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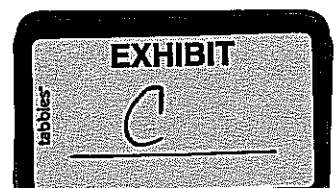
CITY OF NEW HAVEN
CIVIL SERVICE BOARD

IN RE:
FIRE CAPTAIN AND FIRE LIEUTENANT
PROMOTIONAL EXAMINATIONS

FEBRUARY 5, 2004

KENNEDY MITCHELL HALL OF RECORDS
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NEW HAVEN, CONNECTICUT.

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RE: FIRE CAPTAIN & LIEUTENANT PROMOTIONAL EXAMS
FEBRUARY 5, 2004

9.

1 do intend to speak, could you just come forward and sign
2 up? And then we can move it right along.

3 MR. WEBBER: Well, if you're not signed
4 up.

5 CHAIRPERSON SEGALOFF: If you're not
6 signed up. It only looks like there's four or five
7 names.

8 MR. WEBBER: That's fine.

9 CHAIRPERSON SEGALOFF: I'm not
10 complaining.

11 Okay. Let's start with the top of the
12 list and -- well, someone should -- you've got enough to
13 keep you busy, I guess. Right?

14 MS. ZELMA TIRADO: I'll take it.

15 MR. WEBBER: Yeah. You can call the
16 names.

17 MS. TIRADO: Patrick Egar?

18 MR. PATRICK EGAN: Egan.

19 MS. TIRADO: Egan. Sorry.

20 MR. EGAN: Good evening.

21 CHAIRPERSON SEGALOFF: Good evening.

22 MR. EGAN: My name is Patrick Egan. I'm
23 the President of the Firefighters Union, 350 Ferry
24 Street, New Haven, Connecticut. Tonight what I say

1 shouldn't be construed to waive any of the rights of the
2 Local or any of its members individually or collectively.

3 CHAIRPERSON SEGALOFF: Not a problem.

4 MR. EGAN: I think during the last
5 hearing, Mr. Chairman, the issue that was brought up was
6 of the fairness of, you know, the test or the process was
7 the issue at question. I can say as of this date that as
8 far as the process goes, not the test itself, but how
9 this has all kind of come forward to us, you know, hasn't
10 really been fair to any of the firefighters.

11 You know, when the rumors and everything
12 started breaking and everything, we certainly asked to be
13 brought into the loop. Obviously, these are passionate
14 issues that get raised. And we were certainly denied
15 that opportunity.

16 When we asked then, you know, whether the
17 scores were, you know, given to the City, that wouldn't
18 be confirmed or denied. And then when we asked for the
19 scores, we were denied that because the statement was
20 made that they couldn't be given to us until they were
21 certified. But, yet, at the last meeting, not only were
22 they given, they were given in violation of this
23 Commission's Civil Service Rules by making public the
24 failing scores.

1 So we would certainly ask that if this
2 Commission has any authority to order it, that a list of
3 scores with the individuals' names as opposed to just
4 their race and gender be created since the scores are out
5 there anyways.

6 You know, what we don't want to do is
7 become part of what I feel is the somewhat divisive
8 politics that are going on with regard to this issue. As
9 a union, we want the facts of law to dictate the outcome
10 and not personal opinion.

11 You know, certainly in Mr. Ude's
12 statements and legal opinion, you know, with his position
13 -- I think you raised the question of "We should see if
14 the test was fair." And his response of -- kind of
15 throwing the baby out with the bath water, to say that
16 "Even if it's fair, you can still throw it out" I think
17 is totally ridiculous. You know, your question I think
18 was the most prudent question raised.

19 And under the Uniform Guidelines of
20 Employee Selection Procedures, the law that raises the
21 issue of disparate impact and which, you know, Mr. Ude
22 brought forward, the answer to find out the fairness of
23 the exam is clearly spoken about in that federal code. It
24 talks about business necessity and certain validation

1 procedures to be able to look at and evaluate if, in its
2 totality, the exam was fair.

3 So what we as a membership would ask for
4 is that, since the issue -- the City has brought up the
5 issue of disparate impact, that then the law be, you
6 know, followed through, that there be a validation study
7 done on the exam, content-based, that it be done by a
8 third-party professional who has the expertise,
9 credibility and resources to perform such a study and
10 that a committee of people involved in the test process
11 and members of the Local will participate in choosing
12 that person who would -- or that company who would
13 perform the study. And then there, obviously, let the
14 results speak for themselves.

