

1 OFFICE OF THE ATTORNEY GENERAL

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3

4 IN RE: STANKOSKI/STOUT EEO
COMPLAINT INVESTIGATION

5

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8 CONFIDENTIAL INTERVIEW OF

9 ALETHEA BOTTS

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11 Taken at the offices of
The State of Ohio
12 180 East Broad Street
11th Floor, Room A
13 Columbus, Ohio 43215

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on April 18, 2008, at 10:29 a.m.

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17 Reported by: Sara S. Clark, RPR/CRR/CCP/CBC

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1 PRESENT:

2 Ben Espy, Esq.
Executive Assistant Attorney General
3 Administration
30 E. Broad Street, 17th floor
4 Columbus, Ohio 43215

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6 Julie M. Pfeiffer, Esq.
Assistant Attorney General
7 Employment Law
150 East Gay Street
8 Columbus, Ohio 43215

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1 MR. ESPY: Ms. Botts, my name is Ben
2 Espy, I'm the executive assistant to Marc Dann;
3 and this is Julie Pfeiffer, she's a senior
4 attorney in the employment section.

5 And we were requested on April the 8th
6 to look into allegations regarding two employees
7 against one Anthony Gutierrez.

8 THE WITNESS: (Nods head.)

9 MR. ESPY: In pursuing that
10 investigation, we're conducting these interviews
11 under oath. And we cannot guarantee
12 confidentiality, because some of these may
13 become public documents. And I'd like to have
14 you testify. If you would like to raise your
15 right hand, please.

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2 being first duly sworn, as hereinafter

3 certified, says as follows:

4 EXAMINATION

5 BY MR. ESPY:

6 Q. Okay. State your full name for the

7 record and spell it for the court reporter.

8 A. Alethea Botts. A-l-e-t-h-e-a, B, as in

9 boy, o-t-t-s.

10 Q. Ms. Botts, where are you employed?

11 A. For the Ohio Attorney General's office,

12 human resources.

13 Q. And in what capacity are you employed?

14 A. I serve as deputy director of human

15 resources.

16 Q. And how long have you been so employed

17 in that position?

18 A. Recently, since October, 2007. I was a

19 rehire. I served for this office from May of
20 1996 until May of 2005, at which time I left,
21 started my own business, and I was asked to come
22 back in 2007. During my former hire, I did
23 serve in a human resources capacity as the -- I
24 was initially hired as the personnel and

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1 training director for revenue recovery. I was
2 asked to come over to human resources in '98 and
3 serve in a deputy director position as the EEO
4 director. And in that position, I also served
5 as a manager in human resources for those eight
6 years or so.

7 Q. EEO was part of your responsibilities as
8 deputy director?

9 A. It was my foremost responsibility. That
10 was my overall area of responsibility.

11 Q. And that was from 1998?

12 A. From 1998 until 2005 -- May of 2005.

13 Q. Okay. And describe your
14 responsibilities as the EEO officer between 1998
15 and 2005.

16 A. Primarily my responsibilities were to
17 oversee the EEO program of the office, which
18 included making sure that, one, all of our

19 reporting requirements were met, that the data
20 was collected that was necessary to tabulate for
21 those reports, to ensure that all the policies
22 and procedures of the office were consistent
23 with EEO policy; and I was also responsible for
24 conducting all the sexual harassment awareness

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1 training classes, some diversity, a lot of
2 communication skills training; and I handled all
3 the investigations that came of rise as a
4 matter -- as a result of EEO complaints, as well
5 as non-EEO workplace harassment complaints.

6 Q. Okay. Now, as deputy director since
7 October, 2007, what are your job
8 responsibilities there?

9 A. I comanage the section with Stephanie
10 Bostos-Demers, completely overseeing the human
11 resources function. We have -- I don't know,
12 I'm losing track now -- 12 or 15 employees that
13 we manage. Every aspect of human resources from
14 hiring all the way through to separation, all
15 the training that takes place, any types of
16 complaints or concerns. I oversee all the
17 disciplinary recommendations that come to our
18 office and make decisions and approvals or

19 declinations on those.

20 Q. Did you have any input in writing the
21 policies and procedures for this administration?

22 A. Not for this administration, no. I came
23 back in October of 2007 -- let me take that
24 back. For the whole policy, no. I was involved

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1 in the weather emergency policy. But outside of
2 that, I can't think of any other policy that
3 I've worked on, because they were pretty much
4 already in place by the time I got back in
5 October.

6 Q. Did you have the responsibility under
7 Attorney General Betty Montgomery in
8 establishing policies and procedures for the
9 office?

10 A. Absolutely.

11 Q. And were you aware -- are you aware of
12 what policies and procedures were in effect in
13 Attorney General Marc Dann's office in October
14 of 2007?

15 A. I'm not sure I could say, because I --
16 well, yes, I would have been, because if the new
17 policies didn't come into effect until January
18 of 2008, then they would have been the previous

19 policies. So I was aware of them up until May
20 of 2005. I would not have been aware of any
21 changes between May of 2005 and October, 2007.
22 Q. When you began employment in October of
23 2007, did you have the opportunity to review the
24 policy and procedures of the Attorney General

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1 Marc Dann's office that were in effect at that
2 time?

3 A. They were still the same. We were still
4 operating off of the former policies. There
5 were policy changes that had been made and
6 posted to the Internet; and, yes, I did review
7 those changes.

8 Q. Okay. And the policies were changed in
9 January of 2008; is that correct?

10 A. Yes.

11 Q. And were you familiar with those
12 policies --

13 A. Yes.

14 Q. -- when they were released in 2008?

15 A. Yes.

16 Q. Okay. As I indicated before, this
17 involves allegations of sexual harassment filed
18 by one Cindy Stankoski and Vanessa Stout.

19 A. Uh-huh.

20 Q. Were you involved at all in this process

21 of these two ladies who filed their complaint?

22 A. Yes. I received an e-mail from Vanessa

23 Stout on the afternoon of March 6th, indicating

24 that she -- you know, the e-mail was entitled

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1 urgent, need to talk with you, and she wanted
2 somebody else present.

3 Q. That was March 6th?

4 A. That was on March 6th. And chiefs'
5 meeting was going on at that time. So I sent
6 down with the secretary a note, saying, hey, you
7 know, she's on her way to my office, you need to
8 come upstairs, and it was to Stephanie.

9 Q. And what happened after that?

10 A. Stephanie came up from the chiefs'
11 meeting, and we meet with Vanessa. She came in,
12 she was very upset. This was my first time
13 meeting her. I had heard things in the past,
14 but nothing -- my first interaction with her.

15 She was upset because she had learned
16 through her friend, Cindy Stankoski, that Tony
17 Gutierrez had planned to replace her job. She
18 had been transferred over to the IT section in

19 January, and Tony -- according to Vanessa, Tony
20 told her she was over there temporary for six to
21 eight weeks to help on a special project and
22 that she would be coming back.
23 Well, she said she had had lunch with
24 Cindy -- Vanessa had lunch with Cindy that day,

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1 and that Cindy asked Tony, so, hey, her eight
2 weeks are over, when is she coming back? And
3 Vanessa said to me that after that lunch, Cindy
4 called her and said Tony was really pissed, he
5 wants your phone number, you know, why won't you
6 give it to him, and he told me to tell you
7 that -- I don't know if it was a person sitting
8 in the office or whatever -- but that your job
9 was going to be replaced.

10 And so Vanessa then said, I've had it,
11 and I'm coming to human resources. And her
12 complaint really more was about feeling angry,
13 that she felt like she had been shoved in a
14 broom closet, feeling as though she was placed
15 in a position or in a department for which she
16 had no responsibility, no type of skills, and
17 then to learn that she wasn't coming back, she
18 was angry.

