

1 STATE OF NEW JERSEY  
2 GOVERNMENT RECORDS COUNCIL  
3  
4 N RE:  
5 GRC Complaint No. 2006-158  
6 JOHN PAFF  
7 vs.  
8 BOROUGH OF SOUTH BOUND BROOK  
9  
10  
11 TRANSCRIPT OF PROCEEDINGS  
12  
13 AT: Government Records Council  
14 101 South Broad Street  
15 P.O. Box 819  
16 Trenton, New Jersey 08625-0819  
17 DATE: WEDNESDAY, APRIL 25, 2007  
18 TIME: 10:28 A.M. TO 12:08 P.M.  
19  
20 GUY J. RENZI & ASSOCIATES  
21 GOLDEN CREST CORPORATE CENTER  
22 2277 STATE HIGHWAY, SUITE 410  
23 TRENTON, NEW JERSEY 08690-1700  
24 TEL: (609) 989-9199 FAX: (609) 586-2424  
25 www.renziassociates.com

1 C O U N C I L M E M B E R S :  
2 VINCENT P. MALTESE, Chairman

3 KATHRYN FORSYTH

4 ROBIN BERG TABAKIN

5 DAVID FLEISHER

6 CHARLES RICHMAN

7

8 A T T O R N E Y S:

9 DEBRA ALLEN, ESQ.

10 MEAGAN TUOHEY-KAY, ESQ.

11

12 C O U N C I L S T A F F:

13 CATHERINE STARGHILL, ESQ., Executive Director

14 KARYN GORDON, In-House Counsel

15 JYOTHI PAMIDIMUKKALA, Resource Manager

16 BRIGITTE HAIRSTON, Secretary

17 DARA LOWNIE, Senior Case Manager

18 FRANK CARUSO, Case Manager

19 JOHN STEWARD

20

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

22 JOHN PAFF - Complainant, pro se

23 DONALD KAZAR - Custodian

24 RICHARD MILLET - Custodian's Counsel

25

1 I N D E X

2 WITNESS PAGE

3

4 OPENING STATEMENT

5 by Chairman Maltese 4

6 by Mr. Paff 10

7 by Mr. Millet 11 Page 2

8		
9	JOHN PAFF	12
10	Cross-Examination by Mr. Millet	23
11		
12	DONALD KAZAR	
13	Direct Examination by Mr. Millet	26
14	Cross-Examination by Mr. Paff	33
15		
16	QUESTIONS BY THE COUNCIL	34
17		
18	SUMMATIONS	
19	by Mr. Paff	41
20	by Mr. Millet	48
21		
22	EXECUTIVE SESSION	48
23		
24	CLOSING STATEMENT	
25	by Chairman Maltese	49

1

2

3

4

5 CHAIRMAN MALTESE: At this point,  
6 I'm going to open the Public Meeting. I'm going  
7 to lead the Council in conducting an expedited  
8 hearing in the matter of John Paff vs. The  
9 Borough of South Bound Brook, GRC Complaint  
10 No. 2006-158.

11 A verbatim record of the entire

12 proceedings will be made by tape recording and by  
13 our stenographer.

14 First for the record, I ask both  
15 parties, starting with the Complainant, to note  
16 their appearances and that of any counsel  
17 present.

18 MR. PAFF: John Paff, Complainant.

19 CHAIRMAN MALTESE: No counsel, sir?

20 MR. PAFF: No counsel.

21 MR. MILLET: Good morning.

22 CHAIRMAN MALTESE: Good morning.

23 MR. MILLET: I'm Richard Millet. I  
24 represent the Borough of South Bound Brook, and  
25 I'm here today with Donald Kazar who's the

1 Borough Clerk.

2 CHAIRMAN MALTESE: Thank you very  
3 much, sir.

4 The Council is conducting this  
5 hearing pursuant to its authority provided under  
6 OPRA at N.J.S.A. 47:1(a)-7. In order to  
7 determine if the Records Custodian of the Borough  
8 of south Bound Brook in failing to respond to the  
9 complainant's request, the GRC's request for a  
10 statement of information and the GRC's December  
11 14th, 2006 interim order, committed a knowing and  
12 willful violation of OPRA. And if a knowing and  
13 willful violation was committed, whether the  
14 violation was unreasonable under the totality of  
15 the circumstances.

16 Both the finding of a knowing and  
Page 4

17 willful violation and a finding of conduct  
18 unreasonable under the totality of the  
19 circumstances are required by N.J.S.A.  
20 47:1(a)-11.  
21 if the Council finds after  
22 providing the Custodian with the opportunity to  
23 be heard on the subject that a knowing and  
24 willful and unreasonable violation did occur, the  
25 Council will impose the penalty required by

1 statute.

2 This is an administrative hearing.  
3 The rules of evidence are not strictly applied.  
4 In general, exclusionary rules do not apply and  
5 will admit all evidence offered, even hearsay, as  
6 long as it is relevant, material, and probative.  
7 since this is an expedited hearing, I will also  
8 curtail the production of irrelevant, immaterial  
9 and unduly repetitious evidence.

10 The Council's decision will be based  
11 upon our consideration of the entire record and  
12 only upon the record. The record will consist of  
13 written submissions and documents previously  
14 provided to the council included in the findings  
15 and recommendations of the Executive Director  
16 that's submitted before this hearing, as well as  
17 the testimony presented here today.

18 under the scheme established by  
19 OPRA, the burden to defend a failure to answer a  
20 request for Government records rests on the

21 Custodian who must respond to the request and  
22 indicate the specific basis for denying access to  
23 any records that he will not produce.

24 Alternatively, the burden of  
25 establishing that the Custodian's actions in

1 regard to the request constituted a knowing and  
2 willful violation despite the asserted defense  
3 rests with the Complainant. As well as I just  
4 described, the evidentiary rules are relaxed in  
5 administrative context.

6 The standard of proof in this matter  
7 is by preponderance of the evidence. This  
8 standard of proof applies in civil actions.  
9 Under the standard, a party must establish that a  
10 desired inference is more probably than not, that  
11 the evidence is equipoised, the burden has not  
12 been met.

13 In an effort to expedite this  
14 proceeding, the parties are asked to stipulate to  
15 the facts as presented in the GRC's findings and  
16 recommendations of the Executive Director, dated  
17 December 7, 2006, as well as the supplemental  
18 findings and recommendations of the Executive  
19 Director, December 21, 2007.

