

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT

JOHN AUFIERO, NEIL F. *

COLLINS, ROBYN L. DEFRANZO, *

DANIEL HYDE, PATRICK J. *

IRVING, THOMAS A. LEYNE, *

JOHN MAHONEY, JOSEPH E. *

MCCAIN, WILLIAM MCCARTHY, *

TIMOTHY MITSAKIS, LOUIS M. *

REMIGIO, SUSAN J. DESOUSA, *

Individually and Next Friend *

of CAMERON A. DESOUSA, JOHN *

DOE AND JANE DOE, *

Plaintiffs *

CIVIL ACTION
NO. 2005-2665

VS

CITY OF SOMERVILLE, JOSEPH *

CURTATONE, as Somerville *

Mayor, DONALD CALIGURI, as *

Former Somerville Police *

Chief, GEORGE MCLEAN, as *

former Somerville Police *

Chief, ROBERT TRAHAN, *

Individually and as former *

Head of Department of Public *

Works, ROBERT BRADLEY, as *

Somerville Police Chief, *

COMMONWEALTH OF *

MASSACHUSETTS, MITT ROMNEY, *

JOAN LANGSAM, as Former City *

Solicitor, PAUL ZIRPOLO, as *

DPW Project Manager, DOROTHY *

KELLY GAY, as former *

Somerville Mayor, ROBERT J. *

PREZIOSO, SIMPSON, GUMPERTZ *

& HEGER, INC., ENVIROTECH, *

VITHAL DESHPANDE, as *

Environmental Protection *

Engineer, and ANGELO R. *

BUONOPANE, *

DEPOSITION OF:
ROBERT J. TRAHAN
FEBRUARY 15, 2007

Defendants

DEPOSITION OF ROBERT J. TRAHAN, taken on behalf of the plaintiff pursuant to the Massachusetts Rules of Civil Procedure before Kathleen M. Benoit, Professional Shorthand Reporter and Notary Public in and for the Commonwealth of Massachusetts at the offices of the City Hall, 93 Highland Avenue, Somerville, Massachusetts, on Thursday, February 15, 2007, commencing at 10:15 a.m.

APPEARANCES:

STEPHEN D'ANGELO, ESQ., and JAY M. WOLMAN, ESQ., D'Angelo & Hasham, 6 Beacon Street, Suite 505, Boston, MA 02108, For the plaintiff

CARLY B. GOLDSTEIN, ESQ., Donovan | Hatem, LLP, World Trade Center East, Two Seaport Lane, Boston, MA 02210, For the defendant, Simpson, Gumpertz & Heger, Inc.

DAVID P. SHAPIRO, ESQ., and MATTHEW BUCKLEY, ESQ., City of Somerville Law Department, 93 Highland Avenue, Somerville, MA 02149, For the defendant, City of Somerville

CYNTHIA J. STEPHENS, ESQ., Governo Law Firm, LLC, 260 Franklin Street, Boston, MA 02110, For the defendant, Envirotech

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1 P R O C E E D I N G S

2 (Exhibit No. 120 marked.)

3 MR. D'ANGELO: We've been just running the
4 same stipulations --

5 MR. SHAPIRO: Sure.

6 MR. D'ANGELO: -- you know, reserving all
7 objections until time of trial.

8 MR. SHAPIRO: That's fine.

9 ROBERT J. TRAHAN, having been satisfactorily
10 identified by a Massachusetts Driver's License and duly
11 sworn by me, a Notary Public in the Commonwealth of
12 Massachusetts, was examined and testified as follows:

13 DIRECT EXAMINATION

14 Q. (By Mr. D'Angelo) My name is Stephen D'Angelo. I'm
15 here to take your deposition today. I represent the
16 plaintiffs in this case, too numerous to get into right
17 now. You're here on a Notice of Deposition, which is
18 Exhibit No. 120.

19 A. Okay.

20 Q. Could you please identify yourself for the record?

21 A. Robert J. Trahan.

22 Q. And are you currently employed by the City of
23 Somerville?

1 A. Yes, I am.

2 Q. In what capacity?

3 A. I'm a fire lieutenant at the Somerville Fire
4 Department.

5 Q. Where do you work?

6 A. I'm assigned to Engine 7.

7 Q. Where is that?

8 A. Highland Ave.

9 Q. On Highland Avenue, okay. How long have you worked
10 for the City of Somerville?

11 A. I was appointed October 30, 1977, and I've worked
12 continually with the City. I've worked as a firefighter
13 and fire lieutenant until January 1990. I became the
14 Commissioner of Public Works at that point, and I stayed in
15 that capacity until June 30, 1999, when I returned to the
16 Somerville Fire Department as a lieutenant again. I was on
17 a leave of absence from the Fire Department, and I've been
18 there since.

19 Q. Okay. And tell me a little bit about your
20 educational background. Where did you go to high school?

21 A. High School?

22 Q. Yes, where did you go to high school?

23 A. Matignon High School, I graduated from that in

1 1970, I went to Tufts University, studied mechanical
2 engineering, I dropped out in my senior year in January of
3 '74, and I worked first National Warehouse, then I went
4 into the Fire Department. I went back and completed my
5 education at Northeastern, and I got my Bachelor of Science
6 degree in 1997 in information technology.

7 Q. Would that be like computers?

8 A. It's more kind of a combination of engineering,
9 general engineering stuff, believe it or not. It's sort
10 of, I had taken a course, I had gone back to Tufts and
11 taken a couple of courses in electrical engineering and
12 chemical engineering and civil engineering during the
13 nineties, and I, I couldn't afford to keep going there, and
14 the credits I already accumulated fell into an information
15 technology degree which is sort of a compilation thing and
16 got me a degree.

17 (Interruption.)

18 MR. D'ANGELO: Please note that Attorney
19 Shapiro has left and Mr. Buckley, Attorney Buckley is now
20 present.

21 MR. BUCKLEY: Could we go off the record for
22 one second?

23 MR. D'ANGELO: Yea, sure.

1 (Discussion held off the record.)

2 Q. So you came to work for the City of Somerville as
3 the Commissioner of Public Works in 1990?

4 A. Correct.

5 Q. How did you get that appointment?

6 A. I was appointed by the mayor, Mike Capuano.

7 Q. How did you know the mayor?

8 A. I worked on his campaign. I was the president of
9 the Somerville Firefighters Union from 1995 until my
10 appointment, and we had campaigned in support of Mayor
11 Capuano, and in the fall of '89 after he won the election,
12 he offered me the position of commissioner. He, you know,
13 you can ask him why, I mean.

14 Q. All right, so you basically were the Commissioner
15 of Public Works for the City of Somerville from 1990 to
16 1999?

17 A. Correct, July 1, 1999, to June 30th.

18 Q. June 30th?

19 A. Yea.

20 Q. And as part of your responsibilities as the
21 Commissioner of Public Works, you oversaw the Public Safety
22 Building?

23 A. That was one of my buildings, yea.

1 Q. How many buildings did you have?

2 A. I believe there were 34 total buildings under
3 D.P.W. authority at that time.

4 Q. 34?

5 A. I believe that's the number, yes.

6 Q. And had you had any experience managing buildings
7 in the past?

8 A. No.

9 Q. Did you take any courses or seminars or attend any
10 kind of training to learn how to be a building supervisor?

11 A. No.

12 Q. What other things besides overseeing buildings were
13 you responsible for at the Public Works Department?

14 A. Well, there's, the department had nine divisions at
15 the time - highway, buildings and grounds, electrical,
16 water, sewer, engineering, special services.

17 MR. BUCKLEY: Lights and lines.

18 A. Yea, lights and lines. You know, I believe there
19 were nine of them altogether, and I was responsible for the
20 budgets for those departments, I was responsible for
21 personnel, at least as far as hiring and discipline goes I
22 was responsible, and just oversight of the infrastructure
23 of the City, and I had, you know, support staff obviously

1 to handle that. I had superintendents in each of that
2 division who were specifically trained in each science or
3 whatever you want to call it.

4 Q. So who did you have working for you that was
5 involved with building maintenance?

6 A. My building superintendent was Robert Ciampi.

7 Q. How do you spell his last name?

8 A. C I A M P I.

9 Q. What was his background?

10 A. You know, I don't recall specifically. I know he
11 had a background, but I don't recall specifically where he
12 worked.

