
ADMINISTRATIVE HEARING

IN THE MATTER OF

GREGORY SHEA

ADMINISTRATIVE HEARING IN THE MATTER OF
GREGORY SHEA, taken before Theresa M. Edwards,
Professional Reporter and Notary Public in
and for the Commonwealth of Massachusetts
at the Hull Town Hall before the Hull
Retirement Board, 253 Atlantic Avenue, Hull,
Massachusetts, on Tuesday, August 23, 2016,
commencing at 7:30 P.M.

1
2 APPEARANCES:
3

4 Representing Hull Retirement Board:

5 LAW OFFICES OF MICHAEL SACCO
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6 (413) 642-3576
7 BY: MICHAEL SACCO, ESQUIRE

8 Representing Gregory Shea:
9

10 NICHOLAS POSER
Attorney At Law
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11 Boston, MA 02114
(617) 248-1829
12 BY: NICHOLAS POSER, ESQUIRE
13

14 Also In Attendance:
15

16 Michael Buckley - Chairman of the Board
Lauren Durham - Administrator
Greg Galvin
17 John Jay
Brian Thompson
18 John Reilly
19
20
21
22
23
24

PROCEEDING

MR. SACCO: Why don't we open the hearing and then we'll hear the request for the private hearing.

MR. GALVIN: I would move we open the hearing regarding the forfeiture matter for member Greg Shea.

MR. BUCKLEY: I second.

MR. JAY: I second that.

MR. BUCKLEY: All those in favor?

MR. GALVIN: Aye.

MR. JAY: Aye.

MR. RILEY: Aye.

MR. BUCKLEY: Aye.

MR. RILEY: If I could, just as a formality here, my son, Andrew, he -- my son, Andrew, is a Hull police officer. I had asked the town council, Jim Lampke, to request a review by the State Ethics Commission, and after review, they found that I would be able to sit on this hearing and be able to vote on it. I have filed the proper paperwork with the town clerk, and at the next Board of

1 Selectmen meeting, I will share this
2 information also with the Board of
3 Selectmen as I'm their appointee to this
4 board. So I just wanted to enter that
5 for the record.

6 MR. SACCO: All right. So with
7 respect to the hearing, Atty. Poser is
8 present here representing Mr. Shea.
9 Counsel, do you want to come up.

10 MR. POSER: Thank you.

11 MR. SACCO: And we have a request
12 from Atty. Poser to have this hearing to
13 be a private hearing. Mr. Shea has that
14 right pursuant to Mass. General Laws
15 Chapter 32, Sections 15(ii) and 16(i)(b).
16 Is that still your wish, Atty. Poser, to
17 have a private hearing?

18 MR. POSER: Yes.

19 MR. SACCO: With that then,
20 Mr. Chairman, we will need a motion and a
21 roll call vote to go in to Executive
22 Session for the purpose of conducting the
23 hearing.

24 MR. BUCKLEY: Take a motion.

1 MR. GALVIN: So moved.

2 MR. RILEY: I have a question.

3 MR. SACCO: Sure.

4 MR. RILEY: On the Board of
5 Selectmen, I think we had some other
6 stands if we need to go in to Executive
7 Session. (Inaudible) that under the law
8 (inaudible) that gives them the right to
9 go in to Executive Session.

10 MR. SACCO: Sure. The proceedings
11 tonight statutorily are governed by, as I
12 said, Mass. General Laws Chapter 32.
13 Section 15(ii) addresses the process by
14 which a hearing is conducted and
15 implemented, and the provisions of
16 Section 15 make reference to Sections 16
17 for the conduct of a hearing.
18 Specifically, Section 16(i)(b) states any
19 member in service, classified in Group 1,
20 Group 2 or Group 4 who has attained age
21 55 and/or completed 15 or more years of
22 creditable of service, and any member in
23 service classified who was not attained
24 age 55 but who has completed 20 or more

1 years of creditable service for whom an
2 application for his retirement is filed
3 by the head of his department is provided
4 for in Paragraph (a) of this subdivision,
5 may, within 15 days of the receipt of
6 such member's copy of such application
7 filed with the board a written request
8 for a private or public hearing upon such
9 application.

10 So if, although this section refers
11 primarily to an involuntarily retirement
12 application, the same hearing process
13 and rights are afforded to the subject
14 of a Section 15 pension forfeiture proceeding.
15 So Mr. Shea, through his representative,
16 had the right to request a public or a
17 private hearing.

18 MR. RILEY: Thank you.

19 MR. SACCO: And just to expand on
20 that a little bit, the provisions of the
21 open meeting law that deal with Executive
22 Session must also be respected and
23 adhered to, and I think we've covered
24 that as well with the process.

1 MR. BUCKLEY: So we have a motion and
2 a second. I'll take a roll call vote.

3 MR. RILEY: Aye, Riley.

4 MR. THOMPSON: Aye, Thompson.

5 MR. JAY: Aye, Jay.

6 MR. GALVIN: Yes, Galvin.

7 MR. BUCKLEY: Yes, Buckley.

8 MR. SACCO: So we're going to have to
9 ask everyone to exit the room who is not
10 part of this process.

11 MR. GALVIN: We have somebody in the
12 audience --

13 MEETING ATTENDEE: Before you do --

14 MR. SACCO: Yes.

15 MEETING ATTENDEE: -- you have to say
16 whether or not you're going to reconvene
17 in open session.

18 MR. SACCO: Oh, thank you. I believe
19 that Board business is completed for the
20 night or is there other business beyond
21 the hearing?

22 MR. GALVIN: No. The Board's
23 business is completed. However, you're
24 correct. If after the private portion of

1 the hearing has concluded, we will come
2 back in to open meeting to bring to a
3 conclusion the Retirement Board's
4 business.

5 MEETING ATTENDEE: So only to adjourn
6 or will you be taking --

7 MR. GALVIN: To the best of my
8 knowledge, it's only to adjourn. I don't
9 know because I haven't heard what's going
10 to be presented to us.

11 MEETING ATTENDEE: Okay.

12 MR. GALVIN: But I presume it's going
13 to be to adjourn.

14 MEETING ATTENDEE: Mr. Chairman,
15 through you, just one more. So if you
16 take a vote in closed session on this
17 matter, do you have to affirm that vote
18 in open session?

19 MR. GALVIN: I believe we do. I
20 believe we have to -- we'd have to take
21 our vote in open session, the actual vote
22 of what we're going to do.

