

Court File No. CV-12-448487

ONTARIO
SUPERIOR COURT OF JUSTICE

HD/sp
B E T W E E N:

PAUL MAGDER
Applicant

- and -

ROBERT FORD
Respondent

This is the Cross-Examination of ROBERT FORD on his Affidavit sworn the 5th day of June, 2012, held at the Offices of LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP, 130 Adelaide Street West, Suite 2600, Toronto, Ontario, on the 28th day of June, 2012.

A P P E A R A N C E S:

CLAYTON RUBY } --- for the Applicant
ANGELA CHAISSON} --- for the Respondent
ALAN J. LENCZNER, Q.C.} --- for the Respondent
ANDREW PARLEY }
RICHARD LIZIUS }
 (Student-at-Law)

ALSO PRESENT:
Max Reed

R. Ford - 2

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1 ROBERT FORD, sworn

2 CROSS-EXAMINATION BY MR. RUBY:

3

4 1. Q. You have been a member of city
5 council since 2000, I think.

6 A. Yes.

7 2. Q. And you were elected mayor in 2010?

8 A. Yes.

9 3. Q. When you became mayor you signed a
10 declaration of office?

11 A. Yes.

12 4. Q. You remember doing that? Yes?

13 A. Pardon me?

14 5. Q. You remember doing that?

15 A. Signing the declaration of office?

16 6. Q. Declaration of office?

17 A. Correct.

18 7. Q. And that's the same declaration when
19 you were first elected in 2000 and 2003 and again in
20 2006, correct?

21 A. No, no, I don't know that that's
22 correct.

23 8. Q. The declaration is a serious
24 promise?

25 A. I can't remember exactly what the

1 declaration says.

2 9. Q. But you understand it to be a
3 serious promise?

4 A. I don't recall what it says.

5 10. Q. I'm not asking you to recall what it
6 says at the moment. Did you understand that you
7 were making a serious public promise?

8 A. I don't remember exactly what the
9 wording said on the document.

10 11. Q. Was it a casual conversation when
11 you gave the declaration?

12 A. The clerk asks you to sign it, but I
13 can't remember exactly what it said.

14 12. Q. It was a formal occasion?

15 A. How do you define "formal"?

16 13. Q. Not casual, not something that would
17 happen over a glass of beer in a pub.

18 A. It happens in an office at city
19 hall.

20 14. Q. Right, and therefore, a matter of
21 formality?

22 A. Again, define "formality". We go to
23 our office and sign this document.

24 15. Q. It was a serious occasion?

25 A. It all depends how you define

1 "serious". We just sat and signed a document.
2 16. Q. It was an important occasion?
3 MR. LENCZNER: Stop. Mr. Ruby, you're
4 holding the declaration. I don't imagine
5 there's any issue that he signed it. The
6 rest of it is a legal argument that you can
7 put to the judge. It says what it says.
8 You can argue that it's a serious document,
9 and it's a serious...I think you used the
10 word "promise". We don't need to go
11 through this with this witness.
12 17. MR. RUBY: I think we do. Do you object
13 to him answering that question?
14 MR. LENCZNER: Well, I have let you ask
15 the questions. He has answered them
16 numerous times. I don't think we need to
17 continue with them.
18 18. MR. RUBY: We have a difference of
19 opinion. Do you wish to object to him
20 answering that question?
21 MR. LENCZNER: Yes, I'm going to say no
22 more questions beyond the ones that have
23 been already asked. /R
24 19. MR. RUBY: All right. The two choices
25 are, as I understand it, that we can have

1 him answer the question despite objection,
2 or we can simply not have an answer in
3 accordance with your instructions, and deal
4 with the matter later. Which do you
5 prefer?

6 MR. LENCZNER: Well, in my view, you
7 have asked a number of questions. You have
8 got the answers, and I think this is the
9 end of it.

10 20. MR. RUBY: Okay. I take it that's the
11 choice not to answer the question under
12 objection?

13 MR. LENCZNER: If you want to show him
14 the declaration which you're holding in
15 your hand, have him affirm that it's his
16 signature, I'm happy to have him do that.
17 Then it's an matter of argument as to what
18 it means.

19 21. MR. RUBY: I have got your point. I
20 don't agree with it. I'm just asking
21 whether you will agree to have him answer
22 the question under objection, and have the
23 objection ruled on later.

24 MR. LENCZNER: No.

25 22. MR. RUBY: Thank you.

1 BY MR. RUBY:

2 23. Q. Do you recognize that document?

3 A. That's my signature. That's my
4 signature.

5 MR. LENCZNER: Do you wish to mark that?

6
7 24. MR. RUBY: I think we should. Now, what
8 marking do you like on these things?

9 MR. LENCZNER: We'll mark it...there's
10 an exhibit stamp.

11 25. MR. RUBY: Good. I'll make this 1.

12
13 --- EXHIBIT NO. 1: City of Toronto Declaration of
14 Office, dated November 2, 2010,
15 signed by Robert Ford

16
17 BY MR. RUBY:

18 26. Q. We'll just look at it again. Does
19 the last paragraph of the text, quote:

20 "...And I make this solemn promise and
21 declaration conscientiously believing it to
22 be true, and knowing that it is of the same
23 force and effect as if made under oath..."

24 indicate to you that this was a serious and formal
25 occasion?

000053

1. A. You said "quote". I don't see
2. quotation marks in here.

3 27. Q. Yes, I was quoting it for the
4 record.

5 A. Again, how do you define "formal"?
6 I repeat what I said, that I went to the clerk's
7 office and signed this document.

8 28. Q. It was an important occasion, in
9 your mind?

10 A. It all depends how you define
11 "important". I went to the clerk's office and did
12 it, and this is the fourth time I have done it.
13 When you get elected, you do that.

14 29. Q. Okay.

15 MR. LENCZNER: Just off the record.

16
17 --- DISCUSSION OFF THE RECORD

18
19 BY MR. RUBY:

20 30. Q. I'm showing you a second document.
21 Do you recognize that document?

22 A. Yes.

23 MR. LENCZNER: Just...

24 THE DEPONENT: Different date, though.

25 MR. LENCZNER: Yes, and for the record,

1 the first one is dated...we didn't
2 mention...Exhibit 1 is dated...could you
3 just say the date, Mr. Ruby?

4 31. MR. RUBY: November 2, 2010.

5 MR. LENCZNER: This one is dated
6 November 19, 2003.

7
8 BY MR. RUBY:

9 32. Q. Do you recognize that document?

10 A. Yes, I do.

11 33. Q. Are your answers with respect to it
12 the same as the earlier document, Exhibit 1?

13 A. These aren't the same documents.

14 This section 23 is different than that section 196.

15 34. Q. How is it different?

16 A. It does not say the same as this.

17 35. Q. Got it. The significance of the
18 difference?

19 A. One says section 186 of the City of
20 Toronto Act 2006 , and I don't know. You just took
21 the other one. I don't know what it says.

22 36. Q. Well, the first one relates to you
23 taking the office of mayor, and the one I just
24 showed you relates to taking the office of
25 councillor, right? Other than that, are there any

1 changes?

2-----A.----- I would have to read it. One says
3 "councillor" and one says "mayor". The sections are
4 different. The year is different. Number 4 is not
5 the same. The last paragraph is the same. The
6 dates are different. I can't see a logo on that. I
7 can't really say that that is the same. It could
8 be. These aren't the same. There are some
9 differences I just pointed out.

10 37. Q. That is your signature on both of
11 them?

12 A. M'hm.

13 38. Q. Yes?

14 A. Yes.

15 39. Q. Did that language in the last
16 paragraph on each one of the indicate to you that
17 this was a serious promise?

18 A. It all depends how you define
19 "serious".

20 40. Q. That's the best answer you can give
21 me?

22 A. It all depends how you define
23 "serious".

24 41. MR. RUBY: ~~Okay, we should mark the~~
25 second one. ~~those you have already~~

1 --- EXHIBIT NO. 2: City of Toronto Declaration of
2 Office, dated November 19, 2003,
3 signed by Robert Ford
4

5 BY MR. RUBY:

6 42. Q. I show you now the third in the
7 series dated November 24th, 2006. That's your
8 signature at the bottom?

9 A. Yes.

10 43. Q. And you would give the same answers
11 respecting that document as you gave about the
12 earlier ones, correct?

13 A. What is the question?

14 44. Q. All the questions, rather than
15 repeat them, I'm asking whether you have the same
16 comment about this document.

17 A. When you repeat the question, I'll
18 answer the question.

19 45. Q. I don't think I can repeat the
20 question. Do you have any different feelings about
21 this document than those you have already expressed?

22 A. I was in the clerk's office and I
23 signed it in front of the clerk.

24 46. Q. ~~Do you have any different feelings~~
25 respecting this document than those you have already

1 expressed?

2 A: No, I think they were relatively the
3 same, except for some wording has changed.

4 47. MR. RUBY: We will put that 3.

5
6 --- EXHIBIT NO. 3: City of Toronto Declaration of
7 Office dated November 24, 2006,
8 signed by Robert Ford

9
10 BY MR. RUBY:

11 48. Q. I take it when you signed these
12 documents you meant the words in it, and intended
13 them to be followed, correct?

14 A. Yes, when you sign something, yes.

15 49. Q. And in each case section 4 of the
16 document says:

17 "...Oath of office: I will disclose any
18 pecuniary interest direct or indirect in
19 accordance with the MCIA..."

20 A. That's not what number 4 says here.

21 MR. LENCZNER: It's number 3 in Exhibit
22 3. I don't know. Maybe the numbers have
23 changed around a little bit, but anyway,
24 they say what they say.

25

1 BY MR. RUBY:

2 50. Q. They all say this, and of course you
3 meant to do just that, correct?

4 A. Do what?

5 51. Q. "...disclose any pecuniary interest
6 direct or indirect in accordance with the
7 MCIA ..."

8 A. Whatever the document said, I agreed
9 with.

10 52. Q. When you signed these documents did
11 you know that under the MCIA you must declare a
12 pecuniary interest and that you may not vote nor
13 speak to a matter in which you have a pecuniary
14 interest, whether on your own behalf or through or
15 with another entity?

16 A. What does the MCIA stand for?

17 53. Q. Municipal Conflict of Interest Act .

18 A. Okay, can you repeat the question?

19 54. Q. You knew when you signed these
20 documents that under the Municipal Conflict of
21 Interest Act you must declare a pecuniary interest,
22 and you must not vote on or speak to the matter in
23 which you have a pecuniary interest, direct or
24 indirect, whether on your own behalf, or through or
25 with another entity, yes?

1 A. I don't know the Act inside and out.

2 So I'm familiar with it, but I don't know it exact.

3 55. Q. Did you know those things that I
4 just read to you?

5 A. I'm familiar with it.

6 56. Q. Familiar means to me that you have a
7 rough understanding of it. Is that what it means to
8 you?

9 A. That's fair.

10 57. Q. But no part of what I read is a
11 surprise to you. You knew that?

12 A. Again, it's depending on the way
13 you're phrasing it.

14 58. Q. I'm showing to you section 5 of the
15 MCIA . I would like you to read it.

16 MR. LENCZNER: We have got a copy.

17

18 BY MR. RUBY:

19 59. Q. Okay. I take it this part of the
20 Act you knew?

21 A. Again, I don't know this Act inside
22 and out.

23 60. Q. Did you know this part of the Act at
24 the time when you signed the documents?

25 A. I don't recall. Again, I don't know

1 this Act word for word.

2 61. Q. I don't expect you to know it for
3 word for word. Did you understand the content of
4 the Act, particularly section 5(1), as you have just
5 read it?

6 A. I'm not a lawyer. I don't know all
7 the legal aspects of this Act.

8 62. Q. What parts don't you understand,
9 starting with section 5?

10 A. I'm sure there are a lot of things,
11 all these...I don't know what an R.S.O. is. I don't
12 know what 10.50 is. I'm not familiar with some of
13 the terminology in here. I'm not a lawyer.

14 63. Q. Okay, let's go through section 5.
15 What parts didn't you understand of the preamble.
16 5(1), starting:

17 "...Where a member..."

18 Running down to the words:

19 "...the member..."

20 And then I will take you through (a), (b) and (c).

21 Are there any parts of that you didn't understand?

22 MR. LENCZNER: Mr. Ruby, really, he has
23 told you that he didn't know the Act. He
24 had a rough understanding. I don't
25 understand. Why don't you get to the

1 events that we're talking about, and you
2 can ask him what his understanding is?

3 64. MR. RUBY: This is the question that I
4 want to explore.

5 MR. LENCZNER: All right, explore it.
6 He has told you he is not a lawyer, and he
7 hasn't read the Act. He has an
8 understanding. If you don't want to know
9 what his understanding is, fine.

10

11 BY MR. RUBY:

12 65. Q. What parts of section 5(1) in the
13 preamble, first of all, do you not understand?

14 A. I don't understand the last, part
15 (c).

16 66. Q. Okay, the last part is the part you
17 already pointed out to us, R.S.O., et cetera?

18 A. Right.

19 67. Q. So you knew, then, that under the
20 MCIA you must declare a pecuniary interest, and you
21 must not vote or speak to the matter in which you
22 have a pecuniary interest, whether on your own
23 behalf or through or with another entity?

24 A. Legal staff usually tells you if you
25 have a conflict or not. The members don't.

1 68. Q. That's interesting, but the question.

2 I asked was whether, as a result of reading that,

3 you understood and you knew that under the MCIA, you

4 must declare a pecuniary interest direct or

5 indirect, and you must not vote on or to speak to

6 the matter in which you have a pecuniary interest,

7 whether on your own behalf or through or with

8 another entity. Yes?

9 A. If the City is benefiting from it,

10 yes.

11 69. Q. So you thought it only applied if

12 the City was benefiting from it?

13 A. Yes.

14 70. Q. As a city councillor in 2006 you

15 received a copy of the 2006-2010 Council Handbook,

16 yes?

17 A. I don't recall.

18 71. Q. Did the others get them?

19 A. I don't recall.

20 72. Q. Do you have one?

21 A. I don't recall.

22 73. Q. Have you ever read the Council

23 Handbook?

24 A. I don't recall even getting one.

25 74. Q. I take it, then, you have no memory

1 of ever studying it or looking at it or reading it?

2 A. I don't recall.

3 75. Q. You have no memory of ever getting
4 it, studying it or reading it?

5 A. I don't recall.

6 76. Q. "I don't recall," is not a response
7 to the question. I'm asking you whether you
8 presently have any memory of reading it, studying it
9 or getting it.

10 A. I don't recall.

11 77. Q. The answer is no, you have no such
12 memory?

13 A. No, that's not the answer. The
14 answer is I don't recall getting a handbook.

15 78. Q. And I take it therefore it follows,
16 if you have no memory of ever getting it, that you
17 have no memory of ever reading it, studying it?