19 And so she began to share a lot of
20 things that were all over the place. And I -- I
21 recall writing some things down, but I don't --
22 I remember I stopped writing. I stopped,
23 because she seemed to be all over the place with
24 just a lot of extraneous things that I didn't

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1 think had to do with her specific issue. But
2 she did say to us, Cindy Stankoski wants to talk
3 to you now, and that's how we left that meeting.

4 Q. Did she, in that initial meeting, talk
5 about that she was being sexually harassed?

6 A. Not that she was being sexually
7 harassed. She told us in that meeting a lot of
8 things, about how she met Tony, that she was a
9 neighbor of Tony's -- let me -- she told us a
10 lot of things. She told us that he bought her a
11 dildo, so if that warrants to constitute sexual
12 harassment, he gave her a bag and told her to
13 reach her hand in, and it was a dildo; that he
14 would make comments about her breasts, her butt,
15 bite his lip when he's talking to her.

16 And the backdrop of that, that she
17 offered, was that she was neighbors to Tony, and
18 that she would smoke cigarettes outside -- she

19 lived with her parents -- she would see Tony
20 coming and going. She thought they were the
21 CIA, she said.

22 How she came to meet Tony is that her
23 dad came and said, somebody hit my car. And
24 she's like, well, that's a shame or whatever.

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1 She said, I come to find out, Tony pulls in one
2 day, and he has damage on his car that's
3 consistent with the damage on my dad's car. So
4 she says, I confronted the MF. She said, I
5 didn't know who he was. I didn't know who he
6 worked for. I'm like, you hit my dad's F'ing
7 car. He's like, hold up, hold up, I work for
8 the Attorney General's office. I'll get it
9 worked out. Whatever. They became friends.

10 Vanessa said she had this surly past or
11 whatever; but Tony said to her, I will get you a
12 job at the office.

13 So that's the backdrop of that. But
14 they have forged this relationship. She had
15 often frequented their condo, according to
16 Vanessa, so she had drinks with him frequently
17 or whatever.

18 I did have to ask Vanessa, just because

19 of what she was saying, were you at any time in
20 a consensual sexual relationship or any type of
21 relationship with Tony Gutierrez? And which she
22 said, no. But the way they talked to each
23 other, and the way that -- it just -- I wasn't
24 clear on that. And there were rumors throughout

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1 the office about things.

2 So when she said, he gave me a dildo,
3 you know, he made comments about my breasts, my
4 butt, et cetera, I was really trying to frame
5 that in the proper context and to understand why
6 she was there at the office that day,
7 complaining. And my total understanding of it
8 that day was that she was pissed that she
9 learned that she wasn't going to get her job
10 back and so now she's going to tell it all.

11 So I still was not able to determine on
12 what basis she was telling it all. Were these
13 things really offensive to her at the time? I
14 wasn't able to determine that by that one
15 conversation.

16 She indicated that Cindy had much more
17 to say and said that she would have Cindy
18 contact us.

19 Q. Did she say at that initial meeting that
20 she was going to sue for sexual harassment?

21 A. No, she didn't. Not that I recall,
22 anyway.

23 Q. Well, under -- we have a time
24 chronology -- you may have seen that -- written

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1 by Ms. Demers.

2 A. Uh-huh.

3 Q. She said -- referring to a meeting with
4 Vanessa Stout on March 6th -- she relayed that
5 Tony told her that Ed Simpson said the office
6 was going to fire her but she would sue for
7 sexual harassment so they transferred her.

8 Do you recall that?

9 A. I recall the day that Ed Simpson came to
10 Stephanie's office. He wasn't comfortable
11 talking with me in the office. He tried to
12 share, we're one, we're going to talk about it.
13 Anyway, I did leave.

14 After her and Ed talked, she called me
15 in and she said, they want to fire that girl,
16 Alethea. I'm like, what girl? She said,
17 Vanessa Stout. All I know at this point is just
18 rumors. I'm going, whoa. And I told them they

19 can't fire that girl. And he's like, all I know
20 is that Marc Dann wants her gone, is what Ed
21 said.
22 So according to Stephanie, she went
23 upstairs and told them, you absolutely cannot
24 fire this girl or she will file charges against

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1 our office. I don't know that it was Vanessa
2 that said, if you fire me... Vanessa, I don't
3 know to this day if she knows that she was on
4 the chopping block that day.

5 Q. Why did Ms. Demers and maybe you felt
6 they could not fire her?

7 A. Apparently, Stephanie was aware of
8 rumors that basically Tony G. had been
9 fraternizing with his staff. But, of course,
10 she didn't know and I didn't know whether or not
11 these were consensual relationships. The office
12 had been replete with rumors about,
13 quote/unquote, bad boys, that things were
14 happening at the apartment. And so it was a
15 situation that was dealt with a little bit from
16 afar. I had had no dealing with it. But she
17 knew at that point that Vanessa had been
18 involved in something; and that if she was fired

- 19 just for no reason, other than they was told --
- 20 they were told -- Stephanie was told that Marc
- 21 wanted her out of the office.
- 22 Q. Is the reason that Ed gave Stephanie
- 23 Demers for her firing was the fact just that
- 24 they want her out of the office? He didn't give

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1 another reason other than that?

2 A. I wasn't privy to that conversation.

3 Q. Well, I'm trying to understand why it

4 was told to Ed he could not fire her unless

5 there was some prohibitive reason.

6 A. Oh. Because, from her perspective, and

7 the little that I knew, you know, I -- I

8 concurred with Stephanie, I'm like, you're

9 absolutely right, on the rumors that I heard,

10 they better not fire this girl. If Tony

11 Gutierrez had been playing around with her, you

12 better think twice about firing her, because it

13 could be perceived that he's now done with her.

14 And I'm talking about my EEO background and

15 background as human resources manager. When you

16 have those situations, you need to walk very

17 circumspectly.

18 And so we had no complaint at that

19 point. We -- the girls had never come to us.

20 We did not know the nature of these

21 relationships. But it's like, you cannot just

22 fire this young lady.

23 Q. Suppose Ed had come down and said,

24 because of her attendance problem, and because

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1 she's not doing a good job in that section, we

2 want to fire her. Would your response still

3 have been the same?

4 A. I would have said, prove it to me.

5 Q. Prove what to you?

6 A. Prove it to me she has bad attendance.

7 Prove it to me she has -- as with any manager

8 that would request somebody -- we would have to

9 say, we need to see that documentation in

10 writing that she has poor attendance and that

11 she's not doing a good job. Where are the

12 counseling sessions? Where are the reprimands?

13 We follow a progressive disciplinary policy in

14 our office. Absent those things, we would never

15 approve a termination.

16 Q. So what you're saying is based upon the

17 limited reason that Ed gave that Marc wants her

18 out is the reason why they said you cannot fire

19 her, based on that?

20 A. I hear your question. And, no, I

21 wouldn't say it was just based on that.

22 Q. Well, the only thing I've heard so far

23 is that the reason that they want her out is

24 because he said Marc wants her out; and then the

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1 response to that was, you can't fire her.

2 A. Right.

3 Q. So I'm trying to bridge this gap here --

4 A. I understand.

5 Q. -- to say, how do we get to this "you

6 can't fire her" unless you had a reason which

7 was prohibitive from firing her.

8 A. I don't have any firsthand knowledge.

9 But when I was hired, I was told about -- just a

10 second.

11 Vanessa was hired in November. Okay.

12 I'm thinking back in September.

13 When Vanessa was hired, there was this

14 urgent HR request that came, they want to hire

15 this person. We do backgrounds on all

16 employees. Vanessa's background came back very

17 bad.

18 Q. Right.

19 A. So Stephanie says to me, would you look
20 at this background. She's like, I can't
21 believe -- she said, I'll bet you this has
22 something to do with Tony. So she takes it
23 upstairs, and she says, I'm not signing off on
24 this.

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1 At this point she makes this connection
2 that there is something between Vanessa Stout
3 and Tony Gutierrez. When she refused to sign
4 off on it, Ed Simpson signed off on it, and she
5 was hired.