15 I mean we don't want to -- nobody wants to
16 go through what we as a department have been through
17 certainly in the past. Everybody wants a fair shake.
18 And, you know, everybody wants to take an exam and an
19 exam that is held by any -- you know, the legal forums to
20 be a valid and fair exam. No one wants to be -- you
21 know, have something voided down the road. Just like,
22 you know, it is totally unfair to discard something that
23 is legally valid. You know, that is -- you know, that's,
24 I think, the issue at hand.

1 I mean with the -- obviously, there's a
2 time constraint here within your own rules and
3 regulations with the 60 days. So that process would have
4 to start somewhat immediately, as I'm sure it would be --
5 take some time. We would hope that we would have an
6 answer within the next three to four business days, you
7 know, if the City was going to proceed with that process
8 because, certainly, you know, that's the law. That's the
9 law that the City has raised, actually. That's what the
10 law that the city has raised directs them to proceed.
11 I'm actually surprised that that hasn't been done. That
12 kind of strikes me odd since the issue at hand was
13 brought up by the Corporation Counsel that that direction
14 hasn't been taken yet. But that's the law. That's
15 what's fair.

16 And that's all that anybody -- any
17 firefighter in this room expects, is to be treated fairly
18 on promotional tests. Obviously, you know, they are big
19 things in the Fire Department, you know, because they
20 come along once every -- once or twice every seven to ten
21 years.

22 And, you know, we feel that that would be
23 the fairest process. That itself would dictate, under
24 the rules and under the Civil Rights Act of 1964, as

1 amended in 1991, there are clear procedures to look at
2 the issue, since the City has raised this issue with the
3 disparate impact. That's what we would ask.

4 Thank you.

5 MR. WEBBER: Thank you.

6 CHAIRPERSON SEGALOFF: Thank you very
7 much, Mr. Egan..

8 I would mention one piece. And if anyone
9 wants to comment, obviously, feel free. I think the one
10 -- one issue that I would want to think about is if our
11 Commission decides to bring in a third party, as you
12 mentioned, in terms of validating the study or not
13 validating it, but a third, impartial party, I think we
14 might -- I might be inclined to solicit opinions from
15 others as to who might -- the City, the Fire Department,
16 others, as to who might be qualified to be part -- to be
17 that third party. But I don't particularly -- this is a
18 decision we have to make. And I think we would not be --
19 not the City -- we have to make, the four of us. And I
20 think we have an obligation to listen to that third party
21 and neither necessarily the City representatives or the
22 Fire Department be part of the process other than the
23 selection process, sitting up here and listening to what
24 the people have to say..

1 One other quick thing is the 60 days. I
2 mean I don't -- we recognize how important it is for
3 everyone to get this thing decided. I don't know -- and
4 I haven't had a chance to speak to Corporation Counsel on
5 the issue. If it turns out that we can't get people that
6 we want to get in here to testify within that time, is
7 there a possibility of extending that 60 days? Yeah.
8 Just give me one second on that thought.

9 And that is that I think if we bring in a
10 third party -- from my personal standpoint, we want
11 someone who gives the kind of thoroughness that we should
12 expect, who can then give us his or her opinion on the
13 testing and different facets. And I just don't know
14 under the time constraints that we're under if we can
15 meet those time frames. That's just a concern of mine.
16 And I don't know if it can be extended.

17 MR. WEBBER: That's not part of the --
18 that's not the body's concern. That's our concern.

19 CHAIRPERSON SEGALOFF: No. But I -- but I
20 want people to know that everyone's anxious and so are
21 we. But I don't know what is going to happen with our
22 time limitations. Since I -- sure.

23 MR. EGAN: Mr. Chairman, just --

24 CHAIRPERSON SEGALOFF: You can address

1 every-- it's too personal. It's all of us.

