

March 26, 2009

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BEFORE THE STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of:)	
)	
STATE OF CALIFORNIA, Employer,)	Unfair Practice
and PEACE OFFICERS OF CALIFORNIA,)	Charge No.
Petitioner, and CALIFORNIA)	SA-SV-171-S
STATEWIDE LAW ENFORCEMENT ASSOC.,)	
Exclusive Representative.)	
)	
_____)	

MARCH 26, 2009

SHAWN CLOUGHESY
Administrative Law Judge

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street, Room 214
Sacramento, CA

Transcribed by: Leisa M. Miller

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1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And Petitioner.

2 MR. ROSE: Good morning. Joe Rose for Peace Officers
3 of California. Seated to my left at counsel table is
4 Diane Sabonis.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
6 We're going to be in a sense jumping back into the
7 Petitioner's case in chief to take one of their remaining
8 witnesses. I'm going to ask you to raise your right
9 hand.

10 THE WITNESS: I swear.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state
12 your name for the record, spelling your last name.

13 THE WITNESS: Tricia Hunter. H-U-N-T-E-R.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Why don't you
15 spell your first name also.

16 THE WITNESS: It's Patricia. P-A-T-R-I-C-I-A.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

18 THE WITNESS: But I go by Tricia.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Fair
20 enough. And with that, a couple preliminary questions
21 I've asked everyone. I don't expect you to answer yes to
22 any of these, but in regard -- have you read the
23 transcripts of any of the prior proceedings of this
24 matter?

25 THE WITNESS: No.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you know an
2 individual by the name of James Cline?

3 THE WITNESS: No.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose.

5 TESTIMONY OF

6 PATRICIA HUNTER,

7 Having been duly and regularly sworn, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. ROSE:

11 Q. Good morning, Ms. Hunter.

12 A. Not that I know of. Good morning.

13 Q. Thank you for allowing us to inconvenience you
14 for your appearance here this morning. You're here
15 pursuant to a Subpoena?

16 A. Yes.

17 Q. Can you tell us what your current occupation is?

18 A. I'm a Lobbyist/Health Care Consultant. I own my
19 own firm with a partner, Government Relations Group.

20 Q. And how long have you been a Lobbyist or
21 Legislative Advocate?

22 A. Since 1996. End of 1996. December of 1996. I
23 lost my election in November of 1996, and joined a firm
24 after that.

25 Q. What -- you mentioned you lost your election.

1 What election did you lose?

2 A. State Assembly.

3 Q. Did you ever hold a public office?

4 A. Yes. I was in the State Assembly from 1989
5 through 1992.

6 Q. And after -- oh, by the way, is your current
7 firm, your lobbying and health care consulting firm, in
8 any way contracting with the California Statewide Law
9 Enforcement Association?

10 A. No.

11 Q. Are you in any way contracting with the Peace
12 Officers of California?

13 A. No.

14 Q. Are you -- have you -- at what firm did you work
15 for in December of 1996 after you lost your Assembly
16 election?

17 A. It was called the Flannery Group. It was a
18 company out of San Diego that did lobbying, public
19 relations and health care. Or not health care. I
20 brought the health care piece to them. But did general
21 public relations, lobbying, both city of San Diego, state
22 of California.

23 Q. How long did you work for the Flannery Group?

24 A. I believe I left them it was either 2001 or 2002.
25 They went bankrupt.

1 Q. Now, when you were at the Flannery Group, did you
2 ever have an occasion to do any work for what is now the
3 California Statewide Law Enforcement Association, but at
4 that time was known as CAUSE, C-A-U-S-E?

5 A. Yeah. I was -- I was a Contract Lobbyist for
6 CAUSE.

7 Q. Now, what type of activities did you perform as a
8 Contract Lobbyist for CAUSE, and when did you do that?

9 A. I'm going to apologize. I don't remember the
10 exact years. It's been too long ago. But if you go to
11 the FPPC website, it's a public record -- I want to say
12 it was 1997 through '99.

13 Q. Okay. And during the years that you recall doing
14 that work, can you just give us a summary of the kinds of
15 work that you did on behalf of CAUSE?

16 A. Well, they had a number of big issues that were
17 going on at the time. They had hospital police officers
18 that wanted to be able to carry guns when they were doing
19 their jobs, especially in the hospitals that had
20 criminals that were being looked at for mentally insane.
21 So we were carrying legislation related to that.

