE YOU LEFT OFF.
7 MR. JENSEN: THANK YOU, YOUR HONOR.
8 AND THANK YOU, MS. DE FLORES.
9
10 EMILY PEREZ DE FLORES,
11 HAVING BEEN PREVIOUSLY DULY SWORN IN,
12 RESUMED THE STAND AND TESTIFIED
13 FURTHER AS FOLLOWS:
14
15 DIRECT EXAMINATION
16 BY MR. JENSEN:
17 Q. WE HAD JUST DISCUSSED YOUR UNDERSTANDING OF
18 WHAT RECIPROCITY IS. HAS CALPERS ESTABLISHED
19 PROCEDURES FOR INFORMING MEMBERS ABOUT WHETHER
20 THEY'RE ENTITLED TO RECIPROCITY?
21 A. YES.
22 Q. AND ARE THOSE PROCEDURES IN -- DETAILED IN
23 EXHIBIT 225?
24 A. NO.
25 Q. AND WHAT ARE THE PROCEDURES FOR DETERMINING

1 WHETHER AN INDIVIDUAL HAS ESTABLISHED RECIPROCITY?
2 A. IT BEGINS WITH THE INITIATION OF THE
3 REQUEST EITHER BY THE MEMBER, BY THE RECIPROCAL
4 RETIREMENT SYSTEM TO ESTABLISH THE RECIPROCITY, AND
5 IN SOME CASES THE BENEFITS SERVICES DIVISION.
6 BUT THE BENEFITS SERVICES DIVISION JUST
7 SAYS, HEY, CAN YOU OR DOES THIS PERSON QUALIFY FOR
8 RECIPROCITY, SO THEY WILL KNOW HOW TO CALCULATE THE
9 BENEFIT.
10 Q. LET ME TURN --
11 A. OKAY.
12 Q. LET ME TURN YOUR ATTENTION TO EXHIBIT 201.
13 DO YOU RECOGNIZE THIS DOCUMENT?
14 A. YES, I DO.
15 Q. AND WHAT IS THIS DOCUMENT?
16 A. THIS IS A COVER TEMPLATE THAT'S GIVEN AT
17 THE TIME OF REQUEST FOR RETIREMENT ESTIMATE. IT WAS
18 DEVELOPED THROUGH OUR SERVICE-LEVEL IMPROVEMENT
19 PROCESS TO STREAMLINE THE PROCESS OF PROVIDING
20 COMMUNICATION TO THE MEMBERS WITH REGARDS TO THEIR
21 RETIREMENT ESTIMATE.
22 Q. IS THIS SENT TO EVERY PERSON WHO SUBMITS AN
23 ESTIMATE FOR RETIREMENT BENEFITS?
24 A. NO. IT'S SENT TO MEMBERS WHO HAVE
25 INDICATED THAT THEY HAVE EMPLOYMENT OR MEMBERSHIP

1 WITH A RECIPROCAL RETIREMENT SYSTEM ON THEIR
2 RETIREMENT REQUEST FORM.
3 Q. AND WHAT PART OF THE PROCESS IS THIS --
4 WELL, TELL ME -- STEP THROUGH THE PROCESS THAT WOULD
5 RESULT IN THE GENERATION OF THIS LETTER.
6 A. SO WITH REGARDS TO THIS SPECIFIC LETTER, WE
7 RECEIVED A REQUEST FOR A RETIREMENT ESTIMATE.
8 STAFF WAS NOT ABLE TO COMPLETE A RETIREMENT
9 ESTIMATE FOR MR. GUIDO BECAUSE WE DIDN'T HAVE THE
10 SALARY INFORMATION AFTER HE HAD INDICATED ON THE
11 ESTIMATE THAT HE HAD MEMBERSHIP WITH L.A.C.E.R.A.
12 Q. AND HOW -- TELL ME WHICH PART OF THIS
13 LETTER IS A FORM LETTER AND WHICH PART IS SPECIFIC TO
14 MR. GUIDO.
15 A. SO THE MAJORITY OF THE LETTER IS THE FORM
16 LETTER EXCEPT FOR THE DATE, HIS NAME AND ADDRESS, THE
17 "DEAR," AND THEN "L.A.C.E.R.A." I WOULD SAY THAT'S
18 PRETTY MUCH THE ONLY VARIABLES IN THIS TEMPLATE.
19 Q. AND LET ME POINT YOUR ATTENTION TO THE
20 FIRST LINE OF THE SECOND PARAGRAPH:
21 "CALPERS HAS REVIEWED YOUR
22 ACCOUNT."
23 WHAT IS THAT REFERRING TO?
24 A. THIS IS JUST THAT THEY REVIEWED HIS ACCOUNT
25 THAT THERE ARE FUNDS ON DEPOSIT, SERVICE CREDIT TO BE

1 ABLE TO PROVIDE A RETIREMENT ESTIMATE.
2 Q. AND LET ME TURN YOUR ATTENTION TO THE PART
3 OF THE SENTENCE THAT SAYS:
4 "AND HAS DETERMINED THAT
5 RECIPROCITY HAS BEEN ESTABLISHED."
6 A. THAT'S WHAT THE TEMPLATE INDICATES. BUT I
7 CAN TELL YOU FOR A FACT THAT STAFF IN THE RETIREMENT
8 ESTIMATE UNIT DO NOT DETERMINE WHETHER RECIPROCITY
9 HAS BEEN ESTABLISHED OR NOT.
10 THIS TEMPLATE IS JUST THAT. IT'S A
11 TEMPLATE, AGAIN, USED OR DEVELOPED THROUGH THE
12 SERVICE-LEVEL IMPROVEMENT PROCESS, BUT STAFF IN THIS
13 UNIT DO NOT ESTABLISH RECIPROCITY.
14 Q. AND DO YOU KNOW THE FREQUENCY OF HOW MANY
15 TIMES THIS LETTER IS -- OR THIS FORM LETTER IS SENT
16 OUT?
17 A. I DON'T KNOW THE VOLUME OF FREQUENCY. IT'S
18 USED WHENEVER A MEMBER INDICATES ON THE RETIREMENT
19 ESTIMATE REQUEST FORM THAT THEY ARE A MEMBER OF
20 ANOTHER RETIREMENT SYSTEM.
21 Q. AND THIS LANGUAGE, "SINCE YOU HAVE
22 ESTABLISHED RECIPROCITY," WHAT DOES -- WHAT DOES THAT
23 LANGUAGE MEAN?
24 A. JUST THAT, "SINCE YOU ESTABLISHED
25 RECIPROCITY." BUT AGAIN, IT'S JUST A TEMPLATE. BUT

1 THERE'S NO VALIDATION BY STAFF TO ESTABLISH THE
2 RECIPROCITY IN THE RETIREMENT ESTIMATE UNIT.
3 Q. AND WHEN THE LANGUAGE HAS, "CALPERS HAS
4 REVIEWED YOUR ACCOUNT," DOES THAT CONNOTATE (SIC)
5 VALIDATION?
6 A. NO. JUST THAT THEY ARE A MEMBER OF CALPERS
7 AND BECAUSE THEY INDICATED ON THE RETIREMENT ESTIMATE
8 REQUEST FORM THAT THEY'RE A MEMBER OF A RECIPROCAL
9 RETIREMENT SYSTEM, THEN THEY PRODUCE THIS TEMPLATE.
10 Q. AND DO YOU THINK THAT THE INFORMATION IN
11 THIS TEMPLATE IS ACCURATE?
12 A. NO. WITH REGARDS TO MR. GUIDO, IT'S NOT
13 ACCURATE.
14 Q. AND JUST WITH REGARDS TO THE TEMPLATE OR
15 THE FORM ITSELF?
16 A. IN THE SITUATION WHERE THE PROGRAM AREA
17 THAT DOES REVIEW ACCOUNTS AND DOES COMMUNICATE WITH
18 THE RECIPROCAL RETIREMENT SYSTEM TO ESTABLISH
19 RECIPROCITY AND THAT THAT IS UPDATED TO THE SYSTEM SO
20 THAT WHEN WE -- THERE'S A RETIREMENT ESTIMATE REQUEST
21 AND STAFF GO ONTO THE SYSTEM TO REVIEW THAT, IT WOULD
22 APPLY.
23 BUT IF IT -- IF IT WAS NEVER REVIEWED AND
24 ESTABLISHED BY THE PROGRAM STAFF THAT DOES THAT WORK,
25 IT'S NOT ACCURATE.

1 Q. AND LET ME -- WAS THIS LETTER GENERATED AS
2 A RESULT OF THE POLICIES AND PROCEDURES THAT ARE
3 DETAILED IN EXHIBIT 225?
4 A. NO.
5 Q. YOU JUST SAID THAT THIS WAS A BENEFIT
6 RETIREMENT ESTIMATE.
7 A. THIS IS A RETIREMENT BENEFIT ESTIMATE WHICH
8 IS HOUSED IN THE MEMBER SERVICES DIVISION AND NOT IN
9 THE BENEFITS SERVICES DIVISION.
10 THIS PROCEDURE IS HANDLED OR USED BY THE
11 BENEFIT SERVICES STAFF WHEN CALCULATING A RETIREMENT
12 BENEFIT ONCE AN APPLICATION FOR RETIREMENT HAS BEEN
13 RECEIVED.
14 A RETIREMENT ESTIMATE IS JUST A REQUEST.
15 THEY GIVE AN ESTIMATE, BUT IT'S NOT THE APPLICATION
16 TO RETIRE.
17 Q. DO THE SAME VARIABLES APPLY BETWEEN THE
18 RETIREMENT ESTIMATE AND A RETIREMENT APPLICATION?
19 MR. RIEGER: OBJECTION; VAGUE.
20 THE COURT: SUSTAINED.
21 MR. RIEGER: AND, YOUR HONOR, IF I COULD
22 JUST --
23 MR. JENSEN: I DON'T HAVE A QUESTION.
24 MR. RIEGER: NO. JUST FOR CLARITY
25 PURPOSES, I JUST WANT TO SUGGEST WHEN SHE SAYS

1 "THIS," IF SHE COULD REFER TO AN EXHIBIT SO THAT
2 EVERYONE UNDERSTANDS WHICH EXHIBIT SHE'S REFERRING
3 TO.
4 THE COURT: OKAY. GO AHEAD.
5 BY MR. JENSEN:
6 Q. ARE YOU AWARE OF THE VARIABLES THAT
7 POTENTIALLY ENTER INTO ESTABLISHING RECIPROCITY?
8 A. YES.
9 Q. AND LET ME ASK YOU, WHAT IS YOUR
10 UNDERSTANDING OF MEMBERSHIP VESTING ONLY?
11 A. MEMBERSHIP VESTING ONLY MEANS THAT YOU ARE
12 A MEMBER OF A RECIPROCAL RETIREMENT SYSTEM AND YOU
13 ARE A MEMBER WITH CALPERS.
14 YOU COULD NOT ESTABLISH RECIPROCITY BECAUSE
15 YOU EITHER HAVE A LAPSE IN SERVICE OF OVER SIX MONTHS
16 OR CONCURRENT EMPLOYMENT THAT -- OR CONCURRENT
17 MEMBERSHIP THAT INVALIDATES ESTABLISHING RECIPROCITY.
18 SO AT MINIMUM, THEY WOULD BE ELIGIBLE TO RETIRE BUT
19 CALPERS SALARIES WOULD BE USED.
20 Q. NOW, LET ME JUST USE THE TERM THAT'S USED
21 IN -- ARE YOU FAMILIAR WITH EXHIBIT 225?
22 A. I'M FAMILIAR WITH IT. I NEVER USED IT.
23 Q. IS IT A CALPERS DOCUMENT?
24 A. YES. THIS WAS PRODUCED OUT OF THE SERVICE
25 LEVEL IMPROVEMENT PROCESS.