18 A. Maybe I use different terminology.
19 I don't remember.

20 79. Q. When you say, "I don't remember,"
21 you mean you have no memory presently in your mind.
22 Is that correct?

23 A. Again, I have got a memory in my
24 mind, but I don't...I can't remember the handbook
25 that you're referring to.

1 80. Q. Do you have any memory of the
2 handbook?

3 A. I just answered that question.

4 81. Q. You said, "I have a memory in my
5 mind." What is it you have in your mind?

6 A. I can remember what I ate for
7 breakfast this morning.

8 82. Q. Okay. While I'm reading from a
9 document you have no memory of ever getting or
10 reading, I'm not asking you if you remember reading
11 this. I'm asking you if this was your understanding
12 of your obligation, and whether it's phrased
13 correctly, and the language I'm using comes from
14 that booklet at page 25:

15 "...The Municipal Conflict of Interest Act
16 generally requires that if there is a
17 matter before council that relates to a
18 member's 'direct or indirect pecuniary
19 interest' then there is a duty on the
20 member to not participate in the decision-
21 making process related to the matter..."

22 Was that your understanding throughout your years on
23 council?

24 A. If you're told by legal staff that
25 you have a conflict, you declare a conflict if it

1 benefits the City.

2 83. Q. And that was your only

3 understanding?

4 A. From what I understand of the
5 Municipal Conflict of Interest Act, yes, if it
6 benefits the City.

7 84. Q. And you have accurately expressed to
8 me what your understanding of the Act was now,
9 correct?

10 A. Again, I don't know the Act as well
11 as a lawyer would know it. We get advice from our
12 legal staff if we have a conflict.

13 85. Q. Okay, but I now understand what is
14 in your mind about the content and the obligations
15 imposed upon you respecting conflicts of interest,
16 yes? You nodded your head yes?

17 A. I don't understand the question.
18 Can you repeat that?

19 86. Q. Sure. Given what you have just
20 said, I now understand what you know, what you
21 understand, about the obligation of a council member
22 with respect to the Municipal Conflict of Interest
23 Act ?

24 A. If you have a conflict, legal staff
25 will tell you you have a conflict, if the City

benefits from it.

87. Q: And that's your understanding,
correct?

A. Yes.

88. MR. RUBY: Again, yes, we should put
this in as an exhibit.

MR. LENCZNER: No, we shouldn't. It
hasn't been identified.

89. MR. RUBY: You're right, we can't,
because he hasn't identified it at all.

MR. LENCZNER: That's right, so you
can't put it in. You can...what?

90. MR. RUBY: You're right. I can't put it
in.

MR. LENCZNER: Right.

91. MR. RUBY: We should mark it, however,
as A.

MR. LENCZNER: Why?

92. MR. RUBY: So that it can be identified
in any case or further proceedings as to
what document we were actually dealing
with.

MR. LENCZNER: You weren't. You were
just...the preamble to all of your
questions was, "I can't...since you haven't

1 read it, I can't refer you to it; and I
2 can't refer to it, but I'm going to use the wording
3 out of there to see if it is consistent
4 with your understanding."

5 93. MR. RUBY: Right, but then I...

6 MR. LENCZNER: So you read the words in,
7 and it just...it came from the Globe and
8 Mail, or it came from there. It doesn't
9 matter. It doesn't make it an exhibit.

10 94. MR. RUBY: No, it doesn't make it an
11 exhibit, but it does mean that unless you
12 want me to give the evidence of what I was
13 reading from and have it accepted as being
14 true, I really have to identify that
15 document in some way if anyone wants to
16 look at the record later.

17 MR. LENCZNER: If you want to identify
18 it as Exhibit A for identification, I have
19 no problem.

20 95. MR. RUBY: I think it would be helpful
21 to keep things in an orderly way.

22 MR. LENCZNER: Fine, fine.

23 96. MR. RUBY: We'll do that.

24 MR. LENCZNER: A for identification.

25 97. MR. RUBY: Thank you.

1 MR. LENCZNER: Is there a date on that?

2 MS. CHAISSON: There is, 2006 to 2010 is
3 part of the title.

4 MR. LENCZNER: That's good enough to
5 identify it.

6 MS. CHAISSON: Thank you.
7

8 --- EXHIBIT A: (for identification) Council
9 Handbook, 2006 to 2010
10

11 BY MR. RUBY:

12 98. Q. Now, you spoke about getting advice
13 from your staff on matters of conflict of interest,
14 and I take it that getting that advice is important
15 to you?

16 A. Legal staff.

17 99. Q. Okay, and what legal staff do you
18 have available?

19 A. There is Anna...her name is Anna
20 Kinastowski. She's the head of our legal
21 department, and she sits in all the council
22 meetings.

23 100. Q. And is she a member of the Bar of
24 Ontario?

25 A. I couldn't answer that question.

1 101. Q. Does she have any duties other than
2 legal?

3 A. I don't know.

4 102. Q. Would it surprise you that the
5 integrity commissioner is available to provide
6 confidential advice to councillors, though not
7 specifically legal advice, on a range of matters,
8 including "conflict of interest issues (arising from
9 the Municipal Conflict of Interest Act and the
10 members' Code of Conduct)"? Would that surprise you
11 or is that something you knew?

12 A. I don't know exactly what her job
13 description is, but that could be part of it.

14 103. Q. You have no idea one way or the
15 other, do you?

16 A. I don't know exactly what her job
17 entails, no.

18 104. Q. You don't know whether her job
19 includes that or not?

20 A. It could very well, but I don't
21 know. I don't know the job description.

22 105. Q. Similarly, how councillors can avoid
23 formal complaints, that's part of her job
24 description in this document. Would that surprise
25 you?

1 A. Complaints about what?

2 106. Q. Actually complaints from the public,
3 complaints from other council members.

4 A. That would go through the
5 ombudsperson, not the integrity commissioner, if
6 there is a complaint from the public about...it all
7 depends what issue we're talking about.

8 107. Q. Okay, or integrity commissioner
9 complaints, how to avoid them, how to avoid breach
10 of Code of Conduct allegations, you don't know any
11 of this?

12 A. What is your question?

13 108. Q. I'm asking whether you're familiar
14 with the fact that she apparently does that, and the
15 answer I think I'm hearing is that you don't know
16 that?

17 A. I don't know her job description. I
18 have never seen what the job entails.

19 109. Q. And lastly, that you can get advice
20 from the integrity commissioner about appropriate
21 steps to correct a mistake?

22 A. You could probably call any City
23 staff for any reason.

24 110. Q. But you have no specific information
25 about that being part of her job description?

1 A. I don't have her job description of
2 what she does.

3 111. Q. Okay. I'm reading from the 2010-14
4 Council Handbook at page 77. We should put that in
5 with a lettered exhibit.

6 MR. LENCZNER: Fine, the same. I have
7 the same comments as before.

8 112. MR. RUBY: Yes.

9
10 --- EXHIBIT B: (for identification) Council
11 Handbook, 2010 - 2014

12
13 BY MR. RUBY:

14 113. Q. And you have no memory of ever
15 reading or studying this document either?

16 A. I don't remember receiving that
17 document or reading it.

18 MR. LENCZNER: That's Exhibit B for
19 identification.

20
21 BY MR. RUBY:

22 114. Q. Have you ever sought out the
23 integrity commissioner's advice?

24 A. I don't recall.

25 115. Q. Are you aware that the integrity

1 commissioner publishes annual reports?

2 A. I don't remember an annual report.

3 I remember issues that arise, she put in these
4 reports to council. I didn't know about an annual
5 report.

6 116. Q. But you have no knowledge about any
7 annual report?

8 A. I can't remember any annual report.

9 117. Q. You have never read them, as far as
10 you can remember?

11 A. I don't remember an annual report.
12 Are we talking about funding or employees?

13 118. Q. It's an annual report issued by the
14 integrity commissioner.

15 A. I don't recall.

16 119. Q. For example, council received the
17 2011 annual report at the July 12 to 14 council
18 meeting.

19 A. Yes, I don't recall voting on that.

20 120. Q. You would have been there, however?

21 A. I don't know.

22 121. Q. If you were there, you wouldn't have
23 read the document nonetheless?

24 A. I try to read as much as possible.

25 I can't remember exactly what you're referring to,

1 no.

2 122. Q. Okay: Page 1 of the city council
3 minutes.

4 MR. LENCZNER: What are we looking at
5 here?

6 MS. CHAISSON: It's Exhibit T in our
7 supplementary record.

8

9 BY MR. RUBY:

10 123. Q. It indicates that you were present
11 that day.

12 MR. LENCZNER: This is...

13 MS. CHAISSON: Exhibit T, page 4..

14

15 BY MR. RUBY:

16 124. Q. In your affidavit, as you have
17 already told me, the indication you give is that the
18 city clerk and/or staff will also normally advise or
19 remind a member of council of a potential conflict
20 of interest, if staff believes that member may be in
21 a conflict of interest in the past on a similar
22 issue. That's your affidavit.

23 MR. LENCZNER: This is paragraph 24

24 you're referring to him?

25 125. MR. RUBY: It is.

1 MR. LENCZNER: Okay, yes.

2 THE DEPONENT: Or at a committee
3 meeting, yes.

4

5 BY MR. RUBY:

6 126. Q. Okay. So that's normally done. Is
7 it always done?

8 A. I don't think it is always done. It
9 all depends if the clerk is aware of it.

10 127. Q. And is there any protocol in your
11 office to see that the clerk or staff become aware
12 of it?

13 A. Well, it is up to usually legal
14 staff to tell you whether you have a conflict or
15 not.

16 128. Q. And the legal staff being your staff
17 or the city staff?

18 A. Well, city staff and...we work
19 together. If something comes up, and...we ask Anna
20 for advice, and she'll tell you, and she'll remind
21 you at committee, she'll remind you at council.

22 129. Q. When you say "staff" in that
23 paragraph we just looked at, do you mean the city
24 clerk's staff, or do you mean your own staff?

25 A. Legal staff.

1 130. Q. City staff?
2 A. Yes, she is an employee of the City.

3 131. Q. Not somebody on your particular
4 office staff. It's somebody in the city legal
5 department or under the authority of the City,
6 itself?

7 A. Legal staff, yes, it's...Anna, yes,
8 the legal staff.

9 132. Q. Diana, the one woman we referred to?
10 MR. LENCZNER: Anna.

11
12 BY MR. RUBY:

13 133. Q. Anna, thank you. So when
14 you...that's what you mean when you say "or staff"?

15 A. Staff will advise you whether you
16 have a conflict or not.

17 134. Q. What procedure do you have in place
18 to let the city clerk know when you might have a
19 conflict, if any?

20 A. We don't have anything in place, and
21 I don't think...

22 MS. CHAISSON: Just off.

23
24 --- DISCUSSION OFF THE RECORD
25

1 BY MR. RUBY:

2 135. Q. What protocol do you have with
3 regard to your own staff to see that you are alerted
4 to cases of potential conflict of interest?

5 A. I don't believe we have an actual
6 protocol in our office.

7 136. Q. Is there any procedure at all in
8 relation to this?

9 A. Any procedure with respect to...

10 137. Q. Anna being told that she should give
11 advice on this issue?

12 A. No, I don't think we have a
13 procedure. I don't think any councillors or mayor
14 have a procedure that we follow.

15 138. Q. You don't know what the procedures
16 are in other councillors' offices, for the most
17 part?

18 A. No.

19 139. Q. Okay.

20 MR. LENCZNER: There are agenda items,
21 obviously, for every committee. I'm just
22 helping out here, but agenda items for the
23 committee and for council. So people have
24 some forewarning of what is going to be
25 raised.

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1 140. MR. RUBY: Absolutely.

2
3 BY MR. RUBY:

4 141. Q. The responsibility of a city clerk
5 that you describe in paragraph 24, on what is that
6 based? Is there any law or authority or source for
7 that responsibility you know of?

8 MR. LENCZNER: I don't think he calls it
9 a responsibility. He just says what he
10 says in paragraph...

11
12 BY MR. RUBY:

13 142. Q. A practice, let me call it a
14 practice, any source for that, or any authority for
15 that?

16 A. I don't know. I couldn't...

17 143. Q. Not that you know of?

18 A. No, I'm not aware of anything like
19 that.

20 144. Q. Okay. Did you have any discussion
21 with anybody on whether to participate in the debate
22 on February 7, 2012 regarding this issue about your
23 taking donations from certain persons, and the
24 integrity commissioner's concern about it?

25 A. Did I have discussions with anybody?

1 Yes, our staff talks about every report that goes to
2 council.

3 145. Q. Okay, what was said on that subject?

4 A. I don't recall. There is literally
5 hundreds of items that go to council.

6 146. Q. I take it was not particularly of
7 importance to you, and that you can't remember it
8 even now, and then it was of no significance?

9 A. I consider every item important.

10 147. Q. Equally important?

11 A. Again, I consider every item that we
12 deal with at city hall important.

13 148. Q. Do you consider every item to be of
14 equal importance?

15 A. Again, it's hard to say if...they're
16 all very important to me as the mayor.

17 149. Q. Was there any discussion you can
18 remember prior to the debate on this subject of the
19 reimbursement issue or the integrity commissioner's
20 proposals to council?

21 A. I don't recall exactly what was
22 said.

23 150. Q. How long did the discussion take
24 place?

25 A. Discussions take place in boardrooms

1 and in office of the clerks.

2 151. Q. How long?

3 A. I can't remember that. I don't
4 recall that.

5 152. Q. Did you receive any advice during
6 that discussion?

7 A. I don't recall that.

8 153. Q. With respect to the debate on August
9 25, 2010 on the reimbursement issue...

10 MR. LENCZNER: There was no debate.

11

12 BY MR. RUBY:

13 154. Q. With respect to the motion or the
14 attempt to re-open it on August 25, 2010...

15 MR. LENCZNER: There was no motion to
16 re-open. There was no debate. The
17 matter...just so you understand, all of
18 these...none of them were held. So as an
19 omnibus, all of the resolutions went
20 through without debate, and without vote.
21 There was a vote, but...

22 155. MR. RUBY: I think you're wrong on that,
23 but let me rephrase to avoid the
24 difficulty.

25 MR. LENCZNER: Yes, there was an

1 attempt...

2 156. MR. RUBY: To re-open.

3 MR. LENCZNER: ...to re-open, which
4 failed.

5 157. MR. RUBY: That's right.

6 MR. LENCZNER: And then the whole
7 packages went through.

8

9 BY MR. RUBY:

10 158. Q. Right, with respect to the original
11 adoption or the consent to re-open, on that subject
12 on that date, was there any discussion prior to it
13 as to whether you should participate in that debate
14 with anyone?