20 I'll now ask the parties if they  
21 would so stipulate.

22 Mr. Paff?

23 Is that a "yes," sir?

24 MR. PAFF: Yes,

25 CHAIRMAN MALTESE: Okay.

1 Mr. Millet?

2 MR. MILLET: We will stipulate with  
3 the exception at page 5 of the findings of the  
4 December 14th, 2006 meeting, where it states in  
5 the third full paragraph down that it is possible  
6 that the custodian's actions were intentional and  
7 deliberate with knowledge of their wrongfulness  
8 and not merely negligent, which I believe is the  
9 issue here, anyway.

10 CHAIRMAN MALTESE: All right. So  
11 the facts are stipulated to except as noted by  
12 Mr. Millet.

13 Additionally and in compliance with  
14 the Notice of Hearing provided to both parties on  
15 April 9, 2007, the Council has been informed that  
16 the Custodian intends to rely upon the following  
17 evidence:

18 April 19, 2007 letter from the  
19 Custodian's counsel to the GRC with a FedEx  
20 backing receipt dated January 24, 2007;

21 April 20, 2007 letter from the  
22 Custodian's counsel to the GRC.

23 The complainant intends to rely upon  
24 the following evidence:

25 May 8, 2006 letter OPRA request for

1 Complainant to Custodian -- from Complainant to  
2 Custodian;

3                   May 16, 2006 e-mail from custodian  
4           to Complainant;

5                   May 16, 2006 e-mail from complainant  
6           to Custodian with completed OPRA records, request  
7           form attached;

8                   February 20, 2007 e-mail from GRC to  
9           complainant with the following attachments:

10           January 24, 2007 letter from the Custodian to the  
11           GRC and the 95 pages of record allegedly  
12           responsive to the request;

13                   April 18, 2007 certification of the  
14           complainant;

15                   and the April 20, 2007 letter from  
16           the Complainant to the GRC in response to the  
17           custodian's counsel's April 20, 2007 letter.

18                   Each party or party representative  
19           will be given the option of making a brief  
20           opening statement starting with the Complainant.  
21           Each witness will then be sworn in and will  
22           respond to direct examination by the party or  
23           representative of the party who called him or  
24           her. The opposing party will be allowed to  
25           cross-examine, then I will ask questions, as well 10

1           as members of the Council. The witnesses will  
2           also be ask to provide a foundation for any  
3           documents they wish to submit and rely upon.

4                   At the close of testimony, each  
5           party or party representative will be afforded  
6           the opportunity to present a brief closing  
7           statement. The Council will then go into closed

8 Session to deliberate pursuant to the open Public  
9 Meetings Act.

10 Following the Closed Session, the  
11 council will go back into open Session or come  
12 back into Open Session and either announce a  
13 reservation of our decision for further  
14 consideration or vote on the issues. And those  
15 issues will be whether the Custodian willingly  
16 and willfully violated OPRA and whether the  
17 Custodian's conduct was unreasonable under the  
18 totality of the circumstances and the imposition  
19 of the statutory prescribed penalty.

20 At this point in time I will ask the  
21 Complainant if he wishes to make an opening  
22 statement.

23 MR. PAFF: Yes, I do, briefly.

24 Mr., Chairman.

25 This is an issue where I made a

11

1 records request beginning in May of 2006. I sent  
2 a follow-up letter on July 22nd, 2006. After  
3 receiving no response, I filed a GRC complaint on  
4 September 12th, 2006. The GRC then sent a  
5 statement of information to the Custodian on  
6 September 21st. And then sent its first -- the  
7 GRC sent its first No Defense letter because it  
8 did not receive the completed statement of  
9 information on October 3rd. Then the October  
10 25th it sent a second No Defense letter by  
11 certified mail. It distributed its first interim

12 order -- its interim order on December 20th, 2006  
13 and it distributed its revised interim order on  
14 January 3rd, 2007. It is only at that time on  
15 January 24, 2007 that the Custodian sent  
16 documents to the Government Records Council, but  
17 not to me.

18 I think that if there is a case  
19 where anyone has violated the provisions of  
20 knowing and willful -- knowingly and willfully  
21 violating the Open Public Records Act in a way  
22 which is unreasonable, this is it and that's what  
23 I intend to prove today.

24 CHAIRMAN MALTESE: Thank you,  
25 Mr. Paff.

12

1 Mr. Millet?

2 MR. MILLET: It's our position that  
3 there was no knowing and willful violation. The  
4 key phrase here is whether it was unreasonable  
5 under the totality of the circumstances. I'm  
6 going to present Mr. Kazar to testify, and I  
7 believe that based on his testimony that you will  
8 **see** that it was under the totality of the  
9 circumstances not unreasonable. This is a very  
10 unusual situation that occurred in the Borough of  
11 South Bound Brook during this period of time and  
12 I will leave that to Mr. Kazar's testimony.

13 Thank you.

14 CHAIRMAN MALTESE: Thank you.

15 Mr. Paff, I assume since you have no  
16 witnesses, that you're going to testify?

17 MR. PAFF: That is correct.

18 MS. STARGHILL: She'll be here  
19 shortly.

20 CHAIRMAN MALTESE: I don't know that  
21 we need that.

22 I'll ask you to raise your right  
23 hand, please.

24 JOHN PAFF, having been first duly sworn,  
25 testifies as follows:

13

1 MR. PAFF: okay. Basically, all  
2 can do is go through the record. I'm assuming  
3 don't have to introduce any exhibits into the  
4 record. what the record is is already accepted  
5 as being -- as being exhibits

6 CHAIRMAN MALTESE: That's correct.

7 MR. PAFF: On May 8, 2006, I sent a  
8 letter to the Borough clerk -- I faxed a letter  
9 to the Borough clerk asking for Executive session  
10 resolutions and minutes from three months, April  
11 2003, May 2004 and October 2005. I promptly  
12 received back an e-mail from the Custodian  
13 telling me that I was required to fill out their  
14 specific form which he included.

15 I filled out the form and I e-mailed  
16 it back to the custodian on April -- on -- excuse  
17 me -- in the area of May 16th -- May 19th, 2006.  
18 May 19, 2006, I put it on my calendar and I did  
19 not receive any response. I alerted myself to  
20 the fact that there was no response and on July

21 22nd I sent another letter to the Custodian  
22 basically saying: I have not received a  
23 response, Do you -- have you responded, what to  
24 do your records show?

