STATE OF NEW YORK

COMMISSION ON PUBLIC INTEGRITY

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IN THE MATTER OF AN INVESTIGATION

INTO THE ALLEGED MISUSE OF RESOURCES

OF THE DIVISION OF STATE POLICE

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VOLUME II

STENOGRAPHIC MINUTES OF SWORN TESTIMONY conducted

of TERENCE L. KINDLON, ESQUIRE, held on the 25th day of

January, 2008, at the offices of the Commission on Public

Integrity, 540 Broadway, Albany, New York, commencing at

3:00 p.m., before DIANA FREUND, a Shorthand Reporter and

Notary Public in and for the State of New York.
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MR. TEITELBAUM: You understand you're still under oath?

THE WITNESS: Yes.

MR. TEITELBAUM: I just want to preface this second session with some observations and some requests.

Mr. Koenig, you are here as an accommodation, and our understanding was, and you agreed to it, that your sole exclusive function sitting at this table was to interpose the attorney-client privilege on behalf of Mr. Dopp if you felt that there was an attorney-client privilege, and nothing more. We'd ask you to stick to that agreement, please.

Now, at our last session there was a direction to Mr. Kindlon not to answer a question and it was not on grounds of privilege. I just want to emphasize to you, Counsel, that you're not here at a deposition. We're here pursuant to the rules that govern the Commission on Public Integrity, and you are not entitled to direct your client not to
answer a question unless a privilege is implicated. You have no right to do that.

MS. SHANKS: Well, that may be your opinion.

MR. TEITELBAUM: It's not my opinion.

MS. SHANKS: It is.

MR. TEITELBAUM: Just think of it -- because if that is permitted to stand, that's going to be tested.

MS. SHANKS: That's fine.

MR. TEITELBAUM: That will be tested. I am unaware of any authority that allows somebody, for example, before a Congressional committee to direct the person not to answer a question unless a privilege is implicated, and that situation is no different from this Commission. That's the position we're taking here. I just want to apprise you on it, and I would urge you to withdraw that direction.

MS. SHANKS: Well, for the record, I will indicate this is not a Congressional hearing --

MR. TEITELBAUM: I didn't say it was. I didn't say it was. I said it was like a Congressional hearing in that the only ground
on which you can direct the witness not to
answer is if there is a privilege implicated.

MS. SHANKS: If I might make a statement
without you interrupting me.

MR. TEITELBAUM: What I would ask you to
do is not misrepresent what I said. I didn't
say this was a Congressional hearing. I didn't
say that.

MS. SHANKS: Are you finished now?

MR. TEITELBAUM: I am.

MS. SHANKS: Then I'd like to make a
statement. This is not a Congressional
hearing, and although you may believe that
there are rules for this hearing that are the
same as a Congressional hearing, I do not
accept that characterization. I also do not
believe that even in a Congressional hearing
that an attorney needs to sit as a potted
plant. I believe that my obligation here is to
act as an attorney for my client, Mr. Kindlon,
and if I believe that you have asked a question
that is -- cannot be legally propounded or
cannot be answered in an appropriate fashion by
my client under oath, I am going to direct him
not to answer. If you believe that I have no
right to do so, well then I suppose that there
is an appropriate forum by which you can ask
for a judge to direct him to answer a question,
and you and I can both give our opinions as to
what the law is.

You are an attorney in this room. I
respect you. I respect this forum. But for
you to ask me or to direct me that I can or
cannot give legal advice to my client, I would
submit is preposterous.

MR. TEITELBAUM: I didn't say that you
couldn't give legal advice to your client.
What I'm saying is --

MS. SHANKS: And my advice to my client --

MR. TEITELBAUM: You have no right -- you
have no right to direct the witness appearing
before this Commission pursuant to subpoena to
refuse to answer a question unless a privilege
is implicated.

MS. SHANKS: That is your opinion. But
when you ask my client to speculate as to what
was in -- what was the mental processes of
another individual and to characterize what was
in the person's heart or whether he was sincere, that is an improper question. You certainly can go before a court, and if the court agrees with you that it is somehow proper to ask an attorney to characterize or to comment on the sincerity of his client's beliefs, I will then make the argument that I believe is proper, and then a judge will rule. But you can't tell me that I don't have a right to object to your question and that I simply have to agree with you that if you think it's okay to ask it, then my client has to answer it. Otherwise, he wouldn't need an attorney here.

MR. TEITELBAUM: Well --

MS. SHANKS: And he wouldn't have a right to have an attorney here.

MR. TEITELBAUM: Well, he doesn't have a right to have an attorney here, actually.

MS. SHANKS: Well, if you would like to litigate that matter, we can litigate the matter. But when you ask a question asking my client to give his views of the sincerity of his client, I am going to direct him not to
answer. I don't believe it's a legal question. I don't think that it is within the purview of one human being, other than perhaps a priest, in ascertaining whether or not someone who is making a confession believes in his heart that he's actually remorseful.

MR. TEITELBAUM: The question has now been mischaracterized again. I didn't ask your client to tell us what was in somebody's heart. I am entitled to ask questions that are speculative, by the way. I'm entitled to do that. I don't want to prolong this.

MS. SHANKS: Good.

MR. TEITELBAUM: If we have to have it tested, we'll have it tested.

MS. SHANKS: Okay.

MR. TEITELBAUM: The question stands. Are you continuing to direct him not to answer?

MS. SHANKS: You can re-ask the question and I will make a determination.

MR. KOENIG: Before you get into substance, can I just make two brief quick comments on the record?

One is I want to make it very clear --
1 this is a brand new stenographer -- I made
2 clear at the first hearing, Darren Dopp does
3 not in any way, shape or form waive the
4 attorney-client privilege.
5 With regard to Mr. Teitelbaum's comments
6 about the accommodation that was made for me to
7 be here, the history is important to lay on the
8 record so there's no mistake when and if we
9 have to go to court on this. On January 11th,
10 I received a call -- it was a Friday afternoon
11 late -- that Mr. Kindlon, Darren Dopp's
12 previous attorney, had been subpoenaed by the
13 Commission on Public Integrity. In my mind and
14 based on my experience, that clearly would
15 implicate attorney-client privileges. I did
16 not learn this from the Commission, by the way,
17 that Mr. Kindlon was going to be testifying or
18 was subpoenaed to testify. On the following
19 Monday, which was January 14th, I sent a letter
20 to Mr. Kindlon directing him that Mr. Dopp was
21 not waiving any attorney-client privileges. I
22 sent a very similar letter to the Commission on
23 Public Integrity to advise them Mr. Dopp is not
24 waiving any privileges, and I thought that I
had a right to be present at any testimony
Mr. Kindlon gave or to properly interpose the
attorney-client privileges. It was not for
Mr. Kindlon or anyone else to interpose that on
Mr. Dopp's behalf, since as of early November I
represented Mr. Dopp. Mr. Teitelbaum called
me, it must have been within 30 minutes if not
less of receiving my letter, and offered me the
opportunity to come into the hearing to assert
the attorney-client privilege if and when
appropriate. While the Commission will view
that as an accommodation, I view it as
imperative, and I think any court will see that
as true given the sanctity which the
attorney-client privilege has been held in this
country for at least over 100 years, and
probably longer than that. Mr. Teitelbaum
indicated that I'm here to object -- to assert
the attorney-client privilege is inappropriate.
This is what I will do, and to my belief this
is what I did on Wednesday. To the extent that
there were any further colloquys, they were
necessitated by Mr. Teitelbaum and at times
other counsels' opinions on what I was
objecting to, so there was a necessary
colloquy. But I think the record will show
that apart from the appearance I made at the
very beginning, the only thing I put on the
record were attorney-client privileges and any
necessary colloquy that resulted from entries
by the Public Integrity Commission.

I will be here to interpose the
attorney-client privilege if and when
appropriate. I will also defend Mr. Dopp to
the extent I believe necessary and appropriate
when the Commission of Public Integrity raises
questions about any objection I interpose.

MR. TEITELBAUM: Okay.

EXAMINATION BY COUNSEL FOR THE COMMISSION

BY MR. TEITELBAUM:

Q. Mr. Kindlon, when Mr. Dopp signed the statement on
July 22nd -- Withdrawn.

Was it your understanding that when Mr. Dopp
signed the statement on July 22nd that it was not his
view that he should have referred the matter to the
state police?

MR. KOENIG: Objection.

Do not answer that.
Q. Did Mr. Dopp say in your presence and in the presence of others that it was his view that referring the matter -- not referring the matter to the state police was appropriate?

MR. KOENIG: I object to the extent it was a compound question.

MR. TEITELBAUM: You have no ground to object unless it's attorney-client privilege.

MR. KOENIG: It's attorney-client privilege.

MR. TEITELBAUM: Because it's a compound question?

MR. KOENIG: You're asking him did Darren Dopp say in your presence and in the presence of others. Does that mean in his presence?

MR. TEITELBAUM: Collectively.

Collectively.

MR. KOENIG: Ask the question and he can give the appropriate answer.

A. I don't understand the question.

Q. Did Darren Dopp say in your presence and in the presence of others that in his view when he signed the statement on July 22nd there was nothing wrong in not referring the matter to the state police?
MR. KOENIG: I object. Attorney-client privilege. He didn't add the word "collectively." He asked the exact same question the second time that he asked the first time.

Q. When I say "in your presence and in the presence of others," I mean you and other people -- in the presence of you and other people, together, sitting together, standing together, in a room being together, did Dopp articulate that in his view on July 22nd when he signed the statement that not referring the matter to the state police was appropriate?

A. I just don't understand the question. I really don't.

Q. What part of the question don't you understand?

A. Everything from the first word to the last word, the entire question.

Q. You were in a room with Darren Dopp on July 22nd in the Executive Chamber?

A. That I was, yes.

Q. Were there other people in the room?

A. Yes.

Q. Who was in the room?
A. From time to time, David Nocenti, Peter Pope. I think Sean Patrick Maloney was there, I think. I'm not completely sure because the days, the 21st and the 22nd go together. There was a black woman who was in the vicinity and I think she may have passed through the room at some point, and I believe that there was a young man who may have been a young lawyer, although I couldn't pick him out of a lineup. I just remember a young man with a tight haircut. I wasn't paying that much attention to who else was in the room.