6 And I remember talking with Stephanie, I
7 mean, she and I, as comanagers of the HR
8 department, you know, her disdain, her level of
9 uncomfotability about hiring someone who did
10 not meet the standards, the fact that Ed Simpson
11 would sign off, and the fact that this obviously
12 had -- you know, this is Tony. She must have
13 been aware of some other things.

14 And so on that basis, the fact that we
15 would not have hired her under any other
16 circumstances, hearing the rumors, and basically
17 she is saying, as the HR director, there is more
18 to this picture than meets the eye, and I'm

19 telling you, you cannot fire this young lady or

20 you're going to have a lawsuit on your hands.

21 Q. Okay. So based on additional knowledge

22 that Stephanie had at her disposal, maybe that

23 Ed didn't have, she told him, you can't fire

24 her, with that background you just indicated on

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1 the record?

2 A. Yes. I would have to think that Ed had
3 the knowledge, as well.

4 Q. So the next day, on March the 7th, you
5 talked to Cindy Stankoski.

6 A. Yes.

7 Q. And who set up that meeting?

8 A. I don't know whether Vanessa set it up
9 or we told her to contact us. I believe Cindy
10 contacted me or Stephanie. I don't recall. We
11 just told her to come on up to human resources.
12 It was either through -- I don't recall it being
13 e-mail, but maybe a phone call.

14 Q. And she was interviewed by yourself and
15 Ms. Demers; is that correct?

16 A. Correct.

17 Q. And you took extensive notes on that
18 interview?

19 A. Yes.

20 Q. As a result of that interview, what did

21 you all decide to do, if anything?

22 A. We knew we had a major situation. At

23 the end of the interview, I recall taking a list

24 of witnesses from Cindy. Our immediate plan was

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1 to investigate. And so we took a list of
2 witnesses. It wasn't a thorough list, but I
3 wanted to keep her open to dialogue and didn't
4 want to scare her, but just basically asked who
5 else she thought maybe we could talk to.

6 She indicated she had a diary, as well,
7 that after some incident in September, she began
8 to keep a diary of everything that happened.

9 But she indicated, she said, there's so many
10 personal things in my diary. We told her, you
11 know, we'll get with her on Monday to get the
12 diary, because she had it at home. She kept
13 emphasizing that there were personal things in
14 that diary.

15 Q. Did she tell you during that interview
16 that she was being sexually harassed?

17 A. Yes.

18 Q. And did she go into detail regarding the

19 events on September 10th, 2007?

20 A. Yes, she did.

21 Q. And during that interview, did she

22 inform you that she had her pants -- had three

23 buttons loose on her pants when she woke up?

24 A. Yes.

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1 Q. And did you reduce your notes to writing
2 anywhere?

3 A. Those are my notes. I mean, I didn't --

4 Q. I'm sorry. Typed.

5 A. No. This interview -- our interview
6 with Vanessa took place at the end of the day.

7 Cindy, you know, was a lot of just -- a lot
8 going on. There was a need to get word to Joyce
9 Chapple and Ed Simpson to let them know, you
10 know, this could touch -- that this is -- you
11 know, the Attorney General's name is coming up
12 in it, a lot of people's names, and they needed
13 to be aware of this.

14 Q. And did that happen? After that, did
15 you contact Ed Simpson and Joyce Chapple?

16 A. Yeah. I was off on March the 10th on a
17 vacation day I had taken. I know Joyce -- not
18 Joyce, Stephanie was saying, I gotta get up

19 there. I gotta tell them what's going on. And
20 that either took place that Friday or that
21 Monday while I was gone. When I came back on
22 the 11th, I came back to a very disappointed HR
23 director.
24 Q. Why was she disappointed?

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1 A. She was told -- we told them what
2 happened, that we were in the midst of
3 conducting an investigation, we intended to get
4 the diary from them, that they needed to be on
5 the alert, and we would handle this as
6 sensitively as possible, and she was told not to
7 investigate it.

8 Q. By whom?

9 A. By Joyce Chapple.

10 Q. You said you were off from work from
11 March 8th -- 7th, after that interview?

12 A. It was a Friday, yeah. I just took that
13 Monday off.

14 Q. You took Monday off?

15 A. Yes.

16 Q. Which would have been --

17 A. The 10th.

18 Q. And when you came back on the 10th, she

19 told you she had already met with them, Ed

20 Simpson and Joyce Chapple?

21 A. When I came back on the 11th, she did.

22 Q. One thing I'm curious about and asked

23 this question before, what authority did HR have

24 to conduct an investigation which involves EEO

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1 matters and sexual harassment allegations?

2 A. Oh, okay. To me, HR always has that
3 authority. As a director and deputy director,
4 any personnel issues are brought through human
5 resources for review. If there is something
6 amiss in a section, we -- you know, we look into
7 it. If it's EEO, our initial thought was this
8 needs to go to Angie, and we did say to the
9 girls, we need to get you in touch with our EEO
10 officer, Angie Smedlund.

11 Q. Why didn't HR refer the information --

12 A. Immediately?

13 Q. -- information you had to the EEO
14 officer at that point in time?

15 A. Frame your question again.

16 Q. Why didn't HR on its own refer the
17 information that you accumulated to the EEO
18 officer at that time?

19 A. They did not want it -- "they" being the
20 girls. When we said, we're going to get you in
21 touch with the EEO officer, she said, no, no,
22 she's one of them, is what the comment was.

23 Q. By whom?

24 A. By Cindy Stankoski, in particular. She

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1 felt like she could not trust the EEO officer,
2 because not only -- their EEO officer is the EEO
3 officer, but she is also the executive assistant
4 to Joyce Chapple, who sits on the executive
5 staff. And she just felt that because of what
6 had been happening in her world, it is -- she's
7 being sexually harassed by Tony Gutierrez, who
8 lives with Leo and Marc, and that all of these
9 people are on the executive staff, so she just
10 felt like she couldn't trust them. And so we
11 understood.

12 And in those matters, HR will always
13 pick up. HR always has the authority. That's
14 our duty, to make sure that any personnel issues
15 are taken care of. And our policy talks about
16 when a person has a complaint, they can come to
17 the EEO officer, they can come to the director
18 of human resources, they can come to the

19 supervisor, any other level of management. My
20 understanding, under civil rights laws, which
21 I've preached and taught in training classes, I
22 let supervisors know, in the state of Ohio, the
23 employer is deemed as a supervisor, so anyone
24 who has any type of supervisory capacity has an

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APRIL 18, 2008

1 affirmative duty to act upon information that
2 they hear. So you need to take it up the
3 channel or handle it themselves when they get
4 that information.

5 Q. Well, I differ with you in a number of
6 areas, but I won't get into that now.

7 I think if they were leery of the
8 executive staff knowing about this, did they --
9 did you tell them you were going to go to Joyce
10 Chapple and to Ed Simpson, who was a part of the
11 executive staff?

12 A. I don't think we did. I think we told
13 them, one -- our main concern at that time
14 was -- my closing questions were, what is it
15 that you want? Is there anything happening now?
16 Do I need to remove you out of harm's way? Are
17 you being sexually harassed now? The answers to
18 those were no, he's not bothering me now, but my

19 office sits out in front of him, I just want him
20 gone. She didn't want to be in that close
21 proximity to Tony. I wanted to make sure she
22 was okay.
23 I apologize, I just lost track of your
24 question. I needed to say that as a backdrop.

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APRIL 18, 2008

1 What was your question?

2 MR. ESPY: Could you read it back?

3 (Record read as requested.)

4 A. Not at that time. I don't recall us
5 telling her. We told her we would look into it,
6 she did the right thing by coming into human
7 resources, that we would take care of it.

8 Q. I've been trying to understand, if these
9 two ladies had a fear of the, quote/unquote,
10 17th floor knowing about this, and you're
11 reluctant to refer this to the EEO officer
12 because she's one of them, why would we then, in
13 turn, go to the 17th floor and talk to Joyce and
14 Ed Simpson?