25 I faxed that to him on July 22nd,

14

1 2006. Again, I received no response. I did  
2 receive a fax transmission receipt showing that  
3 my July 22nd fax was indeed received the same  
4 day.

5 After not hearing from the  
6 custodian, I filed on -- I filed and served on  
7 September 12th, 2006, a Denial of Access  
8 complaint with the Government Records Council,  
9 basically stating that this was a deemed denial  
10 because he had not responded to my original  
11 request and that he did not respond to my  
12 follow-up request and something in the order of  
13 four months had now elapsed.

14 As is its practice, the Government  
15 Records counsel sent the Custodian a notice that  
16 there was a complaint filed against him and that  
17 he had five business days within the receipt of  
18 this letter he was supposed to send back a  
19 statement of information. That was sent out by  
20 the GRC on September 21st, 2006. And on October  
21 3rd, 2006, the GRC presumably did not receive any  
22 information back from the Custodian, sent a  
23 demand letter, a No Defense letter, saying that  
24 If we do not receive the Statement of Information  
25 within three business days, this case will

1 proceed to adjudication with the documents that  
2 we have on file.

3                   Again, he did not apparently respond  
4 to that because on October 15, 2006, the GRC sent  
5 by certified mail another NO Defense letter to  
6 the Custodian which he presumably received.

7                   on December 20, 2006, the GRC issued  
8 a -- its interim order, its first order in this  
9 case. It gave the background and provided that  
10 essentially was a no -- a deemed denial that --  
11 to the Custodian because he failed to respond to  
12 my request. It was considered a deemed denial  
13 because he did not respond within the 7-business  
14 day period required by OPRA. And they told him  
15 to within five business days from the receipt of  
16 the interim order to provide me with the  
17 information that I requested. And they also  
18 noted that the 136 business days that are elapsed  
19 at that time that his failure to respond after  
20 several attempts that it was possible for the  
21 Custodian that he -- what he did was intentional  
22 and deliberate, knowing and willful,  
23 unreasonable, and thus subjecting him to the  
24 \$1,000 penalty.

25                   The Custodian, to my knowledge, did

1 not respond within the five business days from  
2 the interim order with the information that he

3 had been required to send. I know that he did  
4 not send anything to me.

5 Another interim order was entered  
6 I'm sorry, a revised interim order was submitted,  
7 I believe, on January 3, and that was distributed  
8 to the parties. This order, also, it was revised  
9 to include the requirement that he should not  
10 disclose the Executive Session minutes if they  
11 were not approved by the governing body prior to  
12 the date of this OPRA request because they would  
13 be, I guess, ACD. He was again ordered to  
14 provide a certification indicating within five  
15 business days whether or not those Executive  
16 Session minutes were or were not approved by the  
17 Borough Council prior to my OPRA request. To my  
18 knowledge, he never, ever has yet to respond to  
19 that to provide that certification.

20 Finally, on January 24, 2007,  
21 understand that the Custodian sent 96 pages of  
22 documents to the Government Records Council,  
23 which are right here (indicating). He did not  
24 send them to me. I received a telephone call  
25 from the case manager asking me if I had received 17

1 the records. I said, since I'm in Florida i have  
2 to check. i -- i -- my mail is being forward,  
3 it's not reliable. I don't want to say that I  
4 haven't received them. I really just don't know,  
5 I will get back to you.

6 I waited approximately a week  
7 and-a-half. I did not receive anything from my

8 forwarding in New Jersey. And I wrote a letter  
9 to the Custodian or to the case manager saying  
10 on February 3rd saying, I did not receive  
11 anything from the Custodian, apparently he sent  
12 it directly to you. That was Miss Myers. On  
13 February 20th, she sent me an e-mail with a PDF  
14 attachment which had the 96 pages which I printed  
15 out here (indicating). And on February 20th was  
16 the first time that I ever saw what it was that  
17 Mr. Kazar sent to the Government Records Council.

18 I think read it over and I was  
19 confused by it because I asked for Closed Session  
20 resolutions and I asked for Closed session  
21 minutes. And I've done this lots of times before  
22 over a three-month period. And usually this is a  
23 four or five pages of information because it's  
24 usually resolutions are one page a piece and the  
25 minutes are usually maybe one or two pages a

18

1 piece.

2 I got back this 96 pages and the  
3 cover letter says that the only documents missing  
4 from it are the Executive Session minutes from  
5 October of 2005 and he gives a reason for it, but  
6 he says enclosed are the documents that are  
7 requested. well, I looked at this and I was  
8 confused because I don't know that these are the  
9 documents that I requested, I see the April 8th,  
10 2003 Executive Session minutes -- I'm going back  
11 to what I was thinking when I looked at it -- but

12 now I see minutes from the April 1st, 2003 Public  
13 session. And these aren't just the bear minutes  
14 that go on for seven or eight pages. Attached to  
15 it are all the exhibits, pretty much all the  
16 correspondence file. There's claims, vouchers  
17 for not relevant material, there's a resolution  
18 to support the U.S. Troops.

19                   It appeared to me that what the  
20 Custodian had done was took the minutes and  
21 correspondence and everything that related to  
22 those months and just put them on photocopier and  
23 just ran them through and sent almost 100 pages  
24 to the GRC, but without sending it to me. So I  
25 wasn't really clear as to whether or not this was

19

1 really responsive to my request or not.

2                   On February 20th, another interim  
3 order was entered -- February 28th, I'm sorry,  
4 another interim order was entered. And that  
5 interim order included language in it which I  
6 felt supported my feeling on it is because  
7 the -- the -- it says right here on page 4 of  
8 that order that the letter from the Custodian to  
9 the GRC with attachments that are not relevant to  
10 the Complainant's request.

11                   So I didn't understand why he was  
12 sending me all this material which was pretty  
13 much what I never asked for and it wasn't what  
14 asked for. So I continued to simply wait until  
15 this matter came to conclusion.

16                   Now on April 9th we got the letter  
Page 16

17 asking us to supplement the record. And a letter  
18 came from Mr. Millet at that point which --  
19 actually, not April 19 -- on April 20th during  
20 the hearing, during the prehearing conference and  
21 after the hearing I got to understand that what  
22 the custodian was basically telling me was that  
23 in this April 8th, 2003 minutes that he sent  
24 me -- this probably goes on for 20 or 30 pages --  
25 one of this is possibly relevant. That there is 20

1 on page 7 of those April -- April 8th minutes  
2 there's a motion that talks about going into  
3 Executive Session,  
4                   Now, that's a motion. All that says  
5 is that there's a motion to go into Executive  
6 Session to discuss contract negotiations made by  
7 councilman Quinlan, seconded by councilman Henry,  
8 all ayes. That is what I guess he thinks, and  
9 I'm just guessing, that he thinks that this is  
10 responsive to my request for any resolutions to  
11 go into Executive Session were passed during  
12 April 8th of 2003.