1 Q. NOW, IT SAYS:
2 "RECIPROCITY SYSTEM MEMBERSHIP
3 VESTING ONLY."
4 WHAT DOES THAT TERM MEAN?
5 A. WHICH PAGE ARE YOU ON?
6 Q. ON PAGE BATES-STAMPED P.E.R.S. 338.
7 A. SO CAN YOU REPEAT THAT?
8 Q. WHAT DOES THE TERM "RECIPROCITY SYSTEM
9 MEMBERSHIP VESTING ONLY" MEAN?
10 A. VESTING ONLY MEANS THAT WE'RE ONLY GOING TO
11 CONSIDER THAT PERSON VESTED IN CALPERS FOR RETIREMENT
12 BENEFITS, AGAIN BASED ON HIS SALARY AND SERVICE IN
13 CALPERS.
14 Q. SO WHY IS IT CALLED "RECIPROCITY SYSTEM
15 MEMBERSHIP"?
16 A. BECAUSE IT'S UNDER THE RECIPROCITY ARENA
17 THAT WOULD PROVIDE A BENEFIT TO A MEMBER OF A
18 RECIPROCAL RETIREMENT SYSTEM.
19 Q. AND WHAT IS THE BENEFIT THAT WOULD BE
20 RECIPROCAL -- WHAT IS THE RECIPROCAL BENEFIT THAT
21 WOULD BE APPLICABLE IN THAT SITUATION?
22 A. THAT THE MEMBER IS ELIGIBLE TO RETIRE.
23 THEY WOULD HAVE MET THE VESTING CRITERIA.
24 FOR EXAMPLE, IF A PERSON HAD TWO YEARS WITH
25 US AND 20 YEARS WITH ANOTHER RETIREMENT SYSTEM, WE

1 WOULD CALCULATE A BENEFIT BASED ON THE TWO YEARS,
2 ALTHOUGH THEY HADN'T REACHED THE FIVE.
3 Q. SO IN THAT WAY, RECIPROCITY DOES APPLY?
4 A. THAT BENEFIT OF RECIPROCITY, VESTING ONLY,
5 WOULD APPLY.
6 Q. AND THAT IS TRUE EVEN IF THERE'S CONCURRENT
7 SERVICE?
8 MR. RIEGER: OBJECTION; INCOMPLETE
9 HYPOTHETICAL.
10 THE COURT: OVERRULED.
11 YOU CAN ANSWER.
12 THE WITNESS: YES.
13 BY MR. JENSEN:
14 Q. SO THERE ARE SOME RECIPROCITY BENEFITS THAT
15 WOULD APPLY EVEN IF THERE'S CONCURRENT SERVICE?
16 A. YES.
17 MR. RIEGER: OBJECTION; INCOMPLETE
18 HYPOTHETICAL.
19 THE COURT: OVERRULED.
20 BY MR. JENSEN:
21 Q. AND THERE ARE SOME RECIPROCITY BENEFITS
22 THAT WOULD APPLY EVEN IF THERE WAS A BREAK IN SERVICE
23 OVER SIX MONTHS?
24 A. YES.
25 MR. RIEGER: OBJECTION; INCOMPLETE

1 HYPOTHETICAL.

2 THE COURT: OVERRULED.

3 BY MR. JENSEN:

4 Q. SO WHAT BENEFITS IS MR. GUIDO ENTITLED TO

5 UNDER THE RECIPROCITY SYSTEM MEMBERSHIP VESTING ONLY?

6 MR. RIEGER: OBJECTION; ASSUMES FACTS NOT

7 IN EVIDENCE.

8 THE COURT: SUSTAINED.

9 BY MR. JENSEN:

10 Q. ARE YOU FAMILIAR WITH MR. GUIDO'S

11 SITUATION?

12 A. YES.

13 Q. FACTUAL SITUATION?

14 A. YES.

15 Q. ARE YOU ABLE TO APPLY YOUR KNOWLEDGE --

16 WHAT IS YOUR KNOWLEDGE OF MR. GUIDO'S YEARS OF

17 SERVICE?

18 A. SO MY KNOWLEDGE OF MR. GUIDO'S SERVICE IS

19 THAT HE BEGAN WORKING IN AN OPTIONAL MEMBERSHIP

20 POSITION THAT WAS EXCLUDED BY LAW IN AROUND 1975.

21 THE LAW -- THE CONTRACT WAS CHANGED.

22 Q. YOU HAVE TO GO A LITTLE BIT SLOWER BECAUSE

23 YOU'RE USING TERMS LIKE "EXCLUDED BY LAW" WHICH ARE

24 NEW. SO CAN YOU EXPLAIN WHAT --

25 A. ACTUALLY, NOT EXCLUDED BY LAW. EXCLUDED BY

1 CONTRACT.
2 IN THE CONTRACT OF CUDAHY, THEY HAD AN
3 EXCLUSION OF OPTIONAL MEMBERS. THEY WENT TO AMEND
4 THEIR CONTRACT IN 1975 THAT REMOVED THAT EXCLUSION SO
5 OPTIONAL MEMBERS COULD THEN BE CONSIDERED TO BE ABLE
6 TO ELECT INTO CALPERS MEMBERSHIP.
7 Q. HOW MANY YEARS OF SERVICE DOES MR. GUIDO
8 HAVE IN CALPERS?
9 A. I WANT TO SAY AT LEAST -- JUST HAD OVER 13
10 YEARS.
11 Q. ARE YOU AWARE OF HOW MANY YEARS OF SERVICE
12 MR. GUIDO HAS IN L.A.C.E.R.A.?
13 A. NO.
14 Q. IF WE WERE TO PROVIDE THAT INFORMATION
15 ABOUT HIS YEARS OF SERVICE IN L.A.C.E.R.A., COULD YOU
16 CALCULATE MR. GUIDO'S RECIPROCITY SYSTEM MEMBERSHIP
17 VESTING ONLY?
18 MR. RIEGER: OBJECTION; CALLS FOR
19 SPECULATION AND ASSUMES FACTS NOT IN EVIDENCE.
20 MR. JENSEN: AND, YOUR HONOR, I'M JUST
21 USING TERMS THAT ARE IN EXHIBIT 225.
22 MR. RIEGER: AND HE'S APPLYING THEM TO
23 MR. GUIDO, AND HE HASN'T ESTABLISHED THAT THEY APPLY
24 TO HIM. AND IT'S AN INCOMPLETE HYPOTHETICAL.
25 THE COURT: ALL RIGHT. WHAT'S MISSING?

1 MR. RIEGER: WELL, I MEAN, I THINK ALL OF
2 THESE WERE INCOMPLETE HYPOTHETICALS BECAUSE EACH
3 MEMBER HAS RIGHTS BASED ON THEIR PARTICULAR
4 SITUATION.
5 RECIPROCITY, THERE'S DIFFERENT RULES AS
6 BETWEEN COUNTIES, CONTRACTING AGENCIES, J.R.S.,
7 TEACHERS' RETIREMENT SYSTEM.
8 THAT'S WHY YOU HAVE -- THAT'S WHY THIS
9 THING IS SO THICK. THEY HAVE ALL THESE DIFFERENT
10 RULES.
11 AND THEN EVERY MEMBER HAS A DIFFERENT
12 SITUATION IN TERMS OF YEARS OF SERVICE, YOU KNOW,
13 WHICH ONES THEY WORKED FOR, MULTIPLE -- I MEAN,
14 RECIPROCITY, IF YOU HAVEN'T SEEN IT YET, IS A VERY
15 COMPLICATED MATTER, AND THESE QUESTIONS ARE TRYING TO
16 ASK, LIKE, TWO LITTLE PIECES OF THAT AND THEN ASKING
17 THE WITNESS TO ANSWER BASED ON THOSE TWO LITTLE
18 PIECES. THAT'S AN INCOMPLETE HYPOTHETICAL.
19 THE FACTS-NOT-IN-EVIDENCE PART IS THAT HE'S
20 ASSUMING CERTAIN THINGS APPLY TO MR. GUIDO, AND HE
21 HASN'T ESTABLISHED THAT THEY DO YET.
22 THE COURT: OKAY. I THINK THE QUESTION
23 WAS: IF SHE WAS SUPPLIED WITH THE INFORMATION, COULD
24 SHE COME UP WITH AN ANSWER SO --
25 MR. RIEGER: AND THE ONLY INFORMATION HE

1 TALKED ABOUT WAS HIS YEARS OF SERVICE. AND ALSO, THE
2 QUESTION ASSUMED THAT RECIPROCITY SYSTEM MEMBERSHIP
3 VESTING ONLY APPLIED TO MR. GUIDO, WHICH I DON'T
4 THINK HAS EVEN BEEN ESTABLISHED YET.
5 THE COURT: OKAY. SO DO YOU REMEMBER THE
6 QUESTION THAT MR. JENSEN ASKED?
7 THE WITNESS: NO, NOT TOTALLY.
8 THE COURT: ALL RIGHT. WHY DON'T YOU -- DO
9 YOU REMEMBER IT?
10 MR. JENSEN: YOUR HONOR, I MEAN, I
11 APPRECIATE MR. RIEGER HELPING MAKE MY CASE THAT THIS
12 IS A VERY COMPLEX SCENARIO, AND I DON'T MEAN TO BE
13 ARGUMENTATIVE. I JUST MEAN THAT --
14 MR. RIEGER: THAT'S NOT WHAT I SAID
15 ACTUALLY.
16 THE COURT: WHAT WAS THE QUESTION? I JUST
17 WANT TO MAKE SURE --
18 MR. JENSEN: OKAY. I WOULD LIKE TO GET
19 MS. DE FLORES'S -- FIRST, THE INFORMATION ABOUT THESE
20 DIFFERENT RECIPROCITY BENEFITS AND THE INFORMATION
21 ABOUT HOW THEY WOULD APPLY TO MR. GUIDO AND THE
22 INFORMATION ABOUT HOW THEY WOULD REPRESENT THESE TO A
23 MEMBER WHO -- TO MR. GUIDO WHEN HE CALLED IN.
24 AND SO I AM DEVELOPING THIS THROUGH THE
25 WITNESS WHO THEY IDENTIFIED AS THE PERSON MOST