15 A. I don't recall. I don't recall.

16 159. Q. Similarly, I take it, you don't
17 recall whether there was any discussion about
18 your...prior to your voting on either matter,
19 correct?

20 A. I can't recall exactly. If I am
21 there, and I see it, I vote. If I have an event I
22 have to go to, I won't be there. I can't remember
23 my voting record right now, and if I'm there or not.

24 160. Q. Going back to section 5(1), take a
25 look at that, of the Act? You will agree with me

1 that it's the member who has an obligation under
2 this Act, not anybody else? Is that your
3 understanding?

4 A. For what? I don't understand.

5 161. Q. Take a look at it, and see. The Act
6 puts an obligation on the member to...

7 A. "...the member either on his or her
8 own behalf or while acting for..."

9 162. Q. Yes.

10 A. "...prior to any pecuniary
11 interest..."

12 So what is your question?

13 163. Q. My question is you agree with me
14 that the obligation is placed here on the member.
15 You understood that?

16 A. It's up to you to inform or ask
17 questions of the city clerk or legal...

18 164. Q. And no obligation is put on anybody
19 else but the member by this legislation, correct?

20 A. Sometimes you're in a conflict,
21 sometimes you're not. You may think you are, and
22 sometimes you're not. So it's more about...to get
23 legal advice.

24 165. Q. And the obligation, whatever it may
25 be, is placed on the member of council, not anybody

1 else, correct?

2 A: It's up to you to ask the questions
3 or find out.

4 166. Q. Thank you. So far as you're aware,
5 did you receive legal advice? Did you seek it from
6 an outside lawyer or anybody else?

7 A. No.

8 167. Q. No, you're shaking your head no?

9 A. And I said no.

10 168. Q. You're sometimes very soft spoken,
11 and I want to make sure she gets it. Did you seek
12 advice from anyone who is not a lawyer?

13 A. With respect to what?

14 169. Q. Whether you should vote, take part
15 in these two debates?

16 A. I don't recall. I don't believe I
17 did.

18 170. Q. Okay. Are you aware that you had a
19 right to seek free legal advice regarding both
20 complaints under the Code of Conduct complaint
21 protocol for members of council?

22 A. Free advice within the City or
23 outside advice?

24 171. Q. That you could under the heading
25 "Key council policies", in the city council Handbook

1 as said there:

2 "...Council has the authority under the
3 complaint protocol to reimburse the parties
4 to the complaint for actual and reasonable
5 legal and related expenses up to \$5,000..."

6 A. I wasn't aware of that.

7 172. Q. Okay. Obviously you have never
8 invoked it?

9 A. No, I wasn't aware that you could
10 hire outside lawyers using taxpayers' money.

11 173. Q. Were you aware that the Code of
12 Conduct complaint protocol for members of council
13 also allows you to charge one hour of legal advice
14 to your office budget when you're the subject of an
15 integrity commissioner investigation?

16 A. No, I wasn't aware of that.

17 174. Q. Have you ever sought legal advice on
18 the interpretation or application of the Municipal
19 Conflict of Interest Act ?

20 A. No.

21 175. Q. Now, you have declared conflicts of
22 interest over the years quite regularly. Yes?

23 A. It all depends how you define
24 "regularly".

25 176. Q. More than half a dozen occasions?

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1 A. I don't recall how many times, but I
2 have declared a conflict before.

3 177. Q. But it's something you do, and
4 you're familiar with the process?

5 A. If I don't know, then I'll ask Anna
6 or the clerk whether I should declare a conflict,
7 and they'll let me know.

8 178. Q. You are familiar with the process?

9 A. What process are you referring to?

10 179. Q. Of making...declaring an interest
11 and refraining from voting, et cetera?

12 A. When you said "a process", I'm aware
13 that you have a declaration at the beginning of a
14 committee meeting, a council meeting, and you
15 declare that interest, and the nature of that
16 interest.

17 180. Q. Okay, and am I correct that with
18 respect to these two votes that we have been talking
19 about, August, 2010 and February, 2011, you didn't
20 consider...

21 MR. LENCZNER: Wait, whoa.

22 THE DEPONENT: I don't remember talking
23 about a February, 2011 meeting.

24 MR. LENCZNER: You don't mean February,
25 2011. You mean February, 2012.

1 181. MR. RUBY: Thank you.

2
3 BY MR. RUBY:

4 182. Q. Yes, February 7, 2012 or August 25,
5 2010, those are the two that are in issue.

6 A. I never...

7 MR. LENCZNER: No, there is only one in
8 this issue. August of 2010 does not count.
9 It's not timely. So we're only talking
10 about one issue on which your client has
11 brought his application, February 7, 2012.

12 183. MR. RUBY: I'm not going to argue the
13 scope of the application with you now, but
14 I'm just asking these questions.

15
16 BY MR. RUBY:

17 184. Q. Do I hear or understand that on
18 neither of those occasions did you ever consider
19 this matter a conflict, never thought about it?

20 A. I never declared a conflict.

21 185. Q. Did you ever think about it?

22 A. I don't remember what I thought of
23 an hour ago. You have many thoughts in your mind,
24 so no, I can't remember exactly what I thought that
25 day.

1 186. Q. Okay. On July 24th, 2001 you
2 declared a conflict of interest relating to a clause
3 in a report about the City's printing procedures.

4 A. I would have to look at...I don't
5 remember what happened 11 years ago. I'm sorry.

6 MS. CHAISSON: It is at tab DD of our
7 supplementary record, if you would like to
8 take a look, page 4, under "Declarations of
9 interest".

10 MR. LENCZNER: DD, did you say?

11 MS. CHAISSON: That's correct.

12 MR. LENCZNER: At page 4?

13 MS. CHAISSON: That's correct, section
14 7.5 under "Declarations of interest", the
15 first paragraph.

16 MR. LENCZNER: This is dealing with
17 the...it says "Printing and distribution",
18 you declared your interest in that you're
19 the owner of a company that supplies
20 decals, labels and tags.

21 THE DEONENT: That's accurate.

22
23 BY MR. RUBY:

24 187. Q. Okay. In that case, what was the
25 financial interest?

1 A. I don't recall what the financial
2 interest was. I don't remember. I don't have the
3 report in front of me. Is this the report? I don't
4 think this is the report. I don't remember what
5 financial interest is here. All I know is we don't
6 anymore, but we used to supply labels, tags and
7 stickers and decals and printing material to the
8 City at one time.

9 188. Q. And the "we" is Deco Labels & Tags
10 Inc.?

11 A. It's Deco Labels & Tags/Deco
12 Adhesive Products Limited.

13 189. Q. Thank you, and what is your interest
14 in that entity?

15 A. I am the principal owner.

16 190. Q. Are you a shareholder?

17 MR. LENCZNER: Yes, he's the principal
18 owner.

19 THE DEPONENT: Principal owner.
20

21 BY MR. RUBY:

22 191. Q. And it's your memory that the
23 company was engaged in business with the City at
24 this time or was not?

25 A. I believe we were doing business

1 with the City.

2 192. Q. Okay. So if I am trying to

3 understand the financial interest, it had to be
4 indirect. It was the company that would benefit,
5 and you would not benefit directly, but because of
6 your ownership interest and acting through the
7 company, correct?

8 A. Yes, I would believe that would be
9 correct.

10 193. Q. Okay, and you have no memory of how
11 much money was at stake or...

12 A. I don't have the report in front of
13 me. I don't know what...

14 194. Q. Okay. Do you remember whether you
15 sought any advice on the issue of conflict in that
16 case?

17 A. I don't recall, but if something
18 comes up with the printing, everyone knows I own a
19 printing business, so the staff will usually come
20 and advise me that I should declare a conflict
21 because it's printing.

22 195. Q. Okay.

23 A. We're in the printing business.

24 196. Q. Similarly, on July 22 to 24,

25 2003...have you got that one?

1 MS. CHAISSON: That's Exhibit...I'm

2 sorry, tab CC of the supplementary

3 affidavit, page 5.

4 197.

MR. RUBY: Page 5, last paragraph.

5 MS. CHAISSON: At the very bottom, last
6 paragraph on that page.

7 MR. LENCZNER: Okay, so it says:

8 "...Councillor Ford declared his
9 interest in clause 7 of report 7,
10 and a delay in award of request for
11 quotation for supply, printing and
12 mailing tax and water bills and
13 parking tags in that he owns a
14 printing company..."

15
16 BY MR. RUBY:

17 198.

Q. Right. Can you remember what the
18 possible effect would have been on you or your
19 company?

20 A. I don't know. Maybe they were going
21 out for a quote on printing tax bills, it looks
22 like, or water bills. I don't remember the amount
23 of money, but again, we run a printing company, so
24 obviously it would be a conflict if we were bidding
25 on the job.

1 199.

Q. You have no idea how much money was at stake on that occasion?

A. No idea. I don't have a report in front of me.

5 200.

Q. On November 30, December 1st and 2nd, 2004 there is another printing service one. That's the document BB, page 3.

MS. CHAISSON: So we have got tab BB, you'll see it's the second paragraph down, page 3.

MR. LENCZNER: Page 3, same thing. It says:

"...Councillor Ford declared his interest in administration committee report number 9, clause 5, headed 'Service improvement review for printing and reproduction services', in that his family owns a printing company..."

21 BY MR. RUBY:

22 201.

23 all?

Q. Do you have any memory of this at

A. No, I don't.

25 202.

Q. "Service improvement review" sounds

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1 like something that is going to happen in the
2 future?

3 A. I don't remember this report.

4 203. Q. Am I correct, though, when I say
5 that that looks like the City was about to do a
6 review. This would eventually be done in the
7 future?

8 A. I don't recall this report. I
9 couldn't...

10 204. Q. I'm asking if the title suggests
11 that to you. Does it?

12 A. I don't remember this report.

13 205. Q. Does the title mean anything to you?

14 A. Improving service, that's basically
15 what it means to me. We're trying to improve
16 service for printing.

17 206. Q. They're about to do a review of some
18 kind?

19 A. I don't have the report in front of
20 me. So I don't know exactly. Sometimes the
21 terminology is not what the report says, so...

22 207. Q. Okay. February 21, 2005...

23 MR. LENCZNER: Where are we now?

24 208. MR. RUBY: A4, page 4.

25 MR. LENCZNER: Thank you. So here it

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1 says:

2 "...Councillor Ford declared his
3 interest in policy and finance
4 committee report 3, clause 1, headed
5 'City of Toronto 2005 budget
6 advisory committee recommended
7 capital budget and 2006 - 2014
8 capital plan' as it applies to the
9 city clerk's office, as his family
10 owns a printing company..."

11
12 BY MR. RUBY:

13 209. Q. I'm not seeing the connection
14 between something that general and the printing
15 company. Do you?

16 A. Anything to do with printing usually
17 at the City of Toronto I declare a conflict.

18 210. Q. It doesn't look like it had anything
19 to do with printing, though.

20 A. Again, I don't have the report in
21 front of me. I can't remember this. You're going
22 back a number of years ago, but if it has something
23 to do with printing...

24 211. Q. That would explain it?

25 A. You would have to go through the

1 capital budget and find out if...

2 MR. LENCZNER: I'm sure there was a line

3 item for printing in that capital budget.

4 THE DEPONENT: It could be something to

5 do with...

6 MR. LENCZNER: There had to be.

7 THE DEPONENT: Exactly.

8
9 BY MR. RUBY:

10 212. Q. Wouldn't every capital budget have a
11 line item for printing?

12 A. No, capital is usually buying a
13 press. It's not an operating budget. It's your
14 capital budget, so we could have been buying a press
15 that year. The City could have, and that's the
16 conflict.

17 213. Q. Got it, thanks. If you look at
18 page...I haven't got a page. It's AA...

19 MS. CHAISSON: It's page 10. I'm sorry,
20 it'll be 121 on the upper right-hand
21 corner.

22
23 BY MR. RUBY:

24 214. Q. It appears that at the same meeting
25 you then brought a motion on the same matter as

1 which you declared a conflict of interest just
2 shortly before: I don't understand how you could do
3 that. Take a look at it, and see if you can help
4 me.

5 A. I don't remember what this is about.

6 215. Q. Okay. June 14 in tab...sorry,
7 Exhibit Y at page 2.

8 MR. LENCZNER: Sorry, where are we?

9 216. MR. RUBY: Exhibit Y, page 2, section
10 7.4.

11
12 BY MR. RUBY:

13 217. Q. In a clause of the Etobicoke York
14 community council report related to a parking
15 prohibition on Greensboro Drive, you declared a
16 conflict of interest because your family owns
17 property on the street.

18 MR. LENCZNER: So let me just read it:

19 "...Councillor Ford declared his
20 interest in Etobicoke York community
21 council report number 5, clause 16
22 headed 'Proposed no parking any time
23 prohibition on Greensboro Drive, in
24 that his family owns property on
25 Greensboro Drive...'"

1 Right.

2
3 BY MR. RUBY:

4 218. Q. Who in the family owned property?

5 A. It's where Deco Adhesive Products,
6 one of our plants are located.

7 219. Q. So it's a conflict of interest that
8 arose because of a company through which you work,
9 namely Art Deco, Deco Products? Yes?

10 A. Deco Adhesive Products is a family-
11 owned business.

12 220. Q. Okay, so it's through their being on
13 that street that you declared your conflict of
14 interest in this case. You didn't live on
15 Greensboro Drive?

16 A. No, a property that is 28 Greensboro
17 Drive is the address of where one of our factories
18 are located.

19 221. Q. Okay, so it's through the Deco
20 company?

21 A. Yes, the business.

22 222. Q. Okay. What was your interest in
23 that case? How does it affect you, that there be no
24 parking on Greensboro Drive? What is the interest?

25 A. Any time you own property or when

1 your relatives own property to do with any issue,
2 you should declare a conflict. Exactly what that
3 conflict is, I'm not quite sure. I don't recall.
4 This is a number of years ago, again.

5 223. Q. Okay. It's hard to see how any
6 money was at stake in this. Do you agree?

7 A. Again, I don't remember exactly what
8 this conflict is. I don't have the report in front
9 of me.

10 224. Q. Looking at it...

11 A. It just says:
12 "...No parking any time prohibition..."

13 225. Q. You can't help me on...

14 A. You won't be able to park...it looks
15 like here you won't be able to park on Greensboro
16 Drive. I do not recall exactly what this report
17 said.

18 226. Q. It's hard to see how there is any
19 financial interest in that. You can't help me on
20 what that might be?

21 A. I can't give you that...I don't have
22 that information.

23 227. Q. All right. If you would turn next,
24 please, to Exhibit 2, page 3. You declared a
25 conflict in...

1 MR. LENCZNER: Let's just get the dates.

2 This is July 19 to 26, 2005.

3

4 BY MR. RUBY:

5 228.