13 Q. Was he working for the City before you came on
14 board?

15 A. No, he came on within a few weeks after I got on.

16 Q. So how did he get his job?

17 A. He was appointed by the mayor.

18 Q. He was appointed?

19 A. Yea.

20 Q. Were all these superintendents appointed by the
21 mayor?

22 A. Yea, all the superintendents required mayoral
23 appointment, but they didn't all come in with Mayor

1 Capuano. He reappointed a lot of them, a few people
2 anyway.

3 Q. So who else did you have on your staff that was
4 familiar with managing buildings?

5 A. Paul Zirpolo was my project manager and he was
6 hired specifically as a project manager because of his
7 background. He was a professional project manager.

8 MS. STEPHENS: I'm sorry?

9 A. Oh, I'm sorry, I was speaking very low.

10 MS. STEPHENS: That's all right.

11 A. Paul Zirpolo was my project manager, and he was,
12 actually, he was not technically assigned to handling city
13 buildings. He was, we were doing construction on schools
14 and whatnot. But he would help us out with technical
15 questions or considerations.

16 Q. Do you know what his background was?

17 A. Specifically, no, but I know he was a qualified
18 professional project manager.

19 Q. And how long did he work for you --

20 A. He worked for me --

21 Q. -- and the City?

22 A. He had been with the City for a couple of years
23 before I was appointed. I know he had worked on the high

1 school project which was started in the mid eighties I
2 believe. He was the project manager on that, and we kept
3 him over, we were still finishing up the high school when I
4 took office, there was still a punch list so on and so
5 forth, and we then went into construction of other schools.
6 The first one being the West Somerville Neighborhood School
7 on Powderhouse Boulevard, he was doing that, and he went on
8 to do the Kennedy School, the -- I can't think -- I'm bad,
9 I can't think of the name. The built-out school down by
10 the projects; I can't think of the name of it.

11 MR. BUCKLEY: The Healy.

12 A. The Healy School. So, you know, he had a continual
13 run with us in a project manager status. We also handled a
14 bunch of energy conversion projects. Actually, that was
15 the first thing, I apologize, sequences I'm not good at. I
16 mean I remember pretty much everything but sequence I'm not
17 good at. One was an energy project and as of now energy
18 was a big deal, and we renovated several buildings,
19 including the Public Safety Building, for energy purposes.
20 We had done Central Fire, gees, I can't remember what the
21 other buildings were, but we did some major changes in a
22 lot of, I think it was five different buildings, but Public
23 Safety and the Central Fire were the two big ones.

1 Q. Now, when you left office, your position in 1999,
2 what happened to the files that you had?

3 A. They stayed in the office whatever I had.

4 Q. Did you keep copies of any files?

5 A. No.

6 Q. Now, the renovation that took place that you're
7 talking about in the Public Safety Building, do you know
8 when that took place?

9 A. If I remember right, that was probably early on.
10 That was probably like '92 or '93. I need documentation to
11 prove that but that's what I think happened.

12 Q. And Zirpolo, he worked for you the whole time that
13 you were there. Did he leave after you left?

14 A. He left after I left, yea.

15 Q. Now, there were complaints that people had at the
16 Public Safety Building?

17 A. Yes.

18 Q. Do you recall the first time that you had a
19 complaint at the Public Safety Building?

20 A. Again, I can't remember a time frame. I do recall
21 there were complaints about nose bleeds in the fire section
22 of the building.

23 Q. And how did you investigate that?

1 A. We sent the Board of Health Inspectional Services
2 down, but I know it eventually came to we sent, we notified
3 The State Department of Health or DEP and they
4 investigated.

5 Q. You notified DEP or --

6 A. Yea.

7 Q. -- did somebody else?

8 A. I thought the City did, if my memory serves, we did
9 because we were concerned about why are these guys having
10 these nose bleeds.

11 Q. Did you conduct your own investigation?

12 A. We handed it to the Board of Health and
13 Inspectional Services and they did whatever they do.

14 Q. Did you have anything like procedures set up for
15 anybody in any of the buildings that you oversaw, these 3
16 or 4 buildings that you were looking at that had a
17 complaint about anything within the building, was there a
18 procedure set up to --

19 A. I don't believe we had a hard copy, you know, this
20 is a, you know, a hard core plan to handle anything, but we
21 reacted to everything; we didn't ignore them.

22 Q. Well, how did you react if somebody, you know, how
23 would somebody know what to do, did you have a procedure?

1 A. Well, generally what happened was these were all
2 union settings and we would hear about these things when it
3 became some sort of union complaint; that's when something
4 would reach me. It wouldn't, generally I wouldn't hear
5 about someone in the Fire Department having a nose bleed, I
6 mean that's not something that crosses my desk. If the
7 union complains about it and the chief wants to react to
8 it, he would notify me, hey, I think we have a problem down
9 here, can you investigate it, and at which point I would
10 say okay, what's the problem, and I would give it to, you
11 know, the Board of Health or to my Inspectional Services
12 Division or both depending on what it was. If it was
13 something like the nose bleed situation at Public Safety,
14 I'd give it to both. I don't believe I had an
15 environmental officer at that time. If I did, I would have
16 referred it to her at that point in time too. I'm just not
17 sure if she was running then.

18 Q. Are you talking about Hilary Eustace?

19 A. No, we had one before her. Hilary came on later in
20 the situation. I think this is when we had -- again, I
21 can't think of her name. She was the first
22 environmental...I cannot think of her name. She was good
23 too. I'm sorry, I'll have to look it up. I just don't

1 recall her name. I think she was there maybe two years.
2 She went on to bigger and better things. I can't think of
3 her name now.

4 Q. So the first complaints that you had were when
5 exactly?

6 A. That's just it, I don't remember the time when it
7 happened.

8 Q. Was it within a couple of months of you coming to
9 work for the City?

10 A. I thought it was pretty, yea, I thought it was sort
11 of towards the beginning. The, the solution to it was we
12 put -- it was a humidity issue and we wanted to put
13 humidifiers in the building and it seemed to take care of
14 it.

15 Q. Humidifiers or dehumidifiers?

16 A. Humidifiers. It was too dry in there supposedly.
17 And that kind of went away; that was the end of it.

18 Q. That was when?

19 A. Again, it was early on. It was in, I don't know,
20 '91, '90, I don't know, '92, I just don't know. It wasn't
21 a major issue by a long shot. It was two or three guys
22 that had a problem.

23 Q. Well, you were the president of the firefighters

1 union --

2 A. Right.

3 Q. -- from '85 to '89?

4 A. Right, until I became, until I moved.

5 Q. And during that time frame did any firefighters
6 make any complaint about the quality of the air in that
7 building?

8 A. Not that I recall, no.

9 Q. How about the police, did you hear anything from,
10 you know, other union people --

11 A. No.

12 Q. -- talking about problems the police were having?

13 A. Yea, the police, we never heard anything until
14 later on when we had flooding problems in the fire again
15 down below, because, again, they're in the basement.
16 Whenever there was a heavy rainstorm, the station would
17 flood, and it was, one problem was they never installed
18 backflow preventers. The City -- the station was actually
19 below grade and it was very close to the level of the mains
20 which ran down Somerville Ave., so if they surcharged,
21 overfilled, it would backflow into the station.

22 The prevention is to put a backflow preventer
23 on the lines that is supposed to be exiting the station.

1 They had never done it the previous, whoever, so we had
2 them installed. We dug up the whole area and had them
3 installed and that mitigated that problem. Whatever damage
4 was done to the station we took care of, cleaned them up,
5 you know, no problem there.

6 But what we found out was in a really big
7 storm when those, even with the backflow preventers in
8 place, the water would actually come up the manholes on
9 Somerville Ave., and roll down the rampway into the station
10 and flood it, and I believe that's what caused us to say
11 okay, that's it, we've got to get these guys out of here,
12 which led to the modular station outside.

13 We just couldn't guarantee they wouldn't
14 flood any more. They were below grade. There was nothing
15 we could do about it. What was required was to replace the
16 sewer lines which is a multibillion dollar problem; it
17 actually extends all down Somerville Ave., out into
18 Cambridge. I mean it's a huge, huge issue. It still
19 hasn't been done. It's in the planning, I know. It's
20 huge.

21 Q. Did, were you involved with putting pumps in as
22 well at that time?

23 A. I don't recall pumps being put in.

1 Q. And how did you --

2 A. They could have been; I just don't recall it.

3 Q. Had you did you fix the flood damage?

4 A. They ripped up, they had to pull up tile, cut
5 walls, you know. There was water damage up a foot or two
6 deep inside the station. I mean they did whatever was
7 necessary there to restore it back to good condition, plus
8 furniture. Most of that, that would be handled by D.P.W.
9 crews. Building and grounds; that's the department that
10 would handle that kind of thing.

