

STATE OF NEW YORK
COMMISSION ON PUBLIC INTEGRITY

IN THE MATTER OF AN INVESTIGATION
INTO SUSAN BRUNO'S WORK STATUS FOR
THE STATE UNIVERSITY OF NEW YORK
RESEARCH FOUNDATION.

**TRANSCRIPT OF
INTERVIEW OF
LYNN MANNING**

MURELLO: Today's date is January 5, 2011 and the time is 3:19 p.m.

SHEA: Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth in this matter before the Office of the State Ethics . . . the State Commission on Public Integrity.

MANNING: I do.

FISHER: Just a couple of questions at the beginning before Bridget takes over. You are represented by counsel. You understand that your attorney also represents other witnesses?

MANNING: I do.

FISHER: Do you, who is paying for your attorney?

MANNING: The Research Foundation.

FISHER: Do you understand that there may, that the other witnesses represented by the same attorney may give different testimony?

MANNING: I do.

FISHER: And you're comfortable with, you're comfortable with being represented by the same attorney as them in the case.

MANNING: I am.

GLEASON: Well, now that you've raised that, I mean, I've obviously spoken to my client concerning any possibility of a conflict of interest but I want to be particularly alert if there is something that you may be aware of that I am not, that might give rise to the possibility of a conflict of interest among my clients. Please, if you could, disclose that as fully as you can.

FISHER: I don't have any particular reason to think that there is. It's just a general question.

GLEASON: Okay, but if there is, as a matter of professional courtesy, I would appreciate that you alert me to that. Obviously, I've instructed all my clients to tell the truth and, you know, I don't certainly see any conflict in them doing so. But if there is some issue that, since you obviously know facts about this case that you think might give rise to even the possibility of a conflict, I would appreciate you advising me of that.

HOLOHAN: Your request is noted and . . .

GLEASON: Thank you.

HOLOHAN: . . . we'll be happy to comply.

GLEASON: Thank you

HOLOHAN: Let's just do—I kind of forgot—appearances for the record. My name is Bridget Holohan. I'm Associate Counsel to the Commission and I am here on behalf of the Commission. Also here on behalf of the Commission is Confidential Investigator Lawrence Murello, Chief Investigator Robert Shea, and Special Counsel Aaron Fisher. Tom did you want to state.

GLEASON: Yes, I'm Thomas F. Gleason, attorney for Lynn Manning.

KOENIG: Mike Koenig for the Research Foundation.

HOLOHAN: And gentleman, for the sake of brevity, we can agree that the stipulation that we entered into regarding appearances here today at the first interview of Cathy Kasluga, apply to this interview as well.

GLEASON: Yes.

KOENIG: Yes.

HOLOHAN: Did you swear . . . yes, you did. Sorry, long day. Ms. Manning, are you currently employed?

MANNING: I am.

HOLOHAN: By whom?

MANNING: The Research Foundation of SUNY.

HOLOHAN: How long have you been with the Research Foundation?

MANNING: For 7 years.

HOLOHAN: And what is your current title?

MANNING: I am the Vice President for Human Resources and Administration.

HOLOHAN: Have you held any other titles with the Research Foundation?

MANNING: I have.

HOLOHAN: What other titles?

MANNING: I came as Assistant Vice President for University-wide services and I was Vice President for Administration, HR, for a little while and I had a temporary role as Secretary for a period of time in between secretaries.

HOLOHAN: How long have you been the Vice President of Human Resources?

MANNING: For 6 years.

HOLOHAN: So that would be in approximately in 2004?

MANNING: Right.

HOLOHAN: And what are your duties as Vice President?

MANNING: To lead that functional area for the company. So the primary functions within that would be benefits administration, payroll and salary administration, employee relations, training and development.

GLEASON: Could I just take brief moment to ask my client a question.

HOLOHAN: Sure.

GLEASON: Okay, it's not related to a pending question.

HOLOHAN: We can pause.

[Break recess taken]

HOLOHAN: So is it fair to say that you are involved in most, if not all, HR decisions at the Research Foundation?

MANNING: At a certain level, yes. Not all of the lowest level ones. People on my staff do that, but . . .

HOLOHAN: Does the Research Foundation have a process in place for the hiring of new employees?

MANNING: It does.

HOLOHAN: When was that process put into place?

MANNING: It changes slightly over time, but it was in place when I got there.

HOLOHAN: Okay. And what is that process?

MANNING: We post positions, either internally and/or externally—internally meaning just for people who work at the Research Foundation. If we think we are going to have a strong slate of candidates internally and if not, external to the public. We have an interview process, depending on the position. It will get through that process, and then we have, based on the job description, we have decision factor or criteria that we hire people against or, you know, apply to and then we bring them on board. It's kind of standard: Establish start dates based on the need and the person's availability. That kind of thing, pretty standard.

SHEA: Do you have a number of people that you do interviews of for each position, like do you always interview three or do you always interview five?

MANNING: It really depends on the position. And there are times when we, . . . we, . . . do we know? I was going to say we do not post a position. That's

rare. But there are times when we post only internally, that's not so rare. And depending on how many applicants we have, we could interview as few as one or as many as five to seven on the outside.

HOLOHAN: When, and when you start this hiring process, how many people are usually involved in the selection process for a given position?

MANNING: Again, it varies depending on the position, but, in the time that I've been here, we try and have two to three anyway. It's not a firm rule as part of the process but that's the practice that we try and use.

HOLOHAN: In the division there have been some changes since you've been there. Can you articulate, give examples of one or two changes?

MANNING: A real recent one is we moved from—we were behind the curve on this one, admittedly but—we moved from a very manual process to applicant tracking system. So now we have an electronic process. So people have to submit their resume by email and it is much more efficient in terms of doing the resume review.

HOLOHAN: And so generally a person would submit a resume if they're, they want to be considered for a job?

MANNING: Um hum.

HOLOHAN: Do they also submit a job application?

MANNING: Yup, yes.

HOLOHAN: Okay. And is that a standard form that the Research Foundation has?

MANNING: Yes.

HOLOHAN: And would they normally submit that in order to be considered for even an interview?

MANNING: The job application, not always, a lot of times that would be after the fact.

HOLOHAN: After the fact of what, and interview?

MANNING: An interview or even sometimes job selection,

HOLOHAN: Um hum.

MANNING: Especially if the resume, you know, had, if it was a less complex position or the resume had enough information.

HOLOHAN: But it would be a resume or a job application at the very least?

MANNING: Yes and we, in the time that I've been there, anyway, we do get a job application for every employee or we attempt to do that.

HOLOHAN: Were, are you aware that Susan Bruno was an employee of the Research Foundation?

MANNING: Yes.

HOLOHAN: Were you involved in the selection process for her hiring?

MANNING: No.

HOLOHAN: Do you know who was?

MANNING: I don't know for sure. I think, but I wasn't here then, so it's, I can't tell you based on my own personal knowledge.

HOLOHAN: What is your understanding of who was involved?

MANNING: I believe John O'Connor and I believe the woman, since retired, but who was the employment manager in the HR office did the, you know, the standard tactical stuff, the resume gathering and, when she was hired, the benefits forms and that kind of thing.

HOLOHAN: And who would that be?

MANNING: Her name was Velma McAdoo.

HOLOHAN: And she is retired now?

MANNING: Yes.

HOLOHAN: When did she retire?

MANNING: She just retired, 12/31/10. She was a long term employee.

HOLOHAN: The Commission has received documentation from the Research Foundation as part of its inquiry and I've seen in there job descriptions. Are you at all involved in the drafting of job descriptions?

MANNING: Typically people in my staff would do that. I have been involved in a couple of the senior level, like, we have a senior vice president for research we hired a few years ago, and I helped in that. But that's not, I don't typically do that myself.

HOLOHAN: But your unit does?

MANNING: Um hum, yes.

HOLOHAN: And are there any set procedures for how you go about, or your staff goes about drafting those job descriptions?

MANNING: Well, there is a standard format that we try and use, which starts with—
do you want me to tell you about that?

HOLOHAN: Briefly.

MANNING: Okay. So it usually indicates who the position reports to, what the job level or classification is, what the job title is and then a brief paragraph about the primary functional duties and job requirements.

HOLOHAN: And generally speaking, at what juncture during the hiring process would a job description be drafted?

MANNING: Typically, prior to hiring an individual because, typically, we would use that in the interview process to talk about it and match it up against resume or application information.

HOLOHAN: Can you think of any example when that process wasn't followed?

MANNING: Let me think. This is where my, . . . this is approximate memory but I can think of a couple times when I think we were drafting descriptions at the time we were bringing people in. If we found a person we thought would be a good fit for the organization and we were thinking about an area that we needed a hire and we didn't want to lose out on a good candidate, we would be putting together a job description at the same time we might do an initial interview, that kind of thing.

HOLOHAN: Is it ever done after the person is actually hired?

MANNING: Um, I'm trying to think of a specific example. It might be. It wouldn't be unusual to update a job description. For example, we have a bank of job descriptions . . .

HOLOHAN: Um hum.

MANNING: . . . and so we might bring somebody in, say we are going to hire them as a administrative assistant and then somebody comes in and we learn more about their background and say, okay. We're going to make them an administrative assistant too, and capitalize on these areas. So it could happen after the fact, but, typically, there is a job description ahead of time.

HOLOHAN: The creation of one, or in the change and addition of one?

MANNING: Typically, we would have something ahead of time and we might change it afterward. Although, in my role, I would like to say ideally we would do that ahead of time but in reality sometimes it happens after the fact.

HOLOHAN: Does the Research Foundation have a policy regarding telecommuting?

MANNING: Yes.

HOLOHAN: And could you define for me what you understanding telecommuting to be.

MANNING: Yes. And it has evolved in practice for the Research Foundation, just like I think it has in other companies I've worked for. Telecommuting, as we've used it, is primarily performing your duties from a non-what

we call the central office,—35 State Street location. It could be from home, could be from another work location. We have a lot of people that travel to other like campus locations, and it might make sense for them to spend a day at the campus site working between meetings versus driving all the way back to Albany and then going back somewhere soon thereafter.

HOLOHAN: Um hum.

MANNING: But, typically, telecommuting would be from a home office setup.

HOLOHAN: And so, can we agree that, going forward, that when we are referring to telecommuting we are referring to an employee who has a home office situation?

MANNING: Sure.

HOLOHAN: Okay. And what is the Research Foundation's policy on telecommuting?

MANNING: It allows telecommuting where it makes sense for the person's position and where the manager or supervisor of the individual supports it. Typically, that is based on a combination of the job duties required and the performance of the individual and any other mitigating factors. For example, in my office, we allow tele . . . we allow it, in general, actually wherever we can, especially, as time goes by more and more. But I had an individual whose husband was deployed overseas and she had two young children. So we increased the ability of her to use the

telecommuting policy to help her manage her home situation while her husband was away.

HOLOHAN: When was this policy enacted?

MANNING: As far as I can recall, we've had a telecommuting policy, in general, since I came. We did some additional work on it, early in the time I was there in HR, which, so I want to say at least five years where we put some more meat to the policy, in the practice of the policy at the central office.

HOLOHAN: And by central office, you mean the office here on Broadway in Albany?

MANNING: Right. Just to be nitpicky, the address is actually 35 State . . .

HOLOHAN: Is it.

MANNING: . . . yeah, but it is on the corner of State and Broadway.

HOLOHAN: Thank you. Good to know.

MANNING: If you ask any of the employees about Broadway they won't know what you're talking about. It's known as 35 State.

HOLOHAN: So it's your recollection that there was a telecommuting policy in place when you were hired in 2004?

MANNING: Um hum, I was actually hired in 2003; I came into HR in 2004.

HOLOHAN: My apologies.

MANNING: Yeah.

HOLOHAN: And then it was altered a little bit after you came into HR?

MANNING: Right. The general policy that was in place when I got there was very, as I just said, general and broad. It basically said telecommuting is allowed; not much more than that. Shortly after I arrived, within the first year or two, we had a need, based on space limitations actually, to provide more specificity for how we were going to apply that policy at the central office, the 35 State locations, and so we put some more specificity to it.

HOLOHAN: Has it changed since then at all?

MANNING: I do not believe our actual written policy or practice has changed. What has changed is the application of it. We've had more and more people telecommuting over time.

HOLOHAN: Is there any particular reason why?

MANNING: I think a number of reason. One, we have ongoing space limitations, and they're not anxious to spend the money to rent more space, especially downtown in Albany. I think just the continual advancement of technology, makes it so much simpler then it used to be. For example when I first got there, it wasn't an automatic assumption that everybody had high speed access at their home office. Now I don't know anybody that works with us anyway, that doesn't have it. So before, when we were going to approve it, we have to consider the cost of paying for that kind of access. Now they've got it so, I think the combination of those things.

HOLOHAN: I think you mentioned one of the Research Foundation employees that currently reports to you is in a telecommuting arrangement. Is that correct?

MANNING: Yeah. Actually, I have a number but I mentioned a particular one, yeah.

HOLOHAN: So how many of your employees currently telecommute?

MANNING: I have a department of 24, I think. Right? Twenty three and we have one, two, . . . I believe there's four who currently telecommute.

HOLOHAN: How many days a week do they telecommute?

MANNING: It varies but a minimum of two. We had somebody that did four, but now, I think, the most is three days a week.

GLEASON: Bridget, so that we explain to Lynn, your going to refer to these numbers on the bottom of the page.

MANNING: Here? Okay

HOLOHAN: So I'm directing your attention to documents that have been, what us attorneys call bates stamped down in the lower right hand corner and so for the record, you can agree that it is RF00012 . . .

MANNING: Yes.

HOLOHAN: . . . through RF00014?

MANNING: Yes.

HOLOHAN: Okay. And it is entitled telecommuting agreement on the top?

MANNING: Yes.

HOLOHAN: Have you seen this before?

MANNING: Yes.

HOLOHAN: Where have you seen it?

MANNING: At the central office.

HOLOHAN: And the four employees that you just referenced that report to you and have telecommuting agreements, have they executed these?

MANNING: I believe so. I believe so. At a minimum, I have email documentation, but I'm pretty sure each of them has this in their file.

HOLOHAN: And why was this executed?

MANNING: This was, this was the document that I was referring to a couple years after I started in HR, when we started to use telecommuting more and we felt that we needed to have some consistency on how it was applied and wanted to make sure that we had good records of who was doing it and what dates for coordination within the office. So this is form that was developed internally to do that.

HOLOHAN: Have any RF employees that report directly to you been permitted to telecommute five days a week?

MANNING: No.

HOLOHAN: Why not?

MANNING: The people that report to me are all managers, rather senior level managers, and we have, that supervise other people. And we've agreed that that's not typically the best telecommuting type of role, because they need to be around, not, maybe not every day of the week, every day

of the week, but they should be around enough to be there for their employees who have questions and to supervise.

HOLOHAN: As the Vice President of Human Resources for the RF are you aware of any RF employee that was permitted to telecommute five days a week?

MANNING: Not that I recall? Not that I recall. You know, let me change that a little bit. There might have been some for short periods of time, like the woman that I mentioned before whose husband was out. If she had a need for a particular, like during . . . if her child was sick, or during a school vacation. Although her standard agreement might be two or three days a week, we would certainly, easily, allow them to do five days a week for a short period of time.

HOLOHAN: Okay. Bob get the (inaudible). I think you mentioned earlier that Ms. Bruno was hired to work at the Research Foundation prior to your arrival?

MANNING: Yes.

HOLOHAN: Okay. Do you know a Matthew Behrmann?

MANNING: Yes.

HOLOHAN: How do you know Matthew, Mr. Behrmann?

MANNING: I met him when I came to the Research Foundation. He was working there then.

HOLOHAN: And so that would have been in 2003?

MANNING: Yes.

HOLOHAN: Okay. And do you know whether at that time he was Ms. Bruno's supervisor?

MANNING: Yes.

HOLOHAN: He was?

MANNING: He was.

HOLOHAN: Did he ever have any conversations with you regarding Ms. Bruno's employment?

MANNING: I don't recall anything specific about her. I, I'm sure I had general conversations about staff because that was my job. Well, actually, that wasn't my job then. The year later, that was my job, so. I had, I didn't have a lot of conversations with him, more casual, you know, not work related in the beginning and I don't recall when he left, exactly. So my first job, I would not have much reason to interact with him other than in the elevator in the hallway.

HOLOHAN: In your first job, would you have reason to interact on a professional level with Ms. Bruno?

MANNING: No.

HOLOHAN: How about as Vice President of Human Resources.

MANNING: Not directly job related but, certainly, with any employee in the HR field, you know, we're open to any employee questions, concerns, issues.

HOLOHAN: Did she come to you with any questions, concerns or issues?

MANNING: She did at the end of her employment. Well, actually, there were a couple of times. One, there was a particular issue. She had a visitor to the office and there was a health issue that happened and so she looked for some help there, but that was incidental. More near the end when she was about to leave.

HOLOHAN: Okay. Does the Research Foundation retain the right to dock an employee's pay?

MANNING: We have to adhere to all prompt payment laws, so . . . we could do that within the confines of the law, if a person wasn't working.

HOLOHAN: Okay. Did Mr. Behrmann ever discuss any thing, any desire to dock Ms. Bruno's pay when she reported directly to him?

MANNING: Not with me.

HOLOHAN: Did he, with anyone in your unit?

MANNING: Not that I'm aware of.

HOLOHAN: Did your unit discuss with you a request by Mr. Behrmann to dock Ms. Bruno's pay.

MANNING: No.

HOLOHAN: Do you know whether there came a time in which Ms. Bruno's title was changed?

MANNING: Yes.

HOLOHAN: How did you become aware of that?

MANNING: I believe it was first through email and it was at the time that Matt Behrmann left and she was changing who she was reporting to.

HOLOHAN: And to whom was she now reporting to?

MANNING: To John O'Connor.

HOLOHAN: And do you recall what her title changed to?

MANNING: Pretty close, something pretty close to Special Assistant to the President. Of course, it might have been Special Assistant, comma, President, or close.

HOLOHAN: And it's your understanding that the title change was due to Mr. Behrmann's departure?

MANNING: Yeah, and the change in what she was doing.

HOLOHAN: So it was those two reasons?

MANNING: I believe so.

HOLOHAN: Do you have, other than those reasons, do you have an other understanding as to why her title was changed.

MANNING: No.

FISHER: What is the basis for your belief about the reasons for Bruno being changed, her job title changed.

MANNING: When Matt Behrmann left, it was as a result of a change in the work that the Research Foundation was going to be doing and that--not all of it-but a lot of that work transitioned back to SUNY to do that work. So the roles of the people that work in that group changed, most of them went

away. But since we weren't doing the same work anymore, Susan, who stayed and—I can't remember the name of the other—but there was another person that stayed, their roles changed accordingly. So we wanted to make sure that we had job descriptions that reflected what they were now going to be doing.

FISHER: And specifically you found out about this because you were involved in conversations about it at the time?

MANNING: I will clearly admit my memory is a little fuzzy here but there, I believe some emails that made—and I can't remember everybody, exactly who was involved—but amongst my staff and probably, John. This is probably, a little fuzzy.

FISHER: That's John O'Connor.

MANNING: Yes. That talked about making surer that—and this is very common, we do this with all jobs when there are job changes, which is not an unusual thing—making sure that we got documentation in our files to match what was actually happening with the job changes. So, in my office, my staff would, that would be a common thing. As people are changing different roles, they want to be making sure that we have the right documentation.

FISHER: And you would have been involved, you would have been on those emails at the time and participating. This is something that you learned later. This is something you would have been involved in at the time?

MANNING: I couldn't swear to that. I think I was. I know I learned about it through email at some time. I do not remember, specifically, the dates of the emails, exactly. But its not, it would not be an uncommon thing, especially for somebody that reported to the President, for me to be involved in that. And I do know at some point, through emails, yes, I was included on. You know, we have to make sure the job description is matching, very common thing, not unusual thing. I just can't remember the timing of was that, I think it was . . . I really don't remember whether it was before, at the time, or right after she made that change. And again that's not atypical either. You know, when people are moving, we just are trying to make sure we are keeping up with the changes to make sure the right documentation is there.

FISHER: So that would have been either after or right around the same time that Matt Behrmann left, in your recollection is when she would have transferred?

MANNING: Yes, yup.

FISHER: Okay. Alright. Do you know the date that Matt Behrmann left?

MANNING: I don't remember that off the top of my head.

FISHER: Would HR have documentation of that?

MANNING: We would have documentation of that, absolutely.

FISHER: Do you still have that documentation as of now?

MANNING: Yes.

FISHER: Okay.

HOLOHAN: And so, her title became Special Assistant to the President?

MANNING: Yes.

HOLOHAN: And it's your recollection that, at that time, someone in your unit would have drafted a new job description for her?

MANNING: We don't, the HR office doesn't always draft that job description. What we'll typically do is work with the hiring manager or supervising manager or somebody assigned to that in that group. On occasion we're asked to try and come up with a draft, depending on who it is and what it is. And if we have, you know, like a series of job descriptions that might be close. I do not recall which way this one went, if we got a job description or asked to comment on it or if we created it.

HOLOHAN: Okay. But generally, it's a practice that one of those two processes would have been followed at or near the time that her title was changed?

MANNING: Yeah or sometime thereafter.

HOLOHAN: I'm not Hitler over here.

MANNING: Nope, no. I am just trying to give you the real story.

HOLOHAN: Was this a new position for the Research Foundation?

MANNING: As far as I know, yes. There wasn't one immediately before this. There could have been something like this in the past, before my time.

HOLOHAN: Okay. When Ms. Bruno's title changed to Special Assistant to the President, did you have any business reason to contact her?

MANNING: Not that I recall.

HOLOHAN: You didn't work on any project with her?

MANNING: I did work on one project with her, but it was quite a while after her title changed.

HOLOHAN: Okay. What project was that?

MANNING: It was a project having to do with putting together a recognition event for successful researchers from across the SUNY system.

HOLOHAN: And do you recall when this was, approximately?

MANNING: Let me just think for a minute. I'm going to say 2007 or 2008.

HOLOHAN: Okay.

MANNING: The Research Foundation did these dinners for quite awhile on an annual basis . . .

HOLOHAN: Okay.

MANNING: . . . and I don't recall which one it was.

HOLOHAN: Okay. Have you been involved in more than one?

MANNING: I have been involved in two.

HOLOHAN: Okay. And what years were those two?

MANNING: I believe one was 2007 and one was 2008, but I don't remember. I think maybe hers was 2008.

HOLOHAN: Okay. But it either had to be 2007 or 2008?

MANNING: I am pretty sure.

HOLOHAN: Okay. And do you know whether Ms. Bruno was permitted to telecommute?

MANNING: Yes.

HOLOHAN: How are you aware of that?

MANNING: I'm trying to think of how I was originally aware of that. I don't recall exactly but I, I know that I had a couple of conversations with John about it, and then with Susan about it.

HOLOHAN: Let's start with your conversations with, and by John, you mean Mr. O'Connor?

MANNING: Yes.

HOLOHAN: Okay. When did these conversations occur approximately?

MANNING: This is guessing, 2006, 2007.

HOLOHAN: And what was the sum and substance of the conversation?

MANNING: Very brief in the beginning, just the fact that there were occasional instances of it. And then the conversations that I--and these were all very brief--but the ones that I remember more specifically were near the end of her tenure with us, like the year before. And this is where I talked with her a couple of times briefly. Her mother was very sick and that's when we, you know, I was very supportive of John saying he wanted to let her do more of that. And I, absolutely, we have lots of precedent, that's what we do for our employees.

HOLOHAN: So it is typical for an RF employee to be permitted to telecommute due to personal circumstances in their life, like the illness of a parent?

MANNING: Absolutely.

HOLOHAN: And for daycare purposes or childcare purposes?

MANNING: Yes. Not on the daycare, not as a matter of course. We don't view ourselves as, you know, an alternative day care provider, but with extenuating circumstances or for short periods of time, like the one, the example I gave you earlier about the woman whose husband was deployed, yeah.

FISHER: You said that the conversations about Ms. Bruno's need to take care of her mother were toward the end of her tenure?

MANNING: As best as I can remember, like a year, maybe a year and a half before she left us.

FISHER: She left in early 2009. Is that right?

MANNING: Yes.

FISHER: And so, that would have been somewhere around early 2008, late 2007?

MANNING: To the best of my recollection.

FISHER: And in those conversations, is that the first you had heard of Ms. Bruno's need to take care of her mother?

MANNING: I think so.

FISHER: And do you know whether she was already telecommuting at the time of those conversations?

MANNING: I think she was on a much less basis, but I really don't know because I wasn't directly involved at that time.

FISHER: And when you say you weren't directly involved, what does that mean?

MANNING: Like helping fill out a form like this or even involved in asking, you know, is this okay. Our supervisors, certainly at the President's level, were, had perfect authority to do that with their employees on their own. So typically, we would get involved if there was a question or an issue and I really didn't have that before.

FISHER: I see. So, did you have any information as to how often she was telecommuting before the conversation about her mother?

MANNING: No.

FISHER: And so, it could have been one day a week, five days a weeks as far as you know?

MANNING: Or one day a month, yeah, yeah. I really didn't have any specific information.

HOLOHAN: And just so I'm clear, what was the sum and substance of the conversations you had with Ms. Bruno regarding her telecommuting arrangement.

MANNING: It was on an informal basis, I should clarify. It wasn't like she came to my office or called me to specifically talk about this. But the gist of it was, at some point, she made me aware, and this could have been as simple as an elevator conversation. I really don't remember. But I

became aware that her mother was ill, quite ill and she was spending a lot of time taking care of her. And I honestly do not remember if I heard that first from Susan or from, from Susan Bruno or from John O'Connor.

HOLOHAN: Um hum.

MANNING: And I very well could have asked her about it if John had mentioned something to me about it. But I was supportive to both of them, you know, on an informal basis and I would guess probably on a number of occasions that this is the type of situation we would offer telecommuting arrangements for if it made sense. And in her case, it was to support her, as one of our employees, and in John's case it was to clarify for him what we do and what we don't do.

FISHER: I have a followup on that. You said that senior employees and, certainly, President O'Connor had full discretion to decide whether and how much their direct reports would telecommute.

MANNING: Um hum.

FISHER: And that was true before 2007, that's always been true as far as you know?

MANNING: Yes. Especially because, before we did this, and I'm pointing to this document 12 through 14 that you mentioned . . .

FISHER: That would be the telecommuting agreement document?

MANNING: Yes. The policy was so general that, really, there were no limitations listed in it. It really was a sentence that basically said telecommuting was allowed if appropriate, based on the job content.

FISHER: Can you remind me of when the policy, the telecommuting agreement was adopted?

MANNING: That was a central office only policy. For the general policy was all RF. And this one, I don't recall the exact date but it was a couple of years after I came into the HR job. So I'm going to guess it would have been around 2006.

FISHER: After that policy was adopted, did Senior Managers still have complete discretion as to whether to allow direct reports to telecommute?

MANNING: Yes.

FISHER: And would they have to check with you or file any paperwork with you in order to do that?

MANNING: Typically, they would have to file that telecommuting agreement form. The reality of it is, if they had somebody already telecommuting, probably they didn't and we didn't require them to. If they had a new person starting, we would typically ask them to do that.

FISHER: And so specifically with Susan Bruno, do you know whether there was a telecommuting agreement for her?

MANNING: I do not recall.

FISHER: You've never seen one?

MANNING: I don't recall seeing one.

FISHER: So then it's fair to say that, even after the policy of having telecommuting, written telecommuting agreements was adopted it was still the case that senior managers would have discretion as to whether and how much their indirect reports would telecommute?

MANNING: Yes.

FISHER: Okay. And so then my question is, why did President O'Connor and Susan Bruno have to go to you to ask about this issue with Susan Bruno's mother if President O'Connor had full discretion to decide whether she could telecommute and how much?

MANNING: Well, let me be clear. President O'Connor wouldn't come to me to ask for permission but it would be very common . . . we had roughly ever other week meetings as he did with his other direct reports and it would be something, it would be very typical thing for him to bring up if any of his reports is having a significant family issue that might impact work. So rather than, I don't want to suggest that he was coming to ask my permission, or my approval for him to do something. But we would talk about it. I don't recall a specific conversation but I am quite sure that we did talk about it because I remember having some conversation about this and I would be very supportive of his decision to do that, because it's, it's our practice.

FISHER: So he would, it's your understanding at least of how he was explaining the situation to you, was that she was going to be increasing her level of telecommuting at that point?

MANNING: I really don't remember the specifics but the sense that I had, and I would have been supporting is, if you have an employee that has a significant family situation like this, yes, you're going to have my full support and backup if you want to allow that kind of thing. So my sense was, yes, she was going to increase, but I do not recall. I don't think we had any specific conversation of, you know, she is one day now and she is going to go to four days. But my sense was, yes, increasing.

FISHER: And your sense was that, when you say you sense, that's your recollection of what President O'Connor actually said or . . .?

MANNING: I don't recall exactly what he said.

FISHER: But is it your recall . . . did you recall whether Susan Bruno said that she was going to be increasing her level of telecommuting at the time she spoke to you about her mother?

MANNING: I'm quite sure she wasn't that specific. My conversations with her were more about, how's her mother doing. And she, you know, her indication to me that she had to spend more time with her in caretaking but I do not believe I ever had a specific, you know, I'm going to go from this many to this many days of conversation with Susan.

HOLOHAN: Was there any discussion with either Mr. O'Connor or Ms. Bruno that another reason she might need to telecommute was due to a Federal investigation of her father?

MANNING: Not specifically. She did say to me at one point that she was being--this is my word, I can't recall if it was exactly her word--but harassed. And she had people following her and sitting outside her house, and sitting outside the front door of our building, and that made it really difficult for her.

HOLOHAN: And did Mr. O'Connor ever express to you any concern on the Research Foundation by the activities of the people from the outside following Ms. Bruno?

MANNING: Did John O'Connor say that to me?

HOLOHAN: Um hum.

MANNING: I don't recall.

HOLOHAN: Did you ever observe members of the media or other individuals waiting outside the Research Foundation for Ms. Bruno?

MANNING: I can't say if they were waiting for her. I have on several occasions seen members of the *Times Union* staff waiting outside the Research Foundation or, at the time, there was a coffee shop next door, sitting in there.

HOLOHAN: And this was during Ms. Bruno's tenure?

MANNING: Yes.

HOLOHAN: And have you seen them since she's left employment with the Research Foundation?

MANNING: Not there. I mean I have seen them on the news, but yeah.

MURELLO: Is there a back door to the Research Foundation?

MANNING: That's a hard one. There's our main entrance which is on the State Street side.

MURELLO: The corner.

MANNING: Nope. That's not the main entrance.

MURELLO: That's not?

MANNING: That's that's our back door, which is why I kind of hesitated. But it's locked. You can't use it.

MURELLO: Okay.

MANNING: The main entrance is on the State Street side. It's a much smaller door than that one on the corner that you see.

MURELLO: Um hum.

MANNING: So, the, the one on the corner that you've seen, which is sort of the wider entrance, can be used as an emergency exit only.

MURELLO: Okay.

MANNING: So you can get out of there in the case of emergency but you can't go in it and if you go out you set off alarms. So, you know, Susan or any other employee couldn't sneak out that door. You have to go out the one door.

MURELLO: Okay, thank you.

HOLOHAN: I'm going to show you what has been bates stamped as RF001 through RF007. Just take a moment to look at it.

MANNING: Okay.

HOLOHAN: Is this the telecommuting policy that we have been discussing quite a bit about?

MANNING: It is. And it actually tells me the date that I couldn't recall. It is 2002.

HOLOHAN: Why thank you.

MANNING: I knew where it would be. I just couldn't remember that without seeing the document.

HOLOHAN: Can I tell you, I've looked at this a million times and I've missed it. I'm going to direct your attention to page four of this document.

GLEASON: By that you mean?

HOLOHAN: 0004

GLEASON: Right, because there is a two above it.

HOLOHAN: Two, it does have a two below it yes.

GLEASON: Above it.

HOLOHAN: Above it. I'm sorry, thank you.

GLEASON: Okay, sorry.

HOLOHAN: I obviously need some more coffee. And I'm going to read to you the top paragraph. It says "telecommuting is not intended to serve as a substitute for child or adult care. If children or adults in need of primary

care are in the alternative work”, I think that should be “work”, but it does say w-o-k.

MANNING: Oh, yes.

HOLOHAN: “location during employees work hours, another individual must be present to provide the care.” Is that an accurate reading of that statement?

MANNING: Um hum.

HOLOHAN: So, you know, from a person outside looking in, when I’m being told that Ms. Bruno was given a telecommuting arrangement because of the illness of her mother, I see it as being contrary to your own policy. Can you explain this discrepancy?

MANNING: I think so. And this is what I was referring to earlier. We do not want telecommuting, especially back at the time when this was first created, when telecommuting was beginning to be used, starting, beginning to be used more. It was not as common as it is now. We did not want a telecommuting arrangement to become the primary adult or child care substitute. On the other hand, we fully supported, when there were unusual circumstances or circumstances with a finite or relative finite period of time. This would help our employees manage that and we were fine with that. So if some employee in my—I’ll just make up this example—in my organization came to me and said, you know, I’m having a baby and I want to telecommute now full time so I can stay

home and watch the baby, I would say, sorry. But, if somebody came to me and said, you know I'm having a child or my daycare cancelled and it is going to take me, I don't know, three or four months, or even— here's a better example—my child care cancelled on me. It's February, and I just need to get through June when school ends, or whatever. I would probably easily say as long as they were an employee that I felt, you know, could handle this kind of arrangement, I would easily say absolutely, no problem, you can telecommute. We'll work out the schedule and to handle that. That would not be unusual. It is just the primary care with no alternative method of approaching it that we don't want this to be the back up for.

[END OF SIDE ONE OF TAPE ONE]

HOLOHAN: Oh, we're back on, Larry?

MURELLO: We are.

HOLOHAN: I'm Sorry. So, to you, there is no discrepancy between the arrangement that was granted by Ms. Bruno and this written policy.

MANNING: No, I think it is a judgment call and it is something that has to be managed. As I understand it, her mother was sick for a long time, but that last year or so she got progressively more ill and needed more care.

HOLOHAN: And I think, you know, I try to be sensitive about these things but, due to Senator Bruno's public, being a State senator, I think we're all aware that Mrs. Bruno eventually died of Alzheimer's. That's fair, correct?

MANNING: Um hum.

HOLOHAN: And it's my understanding from media reports that that occurred sometime in the early part of 2008. Is that you're understanding as well?

MANNING: Yes.

HOLOHAN: And do you know whether Ms. Bruno's telecommuting arrangement was shortened to fewer days a week after Mrs. Bruno's eventual death?

MANNING: I don't know.

FISHER: Did anyone, do you remember having any conversations when you changed her telecommuting arrangements in 2008?

MANNING: I am quite sure I didn't have a conversation about that?

FISHER: Do you, have you ever seen any documents that would say one way or another whether there was a change in her telecommuting arrangements in 2008?

MANNING: No, but, because, as I mentioned earlier, I don't recall ever seeing a form like that for Susan. Not that there isn't one, but I, typically, wouldn't see those. They'd go to my staff.

HOLOHAN: When you were first hired by the Research Foundation, where was your office in relation to Ms. Bruno's office?

MANNING: When, I'm sorry, when I was first hired--this will really probably sound unbelievable but--I didn't know who Ms. Bruno was. And I don't know where she worked. I can tell you I worked on the first floor of the

building? I am hesitating because I worked in a couple places real quick while they were moving things. I think I worked on the second floor for a couple of weeks, but then I worked on the first floor for a long time. I don't know where she worked.

FISHER: Was there ever a time while you were at the Research Foundation that you worked in a place that would allow you to see Susan Bruno's office?

MANNING: I never worked near her, but I did attend meetings on the floor where she had her office, at least the last couple of years. So yeah, I saw her office.

FISHER: And you would attend . . . these would be weekly meetings, daily meetings?

MANNING: There is a conference room up on the floor where she works so it would be occasional meetings, who ever set up a meeting in that conference. I also, at that time, reported to the former Executive Vice President who worked in the office next to her. And I met with him, I believe it was every other week. So I'd, yeah, I'd be on that floor on occasion and walk by her office. I saw her office.

FISHER: Did you observe whether she was regularly in her office?

MANNING: Yeah, I mean, I saw her plenty of times. Just like anybody, I can't, I don't recall, I can't, I'm sure she wasn't there all the time, but at that time, I didn't notice anything different than anybody else. And I will

say we spend lots of times in meetings. So people are in and out of their office, but I didn't notice anything different with her, than with anybody else at that time.

FISHER: And when you say at that time, this wasn't the entire time that you've been at that Research Foundation?

MANNING: Correct.

FISHER: What time period was it that you would have regularly pass by Susan Bruno's office?

MANNING: I don't think I went up there at all the first year that I worked there. I mean, up there at all, I didn't go up there much the first year. It would just be an occasional meeting that might be up in that conference room. When I went into the Human Resources job, that's when I reported to the Executive Vice President, and I went up there more, usually for those every other week meetings, and other occasional conference room visits up there.

FISHER: So that would be about 2004?

MANNING: Um hum.

FISHER: And so from that time period until now you regularly go to that floor?

MANNING: Say that again.

FISHER: From 2004 until now, you have been going to that floor regularly?

MANNING: Oh, yeah, um hum.

HOLOHAN: And you would regularly see her when you were on the floor?

MANNING: Yeah. Again, I'm not going to say she was there every time I went up there, but I didn't notice any real difference between her and others, in the beginning. Now at the end, when this telecommuting and the mom situation, she wasn't there as much. And I knew that so it didn't surprise me when I didn't see her.

FISHER: Do people, to get into the Research Foundation, do you have to use a key card?

MANNING: Yes.

FISHER: And you pretty much have to use that every time you walk in the door.

MANNING: Yes, except for the typical times of day, like morning and lunchtime. People typically arrive and come in all in one group; somebody swipes and ten people go in.

FISHER: Okay. Have you ever seen records of key card swipes?

MANNING: Yes.

FISHER: Do you, what is the context that you've seen these records?

MANNING: I, part of my role, HR and administration, the administration piece, has, I am responsible for facilities management, which is the building. And I was asked to get a, we--this is all done by a computer basically, by software--I was asked to pull up the records for Susan by our legal office. And I didn't do that myself. I don't know how to work that machine. But I asked a person that works for me to do that.

FISHER: Would you consider, so, based on what you say, I'm not sure whether you consider records of key card swipes to be an accurate record of the days on which a particular employee was actually at the Research Foundation.

MANNING: I do not think they are accurate at all.

FISHER: Okay, are there any other records that would you allow you to accurately determine which days a particular employee actually was at the Research Foundation?

MANNING: So let me back up for one second to clarify what I just said. I do think what is accurate about the key card swipes is, I do think, unless you give your key card to somebody else—which we really encourage people not to—I think they accurately reflect when you did swipe. I do not think they are comprehensive at all. So, and then your next question was.

FISHER: So my question was, so I guess what you're saying is that it is possible that someone was there, but there was no swipe.

MANNING: Right.

FISHER: So, but are there any other records besides key card swipe records, that would allow you to accurately determine whether a particular employee was at the Foundation on that day.

MANNING: Yes, so for exempt employees, which Susan was, we do monthly exception reporting, . . .

FISHER: Um hum.

MANNING: . . . it's called. And what that is, is a signed document by the employee and the supervising showing which days the employ, or partial days, the employee was not at work and for what reason; typically holiday, vacation or sick time.

FISHER: And with telecommuting employees, would they mark on their sheets whether or not they were telecommuting?

MANNING: No. Whether they were working.

FISHER: So that would be the record of according to the employee or their supervisor they were working?

MANNING: Correct.

FISHER: Would that be a record of whether they were actually in the building?

MANNING: No.

FISHER: Is there any document that, other than key card records that would reflect whether a particular employee was actually in the building on a particular day?

MANNING: No, not that I am aware of.

FISHER: You said that your observations of whether Susan Bruno was in the office was based on going up to occasional meetings.

MANNING: Um hum.

FISHER: Would you agree that someone in the office on the same floor as her might have a more accurate impression of how often she was in her office?

MANNING: I would think so. I guess it would depend on how often that person was in or out, too, but.

HOLOHAN: I'm going to show you what has been marked down in the corner, bates stamped RF00925 and 926, and just ask you to review it.

MANNING: Okay.

HOLOHAN: Have you seen this before?

MANNING: Yes.

HOLOHAN: What is this?

MANNING: This is an email trail between Paul Kelly, who is in my organization, and John O'Connor and myself about space at, space at 35 State Street.

HOLOHAN: So can you describe for me what transpired here?

MANNING: So, this is Paul Kelly, who works for me saying he has been working with another manager about trying to find more space. This refers to what I mentioned earlier about we have ongoing space issues and we aren't anxious to spend more money to rent space. So, and, it's, Paul and I were brainstorming about where could we find more space. And I suggested to John here, especially since Susan was telecommuting more, what I was basically trying to say, any chance we could have full time telecommuting or is there space elsewhere, maybe across the street, closer to John's office at the SUNY plaza building, because we have real needs here, before we go spend some more money.

HOLOHAN: And IS staff, what is that referring to?

MANNING: Information Systems.

HOLOHAN: And so at the top where you write to him, “I interpret this as we can’t have SB space yet”, what were you referring to in that?

MANNING: SB, Susan Bruno.

HOLOHAN: Um hum.

MANNING: And what I was telling Paul, who was asking me, you know, he is looking all around the building for any space he could possibly come up with. And I’m telling him, you know, based on this response from John, he is not ready to have Susan go full time. He wants to retain her office for her when she is in the office working versus when she’s at home working.

HOLOHAN: Is there any particular reason why you or Paul identified Sue Bruno’s office space as space that could be used for other staff?

MANNING: Probably because she was telecommuting more at this time.

HOLOHAN: What there anyone else that you identified as, whose office you could use?

MANNING: Looking at this time, well, the IS staff is where this started with. So we were having some of those people share space, telecommute sometimes, you know, like one would telecommute the first half of the week, and the other would telecommute the other half of the week. And we were looking to see if we could make that work, but at the same time—well, actually, the other space, I think this was at the same time—is John

retained an office in our building, though his primary office is across the street. And it wasn't in this email, but I know a couple of times I asked him, when we got really tight on space, can we use your office over here. So any space that wasn't getting used, we also did it with conference rooms on occasion, though we really have a need for a few conference rooms and we have a lot of meetings, so we need them. A couple of times we have put a couple people in conference rooms versus go rent other space.

FISHER: And you mentioned that Susan Bruno was telecommuting more at that time of that document, 2008.

MANNING: Yeah, I think this was at the time when her mother was ill.

FISHER: Okay, and so when you say she was telecommuting more, that means more than she had been previously telecommuting?

MANNING: More than I was aware, yeah.

FISHER: And that's based on the conversation that you had with Susan Bruno and President O'Connor?

MANNING: Yes.

FISHER: And I think you said earlier that it was the sense that you got from the conversation was that she was increasing telecommuting?

MANNING: Right.

FISHER: But did you say whether you were actually told that she was increasing telecommuting?

MANNING: I don't recall that I was told. I really don't think anything specific, you know, John or Susan, or Susan said to me, I am going from this many days to this many days. But my sense was, understanding that her mother was quite sick and getting sicker, that she was spending time working out of the office than in.

FISHER: Okay. So leaving aside whether it's about a particular number of days, did they actually say to you that, did either Susan Bruno or President O'Connor actually say to you that Ms. Bruno would be telecommuting more often than she had been?

MANNING: I don't think that they had, they used those specific words, and that's, I'm sorry I can't be more specific than to say a sense. I don't recall having a specific conversation to that end. It was more my conversation—conversation is probably exaggerating it—my few comments to John and to Susan, separately, were more along, we want to support this employee at this time of need. And if she needs to be home more during this time, let's do whatever we can to support it.

FISHER: Is there any other information, besides that conversation, that makes you believe that she increased the amount that she was telecommuting?

MANNING: The only other thing that I can recall—the timing of it is a little fuzzy in my mind, but—this is the time she told me that she was, you know, the press were waiting for her wherever she went. So, and I again, I did share that with John. I think that might have been a little before this but

I really don't remember the exact timing. For both of those reasons, we were trying to support this woman, you know, doing her job. But if she could help with her mother's situation, therefore her own, and we can help her address this press business that we have no control over, and this is an easy way to do it, we're going to support that.

FISHER: And besides those two conversations, are there any other information or documents that you have that makes you believe that she increased, she ever at any time, while she was at the Research Foundation, increased her telecommuting?

MANNING: I don't recall any other specific documents. But it was just—as I say, sorry to use that word—but it is just what I've got, that general sense, that these couple of things that were happening, that her time out of the office, and, you know, it probably was seeing her less at the end, which I already mentioned to you, in the office up there. So all of those things were fitting together.

FISHER: Right. Was the sense based on what President O'Connor or Susan Bruno said to you? Is that where you got the sense?

MANNING: Certainly Susan talking, and she didn't talk a lot. She's very private. But talking about her mother's significant illness, certainly from those conversations, I do recall that. I can't recall when, but I do recall a specific situation. It was very poignant actually, what she was dealing with.

HOLOHAN: Did there come a time in which Ms. Bruno left employment with the Research Foundation?

MANNING: Yes.

HOLOHAN: Do you recall when that was?

MANNING: It was in early 2009, February, or a little later than that. We started talking about it in February maybe, yeah.

HOLOHAN: And so you were involved with the decision making that led to her eventual departure from the Research Foundation?

MANNING: She decided. But I was involved, I was involved in that communication.

HOLOHAN: When you said “she decided,” what are you referring to?

MANNING: She contacted us, saying that she would leave, she would be leaving.

HOLOHAN: And so she’s the one who decided to leave voluntarily?

MANNING: Yes. We talked about it, but that’s what she decided to do.

HOLOHAN: When you say “we talked about it, but”, I’m, so was, was this topic initially started by the Research Foundation wanting Ms. Bruno to leave, or was this Ms. Bruno’s idea to leave?

MANNING: Um, hum. It’s a hard question. She referred us, actually, at one point because of all the outside media contact that was happening, she referred us to her attorney. And then her, she talked to her attorney and out of that, that she sent us an email saying that she was going to leave.

HOLOHAN: Did the Research Foundation decide that she should leave the Research Foundation prior to those contacts by Ms. Bruno or her attorney?

MANNING: In all candor, it was getting more difficult for her, and certainly therefore for us. But she definitely made that decision after speaking with her attorney. I would not be candid if didn't say I had a little bit of relief, both for her and for us, but it was her decision.

HOLOHAN: Okay.

MANNING: At least as far as I know, and I believe I know that full picture.

HOLOHAN: So was she part of a reduction in force?

MANNING: Her job was eliminated. When she told us she was leaving—we had a lot of budget issues going on anyway—we made the decision not to refill that position. We didn't post it and we didn't bring anybody in to backfill her.

HOLOHAN: Okay, but she wasn't let go due to a prior determination that her title should be eliminated. Is that fair?

MANNING: Yes, yup.

FISHER: Do you remember the first communication you had with anyone in which they told you that Susan Bruno was considering leaving the Foundation.

MANNING: I'm pretty sure . . . what I'm remembering, the first communication we had was from Susan on that by email, and it was after she referenced her talking with her attorney, and then she sent us an email.

FISHER: So you don't recall any conversations or documents, conversations or emails for, before Susan Bruno emailed you, emailed that she was considering leaving, you don't remember any, ever discussing the possibility for her leaving with anyone?

MANNING: I am, I am guessing that we probably talked about it cause we were—sorry—as I said, we'd had ongoing budget issues. So we were, on an ongoing basis, looking across the organization at functions, jobs, people. In 2006, we had a significant reduction, so we had looked at a lot of jobs then. So I'm sure that we've had discussion about it, as well as a lot of other positions, at different times. But it—I'm sorry—this particular decision at this time was Susan. We weren't, you know, I really don't believe we had any discussion just before this about eliminating this position. I'm pretty sure about that.

HOLOHAN: Can we talk about reduction in force in general?

MANNING: Um hum.

HOLOHAN: I can imagine, like everyone else in these last few years, you've had a number of employees who have been subject to a reduction in force. Is that fair?

MANNING: That is correct.

HOLOHAN: When you decide to eliminate a title due to a reduction in force, is the employee identified provided a severance package?

MANNING: Yes, typically.

HOLOHAN: And what is that severance package typically entail?

MANNING: It's based on service, usually, and there are two weeks of pay plus another week of pay for every year or partial year of service, and then pay out of any used vacation up to a maximum, depending on when they started. And we have often in the past paid for job placement or job search services for a period of time. We also have, depending on the level of the person and what kinds of things they have, we've allowed, we have a few employees, not many but a few, who have assigned cars to them we've allowed them the option of purchasing their car at the bluebook rate, if they wanted. A lot of people have blackberries or other computer equipment, which is basically useless after they've had it for a while. So we allow them to either purchase that or have that depending on the value, as long as the service contract goes away. The RF doesn't pay that, but the actual thing is so valueless, we, typically, let them have that.

HOLOHAN: What, if any, right do they have to health benefits upon termination as a result of reduction in force?

MANNING: Again, this one varies a little bit, depending on the situation and the person, but sometimes we will pay for cobra extension coverage until they can get signed up for a new job or other coverage elsewhere or pick it up themselves, if they're not able to find other health care coverage throughout their employment.

HOLOHAN: And what criteria—and you’ve talked about different variations for different terms—is there any set criteria to determine who gets what within their severance package?

MANNING: The piece that is set is the paid time off based on your years of service of the two weeks plus a week for every year or partial year of service thereafter, that’s standard for administrative employees. Susan was one of those. The rest is somewhat negotiable. It’s almost like a starting salary to some degree, depending on the tenure, the length of service of the person, and what they did. If somebody really asks for something, and we think it’s reasonable and not high cost, we’ll consider it.

HOLOHAN: And which of these terms did Ms. Bruno qualify for?

MANNING: She received the standard two weeks plus the week of pay for every year of her service or partial year. We did, I believe, pay for her cobra continuation for a period time. I don’t remember the exact amount of months. I want to say six to nine months. I’d have to look, double check that. We gave her her blackberry. We discontinued our service but we, she wanted to keep her phone number. We said fine. I don’t recall if we gave her outplacement service. I don’t think so.

HOLOHAN: I’m going to show you what we have as RF898. Can you describe for me what transpired here on this email?

MANNING: This was from Kathy Kasluga, our, at the time she was the Vice President for Communications, to me asking me about, if I had been

able to follow up on an issue that came up as a result of a foil request.

This had to do with Susan's attendance at community college.

HOLOHAN: And did you provide the information to Ms. Kasluga?

MANNING: I think somebody on my staff did.

HOLOHAN: And why was this—I'm sorry—why was this request provided to you?

Did you work on this project with Ms. Bruno?

MANNING: On this project, oh, on the second, the Marshall?

HOLOHAN: Yes.

MANNING: I'm sorry. I didn't see that part. No. I, I believe, I believe this came to me because of the community college piece of this, . . .

HOLOHAN: Okay.

MANNING: . . . which was called into question in the media report about this. And it would be typical for our office, since we have the resume and/or the job application, it would be a reasonable thing for Kathy to ask us, can you find out about this, what we just read in the paper.

HOLOHAN: Okay. And what did you find out?

MANNING: It's actually a two step thing. When we first contacted the college, they had, they had misinformation about her not attending, I think. And then, when we—I can't remember if they called us back or we called them back but, anyway—the follow up conversation was she had attended, and I don't remember the specifics, but it was a couple of courses.

HOLOHAN: Okay. This is RF967.

MANNING: Um hum.

HOLOHAN: And again, could you just explain to me what transpired here?

MANNING: I actually don't remember the specifics of this but I clearly wrote this. I believe this was in, probably in follow up to the exhibit you just showed me where I was trying to be responsive to Kathy's request to follow up on this project, because I didn't work with her on it. I didn't know anything about it. So I was sending this note to Susan to say do you have anything that can help us understand what that was?

HOLOHAN: And did she send you anything?

MANNING: I do not recall.

HOLOHAN: So do you know if she was at all involved in the project identified in that email.

MANNING: I don't personally know. I assume she was but I didn't work on that and I don't personally know.

HOLOHAN: And to your knowledge she never provided you any documentation showing her involvement in that project.

MANNING: I wouldn't say that, seeing this suggests to me that she would have but I really don't remember this. Seeing it, I sort of remember following up but I just do not remember if she sent something to me or she sent something to Kathy or John. I just do not remember this.

HOLOHAN: Are you aware of a couple of *Times Union* articles that appeared in January 2009 regarding Ms. Bruno's employment at the Research Foundation?

MANNING: I definitely remember the articles. I couldn't say if they were January, but, yeah.

HOLOHAN: Did those articles, to your knowledge, provide any basis for Ms. Bruno's decision to leave the Research Foundation?

MANNING: Well, this is a little conjecture on my part but I think so.

HOLOHAN: Is it fair to say that she decided to leave not long after those newspapers articles?

MANNING: Yes.

HOLOHAN: And you conducted an exit interview with her, prior to her departure, that's correct?

MANNING: We gave her the exit interview forms and she filled them out.

HOLOHAN: So I'm showing you that which is RF1065 to 1067.

MANNING: Yes.

HOLOHAN: So while she filled this out, you didn't have any face to face conversations with her?

MANNING: No, by this time, I offered to do that. She just wanted to, she was very cordial but she just wanted to be done. She brought everything in and said I don't need to talk.

HOLOHAN: Did she express to you any frustration with her desire to leave the Research Foundation, with her need to leave the Research Foundation?

MANNING: She wasn't with me. As the best that I can recall, she wasn't specific about her need to leave the Research Foundation. She made a few comments just about—these are my words—but her message was she is collateral damage and, you know, all this, people looking into her life and tailing her and all this, had nothing to do with anything she did, and she was weary. She was really weary.

HOLOHAN: Did she ever express to you that the facts in the *Times Union* articles were inaccurate or untruthful?

MANNING: I am pretty sure she did. But I couldn't swear exactly her words or when. But yeah, it kind of goes along with what I just said. She was tired of all of this.

HOLOHAN: Were you in, were you ever in a position to evaluate her work performance?

MANNING: No.

HOLOHAN: Were you ever in a position to determine whether she reported to work?

MANNING: No.

HOLOHAN: Other than Mr. O'Connor, do you know anyone who would have been in the position to evaluate her work?

MANNING: Well, Matt Behrmann for her first time, definitely. And I believe she worked on these various special projects with some campus people and

some other SUNY people but I don't know enough to even tell you who.

FISHER: Are you in a position, based on your own knowledge, to say whether or not Bruno did a significant, did any significant amount of work at all, while she was at the Research Foundation.

MANNING: I'm really not, because I didn't work with her, other than one project. And I will say on that one--this is the project I mentioned earlier, the Research dinner, recognition dinner--she was at every meeting. She was eager to help. I have heard her a couple of times, relative to that project, say, give me more, you know, tell me what you want me to do.

FISHER: And this was, this, I think you said you worked on two recognition dinners yourself.

MANNING: Yes.

FISHER: And one of those two dinners Susan Bruno was working?

MANNING: Yes.

FISHER: And about what period you were working with her at that time?

MANNING: Yeah, yeah.

FISHER: About how long a period of time where you working with her on that dinner?

MANNING: It was pretty short. I want to say one to three months.

FISHER: And about how many meetings per week would be held for that?

MANNING: It wasn't, I wasn't involved in all the meetings. My role in it was sort of a sideline thing, so I probably attended two to three meetings with her total.

FISHER: Other than those, did you ever see any written work product that she produced in connection with that recognition?

MANNING: I don't think so. That wasn't really the nature of that project.

FISHER: Did you ever see any direct, any other evidence that she did work on the project, other than attending the two to three meetings?

MANNING: The part that she was involved in that I knew about had to do with getting some dignitaries, basically, to be at that meeting and be part of the recognition of these researchers, and they were there.

FISHER: Do you remember which dignitaries?

MANNING: Her father was at one, and a bunch of politicians. Forgive me but I don't remember.

FISHER: Bunch being?

MANNING: I would say six to ten maybe. And, honestly, I don't know which ones she got and which ones John got or other people got, but there were a lot of people and the researchers appreciated it.

FISHER: Is there anything else, besides the six to ten politicians and the two to three meetings that you know, based on your own knowledge, she did in connection with the recognition dinner?

MANNING: Not personally. That is the only time I worked with her directly and it was kind of on a real sideline basis.

HOLOHAN: I'm going to show you 1446 and 1447 which I'm including because the top of 1446 says page one of two, so that we have completed, but we can agree page 2 is completely redacted? Is this the first time that Ms. Bruno approached you about her leaving the Research Foundation?

MANNING: I think so. This directly, and I, this is typical Susan, actually. She's very humble about it. I was uncomfortable saying, reading this, but she said, if the RF would feel more comfortable, I will resign. I never said that to her. This is why I said she made this decision. With everything going on, I wasn't surprised, but.

HOLOHAN: Are you aware of anyone else who may have said that to her?

MANNING: No.

HOLOHAN: Do you have any knowledge as to how she got along with her colleagues?

MANNING: I think, well, I never heard anything negative. She was very private. So I can't say that she had a lot of really close friends. You know, she wasn't the type that had, you know, water cooler chats and people in her office all the time, but very, very pleasant, polite lady.

HOLOHAN: And no one complained to you that she was not doing work at the Research Foundation?

MANNING: No. But again, in my role, for somebody to come to me it would have to be a pretty high level complaint, and I don't think that I would hear water cooler type talk.

HOLOHAN: Are you aware of anyone complaining to anyone in your unit that Ms. Bruno wasn't doing any work?

MANNING: No.

HOLOHAN: Are you aware of any complaints that anyone made regarding, that she wasn't reporting to work?

MANNING: Definitely the *Times Union* reports. Lots of those.

HOLOHAN: I mean in house, within the Research Foundation.

MANNING: No, although, this is supposition, so, maybe I shouldn't even go there.

HOLOHAN: Do you know . . .

MANNING: Let me just say a lot of people read those news paper reports and that's what wore her down.

HOLOHAN: So is it your opinion that morale was affected as a result of the *Times Union* reports?

MANNING: Certainly, her morale was.

HOLOHAN: Um hum.

MANNING: I can't say morale specific to the Susan Bruno reports, but there have been lots of reports about the Research Foundation and that definitely impacts . . .

HOLOHAN: Um hum.

MANNING: . . . morale at our workplace and with our employees. We have to work on that on a continual basis.

FISHER: The document you have in front of you is that 1461?

MANNING: No.

GLEASON: 1446

FISHER: 1446.

HOLOHAN: It might be the same thing though.

FISHER: 1446. Okay, in any case can I show you a document called 921?

MANNING: Um hum.

FISHER: It's a February 23, excuse me February 13th, 2009 . . .

MANNING: Um hum.

FISHER: . . . email exchange between you and Susan Bruno and it suggests that on February 12th, you met with her. Is that right?

MANNING: Yeah, yup, yes.

FISHER: Do you remember that meeting?

MANNING: I don't think it was a meeting. I think this probably refers to a phone call.

FISHER: Okay. Do you remember the phone call?

MANNING: Not specifically.

FISHER: Okay. So on the 13th at 8:13 a.m., February 13th, 2009 at 8:13 a.m., Susan Bruno emails you thanking you for your kindness last evening, "your time & kindness last evening." In response you reply, among

other things, “I also sent a John O’C a message letting him know you and I talked last night and you are ready for new projects.”

MANNING: Yeah.

FISHER: John O’C is John O’Connor?

MANNING: Yes.

FISHER: So do you recall whether Susan Bruno told you on February 12th, 2009 that she was ready for new projects?

MANNING: Yeah. This is, I don’t remember this specifically but this sort of fits my general recollection. I believe what this was about her, her reference to time last evening was, I think she gave me an update about her mother—I think—and was saying things are more under control and that’s was led to this discussion about, you know, I am anxious to keep busy and any more stuff that you have let him know because I want to get my mind off of the care giving, to the extent that I can, and keep real busy with work.

HOLOHAN: But Ms. Manning, I just got to clarify this because this is February of 2009, correct?

MANNING: Yeah.

HOLOHAN: And so you’re already talking about her departure.

MANNING: You’re right.

HOLOHAN: So that’s why were confused.

MANNING: You're right, so it can't be. Yeah, it can't be. I am remembering the timing wrong. I've had conversations with her, that I have referred to before, about the mother's illness and all that. But your right. The timing of this does not fit that so, I don't recall specifically what this was. It might have been, I just don't recall so I shouldn't be guessing, because I'm guessing wrong.