1 KNOWLEDGEABLE, AND I'M TRYING TO USE THEIR TERMS TO
2 BE ABLE TO SATISFY THIS INQUIRY. BUT IT IS A HIGHLY
3 TECHNICAL SUBJECT.
4 AND IF -- AND SO I THINK I DESERVE A LITTLE
5 BIT OF LEEWAY IN GETTING THE INFORMATION OUT OF HER
6 BECAUSE SHE IS AN EXPERT IN THIS.
7 THE COURT: OKAY. SO WHAT'S THE NEXT
8 QUESTION?
9 MR. RIEGER: YOUR HONOR, CAN I --
10 THE COURT: LET'S JUST GO ON TO THE NEXT
11 QUESTION.
12 MR. RIEGER: OKAY.
13 MR. JENSEN: OKAY.
14 MR. RIEGER: ALL RIGHT.
15 THE COURT: TAKE IT FROM THERE.
16 BY MR. JENSEN:
17 Q. SO WHAT INFORMATION WOULD YOU NEED TO
18 CALCULATE MR. GUIDO'S RIGHTS UNDER WHAT HAS BEEN
19 TERMED RECIPROCITY SYSTEM MEMBERSHIP VESTING ONLY?
20 MR. RIEGER: OBJECTION; INCOMPLETE
21 HYPOTHETICAL. ASSUMES FACTS NOT IN EVIDENCE.
22 THE COURT: OVERRULED.
23 YOU CAN ANSWER.
24 THE WITNESS: IN ORDER TO CALCULATE A
25 RETIREMENT BENEFIT, YOU WOULD NEED THE BENEFIT FACTOR

1 BASED ON THE AGE. YOU'D NEED THE MEMBER'S SALARY.
2 AND CALPERS' SALARY IN THIS SITUATION BECAUSE IT
3 WOULD BE VESTING ONLY.
4 AND HE QUALIFIED BASED ON HIS MEMBERSHIP --
5 HE QUALIFIED EITHER WAY. BECAUSE OF HIS 13 YEARS OF
6 SERVICE UNDER CALPERS, HE QUALIFIED ON HIS OWN TO
7 RETIRE.
8 BY MR. JENSEN:
9 Q. OKAY.
10 A. SO HE REALLY DIDN'T NEED THE VESTING ONLY
11 FOR HIS SITUATION. BUT BECAUSE OF THE CONCURRENT AND
12 THE LAPSE IN SERVICE, HE DIDN'T GET ALL OF THE
13 BENEFITS OF FULL RECIPROCITY.
14 Q. SO HOW WOULD YOU TERM THE BENEFITS THAT
15 MR. GUIDO RECEIVED UNDER THE CURRENT SITUATION?
16 A. VESTING ONLY.
17 MR. RIEGER: OBJECTION; ASSUMES FACTS NOT
18 IN EVIDENCE.
19 THE COURT: OVERRULED.
20 YOU CAN ANSWER.
21 THE WITNESS: THE VESTING ONLY.
22 BY MR. JENSEN:
23 Q. AND IS THERE A TERM OF ART FOR THAT?
24 A. HE MEETS -- HE MEETS THE RETIREMENT
25 ELIGIBILITY WITH THE YEARS OF SERVICE, ALTHOUGH

1 THEY'RE ONLY HIS YEARS OF SERVICE UNDER CALPERS
2 BECAUSE THEY EXCEEDED FIVE, HIS SALARY UNDER CALPERS
3 AND HIS AGE WHEN HE RETIRED UNDER CALPERS BENEFIT
4 FACTORS.
5 Q. SO IS THAT REFERRED TO AS PARTIAL
6 RECIPROCITY?
7 A. VESTING ONLY IS HOW WE CATEGORIZE
8 MR. GUIDO'S SITUATION, AS VESTING ONLY.
9 Q. BUT IS THAT --
10 A. IT'S BASICALLY, YOU DON'T QUALIFY FOR ALL
11 THE BENEFITS OF RECIPROCITY. RECIPROCITY IS NOT
12 APPLICABLE. BUT AT MINIMUM, WE'LL CONSIDER YOU
13 ELIGIBLE TO RETIRE IF YOU HAVE LESS THAN THE
14 FIVE YEARS OF SERVICE.
15 Q. BUT HE WAS INDEPENDENTLY VESTED; IS THAT
16 CORRECT?
17 A. CORRECT.
18 Q. AND SO BUT YOU'RE USING THIS TERM
19 RECIPROCITY SYSTEM MEMBERSHIP VESTING AS WELL; IS
20 THAT CORRECT?
21 A. WHEN IT'S RECORDED ON THE SYSTEM, IT WOULD
22 BE VESTING ONLY, WHICH EQUALS THEY'RE NOT ELIGIBLE
23 FOR FULL RECIPROCITY. BUT WE WILL CONSIDER THEM
24 ELIGIBLE TO RETIRE, AND WE USE THEIR YEARS OF SERVICE
25 IN CALPERS, THEIR SALARY, AND THEIR AGE.

1 Q. I UNDERSTAND THE DISTINCTION YOU'RE MAKING,
2 BUT YOU'RE STUDIOUSLY AVOIDING SAYING --
3 MR. RIEGER: OBJECTION; ARGUMENTATIVE.
4 THE COURT: SUSTAINED.
5 BY MR. JENSEN:
6 Q. OKAY. IS VESTING ONLY A FORM OF
7 RECIPROCITY?
8 MR. RIEGER: ASKED AND ANSWERED.
9 THE COURT: OVERRULED.
10 YOU CAN ANSWER.
11 THE WITNESS: VESTING ONLY IS HOW WE WOULD
12 CATEGORIZE ON THE SYSTEM WHEN FULL RECIPROCITY DOES
13 NOT APPLY.
14 BY MR. JENSEN:
15 Q. OKAY. SO LET ME -- LET ME MOVE ON TO THE
16 SECOND TERM WHERE YOU'RE USING FULL RECIPROCITY.
17 DEFINE FULL RECIPROCITY FOR THESE PURPOSES.
18 A. SO FULL RECIPROCITY MEANS THAT THEY'VE MET
19 THE CRITERIA OF MOVEMENT FROM ONE SYSTEM TO THE OTHER
20 WITHIN THE REQUIRED TIME FRAME OR THERE'S NO
21 CONCURRENT EMPLOYMENT.
22 AND SO THE PORTABILITY OF THE BENEFITS OF
23 RECIPROCITY WOULD APPLY, WHICH IS FINAL COMPENSATION,
24 HIGHEST FINAL COMPENSATION AMONGST THE TWO, BUT IT'S
25 STILL -- YOUR BENEFIT IS STILL BASED ON YOUR AGE AT

1 RETIREMENT UNDER THE BENEFIT FORMULA YOU'RE UNDER AT
2 CALPERS AND -- THE SALARY, THE AGE, AND -- GIVE ME A
3 MINUTE -- SALARY AND AGE, WHICH DERIVES THE BENEFIT
4 FACTOR AND THEN THE SERVICE CREDIT.
5 SERVICE CREDIT NEVER -- THE BENEFITS BASED
6 ON THE SERVICE CREDIT EARNED IN OUR SYSTEM, THERE'S
7 NEVER A PORTABILITY OF THAT SERVICE CREDIT. WE WILL
8 NEVER USE THE SERVICE CREDIT TO CALCULATE A BENEFIT
9 FROM ANOTHER RETIREMENT SYSTEM.
10 Q. AND SO ONE OF THE --
11 A. THE BIGGEST BENEFIT IS THE HIGHEST FOUND
12 COMPENSATION EXCHANGE.
13 Q. AND WHICH OF -- WELL, LET ME POINT YOUR
14 ATTENTION TO THIS FOURTH, WELL, TYPE WHICH IS
15 RECIPROCAL SYSTEM MEMBERSHIP FINAL COMPENSATION ONLY.
16 A. SO IN -- WITH THE UNIVERSITY OF CALIFORNIA
17 RETIREMENT SYSTEM, IF FULL RECIPROCITY CAN'T BE
18 ESTABLISHED, CALPERS WILL PROVIDE FOR THE HIGHEST
19 BENEFIT -- OR HIGHEST FINAL COMPENSATION FOR U.C.R.P.
20 MEMBERS.
21 MR. RIEGER: I'M SORRY. CAN I JUST ASK THE
22 WITNESS TO SPELL OUT U.C.R.P.?
23 THE WITNESS: UNIVERSITY OF CALIFORNIA
24 RETIREMENT PLAN.
25 / / /

1 BY MR. JENSEN:
2 Q. AND THEN YOU HAVE ANOTHER TYPE HERE, C,
3 WHICH IS A NONRECIPROCAL SYSTEM?
4 A. SO THAT RELATES TO S.T.R.S., STATE
5 TEACHERS' RETIREMENT SYSTEM; LEGISLATURES' RETIREMENT
6 SYSTEM; JUDGES' RETIREMENT SYSTEM. AND THE BENEFITS
7 UNDER THAT IS BASICALLY THE HIGHEST COMPENSATION
8 EXCHANGE.
9 Q. OKAY. SO WHEN WE'RE -- LET'S WALK THROUGH
10 YOUR KNOWLEDGE OF THIS CALCULATION THAT -- PURSUANT
11 TO THIS EXHIBIT 225. WITH RESPECT TO THIS PAGE 338,
12 YOU SAID THAT THIS GENERATED A RETIREMENT BENEFIT
13 ESTIMATE; IS THAT CORRECT?
14 A. NO.
15 MR. RIEGER: OBJECTION; MISSTATES THE
16 RECORD.
17 BY MR. JENSEN:
18 Q. WHICH DOCUMENT DOES THIS PROCEDURES (SIC)
19 IN 225 REPRESENT?
20 A. WHEN CALPERS RECEIVES A RETIREMENT
21 APPLICATION FROM A MEMBER REQUESTING TO RETIRE,
22 BENEFITS SERVICES DIVISION USES THIS PROCEDURE TO
23 KNOW HOW TO CALCULATE THAT RETIREMENT BENEFIT.
24 Q. OKAY. SO IN THIS CASE, WAS THIS USED AFTER
25 MR. GUIDO SUBMITTED HIS RETIREMENT APPLICATION THAT