15 A. I see. She did not want the complaint
16 turned over to EEO. And that would be something
17 that we would also have discussed with Joyce.
18 But any time you have a situation of this

- 19 magnitude that touches all the way up to the
- 20 Attorney General, the executive staff must know.
- 21 Marc Dann must know. Ed Simpson must know.
- 22 Joyce Chapple has to know this is going on.
- 23 The expectation was that they understood
- 24 it was in the competent hands of the HR director

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1 and the deputy director, and that both of us,
2 Stephanie with the civil rights background, me
3 with an EEO background, certainly had the skills
4 and the ability and the authority to investigate
5 this properly, but we needed them to be on
6 notice about it. And to not notify them would
7 have been negligent in our duties.

8 Q. Is that a part of your notes or a part
9 of -- what you just indicated, do you know?

10 A. Would I have written down notes what I
11 intended to do? No.

12 Q. Or would you have written down what you
13 advised them?

14 A. No, no. At the time I was taking notes,
15 I was trying to take copious notes to try to --
16 it was important to me, I was trying to take
17 things that were coming out of her mouth so that
18 I can establish credibility, you know. Things

19 were just pouring out, so I was just trying to
20 grab everything that I could, as I was taking my
21 notes, to later be able to tie those things
22 together. Those first interviews with
23 complainants are often very important. Later,
24 stories change and things of that nature.

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1 So my sole focus for that interview was
2 to assure her that she did the right thing, to
3 write down everything I possibly could about
4 what she was saying, and to get some bare bones
5 of a witness list, and to find out from her what
6 it is that she wanted done. You know, when
7 someone is complaining of sexual harassment,
8 what is it that will resolve this for you?

9 Q. Okay. On the 11th of March, did -- were
10 you assured by Ed Simpson that the matter would
11 be handled by them?

12 A. Not personally. Through Stephanie. She
13 said, they said they would handle it.

14 Q. Okay. That was on the 11th of March, on
15 or about, when you got back, you heard that?

16 A. Yeah.

17 Q. Okay.

18 A. But also, they didn't want even -- they

19 said they handed -- they said not to get those
20 diaries from the girls. The girls were supposed
21 to bring their diaries.

22 Q. They said get them or --

23 A. Don't get the diaries.

24 Q. Who said don't get the diaries?

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1 A. It would have had to have been either
2 Joyce or Ed. But Stephanie was instructed.
3 You'll have to ask her specifically who said
4 that. But she said, we have an appointment to
5 get those diaries from the girls; and they said,
6 don't do it.

7 Q. Did they give a reason why they didn't
8 want the diaries?

9 A. You'll have to ask Stephanie.

10 Q. Okay. What was your next involvement in
11 this scenario with either the complainants or
12 anyone from 17th floor?

13 A. I want to say on or about the 17th or
14 18th. I think it was the 18th, Cindy Stankoski
15 called me. So this would have been, like, seven
16 days later. Not a whole lot was going on. The
17 assumption is it's upstairs, they're handling
18 it.

19 The backdrop to this is Tony is still
20 coming to work every day. Cindy comes to my
21 office, crying. She's all freaked out because
22 Dayton Daily News has contacted her. She was
23 just very upset. And she's like, Tony is still
24 coming to work every day. I thought you guys

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1 said this was being taken care of. So there
2 must have been some discussion with Stephanie
3 and Cindy that says that the 17th floor is
4 taking care of it. She wanted to know from me,
5 why is Tony still coming to work every day, why
6 does she continue to have to look at him. And I
7 said, well, is he bothering you? Is he
8 retaliating against you? She said, no, no, no.
9 So I called Joyce, and I say to her,
10 so -- because she said, can I go home? She
11 said, I'm feeling really bad, I think I'm gonna
12 go see a psychiatrist. She said, can I go home?
13 And I said, yes. And I made the decision that
14 that time that she took, I thought the best
15 thing to do is make sure it was administrative
16 leave, not to require her to have to take any of
17 her own leave to go, because she's stressed
18 about what she perceives as inaction.

19 So I call Joyce. I put her on -- I
20 said, I need you to know that Cindy was in my
21 office, she's crying, she's upset, Dayton Daily
22 News is contacting her. Oh, okay, okay, okay,
23 you know. Send her home. You did the right
24 thing.

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1 And then I said to Joyce, I said, what
2 is going to be done here, you know, with Tony,
3 because she -- this girl is really coming
4 unraveled. Is there anything being done? And
5 Joyce said to me, you know, would you people
6 just get off it?

7 Q. She told you that directly?

8 A. To me. Would you people just get off
9 it? We are taking care of it. Do you
10 understand? We are taking care of it. Now,
11 it's not gonna be taken care of like she wants
12 it to be taken care of. She wants him gone.
13 But I can tell you under no uncertain terms, he
14 isn't going anywhere. So just leave it alone.
15 Let us take care of it.

16 And the reason I say that, and it's
17 important to my role in this, because as a
18 former director of EEO, and the deputy director

19 of human resources, I understand the affirmative
20 duty we have, when I have an employee in my
21 office who has complained to me on March 6th
22 that they have been sexually harassed, that that
23 person bites their lips when they talk to him --
24 her, talks about her ass and her tits, all of

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1 this kind of stuff, and then I place her back in
2 that working environment, and she says, when she
3 calls eight days later -- seven days later to
4 say, what's being done, and I am now silenced, I
5 can't say anything, I'm not going to go against
6 what the 17th floor's saying, I can't -- I'm not
7 going to go against what my boss is saying, I
8 have to believe that it's being taken care of.
9 So I cannot communicate to her what Joyce said,
10 you know, get off of it. I can't tell her Tony
11 Gutierrez is not going anywhere. I can only sit
12 there and look fairly stupid.

13 And, frankly, I let her go home; she
14 then later calls me with her mother on the line.
15 So, again, I don't want to create any sense that
16 we're hiding anything, that anything is not
17 being done incorrectly -- or being done
18 incorrectly. I allow her mother to stay on the

19 phone. Her mother asked questions, but I
20 directed my comments back to Cindy. And her
21 mother's two primary questions were, is my
22 daughter's job at jeopardy, and is she safe? I
23 direct back to Cindy, is there any reason why
24 you think you're not safe? Has there been any

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1 threats? No, no, no, no. And so then Cindy
2 says, I think I need to take another day off.

3 Meanwhile, we have an employee who is
4 mounting up now administrative leave, and the
5 best that we can do for her is to turn her
6 L-shaped desk the other way so she doesn't have
7 to look at Tony and Tony can't look at her.

8 And at that point, I felt that I was
9 beginning to lose credibility as a deputy
10 director in human resources with this
11 individual.

12 I got subsequent calls from her then
13 asking me about things we talked about in the
14 March 6th interview. During the March 6th
15 interview, there were comments about text
16 messages, that when she was riding -- the day
17 she went to the condo, riding with Tony
18 Gutierrez, she was drunk. She talked about text

19 messages, texting Mariellen Aranda, asking for
20 help. I knew of those text messages through
21 rumors. Up to that -- at that date she talked
22 to me about that. And the date she made a
23 public records request from me, I had never seen
24 those text messages. I had never been in

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1 possession of them. I only heard of them.

2 So then she comes back -- she basically

3 sends me an e-mail, I think -- I don't know,

4 around the 19th or 20th, she says, Alethea, you

5 know, you told me that if I wanted copies of

6 those text messages to request them under the

7 public records act. Because she asked, how can

8 I get a hold of them? I said, well, I guess

9 you'd have to make a public records request.

10 So I go to Stephanie, and I say, Cindy

11 has made a public records request for those text

12 messages. And Stephanie says, Alethea, those

13 were not made from an AG phone -- you know, to

14 and from an AG phone. Those were those girls'

15 personal text messages. She says, I sent them

16 upstairs to 17. She said, I mean, I can

17 probably get another copy of them, she said, but

18 those are not public records. And I said, okay.