13                   It is not responsive -- and maybe  
14 this would be better for argument, but since I'm  
15 representing myself, I have to argue and give  
16 testimony at the same time -- that just because  
17 there was a motion to go into Executive Session  
18 passed on April 8th, doesn't mean that there  
19 wasn't a separate resolution, and it doesn't  
20 meant that there weren't other resolutions passed

taw Hearing Paff v. South Bound Brook, 2006-158.txt  
21 during the month of April of 2003 that were in  
22 within the scope of my request. I don't know how  
23 many times the Borough Council meets a month.  
24 They could have had a special meeting on April  
25 25th, 2003, and there could have been resolution 21

1 there that is responsive to my request that's not  
2 satisfied by just giving me a motion from  
3 Executive Session -- or for Open Session minutes  
4 during one meeting of April 8th of 2003.

5 Then I also understood from the  
6 letter that was sent on, I believe, April 20th by  
7 Mr. Millet, and I quote from that, it says, The  
8 Borough Council did not go into Executive Session  
9 during the month of May of 2004. The minutes of  
10 both the agenda meeting of May 4th, 2004 and the  
11 regular Borough Council meeting of May 11th, 2004  
12 have already been provided and there is no  
13 mention of any Executive Session.

14 So apparently according to the  
15 Custodian and his Council, the way they respond to  
16 a request saying that there is no Executive  
17 Session during the month of May of 2004 is to  
18 send me a set of Public meeting minutes from May  
19 of 2004 that has nothing within it to show that  
20 there was an Executive Session called.

21 I do not know that my response has  
22 been -- my request has been responded to because  
23 for all I know they could have held another  
24 meeting in 2004 were there were minutes that  
25 were -- where there was an Executive Session

1 called. Or it could be that they held a meeting  
2 in April of 2004 where they called an Executive  
3 session meeting to be held in May of 2004.

4 That -- so it is not -- it is not  
5 reasonable -- it is unreasonable in my mind to  
6 instead of telling me there was no Executive  
7 session in 2004, therefore, no records are  
8 responsive to your request, to send me maybe 30  
9 or 40 pages of meeting minutes that I'm supposed  
10 to go through and then make this assumption that,  
11 well, what they must mean by this is that this  
12 was the only meeting in May of 2004, they didn't  
13 hold an Executive session there. Again, I don't  
14 think it's up to me to read tea leaves. I think  
15 that they're supposed to declare whether it is or  
16 is not -- if there is or is not a record  
17 responsive to my request. And if there is, if  
18 can have it, and if I can't have it, why I can't  
19 have it and give me a lawful reason. That's a  
20 request those are entitled to under OPRA.

21 Further than that, I submitted my  
22 certification of, I believe, April 18th or  
23 thereabouts that I still don't believe at this  
24 very moment I don't -- i am not confident that  
25 received a response to my records request. I

1 don't know if there was an Executive session held  
2 in May of 2004. I don't know if there -- have

K&W Hearing - Paff v. South Bound Brook, 2006-158.txt  
3 minutes of that meeting, if they're telling me I  
4 can't have them, they're telling me that it  
5 doesn't exist, they're not telling me anything.  
6 And this is not what OPRA was designed for.

7 And essentially that's all the  
8 testimony I really can have. That's the only  
9 things I can really testify to.

10 CHAIRMAN MALTESE: Thank you,  
11 Mr. Paff.

12 Mr. Millet, would you like to ask  
13 Mr. Paff any questions?

14 MR. MILLET: Yes, please.

15 EXAMINATION BY MR. MILLET:

16 Q. Mr. Paff, you have served similar  
17 requests on numerous other municipalities in  
18 New Jersey at various times; is that correct?

19 A. That is correct.

20 Q. And when you received responses  
21 containing minutes from these other  
22 municipalities, you review those minutes, do you  
23 not?

24 A. of course.

25 Q. And when you received these minutes 24

1 from South Bound Brook, you reviewed those  
2 minutes, correct? And that's -- I'm talking  
3 about April '03, May of '04 and October of '05.

4 A. Yes, I did.

5 Q. And you saw that in April '03 on  
6 page 7 of the minutes of April 8th, '03 that  
7 there was a motion to go into Executive Session

8 at 10:15 p.m. YOU saw that, did you not?

9 A. Yes, I did.

10 Q. And you saw there was a motion at  
11 10:50 to go back to Regular Session; is that  
12 correct?

13 A. Yes.

14 Q. You also received the minutes for  
15 the month of May 2004?

16 A. I received one set of minutes from a  
17 meeting that occurred in May of 2004. I have no  
18 idea whether they were the only minutes that were  
19 held for any meeting --

20 Q. My question, sir, you received  
21 minutes for the month of May 2004, did you not?

22 A. **No**, that's -- your question is did I  
23 receive minutes -- I received minutes from a  
24 specific meeting in May of 2004.

25 Q. You received it from two specific

25

1 meetings?

2 A. Two specific meetings, yes.

3 Q. May 4th and May 11th, 2004?

4 A. That's correct, yes.

5 Q. And you reviewed those materials,  
6 did you not?

7 A. Yes, I did.

8 Q. And there was no mention of any  
9 Executive Session?

10 A. In those two sets of minutes?

11 Q. In those --

12 A. No, they were not.

13 Q. And you received the minutes for  
14 october of 2005?

15 A. Yes -- well, I received them for  
16 october -- let's see -- all the minutes --  
17 received which for specific date or dates within  
18 october of 2005.

19 Q. For October 11th, 2005 --

20 A. Right.

21 Q. -- you received that. And there was  
22 a notation -- there was a motion to go into  
23 Executive session at that time to discuss a  
24 personnel problem, personnel issue; that is  
25 correct?

26

1 A. Yes, I believe there was, yes.

2 Q. so your concern is whether in  
3 addition to the minutes that you have already  
4 received, there are any other minutes hanging  
5 around out there for those three months which you  
6 have not received? Am I correct, have  
7 understood your argument, that's your concern?