2 MR. EGAN: In regards to that -- and,
3 certainly, obviously you take the advice from Mr. Ude and
4 not myself. But --

5 CHAIRPERSON SEGALOFF: It's not
6 necessarily I take -- he's my Corporation Counsel. But --

7 MR. EGAN: But I mean under your Rules and
8 Regulations --

9 CHAIRPERSON SEGALOFF: You sounded as
10 lawyerly as Tom Ude just now. But we'll listen to
11 everybody.

12 MR. EGAN: Under your Rules and
13 Regulations, it does permit you to change your Rules and
14 Regulations with notice, particular notice in the paper
15 and then subsequent public hearing, which may fall under
16 an extension, if there would need to be one, to
17 accommodate that type of study of time.

18 I think that, although nobody wants to be
19 waiting around for four or five months -- I mean the
20 waiting has caused enough frustration in itself amongst
21 the members. But certainly, you know, there could be
22 some leeway to extend it for so many days, if that's what
23 was needed.

24 CHAIRPERSON SEGALOFF: Okay. Thanks, Mr.

1 Egan. We'll try to do it all the right way.

2 Who is next?

3 MS. TIRADO: Karen Lee Torre?

4 CHAIRPERSON SEGALOFF: Okay. All set.

5 MS. TIRADO: She's not here?

6 CHAIRPERSON SEGALOFF: Pardon?

7 MS. TIRADO: Is Karen here?

8 CHAIRPERSON SEGALOFF: Yeah. She's right
9 here. This is --

10 MS. TIRADO: Oh. Hi.

11 CHAIRPERSON SEGALOFF: Okay. Hi.

12 MS. KAREN LEE TORRE: Good evening. My
13 name is Karen Lee Torre, Mr. Chairman, members of the
14 board. I'm here on behalf of eleven firefighters who
15 have retained my office to represent them. That list is
16 growing, however. I expect to be representing a fair
17 number more.

18 MS. TIRADO: Excuse me.

19 MS. TORRE: Yes?

20 MS. TIRADO: Can you -- yeah.

21 MS. TORRE: My clients tonight are not in
22 the room right now. By agreement, they, too, have
23 decided to leave the room with other firefighters because
24 they have a desire, unlike apparently what happened the

1 last time, to have this meeting be as civil and quiet as
2 possible. And they have an interest in trying to
3 maintain good relationships between and among them. So
4 they agreed that I should speak for them and that they
5 should leave along with those for whom Mr. Egan spoke.

6 But I am here -- additionally, I'd like to
7 raise a point of order. It is my understanding -- and
8 please feel free to correct me if I'm wrong -- that one
9 of your members has a relative or family member who is on
10 the list, one -- Captain's or Lieutenant's. And if that
11 is the case, I would like that board member to recuse
12 himself or herself.

13 CHAIRPERSON SEGALOFF: That's the easiest
14 question since this all started. And I've got the
15 easiest answer for you or the right answer. Barbara
16 Tinney, who is not here, I believe her -- was it her
17 brother? Her brother is a member of the Fire Department.
18 He did speak. Barbara was not here last time. I don't
19 know that she formally recused -- was -- she was
20 recovering from back surgery. She's not here tonight.

21 And just on a personal level, I agree with
22 you that she should recuse herself.

23 MS. TORRE: Very well.

24 CHAIRPERSON SEGALOFF: I don't -- I expect

1 she has or will or will not participate in any of this.

2 MS. TORRE: In any event, I'm here to
3 state that the group I represent is unequivocally opposed
4 to any attempt by you to refuse to certify these results.

5 Now, my clients have been denied
6 information regarding their scores, although they've
7 repeatedly requested it. So what you have to understand
8 is I'm standing here representing eleven firefighters,
9 none of whom know where they stand on this list. And
10 that's meaningful because the fact is they don't care
11 where they stand on the list. Some of my clients may not
12 even be high enough on the list to be among those likely
13 to be promoted should the board certify the list. But
14 you know what? They don't care. Because what they care
15 about is the City obeying its Charter and this board
16 obeying its Rules and City officials obeying their
17 Personnel Rules.

18 All of my clients studied hard for this
19 exam. All of my clients spent a lot of money purchasing
20 materials to study for the exam.

21 Mr. Ude would have this board
22 presumptively decide that the taxpayers of the city of
23 New Haven just spent \$100,000.00 or more on an
24 incompetent testing company.

1 Now, the company you hired, I take it, has
2 a good reputation. If, in fact, the figure is correct,
3 New Haven taxpayers just spent a small fortune paying
4 this company to devise a test.