19 Q. Weren't those text messages forwarded to

20 Molly Taylor?

21 A. I believe so.

22 Q. And they came into a public office?

23 A. I believe they came to -- again, this is

24 before my time. What I'm told, I believe, is

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1 that they came to Molly Taylor's personal

2 e-mail.

3 Q. Personal phone, okay.

4 A. And then she sent them to Stephanie's

5 personal e-mail. And then -- I mean, this whole

6 Mariellen Aranda thing is something else, you

7 know. So Mariellen was eventually removed out

8 of general services because of how Tony talked

9 to her. Not sexual, but just mean.

10 Q. So let's -- let's get back to -- I want

11 to stay on the e-mails a bit longer, the e-mails

12 that you said she gave to the 17th floor --

13 Stephanie gave to the 17th floor --

14 A. Text messages?

15 Q. Yes, text messages.

16 Who, on the 17th floor, did she give

17 them to?

18 A. I'm not sure. I think she said Ed

19 Simpson, I think.

20 Q. Okay. Did she mention she gave them to

21 Leo Jennings?

22 A. I heard that Leo had them, I heard that

23 he ripped them up, but I have no firsthand

24 knowledge of that.

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1 Q. Who told you he ripped them up?

2 A. Stephanie. But, again, that was

3 hearsay.

4 Q. Sure. But Stephanie told you that,

5 though?

6 A. Yes.

7 Q. You're clear about that?

8 A. Yes.

9 Q. And we'll get back to the text messages

10 after a while.

11 But what would you have proposed happen,

12 based on your background, EEO and human

13 resources over the years, when they came to you

14 on the 6th and 7th and allegations of sexual

15 harassment, what should have been done in terms

16 of the accusers and the accused?

17 A. Okay. Exactly what we did in the

18 beginning. We talked to Vanessa. We made an

19 appointment with her to bring her diary. We
20 want information. We also asked her that we'll
21 probably ask her for a statement, which she said
22 I'd be happy to write a statement. So that
23 was -- that was prepared. We got done with her.
24 With Cindy, we began to ask for

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1 witnesses, but then to notify the 17th floor,
2 like we did. But the only thing based on the --
3 all the information that Cindy gave us,
4 especially with her pants being undone, and the
5 fact that there was an outstanding HR request to
6 replace Vanessa Stout, I would have recommended
7 that Tony Gutierrez be placed immediately on
8 administrative leave and a full investigation.

9 Q. Is there an affirmative duty for an
10 employer to separate the accuser and the accused
11 when these allegations come forth?

12 A. Not always. Just depends on the
13 circumstances. Under these circumstances, I
14 believe they absolutely should have been
15 separated. And we never separate the victim
16 from their environment. And that's -- seemed to
17 be the only suggestion that came from 17. Well,
18 move her, do whatever you want -- do whatever we

19 need to do to make her comfortable. But we just
20 should have had Tony go out on administrative
21 leave, period.

22 Q. So now we're at -- from March 6th and
23 March 7th to March 19th when you talked to her
24 mother. Nothing has changed?

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1 A. No.

2 Q. And you're still waiting on directions
3 from 17th floor, i.e., Ed Simpson and Joyce
4 Chapple?

5 A. Yes.

6 Q. Now, on March 19th, did you have
7 occasion to contact Joyce Chapple about the
8 phone call you received from Ms. Stankoski's
9 mother?

10 A. I don't recall whether I talked to Joyce
11 about that.

12 Q. I'm going by the chronology of
13 Ms. Demers, that on March 19th you contacted
14 Joyce Chapple about the phone call.

15 A. I don't recall. I may have. I mean,
16 the conversation I had with Joyce that stands
17 out, you know, is that whole "you people"
18 conversation. So having had that on the 18th --

19 you know, I did have some conversation with
20 Joyce on the 19th, because I knew how to go into
21 that conversation. And it was really more, hey,
22 I just want to let you know that she's taking
23 off another day. I'm doing my best to get her
24 back in the office on Friday. Tony Gutierrez is

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1 not going to be here on Friday. That seems to
2 be the best time to get her in the office. I
3 did talk to Joyce. I told her that I'm working
4 with Pete Mash and with Charlie Rosol to try to
5 get her desk turned around. We considered
6 moving her a couple desks down, but she didn't
7 want eyes on her about why is she being moved.
8 We couldn't put her in an office, because we
9 didn't want to make it seem like she was
10 getting, you know, something out of this or
11 whatever.

12 So that was the issue at hand, and I
13 wanted to let Joyce know that I was doing
14 everything that I could to get Cindy back in the
15 office for appearance's sake.

16 Q. And then on March the 20th of 2008,
17 Ms. Demers says she had a phone conversation
18 with Joyce Chapple regarding the status of the

19 case, and she was advised that HR cannot
20 investigate because they're not perceived as
21 being neutral. Was that relayed to you?
22 A. Yeah. That was another situation. Of
23 course, I wasn't in that meeting, but Stephanie
24 did relay to me that she went up -- by the 20th,

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1 we've got from the 6th to the 18th, nothing
2 happening. Cindy makes a public records request
3 for text messages on the 18th. I decline that
4 request, stating they weren't public records.
5 She's in touch with Stephanie on the 19th.
6 She's out of work on the 18th and 19th. She
7 comes back, she gets in her desk on that Friday.
8 Well, I would imagine by that Monday or
9 that Friday, Stephanie's in contact with Joyce,
10 saying, you know, what is going to be done, are
11 we just going to be investigating. And I think
12 Stephanie was trying to tell her, look, I can
13 investigate this, if you need somebody to
14 investigate it, I can do this. And they told
15 Stephanie -- Joyce told Stephanie and/or Ed
16 that, you are perceived as being biased, that
17 they think -- "they" meaning -- I don't know
18 whether it was Marc, Tom, Ed, whoever -- thinks

19 that Stephanie was out to get Tony, because
20 Stephanie, from the time, apparently, she
21 learned that Tony Gutierrez had been
22 fraternizing with his staff, she had been
23 putting the 17th floor on notice, this is not
24 good. This is not good, and you need to jerk

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1 that guy's chain. And then when they tried to
2 fire Cindy -- when they tried to fire Vanessa
3 Stout, and Stephanie said, you absolutely cannot
4 do this, and they said -- I think she told them,
5 you need to fire Tony Gutierrez, he's a
6 liability to this office. And then when we got
7 the girls or whatever, I think she did say
8 again, you need to get rid of him. So to them,
9 they perceived her as biased. But she's simply
10 coming to them from an HR standpoint, from a
11 legal standpoint, saying, this is a problem and
12 you need to get your arms around it.

13 Q. And this is even after Ms. Chapple had
14 told you before that Tony's not going anywhere?

15 A. Yes.

16 Q. So on March 20th of 2008 is when the
17 desks were moved around so they wouldn't be
18 facing each other or looking at each other?

19 A. That didn't even happen. I had occasion
20 to be on the 15th floor after the 19th or 20th,
21 and -- I had to have my badge updated to get
22 into offices at 150, and I just -- I asked, I
23 said, well, Cindy, can you bring this up to my
24 office? And I was just trying to covertly check

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APRIL 18, 2008

1 in with her. It was important to me that I knew
2 that she was okay, you know. I knew that I was
3 going against anything that, you know, had been
4 directed, but I needed to make sure she was
5 okay.

6 She brought it up, and that's when she
7 told me -- I said, I noticed your desk isn't
8 changed. She said, what's the point? He's
9 still sitting in his office, looking at me.
10 What's the point? And I said, are you okay? Is
11 he saying anything to you? She's like, no, he's
12 not saying anything. She's like, it's like I
13 don't even exist now. Which in itself can be
14 deemed as harassment. But I wanted to make sure
15 she was okay.