22 We were -- there was a lot of issues with the Dental
23 Board at that time. Again, the investigators were part
24 of CAUSE, and they were trying to eliminate those
25 positions, so we were doing that. We carried some

1 legislation related to the 911 operators. In general,
2 legislation and policy that was going on at the time.

3 Q. Did you do anything other than legislation and
4 policy at any time?

5 A. Well, I mean they -- if -- I had very close to
6 ties to Governor Wilson's office. I basically lost my
7 election because I had voted for the largest tax increase
8 in the history of the state of California previously, and
9 had carried the budget on behalf of the Governor when I
10 was in office. I carried major parts of legislation for
11 them that nobody else would carry. So I had very close
12 ties to the Governor's Office.

13 And so when we got -- when CAUSE -- the Governor was
14 not giving anybody contracts. He was making it very
15 difficult. And all of a sudden he gave contracts to the
16 peace officers. He gave contracts to CCPOA. He gave a
17 contract to the Highway Patrol. I believe the
18 firefighters, though I'm not 100 percent sure on that.
19 But he was giving contracts to peace officers and nobody
20 else.

21 And so CAUSE asked me if I could call the Governor's
22 Office and see if there was a potential, since they
23 represented peace officers, that we could get a contract.
24 And so I did call people I knew within the horseshoe.
25 The actual Governor's Office is where I would have been

1 talking to people. And I called people within the
2 horseshoe on their behalf.

3 Q. Do you recall who you called?

4 A. I believe one of the people was Jeff Randall.
5 But there was a number of people we were talking to at
6 the time.

7 Q. Do you know a gentleman by the name of Craig
8 Brown?

9 A. I know Craig Brown. I can't swear whether he was
10 part of the conversations or not.

11 Q. Okay. And in your conversations with persons in
12 the Governor -- in Governor Wilson's office at that time,
13 well, you said you estimated 97 to 99 was the range of
14 time that you did the work. Can you narrow down for us
15 about the time in that range that you were actually in
16 communication with the Governor's Office about the issue
17 of the contracts?

18 A. The only thing that I remember is that it was at
19 the end of the session. I'm going to -- I believe it was
20 '98, because the session ends earlier in an election year
21 than it does in a non-election year. They go into
22 September and go longer in non-election years. It was
23 late in the session. They -- to do something, we were
24 going to have to get a bill together really fast, because
25 you have to get it into language and waive all the rules

1 to get it on the floor. And so I know that we were on a
2 very, very short timeframe in trying to get something
3 done in that legislative year. And I know it was the end
4 of the session.

5 Q. All right. And so what was it that -- if
6 anything, that you learned in speaking with
7 representatives of the Governor's Office about the issue
8 of whether CAUSE could get a contract?

9 A. The Governor, and I don't remember all the
10 specifics, but had a lot of issues with what was going on
11 with a lot of the unions. And they were very favorable
12 to supporting peace officers. They weren't favorable to
13 giving contracts to anybody else.

14 Q. Did you ever receive any type of actual offer?

15 A. We did towards the end. We -- there were
16 numerous phone calls and, again, over a matter of a few
17 nights. Because we were at the end of session. And we
18 were offered a contract for the peace officers.

19 Q. Do you recall the terms that -- of the offer for
20 the peace officers?

21 A. I just know that it was an increase in pay, and
22 basically the same terms that CCPOA and CHP, which is,
23 again, public record. Whatever the peace officers had
24 gotten for those two other associations we could have got
25 for CAUSE peace officers. But we couldn't get it for

1 anybody else.

2 Q. So how, if -- what -- can you explain in a little
3 bit more detail about what you mean you couldn't get it
4 for anybody else?

5 A. Well, CAUSE represents a group, if I remember
6 right, that I know -- like the 911 operators, that's the
7 ones I remember that are non-peace officers. As well as
8 they represented people with the Dental Investigation
9 Board and others that were POST-carrying peace officers.
10 And so they had a dilemma that they were representing
11 people within both groups, and the Governor's Office was
12 only -- for whatever their political reasons were, was
13 only willing to negotiate on the peace officer side, not
14 the other.