1 IS IN EXHIBIT 209?
2 A. I CAN ONLY ASSUME, YES, IT WAS BASED ON MY
3 KNOWLEDGE OF MR. GUIDO'S EVENTS IN THAT WHEN YOU GO
4 FURTHER INTO THE PROCEDURES OF EXHIBIT 225, IT TALKS
5 ABOUT IF RECIPROCITY HAS NOT BEEN ESTABLISHED ON THE
6 SYSTEM, THERE'S NO VALUES THAT IDENTIFY THAT
7 RECIPROCITY WAS ESTABLISHED.
8 THEY HAVE TO REFER IT BACK TO THE UNIT WHO
9 DOES ESTABLISH RECIPROCITY, AND THAT WAS DONE IN
10 MR. GUIDO'S CASE. BENEFITS SERVICES DIVISION
11 FORWARDED WHAT WE CALL A REQUEST FOR ACTION TO MEMBER
12 SERVICES TO VALIDATE IF RECIPROCITY COULD BE
13 ESTABLISHED OR NOT.
14 Q. OKAY. CAN YOU JUST LOOK AT THE LAST PAGE
15 OF EXHIBIT 209 AND TELL ME WHAT WAS YOUR
16 UNDERSTANDING OF THE DATE OF MR. GUIDO'S APPLICATION
17 TO CALPERS?
18 A. THE DIRECT DEPOSIT AUTHORIZATION FORM --
19 Q. NO. ACTUALLY, IT'S THE SECOND TO LAST.
20 A. ON THIS LAST PAGE -- WHAT WAS YOUR QUESTION
21 AGAIN?
22 Q. WHAT WAS THE DATE CALPERS RECEIVED THIS
23 RETIREMENT? IT SHOULD BE ACTUALLY ON THE FIRST PAGE
24 OF 209.
25 A. OKAY. IT LOOKS LIKE ON AROUND APRIL 7,

1 2009, IT WAS RECEIVED AT THE GLENDALE REGIONAL
2 OFFICE.
3 Q. OKAY. AND THE PROCEDURES IN 225 ARE
4 APPLICABLE TO MR. GUIDO'S RETIREMENT SERVICE
5 APPLICATION AFTER RECEIPT ON APRIL 7, 2009; IS THAT
6 CORRECT?
7 A. YES.
8 Q. OKAY. SO LET'S LOOK AT THE FIRST PAGE OF
9 225, P.E.R.S. 338.
10 WHAT IS THE FIRST STEP?
11 A. THE FIRST STEP IS:
12 "DETERMINE IF RECIPROCITY HAS
13 BEEN ESTABLISHED."
14 Q. AND HOW LONG DOES THAT TAKE CALPERS TO
15 DETERMINE IF RECIPROCITY HAS BEEN ESTABLISHED?
16 MR. RIEGER: OBJECTION; VAGUE, INCOMPLETE
17 HYPOTHETICAL.
18 THE COURT: SUSTAINED.
19 WHY DON'T YOU CLARIFY.
20 MR. JENSEN: YEAH.
21 BY MR. JENSEN:
22 Q. IN THIS CASE, ARE YOU AWARE OF HOW LONG IT
23 TOOK CALPERS TO DETERMINE IF RECIPROCITY HAD BEEN
24 ESTABLISHED?
25 A. I WOULD SAY THAT BENEFITS INITIATED THEIR

1 REQUEST FOR ACTION TO MEMBER SERVICES DIVISION, WHICH
2 THEN CREATED OR REQUIRED MEMBER SERVICES DIVISION
3 PROGRAM STAFF TO COMMUNICATE WITH LOS ANGELES COUNTY
4 EMPLOYEES' RETIREMENT ASSOCIATION SO THAT THEY CAN
5 VALIDATE THE MOVEMENT DATES.
6 Q. OKAY. AND TO TRY TO GET THIS TO CORRESPOND
7 WITH EVIDENCE IN THE RECORD, CAN YOU REFER TO
8 EXHIBIT 224 FOR A SECOND.
9 A. OKAY.
10 Q. DO YOU RECOGNIZE THIS?
11 A. YES. THE CUSTOMER TOUCH-POINT NOTES THAT
12 SHOULD BE ENTERED INTO THE SYSTEM WHEN THERE'S
13 COMMUNICATION BETWEEN -- BETWEEN EXTERNAL PARTNERS OR
14 IN SOME CASES WITHIN CALPERS DIFFERENT PROGRAM AREAS.
15 Q. AND CAN YOU CLARIFY WHAT YOU MEAN BY
16 "SHOULD BE ENTERED INTO"?
17 A. STAFF DO NOT ALWAYS ENTER -- ALTHOUGH
18 PROCEDURE IS TO ENTER CUSTOMER TOUCH-POINT NOTES,
19 THEY'RE NOT ALWAYS ENTERED BY STAFF.
20 Q. IF YOU CAN TURN TO PAGE 4 OF --
21 MR. JENSEN: WELL, ACTUALLY, YOUR HONOR, IF
22 I COULD JUST ENTER INTO EVIDENCE EXHIBIT 224 AND 225
23 OR OFFER THEM INTO EVIDENCE.
24 THE COURT: OKAY. 225 HAS ALREADY BEEN
25 ADMITTED.

1 ANY OBJECTION TO 224?
2 MR. RIEGER: NO, YOUR HONOR.
3 THE COURT: ALL RIGHT. IT'S ADMITTED.
4 (RESPONDENT'S EXHIBIT NUMBER 224 WAS
5 MARKED FOR IDENTIFICATION BY THE COURT
6 AND RECEIVED INTO EVIDENCE.)
7 BY MR. JENSEN:
8 Q. OKAY. COULD YOU TURN TO PAGE 4 OF 224.
9 A. YES.
10 Q. AND THE FIRST ENTRY, IT'S THE
11 INFORMATION -- IT'S UNDER "INFORMATION CATEGORY," IT
12 SAYS:
13 "M.B.R. JUST TURNED IN HIS S.R.
14 APPLICATION TO G.R.O."
15 WAS THAT THE DATE OF THE RECEIPT OF THE
16 APPLICATION TO CALPERS?
17 A. WHAT EXHIBIT WAS THAT? I WANT TO SAY IT
18 WAS APRIL 7 OF '09, IF I REMEMBER CORRECTLY.
19 Q. AND AT THE BOTTOM OF PAGE 3 OF EXHIBIT 224,
20 THERE'S AN ENTRY ON APRIL 24, 2009. IT SAYS:
21 "R.F.A. TO UNIT 841 TO ESTABLISH
22 RECIPROCITY."
23 WHAT DOES THAT ENTRY MEAN?
24 A. THAT MEANS THAT THE REQUEST FOR ACTION WAS
25 SENT TO THE PROGRAM AREA, UNIT 841, TO SEE IF

1 RECIPROCITY COULD BE ESTABLISHED. AND 8006 IS OUR
2 CODE FOR L.A.C.E.R.A.
3 Q. DOES IT TYPICALLY TAKE TWO-AND-A-HALF WEEKS
4 TO PROCESS A RETIREMENT APPLICATION?
5 MR. RIEGER: OBJECTION; VAGUE.
6 THE COURT: OVERRULED.
7 YOU CAN ANSWER.
8 THE WITNESS: DOES IT TAKE --
9 BY MR. JENSEN:
10 Q. -- TWO-AND-A-HALF WEEKS?
11 A. MOST DEFINITELY.
12 Q. AND IN THIS CASE, WAS MR. GUIDO INFORMED
13 THAT THERE WAS AN ISSUE WITH HIS RETIREMENT
14 APPLICATION AT THAT TIME?
15 A. I'D HAVE TO GO THROUGH EACH ONE OF THESE
16 C.T.P. NOTES.
17 Q. I MEAN AT THIS TIME.
18 THE COURT: MEANING APRIL 20 --
19 THE WITNESS: APRIL 24, 2009.
20 MR. RIEGER: OBJECTION; VAGUE AS TO
21 "ISSUE."
22 THE COURT: OVERRULED.
23 YOU CAN ANSWER IF YOU CAN, IF YOU KNOW.
24 THE WITNESS: CAN YOU ASK THE QUESTION
25 AGAIN?

1 BY MR. JENSEN:
2 Q. TO YOUR KNOWLEDGE, WAS MR. GUIDO INFORMED
3 AT OR AROUND APRIL 24, 2009, THAT CALPERS HAD AN
4 ISSUE WITH THE RECIPROCITY PART OF HIS RETIREMENT
5 APPLICATION?
6 MR. RIEGER: OBJECTION; VAGUE AS TO "ISSUE"
7 AND ASSUMES FACTS NOT IN EVIDENCE.
8 THE COURT: OKAY. OVERRULED.
9 BUT DON'T GUESS OR SPECULATE. IF YOU'RE
10 ABLE TO ANSWER THAT QUESTION --
11 THE WITNESS: I DON'T KNOW. BASED ON
12 APRIL 24, NO, I WOULD SAY THAT HE WAS NOT INFORMED.
13 BY MR. JENSEN:
14 Q. IS RECIPROCITY IN YOUR EXPERIENCE AN
15 IMPORTANT BENEFIT TO THE MEMBER?
16 A. YES.
17 Q. AND WHY IS IT IMPORTANT?
18 A. BECAUSE IT ALLOWS PORTABILITY BENEFITS TO A
19 MEMBER WHEN APPLICABLE.
20 Q. IS THAT A SIGNIFICANT FINANCIAL IMPACT?
21 A. IT COULD.
22 Q. IS CALPERS AWARE THAT MEMBERS ARE CONCERNED
23 ABOUT WHETHER THEY HAVE RECIPROCITY OR NOT?
24 A. CALPERS STRIVES TO PROVIDE THE BEST
25 CUSTOMER SERVICE THAT WE CAN. BUT WE DO DEAL WITH A

1 BIG VOLUME OF MEMBERS, AND THEY'RE IN DIFFERENT
2 SITUATIONS.
3 Q. AND IN YOUR KNOWLEDGE OF THE RECIPROCITY
4 ISSUE, WOULD IT BE IMPORTANT TO INFORM MR. GUIDO OF
5 ISSUES WITH HIS RECIPROCITY BEFORE HIS EFFECTIVE
6 RETIREMENT DATE?
7 MR. RIEGER: OBJECTION; VAGUE.
8 THE COURT: SUSTAINED.
9 BY MR. JENSEN:
10 Q. WITH YOUR KNOWLEDGE AND EXPERIENCE IN
11 ISSUES OF RECIPROCITY, WOULD IT BE A MATERIAL PIECE
12 OF INFORMATION THAT A MEMBER SHOULD KNOW PRIOR TO
13 RETIREMENT?
14 MR. RIEGER: OBJECTION; VAGUE.
15 THE COURT: REFERRING TO --
16 MR. JENSEN: REFERRING TO WHETHER
17 RECIPROCITY IS ESTABLISHED.
18 THE WITNESS: IT IS IMPORTANT. BUT IN THE
19 REALM OF THINGS, IF RECIPROCITY -- IF WE DON'T HAVE
20 ALL THE FACTS IN FRONT OF US TO BE ABLE TO DO OUR
21 JOB, THEN WE'RE NOT GOING TO APPLY WHAT ISN'T THERE
22 OR WE DON'T KNOW UNTIL WE DO KNOW.
23 BY MR. JENSEN:
24 Q. ISN'T IT IMPORTANT TO TELL THE MEMBER THAT
25 YOU DON'T KNOW, CALPERS DOESN'T KNOW?