11 Q. I'm going to show you Exhibit No. 90. It's a
12 letter dated March 28, 1990, prior to you coming on. Had
13 you ever seen that letter or heard about any kind of
14 complaints like that in the building?

15 (Document Perusal.)

16 A. No.

17 Q. The second page, what I'm going to do on the second
18 page, I'm going to mark that as 90-A.

19 (Document Perusal.)

20 A. I've seen this, yea.

21 MR. D'ANGELO: Let's mark that.

22 (Exhibit No. 90-A marked.)

23 Q. All right, you've had a chance to read the second

1 part of that?

2 A. Mm-hmm.

3 Q. It's a letter dated to Captain Robert Bradley,
4 July 18, 1993, and it's from Paul Upton, a detective
5 sergeant, and you're saying that you had seen that. Do you
6 know what happened to that sample that he had given to
7 Bradley?

8 A. No, never saw it.

9 Q. As you read that letter, what did you know about
10 that letter?

11 A. I know they had complained about the dirty air
12 ducts essentially, and we had done, and prior around that
13 time we were doing that co-energy project I was talking
14 about, which involved redirecting, replacing certain duct
15 work because it was all involved with the heating system,
16 and I know that when these complaints started coming down
17 we had the ducts cleaned, and in direct response to that,
18 we had them cleaned.

19 Q. Who cleaned them?

20 A. We hired an outside company. Again, it was done
21 through buildings and grounds; they would be the ones who
22 hired. It was probably done through a bid contract. I
23 imagine the amount would have exceeded the bid requirements

1 at that time but it was done. Those ducts were cleaned,
2 and...

3 Q. So they were cleaned on or about 1993?

4 A. Yes, somewhere in that time vicinity.

5 Q. But you don't know by who?

6 A. No, it would be an outside vendor.

7 Q. Do you know how soon after it was cleaned?

8 A. As soon as we could possibly get a bid out which,
9 you know, takes a few months, but it would have been done
10 ASAP.

11 Q. And the substance that was in the sealed envelope,
12 you don't know what happened to that?

13 A. I never saw anything like that.

14 Q. Did you test any of the substances that were in the
15 duct at that time? Did somebody come back, in other words,
16 and say we have some stuff in here we should look at?

17 A. No, I mean I don't recall there ever being any type
18 of feedback if there was anything other than dirty ducts.
19 I mean they weren't maintained the way they should have
20 been.

21 Q. Did anybody go back the following year or after
22 that to look at the ducts again to see if they needed to be
23 cleaned again?

1 A. The situation, as I recall, was revisited later
2 when, I don't recall how this came up but I know we wound
3 up going back into the fire station and pulling the walls
4 and finding mold in the walls, and when we checked up above
5 in the police station, we found mold in the walls extending
6 up there, and that caused us to, we wound up not renovating
7 the station but ripping out walls in the entire building
8 and replacing them to remove the mold because, you know,
9 it's not a good thing to have; it just wasn't healthy.

10 Q. Do you know anything about any of the, anything
11 besides mold that somebody was looking into at that time?

12 A. No, this was all, you know, whatever we were
13 responding to was just dirt I mean essentially and mold.
14 Like I said, we cleaned the air ducts but that left us with
15 the mold situation, and the answer to that was to remove
16 it. I mean just this kind of ran in contrast to the
17 humidifier situation before with the nose bleed thing but
18 now we were getting a dampness problem coming through the
19 walls, so we removed the insulation that was becoming
20 moldy; that was the answer.

21 Q. Now, in here it mentions Captain William Dailey,
22 did you know him?

23 A. Dailey.

1 Q. Dailey?

2 A. I knew who he was; I didn't know him personally.

3 Q. There's been quite a few police officers and
4 firefighters associated with that building who died. Did
5 you know some of those people?

6 A. Yea.

7 Q. Do you know how many people you've known who have
8 been in that building who have died?

9 MR. BUCKLEY: Objection. If you know.

10 A. No, I just know a lot of people that died, but no,
11 I don't have any particular...

12 Q. Well, it seems to be a subject with a lot of
13 firefighters getting sick in that, that have been
14 associated with that building?

15 MR. BUCKLEY: Objection.

16 Q. Correct? You can answer. He can object but you
17 can answer the question if you know.

18 A. Ask me again, what's the question?

19 MR. D'ANGELO: Can you read back the
20 question?

21 THE REPORTER READ BACK THE QUESTION AS
22 FOLLOWS:

23 "QUESTION: Well, it seems to be a subject

1 with a lot of firefighters getting sick in that, that have
2 been associated with that building?"

3 MR. BUCKLEY: Is there a question with that?

4 Q. Yes. Yes or no?

5 A. No.

6 Q. So there aren't any firefighters or police officers
7 that you know of who have gotten sick being associated with
8 that building?

9 A. I know of a few, a few claim that they're sick on
10 account of that now, but they have no, you know, they're
11 reaching I think.

12 Q. I'm going to show you Exhibit No. 96. Take a look
13 at that for a minute.

14 (Document Perusal.)

15 Q. Did you get a chance to review that?

16 A. Yes.

17 Q. Had you seen it before?

18 A. Yea, I believe so; yea, I have.

19 Q. And this was a document that was filed after
20 complaints were made by employees of the Public Safety
21 Building?

22 A. Yes.

23 Q. And what did you do to implement these

1 recommendations?

2 A. A lot of things I already said. The problem was,
3 we at that point we wound up, that's when we got the
4 modular station outside; we had to take them out. Like I
5 said, the one overwhelming problem was the water flowing
6 into the building during a very heavy rainstorm. There was
7 nothing you could do to mitigate that, so we had to get
8 them out.

9 Q. So you got them out. This was in July of 1998?

10 A. Right.

11 Q. Is that when they moved them out of the building?

12 A. That sounds about right because I remember the cost
13 of the move to lease the trailers and have them installed,
14 or the trailer and have it installed was somewhere, if I
15 remember right, 300 to \$350,000 a year, and the question
16 then was what are we going to do because that's a lot of
17 money to spend every year on temporary housing. And I know
18 just before I left we were really trying to kick around
19 ideas to find a piece of property or something to set up a
20 new fire station in the area, but that was going to be a
21 problem also because of the cost and so on and so forth.
22 But, you know, the trailer was working; it was just,
23 cost-wise it wasn't very effective.

1 Q. The last two pages of that document, Exhibit
2 No. 96 --

3 A. Right.

4 Q. -- was a letter from Joel Weddig to Richard Levine.
5 This is dated back in June of 1986.

6 A. Right.

7 Q. Had you seen that letter before today?

8 A. I don't know that I had. I was just, as I was
9 looking through it right now, I mean I don't know who those
10 gentlemen are, at least I don't recall who they are, but
11 it's kind of like old news. Everything they talk about in
12 that document was changed in the co-energy project I spoke
13 of earlier, so.

14 Q. So basically you're saying that the things that you
15 took care of during your tenure, the backflow prevention,
16 there were pumps that were installed to alleviate the
17 water?

18 A. Yea, I wouldn't say there was or wasn't but there
19 could have been.

20 Q. That basically solved the problem with water damage
21 to the building? It stopped the flooding?

22 A. It stopped the flooding. Later on we found out
23 about the Merriam Street stuff where the walls were

1 obviously getting damp and getting moldy, and we ripped
2 them out, discovered where the mold was, found that it was,
3 the Merriam Street side is exactly where it was, and it
4 extended up to the police station. They had a problem upon
5 investigation now that the building was leaking through the
6 walls, through the windows, which would have been the cause
7 of that, and part of the work that we did there, again,
8 under a bid to an outside contract, I'm sure you can look
9 up the contract, was to do repairs on the Merriam Street
10 side of the building pointing the walls, you know, I'm not
11 sure they replaced windows or whatever, but there was work
12 done to mitigate that.

13 They also ripped out the walls. I remember
14 it had to be done in two separate projects. When we found
15 out about the problem, we met with Chief Caliguri at the
16 time and said look, we have to do all this work, it would
17 be great if you could get everybody out of the building so
18 we could do it and get it over with and do it quickly and
19 that could not be done. There was no way to shut down the
20 Police Department for whatever the project time was and
21 relocate them somewhere else. It just was not physically
22 possible. So we did it in two stages, half the building,
23 half the wall area one, and then moved everybody to the

1 other side and then shifted them back to the other side but
2 it was done. But that as far as I know was directly
3 related to moisture, and it wound up creating a mold
4 situation and we dealt with it.

5 Q. Do you know when that work was done?

6 A. I'm thinking like around '86.

7 Q. That was before you were involved?

8 A. I mean '96, '96, excuse me. Thank you. '96.

9 Q. And was that work done by D.P.W. workers or from an
10 outside vendor?

11 A. I thought that was outside too if I remember right.
12 I don't believe we, I don't think we did that in-house.
13 We, again, hired that out. It might have been because it
14 wasn't, it wasn't -- I don't really recall.