8 A. As far as -- well, that's one of my  
9 concerns.

10 O. That is your -- that is a concern of  
11 yours?

12 A. That is a concern of mine.

13 MR. MILLET: I have no further  
14 questions.

15 CHAIRMAN MALTESE: okay. Thank you,  
16 Mr. Paff.

17 Mr. Millet?  
18 MR. MILLET: At this time, I will  
19 call Donald Kazar.  
20 CHAIRMAN MALTESE: Mr. Kazar, would  
21 you kindly stand, please --  
22 MR. KAZAR: I'm sorry.  
23 CHAIRMAN MALTESE: and raise your  
24 right hand.  
25 D O N A L D K A Z A R, having been first duly  
27

1 sworn, testifies as follows:

2 MR. KAZAR: Donald Kazar, K-a-z-a-r.

3 DIRECT EXAMINATION BY MR. MILLET:

4 Q. Mr. Kazar, what is your position  
5 with the Borough of South Bound Brook?

6 A. I am the Borough Clerk  
7 Administrator.

8 Q. Do you have any positions that you  
9 hold for South Bound Brook?

10 A. I am also the Payroll Clerk; I am  
11 the Register; I am the Assessment Clerk. I hold  
12 many other duties -- many duties at South Bound  
13 Brook.

14 Q. Are you a full-time employee of the  
15 Borough?

16 A. I'm a part-time employee.

17 Q. Do you have any other jobs that you  
18 hold?

19 A. I own a family-owned catering  
20 business in South Bound Brook that's been in the

21 family for 45 years.

22 Q. That's your full-time job?

23 A. That's my full-time job.

24 Q. How long have you been in those  
25 positions for the Borough of South Bound Brook?

28

1 A. The Borough of South Bound Brook,  
2 started in October of 1989.

3 Q. Since that time, have you taken  
4 courses for the various positions that you hold?

5 A. Yes. I hold an RMC, that's Resident  
6 Municipal Clerk; and I've taken -- gone to  
7 conferences and taken courses throughout the --  
8 the many years.

9 Q. Prior to receiving an OPRA request  
10 in May of 2006, had you ever received any OPRA  
11 request from anyone else?

12 A. That was my office's first request.

13 Q. When you received the request, in  
14 what position or -- how did you receive it?

15 A. I received it by fax, I believe it  
16 was through the fax. Uhm...and, uhm, I --

17 Q. What did you do upon receiving a  
18 fax?

19 A. I forwarded an e-mail to Mr. Paff  
20 that it needed to be filled out on a particular  
21 form, I had an OPRA request form that I had just  
22 got done putting together, taken the sample of  
23 the CRC site and faxed it -- e-mailed it over to  
24 him, I believe, for him to fill out.

25 Q. Did you have any discussion with

1 Mr. Paff?

2 A. I believe I had a discuss with  
3 Mr. Paff that he needed to fill that form out and  
4 send it back to me and that it would take some  
5 time to get those records since they are buried  
6 in my office.

7 Q. was that by telephone?

8 A. I believe it was by telephone.

9 Q. Now, upon receiving the second  
10 request later in the month of May 2006, what did  
11 you do at that particular time regarding his  
12 request?

13 A. I basically had it on my desk, and  
14 was looking through the request, and I was trying  
15 to figure out how I was going to handle that at  
16 that time.

17 Q. Handle it in what way, timewise?

18 A. Timewise and just the amount of work  
19 in the office, and it just was sitting there.

20 Q. In April of 2006, a month before the  
21 request, did something unusual happen in the  
22 Borough of south Bound Brook?

23 A. unfortunately, we had some  
24 situations where our ex-mayor and some changes of  
25 Council and there was a whole of array of

30

1 different things going on. Being a small office,  
2 it just put a lot more responsibilities on my

3 office as a single person in the office and it  
4 got busy.

Q. Let's go into that.

6 In April of 2006, did the long-time  
7 mayor of the Borough resign?

8 A. Yes, she did.

9 Q. And that was a sudden resignation?

10 A. Yes, it was.

11 Q. And as a result, did a councilman  
12 then become mayor?

13 A. Yes, he did.

14 Q. Did that councilman put additional  
15 time constraints on you for advice on how to the  
16 run the Borough of mayor's position?

17 A. There was a lot of different things  
18 going on that involved my duties to help the  
19 council move forward with the new mayor and there  
20 was also an appointed -- elected to councilman --  
21 appointed council person to fill the seat when  
22 that councilman became mayor,

23 Q. can you estimate how much additional  
24 time on a weekly basis beginning in April the new  
25 mayor and council person took from you?

31

1 A, It took probably -- the most of the  
2 time that I was there as a part-timer just doing  
3 new paperwork and filling in new council people  
4 and the new mayor and procedures and policies and  
5 attending meetings. It just was an overwhelming  
6 response.

7 Q. Then again in November of 2006, was

8 there election, an election for mayor?

9 A. There was an election for mayor and  
10 the new mayor won -- the opposing mayor won and  
11 there was a whole new change of council again.

12 Q. Did that newly-elected mayor  
13 immediately take his seat as mayor in November?

14 A. within two weeks after the election  
15 was certified, yes.

16 Q. Had that person ever served as mayor  
17 before?

18 A. No.

19 Q. Did you have any additional time  
20 constraints with this new individual?

21 A. There was more time constraints  
22 because it was also the end of the year, so  
23 becoming November, December, there was financial  
24 year-end stuff that you have to do and it just  
25 became more time consuming.

32

1 Q. Let me ask you this, did you  
2 willfully not send they documents to Mr. Paff?

3 A. No.

4 Q. Did you know -- strike that.  
5 Had you started work on obtaining  
6 any of the minutes that had been requested?

7 A. i started researching for the  
8 minutes. My office is very small, so the minutes  
9 are not kept in my office, they're kept closets  
10 or in boxes. unfortunately, for a small town we  
11 don't have much space and i had to begin

aw Hearing - Paff v. south Bound Brook, 2006-158.txt  
12 searching some of the minutes from back in 2004  
13 or 2003. I started to such for the April ones  
14 and just got involved in other items and other  
15 situations and unfortunately had to back down on  
16 this particular search.

17 Q. when you finally put together the  
18 minutes from April of '03, May of '04 and October  
19 of '05, and submitted them to this Council, did  
20 you submit to the Council all of the minutes for  
21 all of the meetings that had been requested for  
22 those three months?