5 Mr. Ude and those who would have you
6 discard these results are presuming that this company
7 didn't know what it was doing and devised a test that was
8 either racially discriminatory or unrelated to the job
9 for which the test was administered.

10 Now, all of my clients know that these
11 tests are given once every seven to ten years. These
12 promotions are coveted and they're important. In
13 consequence, they took away from their wives, their
14 children. They gave up their weekends. They gave up
15 leisure activities and they studied hard. Where they
16 stand on the test, they don't know.

17 But for those who scored high and would be
18 likely to be promoted in the first round under the rule
19 of three, you are about to consider a provocative act
20 that would deny them their due.

21 None of these firefighters makes a lot of
22 money. Each has invested a significant amount of money
23 in preparing for the test.

24 It is clear to me that this board is being

1 asked to engage in a provocative act and, moreover,
2 you're being led by a legal opinion by Corporation
3 Counsel that I find to be highly questionable. I like
4 and respect Tom Ude. We've disagreed before. Tom Ude
5 has before led the City into disastrous results. He
6 issued a previous memorandum to you telling you that you
7 should continue to keep making promotions the way you
8 always have under his interpretation of the rule of
9 three.

10 Three different Superior Court judges
11 flatly rejected Mr. Ude's opinion. Three different
12 Superior Court judges, all of whom used very strong
13 language, all of whom, by the way, are among -- are
14 considered the intellectuals on the bench and among the
15 highly -- the most highly respected judges on that bench.

16 MS. TIRADO: Four minutes.

17 MS. TORRE: In this case, the numbers are
18 too statistically insignificant to even be talking about
19 disparate impact, particularly with respect to the
20 Captains exam.

21 Based on my interviews of my clients, if
22 you discard these results, you will get sued. You will
23 force the taxpayers of the city of New Haven into
24 protracted litigation. And Mr. Ude has implied to you

1 that you may get sued either way. You may get sued by
2 those who scored low on the test.

3 But for you to make a decision to discard
4 the results because you're going to get sued either way
5 is highly irresponsible because you need to think about
6 who is going to sue you and whose case would have merit.
7 You don't just get sued so you can spend hundreds of
8 thousands of dollars and lose. If you're going to get
9 sued, you're going to get sued because you think you can
10 win.

11 And you have absolutely no empirical
12 evidence to suggest --

13 MS. TIRADO: time.

14 MS. TORRE: -- that this test was biased.

15 In fact, if you discard these results, you will again
16 completely show contempt for your own Charter and for
17 your Rules. You will show complete disrespect to these
18 officers. And you will force me and them to go into
19 court, which they don't want to do because they have
20 respect for their fellow officers. And they blame the
21 City for creating fractious relations in the department.
22 The City administration has caused divisions. They all
23 want to work together. But if you force us into court,
24 we have to show evidence about why people didn't score

1 well.

2 There are some people who didn't purchase
3 the books. There are some people who went out at night
4 instead of studying. There are some people who even
5 testing experts call curiosity seekers. They're not
6 qualified to take the test. They know they're not
7 qualified for the job. But they're encouraged by both
8 union leadership and advocacy groups to take the test to
9 see what it's like to undergo it. That's why lawyers
10 take practice bar exams.

11 So you have curiosity seekers. You have
12 people who didn't study. You have people who just aren't
13 qualified. You have people who thought the test was fair
14 and so indicated to the union until the results came out
15 and, all of a sudden, there are excuses being advanced.
16 "I didn't have money to buy the books." They all make
17 the same salary.

18 So what you're doing is you're about to
19 embark on a course that is going to cause such an
20 unfortunate tension and division in that Fire Department,
21 because you're going to force everyone into court and
22 you're going to force me to put on evidence as to why
23 these people didn't test well, the people who are
24 complaining and want the results discarded.

1 For once and for all I'm asking you and
2 the City administration to stop, for the sake of politics
3 or for the sake of catering to certain interest groups,
4 to stop creating divisions in the Civil Service, to stop
5 causing people to have to go to work and not be able to -
6 -

7 CHAIRPERSON SEGALOFF: Why don't you wind
8 up please?

9 MS. TORRE: Okay. For once, do what's
10 responsible and follow your own Charter and stop creating
11 trouble when you don't have to.