15 Q. So that work was done in '96?

16 A. I think.

17 Q. And then --

18 A. It was done I believe.

19 Q. It was done?

20 A. Yea.

21 Q. But there's no record of it being done?

22 A. Then maybe it was done in-house and you can look in
23 the building and ground records. It was done though.

1 Q. According to this, the report we just looked at,
2 there were still requirements that the work be done?

3 A. Maybe I have my dates wrong. I know we did it. I
4 distinctly recall there was a certain amount of frustration
5 at the meeting that we couldn't get everybody out of the
6 station so we could get in and out fast; do it thoroughly
7 all at once and get it done.

8 Q. On or about that same time, Exhibit No. 93, take a
9 minute to look at that.

10 (Document Perusal.)

11 Q. So you've had a chance to review this?

12 A. Right.

13 Q. Had you seen this before?

14 A. I wrote it.

15 Q. You wrote it. And what was the result of this?

16 A. That's what caused the trailers. That's what
17 caused the Fire Department to get out. Like I said, I'm
18 weak on dates; I really am.

19 Q. So this was on or about that same time frame?

20 A. Right.

21 Q. Hilary Eustace, does she work for you?

22 A. Yes.

23 Q. And did you have discussions with her about the

1 symptoms that people were having --

2 A. Oh, yea.

3 Q. -- in the building?

4 A. Absolutely.

5 Q. And what was the substance of those discussions?

6 MR. BUCKLEY: Objection. Go ahead.

7 A. Are these guys safe. I mean we wanted to make sure
8 nobody was in jeopardy. I mean we, it was important to us
9 as anybody to make sure no one was getting hurt or sick or
10 something, and we dealt with it as best we could, but what
11 we were getting, like it says in her letter, for lack of a
12 better word, there were nuisance effects. People might
13 have some sort of reaction to stuff, but there was nothing
14 about carcinogens or dying or anything like that. And the
15 people who were affected, which at the time were the
16 firefighters, we got them out. I mean that was what we
17 did.

18 (Attorney/client conference off the record.)

19 MR. BUCKLEY: He's just telling me he
20 remembered the name of the environmental officer. Do you
21 want to hear it?

22 MR. D'ANGELO: Yea.

23 A. It was Christina Bramante, B R A M A N T E,

1 Christina Bramante.

2 Q. And what was her job?

3 A. She was the environmental officer. I believe she
4 was the first one the City had. She was hired by Mayor
5 Capuano fairly early on in the administration, and I
6 believe she worked for about two years and then she was
7 offered a position at the DEP or something. She moved on
8 to something else, at which point we replaced her with
9 Hilary Eustace.

10 Q. I'm going to show you Exhibit No. 53. Have you
11 seen this group of papers?

12 (Document Perusal.)

13 Q. Have you seen this before?

14 A. I think I have, yea. I remember the incident.

15 Q. And what did you do to start the process to
16 investigate that?

17 A. I didn't have to; Hilary was on it.

18 Q. She worked for you?

19 A. Right.

20 Q. And did you have conversations with her about what
21 she was doing?

22 A. Yea, she would report to me about the notifications
23 and then what was being done about it.

1 Q. Well, there were some recommendations in here.

2 A. Right.

3 Q. Did you implement any of those recommendations?

4 A. Yea, they were all easy. I mean it was, what
5 basically happened was with the flooding with the pumps
6 operating there was the possibility that there was some
7 carbon monoxide coming up, they are gas operated pumps that
8 were brought in to ease the flooding, and it is possible
9 there was some carbon monoxide introduced into the
10 building.

11 Also, for the reason specified, leaving doors
12 open, and just improper procedures within the building.
13 They were brought to the attention of the appropriate
14 people in the building and whatever, you know, if they used
15 the doors properly to prevent fumes from getting in and
16 that would be the end of that. I mean that was kind of a
17 straightforward incident. That was an accident. It was
18 bad procedure by the people in the building. At that point
19 in time, there were people keeping doors open, not hooking
20 up exhaust systems and stuff like that.

21 Q. Was there an exhaust system set up at that time?

22 A. According to the report. I don't know; I know it
23 was in the police garage; I never surveyed it.

1 Q. Did you ever spend any time in that building?

2 A. The Public Safety Building?

3 Q. Yea.

4 A. Yea, but primarily in the Fire Department, I
5 believe.

6 Q. Were you assigned here to work?

7 A. I worked on a couple of, you know, overtime shifts,
8 covering for people, things like that. I did a few shifts.

9 Q. People that were in charge of maintaining the HVAC
10 system, who were they?

11 A. When I took office there was no one. At some point
12 during the Capuano administration, we created a position
13 which we assigned to a gentleman called, named Charley
14 Aliano, Charles Aliano; he is still an employee of the
15 City. He was a head custodian for the Building and Grounds
16 Department and he had HVAC experience and we assigned him
17 to cover that type of issue for the City. I don't remember
18 when that was really, but it was probably mid, I'll guess
19 around '95, '96. He was responsible for all the City
20 buildings, any issues that way, this particular building
21 for one, but that was directly, the reason we appointed him
22 was because these issues were duct work and cleanings
23 weren't being dealt with, and it became his responsibility

1 to see that it was done appropriately.

2 Q. Well, did you have any meetings with Mayor Capuano
3 at the time to discuss the problems over at that building?

4 A. Yea, we were would report to him what was going on,
5 and, you know, everything, when it came to that level, you
6 know, it obviously became a financial matter. You know, we
7 had to work within our budgets, but we had no problem
8 bringing things to him that would require extra funding or
9 whatever. He was pretty good about it. He wanted to know
10 what was going on and he wanted to deal with things.

11 Q. So besides Aliano --

12 A. Right.

13 Q. -- who else was the responsible person for
14 overseeing that HVAC system in the building?

15 A. He would be the man I would say.

16 Q. What about Zirpolo?

17 A. No, Zirpolo was not responsible, Zirpolo was
18 responsible inasmuch as when we did the co-energy project
19 that was his project and he was required to execute that
20 project. If we had a problem that we didn't feel we had
21 the expertise to handle with the existing staff, you know,
22 something more than say Charley Aliano could handle, we
23 would ask Paul Zirpolo to give us preventional advice, but

1 he was not responsible. I mean he was the project manager;
2 he was out doing the schools.

3 Q. Did you or anybody that was working for you hire
4 anybody to come in and examine the HVAC system to see if it
5 was working properly?

6 A. The co-energy people -- we had an energy contract
7 with, on these buildings. The way it worked was the
8 project was paid for by the savings realized by doing
9 energy conversions by reconfiguring the systems, so the
10 company which was -- what the hell was the company. It's a
11 big company too. I can't think of the name of the company
12 that we had the contract with. That should be easy to find
13 out. It was in their best interest to come in and monitor
14 the function of the systems to make sure they were
15 operating optimally, which they did, and again, that was
16 how the project was getting paid - through those savings.
17 We weren't liable for it. It didn't make any difference
18 whether they failed or not to us because we weren't paying
19 anything. It was up to that company. We wanted them to
20 work optimally obviously, and we would get annual reports,
21 at least annual reports on the state of the systems from
22 the company.

23 MR. BUCKLEY: The company may have been

1 Honeywell; I thought later it might have been.

2 A. It might have been, yea.

3 MR. BUCKLEY: I'm not sure who it was at the
4 beginning. Go ahead, I'm sorry.

5 A. Yea, no, no, thanks. Like I said, it would be easy
6 to look up, but I do recall the systems were performing
7 very well and the systems were realizing the savings that
8 we wanted, and the complaints about heating, you know, like
9 we would get occasional problems like, gees, it's a little
10 too cold over here or it's too hot over there, and they
11 would have engineers coming down and technicians coming
12 down. We had one guy assigned to Somerville. I forget his
13 name but he was very good and he would come in whenever you
14 wanted him and he put in whatever time was required to
15 correct these little problems that happened throughout the
16 system which basically dealt with temperatures, you know,
17 that was air flow and things like that, so.

18 Q. Well, you said back sometime in the early nineties,
19 '93, '92, something like that, the air duct system was
20 cleaned.

21 A. Yea, well, whenever, yea, again, I'm going to keep
22 falling back on I don't remember dates, but when we got
23 complaints about, like Paul Upton's letter there about,

1 there was a previous introduced piece of, there was a
2 document about a letter saying that the air ducts were
3 dirty, the air was dirty. He had a sample, which I never
4 saw, but we had air ducts cleaned at that point; we had
5 them checked out. When the co-energy project went through,
6 they cleaned the air ducts; it was part of the project;
7 they replaced a lot of the ducts.