16 Q. From Ms. Demers' chronology and notes
17 she did for us, she indicated that Ms. Stankoski
18 didn't ask for the e-mails through a public

19 records request until March 24th.

20 A. Hmm.

21 Q. And you responded on the same day that

22 they're not public records because they came

23 from personal cell phones.

24 A. May I refer to my notes?

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1 Q. Sure.

2 A. She's correct. It was the 24th.

3 Q. Okay. I just wanted to get that

4 sequence right.

5 A. Okay. Yeah.

6 Q. And on the 27th of March of 2008, the

7 complainants were advised that they could file

8 the complaint with Ms. Smedlund, the EEO

9 officer?

10 A. Angie Smedlund.

11 Q. And she would then contact them for an

12 interview?

13 A. Yeah. Something happened between the

14 18th and 27th. On the 18th of March, Joyce

15 Chapple did request a copy of my notes and

16 Stephanie's notes. She said, I need to have

17 your notes. Do you want originals or copies?

18 She said, I don't care. We gave them our notes

19 on the 18th.

20 Q. Of March?

21 A. Of March. Gave them to Joyce.

22 On the 27th, then, apparently there was

23 a decision made to -- that Angie was going to do

24 the investigation, even though we had told 17

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APRIL 18, 2008

1 that the girls were not comfortable talking with
2 Angie, they did not feel they would get a fair
3 shake with their complaint because of her
4 relationship with the 17th floor.

5 But we turned over our notes to Angie on
6 the 27th. I had no doubts that Angie would
7 perform her duties as needed.

8 Q. And they subsequently did contact her
9 and subsequently did interview with her?

10 A. Yes, they did.

11 Q. Going back to the policies again. The
12 policy book you brought with you there, it's my
13 understanding from the policies as they existed
14 in January, 2008, the only person who has
15 authority to investigate EEO matters is the EEO
16 officer. The complaint can be given to the
17 director of human resources and/or the EEO
18 officer, but the EEO officer, under this policy,

19 is the only person who can investigate EEO

20 matters.

21 A. Gee, Ben, I'm bad about crossing lines,

22 I'm bad about -- I don't know whether -- I don't

23 know that I read it as that, but they only --

24 they're the only ones that have the authority, I

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1 think -- when I look at this, about the
2 complaint procedure on Page 57, any employee who
3 feels that they're been subject to
4 discrimination or harassment should report the
5 matter immediately. And you've got EEO
6 director, immediate supervisor next. They're
7 encouraged to be in writing, within 30 days.
8 Okay, any supervisor who receives a complaint
9 should contact EEO. Any complaint the officer
10 receives will be thoroughly investigated.

11 You know --

12 Q. Any complaints that the EEO officer
13 investigates --

14 A. Receives will be thoroughly
15 investigated. But no matter what this policy
16 says, as an HR director, there is no way I'm
17 going to have an employee come to my office and
18 tell me of sexual harassment complaints, and I'm

19 not going to take copious notes and begin the
20 investigative process. Which, starting it even
21 at that investigative process is the next step,
22 to contact the EEO director. But once I'm told
23 there's concern about the EEO officer, I'm just
24 going to keep moving forward. But then you have

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1 to contact the next level, because you don't
2 want -- you want to take care of the problem.
3 Q. I understand your position on that. But
4 when you have a policy which is in direct
5 contravention of what you want to do, the policy
6 prevails. And in this case, and these policies,
7 I think the policies are not clear, that once a
8 person makes an allegation that you can construe
9 as a complaint, then the matter is turned over
10 to the EEO officer completely, under this
11 policy.

12 A. It says "should." It doesn't say must.
13 It says, should contact the EEO officer.

14 Q. Now, in this situation, when the
15 allegations were brought to HR, HR put another
16 step in there by contacting their supervisors,
17 Joyce Chapple and Ed Simpson. Now, the way the
18 organization lineup is set up, and Angela

- 19 reports to Joyce Chapple, it could be
- 20 interpreted that that was a move to put it in
- 21 HR's hands when you went to the 17th floor.
- 22 Interpretation.
- 23 A. No. We absolutely needed to -- any time
- 24 an employee is saying, I'm uncomfortable talking

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1 with someone in the organization, I don't feel
2 I'm going to get a fair shake at this, then you
3 go to the next level. I mean, I report to
4 Joyce. Stephanie reports to Joyce. Angie
5 reports to Joyce. We just let Joyce know,
6 here's the problem, and they also think they're
7 not sure they're going to get a fair shake with
8 Angie, just so you know. So we have a decision
9 that we have to make. And we're saying, you
10 know, we can investigate this.

11 At the bottom of Page 57, it says, any
12 supervisor, manager -- meaning us -- who fails
13 to take appropriate action upon becoming aware
14 of such harassment is also in violation of this
15 policy. So the appropriate action, I would not
16 have -- think it would have been inappropriate,
17 Ben, to not take their statements that day they
18 asked to see us. That's what HR is there for.

19 Q. That's not -- that's not what I'm
20 saying, it's inappropriate. I think that was
21 entirely appropriate.

22 A. Okay.

23 Q. Because you're documenting the
24 allegations, what she's saying.

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1 A. Uh-huh.

2 Q. But once that's over and you determine
3 that that is an EEO matter now, then it has to
4 go to the EEO officer. That's my
5 interpretation.

6 Now, the problem I have is that in
7 reviewing the time sequence by Ms. Demers and
8 looking at her notes, looking at your notes and
9 everything I've seen, I haven't seen anyplace
10 where the complainants had a problem going to
11 EEO at that point in time. And it appears to
12 be, from the record that I see, that between
13 March the 6th and 7th through -- at least
14 through March 21st that there was just a lot of
15 conversation going back and forth between HR, Ed
16 Simpson, and Joyce Chapple, and the whole
17 process was circumvented by staying in that mode
18 for at least 20 days. That's what it looks like

19 from the --

20 A. I would agree with you to one point,

21 that it -- we took it directly to 17 because it

22 touched the executive level.

23 Q. Correct.

24 A. And then it sat. I don't think there

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1 was a whole lot of conversations between HR and
2 17. There were minimal conversations, because
3 we were really still in waiting mode to see what
4 was gonna happen. Was it gonna be assigned to
5 Angie? Was it gonna be assigned to someone
6 else? It was something that needed to be
7 investigated. And that's what we were waiting
8 on, it to be investigated.

9 And I don't think that anything that I
10 did or Stephanie did or didn't do caused that
11 investigation to be delayed by EEO. We were
12 told by the complainants that they were not
13 comfortable talking to Angie, so that has to go
14 to Joyce Chapple, who also has a human resources
15 background.

16 (Pause in proceedings.)

17 BY MR. ESPY:

18 Q. Based on your experience, Ms. Botts, in

19 human resources, did you ever hear a valid

20 reason for Vanessa's transfer to IT?

21 A. No.

22 Q. Did you receive, from IT, a request for

23 an employee -- for a position to be filled from

24 IT before she was transferred?

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1 A. No.

2 Q. Did you have occasion to talk to Marc
3 Polster, the chief of IT, about the transfer?

4 A. Not at the time. Later. Marc and I do
5 have conversations from time to time.

6 Q. Did you discuss the Vanessa Stout
7 transfer with him?

8 A. Not the transfer, no. I mean, just
9 discussed how she was doing over there, and he
10 said she was fine. I said, well, she feels like
11 she's kind of an outcast or doesn't belong
12 there. He's like, no, we're finding things for
13 her to do.

14 Q. What was she doing, do you know?

15 A. I have no idea, no.

16 Q. Okay. What reason were you given as to
17 why she was being transferred?

18 A. I really wasn't given a reason why she

19 was being transferred. The only reason I was
20 given is that they wanted her fired because Marc
21 Dann did not want her in the office, is what I
22 was told, that Marc thought she was sleeping
23 with Tony Gutierrez, and he didn't want her in
24 the office.