12 Thank you.

13 CHAIRPERSON SEGALOFF: Let me ask you a
14 question --

15 MS. TORRE: Yes.

16 CHAIRPERSON SEGALOFF: -- or two, if I
17 might. First, we all have a lot of respect for Tom Ude.
18 But I can assure you he is not --

19 MS. TORRE: So do I.

20 CHAIRPERSON SEGALOFF: He is not leading
21 us anywhere. We're a pretty independent-thinking group,
22 if you've seen what we've done, to some extent over the
23 years. So -- you don't have to respond to all this. And
24 I don't want you to, actually. But I just want you to

1 know that we're taking this very seriously. No one's
2 leading us anywhere. We're going to see where the
3 testimony may lead us as we go along.

4 But let me ask you a question. Let me
5 give you a hypothetical and just -- maybe this will help
6 me a little bit. Let's say for discussion sake for the
7 last 20 years on the Lieutenant exam that African-
8 Americans and Hispanics scored in the middle. Now along
9 comes an exam and, out of the blue -- what do you know? --
10 -- but not one African-American or Hispanic passes the
11 test.

12 Now, isn't it at least reasonable to ask
13 the question, "Why would it be that after all these years
14 of there being a result that reflected diversity" -- I
15 don't care whether it was black or Hispanic or Jewish or
16 Catholic. But some group all of a sudden just didn't
17 pass. Wouldn't it be reasonable to at least question
18 that result and try to get behind the test to see if
19 there was something in that test of a -- whatever it may
20 be, of a discriminatory nature or of an unusual nature
21 that resulted in the impact being such that one group
22 that never had a problem suddenly -- and the result
23 suddenly was that it didn't work? I mean how do you deal
24 with that?

1 MS. TORRE: Well, Mr. Chairman, number
2 one, I think you're baiting me because --

3 CHAIRPERSON SEGALOFF: Well --

4 MS. TORRE: -- these --

5 CHAIRPERSON SEGALOFF: Excuse me. I'm not
6 baiting anyone. I asked you a hypothetical. I'm not
7 trying to bait you.

8 MS. TORRE: Yeah. I know.

9 CHAIRPERSON SEGALOFF: You came up here
10 and talked in pretty strong terms about this being
11 political and people are going to get sued. So I mean I
12 -- respectfully, I wasn't trying to bait you. I'm trying
13 to work some of this through in my head. And I just -- I
14 saw your article in the paper. You want to talk about
15 baiting. In my opinion, that was pretty inflammatory.
16 But that's your choice. All I wanted you to know is
17 don't accuse me of baiting. I was trying to help myself
18 work this through. So if you'll please answer what I
19 asked of you.

20 MS. TORRE: Your hypothetical doesn't
21 exist. You have to deal with the empirical evidence that
22 you have. You're presenting a scenario that doesn't even
23 exist. Okay? Moreover, African-Americans have done well
24 in the Fire and Police Departments for years. You've had

1 an African-American Fire Chief. You've had an African-
2 American Police Chief.

3 CHAIRPERSON SEGALOFF: Are those tested?
4 Are those based on testing scores, the two chiefs you
5 just told me about?

6 MS. TORRE: No.

7 CHAIRPERSON SEGALOFF: Oh. Okay.

8 MS. TORRE: I'm just saying there's --
9 there's absolutely no -- no support for any suggestion
10 that there's been in the past 20 years any discrimination
11 against minorities in the Civil Service.

12 But let me propose something to you. You
13 did take note of what I said in the article. You may
14 have found it inflammatory. But I can't even begin to
15 tell you how many people stopped me today on the street
16 to tell me that they agree with it and it's about time
17 somebody said it. Okay?

18 Two, I firmly believe, based on my
19 experience in litigating with the Police Department, that
20 it's the City's fault. You've set up a system here.
21 You've set up a practice that has existed for years of
22 race-based promotions. You cannot avoid it. The
23 evidence is so compelling in the Police Department of
24 race-based promotions --

1
2 MR. WEBBER: We're not -- we're not
3 hearing the Police Department --

4 MS. TORRE: You're asking me -- you're
5 asking me and I'm going to answer your question. You're
6 asking me why all of a sudden now may African-Americans
7 in either Police or Fire not do well. And what I'm
8 telling you is --

9 CHAIRPERSON SEGALOFF: I didn't ask you
10 that. I asked you --

11 MS. TORRE: You --

12 CHAIRPERSON SEGALOFF: I didn't ask you
13 that at all. I said to you isn't it reasonable if
14 suddenly we have an exam result that is so different from
15 the others that results in a minority group or any group
16 doing so poorly -- isn't it reasonable to at least look
17 behind the exam and try to determine as a commission if
18 there was something about that exam that maybe was
19 unfair, discriminatory, that caused the result that
20 wasn't a result that ever happened again?