8 Q. So Honeywell cleaned the ducts back at that time?

9 A. If it was Honeywell. Yea, whatever that company
10 was that we had, if it was Honeywell.

11 Q. And the co-energy project documentation was kept
12 where?

13 A. It should be at D.P.W., should be the main files
14 because it was, it should be in buildings and grounds files
15 absolutely.

16 Q. And who was in charge of buildings and grounds at
17 that time?

18 A. Bob Ciampi.

19 Q. Does he still work for the City?

20 A. No, I believe he's left.

21 Q. So when you had this dealing with Honeywell during
22 this co-energy project, who was your contact person, who
23 was the person that you dealt with there?

1 A. I would have Paul Zirpolo make those calls because
2 that was his project. He would relay it, but then
3 eventually once the project was in place and running, I
4 would call Bob Ciampi. He had a person, I do not remember
5 the gentleman's name but we had a project manager on the
6 Honeywell side who handled that. We would contact him and
7 he would send out the technician or whatever was required
8 to respond to our needs.

9 Q. Did you ever walk through the building with
10 somebody from Honeywell to examine what they were going to
11 do or have discussions about what they were going to do?

12 A. I went through once before they did anything which
13 was way back when, and I went through once when they were
14 planning a 911 center, they were saying we're going to do
15 this, that and the other thing; that's about it. I didn't
16 really tour the building personally, no, not the police
17 station anyway.

18 Q. But in terms of HVAC systems, you didn't have any
19 engineering background or understanding of how they worked?

20 A. Not really, no, not more than the average person.

21 Q. And who was it that did have that background?

22 A. The person we assigned to it was Charles Aliano,
23 who still works for the City.

1 Q. Is he an engineer?

2 A. No, he's not an engineer.

3 Q. Is he an HVAC certified person?

4 A. He has some sort of qualifications; I'm not sure
5 what they are. We developed a job specification to meet
6 our needs, again, knowing that we had Honeywell, if it was
7 Honeywell, backing us up with, it was their system so their
8 people would come in.

9 Q. Did they reconfigure the HVAC system at that time?

10 A. They changed some components of it to make it more
11 efficient, yea. The work spaces had changed in the Public
12 Safety Building over time, so whatever was there wasn't
13 really effective, plus it was older at that point in time,
14 and, you know, they replaced certain components of it, so
15 there was a certain degree of modification that was done to
16 the system to make it work optimally.

17 Q. Okay. Did you have to sign off on any of those
18 changes?

19 A. Yea, I pretty much had to sign off on anything that
20 required -- yea, I would say I did, yea.

21 Q. Did they come to you and say we need to make this
22 change but it was something that you couldn't afford to do?

23 A. No, I don't recall -- the beauty of those projects

1 was they were all funded within themselves. I mean
2 whatever was done was done with the understanding of the
3 energy savings so realized would pay for it. It didn't
4 cost us anything.

5 Q. So the savings in fuel costs --

6 A. Right.

7 Q. -- was going to fund the savings that Honeywell was
8 going to get paid with?

9 A. Right. Right.

10 Q. Do you know what those amounts were?

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

12 MR. BUCKLEY: We still don't know if it's
13 Honeywell or not, just so it's clear on the record.

14 A. No, I don't recall what the figures were, no.

15 Q. And did Charley Aliano or anyone else come to you
16 and have discussions about the progress that was being made
17 on that, say, you know, we're 50 percent complete or a
18 hundred percent on target or anything like that?

19 A. No, Aliano was not involved in the co-energy
20 project. He came in after it was up and running, well
21 after it was up and running, and he was brought in not
22 specifically for the Public Safety Building but because we
23 had HVAC issues in several buildings throughout the City.

1 We needed someone -- we couldn't rely on a custodian in an
2 individual building to be up and aware of every component
3 in the system. We felt it was much more appropriate to
4 have one individual with a good knowledge of the systems
5 who could pinpoint whatever the problems were and then
6 contact, either repair it himself or contact someone who
7 could, and Aliano was the employee that, the union
8 employee, it was a bid job, he got it, and he took over,
9 but that was well after the co-energy project at the Public
10 Safety Building was up, running and doing its thing.

11 Anything that happened to the co-energy
12 project as far as when it was being instituted, whatever
13 changes may have been made, they were reviewed by Paul
14 Zirpolo who was the project manager, and when he agreed
15 that it was appropriate, whatever, I was informed all along
16 the way what was going on, but again, I don't have
17 expertise in it, but when he said some things were okay and
18 we should do this and advise this, I would go along with
19 it, and I fully supported his decisions and I'd sign off.
20 And I do not recall any problems whatsoever with the
21 co-energy project per se. I don't think anything with that
22 went wrong. It performed very well considering it's what
23 we wanted from it, so.

1 Q. I'm going to show you this Exhibit No. 27. That's
2 the Simpson, the SGH report.

3 A. Okay.

4 (Document Perusal.)

5 Q. Do you recall that?

6 A. Yea, I recall putting out a contract, you know,
7 looking for a proposal.

8 Q. What was the motivation to do that?

9 A. I think it's the Merriam Street side, again, I
10 think the water infiltration through the walls, rainstorm.

11 Q. This was two or three years after you repaired it
12 back in '95, '96?

13 A. Yea, I thought so.

14 Q. You weren't sure but you repaired it?

15 A. Yea.

16 MR. BUCKLEY: Objection. You're
17 characterizing his testimony. That's not what he said.

18 Q. Well, did you repair it in '96, that wall at
19 Merriam Street?

20 A. I don't know about the dates but I know we ripped
21 out the inside walls, and I was, I'm sure we did some sort
22 of outside work, but the dates I'm not sure of.

23 Q. I'm going to show you Exhibit No. 29. This is the

1 actual report that was based on the contract that we just
2 reviewed.

3 (Document Perusal.)

4 Q. Had you read that report?

5 A. I believe I did see that report, yes.

6 Q. Do you remember when you first saw it?

7 A. It's dated April of 1999, so it must have been
8 somewhere around then.

9 Q. Did you meet with folks at SGH to go over that
10 report?

11 A. I did not meet with them, no, I did not.

12 Q. Did you have any meetings whatsoever with anybody
13 either prior to or after this report was made?

14 A. Yea, I remember trying to bring this to the
15 attention of then Acting Mayor Roche. Mike Capuano left
16 for a representative position and he didn't want to know
17 anything about it.

18 Q. He didn't want to know anything about it?

19 A. Nope.

20 Q. Why not?

21 A. I'm just acting; I don't want to pick up a problem.

22 Q. Did anybody publicize that this report existed at
23 that time?

1 A. I don't know that it was publicized. I don't know.

2 Q. Did you do anything to try and implement anything
3 that was recommended in that report?

4 A. Everything there was construction related. I
5 believe the estimate in there was for \$900,000 which was
6 why I would have gone to Acting Mayor Roche, and in the
7 absence of funding, there was nothing I could do.

8 Q. Did you have any conversations with any of the
9 employees of the City of Somerville that worked in the
10 building at that time bringing this report to their
11 attention?

12 A. No.

13 Q. Did you have conversations with Paul Zirpolo about
14 this report?

15 A. Yes.

16 Q. What were your discussions with Paul?

17 A. We should do this stuff.

18 Q. Who said we should do this stuff?

19 A. We all agreed.

20 Q. And it was because of budget constraints that you
21 weren't able to do this?

22 A. No, what happened with this report, again, I want
23 to put this in the proper context. We responded to

1 everything that came down the road as it came down the
2 road. This shows up April, May of '99. I go to the acting
3 mayor and say, you know, we've got to bring him up to
4 speed, here you go. He tells me to take a hike basically.
5 The meeting was me, Zirpolo, and Carol Antonelli and the
6 mayor, acting mayor. I've got nowhere to go with it if
7 he's not going to deal with it. I'm out of office in
8 2 months; I'm gone in June. I mean what am I supposed to
9 do about it, but the report was there, it wasn't hidden, it
10 wasn't anything.

11 Now, as far as the report is concerned, it's
12 just a repetition of building problems, construction
13 problems, again. There's no evidence there that anybody is
14 dying or anything else. The building is leaking. That's
15 what it says. Again, there's nothing here that says oh-oh,
16 you know, we've got an atom bomb going off in the building.
17 That's not there; it does not say that.