23 MR. SACCO: Well, you can take it in
24 executive and report it in open or take

1 it in open. I don't anticipate, although
2 we haven't discussed process yet --

3 MR. GALVIN: No.

4 MR. SACCO: -- but I don't anticipate
5 that a vote will be taken this evening on
6 the matter, and that ultimately a
7 decision will be written and the decision
8 will be released publicly once it's
9 issued and adopted by the Board.

10 MEETING ATTENDEE: In open session?

11 MR. SACCO: Well, the decision will
12 be issued publicly. So, yes. It will be
13 available for everyone to review.

14 MEETING ATTENDEE: Thank you.

15 MR. SACCO: You're welcome.

16 (Public session commences.)

17 MR. SACCO: Just for the Board's
18 edification, Theresa Edwards is here, our
19 court reporter for the evening, and the
20 reason that we need to have a court
21 reporter for the proceeding tonight is
22 that in the event there's any adverse
23 decision rendered by the Board, the route
24 of appeal is to the district court as

1 opposed to the Division of Administrative
2 Law Appeal. In the district court, it is
3 not a noble process as it would be at
4 DALA. So what, as a Board, we need to
5 demonstrate is that we afforded due
6 process to Mr. Shea and adhered to the
7 rules such as they are in terms of
8 evidence and procedure to ensure the
9 Court that Mr. Shea received a fair
10 hearing in this -- in this matter.

11 So what I'd like to do in terms of
12 introducing the hearing and opening it up
13 is to do a brief introduction and discuss
14 process. For the record, my name is
15 Michael Sacco. I've been appointed the
16 hearing officer for this proceeding, and
17 this proceeding is being conducted pursuant
18 to Mass. General Laws Chapter 32,
19 Sections 15 and 16. We'll note for these
20 types of proceedings the Rules of Evidence
21 do not apply. The Rules of Civil Procedure
22 do not apply, nor do the standard rules of
23 adjudicatory procedure. That being said, the
24 hearing will be conducted as closely as

1 possible to the regulations promulgated by
2 PERAC for conducting disability hearings
3 which afford due process pursuant to
4 840CMR10.12, and what that process will
5 entail for this evening is we need to address
6 certain issues, mark documents in evidence.

7 I spoke with Atty. Poser briefly and he
8 indicated that Mr. Shea would not be attending
9 this evening. That is his choice. He had
10 a right to be here. We did not issue a
11 subpoena compelling his attendance. I did
12 not anticipate any testimony from Mr. Shea
13 as our charge, and my charge as a hearing officer,
14 is to take evidence, listen to arguments,
15 perhaps post hearing, review a post hearing
16 submission from Atty. Poser, and then to draft
17 and put before you a recommended decision as
18 to whether or not, in my opinion as hearing
19 officer, that Mr. Shea's criminal conviction,
20 three counts of larceny to which he pled
21 guilty, were a violation of the laws
22 applicable to his office or position
23 pursuant to Mass. General Laws Chapter 32,
24 Section 15(iv) and the interpreted case law.

1 I suspect that we will see rather
2 a detailed discussion in both Atty. Poser's
3 brief -- I assume you will want to file
4 something post hearing --

5 MR. POSER: Yes.

6 MR. SACCO: -- as well as in my
7 ultimate recommended decision. That decision
8 will be for the Board to accept or reject
9 and modify as you deem appropriate. Although
10 you've appointed me as the hearing officer,
11 you, as the Board, are the ultimate finders
12 of fact. So procedurally, what I'll do in
13 a moment is mark exhibits that I believe we
14 provided you with copies of the exhibits,
15 Atty. Poser; is that correct?

16 MR. POSER: I have copies of them,
17 Mr. Sacco, thank you, and I have no
18 objections to any of the proposed
19 exhibits.

20 MR. SACCO: Okay. Well, that will
21 make things go a little bit more --

22 MR. POSER: Assuming that we're
23 talking about Exhibits 1 through 9 that
24 were provided to Mr. Shea by notice

1 of this hearing initially in April of May.

2 MR. SACCO: That is correct. So in a
3 moment, I will mark those exhibits, which
4 Atty. Poser has no objection to, and
5 those exhibits will be the record,
6 although are there other exhibits that
7 you wish to offer, Atty. Poser?

8 MR. POSER: No.

9 MR. SACCO: And as Mr. Shea is not
10 present and I see no one else present, am
11 I correct that there will be no testimony
12 offered tonight?

13 MR. POSER: That's correct.

14 MR. SACCO: Okay. So I think
15 tonight's proceeding will probably move
16 rather quickly. What I'll do in a moment
17 is mark the exhibits, and then,
18 Atty. Poser, if you wish to address the
19 Board, I'm happy to give you that
20 opportunity to address the Board orally,
21 understanding that there will be a post
22 hearing written submission, and we can
23 talk about the timing of that and
24 hopefully bring this matter to some

1 resolution within the next couple of
2 meetings or couple of months. Do you
3 have any questions before we get started
4 on process?

5 MR. POSER: No, thank you.

6 MR. SACCO: You're welcome. Do the
7 board members have any questions about
8 process?

9 MR. GALVIN: No.

10 MR. SACCO: Okay.

11 MR. GALVIN: Not at this time.

12 MR. SACCO: All right, hearing none.
13 And, please, if anyone has any questions
14 about process or any of the issues that
15 we raise during the course of the
16 hearing, feel free to ask those
17 questions. So the documentary record
18 will be as follows:

19 Exhibit 1 is a June 21, 2016,
20 letter that was originally sent to
21 Mr. Shea via overnight mail from my
22 office because we had previously
23 received a letter dated May 31st of
24 2016 that was returned as not accepted.

1 This was -- the May 31, 2016, letter was
2 a notification of the Board scheduling
3 the hearing that was originally scheduled
4 for June 28th of 2016.

5 Atty. Poser, seeing that you're
6 present, may I have a stipulation that
7 we're not contesting service at all?

8 MR. POSER: No, none whatsoever. My
9 appearance is an acknowledgement of the
10 jurisdiction and that everything has been
11 done properly and everything to date is
12 appropriate.

13 MR. SACCO: All right. Thank you for
14 that. So that Exhibit 1 is going to be
15 multiple pages of the May 31, 2016,
16 letter, the June 21, 2016, letter and
17 June 23, 2016, letter, which was simply a
18 notice of cancellation of the hearing.
19 Then a remailing of the letter
20 electronically to Mr. Shea, June 30th of
21 2016, and if anyone doesn't have any of
22 those exhibits, I'll be happy to provide
23 those to you after the hearing.

