

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
MATTHEW BEHRMANN**

SHEA: The time is 11:10 a.m. today's date is May 11, 2011, we are at the Offices of the Commission on Public Integrity. With us today is Matthew Behrmann, Mr. Behrmann you are not here under subpoena is that correct?

BEHRMANN: Correct.

SHEA: And you are here without counsel is that correct?

BEHRMANN: Correct.

SHEA: For the Commission is Bridget Holohan, Associate Counsel, myself, Robert Shea, Chief Investigator and Lawrence Murello, Associate Confidential Investigator. Mr. Behrmann if you don't understand a question please let us know and we'll attempt to clarify the question for you, if you want to refer to any documentation you may do so and if at the conclusion of the interview you wish to clarify your question, one of your answers, you may do so as well. 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 Commission on Public Integrity.

BEHRMANN: I do.

SHEA: Please state your name for the record.

BEHRMANN: It's Matthew Behrmann, last name is spelled is spelled B-e-h-r-m-a-n-n.

HOLOHAN: Mr. Behrmann, just so the record's clear this is our second attempt this morning to get your testimony under oath, do you agree that around 10:57 a.m. we originally swore you in.

BEHRMANN: Yes mam.

HOLOHAN: And a series of questions and answers were conducted between you and I until it was ascertained that at some point during that question and answer session the tape recorder was not working, is that fair?

BEHRMANN: Yes mam.

HOLOHAN: Okay so I'm going to try to summarize the colloquy we engaged in to make sure that we, as the Commission have the best recollection as you sit here today.

BEHRMANN: Okay.

HOLOHAN: Because is it fair to say that you have some unclear recollection as to whether or not the position that Susan Bruno was given at the Research Foundation was actually advertised, is that fair?

BEHRMANN: That's fair, again, you know, as we discussed it, I, you know originally had thought it wasn't, when we talked before, and today I kind of thought about the normal course would have been we develop the position description, we advertise for it, but I'm not sure that we ever did, again I didn't take calls from anybody else, I didn't have any other candidates contacting me, I did no other interviews, so upon reflection it might be that we didn't advertise for it, but I'm not sure, I can't be certain and again

you could check with the HR Department because that was a function they would have done.

HOLOHAN: So let's just try and recreate that which we can. You were employed by the Research Foundation is that correct?

BEHRMANN: Yes.

HOLOHAN: And what were the dates of your employment at the Research Foundation?

BEHRMANN: Roughly July of 2000 to July or June of 2005.

HOLOHAN: And I'm not sure if I asked you but what was your title at the Research Foundation?

BEHRMANN: I started as the Vice President for Foundation Relations and was promoted to Vice President, might have even Executive, I don't know but Vice President for External Affairs which, oversaw the Foundation Relations office, the Public Affairs office and Mr. Luck's office was called it was a Gifts Office, why am I drawing a blank on it.

HOLOHAN: Well that's fine, but the head of that Department was Dr. Luck?

BEHRMANN: Yes.

HOLOHAN: And if you think of it later down the road, please feel free.

BEHRMANN: I probably will.

HOLOHAN: And earlier, when we thought we were being recorded, and maybe we were, you testified that in late of 2003 and early of 2004 you had conversations with Mr. O'Connor regarding the need for additional staff in the Federal Relations Unit, is that correct?

BEHRMANN: Yes.

HOLOHAN: And it is also my understanding that you testified that after agreeing that there was the need for additional staff in the Federal Relations Unit you met with individuals in the Human Resources Department to develop the duties for the additional position is that correct?

BEHRMANN: Yes.

HOLOHAN: And if you could remind us the names of the individuals that you think you had conversations with.

BEHRMANN: It probably went Mr. Murphy to Mr. Brennan, Tim Murphy to John Brennan who, was the VP for Human Resources and then it was probably Kate Malia who, Kate helped with a lot of different personnel related issues as we staffed up, you know, our units on the external relations side of the house.

HOLOHAN: And after it was determined that there was a need for additional staff in the Federal Relations Unit did you have an opportunity to interview any candidates?

BEHRMANN: Um, yes and no, when I was told that Susan Bruno might be interested in a position in, you know coming to work for the University or the Foundation, or the Research Foundation, I think I met with her in a, the first meeting, in a capacity where it wasn't a formal interview, that my impression was I was just kind of describing to her what we did and how we did it and you know that she might have an interest to come to work for us and Mr. O'Connor and Chairman Egan might have an interest in helping her make a transition to the RF or SUNY and, you know he may

have, I think he probably said you know, with you having a vacancy maybe we would consider putting her down there, and I asked if she had federal experience and he said no, but she knew her way around, kind of thing, so I met with her.

HOLOHHAN: So at some point you had a conversation with Mr. O'Connor regarding meeting with Ms. Bruno for a potential offer for the vacancy in the Federal Relations Unit?

BEHRMANN: Yes.

HOLOHAN: Do you recall when that conversation was?

BEHRMANN: Um, you know this probably also helps kind of firm the timeline he and Chairman Egan had had a conversation with Ms. Bruno at the State of the State address for that year, 2004, so I imagine it was sometime in mid winter.

HOLOHAN: And you think it was in 2004?

BEHRMANN: I believe so and you know, she had indicated she was very unhappy at the Assembly and you know they encouraged her to think about the State University and you know she should consider it and then Mr. O'Connor had the light go off in his head, and he said, hey we have a potential vacancy down at the Research Foundation doing government affairs type work.

HOLOHAN: And do you recall when you met with Ms. Bruno?

BEHRMANN: Late winter or early spring.

HOLOHAN: And when you think late winter, early spring, since this is upstate New York.

BEHRMANN: Yeah exactly I would say March or April timeframe, it, you know it could have been that I saw her even as early as February, it could have been that I saw her even as late as the first part of May but again, I think kind of March probably.

HOLOHAN: And where did you meet with her?

BEHRMANN: She came into the RF offices?

HOLOHAN: Did you see her resume at that time?

BEHRMANN: Um, I can't recall whether I had it given to me before hand, whether she gave me one, or I saw it quickly thereafter. I think I probably saw it before, because I just kind of remember thinking well she is not really a good fit for us but I'll meet with her anyway.

HOLOHAN: Why did you feel she wasn't a good fit for the Research Foundation?

BEHRMANN: I really was looking for somebody who had Federal experience and would have credibility with the leadership of the Campus's that you know they could say hey I know from personal experience this is what we need to do when were, you know in Washington, so I kind of really kind of hoped to get somebody who had Federal experience.

HOLOHAN: And she did not have Federal experience?

BEHRMANN: She did not.

HOLOHAN: But she did have government experience?

BEHRMANN: She did, she had worked in the Assembly for a number of years.

HOLOHAN: And you didn't feel that that would make her a good fit for the position?

BEHRMANN: Again, you know sure working in one area of government and doing representational work there is some translation but, from a credibility factor I just think it would have been better, certainly going in, my goal was to get somebody who had some federal experience, they had worked in DC, they had worked in the Congressional or Senate office etc., you know that is kind of one of the things that I, was a goal.

HOLOHAN: Was there any educational requirements for the position?

BEHRMANN: I think that there was a Bachelor's that was required?

HOLOHAN: And did Ms. Bruno to your knowledge have a Bachelor's degree?

BEHRMANN: She did not.

SHEA: Do you have an idea of when you met with her, and when she started, I mean was it, you know did you meet with her in February and she started in June, or was it you know they next week or a couple of days later, do you know what that timeframe was between those two events?

BEHRMANN: They were not, it wasn't a lengthy period of time, so, my recollection is that she started sometime in April or May and I probably met with her three or four weeks before that, it could have been two, it could have been, I mean it wasn't like I met with her, and she started the next Monday, it was probably the quickest was two weeks.

HOLOHAN: I'm going to show you and can we agree this is a two page document with what, attorneys refer to as a Bates stamped number in the lower right hand corner and the first number is RF-01438 and RF 01439, do you agree?

BEHRMANN: Yes mam.

HOLOHAN: And if you could take a moment to look this over and when you've had an opportunity please let me know.

BEHRMANN: Well line 1, clears up one issue, yeah my title was the Senior Vice President for External Affairs, I knew there was a word in front of Vice. Okay.

HOLOHAN: Okay so you have had an opportunity to look at RF01438 and 01439.

BEHRMANN: Yes mam.

HOLOHAN: Have you seen this before?

BEHRMANN: Yup.

HOLOHAN: Could you tell us what this is?

BEHRMANN: It is a position description for the position that we had available in the Foundation Relations office.

HOLOHAN: And based on your earlier testimony I'm going to presume, and please correct me if I'm wrong, that this was developed as a result of your conversations with Human Resources as to the duties that would be expected of the person hired for this position.

BEHRMANN: Yes mam.

HOLOHAN: Okay, so you helped craft this with Human Resources?

BEHRMANN: Yup, and let me correct something too Bridget, I am off by a full year, it is 2002-2003 was when we first started to think of expansion and that squares because Ms. Kempter had come on almost immediately after me, Mr. O'Connor came on, sometime early 2002, and it was, we were having

great success and things were kind of rolling and so as we geared up for the next legislative process in 2003, we had been through two cycles, one and two, it made sense for us to start to expand so I apologize.

HOLOHAN: All I can say is all were asking of you today is to provide your recollection to the best of your ability as you sit here, if at some point, two weeks, two months, you recollect, you realize you got a date wrong, because I mean we are talking about 2003 as we sit here in 2011, all we ask is that you call us up and correct the record.

BEHRMANN: Oh, yes mam.

HOLOHAN: Okay, so just that were clear, Ms. Bruno was hired by the Research Foundation in approximately May of 2003.

BEHRMANN: And yeah that was my recollection I probably met with her in late March early April timeframe and we offered her something and she came over in early May.

SHEA: And to follow up on clarification, would that mean that the State of the State speech.

BEHRMANN: Was for 2003, yes sir.

HOLOHAN: And after you met with Ms. Bruno what, if any conversations did you have with Mr. O'Connor afterwards?

BEHRMANN: I, you know, I had indicated to him that you know, he asked me to meet with her, I met with her and I kind of went and briefed him, I said, you know she was pleasant, she seemed like she knew what she was doing from a state relations perspective, that we had talked a lot about

Congressional affairs, the Congressional Appropriations process, sort of what we did and how we did it, and that I wasn't sure she was the right fit for the job. That, you know, she, although she had government experience, right from the get-go it was probably better if we looked to get somebody with more federal experience and in particular federal appropriations process experience.

SHEA: You said she had government experience and that she worked in the Assembly prior, do you know what her positions in the Assembly were?

BEHRMANN: I think she was a Legislative Assistant in an Assembly office, Legislative Aide, federally they are called Legislative Assistant's I suspect they are probably Legislative Aide.

HOLOHAN: And did you meet or interview any other candidate for the position?

BEHRMANN: I did not.

HOLOHAN: Do you know whether or not anyone else at the Research Foundation met with or interviewed Ms. Bruno prior to her working at the Research Foundation?

BEHRMANN: I'm quite certain Mr. O'Connor did. Mr. Murphy may have, I don't know whether Mr. Brennan did or not. He may have. I tend to think Mr. Murphy recollection serves me, he probably did.

HOLOHAN: Why do you say he probably did, did you have any conversations with him or anything?

BEHRMANN: Um, I think he was part of the discussions, you know I think he knew that Mr. O'Connor was interested in Susan coming to work for us. I didn't like

walk her down to his office immediately after but my recollection is that he might have met with her, and my recollection even though Mr. Brennan, sometimes would have met with, like a field of three finalist I don't think he did in Susan's case.

HOLOHAN: Okay so.

BEHRMANN: Before an offer.

HOLOHAN: Okay, so generally speaking while you were an employee of the Research Foundation, what would typically be the process in hiring a new employee for the Research Foundation?

BEHRMANN: We would put out a position description, we would post it online, we would advertise for it, I know that routinely the RF did advertise in the Times Union, whether we were in other papers, I'm not sure, probably the Troy, probably the Schenectady paper. We would conduct a series of interviews, the immediate Supervisor would lead those and then we go to their direct report to review the finalists and then depending upon who the person was who was the supervisor they would either make a decision with concurrence from above or there would be a group decision, I mean so if Kathy Kasluga hired people, I met with the finalist, Mr. Luck hired somebody, I met with the finalist and I think Mr. Murphy met with Greg O'Connor and one or two other folks when Gregg came on board.

HOLOHAN: How involved was Mr. O'Connor in the hiring of new employees?

BEHRMANN: Senior employees, very, very, it was, you know, he was more involved than I would have liked, I mean if the person was working for me I wanted

to be able to be able to be freer to make my decision I knew what their needs where and I think other people felt the same way, we were the ones that were responsible for the delivery of the end product so we should be able to pick our teams, or at least home finalist that we thought were qualified.

HOLOHAN: So for senior employees, let's make sure, because my understanding of a senior employee might be different than yours, so from what level on up would Mr. O'Connor be involved in?

BEHRMANN: Certainly office Directors, I would say also to any salary that was like over \$45,000, \$50,000 kind of threshold that he saw that as a meaningful position that if there were people interested in, you know, politically or if, you know the Governor's office, or the Speakers office or the Leader's office had candidates John wanted to know about what was going on in those hiring processes.

HOLOHAN: And how about Assistant Director of Foundation Relations?

BEHRMANN: Yeah, absolutely, on the External Affairs side we were so much more than external relations, you know, my office the direct reports were Kathy, Dr. Luck and then I still maintained responsibilities in the federal affairs office but that was only three other people so all total I was probably managing 20 folks and on that side they tended to be more senior and folks who could do, could multitask, do alot of different things.

HOLOHAN: And in the unit was also Beth Kempter, correct?

BEHRMANN: Correct.

HOLOHAN: Was Mr. O'Connor involved in the interviewing and hiring of Ms. Kempter?

BEHRMANN: Um, I think Beth met him, I'm pretty sure she did. He had met Beth and was impressed with her, when I left the Canal Corporation, Beth was still there and we did a joint affair, with the help of the Canals, down in New York City in the Tall Ships, they assisted us with basically transiting people out to the SUNY Maritime vessel and Beth kind of ran everything from that, and you know, he was impressed, he was like she really was good, I'm like I would love to get her to come over to work with us, so yeah, I mean I knew he met with her, I think he interviewed her, yeah, as a matter of fact I know I brought her over I don't know whether he had already said, yeah I'm okay with you giving her an offer but I'd like to meet with her and talk with her but, yeah.

HOLOHAN: So sometime in April of May of 2003 Ms. Bruno was offered the position?

BEHRMANN: Correct.

HOLOHAN: And when did she start her employment?

BEHRMANN: Early May.

HOLOHAN: And you were her direct Supervisor.

BEHRMANN: Yes.

HOLOHAN: And if you could describe for us the type her of employee you found her to be?

BEHRMANN: Um, I would say immediately and initially enthusiastic, kind of eager to learn the process. We were starting to get project in that folks wanted us

to advocate for, Susan took interest in a number of those pretty quickly, you know, connected some dots, had some decent ideas, when I say connected dots, saw sort of natural alliances that might work to help us build support for the projects, so I think, you know, first two, three weeks, decent, enthusiasm in trying to learn, we brought her out to a couple brief campus meetings to introduce her to folks, but not long after that she, you know started being less present in the office. There were issues with her attendance of her being in the office on a regular basis, timeliness, absences, etc.

HOLOHAN: And do you recall when this was when she started to become less frequent in the office?

BEHRMANN: In the June timeframe probably, could have even started, again not knowing the dates of employ, late May early June.

HOLOHAN: So approximately June of 2003?

BEHRMANN: Correct.

HOLOHAN: And what if anything as her Supervisor did you do when you found Ms. Bruno wasn't reporting to work as required?

BEHRMANN: Well, as soon as I knew that, you know she wasn't out doing RF business, I said to her, you know Susan where were you yesterday, you know, what's going on, you know, where were you, what was going on, she said, oh, I was working from home, I couldn't come in. I said well we can't do that, you know you need to be here in the office and she said, well no, I can do that, you know that is kind of what I, that's what I'm going to do,

my mothers not well, I need to be there, etc., I said Susan, you need to be in the office, and you know, you can't, first of all, not come in and not call somebody to let them know your not coming in, you know that is an unexcused absence and you know if you're going to work from home for any reason that is got to be something that is discussed and worked out and you know, that's not what we do here as a regular course, so she said, yeah it is and that's what I was promised by Mr. O'Connor so I said, well that is totally news to me, I will discuss that with him, she said, well you do that, was pretty defiant about it, not you know, apologetic or you know in any way indicating that she intending to change her reporting habits, so I did talk to Mr. O'Connor, he said well, you know we told her we can be very flexible that you know the Research Foundation is not the same as the State University and you know we did tell her we would be flexible and you know her mothers ill, etc., so I said well she has multiple days that she has not been here and I don't see any work product coming out of her, and you know I'm not comfortable signing her work schedule. I am not comfortable saying that she worked those days, he said well you know, talk to her again, you know, give her some flexibility, give her assignments, tell her she's got to check in if she is working from home, she has got to check in, you guys have to review products, etc. but give her some flexibility her mothers ill. Okay, I talked to Susan again, and again she was fairly defiant, I said you know Susan the reality is this, we have really few people to do a lot of work, okay, and on the days that for

whatever reason, you can't report to the office, Mr. O'Connor has said to me I'm to give you flexibility but I need for you to give me notice, you need to tell me what your going to be working on and we need to review that. And she's like I'm not going to go for that, I'm not, you know, that's this isn't a police state, you know she was indignant, I said, you know those are the terms of employment, we all have a lot of work to do here, and you know most of us work 12, 13, 14 hour days, and you know, I'm not comfortable. I said so from this day forward if you don't call me, and don't check in, I'm going to start docking you vacation time, and I started doing that, probably in late June, June timeframe. She was not happy.

Mr. O'Connor is like, you know, I said John I am not going to sign off on her having worked if there is not something documented that she did, she doesn't report in, she doesn't do work, I don't see work product, I'm not singing for it, he's like well she's already gone through her leave, I think at that time it was like 2 weeks, but somewhere in there, maybe it was the first time that I docked her or maybe it was a day that she went to go take additional leave, I don't know. She then came to me and said, I have no vacation time left what is going on, I said, you're using your leave, if you don't come in, you don't, I told you, I'm not, she's like well I have a month's leave, I said, I don't think so, she went and saw Mr. O'Connor and this is how I know Mr. Brennan clearly was involved because John said oh, we did promise to her that whatever vacation time she had in the Assembly we would honor that when she came down here, so we actually

gave her more vacation time, and you know that's when John Brennan came and said what the hell is going on here, I said, do you see that name Bruno, that's what's going on here.

HOLOHAN: That's what you said?

BEHRMANN: To John, you know to John Brennan, and he's like okay, I mean so now I have to do a letter saying that in her offer we did mean to convey, so I don't whether we did a new offer or we did an attachment to the offer letter or how that all worked but I just know that we then did extend her more initial leave than she would have normally gotten. I don't have heartburn with that per se, because I think if you take somebody at a more senior level you kind of want to offer them sort of a lateral. You want to offer them similar benefits to what they already enjoy so, but it was just kind of like okay, no matter what we try to do to reign this in, this was going to be, and I think that was kind of John's kind of problem, John Brennan's problem with it, like wow, okay, because he knew what I was doing in terms of docking her pay, docking her leave. She used up vacation time, you know there were still issues and problems. Mr. O'Connor said, you know, I am giving her direct assignments to do for me, she is going to still work for you but I am going to give her more latitude and she is going to do things, Special Assistant nature for me, one of the things was, helping to introduce the new President at the University at Albany, Kermit was, I'm drawing a blank on his last name, was brand new.

MURELLO: Alexander?

BEHRMANN: No, it'll come to me, could I have a scrap paper I just want to be able to kind of glance at things.

MURELLO: Mr. Behrmann your speaking of that Kermit is the gentleman who expired from swimming.

BEHRMANN: Swimming in the ocean, you got it. So that was one of the things, fairly on, fairly early on John asked her to work on, there were some things for the Maritime College maybe with their Foundation, I don't really remember but again it kind of made it difficult for me to effectively supervise but even with that, there were times I had no idea where she was, what she was doing, and it came to a head between Mr. O'Connor and I, and I know he wasn't happy about it but I just said to him, that's my name that get's signed to that and I'm not doing it anymore, I don't know where she is, I don't know what she's doing and I'm not going to sign for her to get her full pay when I can't raise my hand honestly and truthfully that she worked. I'm not doing it anymore John, I am not comfortable I am not doing it, she is a Special Assistant, she's doing Special Assistant duties to you, you sign her pay slips, I'm not, so he was, well, I said, really, I'm you know, discipline me over it, whatever you want to do, I'm not doing it anymore, okay, I'm not going to be in a position where, you know I can't truthfully and honestly say, we paid her. And he was angry with me, that he say's you know what we set terms and conditions of employment, I said, great we do, but I'm not comfortable

with what is being allowed in her case. I'm like you've worked from home through an illness, I worked at home through an illness, we've had other people who've had family illnesses where they worked at home, and they worked, people saw work product, okay, we gave them flexibility, there is nobody who would give more flexibility than I because people work odd hours for me, if they got to stay and work a dinner and work until midnight I'll let them come in late, you know if they got to work through a whole weekend for me down in DC, I will give them a day or two comp time off but that's not what is going on here, and you know it, and I know it, I'm not signing anymore. So he said, okay we'll transfer her to directly reporting to me and again I don't know whether she was reporting through Mr. Murphy to Mr. O'Connor when she, you know, I stopped signing her pay, but I know that for a period of time Mr. O'Connor did not fill out her pay slips, Mr. Murphy did and um, I know that John and Tim had worked that out but I know that Mr. Murphy, Tim was not overjoyed with it but he did it for a time so Susan came on in May. She was on my payroll, came out of my budget until the end of 2003, because I would say sometime in mid-summer, maybe, could have been, could have been late August, September, it could have possibly been as late as October that the final confrontation on all this came down and I just said I'm not signing it anymore, I'm done, so Mr. Murphy then picked-up signatory responsibility for Susan's paystubs, leave and work report stubs probably through fall, maybe going into the winter of 2003,

maybe into 2004 but Susan was formally transferred from my budget, money was actually taken from my budget and given to the Office of the President, Mr. O'Connor, and Susan became a Special Assistant to Mr. O'Connor, on the budget in January of 2004.

HOLOHAN: Well you have just given us a lot of information, so were now kind of see if we can break it down and make sure we have a clear understanding of what occurred.

BEHRMANN: Okay.

HOLOHAN: So Ms. Bruno came on in May 2003 correct?

BEHRMANN: Best of recollection.

HOLOHAN: And you were her immediate Supervisor?

BEHRMANN: Correct.

HOLOHAN: And she was hired by Mr. O'Connor over your concerns, is that fair to say?

BEHRMANN: Yeah, I mean I may have acquiesced after he kind of said; we were going to give her a job.

HOLOHAN: Was that typical, he most certainly had the final say in who would be hired correct?

BEHRMANN: Yes, but like I say, you know, he yeah, with certain employees I think he had the, you know, he didn't exercise that same level of authority and unilateral decision making but, he had a strong hand in who worked there, particularly the office director and higher level.

HOLOHAN: Were there other instances when you were at the RF where you and he disagreed on who should be hired for a position?

BEHRMANN: Um, I probably expressed some concern when Bonnie became a Senior Vice President for Financial and they gave two promotions to guys who had worked under her, I just didn't think they had the right leadership skills; I had worked with them quite a bit so I expressed my concerns there.

HOLOHAN: Would you have, did you supervise them at the time?

BEHRMANN: No, but you know we work a lot with those folks.

MURELLO: And you mentioned Bonnie, Mr. Behrmann that is Bonnie Boyce?

BEHRMANN: Yes, yup, I'm sorry.

HOLOHAN: And then it was within a matter of a couple of months that Ms. Bruno was not reporting to work five days a week, is that fair?

BEHRMANN: Yeah, I don't even know that it was a matter of a couple of months; it was probably within about a month.

HOLOHAN: And when you say she wasn't reporting to work, how often was she not reporting to work, so were not talking early summer of 2003?

BEHRMANN: Some weeks she wouldn't be there for a day, other weeks she wouldn't be there for two or three.

HOLOHAN: And then the two of, you and Ms. Bruno had a conversation regarding her failure to report to work?

BEHRMANN: Correct.

HOLOHAN: And during that conversation, correct me if I am wrong, but I believe you testified that she indicated to you that Mr. O'Connor had told her that they could be, the RF could be flexible with her work schedule, is that accurate?

BEHRMANN: Yes.

HOLOHAN: And I believe you testified earlier that you had concerns that you weren't able to observe any work product out of her when she was not, when she was supposedly working from home, is that correct?

BEHRMANN: Correct.

HOLOHAN: What type of work product, if you could provide for us an example of what type of work product she could have sent you from home?

BEHRMANN: Particularly as related to in that timeframe the Federal Appropriations Advocacy, which I would say probably was about $\frac{3}{4}$ of our work product at the time, we were coordinating campus submissions to our office to make our slate of Advocacy Projects that we would put forward. Both Senators wanted us to bring to some sanity to that process, they didn't want 64 campus's coming to them with 6 or 8 different projects, they wanted us to vet the projects, so the campuses would submit ideas, we would help refine those so there was written product that we would do. There was meetings with their advocacy teams, their Professors, their Chairs, so there was, you know correspondence back and forth, there was, you know meetings, where you know, just a note of you know, hey I was at Cobleskill or I was at Maritime today, this is who I met with, things

went really well, you know, update me on the meeting, give me, you know, feedback or input on a meeting she had had with maybe one of the federal offices or you know, today I reviewed 22 projects came in from these 6 campuses, here is how I rank order them, these are the ones I think are throw always, these are the ones I think are, again there was none of that.

HOLOHAN: Is this work product you would have expected from her whether she worked at the offices or worked from home?

BEHRMANN: Sure.

HOLOHAN: And you didn't see any of this whether she reported to work or didn't report to work?

BEHRMANN: No, if she was at work, I mean we would you know, we would interact, you know in our previous meeting I had said to you that, you know, initially Susan, I said that today as well, was pretty enthusiastic and had some good ideas when she was there and engaged or she took an interest in the project she, you know gave us a good effort and I think you know was valuable, I mean she did a good job, but again if she wasn't there, there was nothing.

MURELLO: Mr. Behrmann when she was there, when Susan Bruno was at work, how was she at accepting your direction and taking your advice or was she going to march to her own tune?

BEHRMANN: It depended, I think in terms of my expertise, Susan respected it she knew I knew, you know how the federal process worked etc. but in terms of sort

out laying out her personal schedule and you know, directly supervising her, it was pretty difficult, I mean she kind of wanted to be an independent actor, she wanted you know, freedom and you know I think that level of autonomy comes after a period of trust and performance and I, you know, when she worked she was surprisingly, she was better than I thought she was gonna be, and you know, by contrast when she wasn't around it was glaring that there was nothing, and there was you know, again to characterize, maybe more directly to your question, she got indignant if there were issues about that raised or concerns.

HOLOHAN: When an employee in 2003 or around that time period when a new employee was hired by the Research Foundation how much leave were they granted as a new employee, if any?

BEHRMANN: I would say, I think it was around 2 weeks.

HOLOHAN: And they could use it any time even in let's say a probationary period.

BEHRMANN: Yeah there was probably 10 days, two work weeks of leave you could take at any time, there was probably in addition of that the recognized holidays and then there was probably like one or two days of flex leave, like a flexible vacation like, an example of that might be Veterans Day or Columbus Day, I don't you know.

MURELLO: When a new person hired to the RF was there any Indoctrination Program that they went to to leave about all the different ways of working there, timesheets, attendance, things of that nature?

BEHRMANN: Um to be honest with you I'm not sure what's done on sort of the lower end, on the upper end, you know, which I think Susan would have fallen into this category, when I was hired, the Deputy Director of HR at that time it was Mrs. McAdoo, Velma came up and went through, here is everything for you know, your benefits, health, retirement, explained it all out, here's leave and our policy on that, our policy on this etc. so I'm sure that similar was done with Susan, and Greg and Beth for that matter, and it probably was Kate Malia who did that, I would suspect it was Kate.

HOLOHAN: And when Ms. Bruno would fail to report to work, did she contact the Research Foundation and say she wasn't coming to work?

BEHRMANN: No.

HOLOHAN: So after you had a conversation with Ms. Bruno, I believe you also testified that you then had a conversation with Mr. O'Connor regarding this?

BEHRMANN: Absolutely and I may have had a couple of conversations with Mrs. Bruno before I, but I'm pretty sure it was sort of after the first confrontation about the issue.

HOLOHAN: And Mr. O'Connor if you could tell us again what Mr. O'Connor said to you during this conversation.

BEHRMANN: Susan had indicated that Mr. O'Connor had said that she could work from home and when I asked him about that he basically changed the wording to say, well, I said to her that we could be flexible, and you know that you know, she was concerned because her mother was ill and so let's be

flexible, but I said okay, I'm willing to do that but she doesn't come in for days, doesn't call, I'm not comfortable with that, he said well certainly, you know, tell her, she's got to check in online, she's got to be showing you, you know work product etc., and I said well, you know you probably should back that up too, you know I don't want to kind play one parent against the other type thing going on here, I said she works for me and if I'm going to sign for, this is what I'm going to tell her, he said no that's fine. So I did and she basically was fairly fairly defiant that she was not going to, you know, check in with me, she was not willing to provide me, you know a daily summary of what she did or didn't do, and I said well, if you don't check in, you don't call in and tell me your working from home, you don't check in, you don't show me work product you will be charged leave.

HOLOHAN: And you subsequently did charge her leave?

BEHRMANN: Yes.

HOLOHAN: Did you document that anywhere?

BEHRMANN: On our leave sheets, I mean she would submit, or maybe she would even sometimes call into Meg Myer, our Administrator Officer for our unit, Federal Affairs, actually Meg worked for me in all capacities, you know, all the external relations she may have even called in and say you know Meg I had 40 hours this week or whatever so when the sheet would come to me, I would say, she didn't work Tuesday, she didn't Wednesday, she didn't work Friday, and I would cross it out and charge three days leave.

HOLOHAN: And after Ms. Bruno learned that you had done that, what if anything happened.

BEHRMANN: She was extremely angry, you know, I actually what happened, now I do recall is she ran out of leave, she got leave without pay, so her pay was less and she was very angry and upset and I don't remember whether she talked to Mr. O'Connor or I then had to say to Mr. O'Connor how upset she was and I said, you know John she's not here, she is out of leave and she also indicated that she definitely still had leave, and I said you don't and Mr. O'Connor then, I think she had a conversation with him, he said well we did commit to her that we would give her basically a months vacation with is about what she had at the Assembly and that became an issue with HR so her offer was amended and again, I don't know whether we just put another offer letter in the file or we amended the offer letter to include the month's vacation. I don't remember how that was done.

HOLOHAN: I'm going to show you what has a bates stamped number of RF 00125, and after you have had an opportunity to review that just let me know.

BEHRMANN: Yup.

HOLOHAN: Have you seen this before?

BEHRMANN: I have.

HOLOHAN: And can you describe what this is for us?

BEHRMANN: I think that its an addendum to Susan's offer letter that there should have been an inclusion and it should have been articulated that she had an additional 6 days of vacation time upon hire and Mr. Brennan is advising

Velma McAdoo who was the #2 in the Department at the time, that that should have been done from the time that she was, her offer was made and you know, thank you for helping with this correction of this oversight.

HOLOHAN: And was it typical for the Research Foundation to give additional leave to new hires, if you have any knowledge?

BEHRMANN: No, I mean I think normally what would be done is your offer letter was your offer letter and if there was a problem with your offer letter, if there was with me, I would say, wait a minute we discussed, you know that I would given, you know, eight weeks or ten weeks of leave because I had that accrued and I'm not going to lose that, I can't get paid for it now, I mean I would have addressed it immediately and I think most people would have and so I think.

HOLOHAN: Well I got to imagine that the RF hires a lot of SUNY employees, people go from SUNY to the RF and from the RF to SUNY is that fair?

BEHRMANN: Correct, yup.

HOLOHAN: And has, and so she came from, not SUNY but another state entity.

BEHRMANN: Yeah, state agency.

HOLOHAN: Are you aware, and maybe your not because your not Human Resources but are you aware of any other instance where a state employee being hired from the RF was able to transfer their leave from that state agency into the RF.

BEHRMANN: I'm fairly certain that probably was kind of a normal course. But again it something that normally would be done up front and you know, again as I

said earlier, as an employer as the Supervisor if I was hiring somebody and I wanted to attract them to come to work for us, I would try to at least match the level of benefit they accrued where they were, so I don't have a problem with that except that you know, I didn't expect that an employee was hired in May would have to have additional leave in August to cover unexcused absences.

HOLOHAN: And correct me if I am wrong but you testified earlier that after Ms. Bruno continued to fail to report to work, you had another conversation with Mr. O'Connor is that accurate?

BEHRMANN: Yes.

HOLOHAN: And I believe you testified that as a result of that conversation, Ms. Bruno became a direct subordinate of Mr. O'Connor is that correct?

BEHRMANN: Correct.

HOLOHAN: Can we pause for a second.

SHEA: Okay were back on the record.

HOLOHAN: Mr. Behrmann we just went off the record so I could obtain a copy of, if we can agree this is RF 01406?

BEHRMANN: Yes.

HOLOHAN: And could you take a look at this and when you've had an opportunity to review it, let me know.

BEHRMANN: Um, yes.

HOLOHAN: Have you seen this before?

BEHRMANN: Um, I'm not sure that I have but.

HOLOHAN: Does this refresh your memory as to when, because I think you were somewhat unsure as to when Ms. Bruno's title was changed or when Mr. O'Connor became her Supervisor, does this refresh your memory?

BEHRMANN: Well it doesn't in terms of when Mr. O'Connor became her Supervisor, but in terms of when there might have been a transfer of funds from one budget to the other, I thought it had happened in January of 04 but apparently from this it was finally resolved in April of 04.

SHEA: Does the Research Foundation operate on a fiscal calendar like the state from April to March, if you know?

BEHRMANN: I think it's calendar year, I'm pretty sure.

HOLOHAN: While you were an employee of the RF, did the RF permit it's employees to work from home, to telecommute?

BEHRMANN: I don't think there is a specific policy on it, but to go back to Mr. O'Connor's word of flexibility you know I think there was an effort made to you know, be flexible under special circumstances for employees a prolonged illness of a family member, you know, terminal illness of a spouse, parent or child, you know a prolonged illness of the employee comes to mind, one employee had a severe injury to his knee so there was six or eight weeks that he was allowed to work from home, so you know in my particular instance, my wife had a weeklong illness after surgery and I worked from home during that time and they were aware of it. I mean I came in for essential meetings, I think we had a Board meeting that I did come in during that week and make arrangements for somebody to

be with Christine, so yeah, I mean again I don't think there was a formal written policy, there might be, but it might be, not recalling it but again I think there was some flexibility but it was again that you were actually working and that there was you know pretty regular contact and contributions from the employee during that time, when they weren't taking leave, or you know, extended leave or maternal pay or sick leave.

HOLOHAN: While Ms. Bruno was under your supervision did you have conversations with anyone else at the Research Foundation, aside from Mr. O'Connor regarding her failure to report to work?

BEHRMANN: For sure, Mr. Murphy, I am pretty sure Bonnie Boyce and Lynn Manning, Ms. Manning was aware of sort of my concerns, my issues as to why she went from me signing her.

HOLOHAN: Ms. Boyce I'm sorry, expressed concerns?

BEHRMANN: No, no, just me, the reasons why she went from directly reporting to me to then Mr. O'Connor with Mr. Murphy signing her pay stub signing her paystub for a while and then Mr. O'Connor actually signing it. You know I think I know for a fact I spoke with Tim about it on more than one occasion and I know that Bonnie was aware of it because of the whole budget issue and I know that Lynn Manning was aware of it because I had talked to her about it too as to you know what I was going to be doing in terms of well, John Brennan and Lynn both were aware of sort of what was going on.

HOLOHAN: And what if anything Ms. Boyce share with you in response to your concerns?

BEHRMANN: It was just kind of one of those, I feel your pain, kind of , you know I don't even know that, it was kind of like, wow that's tough, and I said well it's tough if we let be tough but I mean the girl has been given great opportunity here and a preferable place to work than where she was but you know again, I just I don't know, she felt bad for me that John seemed to be perpetuating the situation.

HOLOHAN: John O'Connor?

BEHRMANN: Yes.

HOLOHAN: And what if anything did Lynn Manning say to you in response to you raising your concerns to her?

BEHRMANN: Uh, kind of no reaction one way or the other, its just this is what you can and can't do and you know, advise and I said well all I know is I'm not going to sign for an employee that doesn't work for me that I'm not responsible for, I don't know what they're doing and what they're not doing so I mean you can tell me what I can and can't do to you know, counsel her or to dock her pay whatever, but as far as I'm concerned I am not going to sign for her anymore and you know if she continues to work here it is going to be in some other capacity for somebody else.

HOLOHAN: And what if anything did Timothy Murphy say to you in response?

BEHRMANN: Tim was it was kind of more regular, you know, hey she is not here again, that kind of thing, him kind of raising his eyebrows. I think he was upset

that initially he had to sign for her, when I wouldn't anymore. I think a little bit uncomfortable with it. I know that he met with Susan, I don't know how many times, but I'm pretty sure that it kind of became the same situation, where he eventually said this just doesn't make sense, I don't know where she is, and I don't know what she's doing, she, why don't you guys just, you sign for her over there, you have employees that report to you, sign for her and that, I think that is what happened. My general impression and recollection was that pretty quickly after I no longer did it. That Mr. Murphy didn't, and Mr. O'Connor's office started to.

HOLOHAN: After you no longer supervised Ms. Bruno where was her office in relation to yours?

BEHRMANN: There was still an office for her on the 6th floor, two doors over from mine. I think she also had some space that she could utilize in the tower, I don't know whether it was, I'm pretty sure it was in Mr. O'Connor's suite of offices but.

HOLOHAN: At the SUNY headquarters?

BEHRMANN: Correct.

HOLOHAN: Okay would you have occasion to observe whether Ms. Bruno was or was not at work after you no longer supervised her?

BEHRMANN: I saw her even less frequently, she did occasionally still help with things in our office, she did work for us relative to our annual lobbying efforts in Washington, she was an assistant who helped us down there were Presidents, she still did some things relative to some special projects,

SUNY Maritime, I think it, when we secured funding for a project she was working on, that is kind of when she stopped doing things that were directly for our office. She also may have helped support Lobbying Day when everybody who was a state rep for a campus came into Albany, most of those folks were had state relations, federal relations, they are directors of governmental affairs, so Mike Trunzo's office and our office kind of coordinated a day where Michael had a lot of agenda and we basically would have an hour or two we would educate them on process, talk about you know, things they needed to know about happening in DC, Susan may have been involved with that.

HOLOHAN: So Ms. Bruno did do some work for the Research Foundation?

BEHRMANN: Yes.

HOLOHAN: How, in your observation how many hours per week do you think she did for the Research Foundation, generally, approximate?

BEHRMANN: That I was personally aware of, I don't think you could say if I give it percentage for, per week, you know she might have worked a day or two a month, for things that I was aware of.

HOLOHAN: And you left.

BEHRMANN: In the DC, when we went to DC she probably, that is probably three or four days in DC and there is probably five or six planning meetings that were pretty lengthy I mean we would bring 60 people to DC and set up meetings with various Agencies, Departments, busses, so there was a lot of planning so I would say maybe around that annual event 10 days total.

HOLOHAN: And how many RF employees were involved in the planning process for the DC trip?

BEHRMANN: Ten. Probably four or five SUNY employees too.

HOLOHAN: I am going to show you what is RF 01436 and ask you to review it.

BEHRMANN: Okay.

HOLOHAN: Do you recognize it?

BEHRMANN: Um hum.

HOLOHAN: What is it?

BEHRMANN: Susan Bruno's resume.

HOLOHAN: And you saw this resume prior to meeting with her, in what you thought was late Winter, early Spring of 2003?

BEHRMANN: Again I am not positive that I, my best recollection is I saw it before I met with her, she may have given to me, I am sure she did give me a copy when we met, but I am almost positive it came before hand.

HOLOHAN: Before we conclude this, is there anything else that you think we should know in making an assessment as to Ms. Bruno's work for the Research Foundation?

BEHRMANN: I had mentioned to you that since our last meeting, I mentioned it off the record, but Susan did assist Mr. O'Connor with some duties around Ditchley Foundation. John has some sort of administrative capacity, I don't know whether it is paid or not for the Ditchly Foundation. He also has some relationship with Juan Carlos Center, I think she may have done some things around that. What had struck me as kind of odd, I didn't

know what her capacity was there, that was University related, we certainly had no formal relationship with Ditchley and then she went to England with Mr. O'Connor as well, and you know was excited about it, of course, but I, you know, I kind of was, wow, I was surprised I didn't understand what she might be doing there for the University or the RF but that was the only thing that I hadn't remembered, talking about, as we talked about of the specifics in our first meeting, projects she had worked on, things that she had done, things that she had done for Mr. O'Connor so, that was just one I wanted to make sure you were aware of and then too generally, and I think it was Bob's comment at one point in our first interview that so, I didn't think that Susan was qualified, you know, I don't think that she would have been first choice for the job, as I've said, you know, my goal is to get somebody with Federal experience and preferably Federal Appropriations experience but I also wanted to make it clear, that when Susan's worked for us, when she was engaged, she did a good job, you know, I think to some extent she felt like she didn't necessarily make me happy because I didn't directly get her, you know she wasn't my choice for the job, and I think she felt like she could get away with some things initially but like I say, Susan was fairly intelligent, she understood the nexus of important advocates, and the right kind of projects, she connected those dots pretty quickly so characterizing her as when we got her engaged and when she was working on things you know, diligently I think she was a good employee, which is why I sort of never

made a recommendation, this is working, terminate her. You know I tried to counsel her and it was clear that Mr. O'Connor was not interested in the same, report to work profile that I was, same work environment that I was trying to create and you know he was enabling that and I said I'm not going to be part of anymore. I am certainly not going to be responsible for it.

HOLOHAN: Why do you think he permitted her to be as, if we can say it, more flexible in reporting to work, then say, other employees?

BEHRMANN: You know I think he certainly felt like that would endear him, or endear the University to Senator Bruno, I, as I said in our first interview, I take a totally different view of it. I mean I know the Senator, I respect the Senator, I you know, when people would say to me, do you know who she is, yeah, happy to talk to her dad about what I'm trying to do here is because you know, it protects Susan, it protects him, it protects me that you know, she is completely attentive and responsible to her duties here and that's completely accounted for.

HOLOHAN: To your knowledge were other RF employees granted the same flexibility with their work schedule?

BEHRMANN: No, certainly not on an extended basis.

HOLOHAN: And by an extended basis what duration are you referring to?

BEHRMANN: Weeks, for other employees, I mean I think the longest that another employee might have been a month or six weeks because they basically

couldn't walk and they did have a position where they could do a lot of that kind of work at a computer at home.

HOLOHAN: Do you think her position was conducive to doing work from home?

BEHRMANN: Some of it, some of it, you know like I said, I, you know during my period where I worked for a week or thereabouts from home, some of my duties I can do from home, I mean, reading documents, reviewing documents, doing written work, certainly doing phone conversations, and interviewing folks on the campus and were talking to people in the Congressional offices, you can do that from anywhere, so some of it, sure.

HOLOHAN: This will conclude the interview.

BEHRMANN: Great.

SHEA: Time is approximately 12:37.