21 MS. TORRE: It's possible. But that's not
22 what you have here. You don't have that here. Do you
23 know how many white firefighters failed the test? They
24 didn't even make the 70 percent. Are you going to
presume that this test discriminated against all those

1 white firefighters who failed it? You have African-
2 Americans who passed the test. You have African-
3 Americans who scored higher than white candidates. What
4 do you have to say, sir, about the white candidates who
5 got a lower score than the African-Americans? Are you
6 going to sit here and say something's wrong? The test
7 was unfair to them? The test was unfair to the many
8 white firefighters who --

9 CHAIRPERSON SEGALOFF: Okay. I mean I --
10 I hear you.

11 MS. TORRE: That's the problem with that
12 kind of analysis. You don't have the scenario --

13 CHAIRPERSON SEGALOFF: I didn't -- I'm
14 saying -- just to be clear -- I didn't -- I did find that
15 some of your -- some of the statements in the paper were,
16 however you want to characterize it, inflammatory. Not
17 helpful in terms of trying to talk about working this
18 through.

19 On the other hand, I want to be clear. I
20 have -- do not have an opinion at this point. I just
21 thought asking this while you were up here would be
22 useful. But I hear your response. I don't want to -- I
23 don't want to take too much more time. I just wanted to
24 --

1 MS. TORRE: If I can just tell you? Mr.
2 Davies, the expert with incredible credentials, testified
3 --

4 CHAIRPERSON SEGALOFF: Who is Mr. Davies?
5

6 MS. TORRE: Mr. Davies. He does the
7 testing for the Police Department.

8 CHAIRPERSON SEGALOFF: All right.

9 MS. TORRE: He testified in the case that
10 obviously the City -- you know the City just lost. He --
11 with respect to the Police promotions, he took the stand
12 and said, when asked to describe why there may be some
13 discrepancies in scoring between white candidates and
14 African-Americans, he told the judge under oath that the
15 test was fair, that there was nothing racially --

16 CHAIRPERSON SEGALOFF: I'm sorry. Was
17 this the -- was this --

18 MS. TORRE: -- biased or unfair --

19 CHAIRPERSON SEGALOFF: We're not talking
20 about our test that we're dealing with today.

21 MS. TORRE: No.

22 CHAIRPERSON SEGALOFF: You're talking
23 about some other test.

24 MS. TORRE: I'm talking about your own
expert. The City of New Haven's expert, Mr. Davies, who

1 did the testing for the Police Department, recently --

2 CHAIRPERSON SEGALOFF: What does that have
3 to do with our Fire test?

4 MS. TORRE: Because I'm telling you that
5 your own experts are standing here telling judges and
6 everybody else --

7 CHAIRPERSON SEGALOFF: Okay.

8 MS. TORRE: -- that their tests are fair.

9 CHAIRPERSON SEGALOFF: Okay.

10 MS. TORRE: They're not racially biased.
11 And they're not irrelevant to the job for which they're
12 being --

13 CHAIRPERSON SEGALOFF: Okay. Can I --
14 this was helpful. I'm not trying to get into --

15 MR. WEBBER: Just let me make one
16 correction, at least of fact, if the figures in front of
17 me are correct. And that is that there was a test for
18 Lieutenant in 1996, 1999 and 2003. You said every seven
19 or eight years. For Captain --

20 MS. TORRE: That's what Mr. Egan said,
21 sir.

22 MR. WEBBER: Well -- all right. This is
23 what we have in front of -- I have in front of me in
24 writing, given to me by the staff of the Civil Service

1 Commission.

2
3 And that we have for the Captain '98 and
4 2003. It doesn't need conversation. I just wanted to
5 correct --

6 MS. TORRE: Sure.

7 MR. WEBBER: -- what was put out.

8 MS. TORRE: I'm just basing it what Mr.
9 Egan said.

10 MR. WEBBER: All right.

11 CHAIRPERSON SEGALOFF: Anybody else want
12 to ask Ms. Torre?

13 MS. TIRADO: Thank you.

14 CHAIRPERSON SEGALOFF: Thank you very
15 much.

16 Who is next?

17 MS. TIRADO: Donald Day?

18 CHAIRPERSON SEGALOFF: Mr. Day?

19 MR. DONALD DAY: Esteemed Commissioners,
20 my name is Donald Day. I represent the Northeast Region
21 of the International Association of Black Professional
22 Firefighters.