Q. At the council meeting on July 25,

6

26 and 27...

7

MR. LENCZNER: The same issue. It says:

8

"...Councillor Ford declared an

9

interest in Etobicoke York community

10

council report number 5, headed

11

'Proposed no parking any time

12

prohibition on Greensboro Drive' in

13

that his family owns on property on

14

Greensboro Drive..."

15

Same thing.

16

THE DEPONENT: Same report.

17

MR. LENCZNER: Same report.

18

19 BY MR. RUBY:

20

229.

Q. And the same answers?

21

MR. LENCZNER: Yes.

22

THE DEPONENT: I don't recall, but it's

23

the same. Everything has to go to city

24

council for final approval.

25

1 BY MR. RUBY:

2 230. Q. Okay. On July 25, 2006...

3 MR. LENCZNER: Where are we now?

4 231. MR. RUBY: We're at X, page 4.

5

6 BY MR. RUBY:

7 232. Q. There were two conflicts of

8 interest.

9 MR. LENCZNER: What page are we at?

10 MS. CHAISSON: Page 4, second paragraph
11 from the top.

12 MR. LENCZNER: "...Councillor Ford

13 declared his interest in the

14 following matters in that his family
15 owns a printing company:

16 Administration committee report 5,
17 clause 7, heading 'Procurement of an
18 order picker forklift and budgeted
19 estimates related to the printing
20 equipment replacement plan of the
21 city clerk's office, records and
22 information management' and motion
23 J57, moved by Deputy Mayor Bussin,
24 respecting a limit on municipal
25 election campaign expenses..."

1 BY MR. RUBY:

2 233. Q. Let's deal with them one at a time.
3 The first one, am I correct that you seem to be
4 operating on a rule where anything involving the
5 City and printing, because you own a printing plant,
6 you declare a conflict, and there's nothing more to
7 it than that?

8 A. Usually.

9 234. Q. You don't seek legal advice of any
10 kind or other advice. You just...

11 A. Well, legal knows I own a printing
12 company. They usually tell me, or remind me to do
13 it. There is a number of reports.

14 235. Q. And do you have any memory of that
15 happening here?

16 A. No, I don't remember exactly what it
17 was.

18 236. Q. Okay, and you have no idea how much
19 interest was...money was at stake or how this
20 affected you?

21 A. No, again, if anything to do with
22 printing comes up at council, I usually declare a
23 conflict. I don't need to be advised to.

24 237. Q. Well, it sounds like you always
25 declare a conflict if it's a printing issue.

1 second page. "Declared interest" is the...

2 MR. LENCZNER: All right, it says:

3 "...Mayor Rob Ford - Speaker
4 Nunziata advised city council that
5 Mayor Ford wishes to declare an
6 interest in this matter and absent
7 himself from the chamber..."

8 And what is the matter?

9

10 BY MR. RUBY:

11 242. Q. The matter was the appointment of
12 your brother, Doug Ford, to a particular entity,
13 Region Conversation Authority in project green.

14 MR. LENCZNER: I don't see that. Can
15 you help me? Where do I see that? Is that
16 the one that the recommendation of the
17 striking committee be amended by deleting
18 Councillor Doug Ford and replacing it with
19 Councillor Shelley Carroll?

20 MS. CHAISSON: That's correct.

21 MR. LENCZNER: That's the one, okay,
22 thank you.

23 THE DEPONENT: I don't recall that, but
24 if staff said I had to declare a conflict,
25 then I would have declared it.

1 BY MR. RUBY:

2 243. Q. Because I have trouble seeing how
3 you have a pecuniary interest in Doug Ford's
4 appointment.

5 A. Again, whatever the staff tells me
6 to do, I do.

7 244. Q. You don't get or give money to your
8 brother? You each earn your own incomes?

9 A. Do I give him money?

10 245. Q. You don't give him money, he doesn't
11 give you money? You each have your own incomes?

12 A. We have our own incomes, but if he
13 needs five bucks for lunch, I give him 20 bucks or
14 10 bucks for lunch.

15 246. Q. Okay. At the city council meeting
16 on March 5, 6 and 7 at tab U...

17 MS. CHAISSON: The last page.

18 MR. LENCZNER: This is...which year is
19 this, 2012?

20 247. MR. RUBY: Indeed.

21 MR. LENCZNER: All right.

22

23 BY MR. RUBY:

24 248. Q. Council considered a complaint
25 involving land development of properties on Lake

1 Shore Boulevard East, and you appear to declare a
2 conflict because a court proceeding involving the
3 property was ongoing against you. Do you have any
4 memory of this at all?

5 A. No, I don't recall this. Again, if
6 Anna told me to declare a conflict, that's why I did
7 it.

8 249. Q. Okay. It doesn't seem to me to be
9 involving any economic interest.

10 MR. LENCZNER: Wait a minute. It
11 says...I'm not sure...the two decisions
12 were:

13 "...The city council determined that
14 development charges and education
15 development charges had been
16 properly applied to the land
17 development project located at 1675
18 and 1681 Lake Shore Boulevard
19 East..."

20 The second was that:

21 "...City council dismissed the
22 complaint filed pursuant to section
23 20 of the Development Charges Act
24 and section 257.85 of the Education
25 Act , to which the mayor declared an

1 interest as a court proceeding
2 against him was ongoing."

3

4 BY MR. RUBY:

5 250. Q. Right, but you didn't have any
6 ownership interest in this property?

7 A. I don't own anything at that
8 address. I don't own any property there, near
9 there.

10 251. Q. Okay. So you can't see any economic
11 interest in that at the present time, when you look
12 back at it?

13 A. I don't recall exactly, again.

14 252. Q. Take a look at November 19th, 2007,
15 Exhibit W, please, page 1.

16 MS. CHAISSON: Again, the last page.

17 MR. LENCZNER: The last page, did you
18 say?

19 MS. CHAISSON: Yes.

20

21 BY MR. RUBY:

22 253. Q. And this is council looking at
23 various matters related to billboard signs, and I
24 take it your company is in some kind of competition
25 on billboards?

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1 MS. CHAISSON: I believe you're not at
2 the correct tab. It's tab W.

3 MR. LENCZNER: So just a second here.

4 Yes:

5 "...Councillor Ford declared an
6 interest in that his family owns a
7 business at 28 Greensboro Drive
8 which is in the vicinity of one of
9 the referenced sign locations..."

10 THE DEPONENT: That's fair, yes.

11

12 BY MR. RUBY:

13 254. Q. How is this going to affect you
14 economically?

15 A. Again, if the staff tells me I have
16 a conflict, I declare a conflict.

17 255. Q. So at the moment, neither you nor I
18 can see any economic interest in this, right?

19 A. I don't...I'm not a lawyer. I don't
20 make those decisions. I just get told to declare a
21 conflict, and that's exactly what I do.

22 256. Q. So in all these conflicts of
23 interest, they're all very different, yes?

24 MR. LENCZNER: Well, that's your
25 characterization.

1 BY MR. RUBY:

2 257. Q. I'm asking if he agrees with that.

3 A. It all depends how you define
4 "different".

5 258. Q. Well, sometimes a financial interest
6 is your own. Sometimes it's one that is created
7 while you are acting through and with Deco Art, for
8 example, sometimes your brother.

9 A. It's up to legal staff to give you
10 that answer why, many different reasons.

11 259. Q. So am I being fair to you in saying
12 that is true, but in the end, what happens is you
13 don't think about it? It goes to your staff. You
14 do what they tell you?

15 A. Yes.

16 260. Q. There is a golf club declaration, as
17 well, if I could trouble you about it, February 6th
18 to 7th, 2012.

19 MR. LENCZNER: What tab are we at?

20 261. MR. RUBY: Tab D application book.

21 MS. CHAISSON: We have the minutes here.

22 MR. LENCZNER: It's not in here, tab D?

23 MS. CHAISSON: Tab D is for the date of
24 the February 6th, 2012 meeting.

25 MR. LENCZNER: Let me see what you're

1 talking about, because I haven't had a
2 chance to see it.

3 MS. CHAISSON: Certainly.

4 MR. LENCZNER: All right, so this is
5 February 6 and 7, 2012. This is the same
6 time as the complaint?

7 MS. CHAISSON: That's correct.

8 MR. LENCZNER: So the golf course is
9 assessment review thing, and it says that:

10 "...The following members declared
11 an interest: Mayor Rob Ford and his
12 family are members of the private
13 golf course, Councillor Doug Ford,
14 Deputy Mayor Doug Holyday and
15 Councillor James Pasternak..."

16 And all give the same reason, they're
17 members of the golf club, the private golf
18 club.

19
20 BY MR. RUBY:

21 262. Q. What was the financial interest in
22 this one?

23 A. Again, I couldn't answer that
24 question, but I know the legal staff advised all the
25 councillors and the mayor that if someone was a

1 member or any family members...or, "If anyone from
2 your family is a member of the golf course, you
3 should declare a conflict," and my mom is a member
4 at Lambton.

5 263. Q. And by "the legal staff" you mean?

6 A. Anna.

7 MR. LENCZNER: Should we mark this,
8 then, as Exhibit 3, is it?

9 MS. CHAISSON: Exhibit 2...I'm sorry,
10 it's actually 4.

11 MR. LENCZNER: Exhibit 4.

12 MS. CHAISSON: All of the declarations
13 stuck together.

14 MR. LENCZNER: All right, so Exhibit 4
15 is the GM10-12 of February 6 and 7, 2012.

16
17 --- EXHIBIT NO. 4: GM10-12 of February 6 and 7, 2012

18
19 BY MR. RUBY:

20 264. Q. So this sounds like there wasn't
21 much money in it for you or your family?

22 A. I don't recall the financial
23 implications of this.

24 265. Q. So council is essentially debating
25 the taxes of the club. I suppose if council went on

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1 and raised the taxes, the club may charge its
2 members more or less, depending?

3 A. I don't know why, and I don't have
4 the report in front of me, but came in and told
5 members of council, "If you or any family members
6 are members of the club, you should declare a
7 conflict." That's all I recall, and that's what we
8 did. My mom is a member at Lambton Golf & Country
9 Club.

10 MR. LENCZNER: Where do we have the
11 taxes of the club? I don't see it. Where
12 is that in here?

13 MS. CHAISSON: It could be in the
14 background materials.

15 MR. LENCZNER: That you have?

16 MS. CHAISSON: We don't have them in our
17 record. I do not have them here.

18 MR. LENCZNER: Okay.

19 266. MR. RUBY: If you need them, let me
20 know, and we'll look and see.

21 MR. LENCZNER: No, I don't, except you
22 just make the...you made the statement, and
23 I'm not quarrelling with it, but I didn't
24 see it here. You may be right, you may not
25 be right. I don't know.

1 267. MR. RUBY: I'm just saying if it turns
2 out by the end of the day you think it
3 matters, let us know, and we'll track that
4 down.

5 MR. LENCZNER: Okay.
6

7 BY MR. RUBY:

8 268. Q. Now, on February 12, 2012 you didn't
9 declare...on February 7, 2012, you didn't declare an
10 interest in the council debate about whether you had
11 to provide proof that you had personally paid back
12 \$3,150 to donors who had given to the football
13 foundation?

14 A. No.

15 269. Q. That's correct? Is there any
16 documents that you have, or any writing of any form,
17 that touch or concern upon this issue of paying back
18 donors who had donated to the football foundation?
19 Do you have any documents, either from the initial
20 complaint right through to the present date?

21 A. I am sure that staff has complaints
22 or documents. I'm sure they've got...the integrity
23 commissioner obviously has a report.

24 270. Q. Would there be any objection to
25 having you produce those for me?

1 MR. LENCZNER: Well, I don't see the
2 relevance of them.

3 271. MR. RUBY: I think they're relevant
4 because they'll explain a course of conduct
5 in relation to this particular...

6 MR. LENCZNER: Well, we know what the
7 recommendation of the integrity
8 commissioner was in 2010. The motion on
9 the agenda item was to provide proof that
10 he had paid the amounts, and then that
11 motion didn't go through. It got changed.
12 So I don't see the relevance of producing
13 any documentation. I just...so I'm
14 objecting.

/R

15 272. MR. RUBY: Got it.

17 BY MR. RUBY:

18 273. Q. In your affidavit at paragraph 16
19 you say:

20 "...There is no financial consequence to
21 any of the recommendations put forward by
22 the integrity commissioner..."

23 Can you explain what you mean by that?

24 A. I don't see how the City benefits
25 from this under the Municipal Conflict of Interest

1 Act .

2 274. Q. And therefore there is no need for
3 you to worry about a conflict, correct?

4 A. I wasn't given...I wasn't told by
5 legal to declare a conflict.

6 275. Q. I know that, but I'm trying to
7 figure out what was going on in your head.

8 A. I don't remember what was going on
9 in my head. I have thousands of thoughts that go
10 through my head every day.

11 276. Q. When you say now:

12 "...There was no financial consequence to
13 any of the recommendations put forward by
14 the integrity commissioner..."

15 Didn't the integrity commissioner recommend earlier
16 that you pay back, council adopted that, and now
17 they were asking for a time limit on proof that that
18 had happened? In your mind...

19 A. I don't recall exactly what it was,
20 but yes, the integrity commissioner said I should
21 pay this back.

22 277. Q. And in your mind, is that not a
23 financial consequence?

24 A. It has nothing to do with the City
25 under the Municipal Conflict of Interest Act . I

1 don't see how the City benefits from this.

2 278. Q. And that's the test in your mind?

3 A. Yes.

4 279. Q. Did you receive legal advice on this
5 question?

6 A. I think you asked me that before.

7 280. Q. Yes, I'm just trying to make sure
8 the answer is no.

9 A. I said no.

10 281. Q. Yes. You agree that if council
11 voted to make you pay it back, you had to pay it
12 back?

13 MR. LENCZNER: Well, that's not this
14 vote. This wasn't this vote.

15 282. MR. RUBY: Got it.

16 MR. LENCZNER: That is all we're talking
17 about. Council didn't vote that here.

18 283. MR. RUBY: I'm asking whether...I'll put
19 it again.

20 THE DEPONENT: From what I...from my
21 understanding, I'm not a lawyer, this does
22 not benefit the City one way or another.

23
24 BY MR. RUBY:

25 284. Q. Got it, but you did understand that

1 if the council ordered you to pay the money back,
2 you had to do that?

3 MR. LENCZNER: Don't answer that
4 question. That's not an accurate
5 statement, and we're not speculating what
6 council may or may not have done. /R

7 Mr. Ruby, council didn't have the
8 power to do this. Read the City of Toronto
9 Act . It couldn't order him to pay it back.

10 285. MR. RUBY: Which part of the City of
11 Toronto Act are you referring to?