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1 Q. And who told you that?

2 A. Boy. I don't know whether it was
3 Stephanie or whether it was -- well, it would
4 have had to have been -- it would have had to
5 have been Stephanie because no one else knew
6 they wanted to fire her except for Ed and me and
7 Stephanie.

8 Q. Did Ed tell you that, or did --

9 A. Didn't have any conversation with Ed
10 about this at all.

11 Q. Came through Stephanie Demers?

12 A. Came through Stephanie.

13 Q. And she told you Marc wanted her out of
14 the office because he thought she was sleeping
15 with Tony Gutierrez?

16 A. Yes.

17 Q. And did Ed bring down the order that he
18 wanted her fired?

19 A. I didn't see anything in Ed's hands. He
20 just was very adamant about speaking to
21 Stephanie in private. And, you know, after the
22 conclusion of their conversation, Stephanie came
23 directly to me and she said, you know, I've got
24 to go to 17, they're trying to fire this girl.

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1 They cannot fire that girl.

2 Q. Okay. And she came to you immediately
3 after her meeting with Ed Simpson --

4 A. Yes.

5 Q. -- is that correct?

6 A. Yes.

7 And with Vanessa being removed out of
8 her position, the other thing that Cindy was
9 saying to us is she felt she was next, that her
10 position was going to go away, she was going to
11 be fired, what have you, because of all the
12 incidents of her going out and drinking with her
13 and Tony, you know. She just said she felt
14 that, you know, she kind of had to, because if
15 she didn't, you know, maybe her job was going to
16 be in jeopardy.

17 Q. Well, based on your experience in HR, do
18 you think that the policy manual should contain

19 a fraternization policy?

20 A. I always have thought so. We talk about

21 it from a verbal standpoint in our sexual

22 harassment awareness policy. The unfortunate

23 thing is that we have individuals who meet and

24 marry in our office. And our nepotism policy,

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1 you know, has been loosened up over the years.
2 But certainly we try to communicate that with
3 respect to supervisory/subordinate
4 relationships, that those should not exist,
5 because it can always be construed that that's
6 happening -- you know, that they're exerting
7 their power over that employee, you know. If
8 you're going to date, date on the same level, I
9 always say. Don't date your subordinates. But
10 is it in writing? No.

11 Q. And is it your position that a lot of
12 the rumors that were in the office -- Attorney
13 General's office is based upon some type of
14 superior/employee relationship?

15 A. Yes, that's what the appearances were.
16 There were many names that were thrown around,
17 but they seemed to be relationships that were
18 being had by people either at the executive

19 level or the managerial level with just, I don't
20 know, almost clerical staff. You didn't know
21 what to do with that information. Because to
22 meet these girls, they like to have a good time,
23 you know, and I don't think they would deny
24 that. But something went too far somewhere. I

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1 don't know.

2 Q. Do you think these alleged relationships
3 impacted upon office policies and their
4 interpretation?

5 A. Oh, I would say absolutely. But then
6 I'd have to go to the policy to find out where
7 it violates the policy.

8 Q. Well, the leave policy -- or the
9 transfer policy.

10 A. The transfer policy? There were
11 things -- I mean, nothing was followed correctly
12 with that. There was a demand for her removal.
13 The HR director intervened, as she should have,
14 and convinced them to transfer her, which was
15 still problematic, knowing of all the rumors.
16 Because you move somebody like that, and it kind
17 of sets them in a position where they would
18 later file a complaint. Was it filed correctly?

19 No. We didn't even do a personnel action form.

20 We just moved her. It all happened very

21 quickly. I think we were trying to scramble to

22 even write a position description for her.

23 Somehow, that got dropped along the way. We

24 have a ton of things we're responsible for in

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1 HR. But, you know, when this came up, it came
2 up all of a sudden, out of the blue. Within a
3 matter of 24 hours, it had to be done.

4 Q. Do you think these alleged relationship
5 problems impacted the hiring process?

6 A. Oh, absolutely.

7 Q. In what way?

8 A. The hiring processes were violated.

9 Q. In what way?

10 A. With respect to Vanessa Stout, she did
11 not meet the requirements to be an Attorney
12 General employee because of her background, the
13 information that we received back on her
14 background. Her driving. She's had a couple
15 run-ins with the law. I think she's had some
16 resisting arrest. Just poor driving, poor
17 character overall from the background
18 standpoint. So she would not have been someone

19 we would have recommended. And Stephanie
20 declined to sign off on her approval. And --
21 but when she saw -- again, she's acting off of
22 information she already knew -- she saw the
23 address and put two and two together and said,
24 this must be coming from the condo, so let me

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1 run it up to 17. Sure enough, Ed signed off on
2 it.

3 Q. Based upon your notes regarding the
4 interviews, HR had knowledge and notice that
5 Tony Gutierrez was also drinking while driving a
6 State vehicle; is that correct?

7 A. Yes. Well, I was put on notice about
8 that on March 6th, when I found out from Cindy
9 and Vanessa that he was drinking and driving
10 during State time.

11 Q. Was that ever investigated by HR?

12 A. His drinking and -- no. No.

13 Q. Was that brought to the attention of
14 anyone on the 17th floor, about his drinking and
15 driving, using a State vehicle?

16 A. I'm not sure whether Stephanie brought
17 that to Joyce's attention. I think just the
18 focus at that point was, let's get him outta

19 here, let's get him on discipline administrative
20 leave so we can look into this. I think if
21 things would have gone the way they should have,
22 we would not only have investigated the sexual
23 harassment charges but we could have
24 investigated the allegations of drinking and

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1 driving.

2 Q. You could have investigated that on your
3 own, the drinking and driving; that's not an EEO
4 matter.

5 A. Right. Frankly, I think it just got
6 lost in the wash.

7 The bigger things, you've got two
8 employees, an HR request, he's trying to replace
9 this employee, who they previously tried to
10 fire, and you've got this Cindy Stankoski, who
11 is coming unglued day by day, and you're just
12 wanting to resolve that.

13 I think, from a rumor standpoint, there
14 had already been knowledge of Tony's drinking
15 and driving, knowledge of people seeing him come
16 in and out of Mitchell's or various other bars
17 around the State Office Tower, and --

18 Q. Did you hear, during the course of your

19 interview with Cindy Stankoski, that Tony

20 Gutierrez had a gun in his motor vehicle?

21 A. No, I don't remember her talking about a

22 gun. I think he was recently licensed to carry

23 a gun.

24 Q. Is that part of his personnel file or

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1 something?

2 A. Yeah. I think he had a concealed

3 weapon -- concealed carry. I think it was him.

4 Don't quote me on that. I'm not sure.

5 There were -- I think about her being

6 with him and not being able to get away, there

7 was a situation she described to me in that

8 interview, when they were in Cincinnati, they

9 had to take pool cars or something or vans to

10 Cincinnati, and he sent the other worker bees on

11 back to Columbus, and told Cindy, we'll leave

12 shortly, I have another meeting. And as soon as

13 everybody was gone, he said to her, I don't

14 really have a meeting. You want to go have

15 dinner? And so to that, she felt like she got

16 trapped. And she said that, you know, she

17 insisted they go home. They ran into traffic

18 problems, so they stopped by some bar called

19 Rackums. And this was, you know, during the day
20 and all of that, had a couple drinks, and came
21 on back to Columbus.

22 But that would have been the only time I
23 recall her really feeling like she had been
24 coerced or she didn't really have a way out, you

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1 know, being in Cincinnati and her other
2 coworkers leaving.

3 MR. ESPY: Do you have any questions,
4 Julie?

5 MS. PFEIFFER: No, I don't.

6 MR. ESPY: I'm just trying to look
7 through this and see if I have any more.

8 (Pause in proceedings.)