Q. Now, on the 21st of July, were you in a room with Darren Dopp and other people in the Executive Chamber?

A. You know, I've really scoured my mind. I remember being in a room on the 21st, Saturday, with Peter Pope. I remember being in a room on the 21st on the second floor -- that part of the second floor that they collectively describe the rooms as the Chambers with Sean Patrick Maloney. That's the first time I ever met those two fellows. To the best of my recollection, I can't recall whether Darren Dopp was in the room on Saturday, or whether I went down there by myself. I just can't remember and I don't have
any way that I'm able to determine whether Darren was there or not. I think he was, sir, but I'm not completely sure.

Q. Over that weekend --
A. Yes.

Q. -- when you were in the Executive Chamber, were there other people in the room in addition to yourself and Mr. Dopp?
A. Uh-huh.

Q. Did Mr. Dopp express the view that there was nothing wrong -- that he did nothing wrong in not referring the matter to the state police?
A. Well, did he express it -- no, he never made a declarative statement like that.

Q. Did he make any kind of statement?
A. Well, he made lots of statements.

Q. Did he make any kind of statement which expressed that, in words or substance?
A. Not that I specifically recall.

Q. Do you have any general recollection of it?
A. When we were in -- well, see, this is where it gets really hard for me because I had private conversations with Darren. I know that when we were in the Chamber, and I can't recall whether it was on
the 21st or the 22nd, I know that at some point he
and I stepped out of the room that had a big library
table in it, into a hallway. We had a conversation
with each other in the hallway, but I really don't
have, you know, a distinct memory of the events that
occurred in the Executive Chamber as far as
conversations, and who was coming and going.

Again, you have to understand something. We
were talking about an enormous number of things rapid
fire, and, you know, there was conversation in the
presence of other people. There was conversation --
hushed conversation at the side of the table. There
was conversation had, you know, walking up to and
back from the Chamber, and I think we took the
Million Dollar Staircase to get there. There were
telephone conversations. There were e-mail
exchanges. It was a very active day. As I said to
you the last time we were here, I was spending a lot
of energy and time and effort just to catch up with
the events that occurred during the last months of
the legislative session and trying to understand the
aviation policy of the State of New York, talking
about Cuomo, talking about Pataki, talking about
newspaper reporters and wire services, and who was
who in the Chamber. I mean, there was a tremendous amount of information and I was trying to soak it up.

BY MS. TOOHER:

Q. Mr. Kindlon, in your prior testimony just a few days ago --

A. Yes.

Q. -- you indicated that Mr. Dopp had made statements to members of the Chamber. It was your understanding that he had advised members of the Chamber that he did not think he did anything wrong.

A. Right.

Q. You were aware of that on the 21st, which is Saturday?

A. Well, I know that he had advised members of the Chamber that he hadn't done anything wrong. If you could let me specifically look at what you're referring to in the testimony, I can comment on that.

Q. I'm just asking for your recollection at this point in time. Is it your recollection that you were aware on July 21st that Darren Dopp had relayed to the Executive Chamber, Mr. Maloney, Mr. Pope, that he did not think he had done anything wrong in the matters involving the information obtained from the state police?
A. Well, I know that Darren thought then that he hadn't
done anything wrong -- said out loud, excuse me.

MR. KOENIG: To others?

A. That he hadn't done anything wrong.

Q. In fact, Mr. Dopp testified before the Commission in
your presence as his counsel, that he did not think
he had done anything wrong in gathering the
information from the state police?

A. Absolutely. He testified across the table from you
up in the A.E. Smith Office Building that he didn't
think he had done anything wrong, and that's because
he didn't think he had done anything wrong, and
that's why he said he didn't think he had done
anything wrong.

Q. And I believe you testified that on the 21st when you
first came onboard and you were -- I think to quote
you "coming up to speed" --

A. Correct.

Q. -- that one of your queries was "I don't really
understand what's going on here. I don't really see
the criminal act," if you will, is that correct?

MR. KOENIG: Are you asking about

things --

MS. TOOHER: I'm asking about his
testimony just the other day.

MR. TEITELBAUM: Prior testimony.

MR. KOENIG: Are you asking or talking about the conversations he had with Dopp?

MS. TOOHER: No. I'm asking about his testimony here the other day.

MR. KOENIG: Fine.

A. If you show me the testimony, I could comment on it directly and tell you exactly, you know, what I meant when I said that.

Q. I'll ask you the question again.

A. Okay.

Q. On the 21st, were you aware of anything that Darren Dopp had done wrongly legally?

A. Oh, no, I certainly wasn't, no. And since he was my brand new client, and since the -- since my focus was on Darren, that was the most important thing for me to understand, what it was people thought or said or felt or believed he had done wrong.

I said then and I say now, I don't think he did anything wrong. I couldn't discern what he had done that was allegedly wrong then, since then, or now.

Q. And on Saturday, I think you testified earlier, that you were coming up to speed, is that correct?
A. Right. That is correct, yeah.

Q. And that you relayed that to Maloney and Pope --

A. Correct.

Q. -- that you were involved in the process of coming up
to speed?

A. Absolutely, yeah.

Q. In fact, you did do that, you relayed to Maloney and
Pope that this was a new client, that you were coming
up to speed?

A. Correct.

Q. At some point in time, did you get up to speed?

A. Yeah. I think I got up to about 75 percent of, you
know, where I really needed to be. Again, because I
was trying to get a master's degree in life in the
Chamber at the speed of light and I wasn't capable of
that. I was going -- I was killing myself trying to
understand what everybody was talking about, but I
couldn't do it.

MR. KOENIG: I want to see you outside.

(Mr. Kindlon and Ms. Shanks exited the
proceeding.)

(Pause.)

BY MS. TOOHER:

A. I have to make an important distinction here.
Understand that I am, I was and I shall always be a criminal defense lawyer, and when I say what has he done, I perceived he had done nothing wrong. My initial focus was whether or not he had done something that would violate the Penal Law, the United States Code, or perhaps some other, you know, criminal law implication. When I said that I didn't understand what it was he had done that was wrong, I was speaking in terms of the criminal law, and I could perceive of no criminal conduct on his part.

Q. The criminal law implication is an important one on another aspect of Mr. Dopp and the July 22nd statement. Mr. Dopp testified before the Commission in your presence that he had been told that the Attorney General wanted to prosecute him for criminal violations. Do you recall him saying that before the Commission?

A. Actually, I don't recall him saying that, but I'm sure if you're saying that he said that, that he did.

Q. I can certainly point it out to you in the transcript.

A. No, that's okay. I accept your representation.

Q. He did make a representation that at the time he executed the July 22nd statement, it was indicated to
him that he could sign the statement or potentially face criminal prosecution.

A.  Indicated by whom?

Q.  He indicated that Mr. Nocenti relayed to him that if he signed it, they wanted to prosecute him.

A.  Well, let's put this in context.

MR. TEITELBAUM: Is there a question?

Q.  Did you --

A.  Context. Contextual, and this is important.

MR. TEITELBAUM: Let's get the question down.

Q.  Did you hear Mr. Nocenti say to Mr. Dopp at the time of his July 22nd statement that he faced criminal prosecution if he did not sign that statement?

A.  No, I did not hear David Nocenti say that at any time on the 22nd.

Q.  Did you hear Peter Pope say that --

A.  No.

Q.  -- to Mr. Dopp on July 22nd, or any other time?

A.  I did not hear Peter Pope say that to Darren Dopp on the 22nd, nor do I recall him saying that at any time.

Q.  Did you hear Sean Maloney tell Mr. Dopp on July 22nd that he faced criminal prosecution if he did not sign
A. I don't recall Sean Maloney having any direct conversation with Darren Dopp in my presence on the 22nd.

Q. Were you ever aware -- and this is a "yes" or "no" question -- that Darren Dopp had been advised by the Executive Chamber that he faced potential criminal prosecution?

MR. KOENIG: Can you repeat that question?

MS. TOOHER: Can you read that back, Diane?

(Thereupon, the following excerpt was read back by the reporter:

QUESTION: "Were you ever aware -- and this is a 'yes' or 'no' question -- that Darren Dopp had been advised by the Executive Chamber that he faced potential criminal prosecution?")

MR. KOENIG: I'm not going to let him answer that. If you want to make your question more specific, it may not be objectionable, but as asked, I object.

MS. TOOHER: On attorney-client privilege?

MR. KOENIG: Yup.

Q. Was it ever relayed to you by anyone that Darren Dopp
faced potential criminal prosecution?

MR. KOENIG: I'm not going to let him --
you can ask a question that gets what you're
getting at without violating attorney-client
privilege.

MS. TOOHER: A "yes" or "no" answer to
that is a violation of the attorney-client
privilege?

MR. KOENIG: Absolutely.

BY MR. TEITELBAUM:

Q. Did the subject of Mr. Dopp and the subject of
potential prosecution by the Attorney General come up
during your conversations on the 21st and 22nd?

A. I didn't hear any -- I didn't hear any of the other
people who were in and out of the office on that day,
on the 22nd, say to Darren that you would be subject
to criminal prosecution if you don't sign this
statement.

Q. Did the subject of Mr. Dopp being told that by one of
the Executive Chamber people come up on the 21st or
the 22nd?

A. I don't understand the question.

Q. Did the subject of Darren Dopp being told by a member
of the Executive Chamber that there was a threat of
prosecution from the Attorney General and to come up
on the 21st or the 22nd?

A. Not in my hearing, no.

Q. And I don't mean just in the presence of everybody.
   I mean between yourself and Mr. Dopp, did the subject
   of his being threatened with prosecution come up?