23 We heard the union president talk about
24 fairness, as the esteemed attorney talked about fairness.
We also heard the esteemed attorney talk about the

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So, thank you very much, Mr. Day.

MR. DAY: Thank you for hearing me.

CHAIRPERSON SEGALOFF: Appreciate it.

MR. DAY: All right.

CHAIRPERSON SEGALOFF: Okay. Next?

MS. TIRADO: Ronald Mackey?

CHAIRPERSON SEGALOFF: Mr. Mackey.

MR. RONALD MACKEY: Good evening.

CHAIRPERSON SEGALOFF: Good evening.

MR. MACKEY: Can you hear me?

CHAIRPERSON SEGALOFF: Yes, sir.

MR. MACKEY: My name is Ronald Mackey. I

am the Internal Affairs Officer for the Northeast Region
of International Association of Black Professional
Firefighters. It is my job to do what I'm doing right
now, to investigate, see what's going on. I'm also the
current President of the Firebirds Society of in
Bridgeport. And in that role as Internal Affairs, it is
up to me to look up what's gone on with the tests.

I don't know if you all have seen -- first
off, Commission, I agree with your decision not to
certify the list. I agree with your decision to get in
experts. I do not agree with Mr. Egan's statement that
the Local should be involved. The Local should be

1 involved and we should be involved in that process.
2

3 Also, I do agree with the Corporation
4 Counsel's decision of disparate impact. We believe you
5 should go by what the Uniform Federal Guidelines state.
6 And one of the first things you have to do is you have to
7 talk to I/O Solutions, the people that did the test. You
8 need to have them say what the test was about, where the
9 problems were.

10 On the page, where they say -- about us --
11 strict adherence to professional guidelines. They talk
12 about Federal Uniform Guidelines and Employment Selection
13 Procedure. That's their top issue. Well, they haven't
14 met that criteria.

15 The next part is they list all these
16 cities where they give tests to Police and Fire. If you
17 look at that list, none of them -- they're little, small
18 towns, volunteer towns -- not volunteer towns. But small
19 population which look like a volunteer department.
20 Nothing meets the demographics of New Haven. Not one.
21 The only one that comes close is Washington, D.C., which
22 is a predominantly black city.

23 This company, based on what I'm hearing so
24 far, has given you a bogus exam. And he needs to come in
-- and there are standards inside the Federal Guidelines

1 that says if, as Mr. Egan says, if the test is valid
2 after the study is done, then the Federal Guidelines says
3 you can use alternative selection procedures. You don't
4 have to throw the test out and spend \$100,000.00 on
5 another test. There's ways that you can go by to adjust
6 that test and keep that test and still meet the criteria
7 of having a certain amount of minorities get elevated to
8 the rank of Lieutenant and Captain. This is what
9 happened in Bridgeport in our exams when we went to
10 court.

11
12 One of the things -- I don't know if you
13 all get the same edition of the Connecticut Post that we
14 do in Bridgeport. But today's Connecticut Post, it says
15 "Minority Groups Still Minority in the Fire Department."
16 And I'll leave this with you.

17 Our organization, the Firebirds Society,
18 stopped all tests in the city of Bridgeport. I'm here to
19 let you know that our organization, the Firebirds Society
20 of Bridgeport, and Internal Affairs Officer of the
21 Northeast Region, that we are monitoring this thing very
22 closely and we have no problem going to court to
23 challenge this test and this process. No problem
24 whatsoever.

We believe that Corporation Counsel is

1 believe that. But something's wrong. And that's --
2 that's where I'll leave it.

3
4 CHAIRPERSON SEGALOFF: Thank you very
5 much, Mr. Dawson.