1 A. I WOULD SAY IT IS IMPORTANT. BUT WITH THE
2 VOLUME OF CORRESPONDENCE THAT WE PROCESS, IT'S
3 DIFFICULT.
4 Q. WITH RESPECT TO ESTABLISHING RECIPROCITY,
5 IS IT A MATERIAL PIECE OF INFORMATION THAT
6 RECIPROCITY HASN'T BEEN ESTABLISHED IF A MEMBER IS
7 APPLYING FOR RETIREMENT?
8 MR. RIEGER: OBJECTION; INCOMPLETE
9 HYPOTHETICAL.
10 THE COURT: SUSTAINED.
11 BY MR. JENSEN:
12 Q. I'M ASKING FOR YOUR SORT OF EXPERTISE AND
13 KNOWLEDGE ABOUT THE TIMING OF WHEN SOMEONE IS NOT --
14 LET ME REPHRASE THIS QUESTION.
15 I'M LOOKING AT THIS PERIOD WHERE A MEMBER
16 APPLIES FOR RETIREMENT AND BEFORE THE EFFECTIVE
17 RETIREMENT DAY. IS THAT THE PROCEDURES THAT ARE IN
18 225?
19 A. NO.
20 Q. AND WHAT ARE THE PROCEDURES IN 225?
21 A. WELL, THE PROCEDURES IN 225, THEY CAN'T GO
22 FURTHER WITH THE RETIREMENT APPLICATION AND PROVIDING
23 THAT BENEFIT UNTIL THEY KNOW IF RECIPROCITY HAS BEEN
24 ESTABLISHED OR NOT.
25 BECAUSE THE VALUE OF RECIPROCITY, WHETHER

1 IT APPLIED OR NOT OR VESTING ONLY OR FINAL
2 COMPENSATION -- BECAUSE THERE WAS NO DATA REGARDING
3 RECIPROCITY, THAT'S WHY THEY HAD TO REFER TO THE
4 MEMBER SERVICES DIVISION, UNIT 841.
5 Q. AND MY QUESTION IS ABOUT THE TIMING OF
6 INFORMATION TO A MEMBER. IS IT A MATERIAL PIECE OF
7 INFORMATION THAT A MEMBER WOULD BE ENTITLED TO KNOW
8 PRIOR TO THEIR EFFECTIVE RETIREMENT DATE?
9 MR. RIEGER: OBJECTION; INCOMPLETE
10 HYPOTHETICAL ,VAGUE.
11 THE COURT: SUSTAINED.
12 "ENTITLED TO KNOW"?
13 BY MR. JENSEN:
14 Q. IN THIS -- IN SITUATIONS WHERE A MEMBER HAS
15 APPLIED FOR RETIREMENT BELIEVING THAT RECIPROCITY HAS
16 BEEN ESTABLISHED, IS IT IMPORTANT TO INFORM THEM THAT
17 RECIPROCITY HAS NOT BEEN ESTABLISHED PRIOR TO THE
18 EFFECTIVE DATE OF THEIR RETIREMENT?
19 MR. RIEGER: OBJECTION; INCOMPLETE
20 HYPOTHETICAL, VAGUE. I'D LIKE TO BE HEARD ON THIS
21 BUT I DON'T WANT TO BE ACCUSED OF COACHING THE
22 WITNESS.
23 MR. JENSEN: WELL, WE CAN HAVE HER STEP
24 OUT. THERE ARE PROCEDURES ON THIS, AND THEY'VE
25 IDENTIFIED HER AS THE PERSON MOST KNOWLEDGEABLE.

1 THE COURT: OKAY. BUT THE PROBLEM I HAVE
2 WITH THE QUESTION IS, IS IT IMPORTANT TO KNOW. I
3 MEAN, THERE ARE A LOT OF THINGS THAT ARE IMPORTANT TO
4 KNOW, THAT ARE GOOD TO KNOW, THAT ARE NICE TO KNOW,
5 BUT I'M NOT SURE HOW THE ANSWER TO THAT QUESTION IS
6 GOING TO HELP ME FIGURE ALL THIS OUT.
7 MR. JENSEN: IT'S JUST A TIMING ISSUE.
8 THEY HAVE PROCEDURES IN EFFECT FOR THIS PROCESS, AND
9 THE FIRST PART OF THE PROCEDURE IS TO DETERMINE
10 WHETHER RECIPROCITY HAS BEEN ESTABLISHED.
11 AND WITHOUT COACHING THE WITNESS, YOU WOULD
12 THINK THAT THAT WOULD GENERATE SOME CORRESPONDENCE
13 WITH THE MEMBER TO LET THEM KNOW THAT THEY ARE
14 INQUIRING INTO WHETHER RECIPROCITY HAS BEEN
15 ESTABLISHED AS THE FIRST STEP AS WELL.
16 THE COURT: I THINK YOU COULD CERTAINLY ASK
17 IF THERE ARE STEPS. ARE THERE PROTOCOLS? IS THAT
18 DONE? WHY OR WHY NOT? BUT A LOT OF THESE QUESTIONS
19 ARE MORE HYPOTHETICAL. IS IT IMPORTANT TO THE
20 MEMBER? WOULD A MEMBER WANT TO KNOW?
21 MR. JENSEN: OKAY. YEAH. I SEE WHAT
22 YOU'RE SAYING AS FAR AS THOSE. SO THEN LET'S JUST
23 MOVE BACK TO THIS EXHIBIT 225.
24 BY MR. JENSEN:
25 Q. IN STEP ONE, DOES THIS -- DOES THIS

1 GENERATE ANY CORRESPONDENCE TO THE MEMBER?
2 A. NO.
3 Q. AND THIS SAYS IN STEP ONE:
4 "SMART DESK CUSTOMER TOUCH POINT
5 NOTES."
6 IT SAYS:
7 "LOOK FOR NOTES FROM M.B.S.T.
8 REGARDING RECIPROCAL SYSTEM APPROVAL
9 OR DENIAL."
10 MR. RIEGER: I'M SORRY. WHERE ARE WE?
11 MR. JENSEN: 225, PAGE 338, STEP ONE,
12 BULLET 3. IT'S AT THE BOTTOM OF THE PAGE, "SMART
13 DESK," C.T.P.
14 BY MR. JENSEN:
15 Q. IT SAYS:
16 "CONSULT FOR RECIPROCAL APPROVAL
17 OR DENIAL."
18 AND WITH RESPECT TO THAT, DOES THE CUSTOMER
19 TOUCH POINT REFLECT WHETHER HE'S -- RECIPROCITY HAS
20 BEEN ESTABLISHED?
21 MR. RIEGER: OBJECTION; INCOMPLETE
22 HYPOTHETICAL.
23 THE COURT: OVERRULED.
24 YOU CAN ANSWER.
25 THE WITNESS: SO WITH REGARDS TO STEP ONE,

1 "LOOK FOR NOTES FROM M.B.S.T. REGARDING RECIPROCAL
2 SYSTEM APPROVAL," WHEN YOU LOOK AT THE CUSTOMER
3 TOUCH-POINT NOTES, ON AROUND 4/7 WHEN THE APPLICATION
4 WAS SUBMITTED, THERE ARE NO NOTES FROM MEMBER
5 SERVICES DIVISION INDICATING THAT RECIPROCITY HAD
6 BEEN ESTABLISHED.
7 BY MR. JENSEN:
8 Q. AND SO YOU LOOK AT THE DATE THAT THE MEMBER
9 SUBMITTED THE APPLICATION TO DETERMINE WHETHER
10 RECIPROCITY HAD BEEN ESTABLISHED?
11 A. WELL, IT HAS TO START FROM THAT DATE AND
12 AFTER. SO THE APPLICATION IS RECEIVED, AND THEN
13 AFTER THAT APPLICATION IS RECEIVED, THEN THE REQUEST
14 FOR ACTION THAT WAS SENT FROM BENEFITS ON APRIL 24
15 INITIATED THE REQUEST TO MEMBER SERVICES.
16 THERE'S NOTHING -- YOU WERE ASKING ME ON
17 APRIL 7.
18 Q. NO. ACTUALLY, I WAS JUST ASKING YOU --
19 A. OR WHEN THE APPLICATION WAS RECEIVED.
20 Q. AND WHAT I WAS ACTUALLY ASKING YOU IS FOR
21 YOUR UNDERSTANDING OF:
22 "LOOK FOR NOTES FROM M.B.S.T.
23 REGARDING RECIPROCAL SYSTEM APPROVAL
24 OR DENIAL."
25 A. RIGHT. SO THE APPLICATION WAS RECEIVED

1 APRIL 7. THERE'S NOTHING --
2 Q. SO IT JUST LOOKS FOR THE -- IT LOOKS FOR
3 JUST THE --
4 MR. RIEGER: CAN YOU LET THE WITNESS
5 ANSWER, PLEASE.
6 THE WITNESS: THERE'S NO C.T.P. NOTES
7 APRIL 7 OR PRIOR THAT INDICATE MEMBER SERVICES
8 ESTABLISHED RECIPROCITY.
9 BY MR. JENSEN:
10 Q. AND DOES THAT MEAN THAT THESE LETTERS SUCH
11 AS IN EXHIBIT 201 PLAY NO PART IN -- IN THE REVIEW OF
12 THE RECORD FOR DETERMINING THIS RECIPROCITY?
13 MR. RIEGER: OBJECTION; VAGUE.
14 THE COURT: OVERRULED.
15 THE WITNESS: CAN YOU REPEAT THE QUESTION?
16 BY MR. JENSEN:
17 Q. WITH RESPECT TO THE EXHIBIT 201, WHICH SAYS
18 RECIPROCITY HAS BEEN ESTABLISHED, DOES (SIC) THESE
19 PROCEDURES UNDER THE C.T.P. NOTES NOT LOOK FOR THOSE
20 PRIOR PIECES OF CORRESPONDENCE?
21 THE WITNESS: NO WAY.
22 MR. RIEGER: OBJECTION; VAGUE.
23 THE COURT: OVERRULED. SHE ANSWERED.
24 BY MR. JENSEN:
25 Q. AND IT SAYS IN THIS SECOND PART:

1 "LOOK FOR NOTES FROM THE
2 ESTIMATE UNIT REGARDING TYPE OF FINAL
3 COMPENSATION USED IN THE ESTIMATE."
4 A. YES.
5 Q. AND DID YOU REFER TO ANY OF THE INFORMATION
6 PREVIOUSLY PROVIDED TO MR. GUIDO TO -- TO INDICATE
7 THE FINAL COMPENSATION USED IN HIS ESTIMATE?
8 A. SO UNDER THE PROCEDURES UNDER STEP ONE AND
9 BECAUSE THERE WERE NO C.T.P. NOTES FROM MEMBER
10 SERVICES' STAFF ESTABLISHING RECIPROCITY, THEN IT
11 LEADS TO SAY:
12 "LOOK AT NOTES FROM ESTIMATE
13 UNIT REGARDING TYPE OF FINAL
14 COMPENSATION."
15 THAT'S -- THEY CAN REFER TO THAT, BUT THAT
16 DOESN'T ESTABLISH RECIPROCITY.
17 Q. AND WHEN YOU LOOK AT THESE C.T.P. NOTES, IN
18 PARTICULAR ON PAGE 5 OF 6 OF 224, AT THE BOTTOM ON
19 10/6/2006 AND IT SAYS:
20 "SENT MEBMER (SIC) RECIPROCITY
21 TEMPLATE."
22 IS THAT NOT A NOTE THAT THE MEMBER IS
23 INFORMED THAT RECIPROCITY HAS BEEN ESTABLISHED?
24 A. NO.
25 MR. RIEGER: I'D LIKE TO MAKE A RELEVANCE

1 OBJECTION, AN EVIDENCE CODE 403 OBJECTION. I AM JUST
2 NOT UNDERSTANDING THE VALUE OF THIS LINE OF
3 QUESTIONING.
4 WE'VE CONCEDED FROM OPENING STATEMENTS THAT
5 MR. GUIDO RECEIVED SOME BAD INFORMATION, SO I'M NOT
6 REALLY SURE WHAT PURPOSE THIS LINE OF INQUIRY SERVES
7 IN THIS HEARING.
8 MR. JENSEN: AND, YOUR HONOR, I MEAN,
9 THEY'RE SAYING AFTER THE FACT IT'S BAD INFORMATION,
10 WHICH SORT OF SAYS THAT THEY'RE NOT GOING TO --
11 THEY'RE RENEGING ON THEIR PRIOR REPRESENTATIONS,
12 WHICH IS WHAT THIS CASE IS ABOUT.
13 I MEAN, THEY MADE REPRESENTATIONS TO HIM
14 WHICH HE RELIED ON AND SUBSEQUENTLY THEY'RE SAYING
15 THEY'RE BAD.
16 THIS ISSUE ABOUT THE TIMING OF THE
17 INFORMATION IS THEY UNDERSTAND THAT HE'S ABOUT TO
18 RETIRE AND THAT RECIPROCITY VESTS ON -- ON THE DATE
19 OF SIMULTANEOUS RETIREMENT FOR BOTH SYSTEMS.
20 THEY HAD A DUTY TO INFORM HIM PRIOR TO HIS
21 ACKNOWLEDGED RETIREMENT DATE THAT RECIPROCITY WASN'T
22 ESTABLISHED.
23 AND SO I THINK THAT IT'S NOT CUMULATIVE,
24 AND IT'S NOT -- IT'S NOT -- IT'S RELEVANT AS WELL
25 BECAUSE, I MEAN, THIS ISSUE ABOUT -- ABOUT FOLLOWING

1 THEIR PROCEDURES AND WHETHER THEY PREVIOUSLY INFORMED
2 HIM WHEN THEY REALIZED -- WHEN THEY LOOKED AT THEIR
3 C.T.P. NOTES AND THEY REALIZED THAT HE HAD RECEIVED A
4 MEMBERSHIP TEMPLATE, AT THAT POINT, YOU WOULD THINK
5 THAT, IF THEY'RE FOLLOWING THEIR OWN PROCEDURES, THEN
6 THEY WOULD HAVE AN INCREASED DUTY TO BE ABLE TO -- TO
7 INFORM THEM -- INFORM MR. GUIDO PRIOR TO HIS
8 RETIREMENT.
9 BUT AS IT IS, THEY DIDN'T INFORM HIM UNTIL
10 AFTER HIS RETIREMENT AND AFTER BOTH APPLICATIONS WERE
11 FULLY EFFECTIVE.
12 AND SO, YOU KNOW, PART OF THE ESTOPPEL CASE
13 IS THAT HE RETIRED AND FILED HIS APPLICATION BASED ON
14 RECIPROCITY, ESTABLISHING RECIPROCITY, AND THAT
15 ACCORDING TO THEIR INFORMATION, THEY RECEIVED
16 QUESTIONS ABOUT IT, ABOUT HIS RECIPROCITY, BUT THEY
17 DIDN'T INFORM HIM PRIOR TO THE EFFECTIVE DATE.
18 AND THEY'RE SAYING -- WELL, THEY'RE SAYING
19 TWO THINGS. FIRST OF ALL, WELL, WE PROVIDED HIM BAD
20 INFORMATION. THERE'S NOTHING WE CAN DO. WE'RE NOT
21 RESPONSIBLE FOR THAT.
22 AND SECONDLY, OH, WE SHOULD HAVE OR WE DID
23 UNDERSTAND THAT WE PROVIDED HIM BAD INFORMATION UPON
24 THE RECEIPT OF HIS RETIREMENT APPLICATION, BUT WE
25 DIDN'T INFORM HIM EVEN THOUGH WE KNEW HE WAS RETIRING

1 BASED ON IT. SO THAT'S LIKE A SECOND ESTOPPEL.
2 IT'S KIND OF A WAIVER OF THEIR DEFENSE
3 AGAINST ESTOPPEL BECAUSE AT THE CRITICAL TIME WHEN
4 THEY COULD HAVE INFORMED HIM IF THAT WAS THEIR BELIEF
5 IN THE PERIOD BETWEEN APRIL 26 AND JUNE 1, THEY HAD
6 TIME TO INFORM HIM IN A WAY THAT HE COULD HAVE TIMELY
7 DONE SOMETHING ABOUT IT.
8 BUT THEY ACKNOWLEDGE THAT THEY RECEIVED IT.
9 THEY ACKNOWLEDGED THAT THEIR PROCEDURES WOULD PUT
10 RECIPROCITY FIRST, AND THEY DIDN'T INFORM HIM. THEY
11 DIDN'T EVEN INFORM HIM THERE WAS A QUESTION ABOUT IT.
12 THE COURT: ALL RIGHT. I THINK THE ISSUE
13 IS, YOU KNOW, IF THEY'RE NOT DISPUTING IT AND IF THEY
14 AGREED THAT MR. GUIDO WASN'T INFORMED OF THE CHANGE
15 OF POSITION OR THAT HE DID NOT HAVE ESTABLISHED
16 RECIPROCITY BEFORE OR AT THE TIME THAT HE SUBMITTED
17 HIS APPLICATION, THEN WHAT'S THE POINT OF CONTINUING
18 TO POUND ON THAT ISSUE?
19 AND THE QUESTION WOULD BE IF P.E.R.S. WAS
20 WILLING TO JUST STIPULATE TO THAT, THEN THERE WOULD
21 BE A FACTUAL BASIS IN THE RECORD.
22 OTHERWISE, THE RESPONDENT HAS THE BURDEN
23 HERE, AND I'M REALLY LOATH TO STEP IN AND TELL HIM TO
24 STOP THUMPING ON THE BODY THAT'S ON THE GROUND. I
25 MEAN, I DON'T WANT TO INTRUDE AND TELL HIM HOW TO

1 SHAPE HIS CASE.
2 SO I CAN SEE WHAT YOU'RE BOTH SAYING. IF
3 THERE'S SOME SORT OF STIPULATION WE CAN FASHION, THAT
4 MIGHT RESOLVE THINGS PERHAPS.
5 BUT, NOW, SAYING I'M LOATH TO STEP IN HERE,
6 YOU KNOW, THERE'S A CERTAIN POINT OF OVERKILL WHERE
7 THE POINT HAS BEEN PROVEN AND WE NEED TO MOVE ON TO
8 SOMETHING ELSE.
9 MR. RIEGER: YOUR HONOR, IF I MAY --
10 MR. JENSEN: ACTUALLY, IF I JUST MAY FOLLOW
11 UP.
12 THE COURT: OKAY.
13 MR. JENSEN: JUST ABOUT THIS TIMING ISSUE,
14 I DON'T THINK -- I MEAN, THE BAD INFORMATION ISSUE IS
15 ONE THING BUT THEY ARE RELYING ON, YOU KNOW, THIS
16 L.A.C.E.R.A. LETTER THAT WOULD PROVIDE HIM SUPPOSED
17 NOTICE THAT THERE'S SOME QUESTIONS ABOUT RECIPROCITY.
18 AND I THINK ONE OF OUR BASIC ARGUMENTS IS,
19 WELL, NO. THE RECIPROCITY IS WITH CALPERS. THEY'RE
20 THE ONES WHO HAD THE BURDEN AND THEY'RE THE ONES THAT
21 KNEW AND THEY DIDN'T INFORM HIM. AND THAT'S A
22 SEPARATE -- THAT'S A SEPARATE ISSUE.
23 AND I DON'T WANT TO FLOG A DEAD HORSE. BUT
24 AT THE SAME TIME, I MEAN, I THINK IT'S NOT JUST ONE
25 EVENT. THIS MAY BE THE MORE CRUCIAL WHERE THEY

1 CLEARLY KNEW THAT HE WAS RELYING ON RECIPROCITY, AND
2 THEY DIDN'T TELL HIM THERE WAS A PROBLEM.
3 THE COURT: OKAY. SO, MR. RIEGER, YOUR
4 THOUGHTS? I'LL LET YOU FINISH UP.
5 MR. RIEGER: OKAY. FIRST OF ALL, I JUST
6 WANT TO SAY A LOT OF WHAT WE HEARD FROM MR. JENSEN IN
7 THE LAST FEW MINUTES HAS A LOT OF ASSUMPTIONS IN
8 THERE, A LOT OF CHARACTERIZATIONS OF WHAT WE'VE
9 ARGUED.
10 AND I JUST WANT TO MAKE CLEAR, I'M NOT
11 AGREEING TO ANY OF THAT IN ANYTHING I'M ABOUT TO SAY.
12 A LOT OF THIS LINE OF QUESTIONING AND A LOT
13 OF THE ASSUMPTIONS HE'S MADE ARE BASED ON THIS IDEA
14 LIKE THERE'S ONE PERSON AT CALPERS WHO ACTED AT EVERY
15 STEP OF THE WAY, AND THAT'S OBVIOUSLY NOT THE CASE.
16 THE COURT: I HAVEN'T REALLY GOTTEN THAT
17 IMPRESSION FROM THE QUESTIONS.
18 MR. RIEGER: WHAT I MEAN IS, HE KEEPS
19 TALKING ABOUT "THEY" AND THE KNOWLEDGE "THEY" HAD.
20 I'M TALKING ABOUT THE STATEMENTS THAT HE MADE.
21 I'M NOT TALKING ABOUT HIS QUESTIONS; I'M
22 TALKING ABOUT THE STATEMENTS THAT HE MADE A FEW
23 MINUTES AGO. IT'S KIND OF ASSUMING THAT THERE'S
24 ONE PERSON WHO HAS EVERY PIECE OF KNOWLEDGE IN THIS
25 CASE.