18 Q. No, but it gives you indications that the atom
19 bombs are about to go off?

20 A. No, it doesn't.

21 MR. BUCKLEY: Objection.

22 A. No, it does not.

23 MR. BUCKLEY: Don't argue with him. Just

1 answer the questions.

2 A. That's a leaky building; that's what that is.

3 Q. Well, if you go to page 4 of that report, it talks
4 about the mechanical system.

5 A. Okay.

6 Q. Was there anything that you could do with the
7 vendor in your co-energy project to implement the things
8 that they were talking about there?

9 A. No, the co-energy project was done. The co-energy
10 project was handling heating.

11 Q. Well, this is the mechanical system here?

12 A. Co-energy was an energy system. It wasn't -- it
13 was also, at this point it was what, seven years old on a
14 five-year deal. There was nowhere we were going with that.

15 Q. And then on page 18 they talk about biological
16 growth within the building. Was there anything that you
17 tried to do to get some of those things addressed at that
18 point in time?

19 A. Like mold?

20 Q. Yes.

21 A. In May of '99, no, what was I going to do? I
22 couldn't get this thing past the mayor, acting mayor. Yea,
23 I don't even see that.

1 Q. On page 19.

2 A. 19, okay.

3 (Document Perusal.)

4 A. Again, the building is leaking.

5 Q. And Acting Mayor Roche was a member of the City
6 Council?

7 A. Yea, he was on the Board of Aldermen I believe at
8 that time. He stepped up and filled it until there was an
9 interim election.

10 Q. And who was elected?

11 A. Dot Gay.

12 Q. And you left at that point in time and went back to
13 the Fire Department?

14 A. Right.

15 Q. And did you have any conversations with any of the
16 firefighters that were working on the building at that time
17 about that report?

18 MR. BUCKLEY: Objection.

19 A. No. It was -- it wasn't, this isn't news; this
20 wasn't news. Anybody that had ever been in the building
21 and saw the building knew it leaked. You're talking about
22 old news.

23 Q. Well, what about the black dust that they described

1 in the report, did anybody say we should go and investigate
2 that further and find out what the hell that is?

3 A. Again, do you have a page?

4 Q. Sure.

5 MR. WOLMAN: Page 20.

6 Q. Page 20.

7 A. I've got it, mechanical systems.

8 Q. Yes. It says on the second, well, it says "In
9 addition to the potential health hazards associated with
10 microbial contamination, we have other indoor air quality
11 concerns that we did not test. The fine, black dust found
12 throughout the facility suggests the mechanical systems may
13 be distributing poor quality ventilation air." Did you
14 bring that to the attention of the acting mayor as well?

15 A. The acting mayor didn't want to hear it.

16 Q. Didn't even want to read this report?

17 A. No.

18 Q. Did you have any discussions with anyone from DEP
19 or DOS or any other organization in the state?

20 A. No, again, go down to headquarters, fire
21 headquarters in the training room and look up at the air
22 system, you'll see fine, black dust. Air gets dirty. You
23 have to clean the ducts every now and then. That doesn't

1 automatically say oh-oh, we're dying. It happens. Look in
2 your house on the fans if you have ceiling fans, you'll
3 find fine, black dust on your ceiling fans, any house. I
4 mean you're trying to make something out of, you know, it
5 isn't a big signal, sorry. And, again, I wasn't in a
6 position to deal with any part of this because I couldn't
7 get the mayor to move.

8 Q. And the City Council wasn't interested in it as
9 well?

10 A. Again, I've got to tell you, it didn't rise to the
11 occasion of blowing a whistle to me either. I mean I did
12 not see anything in that report that was out of the
13 ordinary for a building, a building in this situation. I
14 mean it was out of the ordinary for a building because a
15 building shouldn't be leaking and it needed to be repaired,
16 but it was one of those things that was going to have to be
17 dealt with when the new mayor came in. The report did not
18 go away. It was on the table.

19 Q. So right after that there was a company that was
20 hired to come in and clean the ducts?

21 A. I don't know. Was there?

22 Q. This is in May of '99. This is Exhibit No. 3.

23 (Document Perusal.)

1 Q. And I'll show you Exhibit No. 4 as well, which is
2 part of the same contract.

3 (Document Perusal.)

4 A. Yea, apparently we did, which is what you would do
5 normally. It should be cleaned.

6 Q. Well, this is the first contract cleaning of that
7 we found any paperwork on. Is this the first time it was
8 ever cleaned?

9 A. I doubt it. No, I don't believe so.

10 Q. And this was an emergency contract as well, so it
11 went through a different procedure to get it signed off on?

12 A. It mainlines it, yes, faster.

13 Q. Because it was more than \$10,000 you had to have --

14 A. Right.

15 Q. -- special approval?

16 A. Right.

17 Q. Why was it an emergency?

18 A. Dirty ducts are dirty ducts; you've got people that
19 are screaming. What do you do.

20 Q. So people complaining and that makes it an
21 emergency?

22 A. Yea; around here, yea. There is nothing here
23 (indicating) that indicated there was any more than dirty

1 ducts. We had them cleaned. We don't need people
2 panicking. The previous document you showed involving the,
3 one of the flooding incidents at the Public Safety Building
4 when the 911 operators had headaches as the pumps were
5 working. Perfectly prepared to say that was carbon
6 monoxide leaking up from the gasoline pumps that could have
7 caused it. Regrettable, dealt with it, shut down. 2 days
8 later many of them developed symptoms again. Nobody could
9 find a damn thing wrong with them or anything wrong with
10 the building. It is called hysteria. I mean there was
11 nothing wrong at that point, yet these people are all I'm
12 dying.

13 Well, again, we did our absolute best to make
14 sure that the employees in the Public Safety Building were
15 safe and comfortable; not just safe - comfortable. If
16 there were ducts that needed cleaning, we cleaned them. If
17 getting it done quickly eased out a situation, kept people
18 calm, we did it. I'm sure that that was the push on that.
19 No one was worried about anybody coming down with any long
20 term effects or anything like that, but there was no reason
21 for people to be worrying about that kind of stuff. Let's
22 clean them and eliminate a problem. That's what we did.

23 Q. In that report was something that also instigated

1 and helped the firefighters get out of the building as
2 well?

3 A. Yea, because it was obvious, the building was
4 untenable because of the flooding and the water. There was
5 no way to stop the water; it couldn't be done. No, they
6 were already out at that point; they were gone when that
7 thing came down. They were already long gone at that
8 point.

9 Q. How long had they been out of the building?

10 A. A year anyway if I remember right. Yea, they were
11 gone, I remember they were out of there for two years
12 before I left, as I remember, because it was expensive. It
13 was a lot of money to keep the temporary shelters going,
14 the temporary facilities up.

15 Q. And they're still there today?

16 A. And they're still there today. Where are you going
17 to put them? That's the big problem. There's no -- the
18 cost of making that building work, I think we did an
19 estimate, it was like \$14 million to do a minimal type, you
20 know, fill in the basement or something and build something
21 off to the side, it was huge, and there just isn't that
22 kind of money available. By taking them out of there, we
23 at least removed any potential drowning problems or

1 anything like that. But that the temporary facility is
2 just that - temporary. It just isn't going to hold up.
3 Something has to be done. They have to be relocated.

4 There are no pieces of viable property down
5 there available, at least at the time there wasn't. There
6 probably isn't now either to move it to. It's a very
7 important section of the city. It's a lower income section
8 of the city. Very fire prone. They're the busiest
9 company, Engine 3 is the busiest company in the city, so
10 you can't pull them out of there and say forget it. There
11 has to be some sort of response in that area. I mean the
12 chief could fill you in on that better than I could, so.

13 MR. D'ANGELO: Why don't we take a 10-minute
14 break here.

15 (Recess taken.)

16 Q. I'm going to show you Exhibit No. 108. Were you
17 involved with DEP on the Brownfields Project?

18 MR. BUCKLEY: Is there a date on this?

19 MR. D'ANGELO: There's dates all over the
20 place.

21 MR. WOLMAN: There's a received date.

22 MR. BUCKLEY: Is there a date of incident?

23 THE WITNESS: The date of incident is there;

1 received by the DEP there. (Indicating.)

2 Q. So were you familiar with the underground storage
3 tanks and the issues involved with that property, was that
4 something you were overseeing?