6 Guys, we said it -- I mean -- if you could
7 keep it to a minute. I mean is it --

8 MR. FRANK RICCI: I'll keep it less than a
9 minute.

10 CHAIRPERSON SEGALOFF: Okay. We had
11 committed to stopping and we kept -- we're -- okay. Give
12 us a minute. Give yourself a minute. And then let's try
13 to wrap this up.

14 MR. FRANK RICCI: I'll make it less than a
15 minute.

16 CHAIRPERSON SEGALOFF: Okay.

17 MR. FRANK RICCI: Besides being a New
18 Haven firefighter, I'm also a delegate for the
19 Connecticut Council on Occupational Safety and Health.
20 And I just want to simply speak on fact. No opinion on
21 this matter. The Essentials of Fire Fighting, the book,
22 if you look in the syllabus, is based on the National
23 Fire Protection Agency's fire fighting professional
24 qualifications and the Standard 1001 and also in the
front of the book you will find that it states "This book

1 is to be used to train for two certification levels,
2 Firefighter I" and it states in the standard "Will work
3 under direct supervision", "Firefighter II will work
4 under general supervision".
5

6 This is the book that we use to train our
7 firefighters at the Training Academy. It is not only the
8 responsibility of this department to not have that book
9 on a promotional exam because it doesn't meet fire
10 fighting professional standards, NFPA 1021, for
11 firefighters aspiring to be officers. That book is not
12 in the syllabus. And if you look at other Lieutenant and
13 Captain, chief officer tests around the state and the
14 country, you will find that the Essentials of Fire
15 Fighting is not on that book because it's not an officer-
16 level book.

17 Also, State law -- OSHA law states that
18 the New Haven Fire Department, any state or municipal
19 fire department, officers will be trained to a higher
20 level than their firefighters. The city has been not in
21 compliance with that law for years. This present
22 administration of Chief -- Assistant Chief Dumas and
23 Chief Grant, which is a diverse group, has raised the bar
24 to try to meet the spirit of that law. Though, raising
the bar and putting the books that are supposed to be a

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1 promotional exam forward doesn't meet the Connecticut
2 State law, it does show that the city, with lack of
3 funding and budget, is trying to meet that by getting
4 officers that are well-read and educated.

5 Thank you.

6 CHAIRPERSON SEGALOFF: Sir, could you
7 please at least put your name down there?
8

9 Okay. We're done with -- oh.

10 ALDERMAN DREW KING: I'm Alderman Drew
11 King and I spoke before --

12 CHAIRPERSON SEGALOFF: I remember you
13 spoke very eloquently last time. But you've got --

14 ALDERMAN KING: It's going to take me one
15 minute.

16 CHAIRPERSON SEGALOFF: Okay. One minute.
17 But -- come on, guys. We -- ladies and gentlemen, one
18 minute.

19 ALDERMAN KING: Okay.

20 DR. KIMBER: There's a hand here.

21 A VOICE: Mr. Chairman, will there be
22 another hearing?

23 CHAIRPERSON SEGALOFF: Yes, sir. Yeah.
24 As soon as we get this part over, we're going to try to
deal with that.

1
2 MR. WEBBER: Is that what we're talking
3 about?

4 CHAIRPERSON SEGALOFF: Yes. Someone to
5 look at the test --

6 MR. WEBBER: I think we have to rely on
7 our staff who presents the test and who knows all the
8 communities and ask them to get what they consider the
9 best qualified people to come in to talk to us about the
10 test.

11 CHAIRPERSON SEGALOFF: Yeah. I think -- I
12 agree with you, except if some other group wants to give
13 a suggestion, we can evaluate it. I mean if --

14 MR. WEBBER: Well, if they want to make a
15 suggestion, that's fine. But they -- I don't want them
16 in the position to invite people in to --

17 CHAIRPERSON SEGALOFF: No, no, no. We
18 will -- we as the Commission will make the decision --

19 MR. WEBBER: Okay.

20 CHAIRPERSON SEGALOFF: -- who is going to
21 testify.

22 MR. WEBBER: Sure.

23 CHAIRPERSON SEGALOFF: But if the union or
24 the --

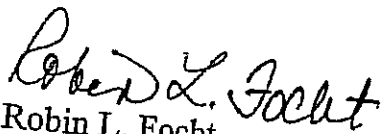
MR. WEBBER: Anybody can --

CERTIFICATE

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In witness whereof I have hereunto set my hand and do so attest to the above, this 11th day of February, 2004.


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