1 LEAVING THAT ASIDE, I WANT TO BE CLEAR WE
2 ARE CERTAINLY NOT STIPULATING TO THE FACT THAT
3 MR. GUIDO RELIED ON THIS INFORMATION OR THAT HE
4 REASONABLY RELIED ON IT.
5 BUT I HAVE IN OPENING ARGUMENT, WHETHER YOU
6 CALL IT A STIPULATION OR CONFESSION, WE DO
7 ACKNOWLEDGE THAT THE LETTERS HE RECEIVED HAD
8 INACCURATE INFORMATION.
9 I THINK WE'VE PROVEN IN THIS CASE THAT HE
10 ALSO HAD KNOWLEDGE, ENOUGH KNOWLEDGE, TO KNOW THAT
11 THAT WAS BAD INFORMATION. BUT NEVERTHELESS, THE
12 LETTERS DID HAVE BAD INFORMATION.
13 IT SEEMS TO ME THEN THERE'S ONLY -- BASED
14 ON EVERYTHING MR. JENSEN JUST EXPLAINED, THERE'S ONLY
15 TWO PIECES OF RELEVANT EVIDENCE BASED ON HIS THEORY:
16 ONE IS, DID MR. GUIDO GET BAD INFORMATION? I'VE
17 CONCEDED THAT.
18 TWO IS, WAS -- DID CALPERS, SPECIFICALLY
19 CALPERS, INFORM HIM OF THAT BEFORE HE RETIRED? THAT
20 SEEMS TO BE WHAT MR. JENSEN IS GETTING AT. THAT'S A
21 PRETTY EASY QUESTION FOR HIM TO ASK.
22 SO WHAT I DON'T UNDERSTAND IS WHY WE'RE
23 GOING TO SPEND ALL THIS TIME GOING THROUGH THE
24 VARIOUS PROCEDURES THAT APPLIED AND THE VARIOUS
25 DEPARTMENTS TO FIND OUT WHERE MAYBE THINGS COULD HAVE

1 BEEN DONE BETTER. I JUST -- I DON'T SEE THE VALUE IN
2 THAT.
3 I MEAN, HE GOT BAD INFORMATION. IF
4 MR. JENSEN WANTS TO ASK IF CALPERS AFFIRMATIVELY
5 CORRECTED THAT BEFORE HE RETIRED, I'M SURE HE CAN ASK
6 THAT. BEYOND THAT, I THINK THIS CASE IS ALL ABOUT
7 REASONABLE RELIANCE AND WHAT OPTIONS WERE AVAILABLE
8 TO MR. GUIDO.
9 SO I DON'T UNDERSTAND WHY WE'RE CHEWING UP
10 ALL THIS TIME.
11 MS. DANIEL: YOUR HONOR --
12 THE COURT: YES, MA'AM?
13 MS. DANIEL: -- IF I MAY BE HEARD QUICKLY.
14 MR. JENSEN'S CHARACTERIZATION OF THE
15 TESTIMONY FROM THIS WITNESS SO FAR I THINK IS
16 INACCURATE.
17 I DON'T THINK WE'VE HAD ANYTHING THAT SAYS
18 THE FOLLOWING OF THIS PROCEDURE IDENTIFIES A PROBLEM
19 WITH THE APPLICATION, WHICH HE SAYS THAT THIS IS A
20 PROCEDURE THAT CALPERS USES WHENEVER YOU GET AN
21 APPLICATION, AND THE FIRST THING IS TO ESTABLISH
22 RECIPROCITY.
23 SO THE FACT THAT THEY ESTABLISHED
24 RECIPROCITY DOESN'T MEAN THAT THERE'S A PROBLEM WITH
25 THE APPLICATION. AND I THINK THAT'S WHAT HE'S

1 HANGING HIS "THEY KNEW" TESTIMONY ON, AND THAT DOES
2 NOT SEEM TO ACCURATELY REFLECT WHAT SHE'S SAYING.
3 SHE'S SAYING THEY ESTABLISHED RECIPROCITY,
4 NOT BECAUSE YOU ESTABLISHED RECIPROCITY THAT YOU KNOW
5 THERE'S A PROBLEM WITH RECIPROCITY AND YOU SHOULD
6 HAVE TOLD THE APPLICANT.
7 SO I JUST WANTED TO MAKE SURE THE RECORD IS
8 CLEAR ON THAT.
9 THE COURT: OKAY. ALL RIGHT. I MEAN, ALL
10 THREE OF YOU HAVE VALID CONCERNS.
11 I'M NOT AT THE POINT WHERE I'M GOING TO
12 STEP IN AND STOP THE QUESTIONING, AND THE LAST FEW
13 QUESTIONS I'VE HEARD HAVE SEEMED LIKE THEY'VE BEEN
14 FAIR QUESTIONS IN LIGHT OF THE APPLICATION AND THE
15 STEP ONE THAT'S MENTIONED IN EXHIBIT 225: DID ANYONE
16 LOOK AT THE LETTERS THAT HAD BEEN SENT TO MR. GUIDO
17 AND TALKING ABOUT RECIPROCITY AND USE THAT IN
18 DETERMINING IF RECIPROCITY HAS BEEN ESTABLISHED OR
19 NOT?
20 THOSE SEEM LIKE FAIR QUESTIONS. BUT I JUST
21 DON'T WANT TO SPEND TOO MUCH TIME ON THIS POINT OF
22 WHEN WAS MR. GUIDO NOTIFIED OR NOT NOTIFIED OR WAS HE
23 EVER NOTIFIED ABOUT A CHANGE OF THOUGHT -- OR HIS
24 RIGHTS OF RECIPROCITY OR THAT HE DIDN'T HAVE THAT
25 RIGHT.

1 WE DON'T NEED TO SPEND THAT MUCH TIME ON
2 IT.
3 SO BUT WHY DON'T YOU GO AHEAD. YOU GUYS,
4 YOU CAN KEEP OBJECTING. AND WHEN I FEEL LIKE WE'VE
5 GOTTEN TO THE POINT WHERE WE'RE NOT SPENDING TIME
6 PRODUCTIVELY, THEN I'LL STEP IN.
7 MR. JENSEN: OKAY. AND THANK YOU, YOUR
8 HONOR, AND I'M CERTAINLY NOT TRYING TO WASTE
9 ANYBODY'S TIME, SO I APPRECIATE YOUR THOUGHTS ON
10 THAT.
11 BY MR. JENSEN:
12 Q. IF I CAN TURN THE WITNESS'S ATTENTION AGAIN
13 TO EXHIBIT 225.
14 A. OKAY.
15 Q. IT SAYS -- ON THE SECOND PAGE, BATES
16 STAMPED P.E.R.S. 339, IT SAYS:
17 "RECIPROCITY HAS NOT BEEN
18 ESTABLISHED ON C.O.M.E.T."
19 AND CAN YOU EXPLAIN WHAT C.O.M.E.T. IS?
20 A. C.O.M.E.T. IS THE SYSTEM OF RECORD THAT
21 OUR -- COMPUTER SYSTEM ON RECORD THAT RECORDS A
22 MEMBER'S MEMBERSHIP, THAT RECORDS A MEMBER'S
23 ELECTION, THAT RECORDS WHEN A MEMBER RETIRES, RECORDS
24 IF A MEMBER IS REFUNDED.
25 IT'S OUR -- IT WAS OUR DATABASE OF RECORD.

1 Q. AND DOES IT CONTAIN ALL THE CORRESPONDENCE
2 TO THE MEMBER?
3 A. NO.
4 Q. AND WOULD IT CONTAIN THE REQUEST FOR
5 BENEFIT ESTIMATES?
6 A. NO.
7 Q. AND WHAT INFORMATION ON C.O.M.E.T. WOULD
8 SHOW THAT RECIPROCITY HAD BEEN ESTABLISHED?
9 A. SO UNDER THE ACTIVITY TAB -- YOU HAVE
10 VARIOUS TABS. ONE WOULD BE FIRST OR SECOND TIERS
11 WITH REGARDS TO THE STATE, FIRST OR SECOND TIER
12 FUNDED, SOMEBODY IN THE FIRST OR SECOND TIER.
13 SPECIFIC TO MR. GUIDO'S CASE, THERE'S A TAB
14 FOR RECIPROCITY, AND THAT TAB WOULD INDICATE FULL
15 RECIPROCITY, VESTING ONLY, FINAL COMPENSATION AS ONE
16 OF THE VALUES. IT WOULD ALSO RECORD WHO THE
17 RECIPROCAL AGENCY WAS, AND IT WOULD RECORD WHETHER IT
18 WAS INCOMING OR OUTGOING.
19 SO EITHER THEY LEFT US AND WENT TO ANOTHER
20 RETIREMENT SYSTEM, SO THAT WOULD BE OUTGOING, OR THEY
21 CAME FROM ANOTHER RETIREMENT SYSTEM, WHICH WOULD BE
22 INCOMING, AND THEN THE EFFECTIVE DATE OF RECIPROCITY.
23 Q. JUST UNDER "SECTION 2" IN THE CENTER OF THE
24 PAGE, IT SAYS:
25 "MEMBER INDICATED YES ON

1 APPLICATION."
2 AND THEN IT QUOTES:
3 "OTHER CALIFORNIA PUBLIC
4 RETIREMENT SYSTEM."
5 DO YOU SEE THAT?
6 (THE WITNESS NODDED.)
7 BY MR. JENSEN:
8 Q. AND SO WHAT IS THAT QUOTED INFORMATION:
9 "OTHER CALIFORNIA PUBLIC
10 RETIREMENT SYSTEM"?
11 A. SO ON THE APPLICATION, YOU CAN SAY YES OR
12 NO THAT THEY'RE A MEMBER OF ANOTHER RECIPROCITY OR
13 ANOTHER RETIREMENT -- OTHER CALIFORNIA PUBLIC
14 RETIREMENT SYSTEM.
15 Q. AND SO IS THIS ON MR. -- IS THIS ON A
16 RETIREMENT SERVICE APPLICATION SUCH AS MR. GUIDO
17 MADE?
18 A. I WANT TO SAY YES. I'D HAVE TO REFER BACK
19 TO THE APPLICATION.
20 Q. WHY DON'T WE DO THAT. AND IT'S IN 209.
21 A. 209?
22 Q. I BELIEVE IT'S...
23 A. YES.
24 Q. AND SO MR. GUIDO WAS -- I MEAN, WITH
25 REFERENCE TO 209, DID MR. GUIDO INDICATE "YES" ON,