MR. KOENIG: I'm not going to let him
answer that.

A. I'm not going to answer that.

MR. TEITELBAUM: I'm not asking what was
said.

MR. KOENIG: I understand. I'm not going
to let him -- I object on the way the question
was asked.

Do not answer that question based on
attorney-client privilege.

Q. Did the subject of Mr. Dopp being threatened with
   criminal prosecution come up on the 21st and 22nd?

MR. KOENIG: It's the same question. It's
the same.

MR. TEITELBAUM: It's not the same
question.

MR. KOENIG: Well, it's the same
objection.
Q.  Was it your understanding from the Executive Chamber that they had an expectation -- strike that.

Was it your understanding from the Executive Chamber that if Darren signed the statement, he would receive a benefit?

A.  Actually, no.

Q.  It was your understanding at the time the statement was executed that the Attorney General's report was already complete?

A.  You know, I think so.  My recollection is that the Attorney General's report was done.  That's my recollection.  The statement was signed early in the evening or late on the afternoon of the 22nd.  The awareness of the completion of the Cuomo report was made known to me late on the afternoon of the 22nd.  There's no place else I could have learned it except in Chamber.  I mean, it wasn't -- there wasn't any other source that could provide me with that information.  So my best recollection, and I am not completely sure about this, but my best recollection is that I knew that the Cuomo report was completed, although I hadn't seen it before or at about the exact same time as Darren gave his statement, or
signed his name to the statement in the Executive
Chamber that day.

Q. And at the time that Darren was executing the
statement in the Chamber, did he indicate a desire to
testify to the Attorney General's Office?

A. Darren --

    MR. KOENIG: Hold on a second.

    I'm going to object. I think I know what
    you're asking.

Q. In the presence of others.

    MR. KOENIG: So what's the entire
    question?

Q. Did he indicate a desire to testify before the
Attorney General?

A. Not that I heard.

    Now, this is like a family that I've walked
    into the middle of. Darren Dopp, David Nocenti,
    Peter Pope, Sean Patrick Maloney. They're very
    clearly a family-like group. They socialize
together. They work together. They're all friends
    with each other. I mean, I was the new guy here.
    There were conversations going on all over the place.
    My focus was on the statement that Darren and I had
    worked on throughout the day. There may very well
have been other conversations going on in the room.

MR. KOENIG: I would note an objection.

MR. TEITELBAUM: Attorney-client?

MR. KOENIG: Yes, it is.

I think it was an inadvertent slip to what you and Darren worked on during the day.

THE WITNESS: Yeah.

MR. KOENIG: I direct you not to reveal anything that you did with Darren or conversations you had with Darren.

A. I stand corrected.

Now, what you may or may not know is that I am deaf in one ear -- not exactly deaf, but, I mean, I can't hear in this ear (indicating). I have tinnitus, so it rings all the time. I'm beginning to lose my hearing in the other ear. I mean, as a criminal defense lawyer it's okay if I'm in court because only one person is allowed to talk at a time and the room is quiet, but if I'm in a room and there's commotion, then it becomes a real challenge for me to hear other things that are being -- to understand conversations.

Therefore, I mean, I am not the best source of information as to what was being said and who was
saying what in the room, in any room where there's a
bunch of people or more than a couple of people. So
when you asked me if I heard things, things may have
been said and I may not have heard them.

BY MS. TOOHER:

Q. Mr. Dopp testified before the Commission that he had
relayed to the Executive Chamber that he wanted to
speak to the Attorney General. Did he relay that to
the Executive Chamber in your presence at any time?

A. On the 22nd?

Q. At any time.

A. Okay. Well, the only time I have a clear
recollection of being in the Executive Chamber with
Darren is on the 22nd, Sunday, and I have no
recollection of Darren saying to Peter Pope, David
Nocenti, Sean Patrick Maloney, the black lady, or the
young white man in a suit, that he wanted to testify
before the Attorney General.

Q. Your testimony the other day was that it was made
clear to you from the Executive Chamber that they did
not want Darren to testify, is that correct?

A. That is correct, yes.

Q. And you became aware at a certain point that Darren
wanted to testify, is that correct?
MR. KOENIG: I'm going to object to the extent it calls for a conversation he had with his client. If you rephrase it, I'll let it go.

Don't answer the question that's been asked.

THE WITNESS: Okay.

Q. When the Executive Chamber told you that Darren did not want to testify, that came from --

A. That's not --

Q. That they didn't want him to testify, who relayed that information to you?

A. I think it was Peter Pope.

Q. What did you respond to Mr. Pope?

A. "Okay. I understand. I understand what you're saying."

Q. What did you understand that to mean?

A. I understood it to mean that Peter Pope speaking on behalf of the Executive Chamber was informing me that they did not want Darren to talk to Cuomo because they felt that there was a divergence of interest between them and Darren, and they felt that because of that divergence of interest, Darren shouldn't do anything about speaking to the Attorney General until
after he was independently represented by an attorney
who was not affiliated with or associated with or
beholden to the Executive Chamber.

So my understanding of their position was that
they didn't want to advise Darren to talk to Cuomo,
and I inferred from that that if Darren was going to
talk to Cuomo, it would be on the advice of his
separate and independent counsel. My understanding
of the reason for all this was because I had been
told by Peter Pope and I think Sean Patrick
Maloney -- and I hadn't spoken with David Nocentii --
but that they felt that there was -- it's their
phrase -- a divergence of interest, which I took to
be the equivalent of a conflict of interest. But
what I drew from that was not that they were trying
to hide anything, but simply that they were trying to
make sure that Darren was separately represented
before he did something which was obviously as
significant as talked to, testified to, cooperate
with, or whatever, the Attorney General of the State
of New York.

I think I said to you the last time I was here
that I said to Darren "Hold tight. I don't
understand what's going on here yet." It's sort of
the administrative equivalent of exercise your right to remain silent until the lawyer knows what's going on, and that was in regard to talking with Cuomo.

So it was really, you know -- it was really just the advice that when I came in, I said, "Don't you do anything until I understand more about this situation here," and that's where all that comes together.

Q. Mr. Dopp relayed to the Commission that he had a desire to testify before the Attorney General's Office --

A. Yes.

Q. -- concerning this matter.

A. Right. That was in our mutual presence.

Q. Yes. The Chamber had expressed that they did not want Mr. Dopp to testify, that they did not believe Mr. Dopp should testify before the Attorney General?

A. Correct.

Q. And your role at that point was to advise Mr. Dopp concerning, among other things, whether or not he would testify before the Attorney General?

A. Well, in the fullness of time, that certainly would have been advice that I would have --

MR. KOENIG: Ah, ah, ah (phonetic). No
attorney-client advice you would have given, could have given or should have given. 
Attorney-client privilege.

MR. TEITELBAUM: It's not communication.

MR. KOENIG: What advice he would have given?

MR. TEITELBAUM: He didn't tell his client anything. She's not asking for a communication.

MR. KOENIG: But his thought processes and what he would have communicated, what his answer started to be is what I would have done, that thought process of what he would have done is based upon information he would have learned. The information he would have learned would have been from his client. His client is not waiving the attorney-client privilege therefore it's an improper question to ask.

MS. TOOHER: Could you read back the question, Diane?

(Ms. Shanks and the witness conferring.)

MR. TEITELBAUM: There's a question pending. Counsel, there's a question pending.
Please don't confer with the witness when there's a question pending. Counsel, please don't confer with the witness when there's a question pending.

MS. SHANKS: Sir --

THE WITNESS: Listen.

MR. TEITELBAUM: Even at a deposition that's inappropriate.

THE WITNESS: I'm sorry. I'm not going to answer questions unless I can talk to my lawyer.

MR. TEITELBAUM: I have no objection to you talking to your lawyer but not while a question is pending. It's just not appropriate. Let him answer the question and then you can talk to him.

MS. SHANKS: Sir, I'm an attorney here. I will do what I believe is in my client's best interest. If you have an objection, you can file it with whatever forum you believe is appropriate, but please do not lecture me on when I may speak with my client.

MR. TEITELBAUM: I'm not lecturing you. I'm asking you not to do it. I'm not lecturing
you. Please don't do it. It has the
appearance that you're prompting the witness.

MS. SHANKS: Sir, whatever inference you
choose to draw, I suppose we could ask your
colleagues here to describe, but it is my job
here to represent my client, and I will do so,
and if and when I believe that I need to speak
with him, I will do so.

MR. TEITELBAUM: Can I have the last
question read back?

(Thereupon, the following excerpt was read
back by the reporter:

QUESTION: "And your role at that point
was to advise Mr. Dopp concerning, among other
things, whether or not he would testify before
the Attorney General?")

BY MS. TOOHER:

A. My role --

MR. KOENIG: I would object.
The answer, if your role was to advise,
not what advice you gave.

THE WITNESS: Right. That's my answer.

A. My role was to give Mr. Dopp legal advice.

Q. Was it your understanding that that included giving
him legal advice as to whether or not he would testify before the Attorney General?

THE WITNESS: No objection?

MR. KOENIG: What's the question again?

Could I have the last question read back?

A. Could I have the question read back?

(Thereupon, the following excerpt was read back by the reporter:

QUESTION: "Was it your understanding that that included giving him legal advice as to whether or not he would testify before the Attorney General?")

MR. KOENIG: I'm going to object to that.

MR. TEITELBAUM: He's not asking what the advice is.

MR. KOENIG: Giving advice to whether or not to testify.

MR. TEITELBAUM: No. Did his role include giving that advice.

MR. KOENIG: To testify, the advice to testify.

MR. TEITELBAUM: No. Whether or not.

MR. KOENIG: It was whether or not in the question (directed to reporter)?
MR. KOENIG: If it was, then I withdraw my objection. If it wasn't, then I object to his answer.