24 MR. GALVIN: You said -- I'm sorry --

1 I have multiple pages under the heading
2 Exhibit 1 up to Exhibit 2 that runs
3 through a June 23, 2016, letter. Is
4 that -- was that the last document in
5 your packet?

6 MR. SACCO: The last one --

7 MR. THOMPSON: June 23rd, yes.

8 MR. SACCO: Yes, the June 23rd. I'm
9 sorry. There's a June 30th letter as
10 well. That would be the ultimate
11 service, if you will, that was --

12 MR. GALVIN: Oh, okay.

13 MR. SACCO: -- provided to Mr. Shea
14 via electronic mail.

15 MR. GALVIN: That was at the top
16 of -- okay, very good. Thank you.

17 MR. SACCO: You're welcome.
18 Exhibit 2 is a document entitled "New
19 Entrant Enrollment Blank." This is
20 Mr. Shea's enrollment form when he
21 enrolled as a member of the Hull
22 Retirement System dated June 3, 1986.

23 Exhibit 3 is Mr. Shea's
24 application for voluntary superannuation

1 retirement in which Mr. Shea dated this
2 document March 25th of 2014 seeking to
3 retire effective April 1st of 2014. As
4 part of Exhibit 3, also including a
5 document entitled "Choice of Retirement
6 Option Form at Retirement," which has
7 both a witness signature and a spousal
8 acknowledgment.

9 Exhibit 4 is a document entitled
10 "Annuity Savings Detail." This is a
11 two-page document which details Mr. Shea's
12 contributions and the interest accrued
13 thereon during the course of his career.
14 I'll just note for the record, even though
15 Mr. Shea became a member prior to 1992,
16 it looks like in 1992, that's where the
17 system became computerized and the prior
18 year deductions were all lumped in to
19 1992.

20 MR. POSER: Oh, that explains that.

21 MR. SACCO: Exhibit 5 is a June 10,
22 2014, letter from the Public Employee
23 Retirement Administration Commission to
24 the Hull Retirement Board notifying the

1 Board that Mr. Shea's retirement for
2 superannuation pursuant to Option B is
3 approved.

4 MR. POSER: I have just a question.
5 There's a handwritten notation at the top
6 of the letter on the right-hand side,
7 what I construe to be "Received" and then
8 it says the date. Whose handwriting is
9 that, if you know; do we know?

10 MR. SACCO: I don't know, but maybe
11 Ms. Durham, you could comment on that.

12 MS. DURHAM: That would be mine.

13 MR. POSER: By the way, I apologize
14 for misspelling your name in my e-mail to
15 you the other day. I misinterpreted the
16 "Durham" as a "Dunham."

17 MS. DURHAM: Oh, that's okay. No
18 problem. Thank you.

19 MR. SACCO: Exhibit 6 is -- I should
20 say are the Superior Court indictments in
21 the matter of Commonwealth vs.
22 Gregory M. Shea, Docket 2015-00131-001,
23 002 and 003 outlining the criminal charges
24 of larceny over 250, Mass. General Laws

1 Chapter 266, Section 3.

2 Exhibit 7 is a document entitled
3 "Docket Report." This is a multi page
4 document, four pages in total, pertaining
5 to Commonwealth v. Shea relating to the
6 criminal proceedings against him.

7 Exhibit 8 is a so-called plea colloquy
8 in the matter of Commonwealth vs.
9 Gregory Shea, Brockton Superior Court,
10 May 12, 2016. This is, again, a multi
11 page document that is to the best of the
12 court reporter's representation and accurate
13 description of the so-called colloquy or
14 discussion that took place in which
15 Mr. Shea pled guilty to the offenses with
16 which he was charged.

17 Exhibit 9 is a three-page exhibit
18 which details the retirement payments that
19 Mr. Shea received, or has received, I should
20 say. These were prepared in anticipation of
21 the hearing taking place in June. There
22 have since been, I believe, two additional
23 payments to him. Is that is correct,
24 Ms. Durham?

1 MS. DURHAM: Yes.

2 MR. SACCO: And the final page is a
3 document entitled "Financial Information"
4 pertaining to Mr. Shea. So with that,
5 that will complete the documentary
6 record for this evening. Before I turn
7 it to over to Mr. Poser, I just want to
8 briefly describe to the Board, without
9 suggesting any outcome of the case, that
10 the charge before the Board is fairly now
11 a question for you is whether or not
12 Mr. Shea's criminal convictions are
13 violations of the laws applicable to his
14 office or position.

15 There have been a number of cases that
16 have come down over the last 20 years now
17 starting in 1996, I believe was the first
18 case, with a case entitled Gaffney vs.
19 Contributory Retirement Appeal Board.
20 The Section 15(iv) was added in 1988 and
21 that was the first appellate report
22 decision. In the last 20 years, particularly
23 in the last several years, there have been
24 a number of cases by which the Appeals Court

1 and the SJC has attempted to give retirement
2 boards guidance as to how you're supposed to
3 apply that statute and to do so narrowly and
4 to focus on generally two things -- and
5 all of this will be spelled out for you.
6 I'm sure Atty. Poser will recite the law
7 like I will. Perhaps we'll have a similar
8 take on it or not -- but in terms of the
9 interpretation of what that language in
10 Section 15(iv) means is that the statute of
11 which the individual is convicted either
12 has to specifically reference the individual's
13 employment, which I will tell you does not,
14 is not the case here. Larceny 250, any
15 citizen of the commonwealth can be convicted
16 of larceny.

17 MR. JAY: Is over 250 a felony?

18 MR. SACCO: I believe it is. The
19 issue of felony versus misdemeanor is
20 not -- is not an issue in terms of
21 whether or not that would require you to
22 find or not find against Mr. Shea. Where
23 the statute doesn't reference his
24 particular position, the analysis that

1 you need to undertake is whether or not
2 the underlying facts of the case are
3 sufficiently related to his position,
4 whether he used his position to
5 perpetuate the crime and, again, I don't
6 want to get too far in to the discussion
7 because I think it's important for you to
8 hear what Atty. Poser has to say, to read
9 his submission.

10 What I have done in these proceedings,
11 and I will plan to do in this case unless
12 the Board feels differently, is at the
13 conclusion of tonight's hearing, we'll
14 determine how much time Atty. Poser needs
15 to submit something in writing for my
16 consideration in drafting a recommended
17 decision. I then provide to you both
18 Atty. Poser's submission and my
19 recommended decision because ultimately
20 I want the Board to have as much
21 information as possible, as many points
22 of views as possible. Again, I'm not
23 -- I'm not anticipating that we're going
24 to have different points of view on the

1 case. But to the extent that we do, I want
2 you to all deliberate with that in mind and
3 to have those perspectives in front of you.