5 A. Yea, yea, well, I do not recall ever seeing this.
6 I don't recall seeing this. My involvement with fuel tanks
7 with the Public Safety Building was much earlier. We,
8 again, I apologize, I don't remember the dates, well prior
9 to '99 though. We consolidated all the gasoline tanks,
10 fuel tanks of the city vehicles at the D.P.W. yards several
11 years before that. Each department, the Fire Department,
12 the Police Department had their own fuel systems. There
13 was a tank at the Public Safety Building, there were two
14 tanks I believe at the, at the fire headquarters, and they
15 ran their own fuel budgets and so on and so forth in the
16 departments, and the decision to, the tanks were either
17 nearing or were, they needed to be replaced, I think it was
18 the fire tank that was actually the one that was in
19 trouble. D.P.W. had its own system tank. That's what it
20 was, it was D.P.W. tanks that were in trouble in the city
21 yards. There were several tanks right by the
22 administration building.

23 So when we found out we had a problem there,

1 we had those tanks either removed and/or filled under DEP
2 rules and regulations, and we built a brand new above
3 ground facility down at the D.P.W. which is functioning
4 today. We also had the tanks at the Fire Department filled
5 in, and I don't know how we resolved the tanks at the
6 Public Safety Building, but they were removed and taken
7 care of somehow according to DEP then. And all fueling
8 functions from that point in time were at D.P.W. and have
9 been ever since. This I don't know about (indicating).

10 Q. And now, you left June 30th of?

11 A. '99.

12 Q. '99?

13 A. Right.

14 Q. In Exhibit 43 there is a report from Cashins &
15 Associates. Have you seen that report?

16 (Document Perusal.)

17 A. No, I don't recall ever seeing this, no.

18 Q. So you weren't involved with this study that was
19 being done --

20 A. No.

21 Q. -- this investigation?

22 A. No.

23 Q. Who took over your, became the Public Works

1 Commissioner after you?

2 A. I was gone for a few months before I was replaced.

3 I can't, what the hell was his name?

4 MR. BUCKLEY: David Dow.

5 A. Dave Dow.

6 Q. So when was the last day you worked in that job?

7 A. June 30, '99.

8 Q. But I mean when was the last time you were on the
9 job for that job? You took the last 2 months off you say?

10 A. No, no, no, I was working; I was there. I don't
11 believe I took the time off.

12 MR. BUCKLEY: He said he wasn't replaced for
13 2 months.

14 A. Yea, I left June 30th and the new commissioner
15 wasn't appointed until the fall.

16 Q. Now, we talked a little bit earlier about the
17 injuries or sicknesses or deaths that might be occurring at
18 that facility, and you kind of said that you weren't sure
19 that that was possible?

20 MR. BUCKLEY: Objection. Go ahead.

21 A. Yea.

22 Q. I mean is it your opinion that, you know, there was
23 nothing wrong with that building?

1 MR. BUCKLEY: Objection.

2 A. I'm not God. I never say never. But I mean no one
3 has shown me anything that tells me that people were in
4 harm's way any more than they are in any other building
5 really. I mean we did testing, we allowed the employees to
6 do testing, we allowed the union to do testing, we
7 responded to everything we saw, and, you know, nothing ever
8 came down the pike that raised the red flags that you guys
9 are throwing up. It just wasn't there.

10 I mean were there problems, yes, I don't deny
11 that at all. Was it the greatest place to be, no. Neither
12 are a lot of the stations not the greatest place to be, but
13 deadly, no. Again, if someone comes up with something and
14 can prove something, I'm not going to sit here and argue
15 with them, but it certainly wasn't shown to us and we tried
16 to find those kind of things; we did what we could. No one
17 wanted to put anyone in harm's way.

18 Q. Well, what kind of testing are you talking about
19 that was done on the building?

20 A. DEP coming in and doing whatever they did. I mean,
21 you know, DEP basically was the people that do that sort of
22 thing, that's what they do, and the Department of Health.

23 Q. But they don't test for mold?

1 MR. BUCKLEY: Objection.

2 A. We had engineers come in and they showed us the
3 mold and the mold was sent out, and again, it comes back
4 with yea, it could be an irritant. Okay, I mean good, I
5 mean let's get rid of it; we did. Does it come back? Yea,
6 the building leaks. It requires moving the building, but
7 again, it's an irritant; that's the extent of anything that
8 ever came back on this stuff - it's an irritant, and
9 wherever possible, we removed -- we always tried to remove
10 it. We actually removed employees from places that we
11 couldn't resolve like the Fire Department, as far as it
12 goes. I mean there's nothing else we can do.

13 I mean the other thing was we did, I think it
14 was the Department of Health did air quality testing back
15 during this. They installed a couple of monitors to be
16 used over a period, I think it was a two-week period they
17 were going to monitor the air in the fire station while
18 they were still occupying it. The firefighters dismantled
19 both of those units; they left them in pieces all over the
20 place because they were so concerned about the air quality
21 down there. Look that one up at DEP, but if you want to
22 find out why they did it, ask the firefighters, I don't
23 know.

1 MR. D'ANGELO: I don't have any more
2 questions.

3 CROSS-EXAMINATION

4 Q. (By Ms. Stephens) I have some, a couple. My name
5 is Cindy Stephens and I represent Envirotech.

6 A. Okay.

7 Q. You earlier were talking about this co-energy
8 project that's --

9 A. That's what I call it.

10 Q. That's what you call it. And I think you testified
11 that the HVAC system in the Public Building was, for lack
12 of a better word, overhauled?

13 A. Right, that's a good word.

14 Q. Okay. And you think it might be a company called
15 Honeywell but you're not sure who did the work?

16 A. Yea, again, if you're looking through the co-energy
17 contract and it was called the co-energy contract, that
18 will give you all the information you need.

19 Q. Were you involved with the overhaul of the system?

20 A. Personally?

21 Q. Did you see it, did you see what they did?

22 A. No, no. Physically observe it, no.

23 Q. Did you get any reports as to exactly what they did

1 to the system?

2 A. Yea, but I mean it was, again, I'm not an expert on
3 it.

4 Q. Who was supervising that?

5 A. Paul Zirpolo.

6 Q. He was?

7 A. Right.

8 Q. And would it have been up to him to give approval
9 for whatever Honeywell or whatever the other company did?

10 A. Yea. I relied on his expertise and I have great
11 faith in Paul; I do.

12 Q. And you think that was maybe in the early nineties?

13 A. Yea, I'm thinking maybe '93, '92, yea.

14 Q. Okay. Do you recall a person named Dan Greenblatt
15 from Envirotech?

16 A. I remember seeing the name. I don't remember the
17 man, no.

18 Q. Do you remember having any conversations with
19 someone from Envirotech to get into the building to look at
20 the system?

21 A. No.

22 Q. Do you remember ever accompanying anybody through
23 the building?

1 A. No, I never -- the only time I went through the
2 building was tours that were for my benefit and it was once
3 or twice.

4 Q. Were you the person, the point person, for lack of
5 a better word, that was involved with getting Envirotech to
6 do the cleaning of the duct work?

7 A. I wasn't the point person, no. The point person on
8 anything that happened like that would either be Paul
9 Zirpolo or if it was a later time possibly Charley Aliano;
10 again, depends on the time frame.

11 Q. Did you have to approve --

12 A. Yes.

13 Q. -- the contract?

14 A. Yes.

15 Q. Did you have to approve who it was being given to?

16 A. Any of those contracts were generally over, they
17 were bid, so it was predetermined who got them.

18 Q. Who was it that determined the scope of the work
19 that Envirotech would do to the system?

20 A. Generally in the Public Safety Building it would
21 probably be Zirpolo. I mean even if Aliano was around I
22 think he would consult with Paul, you know.

23 Q. To determine exactly what they wanted to have done?

1 A. Yea, what should we have done. The contracts would
2 be written up out of my office by Carol Antonelli, who was
3 my administrative assistant at the time, and a lot of
4 boilerplate stuff, but yea, the scope of the project
5 officially or unofficially wound up with Paul.

6 Q. Okay. Do you remember if you had any conversations
7 with any of the Envirotech employees while they were doing
8 their work?

9 A. No, I didn't. I just didn't, no, I did not. It
10 wasn't part of my role to talk with the people doing the
11 work generally.

12 Q. Who would be overseeing that work, would it still
13 have been Zirpolo?

14 A. And/or, again, time frame, or Aliano, right. A guy
15 that might have some oversight on it would be Bob Ciampi,
16 excuse me. Bob Ciampi, who is the building and grounds
17 superintendent, would probably be involved in the scope,
18 the issue too. I forgot about him, I'm sorry. But as the
19 building and grounds superintendent he was fairly
20 knowledgeable about this kind of thing, and he would work
21 with both of those other gentlemen to figure out what the
22 actual scope should be, and between the three of them I
23 knew I could get a reasonable assessment of the situation,

1 so yea, that's the way it worked.