MS. SHANKS: Well, I'm going to object because this is asking for the scope of his employment. I think we are back to the situation we discussed earlier which was if this was a transitional meeting, and what you're asking is whether or not Mr. Pope or Mr. Nocenti, who were his previous attorneys, were trying to tell his new attorney what the scope of his employment was or was not. It's an inappropriate question and I do direct him on the basis --

MS. TOOHER: That is not the question.

Please read back the question.

(Thereupon, the following excerpt was read back by the reporter:

QUESTION: "Was it your understanding that that included giving him legal advice as to whether or not he would testify before the Attorney General?")

THE WITNESS: Okay (directed to
Ms. Shanks)?

BY MS. TOOHER:

A. My understanding was that I was there to provide him legal advice concerning any legal issues that came up while I was representing him.

MR. KOENIG: I'm going to stop that there because I think anything else goes to attorney-client privilege. I think that's right, because the understanding -- I'll explain it, Mr. Teitelbaum. The understanding he had was that the scope of what he was being asked to do would include conversations that he had with his client. That is privileged. What advice his client seeks from him is privileged.

If a client goes to him and says "Here's the murder weapon. What should I do with it," that's a privileged communication.

MS. TOOHER: For the record, the attorney-client privilege is something that's well recognized, certainly by the courts and in this room. However, it is your burden, Mr. Koenig, to show that the attorney-client privilege applies in a particular situation because you are asserting the privilege.
Mr. Dopp has testified concerning these matters -- please -- and the law is clear that once he testifies concerning the subject matter, the attorney-client privilege is waived.

He has testified in this room that he relayed his desire to testimony -- to testify. He has testified in this room that he wanted to testify, and his communications in that regard under the case law are clear within his waiver.

MR. KOENIG: This issue came up the other day and I had talked with the Commission about researching this issue, and Mr. Teitelbaum informed me that it's the Commission's position that once someone testifies, they waive attorney-client privilege is Hornbook Law, I believe.

MS. TOOHER: Not as to everything.

MR. KOENIG: Hold on a second. Let me finish. Let me finish. The law, as I have researched it says that: Waiver does not occur merely because the client testifies about the same facts he discussed with counsel, and quoting a Court of Appeals case in...
New York State:  Testimony about an event should not be construed as a waiver of the privilege merely because the subject of testimony may also have been discussed in the privileged communication.

So that Mr. Dopp came in and testified as to facts --

MR. TEITELBAUM: No. He testified as to what he wanted to do. That's what he testified to.

MS. TOOHER: And I --

MR. KOENIG: That is a fact. That is --

MR. TEITELBAUM: We don't know whether it is a fact or not, do we?

MR. KOENIG: I believe, and we have a disagreement, over whether or not the attorney-client privilege stands here. I believe it does. I believe the law is that when someone testifies, they do not waive the attorney-client privilege, and it is simply that. Mr. Dopp came in here and testified. He did not testify as to the nature of his communications with his attorney. The nature of the communications with the attorney would
waive the privilege if he testifies about the
nature of the communications. He can testify
exactly about things he spoke to his attorney
about, but you can't ask him questions about
what he spoke to his attorney about. The
underlying facts and the nature of the
privileged communication may be the same, but
they're treated differently in attorney-client
privilege context. He is free under the case
law to talk about, to testify, and he can
testify about the same subject matters and the
same facts. That does not waive the
attorney-client privilege.

MS. TOOHER: I would take issue with the
cases and certainly it's not going to be
resolved here, but I would say that Mr. Dopp
has put in issue his intent at the time that he
signed the statement, and, therefore, his
intent and his state of mind waives his
attorney-client privilege.

MR. KOENIG: I do not believe that the law
is entirely foursquare on that either.

MS. TOOHER: I believe the law in the
Second Circuit in the State of New York is
foursquare on that, that once an individual
puts their intent and their state of mind in
issue, that they waive attorney-client
privilege in that regard.

MR. KOENIG: We'll have to argue that in
the proper forum.

BY MS. TOOHER:

A. I consider this to be privileged. I myself consider
it to be a privilege and I respectfully decline to
answer it for that reason.

Q. You consider what to be privileged, Mr. Kindlon, just
for the record?

A. I consider the answer to the question which is still
outstanding to require me to violate the
attorney-client privilege, and for that reason, I
will respectfully decline to answer it.

MR. KOENIG: I will also put on the
record, as I said the other day, Miss Tooher,
if they would like to share with me their case
law, and if I'm wrong, I will withdraw my
objection. I've done research, as well, on it,
and I believe I'm right. I would welcome their
case law to prove I'm wrong in which case I'd
be more than happy to withdraw my objection.
MR. TEITELBAUM: You'll get our case law.

MR. KOENIG: Fine. And you'll get mine.

MR. TEITELBAUM: In the proper forum you'll get our case law --

MR. KOENIG: Fine. Fine.

MR. TEITELBAUM: -- and we'll get yours.

MR. KOENIG: Fine.

BY MS. TOOHER:

Q. Let's go back to the execution of the statement, the product of the statement itself. When did you first become aware that you would be preparing a statement for Darren Dopp to execute?

A. I don't recall if it was on Saturday afternoon or Sunday morning.

Q. Did there come a time where the Chamber communicated to you that they wished to have Mr. Dopp execute a statement?

A. Well, there came a time when I became aware that there was a statement to be prepared, but I honestly don't recall who first conveyed that information to me.

Q. Did there come a time where you reviewed a draft statement from the Executive Chamber?

A. Yes.
Q. Do you recall how you received that statement?

A. My recollection is that I received it by e-mail on Sunday morning, but I don't remember exactly what time. Again, I was still readjusting to eastern daylight savings time from London daylight savings time.

(Document given to the witness.)

Q. I'm going to show you what's previously been marked as Commission's 115. It's an e-mail from David Nocenti to you --

A. Right.

Q. -- and it appears to contain a statement of some sort marked Draft. Can you identify this document?

A. Well, this is a version of the statement that after revision was ultimately signed by Darren Dopp on the 22nd. I do not know if this is the first version. 1:00 p.m. seems kind of late. I think it started in the morning. I think that I may have received the first one in the morning. I caution you that there were -- and this is bound to implicate attorney-client areas because --

MR. KOENIG: Well --

A. -- there were --

MR. KOENIG: Well --
MR. TEITELBAUM: Is there a question pending?

MS. TOOHER: I just asked him if he could identify the document.

A. Okay. Well, I withdraw my answer to the question that wasn't pending. Sorry.

Q. So is it your testimony that this is not the first version that you had seen of the statement?

A. I'm not sure.

Q. Do you recall how many versions there were of the statement?

A. No.

Q. This e-mail appears to come from David Nocenti.

A. That's what it says.

Q. Did you have conversations with Mr. Nocenti that morning concerning this statement?

A. Not that I recall.

MS. TOOHER: Can you mark this?

(Commission Exhibit No. 116 was marked for identification.)

(Document given to the witness.)

BY MS. TOOHER:

Q. Mr. Kindlon, I've just handed you what's been marked as Commission's Exhibit 116. It appears to be an AMF REPORTING SERVICES, PO Box 310, Guilderland, NY 12084

(518) 452-1795 1-877 NYS DEPO
e-mail from you dated 7/22 at 1:43 p.m. to David Nocenti. Can you identify this document?

A. This is an e-mail from my e-mail address at 1:43 p.m. on 7/22. It says:

"I understand that the Attorney General's Office and the State Inspector General's Office are conducting inquiries into two sets of allegations: (1) that Senator Bruno used State aircraft and vehicles for political purposes, and (2) that the Governor's Office had targeted Senator Bruno for State Police surveillance.

"I received requests for information relating" --

Q. Mr. Kindlon, I didn't ask you to read the document. I asked you if you could identify the document.

A. Well, I'm reading it to see if I can identify it.

(Witness looking at document.)

A. Okay.

Q. Can you identify this document?

A. Well, this seems to be -- let me say this about that. I've never seen this document before, but it seems to be a printed version of an e-mail that I sent.

Q. What was the context in which you sent that e-mail?

A. Well, it was sent by me to David Nocenti's e-mail.
Q. Address?
A. Address, yes.
Q. Was it your understanding you were sending it to David Nocenti at that time?
A. My recollection is that my conversations were with Peter Pope. That's what I recall.
Q. But you were sending your responses to David Nocenti at that time, is that correct?
A. Well, I was replying to the e-mail that I received from the Chamber. I think at that point I didn't even know who David Nocenti was. So it wasn't that I sat down and said I think I'll send this e-mail to David Nocenti, counsel to Governor Spitzer, and it's what I received, what I worked on, what I sent back.

BY MR. TEITELBAUM:
Q. You're talking about 115 is the e-mail that you were responding to? 116 and 115 that you have in front of you, is 116 in response to 115?
A. Well, it appears to be. I mean, I don't know if there are E-mails in between here. I don't know if there are communications between myself and Darren Dopp. I just don't know.

BY MS. TOOHER:
Q. Can you compare 115 and 116 and identify the
difference in those two documents?

MS. SHANKS: The documents speak for themselves.

MR. TEITELBAUM: Just let the record note that counsel has whispered loud enough to her client an answer to a question.

MS. SHANKS: I didn't --

MR. TEITELBAUM: She said "The document speaks for itself."

MS. SHANKS: That's correct. I didn't whisper anything. I made a --

MR. TEITELBAUM: It was loud enough for us to hear.

MS. SHANKS: No. I made a legal objection that the document speaks for itself. I wasn't whispering an answer, Mr. Teitelbaum. That's a legal objection. The documents speak for themselves.

MR. TEITELBAUM: The documents never speak for themselves.

MR. KOENIG: Is that Hornbook Law?

MS. SHANKS: It must be.

MR. TEITELBAUM: The documents never speak for themselves.
MS. SHANKS: I'm very sorry. I teach that to my students.

BY MS. TOOHER:

A. Well, do you want me to read them? I mean, what do you want to do? Do you have an analysis? What is this? What kind of question is this?