15 Q. Okay. And so were there -- what specifically
16 were they offering with respect to the peace officers, if
17 you recall?

18 A. Whatever was offered CHP. You'd have to go back
19 and look at the bills. Whatever was offered CCPOA and
20 the Highway Patrol at that time. I know it was a pay
21 increase. I think it had something to do with
22 retirement.

23 Q. And what did -- what did you learn from CAUSE, if
24 anything, in response to that offer?

25 A. CAUSE chose not to take the offer because it

1 divided their members.

2 Q. And what do you mean when you say it divided
3 their members?

4 A. Well, they would be taking a contract for part of
5 their members and not part of their members.

6 Q. And who do you -- how did you know that, or learn
7 that?

8 A. Because I called the Governor's Office back and
9 told them we weren't going to take the offer.

10 Q. But how did you know the reasoning was because of
11 the dividing of the members? That the reason that the
12 contract was not accepted --

13 A. It was in the discussions that I had with -- in
14 the -- I mean I remember being on the phone frequently
15 with John. I was on the phone with Gary some of the
16 time. But I can't tell you who was involved in which
17 conversation. It's too long ago. But John Miller was my
18 primary contact with CAUSE.

19 Q. Okay. And so did you -- what did you communicate
20 to the Governor's Office specifically with respect to the
21 offer?

22 A. That we just wouldn't be taking it. I didn't do
23 any detail.

24 Q. He did not give an explanation?

25 A. No.

1 Q. All right. Did you learn from your conversations
2 with John Miller, or anyone else at CAUSE, any other
3 reasoning for the -- for not accepting the offer of pay
4 raises for peace officers only?

5 A. Not in the part I was involved with. I was
6 involved with the negotiating with the Governor's Office
7 deployment of it. I wouldn't have been involved in my --
8 in detail beyond the issues that I was calling the
9 Governor's Office on their behalf for. And those were
10 the issues that we were discussing.

11 Q. Around the same time do you recall a concept or
12 label known as pay for performance?

13 A. Sure.

14 Q. What was that, or what is your understanding of
15 what that was at that time?

16 A. The Governor had a number of things on the table
17 that he wanted from his view, reforms done in the
18 contracts for all the State employees. But I don't
19 remember which ones of those or which issues CHP took or
20 CCPOA took, or whether they didn't. I just know what we
21 were offered was the same for peace officers as what
22 CCPOA and CHP got.

23 Q. To what extent was your understanding of the pay
24 for performance reforms a factor in CAUSE's decision to
25 reject the offer?

1 A. I wouldn't have been involved in those
2 discussions. I don't remember that being a part of it.

3 Q. Okay.

4 A. But I was, again, in a very limited piece.

5 MR. ROSE: All right. Nothing further.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

7 Ready for cross-exam, sir?

8 MR. MESSING: Yes. Just a few questions, Ms. Hunter.

9 Okay. Actually, could I take a quick break before we --

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Absolutely.

11 MR. MESSING: -- do cross?

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Off the record.

13 MR. MESSING: Thank you.

14 (Off the record.)

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We are back on
16 the record ready for cross-exam.

17 MR. MESSING: Okay. Just two questions.

18 CROSS-EXAMINATION

19 BY MR. MESSING:

20 Q. First of all, are you positive as you sit here
21 today that CHP took a contract in the period that you're
22 discussing?

23 A. No.

24 Q. Okay.

25 A. I thought it was -- I thought it was CHP and

1 CCPOA.

2 Q. Okay.

3 A. But it's been a long time ago.

4 Q. Okay.

5 A. I just know they negotiated a peace officers
6 contract, and that it's in legislation somewhere, that we
7 were offered a similar.

8 Q. Okay. So you're a little vague on the details.
9 I want to see if I can refresh your recollection. Isn't
10 it true that the non-peace officer bargaining units were
11 offered a three percent pay raise?

12 A. I don't remember.

13 Q. Okay. Do you remember that the proposal that was
14 given to CAUSE included five percent for peace officers
15 and three percent for non-peace officers?

16 A. I know that it carried a difference. That there
17 was a different amount for peace officers versus non-
18 peace officers.