23 A. Yes, I did. we had no other  
24 meetings in any of those months other than the  
25 minutes that I submitted.

33

1 Q. were there any other Executive  
2 sessions or any other meetings of any type that  
3 have not already been provided to the Council and  
4 in turn to Mr. Paff by the Council?

5 A. He was -- the Council was provided  
6 the minutes of all the meetings that were held in  
7 those months. There were no other meetings held.

8 Q. Thank you, sir.

9 MR. MILLET: I have no other  
10 questions.

11 CHAIRMAN MALTESE: Mr. Paff, cross?

12 MR. PAFF: Yes.

13 CROSS-EXAMINATION BY MR. PAFF:

14 Q. is it fair to say that my requests  
15 substantially disrupted the operations of your  
16 office?

17           A.           Basically a little bit. It was just  
18 one more item that I had to deal with.

19           Q.           In any of your training that you  
20 received regarding your position as clerk, did  
21 you -- did anybody invite your attention that you  
22 would read Section 5G of OPRA that says that if a  
23 request would substantially disrupt your agency's  
24 operations, that your Custodian may deny access  
25 after attempting to reach a reasonable solution

34

1 of the requestor?

2           A.           Since it was a whole new request to  
3 me and a whole new thing going on in my office  
4 and the OPRA law was pretty new, basically, no, I  
5 wasn't familiar with that.

6           Q.           Okay. so you never reached out and  
7 said anything to the Custodian -- to the requestor,  
8 you never said this is a substantial disruption  
9 of my office operations, your request?

10          A.           No, I wasn't aware of that at that  
11 time.

12          Q.           So the first time that you responded  
13 to the request was January 24th, 2007?

14          A.           Yes, the records sent to the GRC.

15          Q.           And you sent it to the GRC, you did  
16 not send --

17          A.           I was under the assumption that it  
18 was to be sent to the GRC --

19          Q.           And you did

20          A.           -- their letter and I guess I mis --Page

21 Q. And you did receive the records  
22 request in something in the order of May --  
23 middle of May of 2000?

24 A. Yes, I did.

25 MR. PAFF: I have no further

35

1 questions.

2 QUESTIONS BY THE COUNCIL:

3 CHAIRMAN MALTESE: Members of the  
4 Council, do we have any questions of either  
5 Mr. Paff or Mr. Kazar?

6 I have one.

7 Mr. Kazar, have you had any OPRA  
8 training?

9 MR. KAZAR: I attended a seminar back  
10 in November at the League of Municipalities  
11 Conference of 2006.

12 CHAIRMAN MALTESE: 2006.

13 MR, KAZAR: 2006.

14 CHAIRMAN MALTESE: Is that your only  
15 exposure?

16 MR. KAZAR: Basically through that,  
17 yes, and through the e-mails that I received from  
18 the League and from the Municipality Clerk  
19 Association (indiscernible).

20 CHAIRMAN MALTESE: Do you have any  
21 clerical assistance in your office?

22 MR. KAZAR: I have one clerical  
23 assistant. She's administrative assistant.  
24 She's administrative assistant. But she also  
25 does dog licenses. she's a Board of Health

1 secretary. she does Public works, secretary,  
2 basically. she's the Mayor and Council secretary  
3 for correspondence. And she works 7 hours a day,  
4 35 hours a week. So she's very strapped on top  
5 of that. And she's basically just a clerical  
6 assistant. she really has no training in clerk  
7 or deputy clerk. she's not a -- you know, she's  
8 just basically a fill-in person.

9 CHAIRMAN MALTESE: Now the Council  
10 had occasion to issue a couple of orders for you  
11 to take certain action. Could you tell us why --

12 MR. KAZAR: Some of those orders  
13 were sent to --

14 CHAIRMAN MALTESE: could you tell us  
15 why you failed to respond to those orders?

16 MR. KAZAR: Some Of the orders  
17 received I forwarded to our former Borough  
18 attorney which was William Cooper. There was,  
19 believe, some discussion between himself and the  
20 GRC on those orders. I wasn't really too sure on  
21 how to handle those at that particular time when  
22 it started coming from the state, and I got a  
23 little nervous and just forwarded them on.  
24 mean, it was just one of those things.

25 CHAIRMAN MALTESE: Other questions

1 from members of the Council?

2 MS. FORSYTH: I have one.

3                   How many hours a week do you work in  
4                   this position?

5                   MR. KAZAR: I work a minimum of  
6                   20 hours a week in the Borough Hall, sometimes  
7                   night hours between the hours -- I do sometimes  
8                   eight to one in the morning just to get paperwork  
9                   done, sometimes it's during the day. with my  
10                  administrative assistant, she contacts me if  
11                  someone comes to the office. And being -- owning  
12                  a business right in South Bound Brook, sometimes  
13                  I can run out and meet people. But most of the  
14                  time it's in the evening hours and it's a minimum  
15                  of 20 hours a week.

16                 MS. FORSYTH: But are you basically  
17                 in the office every day?

18                 MR. KAZAR: No, not every day.

19                 MS. TABAKIN: So it's a minimum of  
20                 20 hours a week. And what is your maximum?

21                 MR. KAZAR: Depending on the  
22                 busyness of the -- of a Borough Council meeting,  
23                 a Tuesday, it could be because Council meetings  
24                 will run anywhere from 7:30 to 12 at night,  
25                 12:30. So it could be a maximum of like thirty

38

1                 hours, twenty-eight hours. It varies, depending  
2                 on how many hours I have available to put in.

3                 MS. TABAKIN: So if there's  
4                 additional work to do, you put in additional --

5                 MR. KAZAR: I try to put in as  
6                 much -- to do as much as I possibly could.

7                 CHAIRMAN MALTESE: Mr. Kazar, should  
                  Page 32

8 you be ill or decide to go on vacation, who would  
9 handle the requests in your absence?

10 MR. KAZAR: Nobody. There is nobody  
11 in that office. I will have to hit it when  
12 come back.

13 Borough of South Bound Brook is a  
14 very small borough with very limited staff space.  
15 And, you know, it's with the tax rate of \$5.15  
16 per hundred people, the mayor and Council isn't  
17 too keen on hiring extra help.