Q. Mr. Kindlon, the document that you were sent, Commission's 115 --

A. Right.

Q. -- on the second paragraph, first line, "I sought information that I believed the public had a right to know relating to Senator Bruno's usage of State aircraft."

A. Right.

Q. The document that you returned to David Nocenti indicates "I received requests for information relating to the use of state aircraft by public officials from members of the media."

A. Right.

Q. Did you make that change to the statement?

A. I don't know.

MR. KOENIG: It's attorney-client privilege.

A. I just don't know.
MS. TOOHER: Whether or not he made the
change to the document?

A. That's --

MR. KOENIG: Hold on a second.

A. This implicates attorney-client privilege.

MR. KOENIG: Hold on a second.

Read the question back, please.

(Thereupon, the following excerpt was read
back by the reporter:

QUESTION: "Did you make that change to
the statement?")

MR. KOENIG: Yeah. I think that's an
improper question. I mean, if you're asking
did he physically type the change, that's
different and not objectionable. If you're
asking anything further than that, that's
objectionable.

MS. TOOHER: Okay.

BY MS. TOOHER:

Q. Did you physically type the change to that statement?

A. You know, I just don't know. I don't know how many
E-mails there were between 1:00 p.m. and 1:43. I
don't know if E-mails were exchanged between myself
and Darren Dopp during that time period. That's the
problem. Again, I'll --

MR. KOENIG: If that's the problem -- if
that's the problem, then I'm going to say
attorney-client privilege.

A. This very clearly -- this directly implicates advice
given by lawyer to client.

MR. KOENIG: I'm objecting on
attorney-client privilege ground.

Q. Did you discuss that change in the document that I
just read with anyone from the Executive Chamber?

A. I have no recollection as to who I discussed that
with, if anyone, from the Executive Chamber.

Q. There are a number of differences between
Commission's 115 and Commission's 116.

A. Uh-huh.

Q. Did you discuss changes in the statement of Mr. Dopp
with anyone from the Executive Chamber during the
course of those edits?

A. I don't have any independent recollection today as I
sit here as to whether or not I discussed changing
this word or that word, this comma or that sentence
structure. I don't.

Q. Not the particular changes themselves. Did you
discuss the changes to the statement, the subject
matter of changes to the statement with members of
the Executive Chamber?
A. Not that I recall.

MR. KOENIG: I have a question to clarify.
There may not be an objection. When you say
"Executive Chamber," do you mean including
Dopp? Dopp was still a member of the Executive
Chamber at that point in time.

MS. TOOHER: I did not mean Mr. Dopp for
purposes of these questions.

(Mr. Kindlon and Ms. Shanks exited the
proceeding.)

(Pause.)

THE WITNESS: May I say something about
the attorney-client privilege here?

MR. TEITELBAUM: You know, we want to go
home at 5:00. I have no objection,
Mr. Kindlon, to you putting something on the
record, but let's get the questions and answers
as best we can.

MS. SHANKS: This is the answer to the
question, Mr. Teitelbaum.

MR. TEITELBAUM: There's no question
pending.
MS. SHANKS: The question was --

MR. TEITELBAUM: It was answered. It was answered.

THE WITNESS: Well, listen, I mean, we're going to just go around in circles. I'm going to say this --

MR. TEITELBAUM: Go ahead.

THE WITNESS: -- and if you don't like it, tough. The fact of the matter is that this day was spent working on this statement, and it involved conversations between my client and myself throughout the day. When you're asking me to separate the cream from the coffee with this precision as to what happened between 1:15 and 1:20, it is virtually impossible for me to do that. Even if I had been keeping a contemporaneous time record, I wouldn't be able to do it.

The fact of the matter is that I was on the telephone. I was on the landline. I was on my cell phone. I was on my e-mail. I was talking back and forth. It's all inextricably intertwined with the attorney-client privilege. We were trying really hard to come up with an
accurate and true statement concerning Darren's activities. That's what we were doing. You're asking me questions that I can't possibly answer, either because I don't remember or because they involve the attorney-client privilege and --

MR. KOENIG: Which I will not let him answer.

THE WITNESS: It doesn't matter how elliptically or in what passive voice the question is phrased, I can't answer it. It's impossible.

You're asking me to violate that which is more important to me practically than life itself, the attorney-client privilege, and I'm getting real tired of it, okay. I've had it. I mean, the fact of the matter is that I don't know how to answer these questions without violating the privilege, and I'm not going to do it. Haul me away. Lock me up. I don't care. I mean, come on. This is the attorney-client privilege, all this stuff.

MR. TEITELBAUM: Let's get to the next question.
BY MS. TOOHER:

Q. Mr. Kindlon, did you discuss other issues with the Executive Chamber on July 22, 2002, besides the statement itself?

A. You know, the only other thing that I can recall discussing with the guys from the Executive Chamber was the fact that I was training for a marathon. That's the only other -- that's the only other independent recollection that I have.

Q. Do you recall being asked about a second FOIL request presented to the Albany Times Union during the afternoon of the 22nd?

MR. KOENIG: Can I have it read back?

(Thereupon, the following excerpt was read back by the reporter:

QUESTION: "Do you recall being asked about a second FOIL request presented to the Albany Times Union during the afternoon of the 22nd?

Q. By members of the Executive Chamber.

A. No, I don't.

MS. TOOHER: You can mark this.

(Commission Exhibit No. 117 was marked for identification.)
MR. TEITELBAUM: Are you going to assert attorney-client privilege?

MR. KOENIG: Yes. In response to one of Mr. Kindlon's most recent responses to a question he, I think, in the heat of his answer, said something about we were trying to get the statement correct and accurate or true, whatever word it was, and he used the word "we." I just want to be clear to the extent there was an inadvertent reference to anything that was an attorney-client privilege. The objection I make to attorney-client privilege information coming out should be imposed there. To the extent the word "we" was used, does not and should not be taken away from the attorney-client privilege.

BY MS. TOOHER:

Q. Mr. Kindlon, I'm showing you what's been marked as Commission's 117. This appears to be an e-mail dated 7/22/07 from Sean Maloney to you.

A. Right. "Need your position on genesis on 2d Albany Times Union, ATU, foil request -- what was the point?"
Q. Do you recall getting this inquiry?
A. I do not.
Q. Did you respond to this inquiry?
A. If I did, I have no present recollection of having responded to this.
Q. But your e-mail address, is it tkindlon@aol.com?
A. Absolutely.

(Commission Exhibit No. 118 was marked for identification.)
(Document given to the witness.)

BY MS. TOOHER:
Q. Mr. Kindlon, you have in front of you what's been marked as Commission's 118.
A. Correct.
Q. Which appears to be an e-mail from you 7/22 3:05 p.m. to Sean Maloney. Can you identify this document?
A. This is an e-mail from my e-mail address to Sean Maloney at Chamber State New York, blah, blah, blah. "Sean -- ODATO FOIL #1, FILED ON OR ABOUT 6/27" --
Q. Not to read the e-mail, but can you identify the e-mail?
A. It appears to be an e-mail from me. I don't have any recollection of sending this at the time. I don't know. I don't have any recollection.
Q. Were other people utilizing your e-mail at the time to communicate with the Chamber?

A. There was nobody who could have sent this but me but what I'm saying is I don't have any recollection of sending this.

Q. Take a moment to just review the content of that e-mail.

A. Yes. I have done it.

Q. Is there any reason to believe that the content in that e-mail is not correct according to you?

MR. KOENIG: Not to the extent of any conversations you had with --

MR. TEITELBAUM: It's a "yes" or "no" answer.

MR. KOENIG: What was the question? "Yes" or "no." Let's have the question read back.

(Thereupon, the following excerpt was read back by the reporter:

QUESTION: "Is there any reason to believe that the content in that e-mail is not correct according to you?")

MR. KOENIG: Yeah, he can't answer that question.

THE WITNESS: Yeah.
MR. KOENIG: That is attorney-client privilege.

BY MS. TOOHER:

Q. At this time, were there any other subject matters that you communicated with the Executive Chamber on the afternoon of 7/22?

A. Again, I have no independent recollection of what subject matters I may or may not have communicated to the Executive Chamber concerning on the afternoon of July 22, 2007.

Q. Did there come a time where the Executive Chamber requested that you come to the Chamber --

A. Yes.

Q. -- on the afternoon of the 22nd?

A. Yes.

Q. What were the circumstances of that?

A. Somebody from the Executive Chamber said that they wanted -- Darren and I should come there so that he could sign the statement that had been drafted -- worked out, drafted during the day.

(Commission Exhibit No. 119 was marked for identification.)

(Document given to the witness.)

BY MS. TOOHER:
Q. I'm showing you what's been marked Commission's 119. It appears to be an e-mail from Sean Maloney at 7/22 at 5:33 p.m. to you. Can you identify this document?

A. This is an e-mail originating by its information on the top from Sean Maloney/NYEC -- which I think means New York Executive Chamber -- to me with copies to David Nocenti and Peter Pope. "We've received confirmation from the Attorney General's Office that they'll accept sworn statements, including one from Darren. We need it executed tonight to wrap this up. Would you and Darren please come to David Nocenti's office immediately (we're out of pocket after about 7:30) so we can have him sign it. We'll notarize it (David is a notary)."

Q. What did you take "out of pocket" to mean?

A. That is a phrase that they all seem to use up in the Executive Chamber to mean I wouldn't be in my office. That's what I took it to mean.

Q. You took it to mean that after about 7:30 they would no longer be in that location?

A. Correct.

Q. Did you take that to mean that you needed to execute the statement before 7:30?

A. Well, I took it to mean that we needed to get down
there before 7:30. If we got there after 7:30, there
wouldn't be anybody there except presumably David
Nocenti who seems to live there.

Q. The time on the e-mail is 5:33 p.m.
A. Okay.

Q. Do you know where you were at 5:33 p.m. on 7/22?
A. I was probably at my house in Glenmont.

Q. Do you know where Mr. Dopp was when you received this
e-mail?
A. I think he was probably at his house in Saratoga
   County. He was not with me, and I was not with him.