19 Q. Okay. And you are aware that pay for performance
20 was a condition of getting the pay increases?

21 A. No, I don't. I just know it was part of the
22 discussions of the politics at the time. I was not a
23 big -- I was doing one piece. I was doing the political
24 piece for CAUSE. I am not a contract negotiator. I do
25 not do union contracting.

1 Q. Okay. So you were not --

2 A. So --

3 Q. I'm sorry.

4 A. I was not privy to all the major details. It was
5 came down to I was asked to call the Governor's Office
6 and see if I could get a deal.

7 Q. Okay. And then so you were not in the Board
8 meeting of --

9 A. No.

10 Q. -- CAUSE when the proposal from the Governor's
11 Office was discussed and rejected?

12 A. No.

13 Q. And you -- and you indicated that -- oh. By no,
14 you are saying no, you were not there, or yes, you were
15 there?

16 A. I wasn't -- I don't remember being in any
17 meetings where any -- I was on the phone call with --
18 phone with key -- like John Miller. I assume Alan was on
19 the phone call because they were like glued together.
20 But I can't -- I don't remember. I know talking to you a
21 couple times.

22 Q. Okay. Just one last thing. So you don't know
23 the degree to which pay for performance was a motivating
24 factor in CAUSE rejecting the offer?

25 A. The only thing I know about is the conversation

1 that I had that then I called the Governor's Office.

2 Q. Were you aware that -- you mentioned that CCPOA
3 made a deal, and you're not -- it doesn't sound like
4 you're positive about CHP.

5 A. I'd have to go back and look.

6 Q. Okay. Were you aware that all of the other State
7 groups turned down --

8 A. Yes.

9 Q. -- proposals at that time?

10 A. Yes.

11 Q. Okay.

12 A. I was.

13 MR. MESSING: Thanks. Nothing further at this time.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Employer?

15 MS. TRUONG: Nothing from us.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

17 MR. ROSE: I just wanted to clear a couple things up.

18 REDIRECT EXAMINATION

19 BY MR. ROSE:

20 Q. You mentioned the name Alan. Who are you
21 referring to?

22 A. Uh-hmm. Alan Barcelona.

23 Q. And you mentioned the name Gary. Who are you
24 referring to?

25 A. The attorney here.

1 Q. Gary Messing?

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Gary Messing?

3 THE WITNESS: Yeah. He was the negotiator, union
4 contract negotiator, at the time. And so we were doing
5 late night calls. And he was on a couple of those phone
6 calls.

7 BY MR. ROSE:

8 Q. All right. And in any of the communications from
9 CAUSE to you did you learn that CSL -- that CAUSE was
10 rejecting the contract because of pay for performance?

11 A. The conversations that I understood when I called
12 the Governor's back -- Office back and turned it down was
13 related to the splitting of the benefit. That one group
14 was getting a higher benefit than the other. I mean
15 that's what I understood why we told the Governor's
16 Office no.

17 Q. And the one group that was getting the higher
18 benefit was which group?

19 A. The peace officers.

20 Q. Thank you. Nothing further.

21 RECROSS-EXAMINATION

22 BY MR. MESSING:

23 Q. And who do you say told you that that was the
24 reason for CAUSE turning down the proposal?

25 A. I was on the phone with John Miller. I assume,

1 like I said, Alan. It was a conference call. I don't
2 know who everybody was on the phone when we were talking.
3 But my primary contact was John Miller.

4 Q. Okay.

5 A. I mean it was John who I would be returning the
6 call to and talking to when I -- and then there'd be a
7 whole bunch of people on the phone. But I have no idea
8 who was there. Alan, I assume, was on the phone. He
9 always was on the phone when we were doing major stuff,
10 so --

11 Q. Okay.

12 A. It's a long time ago.

13 Q. Okay. So did whoever -- well, first of all, so
14 you're not clear who told you this; is that correct?

15 A. I know that John Miller was on the phone. That I
16 could tell you.

17 Q. Okay. So --

18 A. Because that's who I would have called.

19 Q. So when you're trying to broker this deal with
20 the Governor's Office, did somebody from CSLEA say that
21 if they gave the non-sworn people the same percentage
22 increase as the sworn that they would accept the
23 Governor's proposal?

24 A. It was CAUSE then. And my impression was yes.

25 Q. I didn't ask you about your impression. I asked

1 you if you were told that if the --

2 A. You know, it's my --

3 Q. Well, let me finish the question.

4 A. Okay.

5 Q. Because there's a transcript that's being made.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And you're
7 trying to be helpful, and I appreciate that.