9 A. I guess with respect to the pants
10 unbuttoned, that when Cindy told us that, it was
11 a time where -- let me get this -- I think this
12 is -- it was Tony who actually brought it up to
13 her.

14 Yeah, when they went to meet Leo
15 Jennings and Jen Urban at the Oceans [sic] for
16 dinner, they went outside to smoke.

17 (Disturbance in hallway.)

18 (Pause in proceedings.)

19 A. I think it is just important to mention
20 what I was saying about when they met for dinner
21 at the Oceans, that Cindy Stankoski said she
22 went outside to smoke -- or Tony went outside to
23 smoke, and she went, and then Tony said to her,
24 I know you woke up with your pants undone. And

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1 he asked me, did I want to F you? And he said,
2 yeah, but I realized you were my employee and
3 you were blacked out. So she said she cussed
4 him out. She says, the problem is, he thinks
5 I'm joking, and he finds it comical.

6 So anyway, I asked her where that
7 conversation took place, and she told me outside
8 of Bath & Body Works.

9 Q. Do you think the inactivity -- or lack
10 of response to you from the 17th floor was based
11 upon personal relationships, trying to protect
12 personal relationships?

13 A. Yeah, I do. There would be no other
14 reason. There would be no other reason.

15 Q. Okay.

16 MR. ESPY: That's all I have. I
17 appreciate you coming in and spending time with
18 us.

19 THE WITNESS: Okay.

20 MR. ESPY: If you think of anything else

21 prior to -- prior to the end of the day or next

22 week, feel free to call either me or Julie.

23 THE WITNESS: Okay. Just give me one

24 second. I just want to make sure. I'd rather

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1 not have to come back. You have the list of
2 witnesses I included.

3 I'm not sure if I included my last
4 conversation with her on March 18th. I just
5 took some quick notes. Again, I was a little
6 afraid to take notes after the directive from
7 17. She did say she finally told her parents.
8 Apparently, Mr. Stankoski -- Cindy Stankoski's
9 father works for the State and is friends with
10 Tony Gutierrez. And on the 18th, she did make
11 the exclamation, you know, get Tony away from
12 me. Can I go home for the day?

13 So there was a plea at that point that
14 she needed to be away from Tony Gutierrez. And
15 we should have put him out on administrative
16 leave.

17 Q. I'm sorry. What's your last statement?

18 What was your last statement?

- 19 A. That there was a plea from Cindy
20 Stankoski to me on March 18th to please get Tony
21 away from me. We should have placed Tony
22 Gutierrez on administrative leave.
- 23 Q. Based upon her plea on the 18th, or
24 based upon what you knew on March 6th and 7th?

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1 A. Both. Should have been placed on --
2 after my interview with her on the 6th, the
3 notes that I took, the conversation we had with
4 her touched so many areas that he absolutely
5 should have been placed on administrative leave
6 that day or the next day. And it became even
7 more important on the 18th, when she's now
8 pleading. We're trying to move a desk, and
9 she's like, can you get this man away from me.
10 And then I have Joyce Chapple saying to me, he's
11 not going anywhere. I mean, I know that. I
12 can't tell her that.

13 Q. Did you ever talk to Tony about this?

14 A. No. Stephanie talked to him. He graced
15 us with his presence shortly after he learned
16 that the girls were down in human resources. Of
17 course, Stephanie -- this has affected both
18 Stephanie and I physically and emotionally.

19 Running a section is enough, but when you have
20 to hold in things that you know to violate
21 policy, violate your own ethical standards, is
22 tough.

23 And he walked down to human resources
24 and said, hey, you look kind of tired,

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1 Stephanie. I hope I'm not causing you any
2 trouble. And she says, no, you're not causing
3 me any trouble at all. But whatever question he
4 asked her, she came back and said to me, she
5 said, he asked, so what's gonna be done? And
6 she said to him, nothing, the 17th floor won't
7 let me touch it. And I was like, you told Tony
8 that? I didn't think she should have.

9 Q. What was his response?

10 A. Oh, he just walked away. He's like, oh,
11 okay, have a great weekend. I'm like, great,
12 you just tell this guy we're not gonna touch
13 him, you know.

14 Q. Do you know when that was? Was that
15 part of your notes?

16 A. It would -- I didn't take notes on it,
17 no.

18 Q. But it was between March 6th and 7th and

19 March 20th?

20 A. Definitely, and March 20. And then

21 Cindy later, when she called me on the 18th, she

22 said to me that Vanessa called her the night

23 before, and that Vanessa's ex-boyfriend saw Tony

24 out drinking. It would have been the night of

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1 March 17th. They were at a place called Dub
2 Pub. And Vanessa's ex-boyfriend's name was
3 Fuzz. Fuzz called Vanessa and told her, Tony
4 Gutierrez was at the bar drinking at Dub Pub and
5 said, those girls are trying to get me in
6 trouble. He called them bitches and whores.
7 And he gave -- Tony Gutierrez gave Fuzz his
8 phone number. And so I don't know what all that
9 purpose was.

10 But Fuzz called Vanessa, basically
11 asking her, what are you doing with Tony G.,
12 trying to get him in trouble? He's calling you
13 guys whores, this, that, and the other. Which I
14 thought was mighty bright of him and mighty bold
15 of him, considering -- well, I thought, once
16 Stephanie told him nothing was going to
17 happen...

18 Q. Do you know what date that was, when he

19 met with Fuzz?

20 A. 17th.

21 Q. March 17th?

22 A. Which is the day before Cindy called me

23 on the 18th, that's when she couldn't come back

24 to work. It was at that point I think she

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APRIL 18, 2008

1 thought nothing would be done. I think she was
2 fairly patient.

3 Q. Did she tell you that Tony asked Fuzz to
4 get the girls to stop or somehow to impede them
5 from going further with this?

6 A. Last night at Dub Pub, he was running
7 his mouth to Fuzz. Tony gave Fuzz his phone
8 number. That's all I have. Stephanie's got
9 notes about, you know, names and stuff. I don't
10 recall. And at that point, I'm sensitive about
11 taking notes because I have now a directive from
12 the 17th floor not to.

13 MR. ESPY: Well, I appreciate you coming
14 in, Ms. Botts.

15 THE WITNESS: Okay.

16 MR. ESPY: Like I said, if you think of
17 anything else, give us a call.

18 THE WITNESS: Okay.

19 MR. ESPY: We can always supplement the
20 record.

21 THE WITNESS: Okay. I'm glad to know
22 it's being looked into. Thank you, guys.

23 -=0=-

24 Thereupon, the sworn interview of

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1 Alethea Botts, April 18, 2008, was concluded at

2 11:55 a.m.

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1 CERTIFICATE

2 STATE OF OHIO :

 SS:

3 COUNTY OF FRANKLIN :

4 I, Sara S. Clark, RPR/CRR/CCP/CBC, a
Notary Public in and for the State of Ohio, duly
5 commissioned and qualified, do hereby certify
that the within-named ALETHEA BOTTS was first
6 duly sworn to testify to the truth, the whole
truth, and nothing but the truth in the cause
7 aforesaid; that the testimony then given was
reduced to stenotypy in the presence of said
8 witness, afterwards transcribed; that the
foregoing is a true and correct transcript of
9 the testimony; that this interview was taken at
the time and place in the foregoing caption
10 specified.

11 I do further certify that I am not a
relative, employee or attorney of any of the
12 parties hereto; that I am not a relative or
employee of any attorney or counsel employed by
13 the parties hereto; that I am not financially
interested in the action; and further, I am not,
14 nor is the court reporting firm with which I am
affiliated, under contract as defined in Civil
15 Rule 28(D).

16 In witness whereof, I have hereunto
set my hand and affixed my seal of office at
17 Columbus, Ohio, on this day
of , 2008.

18

19

Sara S. Clark, RPR/CRR/CCP/CBC

20

Notary Public, State of Ohio.

21 My commission expires: March 10, 2013

22

23

24

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