Q. Did you respond to this e-mail?
A. I don't have any specific recollection of responding
to it, although I probably did. I probably said
something like, "Okay, I'll see you," or something
like that because I did go to the Capitol building
thereafter.

   (Commission Exhibit No. 120 was marked for
   identification.)

   (Document given to the witness.)

BY MS. TOOHER:

Q. Mr. Kindlon, you're being shown Commission's 120. It
   appears to be an e-mail from you to Sean Maloney at
   5:41 p.m., 7/22.
A.  Correct.

Q.  Can you identify this document?

A.  This is an e-mail indicating it's from me to Sean Maloney at the Chamber, and it says -- the way that they print these out down there, it contains the message to me at the bottom part of the display and their response at the top part.  My response says "Be there asapm.  tlk." Obviously, I added an "m." It should say "Be there as soon as possible."

Q.  Did you take any action to be there as soon as possible?

A.  Well, yeah.  I got in my car and I drove to the Capitol building.

Q.  Was Mr. Dopp also at the Capitol building?

A.  He was there.  I don't know if we got there simultaneously, or if he got there first, or if I got there first, but we were both there together that afternoon.

Q.  And do you know what time you arrived at the Capitol?

A.  Well, it was still light out.  I assume it was before 7:30 because Sean was going to be out of pocket at 7:30, and I assume it was after 5:41 p.m. which is when this was sent, so I would say between 6:00 and 7:30, sometime in there.
Q. What happened when you arrived at the Capitol?
A. I went in -- I forget exactly how I got in. I think it was all locked up and I had to either call somebody on my cell, or maybe Darren got there at the same time and he had a swipe card to get us in. I can't recall. I can't remember that detail, but I did go up to the Chamber and met with the individuals I've described before and Darren.

Q. Did you reach out to anyone from the Attorney General's Office between the time you were contacted by the Chamber and you got to the Capitol?
A. No.

Q. Did you on July 22nd ever speak with anyone from the Attorney General's Office?
A. Not that I recall. I don't recall speaking to anybody from the Attorney General. I don't have a recollection of talking to anybody from the AG's office.

Q. Did you ever speak to anyone from the Attorney General's Office on this matter, the state police investigation?
A. When?
Q. July 21st, 22nd, 23rd.
A. No.
Q. Did you ever speak to someone from the Attorney General's Office on this matter?
A. Much later. A fellow named Steve Cohen contacted me and I spoke with him a few times, but that was much later, you know. It was months later.

Q. When you say "much later," this is the end of July?
A. It would be September, maybe October. I know that he called me and I know I called him back from my son's volleyball game, so that would be September, October sometime.

Q. What was the subject matter that you discussed with Mr. Cohen?
A. He said that he wanted Darren to come talk to the Attorney General.

Q. And did Darren go talk to the Attorney General?
A. No.

Q. Did you have any other contact with Mr. Cohen?
A. I think I spoke with Cohen maybe a number of times, maybe three, four, five times. I never saw him face-to-face. I only spoke with him on the telephone.

Q. Was there any other subject matters that you discussed with him?
A. Not concerning Darren. I mean, we talked about kids
and volleyball and the fact that he used to be a
criminal defense lawyer in the big city and a few
other things, but generally speaking, our business
collection was limited to the subject of Darren
Dopp. That was about it.

Q. Was there any other topics discussed beyond Darren
testifying?
A. "Testifying" was not a word that was used. I think
the word that was used was "talking."

Q. Did he indicate what he wanted to talk to Mr. Dopp
about?
A. He wanted to talk to Mr. Dopp about Joe Bruno, FOIL
requests, James Odato, and that's about all I can
recall. There may have been other things, but,
again, you know, it seemed like every time I spoke
with Cohen, I was always -- for some reason it was
always when I was at a volleyball game. He always
called me late in the afternoon, and my kid's
volleyball games were at 4:00 on Monday, Wednesday
and Friday. It just seemed like he called me when I
was there and I'd have to go outside the school.

Q. Did he tell you why he wanted to speak to Darren?
A. He said that he thought Darren had information that
the Attorney General would be interested in but he
didn't say specifically, to my recollection, what
that information was. I think it was sort of a
generalized approach.

(Mr. Kindlon conferring with Ms. Shanks.)

THE WITNESS: Hang on for a second.

(Mr. Kindlon and Ms. Shanks exited the
proceeding.)

(Pause.)

MR. TEITELBAUM: Is there a question pending?

MR. KOENIG: I don't know what the
question is.

THE WITNESS: I'm actually still answering
the last question.

MR. TEITELBAUM: You're in the middle of
an answer?

THE WITNESS: Yes.

MR. TEITELBAUM: You've spoken to your
attorney now?

THE WITNESS: I have, yes. I was
concerned about implicating the attorney-client
privilege, and I didn't want that to happen.

MR. KOENIG: Do your counsel and I need to
have a conversation to see if that's going to
come up (directed to Mr. Kindlon)?

MS. SHANKS: You know, I think we should.

MR. TEITELBAUM: This is in the context of relaying a conversation between him and --

MS. SHANKS: It is the answer to the question about what did Steve Cohen --

MR. KOENIG: I'll probably talk to Laurie first without you (directed to Mr. Kindlon).

THE WITNESS: Yeah. Well, I'm going to go to the bathroom.

MR. KOENIG: I am stepping out to speak with Mr. Kindlon's attorney because Mr. Kindlon's attorney has indicated to me that an issue of potential attorney-client privilege with Mr. Dopp has arisen, therefore, I think it is appropriate that Miss Shanks and I have this conversation.

(Mr. Kindlon, Ms. Shanks and Mr. Koenig exited the proceeding.)

(Pause.)

MR. TEITELBAUM: Where are we? Are we in the middle of an answer?

MS. TOOHER: Yes.

BY MS. TOOHER:
A. Steve Cohen called me on a number of occasions during the autumn. He wanted to talk to Darren -- now, I've got to put this in context, okay. Darren's wife, Sandy, and Andrew Cuomo are friends. Darren's daughter -- I don't know her name, she's a junior, I think, at Fordham -- was working for Andrew Cuomo during the summer of 2007. So Andrew was connected to Cuomo.

MR. TEITELBAUM: Darren.

MR. KOENIG: Darren.

A. Darren was. Darren also considered himself to be Andrew Cuomo's friend. So Steve Cohen, when he called me wanted Darren to come in and to see his friend -- Darren's friend, Andrew, to talk about Nocenti, Pope, and Maloney, and the governor, as well. Also, to keep this in context, on the 22nd, while I was attempting, endeavoring to provide legal advice to Darren concerning my understanding of the situation, Pope and Nocenti, and to a lesser extent Maloney, were all friends with Darren, and I was talking to him in Chambers, but everybody was all over the place. I mean, Darren was talking to them outside of my presence, and you don't have to go very far outside of my presence for me to not hear you.
They clearly had been talking to him up until that day, on that day, on the telephone, perhaps by e-mail, I don't know, and it certainly continued after that day. I know that Nocenti would go to Darren's house in Saratoga County and see him. I know that Sandy Dopp would have telephone conversations with David Nocenti. David Nocenti was a very good friend of Darren Dopp's.

One thing that sticks in my mind, during football season -- so now we're into the autumn -- I spoke with Darren, and --

MR. KOENIG: Don't.

A. This is not attorney-client.

MR. KOENIG: No.

A. I mean, this is just conversational with nothing to do with legal advice. Darren said that David Nocenti had been at his house at a touch football game and he commented that David throws like a girl. So that's why it stuck in my mind, David throws like a girl. "I tried to teach him how to throw the football and he throws like a girl."

So, Nocenti to be sure, continued to talk to Darren until, I don't know, maybe this afternoon, for all I know. I mean, they just kept talking to each
other. I wasn't able to chase him away or anything else.

When I say that this was like walking into somebody else's family, this group of people, these guys had been together for decades. They'd been together forever. I think Pope and Nocenti went to college and law school with each other and with Spitzer. Darren had worked in the Cuomo Administration, the Assembly, the Attorney General's Office. I mean, they had all been together for years and years and years. So they were a very tight group. I think you need to know that to keep everything in context.

I'm trying to give him legal advice -- and understand something, this is a very complex world that they're occupying, and I'm doing my very best to give legal advice here, but they're all doing political advice, and that's a whole different thing. You can look at a situation as a legal issue or as a political issue, and, you know, it's like -- it can mean two very different things to two very different groups of people.

So, now, Steve Cohen was trying really hard to get Darren to go in and to talk to the Attorney
General, and this is in the fall. This was after
Darren's been suspended, you know. I said to
Darren --

MR. KOENIG: Hold on.


MR. KOENIG: That's attorney-client

privilege.

BY MR. TEITELBAUM:

Q. Let me ask you this, Mr. Kindlon. Did Mr. Cohen tell
you why the Attorney General's Office wanted to speak
about Nocenti and Pope and Maloney and the governor
with Mr. Dopp?

A. He said he wanted information on them and their

activities.

Q. Did he get any more specific than that?

A. You know, Mr. Teitelbaum, I'm not sure if he got more

specific than that, or if I inferred that what he

wanted to do was crucify somebody. I don't

specifically remember. I wasn't taking notes.

Literally, every conversation I had with him, except

for one -- it's just a funny coincidence -- were all

late in the afternoon, and things seemed to come up

when my kid was at his volleyball games.

Q. Other than whatever you might have inferred, did
Mr. Cohen give you any information as to why they
wanted your client to come in to speak about these
individuals other than that they wanted him to come
in?

A. Not that I recall. I mean, I could plumb the depths
of my memory and think about it for a while. I
really hadn't expected to talk about this today and I
didn't review my thoughts and I didn't take any
notes. If I think about things long enough, I can
recall. Steve Cohen was a very cordial guy. I had
the sense that he and I had a lot in common with each
other, although we were of a different age.