1 QUOTE, "OTHER CALIFORNIA PUBLIC RETIREMENT SYSTEM"?
2 A. YES.
3 Q. AND SO WHERE WOULD THAT PUT HIM IN THIS
4 RUBRIC UNDER STEP TWO?
5 A. SO WITH THIS YES, WHEN IT WAS BEING KEYED
6 IN, IT WOULD START WITH STEP ONE: WAS RECIPROCITY
7 ESTABLISHED? AND IT GIVES THEM AREAS OF WHAT TO LOOK
8 FOR, THE ROSTER MESSAGE.
9 SO IF IT HAD BEEN ON -- IF RECIPROCITY HAD
10 BEEN ESTABLISHED AND STAFF WOULD HAVE UPDATED
11 C.O.M.E.T. TO REFLECT THAT, THEN THERE WOULD HAVE
12 BEEN A MESSAGE ON THE CALCULATION SHEET INDICATING
13 RECIPROCITY.
14 SO THEN THE FOLLOWING STEPS MAY NOT HAVE
15 BEEN TAKEN. THEY WOULD JUST VALIDATE THAT IT WAS
16 THERE, AND THEN GO FORWARD. IN MR. GUIDO'S
17 SITUATION, THERE WAS NOTHING ON THE SYSTEM, AND
18 THAT'S WHY THEY KEPT GOING INTO THE DIFFERENT STEPS.
19 Q. OKAY. WITH REFERENCE TO THIS DOCUMENT,
20 WHICH WAS (SIC) THE STEPS THAT THEY TOOK IN
21 MR. GUIDO'S SITUATION?
22 A. SO WHEN THEY STARTED AT 1, THEY WEREN'T
23 SATISFIED OF THE MEMBER SERVICES INFORMATION, LOOK
24 FOR NOTES FROM MEMBER SERVICES REGARDING RECIPROCAL
25 APPROVAL OR DENIAL. SO THEY GO TO RECIPROCITY HAS

1 NOT BEEN ESTABLISHED. SO THEN THEY GO TO STEP TWO.
2 AND THEN IT SAYS IF IT HAS NOT BEEN
3 ESTABLISHED, THEN THEY LOOK AT WERE THEY LAST WITH
4 CALPERS? WERE THEY WITH CALPERS AND NOT VESTED? OR
5 WAS THE LAST RECIPROCAL OR NONRECIPROCAL?
6 AND THEN IT TALKS ABOUT THEN THEY WOULD
7 GENERATE THE REQUEST FOR ACTION FOR MEMBER SERVICES,
8 UNIT 841, TO ESTABLISH RECIPROCITY.
9 Q. AND THEN IS THERE AN ENTRY JUST UNDERNEATH
10 THAT?
11 A. WHAT DO YOU MEAN?
12 Q. DOES IT SAY "ENTER ON THE RETURN TO
13 REQUESTER"?
14 A. YES. SO ON THE REQUEST FOR ACTION, THERE'S
15 A BOX WHERE YOU INDICATE YES OR NO.
16 Q. AND SO WHO IS -- WHO WOULD BE THE REQUESTER
17 IN THAT?
18 A. THE REQUESTER WOULD BE BENEFITS SERVICES
19 DIVISION.
20 Q. SO WHAT INFORMATION WOULD BE PROVIDED TO
21 THEM?
22 A. WHETHER RECIPROCITY WAS ESTABLISHED SO THAT
23 THEY CAN USE THE BENEFITS OF RECIPROCITY AS FINAL
24 COMPENSATION. THAT WOULD BE THE HIGHEST FINAL
25 COMPENSATION.

1 Q. WHAT WAS THE NEXT STEP TAKEN ACCORDING TO
2 THIS DOCUMENT IN MR. GUIDO'S CASE?
3 A. SO BENEFITS SERVICES DIVISION WOULD HAVE TO
4 SUSPEND THE APPLICATION UNTIL -- AND THEY DID THE
5 REQUEST FOR ACTION TO MEMBER SERVICES, 841, TO ASK
6 THEM IF RECIPROCITY COULD BE ESTABLISHED.
7 THE APPLICATION IS SUSPENDED UNTIL THEY
8 HEAR BACK FROM MEMBER SERVICES WHETHER RECIPROCITY
9 CAN BE ESTABLISHED OR NOT.
10 Q. AND WHAT DOES "SUSPENDED" MEAN?
11 A. ON HOLD. THE APPLICATION IS ON HOLD.
12 Q. OKAY. AND THEN WHAT WAS THE NEXT STEP
13 FOLLOWED?
14 A. THE APPLICATION IS ON HOLD UNTIL THEY HEAR
15 BACK, AND THEN THEY'LL GO DOWN TO IF RECIPROCITY IS
16 ESTABLISHED THEY'LL CONTINUE TO FILE.
17 IF RECIPROCITY IS NOT ESTABLISHED OR NO
18 RESPONSE TO -- FROM MEMBER SERVICES, WHICH THEY MAY
19 HAVE HAD THEIR ON-HOLD PERIOD SET FOR A CERTAIN TIME
20 PERIOD, THEN IT TELLS THEM TO CONTINUE TO STEP THREE.
21 Q. AND IN MR. GUIDO'S CASE, WHAT WAS THE NEXT
22 STEP TAKEN?
23 MR. RIEGER: OBJECTION; FOUNDATION. I'M
24 NOT SURE IF THESE QUESTIONS ARE ABOUT HOW WOULD IT
25 APPLY UNDER THESE STEPS OR SHE -- I'VE KIND OF LET IT

1 GO, BUT I JUST WANT TO -- FOUNDATION.
2 THE COURT: ALL RIGHT. SUSTAINED.
3 AND I WANT TO MAKE SURE YOUR ANSWERS SO
4 FAR, THEY'VE SOUNDED LIKE YOU HAVE AN UNDERSTANDING
5 OF WHAT HAPPENED IN MR. GUIDO'S PARTICULAR CASE.
6 SO WE WANT TO MAKE SURE YOU'RE SAYING THAT
7 OR WHAT THE PROCESS WOULD TYPICALLY BE FOR A GENERIC
8 SITUATION LIKE THIS.
9 THE WITNESS: SO UP UNTIL THIS POINT, I'M
10 FAMILIAR WITH WHAT HAPPENED IN MR. GUIDO'S CASE. BUT
11 I WILL SAY THAT BEGINNING AT THIS POINT, I DON'T KNOW
12 IF THERE WAS A SUBSEQUENT REQUEST TO THE UNIT, IF
13 THEY MET THE -- IF THEY DID RESPOND BACK TO BENEFITS.
14 THAT PART, I WOULDN'T KNOW.
15 THE COURT: YOU MEAN AT STEP THREE?
16 THE WITNESS: RIGHT.
17 THE COURT: THAT'S THE POINT WHERE YOU'RE
18 NOT SURE WHAT WAS DONE FOR HIS PARTICULAR CASE?
19 THE WITNESS: RIGHT.
20 BY MR. JENSEN:
21 Q. UP TO STEP THREE, THOUGH, YOU'RE FAIRLY
22 CONFIDENT THAT YOU KNOW WHAT HAPPENED IN MR. GUIDO'S
23 CASE?
24 A. YES.
25 Q. AND NOW, JUST LET ME TURN YOUR ATTENTION TO

1 THE C.T.P. IN 224.
2 A. CAN YOU IDENTIFY HERE WHERE THIS STEP ONE,
3 TWO, AND THREE ARE LISTED IN THE CUSTOMER TOUCH
4 POINT?
5 THE COURT: HOLD ON A SECOND.
6 LET'S GO OFF THE RECORD.
7 (WHEREUPON, THERE WAS A BRIEF PAUSE
8 IN THE PROCEEDINGS.)
9 THE COURT: LET'S GO BACK ON THE RECORD.
10 OKAY. WE'RE GOING TO STOP TODAY AT THIS
11 TIME. WE'RE GOING TO DISCUSS OFF THE RECORD THE NEXT
12 STEPS WE'LL BE TAKING IN THE CASE.
13 SO IS THERE ANYTHING THAT ANYONE WANTS TO
14 PUT ON THE RECORD IN THE NEXT MINUTE OR SO THAT NEEDS
15 TO BE ON THE RECORD BEFORE WE SIGN OFF TODAY?
16 MR. JENSEN: NO, YOUR HONOR.
17 MR. RIEGER: NO, YOUR HONOR.
18 MS. DANIEL: I WOULD JUST LIKE TO ADDRESS
19 THE NEED FOR THE PERSON MOST KNOWLEDGEABLE FOR CUDAHY
20 WHO UNDER SUBPOENA FOR TOMORROW. DO WE NEED HIM OR
21 CALL HIM OR CAN I CALL HIM OFF BEFORE WE GO OFF THE
22 RECORD?
23 THE COURT: WE'LL TALK ABOUT THAT, BUT
24 WE'RE GOING TO HAVE TO DO THAT OFF THE RECORD.
25 MS. DANIEL: SURE.

1 THE COURT: OKAY. BUT WE'LL DEFINITELY
2 TALK ABOUT THAT.
3 OKAY. LET'S GO OFF THE RECORD.
4
5 (WHEREUPON, AT THE HOUR OF
6 4:27 P.M., THE PROCEEDINGS
7 WERE ADJOURNED.)
8 -000-
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1 STATE OF CALIFORNIA)
) SS
2 COUNTY OF LOS ANGELES)
3
4 I, MAXINE MILLER, HEARING REPORTER FOR THE
5 STATE OF CALIFORNIA, HEREBY CERTIFY:
6 THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME
7 AT THE TIME AND PLACE THEREIN SET FORTH;
8 THE PROCEEDINGS WERE RECORDED STENOGRAPHICALLY
9 BY ME AND WERE THEREAFTER TRANSCRIBED;
10 THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT
11 TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;
12 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL
13 FOR NOR RELATED TO ANY PARTY TO SAID ACTION, NOR IN
14 ANY WAY INTERESTED IN THE OUTCOME THEREOF.
15 IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED
16 MY NAME THIS 8TH DAY OF DECEMBER, 2012.
17
18
19 _____
20
21
22
23
24
25