18 CHAIRMAN MALTESE: what's the  
19 population?

20 MR. KAZAR: It's about forty  
21 forty-four hundred, I believe it is.

22 MS. STARGHILL: If I may interject?  
23 The parties did stipulate the  
24 prehearing conference call Section 5A of OPRA  
25 would apply to the municipality since they had

39

1 5,000 or less residents, allowing them to have  
2 limited OPRA hours.

3 CHAIRMAN MALTESE: Thank you.  
4 Okay. Any other questions?  
5 Yes, Robin.

6 MS. TABAKIN: Council had the  
7 occasion to issue several orders during the  
8 course of this entire situation. If Mr. Paff  
9 had -- or complainant had gone to the superior  
10 Court of New Jersey rather than to the Government  
11 of Records Council and the superior court issued

12 an order for you to produce documentation to the  
13 complainant as did the GRC, would you have  
14 complied in a timely fashion

15 MR. KAZAR: After being --

16 MS. TABAKIN: to an order from  
17 the Superior Court of New Jersey?

18 MR. KAZAR: I would have to have.  
19 Yes, probably so. I realize that now. It was  
20 just, you know... I would have had to take the  
21 extra time and put something off to the side and  
22 take care of this.

23 CHAIRMAN MALTESE: Any other  
24 questions from members of the council?

25 MS. FORSYTH: One more?

40

1 CHAIRMAN MALTESE: Yes.

2 MS. FORSYTH: You said that you  
3 forwarded the GRC's letters to -- Mr. Cooper was  
4 it?

5 MR. KAZAR: Yes.

6 MS. FORSYTH: And what did he tell  
7 you?

8 MR. KAZAR: Basically told me,  
9 please try to get these records out as soon as  
10 possible. And at that point it became a very  
11 busy time of the year, and it just unfortunately  
12 sat on my desk and -- on this pile (indicating)  
13 and moved to that pile and moved to that pile  
14 (indicating). So it just was an unfortunate  
15 situation.

16 CHAIRMAN MALTESE: were you aware of  
Page 34

17 the fact that OPRA requires the Custodian to  
18 respond within seven business days?

19 MR, KAZAR: I was aware there was a  
20 time limit on the amount of time to respond. But  
21 I wasn't aware of that -- at that time I wasn't  
22 aware that it could have been just a  
23 communication of, you know, there's a problem,  
24 there's a delay in the records. I thought it was  
25 more or less you have to get those records to him

41

1 within seven days. Being that it was a new law  
2 and, you know, seven days lapsed. I wasn't aware  
3 also of the under 5,000 population, which I am  
4 now and very aware of the GRC's-- on the OPRA  
5 requests now. And, you know, just wasn't aware,  
6 so it just kind of dragged out, you know...

7 CHAIRMAN MALTESE: Any other  
8 questions?

9 we'll ask the Complainant to please  
10 provide us with a closing statement.

11 MR. PAFF: I've been doing records  
12 request for a long time before OPRA when we had  
13 the Right to Know law. And I remember that one  
14 of the reasons why OPRA was so important was  
15 because it established a time limit upon which  
16 custodians could respond to records request and  
17 that you could be guaranteed an answer within a  
18 short period of time.

19 CHAIRMAN MALTESE: Excuse me,  
20 (Council Resource Manager changing

K&W Hearing - Paff v. South Bound Brook, 2006-158.txt  
21 tape. Off the record.)

22 (Back on the record.)

23 CHAIRMAN MALTESE: Thank you.

24 MR. PAFF: And part of the

25 problem -- actually, a large part of the problem 42

has always been that record custodians are busy  
2 people. we're all busy people. And we -- the  
3 records custodians typically find that when they  
4 prioritize their time that somehow the thing that  
5 gets the short shrift is the public's right to  
6 know.

7 It's easy to say "I was busy." It's  
8 easy to say, "well, we've had..." You know, I  
9 mean, I can make -- those are excuses, those  
10 aren't reasons.

11 If you're going to be a Record  
12 Custodian and you're going to hold the job of  
13 being a Borough clerk, then you have to  
14 understand and appreciate the duties that those  
15 positions bring. You can't come in here after --  
16 I mean, even if he sent the records on January  
17 24th, even if they were responsive to the  
18 request, which I argued they're not, still  
19 there's a period of time between May, which is  
20 springtime and January which is wintertime, we  
21 have the seasons going by and my request never  
22 can get up to the top of the stack in this  
23 municipality.

24 Now I've asked for a lot of  
25 records from a lot of towns. I am an Open

1 Government Advocate, that's what I do. I've had  
 2 record requests that are a lot more onerous than  
 3 this where I ask for things where I realize this  
 4 is going to be hard for this Records custodian to  
 5 get this stuff together because this is -- this  
 6 is a big request or this is a numerous -- a lot  
 7 of items here.

8 I'm asking for resolutions and  
 9 minutes from three months worth of meetings over  
 10 a three-year period. That doesn't strike me as  
 11 the kind of request that should take more than  
 12 20, 30 minutes if you have your records in order.  
 13 And if you don't have your records in order, if  
 14 you have part of an order, you send me the stuff  
 15 for the most recent one. Maybe you have  
 16 October's ready, you send those to me. Then you  
 17 say, April 2003 is in storage or archived. I  
 18 have to go find them because they're not here in  
 19 the Borough office. But you communicate with the  
 20 requestor, You let the requestor know where  
 21 you're at, what's going on, and that his request  
 22 is being taken seriously.

23 I don't know other than what  
 24 Mr. Kazar is saying today what is in his mind  
 25 when he has this record request that's on his

1 desk that's going from pile to pile. I can tell  
 2 you what was on my mind. I think a lot of people

3 that request records feel that they're not taken  
4 seriously, that basically they are having the  
5 nose of the Government thumbed at them. They  
6 feel as if the Government doesn't want to be held  
7 accountable and they're instructing the Records  
8 Council don't take these requests too seriously.

9 GRC's never fined anybody, never  
10 happened. "Knowing and willful," they can't  
11 prove that. And if anything ever does happen and  
12 they actually do call you down to Trenton for one  
13 of those hearings or you go to the Office of  
14 Administrative Law, you could just tell them how  
15 busy you were and how it really wasn't anything  
16 you tried to do. it was just that, you know,  
17 you're a busy guy and we have all these  
18 responsibilities and, you know, things happen and  
19 this goes on and we have elections.

20 That's not an excuse. The public's  
21 right to know is important. It isn't something  
22 that can be so disregarded so cavalierly as this  
23 as being done. I've been waiting for these  
24 records since May of 2006. I don't even get the  
25 courtesy of a copy of what he sends to the GRC.