Q. Did you tell him at some point that Mr. Dopp would
not come in?

MR. TEITELBAUM: Conversation with Cohen.

MS. SHANKS: I'm thinking of the question.

Hold on a second.

MR. KOENIG: I didn't say objection.

MR. TEITELBAUM: I know. I just --

MR. KOENIG: You could argue if I object
to it.

Would you read it back, please?

(Thereupon, the following excerpt was read
back by the reporter:

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QUESTION: "Did you tell him at some point that Mr. Dopp would not come in?")

MR. KOENIG: What you told Cohen, you can answer (directed to Mr. Kindlon).

THE WITNESS: Yes.

A. I never told him -- and I'm not trying to be cute here -- I never told him that Darren would come in. I didn't say he won't come in. I just didn't say he would come in.

Because now during this time period Darren was -- I think Darren was still suspended -- oh, yeah, do you know what it was, he was suspended for 30 days which was pretty much all in August and then we got into September. I started to raise hell with the Chamber to say this guy is starving to death, what are we going to do. They finally worked out an arrangement, and I think I worked it out with David Nocenti that they would start to pay him his vacation time, and he had 12 weeks accumulated -- 12 weeks, or 10 weeks of vacation and a week of personal leave and a week of whatever it was, some other thing, but anyway, it came out to 12 weeks. He could be on the payroll for 12 weeks, like he had his old job back. I mean, a lot of my effort was devoted to stuff like
that, which is pretty prosaic. I remember I talked
to a friend of mine, a labor lawyer to find out what
to say, what kind of threats to make to get him back
on the payroll. So Darren was on the payroll for
12 weeks, and it was September, October, November, so
it was during that period of time -- and I still
didn't know what was to become of Darren. I didn't
know if he was going to be offered his old job back,
I didn't know if he was going to be offered the
opportunity to be, you know, head of the Department
of Environmental Conservation. I just didn't know.
And now I get into attorney-client stuff and I can't
say any more than that.

Q. I think you testified that you had several
conversations with Mr. Cohen.

A. Yes. To the point where I think I got very
comfortable in speaking with him.

Q. In each one of these conversations, your
understanding was that the impetus of the call was
for him to try to get Mr. Dopp to come down and talk
to the Attorney General's people?

A. That's right.

Q. Was each of these phone calls essentially a replay of
the prior phone calls or was it providing additional
reasons why Mr. Dopp should come in?

A. Yeah. And my understanding was that outside of my five senses, Andrew Cuomo was on the telephone with Sandy Dopp leaning on her to get Darren to come in.

Q. Did he --

A. I mean, himself from his cell phone with the kids in the back seat of his car. "Andrew called me yesterday. He was on the way to the beach. His three kids were in the car," blah, blah, blah, blah. I mean, it was like that.

Q. From all of these conversations, did you have an idea, a more specific idea, as to why he wanted Darren to come in? Were these several phone conversations either with you or Mrs. Dopp?

A. No, he wanted --

MR. KOENIG: The only objection I may raise here is if you're asking what Darren -- if Terry asked Darren "Why do you think he's doing this," that's privileged.

MR. TEITELBAUM: I named the people.

MR. KOENIG: I understand.

A. Again, now, Mr. Teitelbaum, the problem is this. I mean, things run together here. My conversation with Steve Cohen, of course I didn't keep that a secret
from Darren. So I don't know who said what, when, to
whom. I just know that the decision for Darren to
not go talk to Cuomo was mine, and the reason for
that --

MR. KOENIG: No.


MR. KOENIG: Don't give a reason.

THE WITNESS: Yeah.

Q. Did Cohen indicate that he was -- he meaning the
Attorney General's Office -- that they were
conducting an investigation?

A. He did not indicate that to me, no. His position, as
I recall it, was that he wanted to -- that the
Attorney General and/or he wanted to speak with
Darren.

Q. Now, when you had conversations with the Executive
Chamber concerning the length of time that Mr. Dopp
was beached, what did you tell them, the Executive
Chamber?

A. I think --

MR. KOENIG: Well --

A. I think I told --

MR. KOENIG: He can answer that but he
can't go into what he told him based on what he
discussed with his client.

MR. TEITELBAUM: If he told them -- I'm just asking --

MR. KOENIG: What he said to him --

MR. TEITELBAUM: I'm just asking what he said to the Executive Chamber representative.

MR. KOENIG: That's fine.

MR. TEITELBAUM: That was the question.

A. Sandy Dopp would call me up. Sandy Dopp is Darren's wife. Sandy Dopp would call me up very upset, crying, angry, and she would say, "How am I supposed to buy groceries? How am I supposed to pay the mortgage?" And the governor had said when he suspended Darren that it was -- and it was a little ambiguous -- he said for no less than 30 days. So I was making Xs on my calendar. We got to 30.

I had talked to Bryan Goldberg, my friend who is a labor lawyer, and I said, "Look, if you're a clerk in the Department of Motor Vehicles and you're suspended for 30 days, you get your job back. So it has to work for the big guys, too."

He made some recommendations about a letter I should put together, which I did, and I sent it, I think, to David Nocenti, I think, and it just said --
it sort of was an equitable kind of argument. I think we got to the 34th day and they finally doled out that they could pay him his vacation time and that it would be just like he was back on the payroll at least for three months.

Q. Did you make mention of the fact that it was indicated by one of the Executive Chamber people that he would be beached for about five days?

A. No, because that was something that I heard in passing early on, but then the very next thing I knew, the governor suspended him for 30 days, and that kind of replaced this five-day artifact, little, stray chunk of information that I had encountered. The governor had said 30 days, and I'm thinking okay, Article 75, I think it is, of the Civil Service Law or one of those things says 30 days without pay.

Q. All I'm interested in now is what was said to the Executive Chamber and what they said to you concerning the subject of Mr. Dopp's suspension.

A. Well, okay. I do remember this. I do remember this. This is a conversation with Peter Pope. I said, "Peter, Darren's getting fucked here and this isn't right." I said, "He needs to go back to work." Peter Pope's only response to me was, "I can't
discuss that with you." End of conversation, okay, and it was end of conversation. Peter wouldn't discuss it with me at all, and, you know, by his actions, the inference was that there was something unethical about discussing this. He didn't want it to look like there was a quid pro quo out there. I said, "Okay, Peter. No problem," you know, and didn't have much more contact with him from that day forward.

Q. Did you discuss it with anybody else in the Executive Chamber?

A. I think that my -- no, do you know what happened? I think -- and, again, forgive me, I could probably go back and reconstruct this, but I think that I spoke with Bryan, the labor lawyer. I wrote this letter. It was really an equitable argument. I wrote it -- I think I wrote -- I think I wrote it, I'm not 100 percent sure, but I think I wrote it to David Nocenti and sent it up there. Basically, what it says was look, this guy's got a mortgage to pay, he's got a kid in college with tuition. I knew that other people were talking to other people, so I started a sort of a propaganda campaign. I put the word out to a number of people that I knew that the word would
get back up to the decision makers that Darren was
getting screwed.

But Peter Pope really didn't talk to me about
anything except the time of day because he said he
didn't want to create any appearance of impropriety
any which way, and that sounded fine to me.

I didn't really have any contact with Sean
Patrick after the first couple of days.

I really didn't have that much contact with --
my contact with David Nocenti was very, very, very,
very minimal, and he was a very nervous guy. That's
what I remember about him. He was just a nervous
wreck all the time over everything. It seems to be
his personality. Somebody said to me once -- the
best description of David Nocenti I ever heard was
somebody said "He had a girlfriend when he was in law
school but they broke up." End of story. I mean,
this is a guy who was always working at 10:00 on a
Sunday night as near as I was able to tell from my
perspective.

Q. Let me ask you this: On the 21st and 22nd when you
were up at the Executive Chamber and testified that
there were conversations going on with Mr. Dopp,
Pope, and Maloney, was Nocenti there? Was he
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1 participating in these --
2 A. He was in the next room mostly. This was like -- his
3 office, as I recall it, his office was next door to a
4 conference room with a big library table that we were
5 in.
6 Q. Right.
7 A. It was all kind of -- it was all kind of run down.
8 Q. People moving back and forth?
9 A. Yeah.
10 Q. Did you see them talking?
11 A. Oh, yeah.
12 Q. They were on the side talking?
13 A. Yeah.
14 Q. Did they ask you permission to talk to him?
15 A. No.
16 Q. Did you do anything to halt the conversations between
17 Pope and Maloney outside your presence?
18 A. No. I mean, it would be like trying to hold back the
19 sea. Again, this is like walking into the middle of
20 somebody else's Christmas dinner, family Christmas
21 dinner, and I was the new guy. I had only met these
22 folks the day before and didn't spend that much time
23 with them, and then this was only the second day in
24 my life that I had any contact with them. It was

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very limited. My focus was on trying to resolve this
statement issue.

Q. Did you meet with representatives of the Executive
Chamber on July 23rd?

A. I know I met with them after the 22nd, but I don't
know if --

Q. It couldn't have been the 23rd. It was some other
date?

A. Yes. Sometime after the 22nd.

Q. How did that meeting come about?

A. Peter Pope, I think it was, called me and said he
wanted to meet and I said, "Okay."

Q. What was the subject of the meeting?

A. He just said he wanted to meet and I said, "Okay."

Q. Did you meet?

A. Yeah.

Q. Who was there?

A. David Nocenti and Peter Pope, and "there" was Peter
Pope's apartment.

Q. In his apartment.

A. Yeah.

MR. KOENIG: Pope's apartment?

THE WITNESS: Yeah.

Q. Was Dopp there?
A. No.

Q. What was the discussion?

A. Nothing in particular. It was just sort of -- it didn't amount to a -- I mean, it was just a meeting.

Q. Was there a subject that was discussed?

A. No. I mean, it was really weird. I went up to David Nocenti's apartment --

Q. Nocenti?

MR. KOENIG: Peter Pope's.