4 So with that, Counsel, if you want to
5 address the Board, you're more than welcome
6 to.

7 MR. POSER: Sure. Do you mind if I
8 stand up?

9 MR. RILEY: You're fine. Go ahead.

10 MR. POSER: This kind of case is --
11 and I represent retirement boards as well
12 as do work for a person such as Mr. Shea,
13 and in my experience, this is the most
14 difficult kind of decision that
15 retirement boards ever undertake. You're
16 dealing with -- No. 1, you're often
17 dealing with a very highly publicized
18 case, and I'm sure by the folks who were
19 here, that everybody knows about what
20 Greg Shea did, and what he admitted to in
21 open court; that he stole \$116,000 of the
22 union charity's arms money over the
23 course of four or five years. That's not
24 something that I'm going to try to

1 explain away in any way. That's not my
2 job. That's not even your job.

3 Your job is to decide did Greg Shea,
4 as the treasurer of the union charitable
5 arm -- the Hull Police Association, I
6 believe is the correct term -- in
7 embezzling all that money, in paying
8 himself, you know, paying his mortgage
9 and paying his credit card bills and
10 paying his -- writing checks on his
11 Sovereign Bank, through his Sovereign
12 Bank account, was that the violation
13 of the laws applicable to his office
14 or position, which is what the statute
15 says. And I also don't have to, at
16 least in law, convince you that that's
17 not the case.

18 The law is -- you're the prosecution
19 in a sense, and the Board has to decide
20 that there's enough evidence, factual
21 evidence, to apply the pension forfeiture
22 to this member of your system, a member of
23 the system for well over 20 years, who, at
24 least understanding from reading the

1 recommendations that were given to the judge
2 in the superior court, and reading the plea
3 colloquy, which is the only evidence of the
4 facts that are underlying this case that
5 you're allowed to see and that's the only
6 evidence that you guys -- that has been put
7 in the record. That's it. That is the
8 universe of what we're going to be
9 considering. Did his actions involve his
10 police duties? Did he use his job as a
11 police officer to commit this crime? And
12 that's the most difficult question.

13 And I will submit to you that under
14 the case law, starting with the Gaffney
15 case, which was tried and was decided and
16 was argued by probably one of the finest
17 lawyers in the state who is sitting right
18 there, Greg Galvin, that, unfortunately
19 for Mr. Gaffney, but helpful to lawyers,
20 is that you have to have criminal conduct
21 connected with the actual duties of the
22 position, and the Gaffney case is a very
23 good illustration of that.

24 Mr. Gaffney was the water and sewer

1 commissioner in Shrewsbury, and in the
2 course of doing his job as the water and
3 sewer commissioner in Shrewsbury, he accepted
4 kickbacks. I don't recall exactly why he
5 got kickbacks or for what he was -- was he
6 overlooking something or was he giving a
7 better deal to somebody on water; that I
8 don't recall -- but there was a direct
9 connection between his job as water
10 and sewer commissioner and the crime
11 that he was convicted of. There's a
12 lot of case law, and most of the case law,
13 starting in 1996, and frankly ending as
14 recently as this spring where the SJC
15 decided two cases, not directly on these
16 issues, but really talking a lot about
17 the parameters of the law and how you
18 apply it, and continually the Court say,
19 retirement boards, you've gone too far.
20 You're going after people's pensions in
21 a broad way, and they keep telling us
22 to interpret the law as Mr. Sacco has
23 told you, narrowly.

24 So just because Mr. Shea was a

1 police officer doesn't impose a higher
2 duty of care on him and thus letting him
3 take his -- have his pension be taken
4 away more easily than if he was just a
5 ditch digger or he was a secretary. That
6 doesn't matter. Recently, we had the
7 Speaker of the House keep his pension
8 even though he lied to a court about
9 things that he knew while he was Speaker
10 of the House about pending legislation.
11 That wasn't enough to take his pension.
12 That's on appeal with the SJC, and that's
13 actually one of the reasons why I'm going
14 to ask for a little more time because that
15 brief is due in about three weeks. So
16 they keep narrowing and narrowing and
17 narrowing the parameters of what you can
18 take somebody's pension for.

19 Another case is a case of a library
20 guy, who worked in a library in Beverly,
21 named Mr. Scully. He befriended a underage
22 patron who was doing things he shouldn't
23 have on computers in the library. And in
24 essence, this gentleman said, you can't

1 do that here, but you can do it at my
2 house, and eventually, there were some
3 very unattractive charges that were
4 brought against this gentleman. But
5 the only charges that stuck were the
6 possession of two -- and they're
7 relating to conduct between this
8 particular library employee and this
9 underaged patron -- the only charges that
10 were actually -- that he was convicted of
11 was possession of two -- of two images of
12 child pornography on his home computer,
13 and Beverly took the pension away.

14 Eventually, the Appeals Court said
15 nope. Even though there's all this connection
16 to the job, you only look at the actual
17 charges that he -- that were convicted of
18 and the facts underlying those charges,
19 which are embodied in this case in the
20 plea colloquy, which is Exhibit 8.
21 There's another case and more child
22 pornography. There's a lot of this in
23 this stuff, for reasons I don't understand.

24 Most recently, the most recent case,

1 the case that Mr. Sacco is probably going
2 to be talking about in his decision, the
3 case that I'm going to be talking about is
4 called "Garney." Mr. Garney was an
5 8th grade teacher in Pelham, Amherst/Pelham
6 out west, and he had a real bad child porn
7 habit, and even though he had used his e-mail
8 address to connect to child pornography
9 websites and register to child pornography
10 websites, perhaps trade child pornography
11 -- that's not super clear in the decision
12 -- and the Teacher's Retirement Board
13 took his pension away because he got
14 convicted of child pornography based
15 on that e-mail connection, and also based
16 on the idea that, again, (inaudible)
17 status of higher duty, teachers are
18 really, really highly releg -- relegated
19 -- regulated, and they said that this is
20 -- you know, a teacher is, you know, a
21 role model for students and he's preying
22 on and exploiting little kids. And all
23 these images were from a -- foreign.
24 They were foreign as opposed to, certainly

1 not in his district and certainly not --
2 mostly not American.

3 Anyway, so the SJC eventually gave his
4 pension back to this gentleman, and none of
5 this happened on the job. This was all
6 off duty, and you'll see that where it's
7 off duty, its very likely you're going to
8 keep your pension, except in three cases
9 -- and I'm going to talk about those very
10 briefly -- but Mr. Garney's child porn
11 habit was exclusively at home as far as
12 the proof was, and the Court said that
13 unless you use the resources of your
14 office or position to commit the crime
15 for which you were convicted of, or there
16 is an over-arching law that touches your
17 job that you violate that is unrelated to
18 the conviction you have, then you keep your
19 pension. So now I'm going to get in to
20 the three -- three outliers, and they
21 all actually make a lot sense, and I,
22 unfortunately, was on the wrong end of
23 one of them.

24 It was John Buonomo, who was the

1 Register of Probate in Suff -- in
2 Middlesex County, and he was caught
3 -- probably most people remember --
4 caught on camera stuffing his pockets
5 with money in the Registry of Deeds
6 during the period when everyone was
7 making a lot of photocopies during the
8 refinancing, the mortgage crisis when
9 everything was defaulting. So there was
10 a lot of money there. But, he was not a
11 member of the State Retirement System while
12 he was Register of Deeds. He had been
13 retired from the City Somerville. He
14 was getting a pension from Somerville, was
15 not a member of the Commonwealth's pension
16 system, and through two rounds of court,
17 I convinced the judge, two judges, that he
18 shouldn't lose his pension because there's
19 no connection between his -- the work he
20 did to earn his pension with Somerville,
21 where he was an alderman and a clerk and
22 what not, and the job he had with which he
23 clearly would have lost his pension had he
24 been a member of the State Retirement System.

1 Well, the SJC says not so fast;
2 they said, wait a minute. He's a judicial
3 officer, or close to. When you're a Register
4 of Probate, you're in essence a judge, and
5 there's a code of conduct that was passed by
6 the Supreme Judicial Court that covers clerks,
7 magistrates and registers of probate, and it
8 doesn't quite say you're not supposed to take
9 money after hours from the Registry of Deeds,
10 but it's close enough. So they said there's
11 this rule, this law that covers him as a member
12 of the retirement system -- which is a
13 phrasing of the statute -- it doesn't say
14 member in service or a member inactive,
15 he's a member -- it says "member," so it
16 means everybody, retired and active employees.
17 That rule covers you even though there's
18 no direct link between the pension he earned
19 and the crime he committed. So that
20 illustrates the second.

21 Now the other way you can lose your
22 pension, it also is echoed by probably the
23 most famous case in the Pension Forfeiture
24 Law, which is Jackie Bulger. Jackie was

1 not only Whitey Bulger and Billy Bulger's
2 brother, but the clerk magistrate of
3 juvenile court. When Whitey was a
4 fugitive, Jackie was called before the
5 grand jury, the federal grand jury, and
6 asked, you know, when was the last time
7 you had contact with Whitey and what do
8 you know, where is he, you know, how can
9 you help us find him, and instead of saying
10 I'm going to take the Fifth or I -- I'll
11 -- or I haven't heard -- whatever he said,
12 he lied. He obstructed justice. He
13 didn't tell the truth. He wasn't
14 forthcoming, and that's off-duty conduct.
15 It had nothing to do with him being the
16 clerk magistrate of the juvenile court in
17 Boston, except that it did because, again,
18 there's a can of ethic that was propounded
19 by the Supreme Judicial Court covering
20 these sort of -- these kind of folks that
21 he violated. He violated it in many
22 different ways that -- they list three or
23 four different ways how he violated his
24 -- his rules of governing his position as

1 a Register of Probate.

2 The third case is a police officer, a
3 gentleman named Durkin; very bad day. He had
4 -- he had a day off, and he was in Dorchester
5 and he went off to a yacht club and he was
6 drinking, and one of his fellow cops saw that
7 he was -- he was also at the yacht club --
8 said, you know, Mr. Durkin, whatever -- I
9 don't know what his first name was -- you're
10 too drunk to drive, let me take you home.
11 So he drives him home, and they get out of
12 the car and something happens, and using his
13 off-duty -- his service revolver in his
14 off-duty holster, he shoots his brother
15 officer in the head grievously wounding him.

16 So he lost his pension, even though
17 he was off duty, because he used, I think,
18 a tool of his trade to commit the crime, and
19 you're not supposed -- when you're protecting
20 life and you're supposed to protect people,
21 you're not supposed to shoot them while you're
22 drunk in your jurisdiction with your service
23 revolver and a brother cop, to boot. So
24 that's -- that's the most -- that's the

1 universe of the pension forfeiture cases
2 in a nutshell. There are others, but those
3 are the ones that are probably the most
4 factually and legally significant.

5 So bringing it back to Mr. Shea, what
6 do we know about Mr. Shea? We know that
7 Mr. Shea was the treasurer of the union.
8 We know that he was probably -- it's not
9 in the facts and I'm not going to admit this,
10 but I'm going to say for purposes of my
11 discussion -- I think it's unlikely that he
12 would have been treasurer of the union
13 charitable funds were he not a Hull
14 police officer. That's a decision --
15 you're going to have to make the decision
16 if that -- is that a direct link to his
17 crime, being a Hull police officer and
18 the treasurer of the union funds.

19 But clearly, there's no -- there's
20 nothing in the plea colloquy that says anything
21 about him being on duty as a police officer
22 when he writes these checks. There's nothing
23 in the plea colloquy that says anything about
24 him being -- doing anything as a Hull

1 police officer to break the law. He clearly
2 broke the law, and he is always a Hull
3 police officer, but he certainly wasn't
4 on duty.

5 So that's -- that's the question.
6 Is that enough? Is that a direct link to
7 his job? I would suggest to you it is not
8 because of essentially the language that came
9 down in the very first case, it keeps
10 repeating, being repeated, in Gaffney,
11 and it basically says that there has to be
12 criminal conduct associated with the position,
13 and just because he was a Hull police officer,
14 he wasn't being a Hull police officer and
15 writing himself checks on the union funds,
16 which I understand were collected through
17 car washes and donations that are not
18 Hull Police Department funds. So that's
19 the essence of the argument and, again,
20 it's a narrow construction of the law.

21 There are cases that also say that,
22 in essence, you're not supposed to bring
23 in all sorts of outside facts that might
24 bring -- you're not supposed to use a

1 broad construction of the facts. I'll
2 tell you a case that -- where the State
3 Retirement Board construed a case narrow
4 -- broadly that the court has cut it back.
5 It was a corrections officers who was a coke
6 head, and he befriended or was befriended
7 by an inmate, and the inmate said, let me
8 give you a thousand dollars, and instead
9 of guy the saying why or, you know, keep it
10 and use it when you get out, he said sure.
11 So the inmate says, I can't give it to you
12 myself; I'll have my mother give it to you.
13 So eventually, a thousand dollars made its
14 way in to the hands of a corrections officer
15 in Middlesex County Jail over in East Cambridge
16 from a inmate.

17 So time passes. The inmate gets
18 transferred from Cambridge jail to Billerica
19 where the House of Correction is, and the
20 corrections officer, my corrections officer,
21 is on the phone with a corrections officer
22 in Billerica. Now how this occurred, I have
23 no idea. But the inmate in Billerica figures
24 out that my client, whose name is Mike, is

1 on the phone with the guy in Billerica, and
2 he shouts over the -- over the wires --
3 over the, whatever that is, 30 miles,
4 "Call my mother," which is a signal, you
5 know, you can get another taste. So he did.
6 He calls mom and mom says, you need to talk
7 to my nephew. Nephew is a state trooper.

8 So nephew calls the corrections officer
9 and eventually agrees to give corrections
10 officer an ounce of coke, which apparently
11 is about enough for three days -- he's got
12 a real bad habit -- which transaction took
13 place in a Starbucks in Woburn, and my guy
14 had the coke for about a minute and a half
15 before he was arrested in the parking lot.
16 so the State Retirement board took his pension
17 away, and they basically said this connection
18 is close enough. This is enough of an on-duty
19 behavior. His own -- an inmate talked.
20 He had already gotten bribed before, and
21 that's enough to take his pension away.

22 So we go to court. We eventually
23 end up in front of the superior court. The
24 superior court says no. That's too far a

1 leap because you have -- remember about
2 Scully. The only thing that guy got
3 convicted of is possession of two counts
4 -- two images of child porn on his home
5 computer. Well, Mr. -- Mr. -- Mr. Mike
6 had the coke off duty in the Starbucks for
7 a couple of minutes, and the state trooper
8 is the one who initiated the transaction for
9 the coke. So the court said that's just
10 not a close enough factual link because
11 you have to find a direct factual link
12 between the commission of the crime and
13 the position, and at least to this --
14 to that level, that's too far.

15 Now that's also on appeal to the
16 Appeals Court, so we'll find out whether
17 that's too far. But right now, that's
18 the law. So I'm going to be arguing to
19 you in my brief that Mr. Shea's behavior,
20 reprehensible, inexcusable as it is, is
21 not enough to take his earned pension.

22 Now there's a case that came down
23 in the spring called "Bettencourt,"
24 which is Peabody police officer who was

1 spying on the results of civil service exams
2 or a captain's exam, which he was very
3 interested in, and for reasons that are
4 unknown, he was outed and he was prosecuted
5 and he was convicted of unlawful --
6 unlawfully looking at these tests results.
7 Peabody didn't want to take his pension
8 away -- Mr. Sacco represents Peabody -- but
9 they -- PERAC took his pension away, which
10 they have the authority to do, and it went
11 through various iterations, and actually
12 the Appeals Court, in fact, upheld the
13 taking away of his pension. But, there's
14 also this over-arching constitutional
15 issues involved under the Eighth Amendment,
16 the Excessive Fines and Cruel and Unusual
17 Punishment provision of the United States
18 Constitution, and eventually, it got to
19 the SJC, and this spring, the SJC he gets
20 to keep his pension.

21 Now I'm not suggesting that this case
22 is one of those cases, but I'm suggesting
23 that there's language in that case that
24 talks about the really dramatic relationship

1 between the retirement system and the member
2 and the pension, and it's not something that --
3 it's not -- it's his. It's property. It
4 is a contractual right. It's a property
5 right, and it is not to be taken away
6 lightly, and it feels like the pension is
7 somebody's pension -- and Mr. Shea is in
8 pay status. He's getting his pension, been
9 getting it for the last two years -- unless
10 you guys find that the conviction cuts off
11 his rights, and that's the way the statute
12 reads. You don't lose your pension until
13 you're convicted of a crime and then until
14 the retirement system decides that that
15 crime is one that involved the laws
16 applicable to your officer position.

17 So that's my argument to the Board,
18 and I will -- if you guys have any
19 questions, I'll be happy to answer them.
20 If not, maybe Mr. Sacco and I can talk about
21 brief scheduling.

22 MR. SACCO: I do -- I have one issue,
23 if I may, that -- and I appreciate the
24 history of the cases, and I don't

1 disagree with the way that you described
2 them and the outcomes. You touched upon
3 one thing in your argument, which I think
4 is the issue that needs to be addressed
5 in this case, and that is as treasurer of
6 the association -- and you alluded to
7 this, and I'm going to ask you if you
8 want to stipulate, and if not, I'm going
9 to leave the record open to get the bylaw
10 documents to confirm it one way or the
11 other because I think it's important that
12 we have that in the record -- as a police
13 officer -- and my understanding of police
14 associations -- the officers of the
15 association -- no pun intended in
16 referring to police officers -- can only
17 be police officers.

18 So my question to you is, if you're
19 going to contest that point, then I will
20 -- which is our right to do and discretion
21 that we have -- I'm going to leave the record
22 open to obtain the documents to confirm that
23 unless you want to stipulate or acknowledge
24 that but for the fact that Mr. Shea was a

1 police officer, he would not be eligible to
2 be the treasurer of that organization.

3 MR. POSER: I've done a lot of
4 thinking about this, and I'm not willing
5 to stipulate because I haven't seen the
6 bylaws of the Hull Police Association
7 and, frankly, I'm not familiar with such
8 organizations. But, it seems logical to
9 me. So I could -- I could say for
10 assuming for purposes of argument that
11 that's so, but I was going to look for
12 those bylaws myself. So if you have
13 access to them, that would be helpful
14 because I don't know the answer to that
15 question.

16 MR. SACCO: Okay.

17 MR. POSER: And I would suggest to
18 you that that is a factual question that
19 would be something the Board should
20 decide, which is why I was happy with
21 what you had put in the record because
22 you had put that in.

23 MR. SACCO: Well, I'll leave -- I did
24 not expect that you would necessarily

1 dispute the fact, but I will -- we'll
2 leave the record open --

3 MR. POSER: I don't dispute it; I
4 don't know the answer to it.

5 MR. SACCO: And that's perfectly
6 acceptable.

7 MR. POSER: But, again, Members of
8 the Board, it seems logical that if he is
9 a member of the union, I think that we
10 certainly can stipulate to that, that
11 it's likely that -- and let me,
12 occasionally there are people who are --
13 financial folks who are not necessarily
14 by bylaw the signatory on checkbooks,
15 which seems to be the route of the
16 embezzlement. "Embezzlement" is a fancy
17 legal word for taking money that's not
18 your's.

19 MR. SACCO: So we'll leave the record
20 open for obtaining that document that
21 we'll mark as an exhibit and I'll provide
22 it to the Board and Atty. Poser. My only
23 other comment that I want to make with
24 respect to Atty. Poser's comments,

1 because I think it's important that you
2 not leave here with this particular
3 thought in your head, and that is, he
4 mentioned -- and I don't think he was
5 trying to do it in a pejorative way at
6 all -- but that the Board is the
7 prosecution, which you're not. I think
8 his point was, which he's correct, is
9 that we come in to this proceeding
10 strictly as a fact-finding exercise.
11 We're not here to prove or disprove
12 whether or not Mr. Shea has violated
13 Section 15(iv). Certainly my role as
14 hearing officer is, as I see it, is no
15 different than any other legal opinion
16 that I have ever given to this board,
17 which is we look at the facts, we analyze
18 the law and we give you a recommended
19 course of action.

20 So to that extent, the use of the words
21 "judge, jury, prosecution, defense," none of
22 those are really relevant here. It is about
23 evaluating the facts, determining -- the
24 facts, to a certain extent, have been

1 determined through the criminal process.
2 Once we have that other document in the
3 record for your consideration, then what
4 we'll do at that point, or what I'll do as
5 hearing officer, is make findings of fact
6 and I'll recommend a decision and submit
7 that to you. Does anyone have any questions
8 about the process at all or anything that
9 you wish to inquire about?

10 You will have -- before I turn it over
11 to the questions, ultimately, you will
12 reconvene and deliberate, and you'll have
13 the opportunity to discuss the recommended
14 decision, to discuss Atty. Poser's brief.
15 Generally, although there are no hard and
16 fast rules, generally, once I've given a
17 recommended decision and Mr. Poser's brief
18 is presented to you, it's really now then
19 up to the Board to deliberate, and that
20 deliberation can be very lengthy and very
21 involved or it can be where you've received a
22 recommended decision, everyone acknowledges
23 they've read it, someone makes a motion to
24 accept it or reject it and it's over, and

1 that is not in any way to try suggest that
2 trying to limit discussion at all or to
3 encourage it. It's up to you to feel
4 comfortable with the facts, with the law
5 and make that decision.

6 So I think, Mr. Galvin, did you have
7 a -- I saw you motioning. I don't know if
8 you had a question or a comment that you
9 wanted to make.

10 MR. GALVIN: Two things. In the
11 spirit of full disclosure, I did not
12 represent Mr. Gaffney at his initial
13 charge and hearing at the Worcester
14 Regional Retirement System. However, I
15 did represent him subsequent when, after
16 he got out of jail and paid his -- paid
17 the price of his actions, which he did
18 trade contracts for favors, i.e., his
19 mother's driveway being paved and
20 different things. But, he then went back
21 to work in the public sector, and I did
22 represent him at that point in time when
23 PERAC decided that he had no right to a
24 pension going forward, and we did move

1 forward on that and, unfortunately, did
2 not prevail on his behalf.

3 But, what I would like you to do,
4 Mr. Poser, if you could, please -- and I
5 thought it was part of the Jackie Bulger
6 case, but even if it's not -- as Mr. Shea
7 was a police officer, he was sworn literally
8 to uphold the laws of the Commonwealth of
9 Massachusetts, and as a police officer, he
10 has the full rights and obligations to act
11 as such even when he is off duty. If he
12 observes a crime being committed, he is one
13 step above a civilian as far as being able to
14 take action, and how you see that aspect of
15 Mr. Shea's life and his position working for
16 the Town of Hull and how that would impact,
17 if you could address that in your memorandum,
18 I would appreciate it. It would help me, I
19 know, in my deliberations.

20 Finally, as you know, the Bettencourt case
21 addressed constitutional law, which we're
22 just not geared to address constitutional law,
23 and I'm not asking you to say, well, on the
24 Bettencourt, you can't take away his pension,

1 but you can impose a fine. I'm not asking for
2 that. But, if you would address where the
3 retirement system and the retirement board is
4 vis-a-vis the SJC decision in Bettencourt.

5 MR. POSER: Well, as you have pointed
6 out, retirement boards are not empowered
7 to interpret the constitutional law; only
8 courts can do that. The reason I
9 mentioned Bettencourt was not to suggest
10 that it applies, either on its facts, to
11 this case or to suggest that there's an
12 analogy to Bettencourt. It's merely to
13 suggest that Bettencourt discusses the
14 idea that a pension in Massachusetts for
15 public employees is much more than an
16 expectancy, a gratuity, something that
17 they're given and can be taken away from
18 them without applying a very strict code
19 of laws, which is what you're doing
20 today.

21 Now with regard to the sworn
22 officer -- obviously, I'll brief
23 this -- but a couple of things pop in
24 to my head. Number 1, the very similar

1 analysis was made in the -- in the
2 Garney case; the gentleman was a teacher.
3 As a teacher, he is a mandatory reporter
4 of child abuse, and the Teacher's Retirement
5 Board was adamant that this particular
6 statute and that particular status was
7 paramount in the idea that this -- that
8 there are certain positions and certain
9 behaviors that are inconsistent with
10 keeping a pension in Massachusetts, and
11 the Court rejected that idea.

12 So I would suggest to you that even
13 if in theory, Mr. Shea, while he was
14 committing all these larcenies, knew that
15 he should have arrested himself, that the
16 Fifth Amendment would -- prohibition on
17 on self-incrimination would protect him.
18 I mean, that's kind of highfalutin, and I
19 wasn't expecting to get in to the Fifth
20 Amendment, and I don't think that that's
21 really relevant here. But at the same
22 time, the courts have been pretty clear
23 -- Garney is the most recent discussion
24 of it -- that there's no particular

1 profession -- teachers, firefighters,
2 police officers are the ones that come
3 to mind. I would assume state troopers
4 would go in there as well. The sworn
5 folks and the folks that are very highly
6 regulated -- doctors are also regulated.
7 Lawyers are highly regulated, and
8 doctors swear a hippocratic oath.
9 Lawyers swear an oath when they take
10 when they're admitted to the bar -- that
11 that particular status doesn't color the
12 pension forfeiture analysis.

13 You still have to find a direct
14 factual link to the job and the conviction.
15 You still have to find -- if you don't
16 find the direct factual link, you still
17 have to find some over-arching statute
18 that applies, that lays over the
19 criminal conduct that is not the
20 statute that you're convicted of
21 violating. Again, Bulger, Buonomo are
22 the only two cases where that has ever
23 been -- come in, and they are high
24 judicial officials.

1 MR. SACCO: If I could interrupt just
2 for a second, I think what Mr. Galvin is
3 suggesting, which I echo, you talked
4 about Durkin. Durkin -- and, again, I
5 don't want to get too much in to
6 particular dictier and the verbiage in the
7 case -- but Durkin was off duty. Durkin
8 also applied -- they used the phrase
9 "public trust" in the decision. They
10 also applied other cases that said police
11 officers are held to a higher standard.

12 MR. POSER: Mm-hmm.

13 MR. SACCO: So while I appreciate
14 Garney and the SJC saying as a teacher
15 you're not held to a higher standard,
16 Durkin suggests something a little
17 differently. So I don't want you to, in
18 fairness --

19 MR. POSER: I'm going to be talking
20 about Durkin.

21 MR. SACCO: I want -- I mean, Durkin
22 is the only reported appellate case
23 involving a police officer.

24 MR. POSER: True.

1 MR. SACCO: So I think -- I'm not
2 telling you how to do your brief -- but I
3 would -- I would strongly urge you to pay
4 close attention to Durkin. I think we
5 all understand that the statute is to be
6 narrowly construed. I expect, as we all
7 do in our briefs, to give a few
8 paragraphs about what the cases say and
9 what the law says. But this really comes
10 down to, at least in my view, the things
11 that I'm going to be looking at, is
12 whether or not the conduct in and of
13 itself is sufficient to link it. But
14 that next level is, is a police officer
15 under any circumstances held to a higher
16 standard, and I'm not looking for a
17 presentation or an argument on that now.
18 I think we all understand your position
19 and I appreciate it. Does anyone else
20 have any questions?

21 MR. JAY: I have one. You said
22 earlier that you didn't know as a police
23 officer if he could be the treasurer or
24 clerk of the union. He was a member of

1 the IBPO Local 344. He was entrusted by
2 his members with that money, and he
3 violated their trust in our eyes, in my
4 eyes.

5 MR. POSER: Oh, no question about it,
6 no question about it.

7 MR. JAY: A police officer, a
8 firefighter, a ditch digger, they're
9 allowed to be a treasurer in their union,
10 in their local union. I just wanted to
11 make that clarification.

12 MR. POSER: And if I misspoke, I
13 didn't mean to imply that he wouldn't --
14 wasn't the treasurer. That's admitted.
15 He was the treasurer. No question about
16 it. He did violate those folks' trust.
17 The question that has to be decided is,
18 did that violation of trust spill over in
19 to his duties as a police officer.

20 MR. RILEY: Just a clarification.
21 Mr. Galvin touched on this. I was coming
22 in to this as an all or nothing type of
23 proposition. Mr. Galvin had brought up
24 something about a fine. Is there any --

1 this is all or nothing?

2 MR. POSER: That's right.

3 MR. RILEY: There's no gray area in
4 the middle?

5 MR. POSER: Exactly.

6 MR. RILEY: No deal, no fine --

7 MR. SACCO: That's right, that's
8 right. The reference to Bettencourt was
9 the SJC had invited people to brief
10 whether they thought there could be some
11 lesser of an imposition of a fine rather
12 than a complete forfeiture based on that
13 Eighth Amendment argument on the
14 constitution which --

15 MR. RILEY: Of excessive punishment?

16 MR. SACCO: Right, which we're not
17 empowered, as Mr. Poser admitted. We're
18 not empowered to address the constitution
19 in question. We're only charged with
20 determining whether there's sufficient
21 evidence to link it. So I'm not -- I'm
22 not expecting you to brief the
23 constitutional issue. Save your efforts
24 because I'm not going to consider it

1 because we can't do anything about it.

2 MR. POSER: I wasn't planning on it.

3 MR. RILEY: Thank you.

4 MR. SACCO: Any others questions?

5 Okay. So let's go off the record for a
6 second.

7 (Off the record.)

8 MR. SACCO: So we'll set a briefing
9 schedule. Atty. Poser's brief will be
10 due to be submitted to me on or before
11 October 31, 2016. I will then, on or
12 before November 15th, have my recommended
13 decision for the Board to be considered
14 either at its November or December 2016
15 meeting to be determined. Are there any
16 other --

17 MR. GALVIN: We're meeting, at least
18 at this point in time, on the 22nd, which
19 is the Tuesday before Thanksgiving.

20 MS. DURHAM: That's a week after the
21 15th.

22 MR. GALVIN: So is that enough time
23 for you?

24 MR. SACCO: Probably not, and if you

1 wanted me present, I'm actually getting
2 on a plane that morning, so I wouldn't be
3 available on that day. But I'd have to
4 say a week is cutting it a little close.

5 MR. GALVIN: So why don't you get it
6 to us by December 1st?

7 MR. SACCO: Okay.

8 MR. GALVIN: Our meeting in December
9 is, at this point, scheduled for the 20th
10 of December.

11 MR. SACCO: Okay. That works. All
12 right. If there is nothing else, as I
13 noted, we will leave the record open to
14 obtain the documents from the police
15 association relating to their bylaws or
16 whatever they describe them as which
17 identify who can maintain positions as
18 officials or office holders in that
19 particular organization, and we'll add
20 that to the record. If there are no
21 other questions or comments, we'll
22 suspend the hearing for the night.
23 (Hearing suspended at 8:40 p.m.)
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS.

I, THERESA M. EDWARDS, a Notary Public in and for the Commonwealth of Massachusetts, duly commissioned, qualified and authorized to administer oaths and to take and certify depositions, do hereby certify that heretofore, on the date cited above, the witness personally appeared before me at the above location and testified in the above-captioned case; that the said witness was by me duly sworn to testify to the truth, the whole truth and nothing but the truth; that thereupon and while said witness was under oath, the deposition was taken down by me in machine shorthand at the time and place therein named and was reduced to typewriting thereafter.

I further certify that the said deposition constitutes a true record of the testimony given by the said witness.

I further certify that I am not interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 29th day of August, 2016.



Theresa M. Edwards

Notary Public



My Commission Expires:

July 16, 2021