12 MR. LENCZNER: I can't tell you the
13 section. They have no statutory authority
14 to order him to pay it back, none.

15 286. MR. RUBY: I'm grateful for that
16 position.

17
18 BY MR. RUBY:

19 287. Q. Was that your...as your lawyer just
20 put it, was that your understanding then of your
21 position vis-à-vis council in terms of any order to
22 pay you back, or did you understand that you had to
23 pay the money back if council ordered you to do so?

24 MR. LENCZNER: Don't answer the
25 question. It's a hypothetical. They

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1 didn't...we're going to deal with what
2 council did, not what they might have done,
3 could have done. /R

4 288. MR. RUBY: In light of the refusal, I'll
5 move on to another area.

6 MR. LENCZNER: All right.

8 BY MR. RUBY:

9 289. Q. Did you explain in your speech to
10 council what your position was on the paying back of
11 this money and providing the proof of having done
12 so?

13 A. I don't recall my speech exactly,
14 but what I remember, I don't think I talked about
15 any of the money in my speech, I don't think. I
16 can't remember exactly. It was about a five-minute
17 speech, I believe, so I can't remember exactly what
18 I said, but I did explain what my foundation did.
19 It helps out kids.

20 290. Q. Did you prepare the speech in
21 advance?

22 A. No.

23 291. Q. Did you have notes prepared?

24 A. I don't believe I did, no. No, I
25 don't prepare speeches. I might make a note, like a

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1 word or something, but I don't recall exactly. If I
2 had a prepared speech, no, I don't have a prepared
3 speech. I wasn't reading off anything.

4 292. Q. The notes that you used, if any,
5 where are they now?

6 A. Like I said, I don't make...I can't
7 remember if I did or I didn't. When I speak on the
8 floor at council, I might make a word or just on the
9 back of a...if I do. Sometimes I don't...I can't
10 remember if I did or not. You're saying did I. I
11 don't recall.

12 293. Q. Got it. If you did make notes, are
13 they still kept?

14 A. No.

15 294. Q. Okay. After your speech, Councillor
16 Ainslie brought a motion to rescind the previous
17 council order requiring you to reimburse the \$3,150.
18 Is that correct?

19 A. I believe Councillor Ainslie moved a
20 motion...

21 295. Q. To rescind the previous council
22 order that required you to reimburse the \$3,150.

23 A. I don't have his motion in front of
24 me, but...

25 296. Q. I think I fairly summarized it. You

1 state in your affidavit at paragraph 20 that you
2 deliberately did not speak to the matter after he
3 brought his motion.

4 MR. LENCZNER: He didn't say
5 deliberately. He said, "I did not speak to
6 the matter."

7
8 BY MR. RUBY:

9 297. Q. Okay. I take it that wasn't an
10 accident. It was deliberate?

11 A. No, I speak when I want to speak.

12 298. Q. It had nothing to do with a
13 deliberate choice?

14 A. You're only allowed to speak once at
15 council on every item. So I already spoke for my
16 five minutes.

17 299. Q. Would not the amendment allow you to
18 speak...

19 A. No, you can only speak to one item
20 for five minutes with an extension of two minutes.
21 You can speak to a deferral for two minutes after
22 that, but if someone amends the item, no, you're not
23 allowed to speak to it. You're allowed to speak
24 once for five minutes, plus a two-minute extension.

25 300. Q. All right. So there was no

1 significance in terms of whether you spoke or
2 whether you voted to the fact that Councillor
3 Ainslie brought that motion. Am I correct?

4 A. I couldn't speak to it. It's
5 against the law.

6 301. Q. Nothing...

7 A. It's against the procedural bylaws.
8 You cannot speak once you have spoke on the item
9 once, and I spoke on the item.

10 302. Q. It made no change in your mind on
11 what you could do or did do?

12 A. I believe on this, again, I was the
13 first speaker. So whoever spoke after me made
14 motions. If any other councillor amends their
15 motion, I cannot speak to it. I have already spoken
16 to it.

17 303. Q. Okay. Did you have any idea that
18 the Ainslie motion or any other motion might be
19 coming?

20 A. No.

21 304. Q. No one...

22 A. When you say did I have any idea, I
23 guess you might think people might be doing stuff,
24 but no, no one told me that they were going to do
25 this motion.

1 305. Q. Was there any discussion about doing
2 motions of any kind?

3 A. No. Giorgio sits beside me, and he
4 tried...I think he tried to do a motion, and the
5 clerk said, "That's not going to resolve the
6 problem." So there was a lot of back and forth for
7 a few minutes.

8 I remember there was quite a long debate.
9 I don't think...it got a little confused.

10 306. Q. Now, as we mentioned before,
11 February 7, 2012 was not the first time council met
12 to discuss this question of paying back the \$3,150.
13 It also dealt with this matter on August 25, 2010.
14 Is that correct?

15 A. I don't recall how many times we
16 dealt with that item.

17 307. Q. But you do recall on August 25, 2010
18 there was a debate about it? That is when the
19 original motion was passed, requiring you to pay?

20 MR. LENCZNER: Yes, I don't accept your
21 characterization there was a debate. The
22 minutes show there was no debate. Somebody
23 tried to move a motion to re-open because
24 it was...that was defeated. The motion to
25 re-open was defeated, and that and a whole

1 bunch of bills went through. A whole bunch
2 of bylaws or resolutions went through.

3 There was no debate. There was zero
4 debate.

5 308. MR. RUBY: Well, there may have been
6 debate on the motion to re-open, but you
7 don't consider that part of the debate on
8 the issue?

9 MR. LENCZNER: There was a debate on
10 the...we have the transcript of that. It
11 was...it doesn't even talk about the issue.
12 If you look at it, it...we have a
13 transcript that's about eight lines long.
14 Anyway, it'll speak for itself.

15 309. MR. RUBY: Yes.

16 MR. LENCZNER: So I didn't accept your
17 characterization.

18 310. MR. RUBY: I got it. I don't think
19 anything turns on it for our purposes
20 today, so I won't follow through on it,
21 unless you think it's significant.

22 MR. LENCZNER: No, fine.

23
24 BY MR. RUBY:

25 311. Q. But you do remember the events of

1 August 25 relating to this matter? .

2 A. I wouldn't say every word that was

3 said, I remember it, no.

4 312. Q. No, I don't expect you remember

5 every word.

6 A. No, yes.

7 313. Q. You remember that it was discussed?

8 MR. LENCZNER: It wasn't discussed.

9 THE DEPONENT: Nobody has...

10

11 BY MR. RUBY:

12 314. Q. The speaker says something.

13 A. There are so many things that...the
14 item was not held...you get an agenda, and if you
15 want to hold an item when the speaker goes through
16 it...for example, here's the agenda. I want to hold
17 page 5. Speaker Nunziata will say, "Mayor Ford
18 wants to hold page 5. Mr. Ainslie wants to hold
19 page 6. Page 7 nobody wants to hold." So it goes
20 through.

21 Then we vote with all the items that
22 haven't been held as a package at the end. So that
23 item was not held.

24 ~~315. Q. Okay. So the integrity commissioner~~

25 found that, and reported to council that donors to

1 your foundation included lobbyists, clients of
-2 lobbyists and a corporation that does business with
3 the City. Is that correct?

4 A. I wouldn't consider them lobbyists.
5 Woodbine Entertainment Group donated. They aren't
6 lobbyists. They're a business, and a taxi company
7 donated. That's a business. I don't consider them
8 lobbyists.

9 316. Q. Do you know whether the taxi company
10 donates...does business with the City?

11 A. Yes, I think they do, yes.

12 317. Q. And the Woodbine Foundation?

13 A. Well, we gave them...we worked with
14 the Woodbine Entertainment Group on Woodbine Live!
15 That hasn't actually...nothing has happened, but I
16 know that came up as a discussion, yes.

17 318. Q. What do they do, Woodbine
18 Entertainment, in connection with the City?

19 A. I don't exactly remember, but I know
20 the project came before council on a number of
21 issues, and I guess they consider that doing
22 business with the City. Exactly what, I don't
23 recall, but there is a number of issues that could
24 have been dealt with.

25 319. Q. And this all came originally because

1 of a citizen complaint?

2 A: I don't recall. Somebody...yes,
3 somebody must have complained. I don't recall who
4 complained or how it came forward, but someone must
5 have called the integrity commissioner, or maybe
6 another councillor. I don't know.

7 320. Q. Do you have any process whereby you
8 check to see whether anyone who wants to donate to
9 your foundation are also registered lobbyists with
10 the City?

11 A. No.

12 321. Q. She found a number of things
13 improper in what you had done. One, that you used
14 the City of Toronto logo. Do you remember that?

15 MR. LENCZNER: What is the relevance of
16 this? We know what she did. We know the
17 recommendations she made. We know what
18 city council did on August 25th. What is
19 the point of this? How is this relevant?
20 This application is narrow. Whether he
21 could or could not vote on the motion on
22 February 7, 2012, that's it.

23 322. MR. RUBY: Are you stating now that you
24 ~~are not raising any of the defences~~
25 provided for by the Act?

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1 MR. LENCZNER: I am raising defences
2 provided for by the Act, yes, but that has
3 nothing to do with what the integrity
4 commissioner found. Defences raised by the
5 Act, as I understand it, are at the time
6 that you voted, ie February 7, 2012, did
7 you do so by inadvertence, error of
8 judgment or whether the amount involved was
9 de minimis. Those are my words, not the
10 Act's words.

323.

11 MR. RUBY: Are you invoking any of
12 those, and could you tell me which ones?
13 MR. LENCZNER: Sure, I'm invoking all
14 three of them. First of all, I say that
15 the whole thing is ultra vires to the City.
16 So the whole thing is a nullity to start
17 with. That's point 1, but 2, our
18 alternative defences are if there is any
19 contravention, and we say there is not,
20 then it was by inadvertence or error in
21 judgment, or really, \$3,150, which is
22 from...I don't know, seven donors or
23 something like that, which is not...of
24 which the mayor had no personal benefit,
25 which is not a significant sum of money for

1 any one of those donors.

2 324. MR. RUBY: Thank you. The relevance of
3 this is that the defences of inadvertence
4 and error in judgment involved an
5 acceptance that his evidence in the
6 affidavit on that is honest, and I'm not
7 accepting that he is telling the truth, and
8 I want to develop a rationale for the
9 rejection of that evidence by showing other
10 motives, and this is the foundation for
11 that.

12 MR. LENCZNER: Well, I disagree. I'm
13 not going to permit it. /R

14 325. MR. RUBY: Okay.

15 MR. LENCZNER: You have the integrity
16 commissioner's report. You know what she
17 has found. Nobody is questioning her
18 report in this proceeding.

19
20 BY MR. RUBY:

21 326. Q. Did you accept, you personally, that
22 the integrity commissioner's report was correct?

23 A. No, I disagreed with it.

24 327. Q. In which respects?

25 A. In many respects.

1 328. Q. Tell me.

2 A. I don't recall all of them.

3 329. Q. Let's see the report.

4 MS. CHAISSON: It is at tab P of our
5 supplementary record.

6.

7 BY MR. RUBY:

8 330. Q. Refresh your memory by all means,
9 and tell me what you felt when you read it, with
10 respect to it being correct.

11 MR. LENCZNER: Obviously my objections
12 carry no weight with you, Mr. Ruby. You
13 just do it in a different way. Go ahead.

14 331. MR. RUBY: Apparently it's successful.
15 I got a "Go ahead".

16 MR. LENCZNER: Well, just I'm charmed by
17 your ingenuity.

18 THE DEPONENT: Number 1, I think the
19 thing that bothers me is that I had to pay
20 it back personally. It's not personal
21 money. I don't benefit from this. I don't
22 make a dime on this. I actually lose money
23 doing this. It costs me a lot to stuff the
24 envelopes, pay for the stamps, print the
25 letterhead. The money goes directly to

1 Toronto Community Foundation.

2 ~~So when she said I have to pay it~~
3 out of my own pocket, I don't see why I
4 have to pay it out of my own pocket. The
5 money was spent on football equipment
6 already. I guess that's what I was
7 disagreeing with, and I sent letters to the
8 people saying if they want their money
9 back, I'll give it back, and they sent me
10 back letters saying, "No, we don't want it
11 back," until I think it was the lobbyist
12 register said, "You're not allowed to do
13 business with the City anymore." Then
14 they...not all of them, but some of them,
15 sent it back and said, "Okay, we have to
16 ask you to pay us the money back because we
17 have to continue to do business with the
18 City." That's the big picture.

19 Every single word here, I couldn't
20 say if I agree or disagree, but generally
21 speaking, that's what I disagree with. Why
22 should I have to pay it back out of my own
23 pocket when I don't benefit from it
24 whatsoever?

25 want the money be

1 BY MR. RUBY:

2 332. Q. Do you want to take any more time to
3 look at this or are you satisfied that you have now
4 told me...

5 A. That's the...

6 333. Q. How much do you spend on envelopes
7 and stamps a year?

8 A. I don't know, but a lot. Everybody
9 I get a business card from, I send them a letter, or
10 I meet people, I say, "Here, you want to just help
11 kids?" It's the best cause around, if you ask me.
12 It gets kids out of gangs. It gets kids off the
13 streets. It gets kids in education, gets them
14 scholarships, gets them on a positive pursuit in
15 life.

16 So I believe in this 100 percent and I'm
17 going to continue to do this foundation and the work
18 I do for these kids.

19 334. Q. Now, you wrote to everybody and they
20 sent you back letters. Can I see those letters?

21 A. We sent the letter to these people,
22 and said that...I can't remember exactly what it
23 said. I don't have that documentation, and some of
24 ~~them just came back and said... some didn't even~~
25 respond. Some said, "We don't want the money back."

1 I don't remember exactly, but I don't
2 think there's not the integrity commissioner, the
3 lobbyist register sent a letter to them saying, "You
4 have to now take the money or else you aren't
5 getting any business with the City," but I don't
6 have that documentation in front of me.

7 335. Q. Okay, might that be produced to me?

8 MR. LENCZNER: Why? No. It's not
9 relevant. /R

10
11 BY MR. RUBY:

12 336. Q. Do you send letters to everyone you
13 meet as a citizen or everyone you meet as a mayor?

14 A. Anyone I meet. I meet...anyone and
15 everyone. I meet people. Usually it's business
16 cards. They give me addresses and then I send out a
17 letter on my own personal time, my own personal
18 labour, my own personal money to stamp it. I go and
19 raise money, as much money as I can for these kids.

20 They get tax receipts issued to them
21 through the Toronto Community Foundation.

22 337. Q. So it's both citizens and people you
23 meet as mayor?