A. Peter Pope's apartment. I don't think David needs an apartment because he lives behind his desk. It was comical, because I came into the apartment and it's right next to the -- right up from Swan Street on Chestnut or one of those streets.

Q. Right.

A. It was a beautiful building. I felt like, you know, Herbert Philbrick, I lead three lives. I mean, here I am in this mysterious meeting --

Q. Was this a social occasion?

A. No. It was just in the middle of the day and they wanted to talk to me, and I went up there --

Q. What did they say?

A. Nothing. It was a bunch of nothing. It was really -- honestly, Herb, it was nothing. I just
went up there, I came in -- the furniture consisted of -- I'm not making this up -- two kitchen chairs, no table. Just two kitchen chairs.

Q. Did they allow you to sit in one of them?
A. I got one of the chairs.

Q. You were sitting on the kitchen chair?
A. Right.

Q. Who was sitting in the other chair?
A. I think Peter Pope was, and it was sort of as far apart as our two chairs are.

Q. Now, Peter Pope, the director of policy for the governor?
A. Right.

Q. And David Nocenti --
A. Counsel for the governor.

Q. -- counsel for the governor, invited you to Peter Pope's apartment?
A. Right.

Q. They must have said something.
A. Whatever it was -- and I'm not trying to be cute here -- I mean, it was so insignificant that I walked out of there scratching my head.

Q. Tell us what the insignificant conversation was. We need to know what the insignificant conversation was.
A. It was basically, "What's new? How's Darren doing? We really like him. We hope that he's not suffering too much. He's a great guy, and we feel terrible about everything that's happened." I think I said words to the effect to Peter, "Well, okay, so can he get his job back?" And Peter said, "I can't discuss that with you." When I left, I said to myself gee, I wonder if they were tape recording me. It was weird. We didn't talk about anything at all. If I thought it was significant, I would have sat down and wrote a memo or something at that point, but we were downstream now from what had happened. It was just a really weird, very unusual thing.

Q. How long was the meeting?
A. Maybe 10 minutes. It was a nice day. I didn't mind the walk up from my office. It was pleasant out.

Q. This was during the day?
A. Yeah. It was a weekday.

Q. Weekday?
A. Yeah.

Q. Did they tell you why they didn't want to meet with you in the Executive Chamber?
A. Yeah. They didn't want me to be seen walking into the Executive Chamber because everybody knew I
represented Darren, and they didn't want to give the
impression that something was going on. But, I mean,
it was just a bunch of nothing.

Q. Other than that meeting at Peter Pope's apartment,
did you have any communication -- and the
communication that you had where Pope said he
couldn't say anything to you, and the letter that you
sent to David Nocenti, were there any other
communications that you had with the Executive
Chamber after July 22nd?

A. I talked to Peter Pope several times.

Q. Could you give us a time frame?

A. After the 23rd.

Q. Was it in the --

A. Well, actually, yes, I can --

Q. Was it before or after Mr. Dopp testified before the
Commission?

A. Oh, before. Well before.

Q. Did you have any communications with anybody in the
Executive Chamber after Mr. Dopp testified?

A. No, not at all.

Q. So we're talking about before the testimony?

A. Well, I can remember this. I had a conversation with
Peter Pope -- his daughter goes to prep school
someplace fancy, and I remember that I spoke with him
and -- I spoke with him at his house down by the
city.

Q. You were at his house in the city?
A. No. No. I was on the telephone but he was there. I
remember that he told me his daughter's friends from
school were all there. They were like seniors at
prep school.

Q. What was he talking to you about besides the fact
that his daughter's friends were there?
A. Just, you know, a general situation.

Q. What did he say?
A. You know, again, I'm not trying to be elusive here
but I don't specifically recall what it was that he
said to me.

Q. Can you give us a general answer in terms of what the
subject was, what he was saying? If you don't
remember the specific words --
A. You know, I really don't. I was constantly bugging
these guys to see if I could get Darren back on the
payroll because Sandy was continuously calling me at
all hours of the day and night to complain about the
fact that they were going to starve to death.

Q. Was there another conversation that you had other
than the conversation where Mr. Pope was in his
apartment in New York City with the girls in the
apartment and friends of his daughter?
A. Yes. We had a number of conversations, but, you
know --
Q. "Number" meaning two, three, four? What are you
talking about?
A. Maybe five or six or seven or eight or ten. I mean,
it was not unusual for us to talk.
Q. Right. In each of these conversations, am I correct
that at least one of the subjects was Darren Dopp?
A. Yeah.
Q. And it was always the subject of Mr. Dopp's job or
getting his job back or were there other things you
discussed?
A. Mostly how's he doing kind of conversations.
   It was told to me -- and I had no reason to
disbelieve it -- that Darren was a beloved member of
the Chamber, and it did not strike me as at all
unusual that his friends would be calling to find out
how he was doing. You know, honestly, they also were
concerned about Sandy because Sandy was ready to blow
apart. She was angry, and Sandy was very angry with
Peter Pope. Sandy was very angry, if I recall -- I'm
not completely sure of this, but I recollect that she was very angry with Sean Patrick. While Darren and David Nocenti were very close -- this is a long term, deep, sincere friendship between two men that really liked each other -- Sandy was always very angry about the fact that she felt, she told me, that Darren had been abandoned and betrayed by these people. It was her sense that -- and maybe she was more perceptive than me -- it was her sense they were trying to stick Darren with all the blame for everything and that they were maneuvering to achieve that. She was madder than a hornet. And I know she was talking to Andrew Cuomo all the time.

Q. Did she tell you what she was talking to him about?
A. No, but you didn't have to be a rocket scientist to figure out that she was telling him the same thing she was telling me, probably in much more detail. She and Andrew were really, really close. She told me that when Andrew was breaking up with his wife, he was crying on her shoulder. So that's a pretty intimate friendship. It was a friendship, platonic, but, I mean, very dependent.

Darren's daughter, the junior, at Fordham had actually run away to Oregon or someplace with some
guy at the exact same time, so they were both really, really dependent upon each other.

Q. I'm sorry. Let me ask you this, and it's a slightly different subject.

A. I feel like a gossip here. I'm sorry.

Q. Did you ever have any conversations with anybody at the Executive Chamber concerning Mr. Dopp working at Pat Lynch's office?

A. No. As a matter of fact, I was surprised when I heard that. What I did, we went through this 10 weeks or 12 weeks of vacation pay as salary, and I didn't hear a word about Pat Lynch. I did talk to a woman in the Chamber whose name is Terryl, T-e-r-r-y-l, Brown, and Terryl Brown had been detailed by somebody up there to find Darren a new job. To nail it down in time, she was calling me from home because she had a rotator cuff operation, or something -- I don't know exactly what it was, but she was working from home. We spoke oh, maybe four or five times, and she presented some different possibilities for a new job, and that was everything that I knew about, you know, the prospective employment.

Q. Pat Lynch was not on the --
A. Pat Lynch was never -- nobody ever said Pat Lynch to me. I knew who she was, sort of, but when Darren turned up with his job at Pat Lynch's, that was the first I -- the first I heard about it was the public announcement, and this came as a surprise.

Q. What did -- Terryl Brown was it?
A. Terryl Brown.

Q. What did she say in terms of what the options might be?
A. I think like the Power Authority maybe, some job at the Power Authority. I don't remember the specific jobs. I remember generally the numbers. Darren had been paid 175,000 in his exalted position, and these jobs that I was hearing about were all like 125, 130, and that's really what I remember about that.

Q. Did she express that there was any obstacle to Mr. Dopp working in some other government agency?
A. She did not, no.

BY MS. TOOHER:

Q. When are these conversations taking place?
A. With Terryl Brown?

Q. Yes.
A. Well, it was in the downside of the 12 weeks of vacation pay that was working as salary, and it was
at a time when she was home convalescing from some kind of surgery or something, and it was shortly before Darren turned up with the Pat Lynch job. So I don't know when it was, but I think it's like October or November, somewhere in there.

Q. What kind of time frame did the conversation take place over? You said you had four or five conversations.

A. Yeah. It was maybe a week or 10 days. Again, now, I remember Sandy was livid and let me know because she felt that they were being really insulting in offering him a job that was paying like 35 or 40 percent less than he had been earning before.

Q. You said Sandy had what you described as an intimate relationship with --

A. Intimate sounds sexual. It's not that. An intimate friendship.

Q. A close relationship.

A. A very close friendship with Andrew Cuomo.

Q. When did you become aware of that and Dopp's relationship with Cuomo?

MR. KOENIG: Which Dopp?

A. Yeah. See, I can't answer that question.

MR. TEITELBAUM: It's a when question.
Q. When.

A. It's a when question.

MR. KOENIG: Which Dopp? You talked about Sandy's relationship.

MS. TOOHER: Darren and Sandy.

A. I would have to say almost from the very, very, very beginning, the very beginning, like July 22nd, 21st, someplace in there. That was one of the first things I learned.

Q. Did you discuss Darren's relationship with Cuomo with anyone from the Executive Chamber?

A. No. Never.

Q. Did they ever raise with you that they were aware of Darren's friendship relationship with Cuomo?

A. No. And most of what I heard about it, I heard from Sandy, and then later on Steve Cohen because Steve knew about the Sandy/Andrew connection.

MR. TEITELBAUM: We don't have any further questions at this time.

(Whereupon, the examination of Terence L. Kindlon concluded at 5:14 p.m.)
I have read the foregoing record of the testimony taken at the time and place noted in the heading hereof, and I do hereby acknowledge it to be a true and correct transcript of the same.

____________________________
TERENCE L. KINDLON, ESQ.

Sworn to before me this ___ day of ________, 2008.

____________________________
Notary Public

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CERTIFICATION

I, DIANA FREUND, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify that the foregoing transcript in the above-entitled matter is a true and accurate transcript, to the best of my knowledge and belief.

__________________________
DIANA FREUND

DATE: January 27, 2008