2 MS. STEPHENS: Okay, I have no further
3 questions.

4 CROSS-EXAMINATION

5 Q. (By Carly Goldstein) I just have a couple of
6 questions. Good morning, my name is Carly Goldstein and I
7 represent SGH in connection with this matter. You
8 testified earlier when looking at Exhibit 27, you testified
9 earlier when looking at that exhibit that you recall
10 looking for proposals, is that an accurate recollection of
11 your testimony?

12 A. Excuse me?

13 Q. You testified earlier when you were looking at
14 Exhibit 27 that you recall looking for proposals?

15 A. Okay.

16 Q. Do you remember that, do you remember testifying to
17 that?

18 A. Yea, yea.

19 Q. Okay, what proposals exactly were you looking for?

20 A. I mean this appears to be a survey of the condition
21 of the building envelope. I mean why is it leaking. I
22 mean were there cracks. The Merriam Street side in
23 particular was leaking and we had our own suspicions, but,

1 you know, we needed a professional assessment.

2 Q. So you were looking for somebody to bid for work
3 for an investigation as to --

4 A. Right, to do an engineering study of what was the
5 cause of the problems and how to rectify it.

6 Q. And do you recall who obtained that contract?

7 A. I recall Simpson, Gumpertz & Heger being the
8 primary engineers. They did a lot of work for us.

9 Q. And was mold investigation part of that work?

10 A. Specifically, I don't recall if that was part of
11 the RFP; we actually outlined that. I would think with
12 them we were more looking for the mechanical problems, you
13 know, why -- mold had been investigated over and over
14 again. I think we were more interested in, and it's been
15 determined that the source of the mold was leakage. Let's
16 fix the leakage and that's why, we were looking to cure the
17 leakage, the leaking problem. We already knew we had a
18 mold problem and it was obviously caused by the leaking, so
19 we needed an engineering firm to come in and decide what
20 the mechanical cure for that was, I mean how do we stop
21 this building from leaking. Again, I can't say definitely
22 that we didn't have mold, but I don't think we would
23 include that in that type of proposal.

1 Q. If you look at the RFP, would you be able to
2 confirm that?

3 A. Yea, I mean if the RFP says what it says.

4 Q. I'm showing you, still on Exhibit 27, several pages
5 into it, it's entitled "RFP" I believe?

6 A. Right.

7 Q. If you'd take a minute to look at that and confirm
8 that was actually the RFP concerned with the work?

9 (Document Perusal.)

10 A. We were looking for structure failures. It says in
11 the RFP.

12 Q. And let me draw your attention to Exhibit No. 29.
13 Still on the first page of Exhibit 27, it's a cover letter
14 written by SGH that was attached to their contract. Would
15 you take a look at that.

16 (Document Perusal.)

17 A. Okay.

18 Q. Is that an accurate description of what their work
19 was to be at the Public Safety Building?

20 A. In my opinion, yes.

21 Q. Okay. And nowhere in there is there any mention of
22 any mold investigation, is that correct?

23 A. No. I mean that's correct, yes.

1 Q. Okay. To the best of your understanding, did SGH
2 fulfill its obligations under its contract with the City?

3 A. Yes.

4 Q. And in April of 1999 they issued a report which you
5 looked at earlier. Do you recall that report? It's
6 Exhibit 29.

7 A. Okay.

8 Q. If you want to take a look at that.

9 (Document Perusal.)

10 A. Okay.

11 Q. You testified earlier that you recall receiving
12 that report?

13 A. Yes.

14 Q. And you recall reading that report?

15 A. Yes.

16 Q. Okay. And did you see in that report in multiple
17 locations that SGH had recommended that the City retain a
18 certified industrial hygienist?

19 A. Yes.

20 Q. What did you do -- strike that.

21 Earlier you testified that you tried to bring
22 this report to the attention of the Acting Mayor Roche --

23 A. Right.

1 Q. -- is that correct?

2 A. William Roche.

3 Q. And then what did you do to try to bring the report
4 to his attention?

5 A. We scheduled a meeting with him in his office. We
6 came up here. There were several items on the agenda; it
7 wasn't just that. When we got to that, he didn't want to
8 deal with it.

9 Q. So as far as you know, he didn't even read the
10 report?

11 A. He might not have; he very well might not have.

12 Q. Did you bring the report to the meeting?

13 A. Yea.

14 Q. Did you leave him the report?

15 A. Yea, we left a copy.

16 Q. Did he say anything to the effect that he had read
17 the report?

18 A. Not that I recall.

19 Q. Okay. Did you have any conversations with anyone
20 regarding, aside from Mayor Roche, regarding the SGH
21 report?

22 A. Excuse me, one more time?

23 Q. Did you have any conversations with anyone, aside

1 from Mayor Roche, regarding the SGH report?

2 A. I mean I'm sure we just talked about it. It wasn't
3 a big secret, this thing had been in the newspapers for
4 five years, there were no surprises there. You know,
5 people were complaining, we were investigating, we were
6 doing repairs where we could, but there was nothing secret
7 about it. The problem was, without the mayor's approval,
8 we could not move that -- I didn't have \$900,000 to move
9 forward. I didn't have the money to start with, so I would
10 have needed an appropriation through the Board of Aldermen
11 and everything that goes with that, then we have to bid it
12 out, blah, blah, blah, but there was no secret; there was
13 nothing secret about it at all. Did we go handing out the
14 report? No, we don't hand out copies of any report. But
15 the building leaks, okay.

16 I mean we, as far as the testing and stuff
17 goes, again, we've been through years of having DEP coming
18 in and this is this, this is mold, it's an air vent, this
19 is mold, it's an air vent, this is mold, it's an air vent.
20 It's the same mold. What's the difference? We're still
21 dealing with the same problem. Getting a certified
22 hygienist, as far as we were concerned, we had already done
23 that; that was done. We needed to stop the initial problem

1 period.

2 MS. GOLDSTEIN: Okay, no further questions.

3 Thank you.

4 MR. BUCKLEY: I'm all set.

5 REDIRECT EXAMINATION

6 Q. (By Mr. D'Angelo) Just one more question that I
7 have. If in the RFP all you asked him to do was the
8 structural part, why was there a mold investigation done at
9 all?

10 A. I don't know. You'd have to ask them.

11 Q. Ask who?

12 A. SJC -- SGH, Simpson, Gumpertz & Heger.

13 Q. We did ask them and they said it was something you
14 requested.

15 A. I didn't request it.

16 MR. BUCKLEY: Objection.

17 A. Whatever I requested was the RFP, but I don't
18 object to them doing it; I think they're very thorough. I
19 mean fine.

20 Q. In your RFP there was nothing in there about the
21 mechanical system, the HVAC system.

22 A. I don't know.

23 Q. How did that come about?

1 A. I don't know how. These guys go in -- I don't know
2 how. These guys go in and investigate a building. Like I
3 said, they've done several other projects for us and I
4 always found them to be very thorough. They were free to
5 do anything they wanted to do down there to get to the root
6 of the problem. I'm sure they had to listen to the
7 occupants of the building. If they considered it
8 important, they threw it in. Fine, we had no objection to
9 any of that. We wanted to know what was going on. And
10 they come in as newcomers, if you will, you know, it was a
11 project for them. I think they did a good job. I wish we
12 could have had \$900,000 to correct it but we didn't, so.

13 MR. D'ANGELO: I don't have any other
14 questions.

15 MR. BUCKLEY: That's it.

16 (Whereupon the deposition adjourned at
17 12:12 p.m.)

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WITNESS CERTIFICATE

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I, ROBERT J. TRAHAN, do hereby certify that I have read the foregoing transcript of my testimony, and further certify that said transcript is a true and accurate record of said testimony

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS _____ DAY OF _____, 2007.

ROBERT J. TRAHAN

COMMONWEALTH OF MASSACHUSETTS

1
2 I, Kathleen Benoit, a Notary Public in and for the
3 Commonwealth of Massachusetts, do hereby certify there came
4 before me on February 15, 2007, the person hereinbefore
5 named was duly sworn to testify to his knowledge concerning
6 the matters in controversy in this cause; that he was
7 thereupon examined upon oath, and that the deposition is a
8 true record of the testimony given by the witness.

I further certify that I am neither attorney nor
6 counsel for, nor related to or employed by any of the
7 parties to the action in which this deposition was taken;
8 and further, that I am not a relative or employee of any
9 attorney or counsel employed in this case, nor am I
10 financially interested in this action.

11 IN WITNESS WHEREOF, I have hereunto set my hand and
12 affixed my seal March 6, 2007.

13
14 Kathleen M. Benoit
15 Notary Public

16 My commission expires
17 May 25, 2012

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