24 A. I think everyone I meet, I meet as a
25 mayor. That's my title. So if I meet somebody,

1 I...I don't understand your question by citizen or
2 mayor.

3 338. Q. Well, you and I are not meeting as
4 mayor. I don't think I'm going to get a letter.

5 A. If you give me your business card,
6 I'll send you a foundation letter. If you want to
7 donate, I would be more than happy to take a
8 donation and send you a tax receipt. It goes to a
9 very good cause.

10 339. Q. Okay.

11 MR. LENCZNER: Is that a yes, the okay?
12 I hear you're getting a donation, or your
13 foundation is getting a donation.

14 THE DEPONENT: I haven't received a
15 business card.

16 MR. LENCZNER: I saw him say okay. That
17 meant yes. Thank you, Mr. Ruby.

18 340. MR. RUBY: I'm not going to criticize
19 your ability to understand, putting in the
20 position...

21 MR. LENCZNER: Can we take a break?
22

23 --- A BRIEF RECESS
24

25 ROBERT FORD, resumed

1 CONTINUED CROSS-EXAMINATION BY MR. RUBY :
2

3 341. Q. Now, you have read the affidavit of
4 Sandra Bussin in this case?

5 A. Sandra Bussin, I'm not familiar with
6 what you're referring to.

7 342. Q. Take a look at Exhibit 2, if you
8 would, paragraph...

9 MS. CHAISSON: It's in our application
10 record, supplementary record.

11
12 BY MR. RUBY:

13 343. Q. Let me know when you have had a
14 chance to read that.

15 A. What date was this?

16 344. Q. This is in regard to the August 25,
17 27 meeting, 2010.

18 A. Yes, I have read this.

19 345. Q. Okay. Speaker Bussin reminded you
20 of the meeting before the vote that this matter
21 dealt with you, correct?

22 A. I believe so. That's what it says.
23 I don't remember off the top of my head, but that's
24 what it says, yes.

25 346. Q. And she reminded you that you might

1 have a conflict of interest?

2 A. Again, that's what it says.

3 347. Q. And do you remember this happening?

4 A. Not the exact conversation with her,
5 no, I don't, but a councillor would not tell me or a
6 speaker wouldn't tell me if I have a conflict.
7 Legal staff or the city clerk would tell me if I
8 have a conflict, not another councillor.

9 348. Q. Okay. You're not quarrelling with
10 this event having taken place as she describes it?

11 A. No, I don't...

12 MR. LENCZNER: The exact description is
13 at tab Q, pages 174 and 175. That's a
14 verbatim transcript.

15
16 BY MR. RUBY:

17 349. Q. Yes.

18 A. I don't remember word for word what
19 she said or where the conversation took place, but
20 if that is what is written here, then I accept that
21 as being the truth.

22 350. Q. Why did you ignore those words from
23 Speaker Bussin?

24 A. She's not a lawyer. I don't
25 listen...the only person or people I listen to is

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1 the city clerk or legal on whether I have a conflict
2 or not, but if I believe I do, I go talk to her
3 about it, and...but another councillor coming up,
4 sometimes it's political. Sometimes they don't want
5 you to vote against it, so they'll make up a story
6 or do whatever, and say, "You have got a conflict
7 or..."

8 There is a lot of politics that get played
9 down there. So no, I wouldn't listen to another
10 councillor to tell me if I have a conflict or not.
11 I will ask staff, and staff never told me I had a
12 conflict in this.

13 351. Q. I thought you had no memory of
14 asking your staff on this particular one, August 25,
15 2010.

16 A. You're talking legal staff.

17 352. Q. Did your staff and you discuss it on
18 the August 25th date prior to your voting?

19 A. Again, there's a number of issues we
20 discussed. Word for word, no, I don't remember
21 exactly what we said. Every item that's in front of
22 us we would go through, usually talk about it. Some
23 we don't.

24 353. Q. ~~You can't remember whether you~~
25 talked or didn't talk on that date, let alone

1 what.....

2 A. I can't remember exactly what was
3 said, no.

4 354. Q. You can't remember whether or not
5 you...there was a conversation even on this subject
6 matter on that date?

7 A. No, going back to Sandra Bussin, no,
8 I can't remember. I remember she said something,
9 but I don't remember exactly what was said or where
10 we said it, but now that I read this, yes, it jogs
11 my memory.

12 355. Q. Okay, and Councillor Del Grande, he
13 brought the motion on that date.

14 MR. LENCZNER: What date are we now
15 talking about?

16 356. MR. RUBY: The 25th.

17 MR. LENCZNER: Oh, he brought...

18 357. MR. RUBY: He brought the motion to re-
19 open.

20 MR. LENCZNER: A vote to re-open.

21

22 BY MR. RUBY:

23 358. Q. He's an ally of yours?

24 MR. LENCZNER: Back in 2010?

25

1 BY MR. RUBY:

2 359. Q. Yes, and since. Is that right?

3 A. All the councillors are allies. I

4 get...

5 360. Q. Some of them can't stand you. Come

6 on.

7 A. Sometimes I get 44 votes.

8 361. Q. Yes.

9 A. So that means they're allies with me
10 if they all vote with me on certain items. Certain
11 items I get one or two votes, that nobody agrees
12 with me on, so...

13 362. Q. I'm no stranger to being on votes
14 where nobody agrees with me, but generally
15 speaking...

16 A. Politics makes strange bedfellows.
17 So you never know who's on your team. So yes, I
18 don't consider somebody to be an ally or...

19 363. Q. He often works with you and assists
20 you, often, not just occasionally?

21 A. He's a reputable councillor.

22 364. Q. That's not what I asked.

23 A. He's the budget chief.

24 365. Q. I didn't ask that either. He often
25 works with you?

1 A. No, I can't say he often does. We
2 disagree on many items.

3 366. Q. As opposed to occasionally?

4 A. You know what, how do you define
5 "occasionally" and "often"?

6 367. Q. How about Councillor Ainslie, is he
7 an ally of yours in the same sense?

8 A. We vote sometimes together and
9 sometimes vote against each other.

10 368. Q. Is there anything else that you can
11 tell me about what was going on in your mind when
12 you decided, knowing what Speaker Bussin had said,
13 that you were going to vote anyway, or do I now
14 understand everything that you can help me to
15 understand?

16 A. That's pretty well it.

17 369. Q. Am I right if I suggest to you that
18 in both these meetings, the 2010 meeting and the
19 2012 meeting, what is really going on here is that
20 you are just not going to be prevented from speaking
21 and voting to express your position, because the
22 integrity commissioner is just pushing you around,
23 and you're not going to take it? Do I put that
24 fairly?

25 A. No, I believe that a lot of the

1 councillors, either they don't understand how my
2 ~~foundation works or they don't want to understand~~
3 how my foundation works. So I want to get up and
4 explain how my foundation works, and how this goes
5 to help kids, and it only goes to buy football
6 equipment, and the proven success that it has at the
7 schools that I have started with the principals that
8 support this whole-heartedly, and how many kids I
9 have helped out.

10 So some people...it's politics again.
11 Some councillors don't like to see me do that, and
12 other councillors do.

13 370. Q. So you did this because you felt
14 that council was really so strongly in need of this
15 explanation from you. That's why you did it?

16 A. Absolutely. They have to know what
17 I have done. I sent out a letter telling them this
18 is...schools that I have helped out. I don't think
19 I sent a letter, sorry, I read out the schools that
20 I have helped out. I listed the wards they're in,
21 invited councillors to some of the opening
22 ceremonies that we have when we start a football
23 team.

24 ~~I just explained what I have done since~~
25 our foundation was started, and how many kids I have

1 helped out.

2 371. Q. How did you feel about the integrity
3 commissioner bringing all these actions against you
4 and trying to...

5 MR. LENCZNER: Don't answer that. We're
6 not...this is not what the debate is about,
7 how he feels about the integrity
8 commissioner. /R

9
10 BY MR. RUBY:

11 372. Q. What, if anything, was inadvertent
12 about your vote or your speech that day?

13 MR. LENCZNER: That's a...

14 373. MR. RUBY: He is shaking his head
15 negatively, saying, "I don't know."

16 MR. LENCZNER: No, no, that's a...you
17 have got the facts. Whether it amounts to
18 inadvertence under the Act is a legal
19 conclusion. You and I will debate that in
20 the appropriate forum. Those are both
21 legal terms, inadvertence and error in
22 judgment, and we'll debate that.

23 You now have the facts on which we
24 ~~can both base our arguments.~~

25 374. MR. RUBY: I don't think I do, but let

1 me try and get some more facts.

2
3 BY MR. RUBY:

4 375. Q. What was it about this speech or
5 this vote that in your mind made it inadvertent?

6 A. I spoke because I had to explain to
7 the councillors how my foundation works. I thought
8 I was quite clear on what I said, and how I have
9 helped out hundreds, if not thousands, 1,000, 2,000
10 kids overall in the last few years, how many
11 programs I started, and how it has helped these kids
12 out.

13 376. Q. So your speaking and voting were
14 deliberate acts, correct?

15 A. I'm voting because I know my
16 foundation...it's a fantastic foundation.

17 377. Q. You deliberately chose to make the
18 speech you did and vote the way you did?

19 A. Absolutely.

20 378. Q. And you don't regret for a moment
21 having done that?

22 A. Absolutely not.

23 379. Q. You have not paid back any of the
24 money?

25 MR. LENCZNER: Don't answer that

1 question. You'll remember that the
2 integrity commissioner's recommendation was
3 rescinded. /R

4 380. MR. RUBY: I know that.

5 MR. LENCZNER: So there's no requirement
6 for him to pay back the money.

7 381. MR. RUBY: It will help elucidate in the
8 mind of the trier of fact whether or not
9 any assessment of an error in judgment is
10 honest or it is not.

11 MR. LENCZNER: Well, I have said...I
12 have instructed him not to answer that
13 question. /R

14 382. MR. RUBY: Thank you.

15
16 BY MR. RUBY:

17 383. Q. Do I now know everything that you
18 can tell me, given the memory problem for some of
19 it, about why you acted the way you did in terms of
20 speaking and voting on these two occasions?

21 MR. LENCZNER: No, we're only talking
22 about the last occasion.

23
24 BY MR. RUBY:

25 384. Q. Let's talk about the last occasion.

1 Have you now told me everything you can about why
2 ~~you spoke and voted on the last occasion? Have I~~
3 missed something? Is there something we haven't
4 discussed?

5 A. The foundation does great work,
6 saves kids' lives. That's exactly why I'm speaking
7 about it, and that's why I did speak about it.

8 385. Q. Is there anything about that, that
9 reasoning process, the decision that brought you to
10 give that speech and that vote, that I don't know?

11 A. I believe in my foundation 100
12 percent.

13 386. Q. But is there anything about it I
14 don't know now? You have told me everything?

15 A. There is a lot of things I guess you
16 don't know. I guess you don't know how many people
17 or much money I fundraised, or how many kids I have
18 helped out. There is a lot of stuff I guess you
19 don't know about my foundation, or how many
20 people...how many kids it has helped out.

21 So yes, you don't know a lot, but from
22 what we have said...I could sit here for hours and
23 tell you how many kids I have helped out.

24 387. Q. Okay, but apart from more details
25 about that, I understand now the complete process?

1 You have told me everything there is to tell?

2 A. We could go on and on and on, but

3 you know what, yes, I think you have got enough
4 information for dealing with the subject we're
5 dealing with.

6 388. Q. Okay. You, according to the
7 integrity commissioner's report of January 30th...

8 MR. LENCZNER: Which year are we talking
9 about?

10 389. MR. RUBY: 2012 at page 2.

11 MR. LENCZNER: Tab?

12 MS. CHAISSON: This would be our tab D
13 in our application record. No, I'm sorry,
14 I'm not correct about that.

15 MR. LENCZNER: I have got one, tab D,
16 yes. Is that the right one?

17 390. MR. RUBY: Yes.

18 MS. CHAISSON: Yes, I'm sorry, there are
19 two tab Ds in the application record.

20 Thank you. It's 1D.

21

22 BY MR. RUBY:

23 391. Q. You wrote to her, according to what

24 she says on pages 1 and 2, on October 24th, 2011.

25 Have you got that spot?

1 MR. LENCZNER: Right.

2
3 BY MR. RUBY:

4 392. Q. Okay, and you revealed that you
5 corresponded with the donors and attached letters
6 from three of the donors who had written in response
7 to say that they did not wish to receive
8 reimbursement for their donations.

9 She tells the lobbyist registrar about the
10 matter, to ensure that the lobbyists receive advice
11 on their obligations, and she tells you about that,
12 right?

13 A. That's what we discussed earlier.

14 393. Q. And that's what happened?

15 A. Yes, I believe so.

16 394. Q. Okay, and she responds by advising
17 you that lobbyist donors for the additional favour
18 of forgiving repayment...asking lobbyist donors for
19 the additional favour of forgiving repayment could
20 be a breach, itself, of the lobbyist code of
21 conduct, yes?

22 A. It could be. I don't know if it is,
23 though.

24 395. Q. Is that what happened?

25 A. Yes, that's what we discussed.

1 earlier. I don't know exactly how many letters were
2 sent out, but if that is what she says, then I trust
3 her report is true.

4 396. Q. And did she advise you as I just
5 read to you, that when you ask lobbyist donors for
6 the additional favour of forgiving repayment, that
7 that could amount to a breach of the lobbyist code
8 of conduct?

9 A. If that's what it says in there,
10 that's what it says. I don't remember her verbally
11 telling me this. I don't think I ever met with her
12 with respect to this after, face to face.

13 397. Q. I think she sent you a letter.

14 A. Like I said, if it is documented. I
15 can't remember exactly what it said, but if that is
16 what it says here then that's what it said.

17 398. Q. Because it appears to be in
18 correspondence dated October 28, '11. You didn't
19 reply to her, according to what she says.

20 A. Again, if that's what she says,
21 that's...I trust that's accurate.

22 399. Q. Why did you not reply?

23 A. Because I go back to why should I
24 have to pay this money out of my own pocket? She
25 asked me to send letters out. I sent my letters out

1 to the people that donated, saying that if they want
2 the money back, I'll give it back to them, and what
3 she says is exactly, I guess...a few responded back,
4 some didn't respond back. I don't know how much
5 clearer I can be.

6 400. Q. Did she ask you to write letters to
7 them?

8 A. I don't recall.

9 401. Q. That was the language you just used.
10 I am wondering whether it's an error.

11 A. I don't recall how we...I don't
12 think she told me to write. I can't remember
13 exactly, but I think I took the initiative to
14 explain to the people that donated to my foundation
15 that this is what the integrity has asked for, and
16 to explain it in my terms, and so I sent the letter,
17 and the response is as follows.

18 402. Q. Have you been in contact with any of
19 those people since the correspondence on October
20 28th, 2011?