8 THE WITNESS: Okay. All right.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: But you got to
10 wait 'til the end of the question.

11 THE WITNESS: Okay.

12 BY MR. MESSING:

13 Q. Were you specifically told that CAUSE would take
14 the same -- would take the contract if the same pay
15 increase were given to the non-sworn as to sworn?

16 A. Yes.

17 Q. And who told you that?

18 A. I don't remember. But I know I made that call to
19 the Governor's Office, and I wouldn't have done that on
20 my own.

21 Q. And who did -- who did you talk to at the
22 Governor's Office?

23 A. You know, I talked to a lot of people, but I
24 believe it was Jeff Randall that we were doing most of
25 the final negotiations with. But we were talking to a

1 number of people in the office. And again, they'd bring
2 their people in on the conference call. Because they
3 wanted to negotiate a contract.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: They meaning?

5 THE WITNESS: The Governor's Office.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you.

7 BY MR. MESSING:

8 Q. Okay. What discussions did you have, if any,
9 with the Governor's Office regarding pay for performance
10 as a condition for reaching a contract?

11 A. None that I remember.

12 Q. Okay. Now, when you say none that you remember,
13 do you think that there were discussions about pay for
14 performance?

15 MR. ROSE: Objection. Lacks foundation.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you know?

17 THE WITNESS: No.

18 MR. MESSING: Okay.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

20 BY MR. MESSING:

21 Q. But as you sit here today, you are aware that pay
22 for performance was put on the table for all the other
23 bargaining units?

24 A. I remember the publicity everybody else read in
25 the newspaper. There was a whole bunch of stuff that was

1 put on, just like this Governor has put a whole bunch of
2 stuff on that they say publicly. But when you get down
3 to negotiations with what actually comes out in the bills
4 that we used to see as legislators, never was in them.
5 There was always a bunch of stuff put on the table. All
6 I know, I was -- what I was doing was at the very end it
7 was a very minor piece trying to get a contract through.

8 MR. MESSING: Nothing further.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

10 MR. ROSE: Nothing further.

11 MS. TRUONG: Nothing.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you very
13 much. And I think that's it. So we'll go off the
14 record.

15 (Off the record.)

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Back on the
17 record. Ms. Hunter is back. And I just want to remind
18 you not to discuss your testimony with any of the other
19 witnesses.

20 THE WITNESS: Okay.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I doubt you come
22 in contact with any of them. But regardless of that,
23 you're free, of course, to talk about your testimony with
24 anyone at these three tables.

25 THE WITNESS: Okay.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you
2 understand the admonition?

3 THE WITNESS: Yes.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
5 Thank you very much.

6 THE WITNESS: I don't know who I'd be talking to.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That's probably
8 true. Off the record.

9 (Off the record.)

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're back on
11 the record. Anything further for today that we --

12 MR. ROSE: Nothing here.

13 MR. MESSING: No.

14 MS. TRUONG: Nothing.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So April 22nd.
16 I do have -- I don't know if I marked on it, but I do
17 have a copy of the unpublished decision. I can make a
18 copy and give it to all the parties.

19 MR. ROSE: Or just the cite, and we can pull it.

20 MS. TRUONG: I have the copies right here.

21 MR. ROSE: Oh, you do?

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Oh, okay. Well,
23 if I can --

24 MR. MESSING: Can we make an exhibit of them?

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah. We'll

CERTIFICATION AND
DECLARATION OF TRANSCRIBER

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4 I, Leisa M. Miller, a duly designated transcriber of
5 Vine, McKinnon & Hall, do hereby declare and certify
6 under penalty of perjury that I have transcribed from a
7 CD recording the proceedings in the matter of STATE OF
8 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,
9 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT
10 ASSOCIATION, Exclusive Representative, Unfair Practice
11 Charge No. SA-SV-171-S, which recording was duly recorded
12 at Sacramento, California on March 26, 2009, and that the
13 foregoing pages 1 through 28 constitute a true, complete
14 and accurate transcription of the aforementioned
15 recording to the best of my ability.

16 Dated this 14th day of April, 2009, at Dixon,
17 California.

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20 _____
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