

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES
JUDICIAL PANEL

COLIN MAYCOCK,)
Charging party,) Judicial Panel
vs.) Case No. 18-80
CHRIS DUGOVICH, RON)
FREDLIN, J. PAT THOMPSON,)
KATHLEEN ETHEREDGE and)
ED STEMLER,)
Accused Parties.)

HEARING

Held before Hearing Officer Theodora McKenna

10:00 a.m.

November 13, 2018

2931 West Marine View Drive

Everett, Washington

REPORTED BY: Margaret Walkky, CCR, RPR, RMR, CRR
Court Reporter, License No. 2540

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1 HEARING OFFICER MCKENNA: This hearing
2 is called to order.

3 We are here today to conduct -- by the
4 way, if I mispronounce anyone's names, please correct
5 me, and my apologies in advance.

6 We are here today to conduct an
7 internal union trial in IPC18-80, Maycock v.
8 Dugovich, et al. I am Theodora McKenna, member of
9 the Judicial Panel of the American Federation of
10 State, County and Municipal Employees. I will be
11 serving as the trial officer in this matter.

12 Today's proceeding will be conducted
13 pursuant to the applicable sections of Articles X and
14 XI of the international constitution and in
15 accordance with the Judicial Panel's rules of
16 procedure. The case file in this matter shows that
17 copies of both documents have previously been
18 furnished to the parties.

19 Before we begin, is there any person in
20 this room who is not a member of AFSCME?

21 AUDIENCE MEMBER: (Raises hand.)

22 HEARING OFFICER MCKENNA: You'll have
23 to leave the room.

24 AUDIENCE MEMBER: Okay.

25 HEARING OFFICER MCKENNA: At this time,

1 I would ask the parties to this matter to enter your
2 appearances. The charging party in this case is
3 Colin Maycock. Is Brother Maycock present?

4 MR. MAYCOCK: Here.

5 HEARING OFFICER MCKENNA: Are you
6 represented by counsel?

7 MR. MAYCOCK: Yes.

8 HEARING OFFICER MCKENNA: The accused
9 parties in this case are Chris Dugovich, Ron Fredlin,
10 J. Patrick Thompson, Kathleen Etheredge and Ed
11 Stemler.

12 Is Brother Dugovich present?

13 MR. DUGOVICH: Yes.

14 HEARING OFFICER MCKENNA: Are you
15 represented by counsel?

16 MR. DUGOVICH: I am.

17 HEARING OFFICER MCKENNA: Is Brother
18 Fredlin present?

19 MR. STEMLER: He's available by
20 telephone. He's in Vancouver, Washington.

21 HEARING OFFICER MCKENNA: Is Brother
22 Thompson present?

23 MR. STEMLER: He's unavailable today.

24 HEARING OFFICER MCKENNA: Is Sister
25 Etheredge present?

1 MS. ETHEREDGE: Present.

2 HEARING OFFICER MCKENNA: Is
3 Ed Stemler present?

4 MR. STEMLER: Yes.

5 HEARING OFFICER MCKENNA: Are you
6 represented by counsel?

7 MR. STEMLER: Myself.

8 HEARING OFFICER MCKENNA: I forgot
9 Sister Etheredge. Are you represented by Mr. Stemler
10 as well?

11 MS. ETHEREDGE: Yes.

12 MR. STEMLER: And she's McConnell now.

13 HEARING OFFICER MCKENNA: Pursuant to
14 Article X, Section 12, Subsection M of the
15 international constitution and Article IV, Section 8,
16 of the Judicial Panel's rules of procedure, the
17 accused parties have the right to choose either an
18 open or closed hearing.

19 The principal difference is that in an
20 open hearing, any member of the union may be present
21 during the proceedings. If the accused chooses a
22 closed hearing, then only the trial officer, the
23 court reporter, the accused persons and their counsel
24 and the charging parties and his counsel will be
25 permitted to remain in the room at all times.

1 Witnesses will enter the room only during their
2 testimony.

3 At this time, the accused parties
4 should indicate whether they wish to have an open or
5 closed hearing. If you choose an open hearing, it
6 still will mean that only union members will be
7 allowed in the room.

8 MR. DUGOVICH: We'll go open.

9 HEARING OFFICER McKENNA: Sister
10 Etheredge?

11 MS. ETHEREDGE: Open.

12 MR. STEMLER: Open.

13 HEARING OFFICER McKENNA: Okay, thank
14 you.

15 Relative to the procedures we will be
16 following today, I as the trial officer will listen
17 closely to the testimony and to the evidence and will
18 make a decision based on the record. It is important
19 for all of us to remember, however, that the decision
20 in this case will be governed by trade union
21 principles. The AFSCME Judicial Panel is not a court
22 of law and I will not permit legal technicalities to
23 dominate these proceedings. We are here to see that
24 justice is done under the AFSCME constitution.

25 The filing of charges by a member of

1 our union against another member is a serious matter.

2 While I intend to keep these
3 proceedings as informal as possible, there are some
4 rules of procedure which all of us are bound to
5 follow. All testimony will be under oath, and I will
6 make whatever rulings may be necessary on procedural
7 questions which arise during the course of these
8 proceedings. Anyone who becomes unruly will be asked
9 to leave the meeting room.

10 Article IV, Section 8 of the rules of
11 procedure of the Judicial Panel states in relevant
12 part: "The trial officer shall, at all times, have
13 the authority to order the removal and the subsequent
14 barring from the hearing room of any person who
15 causes or participates in any disruption of the
16 proceedings or who refuses to maintain proper
17 decorum."

18 First, the charging parties will
19 present their case and the accused parties will then
20 have the opportunity to cross-examine the charging
21 party witnesses.

22 Next, the accused party will present
23 their witnesses, and there will be an opportunity for
24 cross-examination by charging parties. Finally, we
25 will have closing statements by both sides, with the

1 charging parties going first.

2 All testimony will be under oath and a
3 transcript of the proceedings will be made by the
4 court reporter. No recording device of any kind is
5 allowed. Anyone who wishes to purchase a copy of the
6 transcript should make necessary arrangements with
7 the court reporter.

8 The decision in this matter will be
9 rendered within 30 days receipt of the transcript by
10 the trial officer after the closing the hearing
11 pursuant to Article IV, Section 11 of the rules of
12 procedure of the Judicial Panel.

13 The following are Judicial Panel
14 exhibits for this case:

15 No.-1, international constitution
16 (previously furnished to parties).

17 No.-2 - rules of procedure of the
18 Judicial Panel, (previously furnished to the
19 parties).

20 No.-3 - Council 2 constitution.

21 No.-4 - charges.

22 No.-5 - JP assumes original
23 jurisdiction.

24 No.-6 - TOS list from CP.

25 No.-7 - notice of trial.

1 Would anyone prefer that the door be
2 closed? If at any time someone wants the door
3 closed, please feel free. We want everyone to be
4 comfortable.

5 Charging party, you may begin.

6 MR. STEMLER: Excuse me, could I
7 interrupt just for a moment?

8 HEARING OFFICER McKENNA: Sure.

9 MR. STEMLER: With regard to the
10 answers that were filed, I would like the hearing
11 officer to have an opportunity to review those. I
12 submitted them prior to the hearing. I'd like to be
13 able to submit those so that you have context for the
14 answers as well as the charges.

15 HEARING OFFICER McKENNA: You can do
16 that on your side of the case.

17 MR. GRIFO: As a preliminary matter, I
18 believe Mr. Stemler and several of the parties had
19 made a motion to be dismissed as parties for various
20 reasons indicated within the answer. I don't know if
21 you want to address that preliminarily as a
22 procedural motion or just proceed with the case and
23 make the determination at a later date.

24 HEARING OFFICER McKENNA: Is that part
25 of your case?

1 MR. GRIFO: No, I was trying to get all
2 the procedural issues out of the way.

3 HEARING OFFICER MCKENNA: If you're
4 open to that, then you want your --

5 MR. STEMLER: So I guess there were
6 three people that I've asked to dismiss outright
7 because they were not the people who Mr. Maycock
8 requested to provide the information, and also I have
9 some additional information with regard to the
10 constitutional charge. If there is an objection, my
11 request would be that I be able to submit the answers
12 so you can review those before we take any testimony.

13 HEARING OFFICER MCKENNA: No, I think
14 we'll just proceed the way that we always proceed and
15 let the charging party put on their case. You can
16 cross-examine.

17 MR. STEMLER: Okay. You mentioned
18 witnesses. Did you want witnesses who are not
19 charged to be excused at this point?

20 HEARING OFFICER MCKENNA: It's an open
21 hearing, so they can remain.

22 MR. STEMLER: Okay, thank you.

23 HEARING OFFICER MCKENNA: If it was a
24 closed hearing, they would have to go out until they
25 were testifying.

1 MR. STEMLER: Okay.

2 MR. GRIFO: I'd like to make an opening
3 statement.

4 HEARING OFFICER MCKENNA: That's fine.

5 MR. GRIFO: Great. Thank you.

6 My name is James Grifo and I represent
7 Colin Maycock. Mr. Maycock has tirelessly served
8 Local 1849 and Council 2 as president of the Local
9 1849 and an elected member Council 2 of the Executive
10 Board. He's done for many years.

11 More recently Mr. Maycock believes that
12 the accused have interfered with his ability to
13 fulfill his duties as an elected member, both
14 president of Local 1849 and as an elected member to
15 the Executive Board, Council 2. Mr. Maycock further
16 believes that the refusal to provide him with the
17 requested information violates his rights as a
18 dues-paying member of the union, especially since
19 he's in good standing.

20 The charges today concern three
21 separate issues. The first issue is the refusal to
22 provide Mr. Maycock with a clear and itemized
23 accounting of the compensation and benefits packages
24 that are enjoyed by the officers, staff and employees
25 of Council 2.

1 The second charge is the refusal to
2 provide Mr. Maycock with a total number of written
3 requests for legal assistance received by Council 2
4 or Council 2's attorney and the number of those
5 requests that have been approved or denied.

6 The third claim is the failure of the
7 accused to timely seek the ratification of the
8 executive director's hiring of the Council 2
9 attorney.

10 Quite honestly, the issues today really
11 are about transparency and the bill of rights
12 contained in the international constitution, which
13 you're likely well aware provides that active
14 discussion of union affairs shall be encouraged and
15 protected within the organization. Members shall
16 have the right to a full and clear accounting of all
17 union funds at all levels, and members shall have the
18 right to full participation through discussion and
19 vote in the decisionmaking processes of the union and
20 to pertinent information needed for the exercise of
21 this right.

22 As to the first charge before you, the
23 request for specific financial information, I believe
24 that you'll see today I think that both the Council 2
25 constitution and the international constitution are

1 violated by the refusal to provide Mr. Maycock with
2 this information.

3 Many of the people that Mr. Maycock
4 represents both as president of the local and as an
5 elected member of the Executive Board have come to
6 him and asked him to investigate certain issues, and
7 in doing so, in fulfilling his duties, he's made very
8 simple requests for very clear and specific
9 information, and yet the accused have refused to
10 provide him with that information.

11 Mr. Maycock is simply asking to know on
12 the first count the breakdown of the compensation of
13 the benefit and benefits packages enjoyed by
14 Council 2's employees and staff so he can responsibly
15 consider and vote whether to approve the budget for
16 Council 2 and authorize the expenditure of Council 2
17 funds.

18 He believes that the only way that he
19 can fulfill his duty as this elected member of the
20 Executive Board and serve the members and his
21 constituents is to have access to this basic
22 information, to consider this basic information, to
23 use that in making an informed decision that will
24 have impacts for all members of the union.

25 I think today you'll hear that the

1 accused will argue that Mr. Maycock requests this
2 information is a threat to the union. I think you'll
3 hear today that Mr. Maycock has already been provided
4 with all of the information that he needs to carry
5 out his duties even though he's never been provided
6 with specific information pertaining to employee
7 benefits and compensation.

8 I think you'll also hear today a
9 concern that Mr. Maycock is going to take this
10 information and share it with third parties. But all
11 of these arguments are unrevealing and they're
12 founded in fear, and so today you're really being
13 asked to decide what is the intersection between
14 transparency and fear?

15 Is this the kind of union that's going
16 to be transparent in all its financial matters and
17 all its inner working and be accountable to its
18 members and its elected officials, or is it going to
19 be the kind of union that's scared to share basic
20 information with the people who it claims to serve?

21 My understanding is transparency is a
22 hallmark of this union and that the unions exist for
23 the sole purpose of advancing the interests and
24 providing services to its members.

25 Not only is much of this information

1 that I've just mentioned, it's not confidential, it's
2 a public record, especially since the council is
3 formed as a nonprofit corporation subject to the laws
4 of the State of Washington, but in short, without
5 having access to this very basic information,
6 Mr. Maycock cannot fulfill his duties to Local 1849
7 and District 1, and the refusal to provide him with
8 this information is a clear violation of both the
9 international constitution, especially the bill of
10 rights, as well as Council 2's constitution.

11 Respectfully today, you should grant
12 the relief that Mr. Maycock has requested, instruct
13 the accused to provide him with the information that
14 he has requested so he can fulfill his duty in
15 service to the union which he has done for many
16 years. Thank you.

17 HEARING OFFICER MCKENNA: Quick
18 question, has any of this information been provided
19 subsequent to the filing of these charges and the
20 setting of the hearing?

21 MR. GRIFO: Any of the information in
22 my opening statement?

23 HEARING OFFICER MCKENNA: No, any of
24 the information that is requested by Brother Maycock.

25 MR. GRIFO: Not to my knowledge.

1 HEARING OFFICER MCKENNA: You may call
2 your first witness.

3 MR. GRIFO: I'll call Mr. Maycock.

4
5 COLIN MAYCOCK, witness herein, having been.
6 first sworn on oath,
7 was examined and testified
8 as follows:

9
10 MR. GRIFO: I have a procedural
11 question regarding exhibits. I've prepared exhibits,
12 but they already appear to be in the record. I
13 wasn't sure how they would be labeled and provided.
14 I didn't receive this package until I just walked in.
15 Is it okay if we have duplicative exhibits or should
16 I --

17 HEARING OFFICER MCKENNA: If you're
18 submitting it, it should have a Judicial Panel number
19 on it that you would refer to that exhibit. You can
20 do it either way.

21 MR. GRIFO: Okay.

22 HEARING OFFICER MCKENNA: Whatever is
23 easiest.

24 MR. GRIFO: I'll use the exhibits. I
25 apologize for the duplication of those exhibits.

1 HEARING OFFICER MCKENNA: That's all
2 right.

3

4 D I R E C T E X A M I N A T I O N

5 BY MR. GRIFO:

6 Q. Where are you currently employed,
7 Mr. Maycock?

8 A. San Juan County.

9 Q. What do you do for San Juan County?

10 A. I'm a long-range planner in the
11 Community Development Department.

12 Q. Are you affiliated with a union in
13 San Juan County?

14 A. I'm the president of Local 1849.

15 Q. Do you pay dues to the union?

16 A. Yes.

17 Q. How long have you served as president
18 of Local 1849?

19 A. I believe it's nine years. I've been
20 elected three times.

21 Q. And who elects you to that position?

22 A. The members.

23 Q. How many members, about, are there?

24 A. Roughly 120. I mean, it goes up and
25 down, depending.

1 Q. Okay, and what's the relationship
2 between Council 2 and Local 1849?

3 A. Local 1849 is affiliated with
4 Council 2, which is ultimately affiliated with the
5 international. So we are subordinate to Council 2.

6 Q. And are you a member of the Council 2
7 Executive Board?

8 A. Yes.

9 Q. When did you become a member of the
10 Council 2 Executive Board?

11 A. About three years ago, been elected
12 twice.

13 Q. Elected twice by whom?

14 A. By the members of convention.

15 Q. And who do you represent as an elected
16 member of Council 2?

17 A. I represent the districts of, well,
18 San Juan County, Whatcom, Snohomish, Island County.
19 I think that's it.

20 Q. You represent those members' interests
21 on the Executive Board for Council 2?

22 A. Yes, there is a number of -- I think
23 there's three other representatives for District 1,
24 but we all in conjunction represent those.

25 Q. And can you describe your duties as you

1 understand them as an Executive Board member of
2 Council 2?

3 A. I suppose the primary duty of the
4 Executive Board of Council 2 is to determine policy
5 and political decisions, policy decisions in the
6 sense of setting the overall agenda and the -- what's
7 the word? -- the goals and policies of the council
8 and just setting the broad framework of what they
9 should be working towards or how they should be
10 working together.

11 There's also a subordinate element of
12 that, is we have to approve the budgets on an annual
13 basis, and we're also charged with overseeing or as
14 far as possible to ensure that the officers are
15 carrying out their duties to the best of their
16 abilities. It's not administrative management, but
17 there's, you know, just a sense is that we -- there's
18 definitely a charge that we're supposed to ensure
19 that members' dues are being spent appropriately.

20 Q. And how does that policy or oversight
21 get carried out? Do you meet with the Executive
22 Board on a regular basis?

23 A. Typically there's four meetings of the
24 Executive Board a year.

25 Q. At these meetings, will you discuss

1 things like policy or the future of Council 2?

2 A. To some extent. I mean, I have only
3 been on the board three years. So generally
4 speaking, the discussions have largely not been about
5 that sort of thing, but there has been discussions
6 about approving the construction of a number of
7 residences. That's one of the things that came up
8 and there was a special meeting to discuss that, to
9 go forward with that. That tends to take up a
10 certain amount of time on most Executive Board
11 meeting agendas. So I mean, there's -- occasionally
12 there's discussion of alternative things, but
13 primarily it's -- meetings tend to be relatively
14 short.

15 Q. And the board works with the officers
16 to steer the ship, so to speak?

17 A. As I understand it, yes.

18 Q. Do you know how the budget for
19 Council 2 is established?

20 A. I don't know how it's elaborated. I
21 know typically in the last three years, the budget
22 book is presented to the Executive Board members the
23 night before the Executive Board meeting, and
24 following at the meeting the following day, there's a
25 discussion of the budget and a motion to approve or

1 **deny.**

2 Q. And so any discussion concerning the
3 adoption of a proposed budget, that occurs on the
4 same day that it's approved or denied?

5 A. Typically, at least in my experience.
6 **I can't speak to things I wasn't present for.**

7 Q. Do you know if Council 2 maintains
8 salaried positions or employs any persons?

9 A. Yes.

10 Q. Do you know about how many?

11 A. There was a document I received when I
12 was first elected that indicated there was about 30
13 paid positions within Council 2. However, there's
14 staff turnover, so it's hard to determine whether
15 those positions are being filled, if that's in fact
16 the entire range of positions that are paid. So at
17 this point, I don't really know. I mean, I know
18 there are some, but I don't know how many.

19 Q. Do portions of the union dues collected
20 from members of members of Local 1849 go towards the
21 payment of these salaries and benefits for these
22 employed persons?

23 A. I would presume so. They all go into a
24 **general fund and then get distributed as seen fit.**

25 Q. And would the same be true with regard

1 to your own member dues that you pay as a member
2 yourself?

3 **A. Yes.**

4 Q. Have you ever been provided with any
5 specific information to show you how many people
6 receive payment or benefits from Council 2 aside from
7 that one document that you referenced?

8 **A. No.**

9 Q. But you've requested this information?

10 **A. Yes.**

11 MR. GRIFO: I'd like to propose this as
12 Exhibit-1. This is one of the ones that's likely to
13 be duplicative. I don't know how for number
14 purposes, maybe we're at 8.

15 HEARING OFFICER McKENNA: You guys can
16 let me do the numbering. This one we'll call CP1,
17 which means charging party.

18 MR. GRIFO: Thank you.

19 HEARING OFFICER McKENNA: I would ask
20 that all parties mark their documents at the same
21 time in case we have to refer back, it's easy to
22 find.

23 Q. So I've just handed you a document and
24 it's marked CP1. Have you seen this before?

25 **A. Yes.**

1 Q. Did you write this letter?

2 A. Yes.

3 Q. Why did you write this letter?

4 A. Well, as I state, the first -- second
5 paragraph, a member had come to me with some concerns
6 about something they found on the web. I went to
7 investigate that. What I found was disturbing, and
8 so then I went and did some research on my own and
9 verified it through an alternative channel by
10 essentially going to the IRS website, as opposed to
11 going through this other one.

12 And so even though this was an entirely
13 inopportune time and something that I was not exactly
14 interested in pursuing, I thought I had to ask the
15 questions at least and that's why I sent this letter
16 and I copied it to all the members of the E-Board.

17 Q. And so this was initiated based upon a
18 member -- is that a member of Local 1849?

19 A. Yes.

20 Q. And did you feel an obligation to that
21 member as president of Local 1849 to explore this?

22 A. Yes.

23 Q. Prior to discovering the IRS 990
24 filings that you referenced, did you ever consider
25 how much Council 2 might be paying its officers or

1 staff?

2 A. No, not really. I had been -- the
3 first Executive Board meeting I attended where we
4 were discussing the budget, I was concerned, and I
5 had expressed this to my partner and the staff rep
6 about getting this information the night before and
7 not having sufficient time to review it before being
8 expected to approve it.

9 However, I was reassured by the fact
10 that, you know, people were saying that well, this is
11 just the way things are done here. And it seemed
12 like the other members of the Executive Board were
13 very comfortable with this approach, and so I
14 absolutely -- I went along with it. So no, I didn't
15 -- I didn't question it.

16 Q. When you found this information, did it
17 cause you to go back and look at previous the budgets
18 or documentation to see if you could find more
19 specific information?

20 A. Yes, to some extent.

21 Q. Were you able to find anything in any
22 of those documents? Did you think it was curious
23 that you couldn't identify specifically who was being
24 paid, and if so, how much?

25 A. Troublesome or troubling I should say.

1 Q. Not necessarily because of the
2 substance of the information, but because of the void
3 of it?

4 A. Yes, exactly. I mean, it wasn't so
5 much, you know -- there was some concerns, but no, I
6 mean, it was much more how am I supposed to square
7 this with my conscience and also with what I see as
8 the duty to approve the finances if I can't actually
9 understand something as fundamental as this?

10 Q. And do you understand that the
11 Executive Board has to authorize and approve all
12 expenditures of union funds to the state council?

13 A. Yes.

14 Q. That's required in the constitution?

15 A. Yes.

16 Q. So how can you authorize and approve
17 expenditures if you don't know what money is being
18 spent on what?

19 A. Well, that is a good question, and one
20 that I've been struggling with, which is one of the
21 reasons I asked the original set of questions, is
22 because I don't know what is being spent on what, and
23 I don't know if that's the appropriate way to expend
24 it. I don't know. So it's -- the absence of
25 information is paralyzing in the sense of I can't

1 **make an informed decision and it seems that I'm being**
2 **called upon to do so.**

3 Q. If you did have concerns about the
4 actual substance of the data that you're seeking, is
5 it difficult to even raise those concerns in the
6 appropriate channels without having an opportunity to
7 scrutinize the information?

8 MR. STEMLER: I think it's -- I don't
9 know what your preference is with regard to leading
10 questions, but there's been an awful lot of leading
11 questions, and that's fine for this type of
12 proceeding, but I'm just raising that as a concern.

13 HEARING OFFICER McKENNA: Okay, thank
14 you, sir.

15 MR. GRIFO: I can rephrase, if you
16 like.

17 Q. What kind of -- is the information that
18 you've requested in this letter the kind that you --
19 what kind of information do you need to fulfill your
20 obligations as you understand them as an Executive
21 Board member?

22 A. Well, I mean, certainly at one basic
23 level, if we're presented with a round number for the
24 year for all wages, salaries and benefits, and you
25 can't determine, one, how many people are being

1 employed, what they're doing to earn this money, and
2 how those are being distributed, so you can't say --
3 there's no evaluative process that can be undertaken
4 in the absence of just some basic information. It is
5 impossible to come -- to come to an understanding and
6 decision saying yes, this is the appropriate
7 expenditure of funds.

8 Q. Did you ever get a response, specific
9 response to your letter?

10 A. I don't recall getting a specific
11 written to the response to the letter. I certainly
12 got some verbal ones.

13 Q. What kind verbal responses did you get?

14 A. Well, basically refusal, we're not
15 going to provide this information.

16 MR. GRIFO: I'd like to introduce CP2.

17 HEARING OFFICER MCKENNA: I don't see a
18 date on this CP2. What is this, please?

19 MR. GRIFO: I believe it's already in
20 the record.

21 THE WITNESS: No, this wasn't.

22 MR. STEMLER: Huh-uh.

23 MR. GRIFO: No, no, I apologize. It's
24 not. I was going to have the witness authenticate
25 the communication.

1 HEARING OFFICER MCKENNA: Proceed.

2 MR. STEMLER: Your copy is missing a
3 portion on the top of page 3. Do you have a copy --

4 MR. GRIFO: Actually, it's the same one
5 as the bottom of page 2. It's just the typeface
6 carried over.

7 THE WITNESS: I have another copy of
8 this if you want.

9 Q. Can you read the last line on page 2?

10 MR. STEMLER: I see what you're saying.

11 MR. GRIFO: It's a struggle, and it's
12 inconvenient, but I think the substance is there.

13 A. Okay.

14 Q. Have you seen this before?

15 A. Yes. This is a series of emails
16 between myself and Mr. Dugovich with regards to the
17 Council 2 president's conference in Chelan in October
18 of this year.

19 Q. And Mr. Dugovich -- or in this email it
20 said you received your email. What is the
21 president's conference?

22 A. President's conference is an annual
23 event that occurs every year, usually in Chelan,
24 Washington. It's an opportunity for local presidents
25 to meet and network, but also there's usually

1 training involved and it's a sort of combination of
2 both a social event and a training opportunity.

3 Q. When was the president's conference
4 held this year?

5 A. I think it's like October 15, I
6 believe. Sorry, I'm bad on the date because the trip
7 there was kind of a problem.

8 Q. Did you get to go to the president's
9 conference?

10 A. Yes.

11 Q. Were you told that you could not attend
12 the president's conference?

13 A. Originally, yes.

14 Q. Did members from -- excuse me.

15 A. At the October 5, 6, Executive Board
16 meeting, there was a motion that was passed
17 requesting me to step down as a member of the
18 Executive Board and banning Local 1849 from attending
19 the president's conference.

20 Q. Do you know why you and Local 1849 were
21 not invited to the president's conference?

22 A. I can only speculate. So no, I don't
23 know exactly why.

24 Q. Who is Nick Power?

25 A. Nick Power is an attorney on San Juan

1 Island who was running for the prosecuting attorney's
2 position this year.

3 Q. How do you know Nick Power?

4 A. Well, in my professional life, I've run
5 across him a few times because he's filed papers and
6 questions about projects I'm working on at work, but
7 primarily my main way of knowing him is that he
8 represented a number of union members against the
9 county council, or against the council or the
10 employer, successfully.

11 Q. And what is the Freedom Foundation?

12 A. As far as I know, it's an organization
13 of right wing -- it's like a right wing think tank
14 that attacks unions and courts.

15 MR. STEMLER: That what, attacks?

16 THE WITNESS: Unions.

17 MR. STEMLER: Attacks unions, I'm
18 sorry, I didn't hear the words.

19 Q. What are your personal feelings about
20 the Freedom Foundation's efforts?

21 A. Not positive. I mean, I have grown up
22 supporting unions. I grew up in the UK, so I saw --
23 as a child I saw the coal miners strike change the
24 government in 1973. I also saw the miners strike and
25 I was involved in picket line disputes in England at

1 that time because the Thatcher government was
2 attempting to, well, basically brutalize certain
3 sectors of the community, and there was a call for
4 pickets and for protest, and being drawn to that, I
5 attended some of those events. I mean, essentially
6 part of my upbringing has always been very pro union.

7 Q. Do you still consider yourself to be
8 pro union?

9 A. Yes.

10 Q. Have you ever shared any union
11 information with the Freedom Foundation?

12 A. No.

13 Q. Should union members be allowed to
14 endorse whomever they want or vote for whomever they
15 want in political races?

16 A. Yes.

17 Q. Did Local 1849 endorse a candidate for
18 prosecuting attorney?

19 A. No.

20 Q. Did you hire an attorney to respond on
21 your behalf?

22 A. I hired an attorney that responded on
23 my behalf, having attended the Executive Board
24 meeting and being requested to resign, and also --
25 but I mean, that's one thing. But the main thing was

1 that members of Local 1849 were being told that they
2 couldn't participate in a union function. So yes, I
3 hired an attorney to address that.

4 MR. GRIFO: I would like to introduce
5 this as the next exhibit.

6 HEARING OFFICER MCKENNA: Charging
7 party counsel has handed me a document which I'm
8 going to now label as CP3.

9 Q. Have you seen this letter before?

10 A. Yes.

11 Q. After this letter was sent, were you
12 invited to attend the president's conference?

13 A. Yes.

14 Q. How was your experience at the
15 president's conference?

16 A. On the whole, it was generally
17 possible. I have to say it was marred, not by any
18 primary thing, but just I had problems, car problems
19 getting there. So when I actually got there, I'd
20 only had like one and a half hours sleep, so I was
21 not technically bushy and -- bright and bushy-tailed.

22 Other than that, I mean, this was
23 clearly a concerted effort to separate myself and the
24 other member attending from talking to other members
25 who were present. And on the one hand I recognize

1 this is hearsay, so we can sort of take it for what
2 it's worth, but the other member from Local 1849 was
3 the secretary-treasurer and he had been -- he asked
4 some questions to I think it was I believe it was Pat
5 Thompson, and he was told by Pat Thompson as to why
6 they're being -- he was being so closely shadowed and
7 he was told that it was to prevent him from talking
8 to the members.

9 Q. Did it feel like efforts were being
10 made to prevent you from talking to other people?

11 A. Yes.

12 Q. Why do you think that was?

13 A. I could only speculate as to why.

14 Q. Do you think it was related to the
15 appeal?

16 A. Yes.

17 Q. Did you talk with anybody about your
18 appeal at the president's conference?

19 A. No.

20 HEARING OFFICER MCKENNA: Charging
21 party counsel is handing over a document called 2019
22 budgets, which I'm going to label as CP4.

23 Q. Have you seen this document -- these
24 documents before?

25 A. Yes.

1 Q. Can you tell us what they are?

2 A. They are the proposed budget for 2019
3 that was presented at the October 6 Executive Board
4 meeting.

5 Q. Is this representative of proposed
6 budgets that you've been provided at E-Board meetings
7 in the past?

8 A. Yes.

9 Q. If you turn to the third page of the
10 document, do you see there it says council expenses,
11 salaries, expenses and wages?

12 A. Yes.

13 Q. Page 3, let me see, is that the same?
14 Let me make sure we're looking at the same thing.
15 Yeah, it's the same.

16 What does that line item represent?

17 A. Well, it purports to represent the
18 total wages, salaries and benefits that are paid to
19 Council 2 employees.

20 Q. Does it show you that on a per month
21 basis?

22 A. Other reports do show the total wages
23 being paid on a per month basis.

24 Q. What about the third column from the
25 right, understanding this is a proposed budget?

1 **A. That's the yearly total, yeah.**

2 Q. Excuse me, second column from the --

3 **A. Right, sorry.**

4 Q. But this is typically the kind of
5 budget breakdown that you will receive?

6 **A. Yes.**

7 Q. And this is the night before you vote
8 on approving a budget?

9 **A. Yes.**

10 Q. Can you determine how many people are
11 paid or otherwise benefit from employment at
12 Council 2 based on this information?

13 **A. No.**

14 Q. Can you tell what people are paid what
15 sums for the services they perform based on this
16 information?

17 **A. No.**

18 Q. So looking at this proposed budget,
19 still on page 3, it says yearly total for council,
20 total salaries and wages. Do you see that line item
21 there?

22 **A. Yes.**

23 Q. So that purports to be the yearly total
24 paid to officers and staff -- excuse me, staff and
25 employees of Council 2; is that correct?

1 **A. Yes.**

2 Q. In your initial, your June 21, 2018
3 letter, I believe CP1, you mention that you had
4 discovered the compensation package for Mr. Dugovich
5 in 2016 was around upwards of \$350,000; is that
6 correct?

7 **A. Yes, I believe it was -- I should have**
8 **worn my glasses -- 376,662.**

9 MR. STEMLER: Just to be clear, that
10 came from the Freedom Foundation website.

11 THE WITNESS: That came from the
12 Freedom Foundation website.

13 HEARING OFFICER McKENNA: I'm sorry,
14 you're out of order.

15 MR. STEMLER: Can I clarify, he threw
16 out a number without providing where that information
17 came from.

18 HEARING OFFICER McKENNA: That's okay.

19 MR. STEMLER: All right.

20 THE WITNESS: This number came from the
21 IRS 990 form published by the IRS.

22 Q. That's the figure that you presented in
23 your June 21, 2018 letter?

24 **A. Yes.**

25 Q. Is it possible that if that figure is

1 accurate, it's justifiable?

2 **A. Sure.**

3 Q. Have you had an opportunity to ever
4 consider the annual salary of officers and staff?

5 **A. No.**

6 Q. If a majority of the Executive Board
7 found -- well, strike that.

8 Is it important as an Executive Board
9 member to have an opportunity to have those
10 discussions with the E-Board?

11 **A. Well, I believe so, and I think that**
12 **that would be an important discussion to have, to**
13 **determine, one, I mean, just determine the level of**
14 **services that are being provided, whether it's cost**
15 **effective, and to determine whether or not any other**
16 **arrangements might be made or just -- basically just**
17 **determining whether or not this an appropriate sum**
18 **and was justifiable and was a prudent expenditure of**
19 **members' finances or members' dues.**

20 Q. Is your appeal in this case about the
21 substance or the data?

22 **A. The appeal in this case is just about**
23 **the data, having access to it.**

24 HEARING OFFICER McKENNA: I'm marking
25 this next exhibit as CP5.

1 Q. Have you seen this document before?

2 A. Yes.

3 Q. What is this letter?

4 A. It is a letter requesting information
5 regarding total number of cases that are being
6 submitted to Council 2 for evaluation, and then a
7 breakdown of the number that have been either
8 arbitrated or rejected.

9 Q. What's the process by which a local
10 unit can request legal assistance from Council 2?

11 A. Typically we would talk to the --
12 typically at our local we talk to the staff rep and,
13 I mean, usually these things would follow at the end
14 of the grievance. So you follow the grievance
15 proceed through the many steps, and at the end, if
16 there's no agreement met with the employer, you might
17 have to go arbitration. So then you would cue that
18 up with the staff rep and they would submit a request
19 to the council, and typically that would be
20 accompanied with a check for \$250, just to help
21 defray the costs.

22 If there's other cases where you'll
23 have a ULP rather than a grievance, so an unfair
24 labor practice concern, you might direct that
25 directly to the staff representative and they would

1 take it to the general counsel. Other times you may
2 conceivably just call the general counsel and ask
3 them their opinion. There seems to be a number of
4 different avenues available for moving a legal appeal
5 forward.

6 Q. Have you participated in requesting
7 legal assistance from Council 2?

8 A. Yes.

9 Q. Who writes the \$250 check that you
10 mentioned?

11 A. The local.

12 Q. And then does Council 2 respond with
13 how -- how does Council 2 respond to those requests?

14 A. Typically you'll get a -- you might get
15 a phone call or more usually it would be handled by
16 the staff rep. The staff rep will be contacted by
17 the counsel, the attorney, Council 2's attorney, and
18 they will then pass the image back to the local.

19 HEARING OFFICER MCKENNA: I want to ask
20 the witness a question.

21 The \$250 check, is that a fee for
22 reviewing the case for possibly taking it forward?

23 THE WITNESS: Yes, as I understand it.
24 I mean, my only sort of equivocation here, sometimes
25 it's required and sometimes it isn't, and there

1 doesn't seem to be a metric to determine how that is
2 made.

3 HEARING OFFICER MCKENNA: Thank you.

4 BY MR. GRIFO:

5 Q. Have union members that you represent
6 expressed concerns to you about Council 2's provision
7 of legal assistance to its membership?

8 A. Certainly.

9 Q. And any particular members?

10 A. Well, obviously there's the issue that
11 came up with 114 and an unfair labor practice that
12 was refused by Council 2 that was then carried
13 forward on an individual basis and then carried
14 forward successfully. There were questions about
15 that and how that procedure was occurred.

16 We certainly had a number of issues in
17 our local that were withdrawn without -- well,
18 certainly what I would consider without appropriate
19 discussion with the group, however. So yes, there
20 were some -- sometimes yes, issues came up, sometimes
21 not to the local's preference.

22 Q. And so what was the reason that you
23 wrote this June 21, 2018 letter to Mr. Stemler?

24 A. I mean, primarily it was, again, just
25 trying to get a -- really, just get a handle on the

1 universe of how much work -- I mean, on the one hand,
2 Mr. Stemler represents 16,000 workers and that's a
3 lot of people with a lot of potential issues, and so
4 it's a question of what is the workload that's coming
5 into that office, and whether or not we might
6 actually need another attorney.

7 But even just to get just the sheer
8 number of cases, like how many are coming in, how
9 many are accepted for arbitration, how many are
10 rejected, just to get a sense of the numbers rather
11 than -- I mean, I wasn't interested in the particular
12 details of any of the cases. And obviously I
13 recognize that, you know, there's a lot of variation
14 in cases.

15 There's a lot of variation in
16 circumstances and so it's not necessarily -- not
17 everything is going to fit into a neat box, but
18 there's going to be general themes. You're going to
19 have grievances that go arbitration, grievances, the
20 unfair labor practices that go to PERC. So there are
21 certain boxes that you can at least check.

22 Q. Did you ever receive any written
23 response --

24 A. No.

25 Q. -- to this letter?

1 When did you first discover that Audrey
2 Eide had been replaced by Mr. Stemler?

3 **A. A notice was sent out on December 7,**
4 **2017.**

5 HEARING OFFICER MCKENNA: This next
6 exhibit is being marked as CP6.

7 Q. Is this the notice to which you were
8 referring?

9 **A. Yes.**

10 Q. Was this the first time you heard about
11 Mr. Stemler's hiring?

12 **A. Yes.**

13 Q. Had you known that Ms. Eide was going
14 to be retiring?

15 **A. No. I mean, not -- no.**

16 Q. Had Mr. Stemler's hiring ever been
17 discussed with the Executive Board?

18 **A. Not that I'm aware of.**

19 Q. Did Mr. Stemler ever meet with the
20 Executive Board to discuss his hiring?

21 **A. Not that I'm aware of.**

22 Q. Did the Executive Board interview
23 Mr. Stemler for his position?

24 **A. Not that I'm aware of.**

25 Q. Do you know if there was public notice

1 or any request for applications posted for -- to
2 replace Ms. Eide?

3 **A. I don't know.**

4 Q. Did you ever have an opportunity to
5 review Mr. Stemler's professional experiences?

6 **A. Prior to him being hired?**

7 Q. Yes.

8 **A. No.**

9 Q. Who set Mr. Stemler's compensation?

10 **A. I presume it was the president.**

11 Q. Was there any discussion about that
12 with the Executive Board?

13 **A. Not that I'm aware of.**

14 HEARING OFFICER MCKENNA: This next
15 document is being taken in and marked CP7.

16 Q. Can you tell me what this document is?

17 **A. This is the -- these are the approved
18 minutes from the Executive Board meeting on
19 January 27, 2018. These were approved in July at the
20 July 15 meeting.**

21 Q. Why did you submit this with your
22 appeal?

23 **A. Just to show that there was no action
24 taken to -- I mean, a ratification implies action
25 taken by the Executive Board. So if this was the**

1 **first opportunity for the Executive Board to ratify**
2 **the hiring of Mr. Stemler, and there was no motion**
3 **made to ratify his appointment.**

4 HEARING OFFICER MCKENNA: So brother,
5 there's no particular section of these minutes that
6 you need me to direct my attention to. This is just
7 to prove the absence of something?

8 THE WITNESS: Yes, obviously it's
9 difficult to do that.

10 HEARING OFFICER MCKENNA: Okay, thank
11 you.

12 Q. But is there any formal -- was there
13 any formal motion made to ratify the firing of
14 Mr. Stemler at either of these two meetings?

15 A. **No.**

16 Q. Do you know if there has been any
17 formal ratification of Mr. Stemler's hiring?

18 A. **I don't know for sure, but I believe it**
19 **may been done at the October meeting. So last month.**

20 MR. GRIFO: Can I take a break for a
21 moment?

22 HEARING OFFICER MCKENNA: Yes.

23 MR. GRIFO: Short break.

24 HEARING OFFICER MCKENNA: Like how
25 long?

1 MR. GRIFO: Three minutes.

2 HEARING OFFICER MCKENNA: Just go off
3 the record.

4 (Brief recess.)

5 HEARING OFFICER MCKENNA: Proceed.

6 MR. GRIFO: I have no further questions
7 for Mr. Maycock.

8 HEARING OFFICER MCKENNA: We can
9 proceed to cross-examination at this point.

10 MR. STEMLER: Thank you.

11

12 C R O S S - E X A M I N A T I O N

13 BY MR. STEMLER:

14 Q. How are you doing today?

15 A. Good. Yourself?

16 Q. All right.

17 So on me is -- I want to talk first
18 about the charges for a moment. You sent that
19 June 21, 2018 letter to Chris Dugovich, right? It's
20 CP1 here?

21 A. Uh-huh.

22 Q. You did not send that to vice-president
23 Ron Fredlin, did you?

24 A. No.

25 Q. And you did not send that to -- you

1 didn't ask for this information from Colleen
2 Etheredge, now McConnell, the secretary-treasurer?

3 **A. No.**

4 Q. And you did not request this
5 information from Pat Thompson, the deputy director?

6 **A. No.**

7 Q. You didn't request the financial
8 information that you requested of Mr. Dugovich from
9 me, did you?

10 **A. No.**

11 Q. So the only financial requests you made
12 was to Mr. Dugovich, right?

13 **A. You had.**

14 Q. Yet you charged all the other people
15 with violation of that without any real basis for the
16 charge, right?

17 **A. Yes. I mean, the short answer is yes,**
18 **as when I was read the judicial procedure, it would**
19 **appear that my appeal had to go to Council 2 and**
20 **Council 2 would have the option of empaneling a**
21 **Judicial Panel. And I felt that their positions as**
22 **executive officers or as an executive officers in**
23 **Council 2, their participation in a Judicial Panel**
24 **would be, would represent an insoluble conflict of**
25 **interest.**

1 Q. So you charged four people with
2 violating the constitution for strategic purposes of
3 keeping them from hearing the case if it was at the
4 council level?

5 A. I wanted to make sure that I named the
6 appropriate parties.

7 Q. But even you are admitting that those
8 four people that I named, other than Mr. Dugovich,
9 didn't violate the constitution by not answering your
10 June 21 letter, right?

11 A. Yes.

12 Q. Okay. I want to talk about this letter
13 for a minute. Do you have a copy right there, CP1?

14 A. Uh-huh.

15 Q. So the number that you came up with for
16 Mr. Dugovich's salary and benefits, total
17 compensation package, you say in the second paragraph
18 there that you got that from the Freedom Foundation
19 opt-out website, didn't you?

20 A. I found the initial -- and I say that
21 in the letter, I came upon a report. I said then I
22 was skeptical and given the source, I was intrigued.
23 So I went and searched the Department of Labor, found
24 some old LM2 files and then I went to search the IRS
25 and found the 990 files for nonprofits.

1 So I didn't believe what the Freedom
2 Foundation was putting out there, because it's the
3 Freedom Foundation. Of course they're going to lie.
4 However, the IRS file bore out their initial
5 proposal.

6 Q. So are you saying that the number that
7 you've cited in your letter came both from the
8 Freedom Foundation website and the 990, they're
9 exactly the same number?

10 A. I don't actually know if they're
11 exactly the same number, because ultimately I didn't
12 pay that much attention to the Freedom Foundation
13 website. I went and found the IRS number.

14 Q. I'm interested in this 2017 director of
15 Council 28. Why did you include that information in
16 this letter to Mr. Dugovich?

17 A. Because it seemed like it's a
18 comparable position and the two numbers seemed to be
19 out of whack.

20 Q. And on what basis do you make the
21 statement they seem to be comparable positions?

22 A. They're both council presidents.

23 Q. You don't know anything about their
24 specific duties between the two councils, though?

25 A. No.

1 Q. This number that you've cited for the
2 Council 28 president, is that just wages or is that
3 total compensation?

4 A. **It's total compensation.**

5 Q. That includes medical benefits?

6 A. **I believe so.**

7 Q. Where did you get that information?

8 A. **Similar IRS 990 form from the same IRS**
9 **website.**

10 Q. In the same letter on June 21, you tell
11 Mr. Dugovich on the second page that there's
12 approximately 30 staff.

13 A. **That was the number that I remembered**
14 **from the document presented, I believe -- well, I**
15 **don't know exactly when it was, but I do remember**
16 **seeing one staff list or a -- not a staff list, but**
17 **an organization tree.**

18 Q. So you've been on the council, the
19 Executive Board, excuse me, for almost three years by
20 the time you wrote this letter in June to
21 Mr. Dugovich?

22 A. **Uh-huh.**

23 Q. And you had been given a great deal of
24 financial information about the council at each the
25 Executive Board meetings, haven't you?

1 **A. Yes.**

2 Q. And prior to writing this letter on
3 June 21st, did you ask -- call Mr. Dugovich or
4 Ms. Thompson or anyone else to ask how many staff
5 members there were?

6 **A. I didn't call to ask how many staff**
7 **members, no.**

8 Q. Are you familiar with the staff in
9 Everett like Barbara Cochran, for example, have you
10 talked to her before?

11 **A. Yes.**

12 Q. Is she typically someone who would
13 answer questions like that?

14 **A. Typically, sometimes.**

15 Q. Did you ask her about that?

16 **A. No.**

17 Q. Did you take any action with regard to
18 trying to get the board, the Executive Board with you
19 on these demands for information prior to the June 21
20 letter?

21 **A. No.**

22 Q. So you were acting as an individual
23 when you were demanding this information?

24 **A. Yes.**

25 Q. Is there some reason you didn't contact

1 -- you said that this information was for the benefit
2 of the board. Is there some reason you didn't talk
3 to the other board members about this?

4 A. Yes. I mean, the primary one is
5 getting hold of their contact information is not
6 easy. It's certainly not accessible. The only
7 reason I got any of their addresses is because their
8 names and their places of work are printed in the
9 quarterly newsletter.

10 Q. Okay. So you got them from the
11 quarterly newsletters, and then after you sent this
12 letter to Mr. Dugovich, you sent this to the members
13 of the Executive Board?

14 A. Uh-huh.

15 Q. Did you send it to all of them?

16 A. I sent it to every one who was listed
17 in the newsletters. Apparently one of them at that
18 point had already been resigned.

19 Q. Did you send this to the
20 secretary-treasurer, Kathleen McConnell, formerly
21 Etheredge, just to be clear?

22 A. I honestly -- I don't think so, but I
23 don't recall, to be precise.

24 Q. All right. So when you made this
25 demand for information and the information was not

1 provided, you sent this letter, a copy of this letter
2 to all of the Executive Board members as you've
3 mentioned, right?

4 **A. Uh-huh.**

5 Q. Okay, and then did you request some
6 time from Mr. Dugovich at the July 2018 Executive
7 Board meeting to discuss this?

8 **A. Yes.**

9 Q. Did he provide you that opportunity at
10 that board meeting?

11 **A. Yes.**

12 Q. And once you were able to discuss this
13 letter with the board, they were more concerned --
14 they were very concerned about the way you contacted
15 them, weren't they?

16 **A. Yes.**

17 Q. Describe that. What happened with
18 regard to the discussion of this letter at the board
19 meeting?

20 **A. No one wanted to address the contents.**
21 **They were concerned that having been sent a letter to**
22 **their work address, it would be potentially part of a**
23 **public record, which I deal with public records**
24 **fairly constantly, and certainly in my employer, if**
25 **you get a letter that isn't related to any kind of**

1 project, it is not scanned, it's not filed anywhere.
2 It goes to the individual who is involved and it's
3 not part of public records request. So that seemed
4 to be --

5 Q. You're familiar already with public
6 records and you understand that a public record is
7 basically any document that is in the possession of a
8 government entity, right?

9 A. It's not any document that is in the
10 possession of a government entity.

11 Q. In Washington, how would you define it,
12 then?

13 MR. GRIFO: Object that that calls for
14 a legal conclusion.

15 HEARING OFFICER McKENNA: Agreed.

16 Q. I guess we understand the extent of
17 your knowledge of public records on that part, but if
18 it's -- you did send this to public employers
19 throughout the State of Washington, the employee, the
20 Executive Board members, right?

21 A. I sent it to employees.

22 Q. At their place of business?

23 A. At their place of business.

24 Q. And at this board meeting, it was
25 brought up as a concern, like you said, about the

1 public disclosure component of that, about other
2 people reading it as well, wasn't it?

3 **A. Yes.**

4 Q. Did the board take any action in July
5 to support your demands for information?

6 **A. No.**

7 Q. There was certainly opportunity for
8 that to have happened, though, right?

9 **A. Yeah.**

10 Q. I want to go back a little bit and ask
11 you some questions about the legal. You mentioned
12 you were concerned about the way that Council 2
13 handled some legal matters; is that fair to say?

14 **A. Yes.**

15 Q. Okay, and so your first interaction
16 between you and I had to do with legal matters that
17 were going on at 1849 when I first started, right?

18 **A. Yes.**

19 Q. And those matters had already been
20 pending for some period of time before I was involved
21 in them?

22 **A. Right. There was one of the cases had**
23 **a hearing date set. Another one was pending further**
24 **investigation by myself. There was the outstanding**
25 **ULP that needed to be either taken up or withdrawn.**

1 Q. So you and I to a lesser extent, but
2 you and the staff representative who was new at that
3 time as well, right? You a new staff representative
4 coming in and you had a relatively new attorney for
5 Council 2 coming in; is that accurate?

6 A. Uh-huh, yes.

7 Q. And the staff rep, Matt Miller, and I
8 both talked to you about these cases at various
9 times, didn't we?

10 A. Well, you talked to me about them at
11 one time.

12 Q. Didn't we talk about them on the phone
13 as well?

14 A. That's true, sorry.

15 MR. GRIFO: I'll object to the extent
16 that Mr. Stemler is testifying as a fact witness. I
17 mean, it's an awkward because you're assuming facts
18 not in evidence, but --

19 MR. STEMLER: I'm just asking him the
20 questions.

21 HEARING OFFICER MCKENNA: Go ahead.

22 Q. So we talked on the phone and I met you
23 in person about these charges too, right?

24 A. Yes.

25 Q. And so is it true that you, the staff

1 representative, another member of your board all met
2 on April 26 after I had interviewed some witnesses
3 about the unit clarification?

4 **A. Yes.**

5 Q. Did I as general counsel ask you to
6 have the witnesses available on the skimming,
7 unlawful unfair labor practice?

8 **A. Yes.**

9 Q. And did you have the witnesses present
10 to talk to me about that skimming case?

11 **A. We had one of them present. The other**
12 **one was taking care of his oddly enough sick mother.**

13 Q. And so after -- at that meeting on
14 April 26 when I had been up there, did I talk to you
15 about the interviews that had taken place with regard
16 to the unit clarification?

17 **A. You talked to me about the interviews**
18 **that had taken place that day on that day.**

19 Q. And then did I -- were you present when
20 we were talking about the unfair labor practice with
21 the skimming with the witness there?

22 **A. Yes.**

23 Q. And he said that hadn't, had not been
24 bargaining unit work, right?

25 **A. Yes.**

1 Q. So I explained to you that you could
2 not go forward with the skimming case unless it was
3 bargaining unit work?

4 **A. Yes.**

5 Q. Okay, and with regard to the unfair
6 labor practice -- or, excuse me, with regard to the
7 unit clarification, we also brought up the fact that
8 the individuals involved were pretty unhappy the
9 union was --

10 HEARING OFFICER MCKENNA: You are
11 getting very close to testifying. So if you want to
12 testify, you can do that on your side of the case.
13 So please try to stick to the specifics of what he
14 testified to or the documents that were submitted.

15 MR. STEMLER: Okay.

16 Q. And I guess what I'm really getting as
17 a bottom line, I'll just get to it, is ultimately did
18 those cases get dismissed?

19 **A. Yes.**

20 Q. And you were unhappy with that?

21 **A. Yes.**

22 Q. Did you ask me for an explanation of
23 that?

24 **A. Yes.**

25 Q. Did I provide a written explanation to

1 you?

2 **A. You did.**

3 Q. All right.

4 MR. STEMLER: Can I have that marked,
5 please.

6 HEARING OFFICER MCKENNA: I'm marking
7 this document as AP1.

8 Q. Can you identify what AP1 is, please?

9 **A. This was an email that was sent to me**
10 **by you and obviously copied to members of the Local**
11 **1849 E-Board with regards to the cases that were**
12 **dismissed.**

13 Q. So what's the date on that, please?

14 **A. May 24.**

15 Q. Even after I provided this, let me ask
16 you this, were you satisfied with the explanation
17 that was provided?

18 **A. No.**

19 Q. What was your feeling towards these
20 cases then at that time?

21 **A. I thought the skimming case was weak**
22 **and it was probably best it was dismissed. I thought**
23 **the unit clarification was mishandled. I think there**
24 **may have been positions that we wouldn't have won,**
25 **but I think there was positions that we would have.**

1 I thought -- well, I mean, I could speculate on any
2 number of things. I mean, ultimately, no, if you're
3 asking was I satisfied with this explanation, no, I
4 wasn't.

5 Q. And it's really the core of these
6 issues you're now bringing forward is the result of
7 your not being satisfied with what happened in those
8 legal cases, isn't it?

9 A. No.

10 Q. Within a month or so of receiving that
11 explanation and not being satisfied with it, you sent
12 that letter to Chris Dugovich for salary information,
13 didn't you?

14 A. Yeah, but that was a month later.

15 Q. You're saying those two things are
16 unrelated to each other?

17 A. I'm not saying that they're totally
18 unrelated, but I don't think -- I don't believe my
19 sense of disappointment was sufficient for me to
20 draft that letter. I mean, I was disappointed, but
21 that seemed to be a somewhat different thing.

22 I mean, certainly it did feed into the
23 idea of asking about the total number of cases,
24 because I was thinking perhaps, I mean, if there's a
25 lot of cases coming in, if you're representing 16,000

1 people, then it's possible that we need another
2 lawyer to assist you.

3 Q. CP5, which was the June 21 letter to
4 me, is dated the same day that you sent the June 21
5 letter to Mr. Dugovich. Are those two things
6 related?

7 A. Yes, because again, that goes back to
8 trying to get a sense of the universe in which the
9 legal office of Council 2 was working, just, again,
10 the total number of cases that were coming in versus
11 the total number that are approved for further
12 litigation.

13 Q. Okay. So on CP5, do you still have
14 that in front of you?

15 A. Yes.

16 Q. On this one, you are requesting copies
17 of all records or files of legal decisions and
18 actions taken by me on behalf of Local 1849, or my
19 office, for the past five years; is that right?

20 A. Yes.

21 Q. You wanted briefings, meetings and
22 notes; is that right?

23 A. Yes.

24 Q. You are aware that legal files are
25 subject to attorney-client privilege and attorney

1 work product?

2 A. I am, and at that point as I understood
3 it, and clearly it was wrong, is that we were --
4 Local 1849 was your client. These were our client
5 files. We were entitled to copies of it.

6 Q. Okay.

7 A. And as it turns out, you're not our --
8 we're not your client, so you're not supposed to hand
9 that over.

10 Q. Okay. So that misperception has been
11 corrected?

12 A. Yes.

13 Q. So you understand now there's concerns
14 about providing legal files to you to review?

15 A. Yeah.

16 Q. On count 2 of your charges, you charge
17 me with not providing that information. Are you
18 withdrawing that charge?

19 A. I would point your attention to the
20 penultimate paragraph and the compilation of all
21 requests for legal assistance and their evaluations
22 and the process by which your office decides which
23 ones your office chooses to pursue. I would still
24 like an understanding of the metric by which you
25 decide which cases go forward.

1 Q. Okay. Have you discussed that with
2 other E-Board members, the Executive Board members?

3 A. No.

4 Q. You made this request as an individual
5 then as opposed to the board making this request,
6 right?

7 A. Well, I can't speak for the board. I
8 can only speak as a board member.

9 Q. If you brought this to the board and
10 they all agreed, then there would be a request on
11 behalf of the board, but that's not what we have
12 here, right?

13 A. Right.

14 Q. And your charge alleges a violation
15 because the Executive Board has supervisory authority
16 over these things, and yet you're trying to enforce
17 that as an individual, right?

18 A. Well, again, I can't speak for other
19 Executive Board members. I can only look to my own
20 likes as far as what I think is necessary to make an
21 ethical and appropriate decision as far as
22 expenditure, again, of the members' dues.

23 And, you know, notwithstanding, I was
24 interested in, again, how much work is coming in,
25 what's the work level, and is this the appropriate

1 way of handling it or is there, you know, other
2 alternatives that might be explored. But I can't --
3 you can't even get there if you don't know.

4 Q. But what you just said is different
5 than what you asked for on June 21, and that's the
6 basis for the charge currently, right?

7 A. Well, this is the thing from June 24 --
8 21st. The second paragraph says I was requesting as
9 the president of Local 1849 records pertaining to
10 Local 1849 that I thought because we were your client
11 we were entitled to. As I subsequently discovered,
12 we were not your client so we were not entitled to
13 it. So I would certainly withdraw that.

14 However, I think as an E-Board member,
15 I am entitled to a basic accounting of the number of
16 cases that are coming in, the number that are
17 approved for litigation, and the numbers that are
18 rejected.

19 Q. Okay. Would it be fair to suggest that
20 the kinds of things that you're interested in may be
21 further refined if other people were to talk about
22 them because there's a lot that went into that? For
23 example, you know, when you say cases, different
24 people have different understandings of what that
25 means probably. Do you mean advice inquiries as

1 well?

2 So I mean, is there -- is it fair to
3 say that this could be further fleshed out with
4 further discussion as to exactly what it is you're
5 seeking?

6 **A. Yeah, sure, it could always be honed in**
7 **better.**

8 Q. It's really the provision of the
9 constitution that you have cited about oversight
10 belongs to the Executive Board as a whole and not to
11 any particular individual, doesn't it?

12 **A. Well, the Executive Board is made up of**
13 **individuals, so each individual has to exercise that**
14 **authority as part of the Executive Board. So I don't**
15 **think it refers to the Executive Board is the only**
16 **option has to work in totality. I think it's just**
17 **Executive Board members working together.**

18 Q. For example, though, one of -- do you
19 see any difference between yourself and any other
20 member in terms of requests for information, do you
21 hold any special status because you're an individual
22 Executive Board member?

23 **A. No.**

24 Q. Okay. So your view is that the request
25 coming from an individual, whoever it would be, needs

1 to be honored by the council?

2 **A. Yes.**

3 Q. But you charged under the constitution
4 about the oversight of the Executive Board and what
5 I'm trying to point out is that it wasn't the
6 Executive Board that was demanding this information,
7 was it?

8 **A. It wasn't the Executive Board, but it**
9 **was a member of the Executive Board. And unless**
10 **you're saying that only the Executive Board making a**
11 **motion and having that approved, then that would be**
12 **the only time at which information should be**
13 **dispersed, is that the contention?**

14 Q. What I'm saying is in order for the
15 Executive Board to take action, you need to get
16 agreement from the board to act on specific items
17 like this. Otherwise, it's a request from an
18 individual member, right?

19 **A. Again, as far as I can tell, the**
20 **Executive Board is not a uniform block. It's a group**
21 **of individuals who are acting in conjunction with one**
22 **another or certainly in the vicinity of one another**
23 **under their best lights to ensure that the Council 2**
24 **constitution is upheld, their oversight role is**
25 **maintained, and how those best lights manifest**

1 themselves is clearly a question of individual
2 conscience.

3 I am expressing my individual
4 conscience as a member of the Executive Board because
5 I think this information is necessary to make an
6 informed decision that I am entitled -- well, I'm
7 expected to make on behalf of the members that I was
8 elected to represent.

9 Q. Okay. You had the opportunity to make
10 that opportunity available to the Executive Board in
11 July after you had sent these letters and asked for
12 time on the board, but they didn't take that up, did
13 they?

14 A. No.

15 Q. They did not join in your request for
16 this information?

17 A. No.

18 Q. All right. So the board in July, they
19 did take some action and that was to table the
20 discussion of salary and benefit and finances until
21 the October meeting when that's traditionally done,
22 correct?

23 A. Yes.

24 Q. Did you wait until the October board
25 meeting?

1 **A. To file the request for information?**

2 Q. To file the charges --

3 **A. No.**

4 Q. -- for not proceeding the information
5 that the board had said wait until October?

6 **A. I had no expectation that it would have**
7 **been provided.**

8 Q. So you didn't -- you filed the charges
9 before waiting even though the board took action to
10 table that until October?

11 **A. Yes.**

12 MR. STEMLER: I got too many pieces of
13 paper going here.

14 HEARING OFFICER MCKENNA: This next
15 document I'm going to label as AP2.

16 Q. Can you take a look at AP2 and tell us
17 what that is?

18 **A. This would be a report from the bar**
19 **association dismissing the ethics claim I made**
20 **against you.**

21 Q. And the other pages behind the first
22 page, is that the ethics complaint that made with the
23 State Bar Association?

24 **A. It appears to be.**

25 Q. These are the documents you provided to

1 the bar association, and were some of the same or
2 similar documents to the judicial charges you filed
3 here, aren't they?

4 **A. Yes.**

5 Q. You're obviously familiar with the
6 AFSCME constitution. Did you find the provision of
7 that not going outside of the AFSCME process?

8 **A. No. I mean -- no.**

9 Q. And the bar association dismissed
10 the --

11 **A. So what would be the AFSCME process for**
12 **dealing with an ethics violation on behalf of the**
13 **counsel?**

14 Q. My point is that the substance of the
15 charge with the bar association is the substance of
16 the charge that we're here to litigate today, right?

17 **A. Actually, not quite. I'd say it's**
18 **quite different.**

19 Q. It relies on the same facts?

20 **A. Yes, but it's not the same thing.**

21 Q. Ultimately that was dismissed by the
22 bar association, right?

23 **A. Yes.**

24 Q. You now understand that you as the
25 president or Local 1849 was not the client on those

1 cases?

2 **A. Absolutely.**

3 Q. I want to move forward in time a little
4 bit from the July meeting now into September and talk
5 about what you did with the charges that, the letter
6 that includes or the packet of charges I guess. So
7 you've told us that you sent it to each E-Board
8 member at their place of business. Who else did you
9 send those charges to, the packet?

10 **A. Well, once the Judicial Panel charges**
11 **were filed, I sent the packet to the members of Local**
12 **1849.**

13 Q. And did you bring it up at a local
14 meeting of 1849 on September 15?

15 **A. Yes.**

16 Q. Was I present at the meeting there?

17 **A. Yes.**

18 Q. At that meeting was there discussion of
19 these issues?

20 **A. Yes.**

21 Q. Is it fair to say that the local
22 members were fairly antagonistic towards Council 2?

23 **A. They were -- I actually thought they**
24 **were remarkably, they were restrained. They weren't**
25 **happy, particularly because it was announced that**

1 members of the Council 2 Executive Board would be
2 attending a local meeting. Rather than asking for an
3 invitation or requesting an audience, it was just
4 informed imperiously that these people will be
5 attending, and that upset a large number of the
6 people who were attending and also a large number of
7 people who just happened to find out about it. So
8 there was a certain amount of antagonism to begin
9 with. I thought on the whole, though, they were
10 remarkably restrained.

11 Q. You expected Mr. Dugovich and myself to
12 be there?

13 A. To be honest, I expected you and
14 Mr. Thompson.

15 Q. I explained Mr. Dugovich wasn't able to
16 make it that day?

17 A. Uh-huh.

18 HEARING OFFICER MCKENNA: Did you catch
19 that, by the way? He said, "Uh-huh." Did you catch
20 that?

21 THE REPORTER: Yes.

22 HEARING OFFICER MCKENNA: It's better
23 if you say yes or no --

24 THE WITNESS: Sorry.

25 HEARING OFFICER MCKENNA: -- for the

1 transcript. Thank you.

2 Q. So this September 15 meeting, when the
3 legal issues were discussed, did general counsel
4 acknowledge there had been some communication issues
5 and apologize for that?

6 A. Yes.

7 Q. With regard to that meeting, there was
8 other business on the agenda that day, wasn't there,
9 besides these charges?

10 A. Yes. We had organized -- at that point
11 the county was going through an election and so there
12 was a number of important positions that were up,
13 district court judge, the sheriff, and the
14 prosecuting attorney. The prosecuting attorney and
15 the one that was reelected had been the prosecuting
16 attorney for the last 20-something years and previous
17 -- well, I mean --

18 Q. You didn't care for him?

19 A. He was actively involved in one of the
20 cases that involved, you know, constructive dismissal
21 of one of the union members. He was one of the
22 primary players in that. There was also issues about
23 -- there's a whole other set of cases which deal
24 with --

25 Q. I understand --

1 A. -- sexual abuse of minors, the failure
2 to investigate the investigator who also was involved
3 in that. Then there was this multi-million dollar
4 lawsuit that has resulted from that.

5 Q. I guess for my purposes --

6 A. It was, prosecutorial mishandling was
7 rife in some aspects.

8 Q. You've given us a variety of reasons.
9 So for whatever reasons, you didn't
10 really care for the elected prosecutor at that point
11 and he had an opponent named Nick Power, right?

12 A. Yeah.

13 Q. Now, Mr. Power you indicated was
14 someone that you knew and had talked to in other
15 contexts?

16 A. Yes, I have.

17 Q. Had you consulted with him about union
18 matters?

19 A. No, not formally. I talked to him
20 about issues I've had. I've asked questions when I
21 am unclear. Again, in my profession, I meet a lot of
22 lawyers and sometimes it's beneficial for me to talk
23 to them to get an opinion about something.

24 And so whether or not it's the
25 appropriate interpretation for the Shoreline

1 Management Act, if I know that there's an attorney in
2 town, because it's just one of those things that
3 comes up along with my job that I can talk to and
4 ask, like how is this to be interpreted, I'll ask
5 them. And, you know, it's a small town, so you kind
6 of run into people at the supermarket and you ask
7 them questions. It's just the way living on the
8 island is.

9 Q. So how about these charges regarding
10 the union, did you talk to Mr. Power about that?

11 A. Not specifically, no.

12 Q. Did you tell him about concerns you had
13 with the union, though?

14 A. Some concern, but not these ones.
15 Other things, potentially. I mean, it's --

16 Q. At that meeting on September 15, did
17 you learn that Mr. Power had been at that time
18 representing the Freedom Foundation in the case?

19 A. Yes.

20 Q. Did you know about that beforehand?

21 A. If I did, I couldn't have learned about
22 it at that meeting.

23 Q. I guess that was inherent in my
24 question, so I'm just making sure that I asked it the
25 right way.

1 Did you --

2 A. No, I didn't know. I'm not familiar
3 with Mr. Power's client lists. I don't know who he
4 represents. He's a lawyer.

5 Q. The Freedom Foundation lawsuit that he
6 was involved in, did you know anything about that?

7 A. No.

8 Q. Do you know about it now?

9 A. Only the broad outlines. I don't know
10 the details.

11 Q. Do you know if it has to do a union
12 member selling a list of clients to the Freedom
13 Foundation?

14 A. No.

15 Q. So was it also discussed that he has
16 clients that like to sue Democratic parties
17 regularly, or a client?

18 A. Honestly, I can't remember if that was
19 discussed.

20 Q. So this meeting that was happening at
21 the local, on the agenda is both these judicial
22 charges within the union and an attorney who is
23 currently representing the Freedom Foundation?

24 A. But they certainly weren't in the room
25 at the same time, and the meeting -- the union

1 meeting to discuss union issues was scheduled from
2 8:30 to 10:30 I believe, and then the candidates
3 forum was scheduled from 10:30 to 11:00.

4 And we had to meet with each of the two
5 candidates for district judge, each of the two
6 candidates for the sheriffs department, and each of
7 the two candidates for the deputy -- for the
8 prosecuting attorney.

9 Q. And you've already told us you didn't
10 make an endorsement in that one. I want to move
11 forward in time. After that -- or either before or
12 after that local meeting, did you share that judicial
13 charges that are the subject here with other people
14 outside of your local?

15 A. I contacted a number of attorneys when
16 I was looking for representation of this hearing. So
17 I contacted a number of attorneys. They requested
18 further information. I provided that.

19 Q. Was one of the attorneys you tried to
20 hire Dan Swedlow from Summit Law?

21 A. Yeah.

22 Q. Did you know at the time you were
23 trying to hire the attorney for your employer, the
24 attorney that was on the other side of those charges?

25 A. I didn't know he was on the other side

1 of the charges with regards to 114. I did know he
2 was on the side of the charges from the unit
3 clarification.

4 I didn't think I was looking for an
5 attorney so I would lose. I mean, I was looking for
6 an attorney that was familiar with the union
7 activities and union work, and this was one of the
8 ones that I knew had worked within this sphere.

9 Q. He let you know it was a conflict of
10 interest, though?

11 A. Yes. What I would like to know is how
12 he let you know.

13 Q. On after -- so you didn't end up hiring
14 him. Did you send the charges anywhere else?

15 A. To be candid, on the weekend following
16 the -- well, not the weekend, but the couple of days
17 following the Executive Board meeting, like Monday,
18 Tuesday and Wednesday --

19 Q. Is this in July? I'm sorry, or
20 October? Is it July you're talking about the
21 Executive Board?

22 A. No, the one in October.

23 Q. All right, thank you.

24 A. That's when I was looking for the
25 attorney, is when I contacted him. I had a severe

1 cold and I was calling a lot of attorneys. I called
2 the Washington State Bar referral service. They
3 referred me to someone. They asked me for
4 information.

5 I was looking for an attorney. Of
6 course I'm going to provide -- they asked me to
7 provide them with information. I provided them with
8 the information.

9 As far as I'm aware the attorneys are
10 supposed to maintain the client's confidentiality and
11 requests. I don't know, but I think requests for
12 assistance fall under that umbrella.

13 Q. Mr. Swedlow --

14 MR. GRIFO: I'll object to the extent
15 we go into attorney-client privilege with respect to
16 prior phone calls made with regards to
17 representation.

18 HEARING OFFICER McKENNA: I'll sustain
19 that. I'm really having trouble seeing how this line
20 of cross is going to help me determine whether or not
21 the constitution was violated specific to the charges
22 that were filed. I'm just having trouble connecting
23 the dots here.

24 MR. STEMLER: I have a concern about
25 the actions that he took in providing it to other

1 people before they had a chance to adjudicate them.
2 I thought that would be helpful for your
3 determination of why these were brought in the first
4 place.

5 HEARING OFFICER MCKENNA: Well, the
6 brother is not the subject of charges.

7 MR. STEMLER: I understand.

8 HEARING OFFICER MCKENNA: So his
9 actions are less important to me in that respect than
10 the actions of the accused parties.

11 MR. STEMLER: I understand. In each of
12 the answers that I know hope to admit at some time,
13 we are asking to have you review Article X, section
14 16 for potential determination about whether these
15 were brought in good faith or not. So that's part of
16 what I'm asking about. But I understand and let me
17 move it along here.

18 HEARING OFFICER MCKENNA: Thank you.

19 Q. Did you provide a copy of these charges
20 to your employer at San Juan County?

21 A. No.

22 Q. Did you provide them to Local 114?

23 A. Yes.

24 Q. With regard to the October board
25 meeting, that was a regular meeting at which the

1 board could have taken up your demands for
2 information and made them binding by having them
3 heard, say that these would be done, but that didn't
4 happen, did it?

5 **A. No.**

6 Q. With regard to the January -- or excuse
7 me. With regard to count 3 now, a little bit here,
8 so count 3 is the ratification of a position. You've
9 been on the Executive Board when other hiring
10 decisions by Mr. Dugovich have been made, weren't
11 you?

12 **A. I don't know. We haven't ratified any**
13 **of them.**

14 Q. Have you been at board meetings where
15 Mr. Dugovich has announced or told the board that he
16 has hired a staff rep here or done a variety of
17 things like that?

18 **A. Possibly, but I honestly don't**
19 **remember.**

20 Q. You saw the December email notice about
21 Mr. Dugovich hiring general counsel because Audrey
22 Eide was hiring?

23 **A. Yes.**

24 Q. That general counsel position is a
25 regular budgeted position?

1 **A. I presume so.**

2 Q. You didn't have any questions or
3 contact Mr. Dugovich about any concerns about it at
4 that point?

5 **A. No.**

6 Q. You were not present at the January
7 board meeting, were you? You were excused?

8 **A. Yes.**

9 Q. So you weren't there when I was
10 introduced to the board?

11 **A. No, I wasn't.**

12 Q. There was a question that the hearing
13 officer had, I think it was CP7, and she asked if
14 there was anyone in particular. This is on the third
15 paragraph of page 2, on that third page of paragraph
16 of page 2, there's discussion of Ms. Eide and myself
17 in there?

18 **A. Yes.**

19 Q. During your time on the Executive
20 Board, have you ever taken a vote to ratify anyone's
21 hiring?

22 **A. As I said, we haven't actually, no.**

23 Q. With regard to the financial
24 information, you said you get a booklet of
25 information about the finances of Council 2 at each

1 board meeting, right, or prior to each board meeting?

2 **A. Uh-huh, yes.**

3 Q. Similar to the budget document that's
4 already been received here, those -- each of those
5 packets that you get at each board meeting has the
6 revenue and expenditures as aggregates for Council 2,
7 doesn't it?

8 **A. I believe so.**

9 Q. And do you review -- I mean, I guess
10 your concern here is about the finances for
11 Council 2, is what you're asserting. Do you review
12 closely the booklets that you get to see what kind of
13 financial information is available to you?

14 **A. To some extent. I have found it's more**
15 **of an exercise in frustration because the information**
16 **that I believe would be most pertinent tends to be**
17 **the hardest to find and largely missing.**

18 Q. Well, there is an aggregate salary
19 number in each of the monthly packets that you get,
20 right?

21 **A. I would ask that -- I would just ask**
22 **the follow-up question to that. Yes, there is an**
23 **aggregate number. However, that doesn't tell me how**
24 **many people are working for Council 2, what the rate**
25 **of recompense is, and what they're actually doing.**

1 Q. The information that you do get, do you
2 have a feel for how much revenue is coming into the
3 council on a monthly basis, for example?

4 A. Yes. I mean, in the sense of the
5 revenue coming in, it is clearly defined. I'm not
6 disputing the numbers. I'm just questioning the
7 level of detail that's provided to make an informed
8 decision.

9 Q. The level of detail that's provided, if
10 you want to take a look at CP4, we can just use that,
11 the budget there breaks down those categories of
12 benefits to the amounts, doesn't it?

13 A. Yes, it does.

14 Q. And it provides pretty detailed
15 information about where the money is coming from and
16 where the money is going, doesn't it?

17 A. It's detailed. It's -- on the one
18 hand, yes. But no, I mean, these are aggregate
19 amounts again.

20 Q. Just not the specific thing you're
21 looking for.

22 The constitution that you filed this
23 charge under, did you find anything in there that
24 requires the level of detail that you are demanding
25 at this point?

1 A. No, the constitution just required that
2 every member has a clear accounting of where their
3 dues are spent. And, again, if -- Council 2
4 constitution says the Executive Board has to exercise
5 its oversight authority to ensure that the
6 expenditure of members' dues is appropriate, and I
7 don't find anything in these numbers presented here
8 that can tell me whether or not this is appropriate.

9 All it tells me is this is what's being
10 expended, but, for example if you just look at the
11 unemployment insurance, so there's a number for
12 unemployment insurance, but it's meaningless if I
13 don't know how many people are employed, and so on.

14 Q. So people employed is something I'm
15 sure you can get your hands on, but what I'm
16 understanding you're saying is you want not just the
17 number, but then you want to take the next step of
18 justifying the number basically; is that right?

19 A. Yeah. I mean, how else would you
20 evaluate if there's an appropriate expenditure?

21 Q. How are you going to do that?

22 A. Well, I don't know yet because I don't
23 know what the numbers would be. I mean, it just...

24 Q. Going back to what the constitution
25 says, though, there's nothing in there that requires

1 specific salaries, right, to be provided
2 individually?

3 **A. No, I mean, again, I think it says that**
4 **it has to be a clear accounting is available to all**
5 **members, and Council 2 constitution says that the**
6 **Executive Board has to approve all expenditures.**

7 Q. Have you discussed with other board
8 members or at any board meeting the desire for
9 different kinds of information to help do the job?

10 **A. Outside of the July 15 meeting, no.**

11 Q. Are you familiar with the financial
12 standards code for AFSCME?

13 **A. No.**

14 MR. STEMLER: I didn't bring this as an
15 exhibit. This is an AFSCME document. Can we -- can
16 I ask him questions about it without treating it as a
17 exhibit and more like a judicial notice of a document
18 that AFSCME is --

19 HEARING OFFICER MCKENNA: Well, this
20 was not in this testimony, so you're kind of going a
21 little bit astray. So if you'd like to bring the
22 financial standards code up during your side of the
23 case, you certainly can do that.

24 MR. STEMLER: Thank you. Can I have
25 just a moment?

1 HEARING OFFICER MCKENNA: Sure.

2 MR. STEMLER: Thank you. Almost done
3 here.

4 (Discussion off the record.)

5 HEARING OFFICER MCKENNA: Back on the
6 record.

7 Q. At the same time as -- on the same days
8 as Executive Board meetings, are you aware that
9 there's also usually finance committee meetings?

10 A. Yes.

11 Q. And some of the same people, the same
12 people from the Executive Board or some of those are
13 on the finance committee, so they have to be at a
14 different time, right?

15 A. Uh-huh.

16 Q. Have you ever attended those finance
17 committee meetings?

18 A. No.

19 Q. That's where -- generally where finance
20 information is discussed?

21 A. I don't know.

22 MR. STEMLER: I have no further
23 questions.

24 HEARING OFFICER MCKENNA: Do you have
25 any redirect?

1

2

R E D I R E C T E X A M I N A T I O N

3

BY MR. GRIFO:

4

5

Q. The request for the information that you've made giving rise to the dispute today, did you make those requests as president of Local 1849?

7

8

A. I mean, I made the request as both the Council 2 Executive Board member for District 1 and the president of Local 1849.

10

11

Q. And was it contact with people that you represent that gave rise to making the request for that information?

13

14

A. Yes.

15

16

Q. Do you believe that any dues-paying member should be entitled to the information that you've requested in your June 21, 2018 letter?

17

18

A. Yes.

19

MR. GRIFO: I have no further questions.

20

21

E X A M I N A T I O N

22

BY HEARING OFFICER McKENNA:

23

24

Q. I have a couple of quick questions for the witness. One is a clarification regarding Brother Dugovich. Is he both the executive director

25

1 of Council 2 and the president of the Council 2
2 Executive Board?

3 **A. Yes.**

4 Q. Is that two separate roles or is that a
5 combined role?

6 **A. I wouldn't know --**

7 Q. To your knowledge.

8 **A. -- how he would compartmentalize it.**

9 Q. Then the second question I had, to your
10 knowledge, does Council 2 have a hiring policy? Some
11 councils do.

12 **A. Not that I'm aware of.**

13 HEARING OFFICER McKENNA: Thank you.

14 MR. STEMLER: Can I have this marked?

15 HEARING OFFICER McKENNA: Can you
16 explain what you've just handed me, sir?

17 MR. STEMLER: Can I get those marked?
18 They've already been provided to the defense. That's
19 the answers.

20 HEARING OFFICER McKENNA: There are
21 five -- would you like to take a look at them and
22 make sure you have them?

23 MR. GRIFO: Yes. I don't mind doing
24 this on a break if you don't mind waiting.

25 HEARING OFFICER McKENNA: Let's go off

1 the record for a little break.

2 (Brief recess.)

3 HEARING OFFICER MCKENNA: Let's go back
4 on the record. The accused party counsel has handed
5 me, the hearing officer, what I would call composite
6 exhibit answers of Ron Fredlin, answer of Chris
7 Dugovich, answer of Ed Stemler, answer of Kathleen
8 Etheredge McConnell, answer of Pat Thompson.

9 While off the record, the charging
10 party attorney took a look at those documents to make
11 sure that they were the same ones that had been
12 provided to him. Do you have any objection to these
13 going in the record?

14 MR. GRIFO: Aside from timeliness, no,
15 I'm sure the officer will give them due regard.

16 HEARING OFFICER MCKENNA: Okay, thank
17 you. So I will mark this as a composite exhibit
18 called AP3.

19 MR. STEMLER: I have one question for
20 the witnesses about those.

21

22 R E C R O S S - E X A M I N A T I O N

23 BY MR. STEMLER:

24 Q. Did you receive those on November 7 of
25 this year, that they were mailed to you?

1 A. Probably. As far as the dates go,
2 yeah, probably.

3 MR. STEMLER: Okay. That was the only
4 question I had about that.

5 HEARING OFFICER MCKENNA: Did you have
6 any questions with respect to that last little bit?

7 MR. STEMLER: No, thank you.

8 HEARING OFFICER MCKENNA: Then the
9 witness is excused.

10 THE WITNESS: Thank you.

11 HEARING OFFICER MCKENNA: Does the
12 charging party have additional witnesses?

13 MR. STEMLER: I do. Are we going to
14 take a lunch break?

15 HEARING OFFICER MCKENNA: We don't
16 normally. How many witnesses do you have?

17 MR. STEMLER: Three.

18 MR. GRIFO: I have no further
19 witnesses.

20 HEARING OFFICER MCKENNA: Do you feel
21 like you can at least go through, get started? How
22 are you doing, court reporter?

23 THE REPORTER: Break, please.

24 HEARING OFFICER MCKENNA: Let's take a
25 very quick break, and then we can start with your

1 side of the case.

2 MR. STEMLER: My first procedural, I'd
3 like to make a motion to dismiss some of the parties
4 given where we are in the hearing at this point.

5 HEARING OFFICER MCKENNA: Okay. Let's
6 do that when we come back from the break. Let's try
7 to come back by 12:20. Off the record.

8 (Brief recess.)

9 HEARING OFFICER MCKENNA: Back on the
10 record. Accused parties, we're on your side of the
11 case now.

12 MR. STEMLER: Procedurally at this
13 point I'm going to request that you dismiss
14 vice-president Ron Fredlin. He was not asked to
15 provide the information and so based on what we've
16 heard already, I'd ask that he be dismissed.

17 HEARING OFFICER MCKENNA: Does the
18 charging party have an objection?

19 MR. GRIFO: No.

20 HEARING OFFICER MCKENNA: Okay.

21 MR. STEMLER: And second I ask --

22 HEARING OFFICER MCKENNA: Let me just
23 state for the record.

24 MR. STEMLER: Thank you.

25 HEARING OFFICER MCKENNA: Brother

1 Fredlin is dismissed as an accused party in the case.

2 MR. STEMLER: Thank you.

3 Next I'd ask to take out Pat Thompson.

4 Same scenario, he was not asked for the information.

5 I'd ask that he be dismissed.

6 MR. GRIFO: No objection.

7 HEARING OFFICER MCKENNA: No objection
8 from discharging party, so Brother Thompson is
9 dismissed as well.

10 MR. STEMLER: Next is Kathleen
11 Etheredge or McConnell, I'd ask that she be dismissed
12 for the same reason.

13 MR. GRIFO: That's fine.

14 HEARING OFFICER MCKENNA: If there's no
15 objection from the charging party, so she's dismissed
16 as well.

17 MR. STEMLER: Next I'd ask that the
18 charge 1 against me be dismissed because he didn't
19 ask for the financial information from me.

20 MR. GRIFO: No objection.

21 HEARING OFFICER MCKENNA: No objection
22 from charging party, so charge 1 against you is
23 dismissed.

24 MR. STEMLER: With regard to
25 Mr. Dugovich, who is executive director and

1 president, as you pointed out, I'd ask that the
2 charges against him, 1 and 2 be dismissed. The
3 constitution does not require the level of detail
4 that was demanded in the June 21st letters and I
5 don't think he's made a sufficient claim of a
6 violation of the constitution to move forward on
7 those two charges.

8 MR. GRIFO: Strongly object to that
9 request.

10 HEARING OFFICER MCKENNA: Okay, we'll
11 go ahead and proceed without dismissing those.

12 MR. STEMLER: All right. Thank you. I
13 call Pat Miller.

14

15 PAT MILLER, witness herein, having been
16 first sworn on oath,
17 was examined and testified
18 as follows:

19

20 D I R E C T E X A M I N A T I O N

21 BY MR. STEMLER:

22 Q. Can you tell us what you do for a
23 living, Mr. Miller?

24 A. I'm a construction inspector supervisor
25 for the City of Renton.

1 Q. Okay. Are you a member of a union?

2 A. I am more than a member of the union.
3 I'm president of Local 2170 and I'm part of the
4 union.

5 Q. Okay. In addition to being president,
6 are you also an Executive Board member for Council 2?

7 A. I am.

8 Q. Okay. How long have you been an
9 Executive Board member for Council 2?

10 A. I believe seven or eight years total.
11 It's two-year terms.

12 Q. Okay.

13 A. So I believe that.

14 MR. STEMLER: Starting off with some
15 documents, I'm going to ask that we use this as one
16 exhibit. Do you want him to identify what that is
17 before you mark it, or do you want to mark it first
18 and have him do that?

19 HEARING OFFICER MCKENNA: Why don't we
20 just mark it first as AP4. This is a composite
21 exhibit and then the witness will explain what we're
22 looking at.

23 Q. Mr. Miller, can you tell us what it is
24 that you have before you, as AP4 there before you?

25 A. Yeah, it's a collection of Executive

1 **Board minutes going back a couple of three years.**

2 Q. All right. When you had attended
3 Executive Board meetings, are the finances of
4 Council 2 generally a topic of conversation?

5 A. **It is part of a packet we receive**
6 **during the Executive Board meetings from time to**
7 **time.**

8 Q. So you receive packets with financial
9 information from the council?

10 A. **Yes.**

11 Q. Does that have a lot of financial
12 information about where the revenue comes from for
13 Council 2?

14 A. **It does.**

15 Q. Does it also have categories of
16 expenditures for Council 2?

17 A. **It does.**

18 Q. Prior to the -- were you at the July
19 2018 board meeting in Boston, the Executive Board
20 meeting in Boston?

21 A. **Yes, I was.**

22 Q. I'm going to talk about that in a
23 minute, but prior to that, had you received a letter
24 from Colin Maycock to Chris Dugovich dated June 21st,
25 2018?

1 A. I received a nonreturned address letter
2 at my place of employment. I'm going to be real
3 specific, though. I believe it was just prior to the
4 board meeting, but it's been a while and I've got a
5 lot on my plate.

6 Q. Okay. So at some point you received a
7 letter from Mr. Maycock to Chris Dugovich about
8 demanding financial information, for example; is that
9 right?

10 A. (Nods head.)

11 Q. You need to answer out loud for the
12 court.

13 A. Yes. I'm sorry.

14 Q. Okay, and can you describe your
15 reaction to receiving this letter at work?

16 A. It infuriated me.

17 Q. Why?

18 A. A, it came to my place of employment,
19 it was opened and I felt that was totally
20 inappropriate, especially to send it to my place of
21 employment.

22 Q. You said it was opened. How does that
23 happen with mail at your workplace?

24 A. My mail gets opened no matter what at
25 the City of Renton. Procedurally I worked for CED,

1 **which is Community and Economic Development, and**
2 **there's administrative staff that opens mail**
3 **constantly.**

4 Q. You've described your reaction to
5 receiving it in that manner. Can you describe your
6 reaction to the content of the letter?

7 A. **It also infuriated me. I felt it was**
8 **an attack.**

9 Q. Did you -- do you know Mr. Maycock?

10 A. **Yes. Colin and I both serve on the**
11 **scholarship committee. I believe he came on board**
12 **two, possibly three years in the past as one of the**
13 **team members for the scholarship committee, which I'm**
14 **the chairman of.**

15 Q. Prior to your receiving that letter
16 that you just described, did Mr. Maycock bring up any
17 financial issues regarding the council with you?

18 A. **None.**

19 Q. Do you recall being present at any
20 meetings where Mr. Maycock was there where he was
21 raising financial issues prior to that letter?

22 A. **No.**

23 Q. Okay. Once you had that letter and
24 prior to the July 2018 board meeting in Boston, did
25 you have a conversation with Mr. Maycock about any of

1 this?

2 **A. No.**

3 Q. Describe what happened at the July 2018
4 Executive Board meeting when Mr. Maycock brought up
5 this issue of the demands for information that he
6 made?

7 **A. It was brought up in the meeting and it**
8 **was tabled till the October meeting.**

9 Q. Why was that?

10 **A. I believe the precedents for that**
11 **Executive Board meeting was to concentrate on the**
12 **upcoming convention. It wasn't a budget discussion**
13 **time or anything like that. Our thrust as Executive**
14 **Board members was to make sure that the -- not only**
15 **the veterans, but the new people coming to the**
16 **convention were well cared for and guided through the**
17 **convention to help educate them and raise their**
18 **enthusiastic level, enthusiasm level.**

19 Q. You're talking about the international
20 convention?

21 **A. Yes.**

22 Q. And the October board meeting, is that
23 generally where finances and budget are taken up?

24 **A. Yes.**

25 Q. So there was a vote to table the

1 financial discussion that Mr. Maycock wanted to have
2 until October; is that your understanding?

3 **A. As I recall, yes.**

4 Q. Did the board address some concerns
5 about the way they had been contacted to Mr. Maycock?

6 **A. Yes.**

7 Q. Describe that for us.

8 **A. It was a range of, it was a range of**
9 **discussion relative to the fact that in most cases,**
10 **as I recall, it was sent to their place of**
11 **employment, and people were irritated with that, and**
12 **some people were more vocal than the others. Some**
13 **had more tact than others.**

14 Q. At the July Executive Board meeting,
15 did the board, besides tabling the financial
16 discussion until October, take any action to support
17 the demands for information from Mr. Maycock?

18 **A. None that I know of at all.**

19 Q. Were you also present at the October
20 Executive Board meeting?

21 **A. Yes. This year?**

22 Q. Yes.

23 **A. Yes.**

24 Q. Did the board choose to take any action
25 with regard to Mr. Maycock's demands for information?

1 Did they take any motion or do anything to support
2 that?

3 **A. No motions to the demand for**
4 **information.**

5 Q. You mentioned that you get a booklet of
6 information about the finances of Council 2 for every
7 board meeting. Do you feel like you've been provided
8 sufficient financial information for Council 2 in
9 order for you to carry out your role as the Executive
10 Board member?

11 **A. Yes.**

12 Q. Do you personally support the demands
13 for the specific information that Mr. Maycock is
14 requesting?

15 **A. No, I do not support it. I have faith**
16 **in our leadership and support it.**

17 MR. STEMLER: Thank you. I have no
18 further questions. Oh, I'm sorry, I do have another
19 question, I forgot to ask something.

20 HEARING OFFICER MCKENNA: Sure.

21 BY MR. STEMLER:

22 Q. Have you been present when other people
23 were hired by executive director or president
24 Dugovich?

25 **A. I have been president for quite a long**

1 time and there have been staff members come and go.
2 There has been administrative help come and go, and
3 there has been legal counsel has came and gone since
4 my presidency.

5 Q. Okay, and is it common for the
6 Executive Board to ratify it by consensus without
7 taking a vote on whether someone should have been
8 hired or not?

9 A. There is no procedure that I can recall
10 at all for the board to take a vote whether Susie or
11 Joey gets hired. It's just the board gets informed
12 that we've made this hire, welcome aboard. Normal
13 and customary that we greet the person, congratulate
14 him or her if they are present.

15 Q. And were you present in January at the
16 Executive Board meeting when I was welcomed there?

17 A. Yes.

18 Q. In your view, did the board ratify my
19 hiring?

20 MR. GRIFO: I'll object to the extent
21 that calls for a legal conclusion.

22 A. I wouldn't use the word --

23 MR. GRIFO: Objection.

24 A. That's okay --

25 HEARING OFFICER McKENNA: Repeat the

1 question.

2 Q. In your view, did the Executive Board
3 ratify my hiring?

4 HEARING OFFICER McKENNA: I'm sorry,
5 was that a legal conclusion?

6 MR. GRIFO: Ratification can occur.
7 It's a legal question whether or not ratification has
8 occurred.

9 HEARING OFFICER McKENNA: How about a
10 vote?

11 MR. GRIFO: I would not object to that
12 question.

13 MR. STEMLER: I think that's already
14 been established. There wasn't a vote.

15 HEARING OFFICER McKENNA: Okay.

16 MR. GRIFO: Or any affirmative action.

17 MR. STEMLER: All right.

18 Q. So the typical practice of the
19 Executive Board is not to vote to ratify hirings; is
20 that correct?

21 A. Correct.

22 MR. STEMLER: No further questions.
23 Thank you.

24 HEARING OFFICER McKENNA: Do you have
25 cross-examination?

1 MR. GRIFO: Yes, I do.

2

3 C R O S S - E X A M I N A T I O N

4 BY MR. GRIFO:

5 Q. Thank you. Mr. Miller, my name is
6 James Grifo. I'll ask a couple of questions in
7 follow-up.

8 You said when you received
9 Mr. Maycock's June 21, 2018 letter, that the content
10 of it felt like an attack?

11 A. It did.

12 Q. Can you tell me why it felt like that?

13 A. Well, A, I don't know how familiar you
14 are with the union movement or what your history is,
15 so I apologize for that, but any letter that poses
16 Freedom Foundation information in it sends a knife in
17 my gut. That organization is not a friend of labor.
18 Labor has been my family for a lot of years and just
19 the mention of it.

20 And the other fact was that I make very
21 good money for what I do as an inspector. In my
22 world, it's a none'ya. When somebody asks me what I
23 make, I tell them clean up, I make a good living.
24 And to attack the president of the Council 2 again
25 was another knife in my side.

1 THE REPORTER: Just a minute. You said
2 it was a none'ya?

3 THE WITNESS: Yes, ma'am.

4 THE REPORTER: Spell it.

5 THE WITNESS: N-O-N-E, Y-A.

6 HEARING OFFICER MCKENNA: As in none'ya
7 business?

8 THE WITNESS: None'ya business.

9 (Discussion off the record.)

10 Q. So in your opinion, it's no one's
11 business what anybody else makes?

12 A. Generally, no. I feel that that is --
13 I personally get attacked a lot as a public employee.
14 My wages are very public, very open, and I get -- I
15 don't want -- I get characterized that I'm an
16 overpaid, underworked POS -- do I need to explain
17 that, ma'am? -- government employee. Drives me nuts.
18 I work hard, my team works hard, every union member I
19 know works hard. And when you attack wages, it just,
20 it boils me.

21 Q. But Mr. Collins June 21 letter, it felt
22 like a attack; is that what I'm hearing you say?

23 A. Yes.

24 Q. Was it more of a request for additional
25 information?

1 **A. No, I felt it as an attack.**

2 Q. Have you ever worked in the private
3 sector?

4 **A. Yes, I've actually owned my own**
5 **construction business. I've worked for nonunion**
6 **companies in slow times. So yes, I have.**

7 Q. As an advocate for the labor movement
8 generally, should employees or those who work below
9 management or higher levels, should there be
10 transparency in those settings so that people who are
11 working real hard every day out in the field know
12 whether or not they're making a fair share relative
13 to what their bosses are making?

14 **A. So you have about four questions there.**

15 Q. That's correct.

16 **A. Okay. So do you want to break them**
17 **down, please?**

18 Q. Sure.

19 **A. If you may.**

20 Q. Sure.

21 Should an employee be allowed to know
22 how much his boss is making?

23 **A. Current state law says it has to be**
24 **that way.**

25 Q. In the private sector?

1 **A. In the private sector, I don't believe**
2 **there is no law.**

3 Q. I'm just asking your general feeling
4 about that. Do you think that would be --

5 **A. It goes back to none'ya.**

6 Q. Have you heard reports or stories of
7 CEOs or other people who run corporations that are
8 making wages that are many, many times higher than
9 those guys out in the field working as hard as you
10 do?

11 **A. Especially in the healthcare industry**
12 **with the CEOs of those healthcare organizations, yes.**

13 Q. How does that make you feel?

14 **A. Well --**

15 MR. STEMLER: I object to that. It
16 doesn't really matter for this.

17 HEARING OFFICER MCKENNA: Yes,
18 sustained.

19 Q. So at this July meeting, you said the
20 July meeting, you made a reference that you received
21 a packet of financial information. I'm not saying
22 this is that specific packet, but have you seen
23 something like this before? It's the first page.

24 HEARING OFFICER MCKENNA: The document
25 has been presented which I will label as CP8.

1 MR. GRIFO: I may have handed someone a
2 copy with my notes on it.

3 MR. STEMLER: Here you go.

4 MR. GRIFO: I'm sorry, that was CP--

5 HEARING OFFICER MCKENNA: 8.

6 **A. This is consistent with the format that**
7 **we receive.**

8 Q. Is this normally what the budgetary
9 component of those meetings was, something similar to
10 this?

11 **A. Something similar.**

12 Q. In looking at this, do you know how
13 many people are Council 2 employees?

14 **A. No, I don't.**

15 Q. Do you care?

16 **A. Nope.**

17 Q. Can you tell how much the employees or
18 staff of Council 2 make based on this documentation
19 individually?

20 **A. You want to make that relative to a**
21 **certain page, please?**

22 Q. Sure. Let's go to the fourth page.
23 Does the general account --

24 **A. This?**

25 Q. Yeah.

1 **A. Okay.**

2 Q. So looking at that page, can you
3 determine the salary or benefits paid to employees of
4 Council 2?

5 **A. I see an aggregate. That's about it.**

6 Q. But there's no way to determine the
7 individual?

8 **A. Correct.**

9 Q. And you don't think -- that's not any
10 of your business?

11 **A. It's not, because jealousy and envy are**
12 **wicked things. And again, back to, you know, you do**
13 **the best you can. You get paid well. We're in the**
14 **labor organization. Employees get paid well for**
15 **that, with good benefits.**

16 Q. So you said you're the president of the
17 local affiliate?

18 **A. Yes.**

19 Q. If one of your members came to you and
20 said hey, how much are the Council 2 staff and
21 employees making, what would you tell them?

22 **A. If I thought it was relative, I would**
23 **show them the first thing to the budget. But I would**
24 **grill down and ask them what the motive is behind**
25 **this first.**

1 Q. And -- but you don't believe that the
2 members of the union should have access to that
3 information?

4 A. I didn't say that.

5 Q. Do you believe that?

6 A. I said that if the information is
7 relative and if it deems worthy of the request, then
8 we can ask.

9 Q. Who gets to make the decision if that
10 request is worthy or not?

11 A. I think that's each personal conscious
12 for a point. And then from there, it depends on the
13 nature of the questioning and whether it is, you
14 know, pertinent to a situation or again is there --
15 is it a personal attack?

16 Q. So you'd evaluate the context within
17 which the request is being made before you would take
18 efforts to find that information?

19 A. Yes, I would.

20 Q. Is Council 2 a nonprofit organization,
21 do you know?

22 A. I don't know if they're -- all the
23 legalities of that at all.

24 Q. Does the international constitution or
25 the Council 2 constitution prohibit an Executive

1 Board member from writing letters to other Executive
2 Board members?

3 **A. No, not that I know of.**

4 Q. Were there any motions at the -- excuse
5 me, I'll go back a bit.

6 In July you said there was no
7 discussion about budgetary matters at the July
8 Executive Board meeting?

9 **A. To the best of my recollection, there**
10 **were no matters over the budget. We were -- there**
11 **was some discussion about airfares and stuff like**
12 **that but not relative to the budget.**

13 Q. Were you provided with a similar packet
14 of information like this at that meeting?

15 **A. I believe we were.**

16 Q. And could that have encouraged a
17 budgetary conversation?

18 **A. It could have, but highly doubtful**
19 **considering that we had six days ahead of us of**
20 **conferences and meetings and trainings and everything**
21 **else.**

22 Q. So it didn't feel like the appropriate
23 place to have that conversation?

24 **A. No, not at all.**

25 Q. Is that why it was tabled to the next

1 meeting?

2 A. The motion came up and it was voted on
3 and it got approved, so --

4 Q. Were you at the October meeting?

5 A. I was.

6 Q. And --

7 A. Even though it was the opening weekend
8 of deer hunting.

9 Q. Oh, sweet. Those things always find a
10 way of happening on the same dates.

11 A. Yeah.

12 Q. Was there any discussion about the
13 budget at that meeting?

14 A. Budget was presented and budget was
15 gone through, and questions were presented at that
16 time and then there was a motion for approval over if
17 I recall correctly.

18 Q. Was there a tabling of any future
19 budgetary issues at the October meeting?

20 A. None that I can recall.

21 Q. Do you recall whether there was a
22 motion to postpone the issues raised by Mr. Maycock
23 to a future date?

24 A. I don't believe there was a motion
25 made, but it's October, so at this time I don't

1 **remember that.**

2 Q. Who sets the compensation packages for
3 Council 2 employees and staff?

4 A. **The president of Council 2 I believe**
5 **presents a budget to the board to preview. That's**
6 **the way it's been for several years.**

7 Q. Who determines -- I'm just going to use
8 the example that Mr. Stemler makes \$150,000 for his
9 work this year. Who makes that decision? I'm not
10 saying that's true. I'm just asking.

11 A. **It's part of the budget that is**
12 **proposed.**

13 Q. And who proposes the budget?

14 A. **I believe, I could be wrong, it's in**
15 **conjunction with the secretary-treasurer and the**
16 **president and the guidance of other staff members.**

17 Q. So when Mr. Dugovich hired Mr. Stemler
18 in December, do you think they had discussed and
19 determined his compensation?

20 A. **With Mr. Stemler being a lawyer, I know**
21 **they discussed compensation.**

22 Q. Probably signed a lot of paperwork?

23 A. **Yes, they probably did. Wouldn't you**
24 **ask for how much you're going to make?**

25 Q. Absolutely.

1 **A. Okay.**

2 Q. So was that information brought to the
3 E-Board at any subsequent time?

4 **A. No.**

5 Q. In the form of this aggregate budget,
6 presumably?

7 **A. In the form of that, but not**
8 **specifically to Ed.**

9 Q. And to the best your knowledge, has any
10 E-Board member asked about the terms or circumstances
11 of Mr. Stemler's compensation?

12 **A. None.**

13 Q. How about any of the other staff or
14 other employees of Council 2?

15 **A. None.**

16 Q. What do you believe the duties of the
17 Executive Board are?

18 MR. STEMLER: I guess I object to that
19 as irrelevant for the charges or not. I'm not sure
20 what --

21 HEARING OFFICER MCKENNA: I'm going to
22 allow it.

23 MR. STEMLER: Okay.

24 **A. The Executive Board has a wide range of**
25 **duties. I'll use myself as an example. One of the**

1 simpler duties is that Council 2 has placed together
2 a scholarship fund, and in that case as an Executive
3 Board member along with other Executive Board member,
4 we reviewed applications and to the best of our
5 ability we dole out those applications. So that is
6 one duty.

7 There's a finance committee that
8 reviews the finances. That committee looks through
9 finances. There's the -- I'm going to call it the
10 development affairs for no other better reason, but
11 legislative committee that looks at upcoming
12 legislation that may either favor or hurt the union.
13 So those are some of the duties.

14 There's a woman action committee which
15 again Executive Board members look to see how we can
16 support our lady members in both, not only their
17 causes, but in their gripes. So the Executive Board
18 is splattered across a spectrum of different
19 responsibilities that the union cause takes up.

20 Q. Does it handle day-to-day operations of
21 Council 2?

22 A. No.

23 Q. Does it monitor the day-to-day
24 operations of Council 2?

25 A. No.

1 Q. Have you ever been to a finance
2 committee meeting?

3 A. **I believe in years past, I have.**

4 Q. Are you on the finance committee?

5 A. **No.**

6 Q. If an employee of Council 2 was being
7 paid more than the Executive Board thought was
8 appropriate, how would that be fixed?

9 A. **Well, first of all, it's never been**
10 **brought forward. And second of all, I don't know, to**
11 **be real truthful. Again, jealousy and envy are**
12 **wicked and I am not a religious person. But when it**
13 **comes to wages, that's -- I have a pretty much**
14 **hands-off approach on that.**

15 Q. Were you given anything to provide
16 testimony today?

17 A. **I received this about -- during the**
18 **break, in case I was questioned about it, is the**
19 **E-Board meeting minutes that go back a couple of**
20 **years.**

21 MR. STEMLER: For the record he's
22 referring to AP4.

23 HEARING OFFICER MCKENNA: Thank you.

24 MR. GRIFO: Thank you for your time
25 today. I have no further questions.

1 HEARING OFFICER MCKENNA: Before you
2 get up, your counsel may have redirect.

3

4 R E D I R E C T E X A M I N A T I O N

5 BY MR. STEMLER:

6 Q. I do have a couple of questions for
7 you, just about done.

8 I just want to make a distinction
9 between discussion of budget and discussion of
10 finances, and if you take a quick look at that
11 Exhibit-4 there, on the very first page, is there,
12 for example, a report from the secretary-treasurer
13 that deals with how much money is in the account?

14 A. Yup.

15 Q. Is that --

16 A. Yes. Excuse me.

17 Q. And is that common practice to have
18 that reported at each Executive Board meeting from
19 the secretary-treasurer?

20 A. Yes.

21 Q. But when it comes to budget items like
22 salaries or benefits or things like that, is that
23 what is generally taken up at the October meeting in
24 conjunction with the budget?

25 A. Yes.

1 MR. STEMLER: Thank you. Nothing
2 further.

3 HEARING OFFICER MCKENNA: Any recross?
4

5 R E C R O S S - E X A M I N A T I O N

6 BY MR. GRIFO:

7 Q. Has there ever been a discussion at the
8 October meeting about the budget, the salaries?

9 A. This last budget, it was --

10 Q. Sorry.

11 A. No problem.

12 It was posed about as an advisory, the
13 raises that were being proposed, a percentage. I
14 spoke against it, thought they were too cheap.

15 Q. Was that as far as the specific --

16 A. Yup.

17 Q. -- compensation?

18 Is that common with past practice in
19 your experience?

20 A. This is the -- generally I do not make
21 the October E-Board meetings because that is hunting
22 season and from September through January, please
23 don't bother me because I'm not in control of my days
24 status and my work. So generally I do not make the
25 October meetings.

1 Q. But in the October meeting that you
2 have made it, is that kind of --

3 **A. This last meeting, there was a**
4 **discussion about the potential raises to staff**
5 **people.**

6 Q. On an aggregate, across the board?

7 **A. Across the board.**

8 Q. No discussion with regard to specific
9 individual compensation?

10 **A. None.**

11 MR. GRIFO: Thank you.

12 MR. STEMLER: Nothing further. Thank
13 you.

14 HEARING OFFICER MCKENNA: Thank you,
15 you're excused.

16 THE WITNESS: Okay.

17 (Discussion off the record.)

18 MR. STEMLER: I'd call Conni Uhinck.

19

20 CONNI UHINCK, witness herein, having been.
21 first sworn on oath,
22 was examined and testified
23 as follows:

24

25

1 DIRECT EXAMINATION

2 BY MR. STEMLER:

3 Q. Where do you work at?

4 A. I work at Kitsap County for the
5 district court.

6 Q. What do you do there?

7 A. I'm a court clerk.

8 Q. And are you a union member?

9 A. I am.

10 Q. And do you hold a role within the
11 union?

12 A. I do.

13 Q. What is your role within the union?

14 A. Vice-president of the local, 1308. I'm
15 also on the women's action committee for Council 2
16 and an E-Board member of the Council 2.

17 Q. How long have you been on the Executive
18 Board for Council 2?

19 A. Oh, I think 22 years, but there was two
20 years where I was not.

21 Q. All right. Do you know Colin Maycock?

22 A. Barely. I talked to him in an elevator
23 one time. That's all I remember.

24 Q. I want to talk to you about events
25 leading up to the July 2018 Executive Board meeting.

1 Prior to that meeting, did you receive a letter that
2 Mr. Maycock had directed to Chris Dugovich?

3 A. I did.

4 Q. Can you describe the circumstances of
5 that, please?

6 A. I'd been in court all day, crazy busy
7 day, and it was late afternoon and I came back down
8 my desk. I'm in a very open office, and --

9 Q. Just a second, this exhibit may help
10 you here.

11 HEARING OFFICER MCKENNA: So this
12 document we're going to label as AP5.

13 A. So I came to this on my keyboard
14 (indicating) and it had been opened, and so I briefly
15 opened it and read it.

16 Q. Just a second. So just a question
17 about the document itself. There's two stamps on
18 there. Can you tell us what your experience is with
19 the stamps on this document?

20 A. The one that says received June 26 is
21 my department. So that's the date it came in to my
22 department. The one in smaller print says it was
23 opened by the mailroom staff, questions regarding
24 Jamie Linville and her phone number. That is our --
25 this is an office of six workers and a supervisor.

1 Q. Just a second. I'll have you describe
2 that for me in a little bit. I wanted to just focus
3 on the letter itself for a minute. So let's go back
4 to that.

5 So you received that envelope in an
6 opened condition with those stamps on it. What
7 happened then?

8 A. I read it and put it back in the
9 envelope and put it in my to-go-home bag.

10 Q. What was your reaction to that letter?

11 A. A couple of things. One, was oh, boy,
12 this guy has got a beef with Council 2. I wonder
13 what's up?

14 The other thing was, that really hit me
15 in the face was, it was the same week that the Janus
16 decision came down, and things were very crazy in my
17 workplace because of that, and it is a little smell
18 of Freedom Foundation and it bothered me and it
19 concerned me.

20 Q. Why does the Freedom Foundation concern
21 you?

22 A. Because of the Janus decision and their
23 role in it and members coming to me about opting out
24 that week, very heavily, a lot of discussion, a lot
25 of training and it was just kind of look, whoa, it's

1 **starting.**

2 Q. So the timing of it was of concern to
3 you?

4 **A. Yes.**

5 Q. Had Mr. Maycock spoken to you about any
6 of this information he was requesting prior to your
7 seeing that letter?

8 **A. No.**

9 Q. Had you heard Mr. Maycock at any of the
10 Executive Board meetings, and it sounds like you've
11 been to a lot of them, bring up of any of these
12 financial issues prior to that July 2018 board
13 meeting?

14 **A. No, but I couldn't put a face to the**
15 **name on the letter.**

16 Q. Okay. All right. Now you have the
17 letter. Did you talk to Mr. Maycock prior to the
18 Executive Board meeting?

19 **A. No.**

20 Q. He never contacted you either?

21 **A. No.**

22 Q. Describe for us what took place at the
23 July 2018 Executive Board meeting with regard to
24 Mr. Maycock bringing this up and the board, the
25 executive board's reaction, please.

1 **A.** I think he stood alone in that meeting.
2 A lot of people offered comments negatively towards
3 what he was attempting to do. I didn't speak at that
4 meeting, because I didn't have anything in addition
5 to offer other than what was being said by other
6 members.

7 **Q.** The specific information that he
8 requested about individuals' salaries and specific
9 breakdowns of benefits and things along those lines,
10 did the board take any action to further
11 Mr. Maycock's request to provide this information?

12 **A.** I believe it was tabled until the
13 October meeting.

14 **Q.** With regard to the -- after the meeting
15 now, were you concerned about the effects that this
16 letter had on your particular local?

17 **A.** Not immediately.

18 **Q.** When did that happen?

19 **MR. GRIFO:** I'm going to object to the
20 relevancy of this line of questioning. I understand
21 you're attempting to malign the mailing of a letter
22 to other people, but I'm not entirely sure how it's
23 relevant to the particular claims that have been
24 brought.

25 **MR. STEMLER:** And again, the method in

1 which he has contacted these people and the effect on
2 the local of him including Freedom Foundation numbers
3 in a letter that got opened by an employer I think is
4 important for you to consider.

5 HEARING OFFICER MCKENNA: Well, just
6 recall that I'm moving only on the specific charges
7 as filed. So I understand you want to provide some
8 context. Be under no delusion that the hearing
9 officer is not aware of Janus, of course, but yeah --

10 MR. GRIFO: You're not aware of Janus?

11 HEARING OFFICER MCKENNA: I'm very
12 aware of the Janus decision and I know what the
13 Freedom Foundation is.

14 MR. GRIFO: Yeah.

15 HEARING OFFICER MCKENNA: You don't
16 have to spend a lot of time there.

17 Q. I'll leave it with one question, the
18 one that was objected to, if that's allowed.

19 Did this have a negative impact on your
20 local and membership, this letter?

21 **A. Should I answer?**

22 HEARING OFFICER MCKENNA: You're asking
23 just about the letter?

24 MR. STEMLER: Yes.

25 HEARING OFFICER MCKENNA: Yes.

1 **A. Yes, it did.**

2 MR. STEMLER: I'll leave it at that.

3 HEARING OFFICER MCKENNA: All right.

4 Q. Were you present at the October meeting
5 of the Executive Board?

6 **A. I was, yes.**

7 Q. At that meeting, did the board take any
8 action to support the demands for information that
9 were made by Colin Maycock?

10 **A. No.**

11 Q. As an Executive Board member, have you
12 reviewed a great deal of financial information about
13 Council 2 over the years?

14 **A. Yes.**

15 Q. Do you get a packet at every meeting?

16 **A. Yes.**

17 Q. Does the packet include aggregate
18 salaries, benefits, all of those kind of things?

19 **A. Yes.**

20 Q. Do you feel that information is
21 sufficient for you to perform your role as an
22 Executive Board member?

23 **A. Yes.**

24 Q. Are you on the finance committee?

25 **A. Not this term.**

1 Q. You're aware there's a finance
2 committee?

3 **A. Yes.**

4 Q. Does the finance committee have a more
5 in-depth role with regard to specific financial
6 information about Council 2?

7 **A. Yes, but it ebbs and flows.**

8 MR. STEMLER: Okay. Thank you. I have
9 no further questions.

10

11 C R O S S - E X A M I N A T I O N

12 BY MR. GRIFO:

13 Q. You mentioned that when you did receive
14 that letter, that it was close in time to the Janus
15 decision; is that correct?

16 **A. Correct.**

17 Q. Were people in your local union feeling
18 some anxiety about that?

19 **A. Yes.**

20 Q. Were they feeling fear for the future
21 of the union, generally speaking?

22 **A. Yes, but other anxieties as well.**

23 Q. Do you think that if that decision had
24 not come down at the same time that this letter was
25 received, it might not have had such an influence?

1 **A. Possibly.**

2 Q. Do you have any reason to believe that
3 Mr. Maycock works with or for the Freedom Foundation?

4 **A. Not facts.**

5 Q. You have no evidence to support that?

6 **A. No.**

7 Q. You mentioned that -- I'm going to go
8 to CP8. I don't know if you have a copy of that in
9 front of you. Have you seen this document before?

10 **A. It's in the book, yes.**

11 Q. This is representative of the kind of
12 information that you usually receive in advance of
13 your E-Board meetings?

14 **A. Yes.**

15 Q. How can you as an Executive Board
16 member determine how many staff or employees are
17 serving Council 2 based on this information?

18 **A. I've never tried. I wouldn't be able
19 to.**

20 Q. Do you have any interest in knowing how
21 many people are employed by Council 2?

22 **A. Not until I walked in here today.**

23 Q. Are you curious now?

24 **A. Maybe a little bit more than when I
25 walked in.**

1 Q. Do you know -- well, if you don't know
2 how many people are employed, do you know how much
3 any of them are being paid for the services they're
4 performing?

5 A. I'm sure there's a high person and a
6 very low person, and a lot of in between. I don't
7 know.

8 Q. But you don't know the specifics?

9 A. No.

10 Q. So is it hard to monitor or track a
11 budget if you don't have that specific detailed
12 information?

13 A. I have never tried to do that, so I
14 don't know how to answer your question.

15 Q. Have you ever tried to keep a budget
16 for yourself?

17 A. Oh, yeah.

18 Q. And do you just present yourself with
19 an aggregate each month, I spent 10,000 this month
20 so --

21 A. I just spend it.

22 Q. But do you attempt to track where the
23 money -- have you ever attempted to track where the
24 money is going specifically?

25 A. Probably.

1 Q. Wouldn't you need to know where it's
2 going and where you're spending it in order to either
3 increase or decrease it with consideration?

4 **A. Not regularly.**

5 Q. I believe you said you're a
6 vice-president of a local; is that correct?

7 **A. Yes.**

8 Q. If a member had come to you and said
9 hey, I'm curious, how much does our executive
10 director make each year, what would your reaction to
11 that question be?

12 **A. I would probably ask my staff rep.**

13 Q. And you think your staff rep would tell
14 you the answer to that?

15 **A. I think he would try to get an answer,**
16 **yes.**

17 Q. So you think that it's okay for
18 Executive Board members or a local affiliates in
19 their elected capacity, be it vice-president or
20 otherwise, should be able to ask somebody at the
21 union for that information?

22 **A. Boy, it's -- in the proper manner,**
23 **sure.**

24 Q. But there's no reason that a particular
25 member shouldn't have the answer to that question?

1 I'm talking just with reference to the figure, not
2 whether it's right, whether it's wrong, just what is
3 it, no judgments, just facts.

4 **A. Can you repeat the question?**

5 Q. Sure.

6 Should a member be able to ask for the
7 figure being paid to the executive director, for
8 example?

9 **A. I think he should be able to ask**
10 **anything, sure.**

11 Q. Do you think the union has a duty to
12 respond to that member?

13 **A. I don't know all the laws. I don't**
14 **know what --**

15 Q. I'm just asking you what you feel.
16 What do you feel?

17 **A. I suppose, yeah.**

18 Q. Because you pay dues?

19 **A. Yeah.**

20 Q. So does it seem fair that you would get
21 to know how that money is spent?

22 **A. Yes. There's just so many pies,**
23 **though, there's so many pieces.**

24 Q. There's certainly a lot of data, yeah.

25 **A. Up and down the ladder.**

1 Q. But if you really want to drill in and
2 better understand how the money that you give each
3 month -- I mean, you work hard for that money that
4 you pay as these dues, and if you wanted to know
5 where they were being spent, shouldn't you have the
6 opportunity to have that information?

7 A. I'm not sure how to answer that
8 question because it's just never come up before to
9 me.

10 Q. You've never thought about it until
11 today?

12 A. No, I never have. I guess, wouldn't
13 that be covered under public disclosure? I don't
14 know.

15 Q. So you mentioned that you had served on
16 the finance committee, did you?

17 A. For two years.

18 Q. And how many people were on that
19 committee with you?

20 A. Gosh, I think there was like six or
21 eight.

22 Q. Do you know how many of those people
23 are paid or otherwise compensated by the union?

24 A. I -- we're not paid except for per
25 diem.

1 Q. Oh, I'm sorry, on salary or get wages
2 or benefits.

3 A. So how many of Council 2?

4 Q. Yes.

5 A. Okay. Can you repeat the question?

6 I'm sorry.

7 Q. How many paid employees or staff of
8 Council 2 are on the finance committee?

9 A. Just Chris.

10 Q. Chris?

11 A. Oh, and Kathleen maybe.

12 Q. Then in your experience, there were two
13 other Executive Board members?

14 A. I think there was six nonsalaried
15 Council 2 people.

16 Q. And at those meetings, did you ever
17 discuss the benefits or payment or compensation of
18 the Council 2 employees?

19 A. The only thing I can think of would be
20 the proposed COLAs, cost of living adjustments.

21 Q. And would that be with regard to an
22 aggregate number? I mean, you weren't talking about
23 specific compensation packages, but individual?

24 A. Correct, correct, the board.

25 Q. Do you know who sets the specific

1 compensation packages for individual employees?

2 **A. I believe it's proposed and negotiated.**

3 Q. Did you ever participate in those
4 proposals or negotiations?

5 **A. Only to vote to approve.**

6 Q. When you did that, when you adopted the
7 proposed budget for the following year?

8 **A. Correct.**

9 Q. And that's -- I'll go back to CP4, this
10 is my copy, does it look more or less like this?

11 **A. Yeah, similar.**

12 Q. Then you'll take a vote based on the
13 aggregate information contained in it?

14 **A. Correct.**

15 HEARING OFFICER McKENNA: I want to be
16 clear.

17 The witness, you said that you approve
18 or vote on the aggregate budget. Did you also say
19 that you vote on individual salaries?

20 THE WITNESS: No.

21 HEARING OFFICER McKENNA: Thank you.

22 MR. GRIFO: I have no further
23 questions.

24 HEARING OFFICER McKENNA: Did you have
25 any further questions for your witness?

1 MR. STEMLER: No, I don't have any
2 other questions.

3 HEARING OFFICER MCKENNA: You're
4 excused. Thank you, sister.

5 MR. STEMLER: I'd like to call Chris
6 Dugovich.

7
8 CHRIS DUGOVICH, witness herein, having been.
9 first sworn on oath,
10 was examined and testified
11 as follows:

12
13
14 D I R E C T E X A M I N A T I O N

15 BY MR. STEMLER:

16 Q. Please tell us where you work and what
17 you do.

18 A. I'm president and executive director of
19 the Washington State Council.

20 Q. How long have you worked for that
21 organization?

22 A. I was hired in April of '82. I've been
23 president since October of '89.

24 Q. Describe just a little bit. I know
25 it's big, but describe a little bit about your role

1 as executive director and president.

2 A. Well, I direct the staff. I operate
3 the budgets and all this other good stuff, oversee
4 the negotiations of 174 contracts in 174 different
5 jurisdictions. I have staff across the state and a
6 number of offices. We also have a health and welfare
7 trust that I take care of, and we also have a
8 building corporation that I take care of.

9 Q. And can you just describe a little bit
10 about the building corporation, start with that?

11 A. The building corporation is a
12 for-profit entity that we started in 1992. It didn't
13 make a lot of sense to be occupying these buildings
14 in some cases, not owning them -- or in all cases at
15 that point not owning them.

16 We bought buildings and occupied those
17 buildings. We now own five buildings across the
18 state, which make money.

19 Q. Can you describe your relationship with
20 the Executive Board?

21 A. Yeah, I'm the chair of the board.
22 Basically I think that describes it. I'm the chair
23 of the board. I run the meetings. We have three
24 meetings a year and various locations across the
25 state, open to any member. There's 23 members on the

1 **board across the state, elected by districts.**

2 Q. Is Colin Maycock one of those?

3 A. **He is.**

4 Q. Do you know about how long he's been on
5 the board?

6 A. **I think Colin has been there three
7 years, a little over three years.**

8 Q. And prior to this letter on June 21,
9 2018, before that, can you describe your interaction
10 with Mr. Maycock?

11 A. **Very rare and seldom, probably hey, how
12 you do doing, that type thing. Prior to that, he was
13 a member of the board, came to the board meetings,
14 was part of the proceedings, but not a lot of
15 interaction.**

16 Q. At any of the board meetings prior to
17 this June 21 letter, do you recall Mr. Maycock asking
18 questions or starting discussions about financial
19 matter for the council?

20 A. **Never.**

21 Q. Prior to your receipt of that letter,
22 had Mr. Maycock contacted you for financial
23 information?

24 A. **No.**

25 Q. Describe what happened with regard to

1 getting that letter, the June 21 letter. You know
2 the one I'm talking about?

3 A. Right. Well, the back-up on that is
4 that we'd had a lot of interaction of the two cases
5 in San Juan County, the unfair labor practice due to
6 the skimming and also the unit clarification dealing
7 with who was in and out of the bargaining unit.

8 We did our best to explain to Colin why
9 we didn't have a case. It relied on a lot of
10 reasons, most of all, in the unit clarification, we
11 didn't have any witnesses. None of these nine people
12 that it was carved down to -- there was a mediation
13 process. I believe it started at 21. We mediated
14 it, we got it down nine.

15 And we got to that point and there
16 was -- there's two ways to skin that cat. We could
17 go through the unit clarification process or we could
18 organize them and accrete them into the unit, make
19 them part of the bigger unit.

20 So my direction once we learned that
21 the merit of these positions would be very difficult,
22 I sent staff representative up there, Matt Miller and
23 said Matt, go talk to these nine people and see how
24 many cards you can get and see if we can organize
25 them into the unit.

1 Subsequently, he came back and reported
2 that eight out of the nine would not testify and
3 there was one that might have been borderline, and
4 clearly eight out of the nine were perturbed about
5 the fact that we were going after them and we were
6 going to make them part of the unit. They would not
7 testify. The ninth one was so-so, to my
8 understanding.

9 Now, the second case was an unfair
10 labor practice over skimming, which involved lawn
11 motion. There was two individuals involved in that.
12 Both of those individuals felt strongly that they did
13 not want to testify to what we needed to hear in a
14 hearing process. So we didn't have a case. The
15 merits of the case just were not there.

16 So subsequently -- and these cases were
17 evaluated by two attorneys, the previous attorney
18 Audrey Eide, and Ed, who came on board. Both
19 individuals came to the same conclusion. We didn't
20 have a case. And we tried many times to explain to
21 Mr. Maycock that we would just not be successful in a
22 hearing setting, to the point of also I pointed it
23 out to Colin --

24 MR. GRIFO: I'm going to object the
25 extent it's irrelevant to the charges that are

1 pending before you.

2 MR. STEMLER: This sets the stage for
3 the letter which is part of what we're getting at
4 here, and it also relates to charge 2 that
5 Mr. Dugovich is charged with.

6 HEARING OFFICER MCKENNA: Okay. Do you
7 think we can move to the next question at this point?

8 MR. STEMLER: I wanted --

9 A. We tried our best to explain to Colin
10 that we didn't have a case, and I thought hopefully
11 we were completed with that. And I got the letter
12 out of the blue on July -- on June 21, basically
13 demanding all types of financial information and also
14 citing the Freedom Foundation as his source of
15 information in the letter.

16 Q. So just a second. So were you involved
17 in directing the litigation with regard to 1849 and
18 San Juan County that Mr. Maycock is president of?

19 A. To the extent that it's based on the
20 recommendations I get from the attorneys.

21 Q. And it was after your interactions with
22 Mr. Maycock about those legal cases that you got this
23 June 21 letter?

24 A. Yes.

25 Q. And you seem to be drawing a connection

1 between those things. Why is that?

2 **A.** It's clearly in my view at the time,
3 not only did he cite the Freedom Foundation, which
4 really put the red flags up, but it was out of the
5 blue. I mean, there had never been any past history
6 of any disagreement or request for financial
7 information that he had made, never a phone call, a
8 conversation or anything of that nature. So I was
9 surprised that I received it, very surprised at that
10 time.

11 **Q.** I want to talk for a few minute about
12 the financial information that the council shares
13 with the Executive Board.

14 **A.** Uh-huh.

15 **Q.** Are you familiar with what financial
16 information gets shared with the Executive Board?

17 **A.** Yes.

18 **Q.** Can you describe how that process works
19 for us?

20 **A.** Well, every Executive Board meeting
21 they receive a packet which includes a number of
22 financial documents.

23 **MR. STEMLER:** I didn't have these as
24 exhibits for everybody, but I just would like to use
25 them for illustration here if we could. This is a

1 copy of each. It didn't seem practical to make
2 copies for everybody. Is there a concern about that
3 procedure?

4 HEARING OFFICER MCKENNA: I don't
5 really think that's necessary. I understand that at
6 board meetings, people are provided with packets of
7 information.

8 MR. STEMLER: Okay.

9 HEARING OFFICER MCKENNA: If there's
10 something specific you need to point out, that would
11 be different.

12 Q. The kind of information that are
13 provided, do you comply with Council 2 and the
14 international constitution about what information
15 needs it to be provided?

16 A. Yes.

17 Q. Does that include aggregate salary
18 information and benefits information?

19 A. Yes.

20 Q. And can you tell us a little bit more
21 about the finance committee and the role of the
22 finance committee?

23 A. See, prior to -- the board meetings are
24 held on a Saturday. Prior to the Saturday meetings,
25 on Friday there's a finance committee, usually

1 happens at 3:00 or 4:00 in the afternoon. All
2 members of the board come in on Friday so they can
3 attend the finance committee.

4 At the finance committee specifically,
5 there's a much more in-depth process in regards to a
6 new budget or in regards to the yearly audit that we
7 have done by the outside independent auditors, or the
8 operating -- the trust statement, the operating
9 statement, political action statement, the building
10 corporation statement. All those things are gone
11 over, questions are asked. We try to answer to the
12 best of our ability.

13 Q. So you provide financial information
14 about all of those components that you just
15 mentioned?

16 A. Correct. Also, the finance committee
17 goes into much more in depth in terms of the actual
18 salaries. We have a staff union that we negotiate
19 with traditionally every three years, it doesn't have
20 to be every three but it has been every three, where
21 we go over what will be proposed in regards to the
22 staff for a new contract.

23 So that's all approved by the finance
24 committee. Based on all this information the finance
25 committee gets in the budgetary year, they either

1 **recommend or not recommend the final product that**
2 **came out of the finance committee and then the board**
3 **has the opportunity to approve or disapprove.**

4 Q. I'm going to go forward in time now.
5 So with regard to this June 21 letter, that you said
6 you didn't have any heads-up before that came?

7 A. No.

8 Q. And did you respond to that letter to
9 Mr. Maycock?

10 A. Yes. Basically, I believe I said we're
11 just not going to provide that in-depth information
12 on individuals.

13 Q. Can you describe that for us? What's
14 been the practice of Council 2 regarding that?

15 A. Well, the practice is that that type of
16 information goes through the finance committee, and
17 I've always been a firm believer that there's some
18 confidentiality in this process that all our
19 employees deserve. It can be used as a hammer
20 against them in local meetings and I think it's
21 always been important that that is not made available
22 to the extent that it just asks for that.

23 Q. You mentioned that you noticed that the
24 Freedom Foundation was mentioned in Mr. Maycock's
25 letter?

1 A. Uh-huh.

2 Q. Did that cause you concern?

3 A. A great deal of concern. We've been
4 sued by the Freedom Foundation in Thurston County
5 where they recruited some of our members and they
6 went after us. Subsequently because of the nature of
7 the suit at the time, and this is within the last two
8 years, we settled with them, it cost us 15,000 plus
9 our legal fees to defend ourselves. I'm doing my
10 best to avoid further suits that cost Council 2 money
11 in regards to that foundation.

12 Q. Do those suits cost money whether they
13 have merit or not?

14 A. Yes.

15 Q. After you let Mr. Maycock know that you
16 were not going to provide those specific detailed
17 information that he was requesting, did you have any
18 other contact with him before the July 2018 board --
19 Executive Board meeting?

20 A. Right, I basically told Colin in an
21 email or a letter that he could have the -- I would
22 give him time at the E-Board meeting in July to bring
23 up these issues, which he did. Subsequently after
24 his statements, the board chose to table that, any
25 further discussion until the October meeting.

1 Q. Is that consistent with past practice
2 to talk about finances at the October meeting?

3 A. Yes.

4 Q. Why? What happens then?

5 A. Every October we do our next year's
6 budget. That's been going on for many, many --
7 that's been going on since I started or I became
8 president.

9 Q. At the July meeting in Boston, the
10 Executive Board meeting, can you describe the
11 reaction of the board to Mr. Maycock's letter?

12 A. Well, it was a pretty angry crowd
13 generally speaking, and amazing as it may seem, I did
14 my best to tamp it down to a degree. There were
15 people that received his initial letter at work and
16 employers had seen it. We believe we've lost members
17 because of it. It was not appropriate for that to
18 occur. There was many forms for him to address his
19 issues, and that certainly wasn't the way to do it.

20 Q. Did the board take any action to
21 support Mr. Maycock's demands for information, either
22 in the financial realm or the legal case realm, at
23 that July meeting, Executive Board meeting?

24 A. No.

25 Q. After the July Executive Board meeting,

1 did you have contact with the board about
2 Mr. Maycock's -- well, did you learn about judicial
3 charges?

4 A. I did. It was within 30 days, I
5 learned, I got a copy of the Judicial Panel charges
6 he had filed, which is the hearing today, and again,
7 that was a surprise.

8 Q. Why was that a surprise?

9 A. Well, because we had basically asked
10 him and by all indications he had agreed with the
11 fact that he would bring anything forward at the
12 November meeting -- or at the October meeting, and I
13 didn't expect these Judicial Panel charges.

14 Q. He filed the Judicial Panel charges and
15 then did that cause you to take some action with
16 regard to the Executive Board and providing some
17 information?

18 A. Well, yeah. I wrote a letter to the
19 board with a copy of the panel charges telling them
20 what was occurring, what I believed our defense was
21 to a degree and that was the extent of it.

22 HEARING OFFICER McKENNA: The document
23 has been handed to me which I will now labeled as
24 AP6.

25 Q. Can you tell us what that is, AP6?

1 A. Well, this is a letter that went out to
2 the board accompanied by the charges, just telling
3 them basically what the allegations were, why I
4 believed they didn't have merit, and letting them
5 have some information about what was going on. We
6 don't have a lot of these filed at Council 2. We
7 haven't had any filed in many, many years, so this
8 was new.

9 Q. After that September 6 meeting, did you
10 learn that Mr. Maycock had intended to discuss the
11 judicial charges at his local meeting for 1849 on
12 September 15?

13 A. I did.

14 Q. What was your reaction to that?

15 A. Well, I saw a copy of the agenda for
16 his local union meeting that came through my email
17 and, you know, here I'd been talking to the staff rep
18 about it, because under this new world we're living
19 in with Janus, these kind of things can really start
20 to hurt. When you start presenting accusations as
21 fact, it definitely can hurt. So we were concerned.
22 I mean, I organized this local in 1988. I've got
23 something invested up there, and brought a great deal
24 of concern.

25 Q. Did you plan to attend that September

1 15 meeting?

2 A. I did, but then I had a family thing
3 that came up and it seemed to me we had you going and
4 we had the staff rep going, so that ought to cover
5 it.

6 Q. The day before that meeting, did you
7 get a phone call with some information that relates
8 to the meeting that was going to take place in 1849?

9 A. I did. Out of the blue I got a phone
10 call from a lady, from an attorney who works for the
11 Campbell Schwerin firm in Seattle, which is one of
12 the labor law firms in the state. She was party to a
13 suit that they had brought against the Freedom
14 Foundation --

15 MR. GRIFO: Object, object on
16 relevance.

17 HEARING OFFICER MCKENNA: Let's hear.

18 A. A suit that was broad by the Freedom
19 Foundation where it was alleged, and substantiated by
20 two courts, the trial court and the court of appeals,
21 that a member of the staff had stole their membership
22 list and sold it to the Freedom Foundation. Now, her
23 point was she wanted to know if I knew an individual
24 by the name of Dean Tharp.

25 I said yes, Dean Tharp used to work for

1 us. He left at the beginning of the year. She said
2 did you know he wrote a letter of endorsement for the
3 attorney that is defending the Freedom Foundation who
4 is running for prosecuting attorney in San Juan
5 County? And I said no, I didn't know that.

6 Subsequently, she sent me a copy of the
7 that endorsement letter that appeared in the local
8 newspaper in San Juan County. That really brought
9 concern. Then when I further looked at the agenda in
10 regards to the local meeting, I saw that Nick Powers,
11 the attorney in question, was seeking the endorsement
12 of our local union.

13 If by any stretch of the imagination
14 that individual would have got elected to that county
15 prosecutor's spot, he could have done us great
16 damage, not only in San Juan County, but statewide.
17 He could have flagged around the union endorsement
18 for a Freedom Foundation supporter and hurt us I
19 think to a degree, and then been active in the
20 prosecutors association and spread that word across
21 the state.

22 HEARING OFFICER MCKENNA: So accused
23 party counsel just handed me two documents, which I
24 label as AP7. Could you explain what they are.

25 MR. STEMLER: Yes.

1 Q. So AP7, that first document that you
2 have in your hand, would you --

3 **A. Which one?**

4 MR. GRIFO: I'm also going to object to
5 relevancy to both of these. I haven't had a chance
6 to look at them closely. I'm just preserving that
7 objection.

8 HEARING OFFICER McKENNA: You can look
9 at them now. Take the time you need to look at them
10 since they're being presented.

11 MR. GRIFO: Okay.

12 MR. STEMLER: Do you want me to wait a
13 minute?

14 HEARING OFFICER McKENNA: Do you want
15 to break to look at them?

16 MR. GRIFO: Yeah, actually, can we take
17 a break?

18 HEARING OFFICER McKENNA: We'll go off
19 the record for a short break.

20 (Brief recess.)

21 HEARING OFFICER McKENNA: Back on the
22 record.

23 Q. Can you go ahead and identify for us
24 what AP7 is and --

25 **A. AP7 is the actual suit that was**

1 **provided to me for the attorney for SEIU --**

2 MR. GRIFO: I'm sorry, if we're on 7, I
3 didn't realize that was entered. I will renew my
4 objection to that one to the extent that the notice
5 of appearance, make what you will, with the
6 attachment to the back of that appears to be a
7 separate spreadsheet.

8 HEARING OFFICER MCKENNA: The 21 Nick
9 Power cases against government?

10 MR. GRIFO: Those typically aren't
11 filed with the notice of appearance. I don't know if
12 -- was this one individual document?

13 THE WITNESS: See, you got that on the
14 back.

15 Q. Mr. Dugovich, how did you receive the
16 information?

17 A. **Yeah, all this was provided to me by --**

18 MR. GRIFO: Here.

19 A. **-- Danielle Malone, who works for the**
20 **Campbell law firm, in regards to Nick Power**
21 **activities with the Freedom Foundation and his**
22 **actions taken against the Democratic Party.**

23 Q. And AP number 8, we might as well go
24 ahead and describe that too, please.

25 A. **This has to do from Danielle, there's**

1 an individual by the name of Gilmore, who is
2 notorious for filing what I'll call nuisance actions
3 against public forms of government in regards to
4 information requests, and Nick Power had been active
5 as the attorney in all those actions.

6 MR. GRIFO: I'm also going to object on
7 the basis of hearsay, AP8.

8 HEARING OFFICER MCKENNA: I understand
9 your objection. What I will say is that having the
10 discretion whether to take things in as evidence, I
11 tend to take more in, but that doesn't mean it's
12 going to factor in my decision. Because when I get
13 back with the transcript and all of the evidence, and
14 I'm sitting down to evaluate the case, some things
15 actually have no meaning to the decision. So --

16 MR. GRIFO: But you'll give it the
17 weight it deserves.

18 HEARING OFFICER MCKENNA: Exactly.

19 MR. GRIFO: Actually, that's the
20 shorthand way of saying objection. I don't want to
21 waive any objections for the future.

22 HEARING OFFICER MCKENNA: Absolutely,
23 you can do that, you can object.

24 MR. GRIFO: I appreciate the
25 clarification.

1 Q. With regard to the phone call that you
2 received before the September 15, 1849 local meeting
3 that Mr. Maycock was the president of, you were aware
4 that the judicial charges were going to be discussed
5 at the same meeting that Nick Powers was going to be
6 at as a political candidate; is that right?

7 A. **Yes.**

8 Q. Did that give you some concerns?

9 A. **Yeah.**

10 Q. Why?

11 A. **This guy can really hurt us. He's got**
12 **a conduit to the Freedom Foundation. There's a**
13 **number of things going on in terms of emails and**
14 **things like that telling our membership to opt out,**
15 **drop their dues. This guy is all party to that.**

16 Q. Are you familiar with the AFSCME
17 financial standards code generally?

18 A. **It's something I don't spend a lot of**
19 **time with, but I'm aware of it.**

20 Q. I want to direct your attention to
21 Article X, and can you take a look at that and tell
22 us what that is?

23 A. **Article X deals with confidentiality,**
24 **that there is a line to be drawn per the**
25 **international on what should be available and what**

1 shouldn't be, and specifically in this new world
2 we're in, since June 27, that information can be used
3 as a big hammer against us in terms of us losing
4 members.

5 HEARING OFFICER MCKENNA: I've been
6 given another document by accused party counsel which
7 I will label as AP8.

8 Q. Now, on AP8, can you take a look at the
9 second page of that first, please, and tell us what
10 that is?

11 A. That's the excerpt from the
12 international confidentiality financial records code.
13 That's part of the financial standards code.

14 Q. Now, were you present at the October
15 2018 Executive Board meeting?

16 A. Yes.

17 Q. These charges were pending at that
18 time; is that correct?

19 A. They were.

20 Q. At the October board meeting, is that
21 the place where budget information is generally
22 discussed?

23 A. Yes.

24 Q. And with regard to the finance
25 committee meeting in October, can you describe some

1 of the information that was provided to the committee
2 at that October meeting?

3 A. Right, it's an 11-member committee that
4 goes over in depth finances of the council. This
5 year, because of the fact that we had a staff
6 contract that was expiring December 31, we needed to
7 determine what we were willing to offer in terms of a
8 new negotiated contract with the staff, so individual
9 salaries and benefits was all discussed.

10 Q. Okay. At the finance committee
11 meeting, did you tell the finance committee members
12 what the salary and wages were for the officers of
13 Council 2?

14 A. Yes, we went over the individual
15 ranges. We went over the individual salaries of the
16 what we call the exempt staff, which is everybody
17 outside of the staff of the union.

18 Q. Did the finance committee -- let me ask
19 you this first.

20 Has there been a practice with regard
21 to the requests for information, for specific
22 financial information about exempt employee salaries
23 that Council 2 has followed in the past?

24 A. Yes. Generally speaking, it's reserved
25 to the officers of the finance committee, for all the

1 reasons that, you know, we've stated. It can be used
2 against us, it can be spun against us.

3 Q. Did the finance committee take action
4 in this October to formalize the practice into a
5 policy?

6 A. They did. We thought it was important,
7 and we'll give Colin credit for this, we better
8 memorialize our policy on how it had been gone years
9 and years and years, which we had never felt
10 compelled to do.

11 Q. Is that what AP8 is, is the policy --

12 A. That's exactly it. This is a procedure
13 we've followed for many, many years, at least since
14 I've been president.

15 Q. Now, if you could take a look at page 2
16 of that document and subsection D, and I'll ask you a
17 question about that.

18 A. Well, that's, you know, that sort of
19 throws in the Freedom Foundation.

20 Q. So my question for you is, that
21 everyone in AFSCME basically under this policy is not
22 to use any confidential information for personal gain
23 or in any manner which would be contrary to law or
24 detrimental to the welfare of union.

25 Did you have concerns about whether the

1 specific financial information requested by Colin
2 would be detrimental to the welfare of the union?

3 A. Yes, I had already seen where he had
4 created issues for us in regards to mailing out the
5 charges and basically stating them as fact. I think
6 there's an additional letter where he sent out
7 recently that wanting to know what Council 2 is
8 hiding. Those are all unfair statements that can be
9 very much harmful at this point.

10 Q. I'll show you this document too.

11 HEARING OFFICER MCKENNA: Counsel has
12 now handed me another document, which is AP9.

13 A. Yes, sir.

14 Q. Can you identify --

15 A. AP9 is a letter that was directed to
16 Local 114, which is the City of Bellingham, and
17 caused a great deal of concern.

18 Number one -- you know, the overall
19 concern is he was not staying within any of the
20 process provided him for him to answer the issues.
21 He didn't like dealing with the board. He filed
22 charges. Now he didn't like dealing with the
23 Judicial Panel because he used it as hammer with
24 other locals, and which will hurt us.

25 Q. Do you believe that these charges were

1 brought in good faith or for some other reason?

2 **A. No, I think they were clearly in**
3 **retaliation for us not going to hearing on the two**
4 **cases in San Juan County.**

5 Q. I want to skip over to some questions
6 about the legal files. Did you see the letter from
7 Mr. Maycock -- well, it's in both the June 21
8 letters, the one to you and the one to me, he
9 requests some specific legal information too; is that
10 correct?

11 **A. Yes.**

12 Q. Can you describe your view with regard
13 to providing legal files to other individuals?

14 **A. Well, my view is there's a lot of**
15 **confidential information regarding those files. We**
16 **have individuals who have very personal issues that**
17 **arises out of their cases with their employers. I've**
18 **never felt it right to reveal that and make that a**
19 **topic of discussion. We keep that pretty close to**
20 **the vest between the staff rep and myself and the**
21 **attorney.**

22 Q. Is part of your job to protect the
23 organization from lawsuits?

24 **A. Yes.**

25 Q. And is part of your role as executive

1 director and president to be careful about
2 attorney-client privileged information?

3 **A. Yes.**

4 Q. Are you aware that Mr. Maycock filed a
5 bar complaint against me?

6 **A. Yes.**

7 Q. What was your reaction to that?

8 **A. I just thought that was extremely over**
9 **the top. It was not merited whatsoever. He should**
10 **handle his issues internally in the union. We gave**
11 **him the opportunity at the board where he's got the**
12 **opportunity with the Judicial Panel, and then he**
13 **chooses to go to an outside entity and try to gain**
14 **some satisfaction through that.**

15 Q. Some of the information he was
16 requesting is less onerous or burdensome with regard
17 to legal statistics.

18 **A. Right.**

19 Q. Have you directed general counsel in
20 the past -- well, let me ask you this first just to
21 set it up.

22 Audrey Eide retired. How long was she
23 with the council?

24 **A. Audrey was here close to 30 years.**

25 Q. And I started in January; is that

1 right?

2 A. Uh-huh, yes.

3 Q. Did you ask that she provide you with
4 certain statistics about the work that was done?

5 A. Not necessarily because, you know, my
6 view always was that if we had statistics like that
7 gathered, it becomes a quota system for some
8 individuals. You're doing more for me than you're
9 doing for so and so. And of course I watched her
10 caseload, looked at the cases, discussed them a lot.
11 So I basically knew what was there all the time.

12 Q. And is that practice the same with
13 current general counsel, that you're involved in the
14 legal cases and make decisions about those?

15 A. Yes.

16 Q. Has the Executive Board ever asked you
17 to devise some statistics for the legal cases that
18 could be reviewed?

19 A. No. Keeping in mind that in this book,
20 every quarter they get a synopsis of those cases that
21 we've gone to hearing on, and they know what the
22 remedy was and the resolution. The difficulty with
23 the ones that we don't go to hearing on is that
24 they're settled at many different levels.

25 HEARING OFFICER McKENNA: For the

1 transcript, this book you're referring to is?

2 THE WITNESS: The president's report
3 that I give to the board every Executive Board
4 meeting.

5 HEARING OFFICER MCKENNA: Thank you.

6 Q. All right. Just to be clear, the board
7 has never directed you to provide them with any
8 specific information about legal cases other than the
9 legal report that you provided at each board meeting?

10 A. No, they've never requested that.

11 Q. With regard to hiring, I want to talk
12 to you about that for a minute. Can you describe the
13 hiring process?

14 A. Well, we pass a budget every fall and
15 within that budget we have line items, one of which
16 is salaries and benefits and those type of things. I
17 have always hired people within the confines of that
18 budget. If I can't, then I go to the board and I say
19 hey, this isn't working, we need to either add a
20 position or we need to come up with some more dough
21 to get the applicant that we want.

22 Q. Okay, and what is your role in hiring
23 versus the Executive Board role in hiring?

24 A. I hire. It's always been that way for
25 29 years.

1 Q. Okay. So for example, if a staff
2 representative got hired three years ago, what would
3 the process have been?

4 A. I gather resumes, I from time to time
5 send out notices, I've hired people from the
6 membership, I've hired people from outside the
7 membership.

8 Q. And you make a hiring decision?

9 A. I do.

10 Q. How does the board ratify that
11 decision?

12 A. The board ratifies -- the only thing I
13 can say is the board has always ratified it in terms
14 of a line item of the budget.

15 Now, in the legal counsel's case, he
16 specifically brought it up because it is one of the
17 key positions in management, and it was important
18 that they know, and subsequently they had no
19 disagreements with the individual I hired.

20 Q. Going back to my hypothetical about a
21 staff rep who is hired three years ago, would the
22 Executive Board have taken a vote to ratify that
23 hiring decision?

24 A. No.

25 Q. You just don't do business that way?

1 A. No. Again, you know, the fear is that
2 it becomes a popularity contest and we've got people
3 on a 23-member board trying to justify their
4 qualifications, and it's never been handled that way.
5 I mean, we've done it the same way for 30 years.
6 Part of my duties as the president and executive
7 director is to hire and direct staff.

8 Q. With regard to my hiring in as general
9 counsel, I think we already accepted an exhibit here
10 that was an email that you sent, is that right, to
11 the Executive Board?

12 A. Correct. I gave them notice in an
13 email that Audrey had retired, and that I had offered
14 the job to you and subsequently you had accepted. At
15 that time it was very important to fill that position
16 for the reasons, like Colin's cases, we needed an
17 attorney on board.

18 Q. And then did you introduce me to the
19 Executive Board in January?

20 A. Yes.

21 Q. Was there any --

22 A. No objections.

23 Q. -- concerns --

24 I'm sorry, go ahead.

25 A. There was no objections, and I think

1 they gave you a little bit of applause and it was
2 definitely totally approved by consensus.

3 Q. Is that consistent with other hiring
4 process you have used?

5 A. Yes.

6 Q. Do you believe you've violated the
7 constitution by not providing Colin Maycock the
8 specific information about finances that he has
9 requested?

10 A. No.

11 Q. Do you believe that you've violated the
12 constitution by not providing specific legal
13 information that he's requested?

14 A. No.

15 Q. Do you believe that my hiring was
16 ratified by the Executive Board?

17 A. Yes.

18 MR. STEMLER: No further questions.

19

20 C R O S S - E X A M I N A T I O N

21 BY MR. GRIFO:

22 Q. My name is Jamie.

23 So you said you had not had much
24 contact with Mr. Maycock prior to, was it earlier of
25 the summer of this year?

1 **A.** It probably would have been. I mean,
2 this case tussle started probably the first of the
3 year.

4 **Q.** First of the year.

5 Tell me a little bit more about your
6 role. So you said I've heard that you're president,
7 executive director. You also described yourself as
8 chairman of the board?

9 **A.** Yeah.

10 **Q.** You fulfill those three duties?

11 **A.** Well, yeah. The president and
12 executive director is sort of a misnomer. Exactly
13 like Mr. Saunders, who runs the international union,
14 I'm elected and I supervise the staff and I'm a
15 working individual, not just an individual out in the
16 workforce who fills in once in a while.

17 **Q.** You're involved in day-to-day
18 operations of the council?

19 **A.** Day-to-day operations.

20 **Q.** And you're also on the board?

21 **A.** Yes.

22 **Q.** And are you compensated for your work?

23 **A.** Yes.

24 **Q.** And are all of your roles compensated,
25 some of them, one of them?

1 **A. No, I don't receive anything additional**
2 **from the building corp or the health and welfare**
3 **trust.**

4 Q. One compensation package for wearing
5 all of those hats?

6 **A. Right, right.**

7 Q. You said you're elected. Who elects
8 you?

9 **A. Delegates to the convention.**

10 Q. How is that determined?

11 **A. Well, we have a convention every two**
12 **years and the delegates are elected from locals.**
13 **They cast their ballots one way or another.**

14 Q. Has anybody run against you before?

15 **A. It's been a while. I've been reelected**
16 **seven times.**

17 Q. But if somebody was going to run
18 against you, if they were going to campaign, if they
19 were going to try and get the message out, would they
20 go to the delegate? How does one even do that?

21 **A. It would be up to them.**

22 Q. In your experience, how did you --

23 MR. STEMLER: I'd object to how to run
24 an election against the current executive director,
25 president.

1 Q. How did you run your campaign to --

2 A. I was a member on staff that was
3 appointed to fill a vacancy.

4 Q. So you've never had to run for this
5 position that you're elected to?

6 A. I've run seven times.

7 Q. But never opposed?

8 A. Yes, I was opposed in the '90s.

9 Q. And what did you do to get elected in
10 those campaigns?

11 MR. STEMLER: Objection.

12 HEARING OFFICER McKENNA: Are you
13 asking because you need this for -- because I know
14 how that works.

15 MR. GRIFO: I was trying to -- I think
16 it relates to the extent that they've attempted to
17 establish that Mr. Maycock has communicated with
18 other union members about union matters, that that's
19 sort of -- there are times and circumstances by which
20 you would be communicating with other people the
21 particular contents of election. I'm happy to
22 abandon that line, if you're familiar with how he was
23 elected to the position.

24 HEARING OFFICER McKENNA: Absolutely.

25 MR. GRIFO: I'll let that go.

1 Q. So you mentioned the Janus decision
2 earlier on.

3 A. Uh-huh.

4 Q. I think you said that it's changed the
5 game for unions?

6 A. Yes.

7 Q. You believe that to be true?

8 A. Very much so.

9 Q. Do you think that the timing of
10 Mr. Maycock's letter and the Janus discussion colored
11 your interpretation of that letter?

12 A. You know, it was -- the timing was
13 horrific and the effect was real.

14 Q. The effect of?

15 A. His letter.

16 Q. His letter. On you?

17 A. On the fact that we lost members
18 because of it.

19 Q. How do you know that you lost members
20 because of it?

21 A. I know for a fact in Kitsap County in
22 the payroll office we lost a slew of people, and they
23 have informed us it was because they saw the letter.
24 Now, by a slew, I think it was six or eight.

25 Q. And did they write -- do you have any

1 written documentation or evidence?

2 **A. I don't have any to support that**
3 **contention, no.**

4 Q. Thanks.

5 Do you know whether or not it was --
6 could it have been the substance of the letter --
7 not --

8 **A. It was the substance of the letter.**

9 Q. They were upset that --

10 **A. It made accusations in regards to**
11 **salaries and other things that really shouldn't have**
12 **been part of that week. It was an avenue that he**
13 **could have pursued. He could have simply picked up**
14 **the phone and called me.**

15 Q. In which case you would have given him
16 that information?

17 **A. We would have had a discussion.**

18 Q. So you would not have given him that
19 information?

20 **A. Depended on the discussion.**

21 Q. Under what circumstances would you
22 provide somebody asking you for that information with
23 that information?

24 **A. I don't think I would.**

25 Q. You don't think you would?

1 A. No.

2 Q. Why or why not?

3 A. Because it can be spun against us and I
4 already saw -- I know how it affects certain
5 individuals. They have no idea that I've been here
6 37 years. They have no idea that our membership went
7 from 6500 to 18,000. They have no idea that we have
8 considerable assets and buildings and investments.
9 They haven't seen what we've done.

10 Q. So did you interpret that letter then
11 as a comment on your actual compensation?

12 A. I saw it nothing more than a
13 retaliation for the fact that we had not pursued
14 these two cases to hearing.

15 Q. And how do you know that that's true?
16 How do you know that that was retaliatory?

17 A. That was the conclusion I came to based
18 on the fact that Colin had served on the board for
19 over three years, had never asked a financial
20 question that I can recall, and all of a sudden out
21 of the blue, after we've had this very difficult time
22 explaining why we can't go to hearing on these cases,
23 keeping in mind that it doesn't do any good to go
24 lose a couple and embolden an employer, they're just
25 going to figure we're incompetent and come after us

1 left and right. With that kind of background, it was
2 clear to me why this letter had been written.

3 Q. So you're pointing to, it really comes
4 down to a matter of timing?

5 A. No, it's not timing. It's timing to a
6 degree, but it's also to the degree that this is the
7 way he lashed back over the turning down of his two
8 legal cases.

9 Q. I'd like to -- I don't know if we have
10 exhibits there on the table. CP1 if that's in the
11 record --

12 MR. STEMLER: You can use my copy.

13 Q. You'll see there the first sentence of
14 the second paragraph responding to a member's
15 inquiry, do you see that?

16 A. Where is it at?

17 Q. Sorry, second -- the first substantive
18 paragraph, the second paragraph.

19 A. Second paragraph, yeah, I see that.

20 Q. What did you take that to mean?

21 A. I take statements like that much like
22 our president always says, people are saying this.
23 I've got a lot of members. I don't have a name
24 attached to it or anything else. So it's clearly a
25 way to deflect the accusation from the individual

1 **making it.**

2 Q. And is it true that Mr. Maycock is the
3 president of Local 1849?

4 **A. It is true.**

5 Q. And also an elected member of the
6 Executive Board of Council 2?

7 **A. Yes.**

8 Q. And in those capacities, doesn't he
9 represent quite a few members?

10 **A. He does, yeah.**

11 Q. And so could it have been that member
12 came to him and explained, told him about the opt-out
13 today Freedom Foundation element? I mean, is that
14 possible?

15 **A. First of all, when I see Freedom
16 Foundation, my blood starts to boil.**

17 Q. Sure. That wasn't the question.

18 **A. This organization is clearly out to
19 make sure we don't exist. They don't want Colin or
20 any other of our members to make a living or a
21 pension or have healthcare benefits. They state that
22 on their website.**

23 Q. Right. So to answer my question, if a
24 member comes to Mr. Maycock and informs him of this
25 website and he explores that, is that a problem?

1 A. Well, at the least, I would have
2 expected a phone call from a board member. Board
3 members call me all the time about various issues.
4 Not a letter of demanding all this information that
5 cites the Freedom Foundation.

6 Q. So in that regard, it was threatening?

7 A. It was threatening.

8 Q. But the specific information that's
9 being requested --

10 A. I don't believe I have to provide that.

11 Q. On page 2, any of that information is
12 stuff that you just don't have to provide?

13 A. No.

14 Q. Does that information exist?

15 A. It does exist.

16 Q. You have access to it?

17 A. And much of it is gone over with the
18 finance committee.

19 Q. Who is on the finance committee?

20 A. There's 11 elected Executive Board
21 members from across the state including the officers.

22 Q. Including officers?

23 A. Right.

24 Q. So how many people on the finance
25 committee are compensated or on salary or paid for

1 service?

2 **A. I would be the only one. The**
3 **secretary-treasurer and the vice-president really**
4 **receive a small stipend.**

5 Q. And I think you mentioned that you
6 discussed things like cost of living increases?

7 **A. Yes.**

8 Q. And do you actually discuss specific
9 officer salary compensation at those meetings?

10 **A. Yes.**

11 Q. And benefits packages?

12 **A. Yes.**

13 Q. For all officers, staff and anyone who
14 is paid by Council 2?

15 **A. Yes.**

16 Q. So you do have a spreadsheet of line
17 item for each of those individuals?

18 **A. I don't have a spreadsheet. I mean,**
19 **let's take for example medical insurance. We're in a**
20 **difficult spot because basically it's rated on a**
21 **group less than 50. That hurts. So we talk about**
22 **the increases, we talk about the deductible, we talk**
23 **about the coverage grants.**

24 Q. Then does that tie to a particular
25 portion of a particular person's compensation

1 package?

2 **A. It's a group. In regards to medical,**
3 **it's a group plan.**

4 Q. Right. So you're saying that the
5 information that Mr. Maycock requests on page 2 of
6 this letter, that all is provided to the financial
7 finance committee?

8 **A. It's discussed, you know, all of it, in**
9 **regards to, you know, some of it is basically if**
10 **questions are asked, but in regards to our meeting**
11 **where actual COLAs are discussed, yeah.**

12 Q. I'm not talking about just COLA, right?
13 I mean any of these categories that have been raised
14 in this letter.

15 **A. It's all discussed.**

16 Q. It's all discussed?

17 **A. Uh-huh.**

18 Q. With specificity to the people
19 performing services for Council 2?

20 **A. Like I said, we went over the**
21 **individual ranges for the staff. We didn't say Joe**
22 **is step C. We said Joe gets paid within this range.**
23 **And in regards to mine, it was the actual number.**

24 Q. So if that information exists and it's
25 discussed at the finance committee and those

1 committees are open to members of the Executive
2 Board, why not just give Mr. Maycock this
3 information?

4 A. Because I don't want a piece of paper
5 out there that somebody could hand to the Freedom
6 Foundation that could be used against us. If they're
7 interested enough to know these facts, they need to
8 come to the meeting.

9 Q. So your concern is that Mr. Maycock is
10 going to take this information and give it to the
11 Freedom Foundation?

12 A. Not only Mr. Maycock, but anyone.
13 We've always stressed confidentiality with financial
14 information at the Executive Board and I've never
15 really had a reason to have a concern with that, with
16 the people that have served until now.

17 Q. Do you have any reason to think
18 Mr. Maycock would give any of that information to any
19 third party?

20 A. Well, I'll say this. The Freedom
21 Foundation is actively seeking out members who can
22 cause us problems. Now, if he didn't -- if he's not
23 working directly with them, he certainly did what
24 they hoped to when they sent out that number in
25 regards to my salary on that form.

1 Q. Is there a chance that the member
2 inquiry that appears to have generated this letter,
3 because of that website, is there a chance that
4 effort by the Freedom Foundation could have just
5 sparked a curiosity in a member?

6 A. Oh, sure. That's exactly what they
7 hoped for. Of course.

8 Q. But then under the constitution
9 governing the union, aren't members entitled to that
10 information?

11 A. Not what I've seen over the years.
12 Confidentiality statement is pretty clear to me, I
13 think, and I firmly believe that my staff and my --
14 everyone that works for Council 2 has some sense of
15 confidentiality that should be observed.

16 Q. So is Council 2 a nonprofit
17 organization?

18 A. It is.

19 Q. And is all of this information reported
20 to the IRS?

21 A. Yes, and my understanding is Colin has
22 accessed that.

23 Q. So it's information that also exists in
24 some capacity in form 990s with the IRS?

25 A. My salary has been public record since

1 I started in 1982. Now, with the advent of the
2 internet, it became a lot easier to access.

3 Q. Yet you refer to this information as
4 confidential.

5 A. Well, I'm not going to hand it out with
6 the Council 2 logo on it so the Freedom Foundation
7 can use that piece of paper. I'm just not going to
8 do that.

9 Now, he's got access to the 990 and he
10 says he's accessed it, so he's seen a lot of numbers.
11 That's not -- and anybody who says that's not a true
12 and correct form doesn't understand what the IRS can
13 do to you if it's not true and correct.

14 Q. And so if this information is otherwise
15 available, can you understand how your refusal to
16 provide this information to a member asking for this
17 information might cause more concerns from other
18 members, the kind of concerns that it sounds like
19 you're worried about the Freedom Foundation?

20 A. I'm extremely worried. They've cost me
21 a couple of hundred members so far. I worked hard to
22 get those. It's over the equivalent of his local
23 that I worked long and hard to organize.

24 Q. So when the local in this particular
25 case sees Council 2 say we're not giving you this

1 information, do you understand why that might cause
2 some concerns?

3 A. Well, first of all, it was an Executive
4 Board member that asked for this information. I
5 would expect an Executive Board member to work within
6 the confines of the structure that he is serving on.
7 We gave him an avenue, we gave him an opportunity to
8 state his conversations at the July meeting. We
9 offered him an additional opportunity at our October
10 meeting. In the meanwhile, he filed charges against
11 us and blew it up.

12 Q. But if a president of a local asks you
13 for that information, would you give it to them?

14 A. No.

15 Q. And then that president, if that
16 request was originating from a member, that president
17 would turn to the member and say I'm, sorry, we don't
18 get that information?

19 A. Right, the Executive Board doesn't.
20 Every body, whether you're a nonprofit or a profit or
21 a government entity, has a process for approving and
22 confirming salaries. City council, county councils
23 all have executive sessions, all type of processes
24 and we negotiate in private. Those things are not
25 part of a general discussion. They can access them

1 afterwards. But everybody has their procedures.

2 Q. But doesn't the Executive Board have
3 authority to approve or aren't they required to
4 approve and authorize all the union expenditures?

5 A. And they do.

6 Q. They do?

7 A. They do.

8 Q. But without the benefit of this
9 information?

10 A. Well, no. The finance committee has
11 all this information, and they go through it
12 individually. If they wish to.

13 Q. So there are --

14 A. There's a certain degree -- I've been
15 here 37 years. They know what I made last year so
16 they really don't want to go over it again. I mean,
17 this is part of human nature.

18 Q. It's more recently the finance
19 committee hasn't been particularly --

20 A. No, they've always asked the right
21 questions and we've always provided the information
22 that they need. You know, I took over because of
23 finances in 1989, been a long time ago. But we were
24 in debt and there was a lot of questions. That was
25 my number one priority.

1 I think I'm over the top with financial
2 information that I provide. We do a yearly audit in
3 which every year I say if you got any questions, if
4 you didn't think of them during this meeting, you can
5 always call me. And people have called me. You
6 know, if you need more time, give me a call. And
7 they do.

8 Q. But this is the kind of information
9 that you probably wouldn't provide even if somebody
10 got on the phone and gave you a call?

11 A. Well, if it's a member of the finance
12 committee, they've already got it.

13 Q. But no one else. I mean, no other --

14 A. No. I mean there's some
15 confidentiality in this process.

16 Q. And it says that in the constitution
17 somewhere?

18 A. Well, the confidentiality process
19 (indicating) in here does and also our stated policy
20 from the Executive Board.

21 HEARING OFFICER MCKENNA: Just for the
22 transcript, the brother was referring to the AFSCME
23 financial standard code.

24 Q. Let's just look at the financial
25 standards.

1 MR. GRIFO: Did you enter the
2 standards?

3 MR. STEMLER: It's page 2.

4 Q. That is page 2, great. So AP8, if you
5 see it, we can look at the back.

6 A. Which one is it, 8?

7 Q. I believe so. It looks like this
8 (indicating)?

9 A. I don't have that.

10 MR. STEMLER: It's the second one.

11 A. Oh, okay.

12 Q. Page 2 is purportedly the standards
13 that you were referencing?

14 A. Correct.

15 Q. You believe it's this provision, albeit
16 not within the constitution, but within the
17 guidelines governing the union that allows you to
18 deny those requests for information?

19 A. Yes, along with our policy that's the
20 first page.

21 Q. Well, I'm not there yet. So that's
22 because this information is confidential?

23 A. Right.

24 Q. Okay. So let's go to that first page.

25 A. Uh-huh.

1 Q. When was this passed?

2 A. This has been a longstanding policy of
3 the finance committee and the Executive Board since
4 I've been president.

5 Q. When was this passed?

6 A. This was originally passed when I
7 became president in 1989.

8 Q. So is there a motion or some
9 documentation of that motion and adoption?

10 A. I couldn't find one, but this is the
11 way we've always operated.

12 Q. That's not my question.

13 This particular financial information
14 policy, this was adopted on October 5 and 6. Is that
15 what that says?

16 A. We've rendered it in writing in
17 October.

18 Q. Who did that?

19 A. Well, I did and the secretary-treasurer
20 and they then presented it to the full board, which
21 it subsequently passed, I believe without objection.

22 Q. This was presented to the full board in
23 October?

24 A. Again, yes.

25 Q. And it was passed?

1 A. Yes.

2 Q. Was there any discussion?

3 A. Yes, in the finance committee there
4 was.

5 Q. Not the full board?

6 A. I don't believe -- I'd have to go -- I
7 don't believe there was a lot.

8 Q. This was done in reaction to the
9 charges brought by Mr. Maycock?

10 A. Well, to the degree that we decided it
11 was important to put it to writing, yes. Also,
12 because of the general nature of the Janus decision
13 and what the Freedom Foundation was doing, we fully
14 expected that from time to time we would get these
15 type of requests, unlike before. And, you know, we
16 got this third party organization out there that
17 we've got no control over.

18 We can't file an unfair labor practice
19 against them. We don't even know who their funders
20 are. We don't know what their salaries are. We have
21 no levers. So it was important -- and they're
22 feeding information to our membership that could hurt
23 us greatly, so it was important that everybody
24 understood where we were going to come from.

25 Q. And you seem to be tying direct ties

1 from the Freedom Foundation and Mr. Maycock. Is that
2 your belief?

3 A. The Freedom Foundation -- you know,
4 there's a lot of smoke where Colin is.

5 Q. Can you explain?

6 A. Well, the letter -- you know, the
7 attempt to endorse him on September 15, it was clear
8 by the two staff members that I had --

9 Q. Attempt to endorse who?

10 A. Well, they felt, they came back and
11 told me in their judgment, if Matt Miller, our staff
12 representative, hadn't brought up the fact in regards
13 to Nick Powers, Nick Powers would have been endorsed
14 for prosecutor in San Juan County. Again, that could
15 have been devastating to my organization statewide.

16 Q. Do you know the reasons that Mr. Powers
17 could have been -- what were the reasons that the
18 local might have endorsed Mr. Powers?

19 A. Well, you know, I don't know exactly
20 what the reasons are, but, you know, you don't
21 endorse the devil, and that's basically what we're
22 dealing with.

23 Q. Don't attorneys represent all kinds of
24 clients?

25 A. Yeah, they do, but I think that's a

1 **fair consideration when you're asking whether or not**
2 **you're going to support him for public office.**

3 Q. Yet Mr. Maycock had testified earlier,
4 I'm not sure if you heard it, he wasn't even aware
5 that Mr. Powers had any affiliation with the Freedom
6 Foundation until I believe it was a visit that
7 Mr. Stemler was present.

8 A. Well, if he didn't know, he should have
9 **asked. Now, there's just too much going on there.**

10 Q. Doesn't the local union -- isn't one of
11 the important functions of a local union is to
12 endorse a political candidate?

13 A. **It is.**

14 Q. And would it be appropriate to invite
15 multiple candidates to a forum so they can be --

16 A. **It is.**

17 Q. -- considered by the membership?

18 A. **Uh-huh, it is.**

19 Q. And you said you didn't attend that
20 meeting?

21 A. **No.**

22 Q. Were you aware that the membership was
23 meeting privately prior to inviting Mr. Powers to be
24 present for consideration for an endorsement?

25 A. **I was, because we were still dealing**

1 with the cases at issue and so that's why Ed was
2 attending.

3 Q. And so those meetings were held
4 separately. I mean, they were at the same time,
5 different -- they were not at the same time, separate
6 times on the same date?

7 A. Well, if you're going to endorse a
8 politician, it is a local meeting. You've got to
9 have some kind of voter approval process.

10 Q. Was Mr. Power present at functions that
11 the local was performing?

12 A. I don't believe so, no.

13 Q. Aren't there a lot of -- making this
14 point again, but aren't there a lot of reasons why a
15 local or a particular citizen in San Juan County
16 might vote for one prosecuting attorney versus
17 another?

18 A. Sure, there are a lot of reasons, but I
19 would hope an organization wouldn't endorse an
20 individual who is deriving a portion of his income
21 from an organization that doesn't want us to exist.

22 Q. Did it endorse -- should members be
23 able to vote for whomever they wish?

24 A. Members can vote for whoever they wish,
25 although from time to time we make recommendations.

1 Q. And if the members make, cast their
2 vote that conflicts with the recommendation, is there
3 any consequence?

4 A. No, we wouldn't know how they -- it's a
5 private ballot.

6 Q. Should there be consequences?

7 A. No, an endorsement is a recommendation.
8 It doesn't -- isn't locked in cement.

9 Q. So how are the members of Local 1849
10 represented at the Executive Board?

11 A. Well, currently Colin is the president
12 of that local and he's part of that district.

13 Q. If they have concerns, how do they get
14 those concerns to the broader Executive Board?

15 A. Well, they have a staff representative.
16 They can get on the phone. We respond to phone calls
17 all the time. We have a 1-800 number and we have
18 email and all that type of stuff, so yeah.

19 Q. Has anyone requested this information
20 from your staff representative serving Local 1849,
21 the information that Mr. Maycock has requested?

22 A. I don't know if he's talked to Matt
23 about it or not. Matt Miller, the staff
24 representative.

25 Q. So --

1 A. To a large degree, we try to keep Matt,
2 our staff representative, out of this.

3 Q. Why?

4 A. It's just an unfair position to put him
5 in.

6 Q. So as the executive director and
7 president, how are you held accountable to the
8 membership if there are questions or --

9 A. Well, the board meets three times a
10 year. They can ask questions. I am elected. You
11 know, I take phone calls. I mean, I have -- from
12 time to time people are upset. They walk in my
13 office. There's all kinds of ways.

14 Q. With regard to some of the legal
15 information that was requested by Mr. Maycock, do you
16 think it's -- again, does this is confidential
17 information fall under this new policy regarding how
18 many written requests for legal assistance have been
19 received by Council 2's attorney?

20 A. No, not necessarily, but on the same
21 regard, there is confidential information, you know,
22 terminations and layoffs and things like that can be
23 very -- terminations can get very sticky. So...

24 Q. I read Mr. Maycock's letter to say that
25 not so much toward the substance, but towards the

1 facts, and I think you made the comment that maybe
2 turns it into a quota system and then there's a
3 concern that --

4 A. Well, one of the questions was, I mean,
5 we made very -- quite a few overtures to Colin. Pat
6 Thompson tried to call not too long ago the deputy
7 director and asked what Colin -- what his end product
8 was on this: If you get all this, what are you going
9 to do with it? We didn't get a lot of good answers.

10 Q. So was Pat offering to give him that
11 information?

12 A. No, Pat wanted to know why.

13 Q. And he was unsatisfied with the
14 response?

15 A. I don't think we got a good response.

16 Q. But you did not provide any of this
17 information?

18 A. No. A lot of it we don't have.

19 Q. So if a member did want to know how
20 much-- strike that.

21 How is the Executive Board able to know
22 the workload of its staff attorney?

23 A. Well, they do get a quarterly list of
24 all the cases that we have taken to hearing, I mean,
25 at the board meetings, three times a year, and they

1 **can always ask.**

2 Q. But does that list out the number of
3 total written requests received?

4 A. No, and that's a difficult number to
5 come up with. Because I think Ed described it, he
6 gets phone calls seeking advice, he gets written
7 correspondence seeking advice. Many of these cases
8 after advice are settled at the first, second or
9 third level of a grievance procedure. So I don't
10 know when you start calling it a case.

11 Q. When is a written request for legal
12 assistance accompanied by a check?

13 A. When the local and the staff and in
14 discussions with us we've decided there's a good
15 possibility we're going to end in hearing. Now, if
16 we don't go to hearing, we send them the check back.
17 The check is only a means of translating to the local
18 unions that this process does cost money. 250
19 doesn't cover, it won't cover this room, but it's a
20 way that the locals realize that it is a costly
21 process.

22 Q. That's only been requested in the most
23 serious cases or cases with the highest likelihood of
24 going to hearing?

25 A. We ask that you send the check with the

1 legal request, but we return it if we end up settling
2 and don't go to hearing.

3 Q. You don't track the number of those
4 requests in a given year?

5 A. We could probably track those.

6 Q. But what, it would be too difficult?

7 A. Well, it wouldn't be too difficult. I
8 don't think the number is going to tell you a lot.

9 Q. But if the Executive Board asked you
10 for that information, would you provide it to them?

11 A. Well, again, I think one of the
12 difficulties here is Colin is a member of the 23
13 board.

14 Q. Sure. I'm making the distinction, if
15 the board as a board --

16 A. A majority.

17 Q. I'm not talking about Mr. Maycock, I'm
18 saying the board.

19 A. I'm subject to the board's decision, I
20 would provide that if they requested it.

21 Q. And same with the information requested
22 in this June 21 letter?

23 A. Probably would, probably would.

24 Q. Probably?

25 A. Well, I'd have to think about that. We

1 do have a longstanding policy. They could always
2 rescind the policy and, you know, have at it.

3 Q. But you certainly wouldn't provide that
4 to some member of a local union who called up because
5 they were curious?

6 A. No.

7 Q. And that's true with regard to all of
8 the information that Mr. Maycock has requested?

9 A. Yes.

10 Q. Then so who oversees the hiring of
11 staff employees for Council 2?

12 A. I do.

13 Q. And you handle all of that?

14 A. I do.

15 Q. How do you determine how much to
16 compensate a particular employee?

17 A. Well, it's outlined in the staff
18 contract.

19 Q. Are there contracts with all staff?

20 A. All but the exempt staff.

21 Q. What are the exempt staff rules?

22 A. The exempt staff, they have a line item
23 in the budget and authority to do so much. Those
24 people usually, you know, besides hirings with Ed,
25 it's been a long time since I filled an exempt policy

1 **position, exempt staff position.**

2 Q. Is Mr. Stemler's position considered
3 exempt staff?

4 A. **Yes.**

5 Q. And what about your own position?

6 A. **Yeah, we're all covered by what we call**
7 **the exempt category.**

8 Q. Who is we all? You and Mr. Stemler?

9 A. **And Pat Thompson and Bill Keenan, the**
10 **organizer, and Barbara Cochran, the office manager,**
11 **money person.**

12 Q. And are all these people on the finance
13 committee?

14 A. **No.**

15 Q. Do they come to these meetings?

16 A. **They can.**

17 Q. But do they?

18 A. **Not necessarily.**

19 Q. Who sets the exempt staff salaries?

20 A. **The Executive Board and the finance**
21 **committee.**

22 Q. The finance committee, the Executive
23 Board by way of adopting a proposed budget?

24 A. **Correct. But again, it is gone through**
25 **individually with the finance committee. They know**

1 all the numbers.

2 Q. What does ratify mean?

3 A. Well, we ratify contracts. We say yes
4 or no.

5 Q. So to approve?

6 A. Yes.

7 Q. It sounds like a Council 2 Executive
8 Board has a history of approving without any action?

9 A. Well, there's, to the degree -- you
10 know, I haven't had a no vote in an Executive Board
11 for a long time until Colin here this last year. So
12 when I walk in and I say Ed Stemler has been hired
13 for legal counsel, and I look around the room and
14 there's no questions, and I say is everybody good
15 with that? And they say yeah, that's good.

16 Q. How long has it been since there's been
17 a no vote?

18 A. I couldn't tell you.

19 Q. Because you don't know, or because it's
20 been so long, you can't remember?

21 A. I just can't tell you.

22 Q. More than ten years?

23 A. I don't know.

24 Q. Okay. You don't know?

25 A. I like to believe because by the time

1 it gets to the board and during the board, it's fully
2 explained to the extent that everybody is satisfied
3 with the information. And I believe that's pretty
4 much true.

5 Q. Are any of the Executive Board members
6 paid for their services as Executive Board members?

7 A. No, the only thing they get, they get
8 expenses.

9 Q. But it's otherwise a volunteer
10 position?

11 A. Right.

12 Q. These are people who have full-time
13 jobs?

14 A. Yes.

15 Q. Full-time responsibility, other
16 responsibilities?

17 A. They're all working members.

18 Q. And so are the meetings typically held,
19 the Executive Board meetings typically held on
20 Saturdays?

21 A. Yes.

22 Q. Is that so these people won't have to
23 take a day off from work?

24 A. Right.

25 Q. And what days are the finance committee

1 meetings held?

2 A. They're late Friday afternoon.

3 Q. So someone who is working on a Friday,
4 can they make it to those meetings in time?

5 A. Typically I think most people are
6 bailing out of work that day at least by noon.

7 Q. People leave their jobs by noon on
8 Friday?

9 A. Yeah, for these meetings.

10 Q. Okay.

11 A. Many of them have lost time provisions
12 in their contract so it doesn't hurt them.

13 Q. So there was no formal action taken
14 with regard to the hiring of Mr. Stemler?

15 A. There was formal action in my mind. I
16 mean, we provided notice. It came up at the January
17 meeting. I said, I introduced Ed and there was
18 applause, everybody said good. You know, Ed's
19 background is 25 years as a deputy prosecutor in one
20 of the few organized deputy prosecutor offices
21 probably in the country, and he was also local
22 president for better than 15 years. So he was
23 extremely qualified. Many people on the board knew
24 him. It wasn't a controversial thing whatsoever.

25 Q. Do you feel like Mr. Maycock thinks

1 it's a controversial thing?

2 **A.** After he got his cases turned down,
3 yeah, I think he does. I think before he probably
4 might have attended the January meeting if he had a
5 real issue with it.

6 Q. Did anyone have any notice of your
7 decision to hire Mr. Stemler prior to the email that
8 you sent in mid-December?

9 **A.** No, but that email, it was actually
10 December 7, was a full 45 days prior to the E-Board
11 meeting.

12 Q. Did you interview people for that
13 position?

14 **A.** I did.

15 Q. How many candidates?

16 **A.** Three.

17 MR. GRIFO: I think I'm nearly
18 finished. Can I take a quick break, is that all
19 right?

20 HEARING OFFICER MCKENNA: Sure.

21 MR. GRIFO: Thanks.

22 (Brief recess.)

23 Q. Did you happen to hear Ms. Uhinck, the
24 previous witness? Did you hear her testify?

25 **A.** I think I got most of it.

1 Q. Did you hear her say that in her
2 experience in going to the finance committee
3 meetings, they never talked about specific line items
4 or salary compensation packages for people?

5 A. Well, I can't tell you exactly when she
6 attended, but we always do that. I mean, it doesn't
7 always come up, because there's a lot of other things
8 we're doing financially. But it's -- I mean, at the
9 appropriate time in the fall, if we're discussing
10 salary increases, it comes up and it's all the
11 individuals involved.

12 MR. GRIFO: Okay, thank you for your
13 time today.

14
15 R E D I R E C T E X A M I N A T I O N

16 BY MR. STEMLER:

17 Q. I just had one more question about the
18 legal information that Mr. Maycock requested. Does
19 any concerns about the duty of fair representation
20 play into any of the things you were saying about
21 reasons for concern there?

22 A. Yeah, that's a big concern because
23 we're obligated under federal law to give everybody
24 their due in terms of the legal process that we
25 provide, and if we don't do that correctly, we're

1 subject to liability, and that liability can be
2 great. We -- you know, the decisions on the cases
3 have to be based on the merits. It can't be based on
4 a popularity contest or a quota system or anything
5 else, and so that's why our determinations to go to
6 hearing is based on the merits of the case.

7 Q. Would statistics about number of
8 inquiries tell you anything with regard to the merits
9 of the case?

10 A. No, because each case stands alone. I
11 mean, you know, we go to hearing a lot and across the
12 state. And there are locals that haven't gone to
13 hearing for a long time.

14 MR. STEMLER: That's all the questions
15 I have.

16 MR. GRIFO: Just a follow-up on that
17 point.

18
19 R E C R O S S - E X A M I N A T I O N

20 BY MR. GRIFO:

21 Q. So if a member wants to be able to
22 determine the percentage of cases that are denied,
23 how do they get that information?

24 A. I really think that's inappropriate
25 information. Again, duty of fair representation

1 holds a great deal of legal liability to us. Again,
2 this was confidential information regarding these
3 cases, and the number of times we deny is not going
4 to tell you why they were denied because they're all
5 decisions that we all make, and we don't make them
6 lightly especially when they're terminations or
7 layoffs.

8 Q. But by not providing that information,
9 are you deciding the types of information that you
10 think is important for your membership to have?

11 A. Some information is not appropriate and
12 it will be used against the individual involved or
13 against the council, against the local.

14 Q. And --

15 A. We got plenty of members out there that
16 believe we should go to the US Supreme Court over
17 their issue, but you've got to have a case to do that
18 and all that is based on merits.

19 MR. GRIFO: I have no further
20 questions.

21

22 R E D I R E C T E X A M I N A T I O N

23 BY MR. STEMLER:

24 Q. I just have one thing on that. Are you
25 saying that a single datapoint where we did or did

1 not go forward does not tell you the information that
2 you need to evaluate whether we've done the right
3 thing or not?

4 **A. Exactly.**

5 MR. STEMLER: Thank you. I have
6 nothing further.

7

8 R E C R O S S - E X A M I N A T I O N

9 BY MR. GRIFO:

10 Q. Except might a member want to have that
11 information?

12 **A. They might, but it's not going to tell
13 them what they want to know.**

14 Q. Right, you're making the determination
15 for them.

16 **A. Well, I don't make those -- again, I
17 don't make those decisions lightly, especially when
18 it's a termination or layoff. We look at those cases
19 very closely, we seek legal opinions. Sometimes we
20 even go outside for legal opinions. In the regard of
21 his two cases, we had two attorneys look at them.**

22 **So --**

23 MR. GRIFO: Thank you.

24 **A. -- we do the best we can.**

25 HEARING OFFICER MCKENNA: Thank you,

1 you're excused.

2 (Discussion off the record.)

3 HEARING OFFICER MCKENNA: Start with
4 the charging party, closing statements.

5 No new evidence?

6 MR. GRIFO: No.

7 So I think you've heard a lot today
8 about the question of what information a member who
9 pays their dues, a president of a local union who is
10 responsible to members, dues-paying members, and an
11 elected member of the Executive Board, what kind of
12 information is available to them and who has the
13 ability to deny them access to that information.

14 I think we have a dispute about what
15 the constitution said. I think that the bill of
16 rights for the international constitution is
17 particularly clear on these points. I leave it to
18 the trial officer to make the right decision in this
19 case.

20 I think the information that
21 Mr. Maycock has requested is specific, it exists,
22 it's public information, it's provided on occasion or
23 in certain formats or not another. Yet now he's
24 being told he doesn't get that information and other
25 members should not be able to get that information.

1 I think if you look closely at the international
2 constitution as well as the state council
3 constitution you'll see that that information falls
4 squarely within the rights that all dues-paying
5 members have.

6 The only way that this union can be
7 held accountable by the people who it serves is by
8 giving them access to information. I think that to
9 the extent that the accused are refusing to provide
10 information based upon an unfounded fear that that
11 information will fall into the hand of third parties
12 is misguided. I don't think that's a determination
13 that the constitution contemplates will be made by
14 the governing members and officers of Council 2.

15 There are procedures and mechanisms in
16 place that in the event that a person shares
17 confidential information with third parties and it
18 comes to harm the union, they can be held accountable
19 for that. No such charges or trial or decisions have
20 been rendered as to Mr. Maycock to this date. It
21 felt a lot like a trial as to Mr. Maycock's
22 affiliation with untoward third parties, but there's
23 nothing in the record that shows he had anything to
24 do with any of those organizations.

25 The record shows that people to whom

1 he's responsible have asked him some questions, he
2 asked for some answers and has been told that he
3 doesn't get that information. Now obviously some
4 members that feels like Council 2 is hiding
5 something.

6 I understand that can feel like a
7 threat to start asking for information for the first
8 time in 30 years, but I'm afraid by Council 2 not
9 providing this information to members who have only
10 worked so hard and so long for this organization, to
11 deny them that information, the Freedom Foundation
12 has actually achieved their purpose, because this is
13 the kind of discontent that it sounds like they're
14 trying to accomplish. And I think that by refusing
15 to provide this information to Mr. Maycock, it is
16 creating a divisiveness, and I don't think it's
17 supported in either of the constitutions governing
18 these bodies.

19 So I think that I implore you to
20 consider this intersection of transparency and fear,
21 what the union is really about at the end of the day,
22 what kinds of basic questions can Executive Board
23 members and local union presidents ask of the people
24 who work for them and to whom they're required to
25 hold accountable.

1 The Executive Board has the authority
2 or the responsibility to oversee all of these
3 decisions, and they're being told well, don't look
4 too close. Go ahead and make a decision based on
5 this aggregate total. Everybody is being paid fine,
6 it's great, here's the big number. And on an
7 \$11 million budget with a \$3 million salary item,
8 that's the end of the inquiry? How can you
9 responsibly run a business with that limited access
10 to information?

11 Finally, one member is asking some
12 important questions. What he does with that, what
13 comes of that, this isn't about the substance. The
14 issue is the data, providing that information. Now,
15 if for some reason some member discovers that there
16 is something inappropriate going on, there are
17 appropriate avenues by which that member can address
18 that, but that's not what we're here today for.

19 Everything in that budget could be
20 totally appropriate. There's no question. It's not
21 a substance fight, it's a data fight, and I hope that
22 with a close review of the constitutions, you'll see
23 that the information that's been requested falls
24 squarely within the kind of information that the
25 constitution calls upon to be provided.

1 With regard to count 2, in the
2 ratification, it sounds like there's informal
3 processes in place. In the constitution, it does say
4 these hirings will be ratified by the board, and one
5 would assume that means by a motion and a vote. It
6 sounds like all of those would be unopposed anyway,
7 so maybe it's a form over substance, but it's an
8 important point to make.

9 If we have these requirements in the
10 constitutions and they're not followed, then what do
11 they mean? They don't mean anything. So I encourage
12 you to encourage the Executive Board to go and
13 formally ratify the hiring of Mr. Stemler. It sounds
14 like everybody is very pleased with his services.

15 The last point, count 2 of the legal
16 data, the other side is saying that there are certain
17 kinds of information to which you should not be privy
18 including the number of cases and requests that we
19 get each year for legal assistance and the number
20 that we decide to assist with or decline.

21 And I understand that Mr. Dugovich and
22 others believe they can make the decision as to
23 whether or not that information is important to a
24 requesting member, but I don't think it's within
25 their authority to decide what kinds of information

1 are important. That's for the member making the
2 request. If he gets a datapoint, that data is going
3 to tell him something or her something, or not. And
4 that's for them to decide.

5 The question is whether they should
6 even be able to have that data to start thinking and
7 considering, and without being given this
8 information, you can't even begin to start
9 considering responsibly how to proceed or issues that
10 you may want to bring either to the Executive Board
11 or to the local or to other affected or interested
12 people.

13 In short, I think that today is
14 actually really interesting because it is pushing the
15 limits between this transparency-fear scenario and I
16 do hope that if you really believe in the unions and
17 want to protect the unions, you'll honor the
18 transparency, that the ideas of transparency that the
19 unions are based upon and find in favor of the
20 plaintiff today. Thank you.

21 MR. STEMLER: I appreciate the
22 opportunity to be here. I think what we heard today
23 was Council 2 has a very experienced executive
24 director and the president who takes his role with
25 regard to this organization very seriously, that he

1 is doing his best to provide all the financial
2 information that the Executive Board needs to make
3 sure that the council's finances are healthy, that
4 it's moving forward.

5 You heard him say that he took an
6 organization that was in debt for a number of years
7 to an organization that is on firm financial footing
8 now. I think you heard in the testimony that he's
9 very passionate about that and ensuring that remains
10 the case.

11 I think it's important to point out
12 that these charges are brought under the
13 constitution, so we're not debating whether it's a
14 good idea or a bad idea. We're debating whether
15 certain individuals have violated the constitution or
16 not. Did Chris Dugovich violate the international
17 constitution or Council 2's constitution by not
18 providing specific salary and wage and broken down by
19 individuals, broken down by each benefit that they
20 receive?

21 Now, Mr. Maycock has the numbers. As a
22 member of the Executive Board, he's got the aggregate
23 salary benefit. All those kinds of numbers he's got
24 from another place, you know, salary information. So
25 that wasn't really what was driving all this.

1 Part of the problem here is that this
2 information about specific salaries is being used in
3 a way to generate discord within the union. That's
4 how the Freedom Foundation wants to use it. They
5 want to take the single datapoint of a salary without
6 any context of what goes into that job, start
7 comparing like Mr. Maycock did to other council
8 presidents, assume that it's the same job and the
9 same thing without any context for that.

10 So while in one sense the information
11 is out there and a little bit difficult to get at, it
12 would not be in the best interests of the union to
13 publish a spreadsheet that has every exempt person's
14 salary on it that then the people that are
15 detrimental to the union can use against the union.

16 But more specifically, I think the
17 concern here is that Mr. Maycock is not acting as a
18 member of the Executive Board. It's the Executive
19 Board that has oversight, not an individual. The one
20 part about the member shall have the right of full
21 and clear accounting of all funds, that is
22 transparent. Council 2 at these open Executive Board
23 meetings discusses their finances. At every meeting,
24 the treasurer gives a report about where the finances
25 are at. There is significant transparency.

1 It's just not to the level of detail he
2 would like, but that level of detail does not come
3 from the constitution. If he wants to change that,
4 he needs to work with the Executive Board to make
5 that change.

6 You can see just this October that the
7 Executive Board, the finance committee approved a
8 policy where no, this should not be handed out to
9 every individual who asks for it. We are going to
10 get more responses for questions from members. The
11 constitution covers all of the paid individuals for
12 AFSCME and I don't think it would be useful for the
13 international organization or anyone to have, you
14 know, these kind of databases out there.

15 With regard to count 2, there again,
16 it's the supervisory authority of the Executive Board
17 that Mr. Maycock is trying to exercise as an
18 individual. Now, if the Executive Board said we want
19 certain pieces of information, fine. But if each
20 member asks us how many cases did this or how many
21 did that, there again, you have an individual
22 datapoint without any context, that can be used in a
23 way that's detrimental to the union.

24 Mr. Dugovich was trying to point out
25 that various locals jockey for position and how come

1 this local got three grievances and we didn't have
2 any that got taken forward, things along those lines.
3 So we're open about that information. He described
4 for us the process where he is involved with general
5 counsel, and he also described being involved with
6 the president of a local about those cases. So you
7 can infer that he's involved in these cases, takes
8 them seriously, and we make decisions in the best
9 interests, trying to comply with our duty of fair
10 representation and make sure our members get the best
11 legal representation they can get.

12 But currently, some of the information
13 that he's requested either doesn't exist or shouldn't
14 be provided in the format that he requested it, and
15 to the extent that there's a request, it should come
16 from the Executive Board board as whole, I would ask
17 that you not find that charge substantiated.

18 With regard to number 3, about the
19 hiring and whether I was ratified by the board, they
20 have a long history of hiring by consensus. I would
21 ask that you find that sufficient for ratification.
22 And the ratification isn't defined. It's not
23 approval, which is a separate word used in the
24 constitution throughout places. So there's a
25 difference between ratification and approval.

1 In this case, the board was aware that
2 a position was being hired. It's a budgeted
3 position. They were aware -- Mr. Dugovich told them
4 that it was going to be me in December. In the
5 January meeting, like he said, he welcomed me. So
6 for those reasons, I'd ask that you dismiss count 3
7 as well.

8 One other point on count 1 was the
9 relief that is requested I don't think is reasonable.
10 I also would ask you to consider given all the
11 information that has come out here whether these
12 charges were really brought in good faith or not,
13 because the constitution does speak to that and there
14 can be consequences for people who bring things not
15 in good faith.

16 I think by not bringing this up to
17 Mr. Dugovich ahead of time, not contacting the board
18 ahead of time, sending it to their work addresses,
19 publishing it not only within the own local, to a
20 different local, I think a number of the issues that
21 have been discussed here show that there's a problem
22 with what took place and I'd ask you to consider that
23 as well. And to the extent -- I would just ask you
24 to dismiss these charges, thank you.

25 HEARING OFFICER MCKENNA: Thank you.

1 This hearing is now closed.

2 (Deposition concluded at 2:47 p.m.)

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1 C E R T I F I C A T E

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3 STATE OF WASHINGTON)ss.

4 COUNTY OF KING)

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6

7 I, Margaret Walkky, the undersigned Registered Merit
8 Reporter and an officer of the Court for the State of
9 Washington, hereby certify that the foregoing hearing
was taken before me on November 13, 2018 and
transcribed under my direction;

10 That the witnesses were duly sworn by me pursuant to
11 RCW 5.28.010 to testify truthfully; that the
12 transcript of the deposition is a full, true, and
13 correct transcript to the best of my ability; that I
14 am neither attorney for, nor a relative or employee
of, any of the parties to the action or any attorney
or counsel employed by the parties hereto, nor
financially interested in its outcome;

15 IN WITNESS WHEREOF, I have hereunto set my hand and
16 seal this date: November 27, 2018.

16

17

18

19
Margaret Walkky, Registered Merit Reporter
20 Certified Court Reporter No. 2540 License
expires July 18, 2019

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25

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