21 MR. LENCZNER: Don't answer the
22 question.

/R

23
24 BY MR. RUBY:

25 403. Q. In any event, this is all a matter

1 of principle for you, not reimbursing this money.

2 Is that right?

3 MR. LENCZNER: No, look, we have gone
4 into this. You have asked the question
5 before. I objected before. You went
6 around in your very charming way, and got
7 an answer and we're sticking with that
8 answer.

9 404. MR. RUBY: You're instructing him not to
10 answer for this?

11 MR. LENCZNER: I am.

U/T

12
13 BY MR. RUBY:

14 405. Q. Did you notice that in the integrity
15 commissioner's report of August 12, 2010 involving
16 the \$3,150...and this is tab A application record,
17 page 2. She stated to council:

18 "...This report will have no financial
19 impact on the City of Toronto. It may have
20 a financial impact on Councillor Rob
21 Ford..."

22 Did you read that in the report originally?

23 A. Yes.

24 406. Q. So you were aware that you could be
25 financially implicated?

1 A. That's what is said before. That's
2 why I oppose this. I didn't believe I should have
3 to pay the 31...whatever, 3,150, I think it is, out
4 of my own pocket.

5 407. Q. And I suggest to you that you went
6 ahead and chose to speak and vote on a report
7 containing that language because you just were not
8 going to allow yourself to be bullied into silence on
9 this by her?

10 MR. LENCZNER: No, and by the way, he
11 didn't speak on the matter that came before
12 council on February 7, 2012.

13 408. MR. RUBY: You're correct.

14
15 BY MR. RUBY:

16 409. Q. You were not going to bullied into
17 silence by not voting, because you weren't going to
18 be bullied by her?

19 A. That's not correct. I wanted to
20 explain to the council how my foundation worked, and
21 how many kids it has helped out, and the great work
22 that it has done and continues to do.

23 410. Q. I think you have gotten off on the
24 wrong meeting again, as he corrected me. This note
25 was presented to council at the August 25, 2010

1 meeting where you didn't speak. You merely voted.
2 So my suggestion is that on that occasion you were
3 just not going to be pushed around by her into not
4 voting.

5 MR. LENCZNER: There was no vote.

6 THE DEPONENT: There was not a vote. It
7 carried. No one held the item. It went
8 through. No one held the item. I did not
9 vote on it that day.

10
11 BY MR. RUBY:

12 411. Q. There was no vote?

13 A. Not on this item.

14 412. Q. There was a vote to re-open?

15 A. There was a vote to re-open, yes.

16 413. Q. You voted on that occasion?

17 A. Yes.

18 414. Q. And I'm suggesting that's because
19 you just weren't going to be pushed around by her
20 into not voting?

21 A. No, that's not accurate, because I
22 wanted to have a...to explain that time, as I did,
23 to use this time, the two times we're talking about,
24 the most recent time, I wanted to tell the
25 councillors exactly how my foundation worked.

1 415. Q. You didn't ask to speak on that day?

2 A. We didn't hold the item. You're
3 right. It went through those other items. There is
4 a number of items that I can't remember what I held,
5 but there is obviously other items that I did hold,
6 and I guess I missed this item, and I didn't hold
7 it.

8 416. Q. Let me ask you some questions about
9 the Ford Football Foundation, if I can.

10 A. Sure.

11 417. Q. You'll probably find these easier to
12 answer. I think some of the things you don't
13 remember, but I'm pretty sure you can remember all
14 about the football project. Is it incorporated or
15 is it not?

16 A. It's through the City...it's through
17 the Toronto Community Foundation. So when you say
18 it's incorporated, it's...I don't understand that
19 question.

20 418. Q. Okay. People can carry on
21 activities a number of ways. They can do it
22 personally. They can do it by forming an
23 association with others with some kind of written
24 document, or they can go to the government and say,
25 "I want to be incorporated." Are you any of the

1 above?

2 A. The City of Toronto, the Toronto
3 Community Foundation, takes care of all the money,
4 issues all the tax receipts. No money comes through
5 my hands. If a school wants five or 10 thousand
6 dollars which I donate, they have to send a letter
7 or an invoice for the football equipment they want
8 to purchase, and it goes to the Toronto Community
9 Foundation.

10 They write a cheque to the school, and
11 just like attach an invoice or the letter, and
12 that's pretty well it, and if people donate to my
13 foundation, they issue the tax receipt to them, not
14 me.

15 419. Q. Okay. So as far as you're aware,
16 there's no corporation?

17 A. No.

18 420. Q. There's no association?

19 A. Toronto Community Foundation,
20 that's...I guess would be...

21 421. Q. It's not like a club with a charter
22 of things drafted up?

23 A. No.

24 422. Q. No association of any kind. It's
25 you acting as the Ford Football Foundation?

1 A. Right.

2 423. Q. Okay. It's not a registered

3 charity. It works through an entity, the City
4 entity that is a charity.

5 A. The Toronto Community Foundation has
6 a number of foundations. I'm one of those
7 foundations. It has been approved by the City of
8 Toronto and they issue tax receipts.

9 424. Q. Okay. How much money has the Ford
10 Football Foundation given to schools?

11 A. Depending...

12 MR. LENCZNER: Over what period of time?

13
14 BY MR. RUBY:

15 425. Q. Since its start, which...

16 A. I don't know exactly. It could be
17 anywhere from 35, 40, 50. I don't know exact
18 numbers, but probably...I don't know exactly how
19 much I fundraised. I can't give you that answer.

20 426. Q. Okay.

21 A. There are a number of schools
22 that...

23 MR. LENCZNER: We have given you at
24 paragraph 9 names of 10 schools that
25 received grants, and they range between

1 five and 10 thousand dollars. So that
2 gives you a general idea.

3

4 BY MR. RUBY:

5 427. Q. Okay. The records in the
6 application record of the TCF...that's the City
7 entity, confirm that from the time it was created
8 with them in March of 2008 to June 30th, 2010, the
9 foundation had then granted a total of \$37,294.68 to
10 the Toronto District Board for the benefit of four
11 different high schools. Would that be correct?

12 A. Again I don't...yes, it's
13 probably...but that is an old report. Recently I
14 have given money to Blessed Mother Teresa, George
15 Harvey, Winston Churchill, SATEC Porter. That's an
16 older statement, but more recently, I have donated
17 more. So I don't know exactly what the number is,
18 but I know I gave money to these schools. I don't
19 exactly remember. It's approximately correct.

20 428. Q. It would appear to me that you have
21 made claims, it would seem, that the football
22 foundation has granted \$100,000 to schools for the
23 football programs.

24 A. That was inaccurate. I was probably
25 saying it would be that much. It could total that

1 much. It could in five or six...the years to come,
2 ~~I could easily fundraise that much money for it.~~

3 429. Q. And when you were alerted to this
4 error by the integrity commissioner, you agreed to
5 change the claim on your website, to make it
6 accurate?

7 A. Yes, that's correct.

8 430. Q. Have you checked?

9 A. I don't have my website up anymore,
10 I don't believe. That was when I was a councillor.
11 I don't believe I do.

12 431. Q. This is from a website that was
13 accessed yesterday.

14 A. Okay.

15 432. Q. Take a look at that.

16 A. No, it hasn't been changed. So it
17 does have to be changed. That's different than my
18 councillor website.

19 433. Q. What website is that?

20 A. That's my Mayor Rob Ford website.
21 There is a lot of old information in here. That's
22 correct, I'll have to change that.

23 434. Q. I suggest to you again that this is
24 indicative of the fact that you are just not going
25 to be pushed by the integrity commissioner to make

1 any change in what you want to do with regard to
2 this football foundation and its activities.

3 A. That's not true.

4 435. MR. RUBY: Can we mark this, please?

5 MR. LENCZNER: Sure, Exhibit 5.

6
7 --- EXHIBIT NO. 5: Printout from Mayor Rob Ford website

8
9 BY MR. RUBY:

10 436. Q. She asks...she, the integrity
11 commissioner, asks you for financial records
12 involving the football foundation, and you told her
13 you destroyed them. Is that right?

14 MR. LENCZNER: Sorry, where are we?

15 437. MR. RUBY: We're asking a question.

16 MR. LENCZNER: No, I know, but when "she
17 asked" what are you referring to? I would
18 like to follow along.

19 438. MR. RUBY: Sure.

20 MS. CHAISSON: This is tab A of the
21 application record, page 8.

22 439. MR. RUBY: We can't find that page.

23 Give us a second.

24 MR. LENCZNER: Yes, it's at the top of
25 the page, page 125 of the record.

1 that came back, everything had to be private. So I
2 changed all that.

3 449. Q. Well, you operate a Twitter account.

4 A. Do I operate a Twitter account?

5 450. Q. Yes, and I suggest to you that your
6 receptionist, Tom Beyer, is in charge of it.

7 MR. LENCZNER: Your who? I didn't catch
8 that word?

9 451. MR. RUBY: Twitter.

10 MR. LENCZNER: No, no, but your...

11 MS. CHAISSON: Receptionist.

12 MR. LENCZNER: Oh, receptionist.

13

14 BY MR. RUBY:

15 452. Q. Tom Beyer.

16 A. I don't personally operate the
17 account.

18 453. Q. No, Tom Beyer does, I think, right?

19 A. He could possibly, absolutely.

20 454. Q. Yes, and that tweet I'm showing to
21 you is about a donation made by the football
22 foundation to Mother Teresa High School.

23 A. Again, this is the first time I have
24 seen it, but yes. If that's what it is, that is
25 what it is.

1 .455. Q. Mr. Beyer is a City of Toronto
2 employee?

3 A. Yes, he is.

4 456. Q. And I'm going to show you a picture
5 taken at Blessed Mother Teresa Catholic High School
6 on April 3, 2012 that was featured in the daily
7 newspaper, 24 Hours. Do you recognize that
8 occasion?

9 A. Yes, I was there, yes. That's me.
10 That's the kids I help out.

11 457. Q. And on the cheque that is in the
12 right-hand corner of the photograph you signed your
13 name "Mayor Rob Ford"?

14 A. Yes, that's correct.

15 458. Q. The date on the cheque is April 3,
16 2012.

17 MR. LENCZNER: That isn't actually a
18 cheque. That's a billboard. That's not
19 the cheque, if that's what you're trying to
20 get at.

21
22 BY MR. RUBY:

23 459. Q. I think my point is that this is a
24 publicity photo that you use in your political work,
25 right?

1 A. It's helping out kids.

2 460. Q. And it's publicity for you

3 politically, yes?

4 A. I don't believe that. I think it
5 helps out kids.

6 461. Q. It's in the newspaper. You posed
7 for it.

8 A. That's up to the papers. If they
9 want to come, then I tell the people that I'm
10 coming. If the school wants to put it in the paper,
11 that's their problem.

12 462. Q. That's their problem, and did you
13 cooperate in producing this billboard?

14 MR. LENCZNER: Okay, that's enough. I
15 mean, really, Mr. Ruby, you're so far away
16 from anything that's relevant here, I have
17 let it go on, but that's enough. /R

18 463. MR. RUBY: I think it shows a political
19 motivation to use the Ford Foundation, but
20 you obviously don't want him to answer any
21 questions about that.

22 MR. LENCZNER: No, I think we have gone
23 far enough. You can make whatever point
24 you want to make, and that's it.

25 464. MR. RUBY: Let's make...yes, we should

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1 make it a number. I want to put all four
2 together as one. These are all copies,
3 aren't they?

4 MS. CHAISSON: They are. What we have
5 is one photograph that is a more clear copy
6 of the photographs in the 24 Hours. This
7 shows the sources and it shows...it's more
8 clear.

9 465. MR. RUBY: We'll put them together as
10 one exhibit, the Twitter and the photos.

11 MR. LENCZNER: Well, the Twitter is
12 different than the photos. So it should
13 have a separate exhibit.

14 466. MR. RUBY: Yes, okay, separate numbers
15 for both.

16
17 --- EXHIBIT NO. 6: Twitter screen shot re Blessed
18 Mother Teresa's football program

19
20 --- EXHIBIT NO. 7: Photograph from 24 Hours e-edition,
21 dated April 4, 2012 re Blessed
22 Mother Teresa's football program

23
24 BY MR. RUBY:

25 467. Q. You have been cautioned on a number

1 of occasions that you could not mix your public
2 office with your private foundation. Is that
3 correct?

4 MR. LENCZNER: Don't answer that
5 question. /R

6
7 BY MR. RUBY:

8 468. Q. In 2010, I'm at application book,
9 page 7, tab A?

10 MS. CHAISSON: It's just at the top of
11 that page, the very first sentence, tab A,
12 page 7.

13 MR. LENCZNER: Application record.
14

15 BY MR. RUBY:

16 469. Q. You stated in 2010 that point that
17 you used your councillor letterhead so that you can
18 save money that would be spent in printing separate
19 football foundation letterhead. Is that right?

20 A. Yes.

21 470. Q. And so the reason for using City
22 resources for the football foundation is because you
23 didn't want to pay yourself. Is that correct?

24 A. Yes.

25 471. Q. Now, I have a series of questions

1 before you answer anything about that, which deal
2 with political occasions through 2010 and later,
3 where I suggest you used the football foundation for
4 political advantage.

5 I take it that falls within your earlier
6 objection. I wanted to give you a chance to deal
7 with it that way.

8 MR. LENCZNER: It falls within my
9 earlier...so I will object to all of this. /R

10 472. MR. RUBY: All right.

11
12 BY MR. RUBY:

13 473. Q. Now, the code of conduct for members
14 of council is an important document, yes?

15 A. I presume it's important.

16 474. Q. It outlines your obligations as a
17 councillor?

18 A. What did you say before that, Mr.
19 Ruby?

20 475. Q. Sure. The code of conduct for
21 members of council, I suggested, was important.

22 A. Yes.

23 476. Q. I think you agreed with that, and
24 then I said it outlines your obligations as a
25 councillor.

1 A. M'hm.
2 477. Q. And the integrity commissioner has

3 found that you violated that code of conduct on
4 multiple occasions, yes?

5 A. Okay, if that's what she says.

6 478. Q. And she reports to council for that,
7 yes?

8 A. Yes.

9 479. Q. And she criticizes you, yes?

10 A. Yes.

11 480. Q. And you don't accept those
12 criticisms for the most part?

13 A. I can't remember exactly what they
14 were, but depending on what they were...

15 481. Q. Yes, for the most part, you have
16 been rejecting them, I think?

17 MR. LENCZNER: That's not fair.

18 THE DEPONENT: I don't remember...I
19 don't remember exactly what they were. So
20 I don't know.

21
22 BY MR. RUBY:

23 482. Q. Okay, and you're aware that code of
24 conduct violations found by the integrity
25 commissioner, if they accept them, allow council to

1 impose sanctions, including a loss of 90 days salary
2 on you?