FISHER: But it's fair to say, as of February 13th, Susan Bruno had, wanted to remain at the Research Foundation, based on that email?

MANNING: Yes. She, specifically here, says--well, I actually reiterate what she apparently said in our phone conversation which is, I let him know that you and I talked and you are ready for new projects, so yeah. She, she, I would not have contacted John or confirmed with her, unless she and I had that conversation. I just don't remember the specifics of it.

FISHER: But, based, so you don't remember it specifically, but you have no reason to question that it's accurate.

MANNING: No, I believe it happened, if I put it in this message.

FISHER: So that means that, if Susan Bruno contacted you about leaving that would have been after February 13th, 2009?

MANNING: I would think so, based on this.

FISHER: Okay.

MANNING: And I don't remember the date of the other email that you showed me.

FISHER: Well, the one 1446, do you still have that there?

GLEASON: January 16th.

FISHER: Yeah, that was January 16th. So the sequence here it sounds like—I'm handing 1446 back.

MANNING: Okay. Let me just look and see. So this was January of 2009.

FISHER: In January she is saying—this is 1446—she is saying, “If the Research Foundation would feel more comfortable under the circumstances, I will resign.”

MANNING: Right.

FISHER: So it sounds like she's not saying she will resign. She's saying that she is willing to resign if the Research Foundation wants her to resign. Is that correct?

MANNING: That's what she said. And that's where I mentioned a few minute ago that I felt uncomfortable when I read that, because we didn't say that, then. Now that I am looking at the timing, she is probably saying at this point, February 13th, the 921 document, she had not made that decision yet. I don't know if any, I don't remember the timing of, you know, who talked to who, her attorney, our attorney, that kind of thing. But at this point, clearly, I've documented that in her and my conversation, she says she is ready for new projects at that time.

FISHER: And that's the February 13th one.

MANNING: February 13th

FISHER: Okay.

MANNING: And then shortly thereafter, I think the timing of the your other document showed.

HOLOHAN: And if you could just read the numbers off the bottom for the record.

MANNING: This is 1458 and 1459.

HOLOHAN: Um hum.

MANNING: Okay, so.

FISHER: What are the dates of those emails?

MANNING: These are February 20th. So let's see the time. That's February 13th, a week later. Okay, now she has met with her attorney and now she is telling us she is leaving, so, right.

FISHER: Okay. So, you, earlier you mentioned that, you said that the first time you heard of Susan Bruno leaving the Research Foundation was by an email from Susan Bruno. Are any of these documents that you've seen today, that email that you were referring to earlier? What do you know? What do you think?

MANNING: I am showing you how fuzzy my memory is on this, but I do, it's probably one of these, is what's in my head and what I was telling you. I do know that we got an email from Susan saying she was ready to leave. She talked to her attorney and I think it was probably this one. "I met with Steve the other day. I am putting together a few . . ." This is the one that I was referring to. she said "I am putting together a few end of employment terms. Nothing unreasonable." Blah, blah, blah.

FISHER: And when you say this one, you are referring to?

MANNING: 1458 and 59.

FISHER: And that's February 20th?

MANNING: February 20th.

FISHER: So its fair to say, based on these sequence of emails here, from January 16th through February 20th, is it fair to say it's not really clear from these documents that it was Susan Bruno who initiated the decision to have her leave the Research Foundation?

MANNING: I think it is clear.

FISHER: From the documents?

MANNING: I do. But . . .

FISHER: Okay.

MANNING: . . . that is my interpretation.

FISHER: Okay. And is it also, okay.

MANNING: None of these three documents says Susan initiated this, but as I read these, especially this last one, said, "I am putting together a few end of employment terms", . . .

FISHER: Let me . . .

MANNING: . . . which I will email to you.

FISHER: . . . let me clear. Certainly the February 20th email is relatively clear that, at that point, she decided to leave. My question is, do you think it's clear, now that you've seen these emails . . .

MANNING: Um hum.

SHEA: The tape . . . Stop.

[END OF SIDE TWO OF TAPE ONE]

[BEGINING TAPE TWO]

MURELLO: Good. Back on the record.

FISHER: Okay. Let me put it this way. Having read these emails, do you believe that the January 16th email, what is the number on the January 16th email?

MANNING: 1446.

FISHER: Do you believe that is the first email that you or anyone else at the Research Foundation received in which Susan Bruno raised the subject of her leaving the Research Foundation?

MANNING: Let see. I think so. But I will admit, trying to put this all back together in my memory, from seeing this, if you told me there was another one, you know, a few days before that, it could be.

FISHER: Of course, of course. Nobody remembers every email. The point is that you were talking about an email earlier, when you were asked what, what made you believe that it was, how the decision was made. I just want to make sure that you not referring to some other email besides the ones we have here.

MANNING: No, no. I was, in seeing this, 1458 and 59, this is the one that I was referring to when I made that statement.

HOLOHAN: I'm going to direct your attention to 1458 in which Ms. Bruno states to you that she "would like to eliminate my position on June 1st, 2009."

MANNING: Got it.

HOLOHAN: "Eliminating the position would be better, in case I have to file for unemployment for a few months. Is this an accurate reading of the first two sentences?"

MANNING: Yes.

HOLOHAN: Is that typical for an employee who chooses to leave the Research Foundation, that they ask that their position be eliminated?

MANNING: No. Actually, that's unusual language. But it is very typical when somebody is leaving, especially if it's, if we are not going to backfill their position, and sometimes even if we are, if they negotiate so that we won't fight any unemployment claim. And typically, unless there is a problem employee, it is not unusual for us to say fine, we won't. And we, you know, in the end, it does cost us a little bit more on unemployment insurance but if it is a reasonable request, based on, coming from a good employee in an unfortunate situation, either a lack of work or this kind of a situation, we will accommodate.

HOLOHAN: And so you were not bothered by her request?

MANNING: Not particularly . . .

HOLOHAN: Okay.

MANNING: . . . especially given all the other circumstances.

HOLOHAN: And was her request granted?

MANNING: I believe so. I, I don't recall if I know she ever filed for unemployment. But I am pretty sure we would have said, yes. That's not a problem.

HOLOHAN: We referenced a few moments ago, the *Times Union* articles.

MANNING: Um hum.

HOLOHAN: Was there any discussion within the Research Foundation regarding those articles when they were published?

MANNING: Any conversation within the Research Foundation?

HOLOHAN: Um hum. What was the reaction?

MANNING: I don't recall the specifics but there's been the general sense, in reaction to all of the *Times Union* articles, is like there's a lot of sort of comment about uh, here we go again. You know, they're writing about this piece that they want to write about and not looking at any of the all the good stuff that this place does. And in my perspective is usually, and our employees, our hard working employees suffer for it.

HOLOHAN: Are you in any position to ascertain the truth or veracity of any of the facts in either of the *Times Union* articles?

MANNING: I don't recall the specifics of them but I really, other than looking at them in a high level to be able to react or support any inquiries that come from employees, I try to spend as little time on the *Times Union* as I possibly can.

FISHER: Three questions, we'll hit five o'clock almost on the nose. Their brief. Do you have any knowledge, personal knowledge that would allow you to say, one way or another, whether Susan Bruno did a significant amount of work while she was at the Research Foundation?

MANNING: Other than on that one project, I don't have any personal knowledge of that.

FISHER: Do your duties include any involvement with the retention of documents or hard drives or other materials of departed, departed employees.

MANNING: Um hum. We have a record retention policy and there is a whole lot of both Federal and State laws about how long you have to keep various things and, certainly, my functional organization, my staff does that.

FISHER: Okay. So we won't go into now but, can you name the individual at the Research Foundation who would be in the best position to provide information, both about the nature of the policies, the implementation of the policies, and, specifically, how they were applied to Susan Bruno?

MANNING: The record retention policies?

FISHER: The record retention policies.

MANNING: That would either be someone in our legal office or . . . usually that would, if a question came up about that, would be my office working with the legal office.

FISHER: Okay. So you don't know, specifically, with Ms. Bruno, who would have been in charge of applying the document retention policy.

MANNING: I'm not sure. I'm sorry. I'm not sure I'm following the question. I mean we definitely kept everything, all employment files on Susan Bruno, as well as all other recently departed employees.

FISHER: I'm sorry. What about her email account and her computer.

MANNING: Oh, that would be our IS staff. Our information services staff.

FISHER: Okay. So that is not your job.

MANNING: No.

FISHER: Okay. And that's, do you know who would be in charge of that?

MANNING: Our CIO is Gerry Drehos. He wouldn't have done it himself. Somebody on his staff would.

FISHER: Okay. How do you spell his name?

MANNING: D-r-a-h-o-s.

FISHER: D-r-a-h-o-s. that's all I got.

HOLOHAN: Thank you.

GLEASON: We're done.

MURELLO: The time is 5:00 p.m. and we are off the record.