45

1 if there is isn't enough evidence in  
2 this record to show willful, intentional,  
3 irresponsible, unreasonable denial of access to  
4 public records, then I would suggest that this  
5 Council write a letter to the Legislature and  
6 say, Take out the "knowing" and "willful." Let's  
7 just forget about it because there is no way that

8 a Custodian can be held knowingly and willfully  
9 responsible for violating this if this record  
10 before you today does not show it.

11 Thank you.

12 CHAIRMAN MALTESE: Thank you.

13 Mr. Millet?

14 MR. MILLET: Thank you

15 I don't think I could sit here in  
16 front of you and say that what Mr. kazar's  
17 actions in this situation were regarding whether  
18 they were knowing and willful violations. They  
19 were not. Certainly they rise to the level of  
20 negligence on his part. I would ask you to  
21 understand that you have to when reviewing  
22 everything here look at the totality of the  
23 circumstances. This is such an unusual  
24 combination of facts that occurred.

25 First of all, you have a very tiny

46

1 Borough with a part-time employee who is wearing  
2 four or five different municipal caps at the same  
3 time trying to juggle all of those together in a  
4 20- or 25-hour period of time which includes  
5 attending all of the Borough Council meetings:  
6 the agenda meeting, one Tuesday night, and then  
7 the Council meeting which might run until 11 or  
8 12 the next Tuesday night.

9 Combine all of that together with  
10 what happened just a few weeks before the request  
11 from Mr. Paff came in -- which, by the way, was

12 the first request under OPRA that he had ever  
13 seen. The long-term mayor -- long-time mayor  
14 resigns suddenly and the town is thrust into a  
15 situation where one of the councilman who had  
16 never been a mayor before suddenly finds himself  
17 being appointed as an interim mayor. The only  
18 person there who really knew how to operate the  
19 Borough is Mr. Kazar who had been there for more  
20 than 15 years. And all of a sudden, the mayor  
21 and the newly appointed council person are  
22 relying on him to show how you run the Borough,  
23 what has to be done.

24 so his time is focused more on  
25 running the Borough than responding to Mr. Paff.

47

1 Yes, he should have responded to Mr. Paff. was  
2 it willful? No. It was negligent, absolutely  
3 negligent.

4 Then come November you have -- the  
5 first Tuesday in November you have the election  
6 and a new person gets elected mayor, brand new,  
7 and he gets appointed or sworn in immediately  
8 after that to fill that vacancy. who does he go  
9 to for answers to what's going on? He goes back  
10 to Mr. Kazar all over again. Again, it's  
11 negligence on his part, Mr. Kazar's part. It's  
12 not willful, not intentional, and I ask that you  
13 so find that under the totality of the  
14 circumstances, these unusual circumstances, he is  
15 not responsible for a willful violation of the  
16 statute.

17 Thank you.  
18 CHAIRMAN MALTESE: Thank you,  
19 Mr. Millet.  
20 Thank you, gentleman.  
21 That concludes the hearing.  
22 entertain a motion to go into Closed Session,  
23 please?  
24 MS. TABAKIN: So moved.  
25 CHAIRMAN MALTESE: Second?

48

1 MS. FORSYTH: Second.  
2 CHAIRMAN MALTESE: Roll call.  
3 MS. HAIRSTON: Mr. Maltese?  
4 CHAIRMAN MALTESE: Yes.  
5 MS. HAIRSTON: Robin Berg Tabakin?  
6 MS. TABAKIN: Yes.  
7 MS. HAIRSTON: Kathryn Forsyth?  
8 MS. FORSYTH: Yes.  
9 MS. HAIRSTON: David Fleisher?  
10 MR. FLEISHER: Yes.  
11 CHAIRMAN MALTESE: All right, ladies  
12 and gentlemen, we're going to go into Closed  
13 Session for a short period of time and we will  
14 resume.  
15 (whereupon, the Council goes into  
16 Executive Session. The time is 11:18 a.m.)  
17 (Back in Public Session. The time  
18 is 12:06 p.m.)  
19 CHAIRMAN MALTESE: All right, we're  
20 going to now reconvene the Public session.

K&W Hearing - Paff v. South Bound Brook, 2006-158.txt  
21 Motion to back into Public, please?  
22 MS. FORSYTH: So moved.  
23 CHAIRMAN MALTESE: Thank you.  
24 Second, please?  
25 MR. FLEISHER: second.

49

1 CHAIRMAN MALTESE: Yes?  
2 Roll call.  
3 MS. HAIRSTON: Vincent Maltese?  
4 CHAIRMAN MALTESE: Yes.  
5 MS. HAIRSTON: Robin Berg Tabakin?  
6 MS. TABAKIN: Yes.  
7 MS. HAIRSTON: Kathryn Forsyth?  
8 MS. FORSYTH: Yes.  
9 MS. HAIRSTON: Dave Fleisher?  
10 MR. FLEISHER: Yes.  
11 CHAIRMAN MALTESE: we discussed in  
12 closed session the subject matter of the hearing  
13 that took place today. It is a very important  
14 decision that this body has to make in connection  
15 with this matter. It's an important decision for  
16 the custodian as well as for the requestor. we  
17 don't take it lightly because this will not be  
18 the first, but maybe the second opportunity that  
19 we've had to consider the imposition of a \$1,000  
20 fine on a Custodian,  
21 So what we are doing in order to  
22 make sure that we get it right, we are going to  
23 have a written opinion at our next meeting which  
24 will be May --  
25 Do we have that date handy?

1 MS. STARGHILL: May 30th.

2 CHAIRMAN MALTESE: -- May 30th.

3 There will be a motion made based on a proposed  
4 ruling and the council will rule on that matter  
5 on that date.

6 Thank you very much.

7

8

9

10

11

12 (HEARING ON THIS MATTER CONCLUDED AT 12:08 P.M.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1

C E R T I F I C A T E .

2

K&W Hearing - Paff v. South Bound Brook, 2006-158.txt

3 I, LINDA P. CALAMARI, a Notary Public of the  
4 State of New Jersey, do hereby certify the  
5 foregoing to be a true and accurate transcript of  
6 my original stenographic notes taken at the time  
7 and place hereinbefore set forth.

8

9

10

11

LINDA P. CALAMARI

12

13

14

15 Dated: APRIL 27, 2007.

16

17

18

19

20

21

22

23

24

25