3 A. I don't know exactly what the
4 penalty is. That could be one.

5 483. Q. Were you aware that that penalty was
6 possible?

7 A. It could be. I know there is...I
8 don't know exactly the 90-day portion of it, but
9 yes, it could be possible.

10 484. Q. And city council, again, as a result
11 of code violations found by the integrity
12 commissioner could vote to issue a reprimand against
13 you, yes?

14 A. I don't know all the options they
15 have, but if that's what they say, I believe them.

16 485. Q. It sounds like you're not just
17 familiar with this. Am I being fair?

18 A. Not all the penalties, no, I'm not.

19 486. Q. Okay. Do you agree with me that if
20 council chose to order that you lose your salary for
21 90 days, that would have a financial implication to
22 you?

23 MR. LENCZNER: Don't answer that
24 question. That's speculation, never
25 happened.

1 BY MR. RUBY:

2 487. Q: Indeed, council has had occasion to
3 withdraw money from your global office budget
4 against your will. Is that not true?

5 MR. LENCZNER: Don't answer that
6 question. It has got nothing to do
7 with...I don't know what year you're
8 talking about. I don't know what incident
9 you're talking about. It has got nothing
10 to do with, as far as I'm aware, with
11 February 7, 2012, and whether or not the
12 issue of the \$3,150 was to be repaid.

13 488. MR. RUBY: Well, it dates from May 23 to
14 25, 2007, and my submission is that it
15 elucidates his understanding of the
16 financial implications to him of the
17 possible council order, and that he is
18 familiar with the fact that council has
19 taken money from him, in effect, before.

20 MR. LENCZNER: Well, that's what you
21 say. I don't accept that, but anyway, I'm
22 instructing him not to answer that
23 question.

/R

24
25 BY MR. RUBY:

1 489:

2 Q. And you have been found on a
3 previous occasion by council, and indeed because of
4 a report from the auditor general and the integrity
5 commissioner jointly, on November 8, 2007 that you
6 failed to comply with city council's policy on the
7 use of personal funds in your reporting expenditures
8 that you made yourself on items.

9 MR. LENCZNER: That's a different Act, a
10 different section. It had nothing to do
11 with this. Whatever it is, there's a whole
12 process for auditing. It's under a
13 completely different Act. It doesn't fall
14 under the Municipal Conflict of Interest
15 Act .

/R

16 490.

17 MR. RUBY: I take it...I may have
18 missed...the implication is you don't want
19 him to answer these questions?

20 MR. LENCZNER: No. I mean, all you're
21 trying to do is paint with a broad brush
22 everything he may have done, that you say
23 is wrong, since he was a cadet in Caesar's
24 army, you know, from the time he was 12
25 until now. Let's just catalogue them now,
and I say we're not going to other Acts,
other sections, other incidents, that had

1 nothing to do with this issue.

2 491. MR. RUBY: It does have a bearing on it

3 because it a code of conduct violation, and

4 how familiar he is with the code of conduct

5 and the MCIA and the possible question of

6 sanctions that might bind him on this.

7 MR. LENCZNER: No, it doesn't. I

8 disagree with you. Everything to you

9 elucidates everything else. It's an

10 interconnected world.

11

12 BY MR. RUBY:

13 492. Q. In August of 2007 you were, again,

14 under investigation by the integrity commissioner

15 for code of conduct violations. I have a series of

16 questions around that.

17 MR. LENCZNER: What are we talking about

18 here, what issue?

19 493. MR. RUBY: This is using City Hall

20 envelopes to advertise the family printing

21 company, and it went to council.

22 MR. LENCZNER: And what did council do?

23 494. MR. RUBY: Council heard it, accepted

24 the report, and did not impose any sanction

25 on the councillor, beyond finding that he

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1 had violated the code of conduct. That's
2 in the supplementary record, tab I.

3 MR. LENCZNER: Okay, well, that's got
4 nothing to do with this anyway. They
5 imposed no sanctions, so...

6 495. MR. RUBY: Again, it was an action by
7 the integrity commissioner, and I suggest
8 forms part of a pattern of behaviour
9 consistent with his behaviour in the
10 present case in response to the actions of
11 the integrity commissioner and council in
12 this case. Do you understand that? You
13 are instructing him not to answer?

14 MR. LENCZNER: Yes.

/R

15
16 BY MR. RUBY:

17 496. Q. On September 25, 2008, during a
18 radio broadcast, you alleged that Councillor Vaughan
19 was in a conflict of interest with respect to a City
20 appointment. You said that he was in a conflict of
21 interest when a committee on which he served voted
22 to appoint one of his donors to a City committee. I
23 want to ask questions about that, because it went to
24 the commissioner, was investigated.

25 Discreditable conduct was found by making

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1 these unfounded allegations, and council adopted on
2 consent the finding that he violated the code of
3 conduct. It could have imposed economic sanctions,
4 but did not, and again, despite that direct
5 pecuniary interest, you failed to declare a conflict
6 of interest in that item. That's an area I want to
7 explore with him.

8 MR. LENCZNER: A direct pecuniary
9 interest on whom?

10 497. MR. RUBY: On him.

11 MR. LENCZNER: Why?

12 498. MR. RUBY: Because he could have been
13 subject to economic sanctions.

14 MR. LENCZNER: When the vote comes
15 forward, they already had determined not to
16 vote a sanction.

17 499. MR. RUBY: Totally irrelevant. As I
18 understand it, they get the report from the
19 integrity commissioner.

20 MR. LENCZNER: Where is this? What tab
21 are we at?

22 MS. CHAISSON: L of the supplementary
23 record.

24 500. MR. RUBY: There was an amendment to the
25 report, and...

1 MR. LENCZNER: Yes, but this is...no,
2 I'm sorry. When it comes before the
3 committee, there was already a
4 recommendation that they not impose any
5 sanction. I thought I was right, and I am.

6 501. MR. RUBY: Council nonetheless could
7 have imposed sanctions.

8 MR. LENCZNER: Well, we're not going to
9 deal with what would have happened if they
10 had determined that they were going to, and
11 had said they were going to as opposed to
12 when they said they were not going to.
13 We're not going to speculate.

14 502. MR. RUBY: I am going to point out that
15 this area of cross-examination, if I'm
16 allowed to do it, is one where he voted on
17 the motion itself. I want to find out what
18 he did to ensure compliance with the
19 Municipal Conflict of Interest Act, if
20 anything.

21 MR. LENCZNER: Go ahead and ask those
22 questions. For that purpose, if you want
23 to find out whether he...what he did to see
24 if he complied, go ahead, ask him.

25 503. MR. RUBY: Let me just tell you the rest

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1 of what I want to do, so you'll deal with
2 it all once, if you can: I want to set out
3 the sanctions that council did impose, and
4 that in the course of the allegations that
5 you made against Adam Vaughan, according to
6 the integrity commissioner's report, there
7 was the following dialogue between Mr. Ford
8 and the host of the program. The host
9 said:

10 "...For \$250, you're saying he is
11 buying influence?..."

12 Ford replied:

13 "...I'm saying there was a conflict
14 here..."

15 You referred to it as a "major conflict".
16 That has to do with, of course, the
17 question of de minimis, which you were kind
18 enough to tell me you were going to raise.

19 MR. LENCZNER: I don't see "major":

20 "...Councillor Ford replied that,
21 'I'm saying there is a conflict
22 here'..."

23 All right:

24 "...Subsequently in the same
25 exchange, he referred to Councillor

1 Vaughan's role in the appointment of

2 AG as a major conflict..."

3 All right.

4 504. MR. RUBY: I want to ask questions about
5 the whole incident and those two
6 things...and these things, as well as the
7 ones I have already referred to.

8 MR. LENCZNER: The whole thing is
9 irrelevant, but go ahead. Let's hear what
10 your questions are.

11 505. MR. RUBY: Okay.

12
13 BY MR. RUBY:

14 506. Q. So there was a radio broadcast and
15 you said that Councillor Adam Vaughan was in a
16 conflict of interest when a committee on which he
17 served voted to appoint one of his donors to City
18 committee. Is that correct?

19 A. I believe so.

20 507. Q. And the donor had donated \$250 to
21 Councillor Vaughan's campaign, correct?

22 A. If that's what that says, I believe
23 that's the truth. I don't remember the exact
24 amount.

25 508. Q. And when making these allegations,

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1 you used the language that...set out just a moment
2 ago. The host of the program asks you:

3 "...For \$250, you're saying he's buying
4 influence?..."

5 And you replied:

6 "...I'm saying there is a conflict here..."

7 And later you refer to it as a "major conflict",
8 true?

9 A. I don't remember now five years ago,
10 but if that's what it says, I don't see why they
11 would lie.

12 509. Q. So you had some familiarity with
13 what a conflict of interest is because you were
14 quite certain enough of it to accuse Councillor
15 Vaughan of committing it, correct?

16 A. That's a term used pretty loosely at
17 council sometimes.

18 510. Q. And as it turned out, the
19 allegations made against Councillor Vaughan were
20 completely and utterly false?

21 A. I don't recall exactly if they were
22 true or false. If someone donated to his campaign,
23 I think that's true.

24 511. Q. Councillor Vaughan was not even at
25 the meetings in question at that...

1 A. I don't recall this. I don't recall
2 what happened five years ago.

3 512. Q. Councillor Vaughan served you with a
4 notice of libel?

5 A. Yes. No, I think it was to the
6 radio station. Again, I'm not quite sure. I can't
7 remember that.

8 513. Q. According to the report from the
9 integrity commissioner:

10 "...On September 29th, 2008 Councillor
11 Vaughan served Councillor Ford with notice
12 under section 5(1) of the Libel and Slander
13 Act , indicating Councillor Vaughan's
14 intention to commence a civil lawsuit
15 against Councillor Ford..."

16 You're not prepared to contradict that?

17 A. It could be accurate. I don't
18 remember what happened five years ago, exactly. It
19 could be. I think he did something to the radio
20 station, too.

21 514. Q. The integrity commissioner
22 investigated, and found that you violated the code
23 of conduct as discreditable conduct under the code
24 for making these unfounded allegations, correct?

25 A. If that's what she says, yes. I

1 don't remember, but...

2 515. Q. And council considered the matter at

3 their February 23, 25, 2009 meeting, and adopted on

4 consent the finding you violated the code. Do you

5 remember that?

6 A. Not exactly, but yes, if that's what

7 they're saying, it's...I don't see any reason why

8 they would lie.

9 516. Q. Were you there?

10 A. I don't remember if I was there. I

11 don't remember my voting record or my attendance.

12 MR. LENCZNER: What tab are you at? I

13 mean, you have got all of this.

14 MS. CHAISSON: This is M.

15 MR. LENCZNER: M, okay. It is what it

16 is. It shows whether he was there or not.

17

18 BY MR. RUBY:

19 517. Q. The results seem to show that you

20 were there.

21 A. Okay, then I was there.

22 518. Q. And you voted against the motion?

23 A. I don't remember how I voted five

24 years ago.

25 519. Q. On that occasion, what did you do to

1 ensure compliance with the conflict of interest...

2 A. I don't recall.

3 520. Q. Any idea at all?

4 A. You probably have it there. I don't
5 recall.

6 521. Q. On August 6th, 2009 you disclosed
7 confidential information about the cost of a real
8 estate transaction involving the City?

9 MR. LENCZNER: I don't know what you're
10 talking about. Where are you? What tab
11 are you talking about?

12 MS. CHAISSON: N, page 3 of that
13 exhibit.

14 MR. LENCZNER: Yes, we're not going to
15 answer any questions. This is quite
16 irrelevant. /R

17 522. MR. RUBY: What I want to ask him, among
18 other things in this, is that there is a
19 finding by the integrity commissioner that
20 he lied in trying to explain his actions to
21 council. Since I'm asserting that he's
22 lying in these proceedings, that will be of
23 some assistance in understanding the scope
24 and motivation for the present situation.

25 MR. LENCZNER: I don't think so, and you

1 have got the document. We haven't taken
2 issue with the document in any of our
3 response. So you have got a clear field to
4 run in, Mr. Ruby.

5 523. MR. RUBY: I want to ask him about lying
6 on this occasion.

7 MR. LENCZNER: No. /R

8 524. MR. RUBY: On that occasion part of his
9 explanation was that he thought that
10 council already dealt with the item, but he
11 hadn't actually read the report to council,
12 which is consistent with the way he has
13 approached this issue.

14 MR. LENCZNER: That's your
15 characterization. You have got...

16 525. MR. RUBY: I'm trying to explain why I
17 think it's a relevant matter. Give me a
18 moment.

19 MR. LENCZNER: The answer is no.

20 526. MR. RUBY: I may convince you. Council
21 considered the matter at their May 11, 12,
22 2010 meeting. They voted to adopt the
23 recommendation for a reprimand, and on that
24 occasion, you did declare a conflict of
25 interest at the meeting of council, and

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1 this was a code of conduct violation, and I
2 want to put to the witness the reason he
3 then gave for recusing himself, and ask him
4 questions about that explanation.

5 MR. LENCZNER: Where is...

6 MS. CHAISSON: The very last page
7 "Declared interests".

8 MR. LENCZNER: Yes, he declared an
9 interest, he said, as he is the subject of
10 the item.

11 527. MR. RUBY: And I want to put to him that
12 explanation which we will take from the
13 transcript.

14 MR. LENCZNER: Well, it's in the record.
15 We don't need...

16 528. MR. RUBY: I think it's a little more
17 expansive.

18 MR. LENCZNER: No, it's exactly what is
19 on page 6. We don't need extra pieces of
20 paper.

21 529. MR. RUBY: I don't think it's exactly
22 the same on page 6. Do you?

23 MR. LENCZNER: It's the supplementary
24 affidavit of Paul Magder, page 6.

25 530. MR. RUBY: And of course, I want to

1 cross-examine him about that explanation.

2 MR. LENCZNER: Go ahead:

3 531. MR. RUBY: May I go into this?

4 MR. LENCZNER: This part of it, but you
5 have got seven more minutes. So get on
6 with it.

7 532. MR. RUBY: I was not aware that we had a
8 limit of one o'clock.

9 MR. LENCZNER: Look, you're so far
10 afield from anything, and the mayor has got
11 business. It is one o'clock. We have to
12 cut it off.

13 I mean, this is really very simple,
14 Mr. Ruby. He declared a conflict, and the
15 speaker says...everybody says, "What is
16 your conflict?" and he gives an
17 explanation. He says, "My conflict is this
18 is a report against Councillor Ford. I
19 cannot vote in favour or against. I have
20 to remove myself." What more do you want?
21 Five, four years ago, or three years ago,
22 and he is...you have got a transcript of
23 what he said.

24
25 BY MR. RUBY: