

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3

4 M. REBECCA DOWNING, et al.,)
5 Plaintiffs)
6 VS) Civil Action - Law
7) No. 1:CV-05-0351
8)
9 YORK COUNTY DISTRICT ATTORNEY)
10 H. STANLEY REBERT, et al.)
11 Defendants)

12 --oOo--

13 DEPONENT: Randy Whitson
14 TAKEN BY: Plaintiffs
15 DATE: Wednesday, May 24, 2006
16 TIME: 12:45 p.m.
17 PLACE: Lavery Faherty Young & Patterson, P.C.
18 225 Market Street, Suite 304
19 Harrisburg, Pennsylvania 17108
20 York, Pennsylvania
21 REPORTER: Karen J. Meister
22 Reporter, Notary Public
23

24 --oOo--

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1 MR. HUTCHINSON: And, Devon, the rest
2 of the documents that were reviewed as well.

3 MR. JACOB: Okay, fair enough. My
4 paralegal ElizaBeth has taken the documents.
5 She'll be back with your copies and copies for
6 everybody.

7 THE DEPONENT: Okay.

8 BY MR. JACOB:

9 Q During the February York County
10 Chiefs' meeting, I believe you indicated that a
11 memo was --

12 MR. LEBER: What year?

13 MR. JACOB: February. Oh, I'm sorry.

14 BY MR. JACOB:

15 Q February of 2006 meeting. I believe
16 you indicated in front of the association to the
17 membership that the association had received a
18 letter from Mr. Rebert regarding Miss Downing's
19 status as a member, and that the letter was
20 subsequently shredded. Do you recall making a
21 statement to the body at that time?

22 A It was a letter to me that I
23 discussed with the members of the executive
24 board. I'm not sure about the meeting -- at the
25 February meeting.

1 Q Well, you did produce documents to
2 me; am I correct?

3 A That were given to me, that's
4 correct.

5 Q And who were they given to you from?

6 A One was from Chief Smith, Art Smith,
7 and I think the other one is from Chief Duffy.

8 Q Okay. Now, this document that was
9 shredded, it was shredded after you received the
10 subpoena; am I correct?

11 A No.

12 Q When was it shredded?

13 A That day that I received it in
14 January.

15 Q Okay. So you received the letter
16 personally, and it said what?

17 A It was from Mr. Rebert.

18 Q Okay.

19 A It resulted from an e-mail that I had
20 originally sent him when he joined the
21 association. I think that was in November of
22 2005.

23 Q Okay.

24 A It asked -- I had sent him an e-mail
25 asking if his new county detective chief, Julio

1 Q What was your position in February of
2 2006 with the association?

3 A The secretary.

4 Q So, if a document is addressed to
5 you, and let's say the reference line is York
6 County Chiefs of Police Association, you would
7 assume that that's a document addressed to the
8 association; am I correct?

9 MR. HUTCHINSON: Objection.

10 THE DEPONENT: That's correct.

11 BY MR. JACOB:

12 Q That is correct?

13 A Yes.

14 Q But this letter that you shredded, it
15 did not have that in the R-E line, is that what
16 happened? It was just to you personally?

17 A That's correct.

18 Q And it didn't say, reference, the
19 York County Chiefs of Police Association?

20 A No, it did not.

21 Q And is that why you chose to shred
22 it?

23 A That's what I do with all documents.

24 Q You shred all documents?

25 A Yes.

1 Mendez, was going to join the association.

2 Q Okay.

3 A I sent him the minutes of the
4 meeting. I sent him a roster of membership, and
5 I don't know what else. It might have been
6 documents that I sent along on the e-mail, which
7 I send to all new members as the secretary of
8 the association. It might have been also the
9 bylaws.

10 Q But Mr. -- Sorry. Go ahead.

11 A And then Mr. Rebert sent the
12 letter -- I received it in January of 2006. I
13 think it was dated December -- the end of
14 December 2005.

15 Q Okay. So you read the letter to you
16 personally and you just shredded it?

17 A Yes.

18 Q And have you shredded any other
19 letter regarding membership of somebody at the
20 association?

21 A No, I haven't received any other
22 correspondence.

23 Q Okay. And your testimony then is
24 that the letter did not have anything
25 referencing that it was regarding the York

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1 County Chiefs of Police Association, correct?
 2 A Not to my knowledge.
 3 Q And, therefore, you reviewed it and
 4 shredded it?
 5 A That's correct.
 6 Q What action did you take in regard to
 7 the letter?
 8 A I spoke to Dave Duffy, he's the
 9 president, and I spoke to Art Smith, the past
 10 president. I spoke to, I think Darrell
 11 Albright, he's the treasurer. And I spoke to
 12 Greg Bean, he's the vice president of the
 13 association.
 14 Q Is there a reason why Chief Duffy
 15 would have had a copy of the letter to read to
 16 somebody?
 17 A Chief Duffy to my knowledge didn't
 18 have a copy of the letter. He didn't get it
 19 from me.
 20 Q Okay. So the same day it comes in
 21 you shred it.
 22 A Yes.
 23 Q But there was action in regard to the
 24 letter; am I correct?
 25 A It voiced concerns -- The letter was

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1 addressed to me and it was in regards to the
 2 e-mail that I sent to Mr. Rebert, basically
 3 welcoming him to the association and asking him
 4 if he was going to let his new chief county
 5 detective join the association. The letter
 6 referred to me basically saying that he did not
 7 wish to put his new chief county detective in
 8 the position in an association where his past
 9 chief county detective was in the association.
 10 He also had said that -- He
 11 questioned me if the roster was complete, and I
 12 had made a mistake. In doing that, when I sent
 13 the roster out, I had Becky's position of chief
 14 noted on the roster. He asked me where she was
 15 a chief at.
 16 I talked to the executive board about
 17 his response to my e-mail. And I had informed
 18 them that I had made a mistake when I sent the
 19 rosters out. I also spoke to President Duffy
 20 about some mistakes --
 21 Well, actually, at the January
 22 meeting some mistakes that I felt that we were
 23 making as the secretary and as the president,
 24 and that was right after the meeting. That was
 25 before I even got back to the office because the

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1 meetings are held the first Wednesday of the
 2 month. We had that meeting, Dave and I had a
 3 discussion. And when I got back that afternoon
 4 the letter was at my office from Mr. Rebert.
 5 Q Okay. And then going back to my
 6 question, there was a response to that letter;
 7 wasn't there?
 8 A As far as me calling the other
 9 members, yes. My response was that I had
 10 received the letter addressed to me, and that I
 11 told them that Mr. Rebert was questioning my
 12 roster that I had sent, and had informed the
 13 member that he informed me that he wouldn't
 14 allow Mendez to join with Becky still a member
 15 attending meetings.
 16 Q Was there anything derogatory in the
 17 letter about Miss Downing?
 18 A Not that I can really recall. He
 19 was -- The letter was -- He was upset with me is
 20 what I took it.
 21 Q Did anything indicate that the D.A.'s
 22 office would not be cooperating with the
 23 association until Miss Downing was no longer a
 24 member?
 25 MR. HUTCHINSON: Objection.

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1 THE DEPONENT: I don't really
 2 remember that.
 3 BY MR. JACOB:
 4 Q Did you consider the letter to be
 5 professional in your mind?
 6 MR. HUTCHINSON: Objection.
 7 THE DEPONENT: I consider it to be a
 8 correspondence to me that he was upset with my
 9 e-mail.
 10 BY MR. JACOB:
 11 Q He was upset with your e-mail. Now,
 12 you produced documents in response to a
 13 subpoena. Did you produce the e-mail that
 14 you're referring to?
 15 A No. I didn't have it any more.
 16 Q You didn't have it any more.
 17 A Yeah.
 18 Q Is your system backed up anywhere?
 19 A No.
 20 Q Is this your home computer or is
 21 this --
 22 A No, it's the office computer.
 23 Q And where is this office located?
 24 A 44 Frederick Street.
 25 Q And is it a part of something else,

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1 A It was addressed to me. I shredded
 2 it.
 3 Q But you held a position in the
 4 association, correct?
 5 MR. HUTCHINSON: Counsel, this is
 6 just becoming argumentative at this point. I
 7 think he's already testified about things.
 8 MR. JACOB: Are you representing him?
 9 MR. HUTCHINSON: I am not, and I
 10 can't stop you. But it seems to me that we all
 11 know what you're doing.
 12 MR. JACOB: Then it's noted.
 13 BY MR. JACOB:
 14 Q You held a position in the
 15 association at that time. So, am I correct you
 16 received mail sometimes as you personally and
 17 sometimes as you on behalf of the association,
 18 correct?
 19 A I have never received any mail
 20 addressed to the association sent to me, other
 21 than e-mails.
 22 Q Did that letter ask the
 23 association -- Did it ask you to take action or
 24 did it ask the association to take action?
 25 A It didn't ask for any action that I'm

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1 the executive board.
 2 BY MR. JACOB:
 3 Q What was to discuss if the letter had
 4 already been shredded?
 5 MR. HUTCHINSON: Objection.
 6 THE DEPONENT: Exactly what I had
 7 said before.
 8 BY MR. JACOB:
 9 Q Producing a document that had already
 10 been shredded?
 11 (Whitson Exhibit Number 4 was marked
 12 for identification)
 13 Q I'm showing you a document that's
 14 been marked as Whitson Exhibit Number 4. Do you
 15 recognize this document?
 16 A Yes.
 17 Q What is this document?
 18 A It's a copy of the letter that
 19 Stanley Rebert sent to me.
 20 Q What does it say in the R-E line?
 21 A York County Chiefs of Police
 22 Association.
 23 Q And when you received this letter,
 24 this is the letter that you felt was just to you
 25 personally and had nothing -- was not addressed

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1 aware of.
 2 Q Had it demanded that the association,
 3 for instance, discontinue a relationship with
 4 Miss Downing, would you then have attributed the
 5 letter to the association?
 6 A Not when it's addressed to me.
 7 Q And you never provided a copy of this
 8 letter to anybody?
 9 A No.
 10 Q And nobody told you to shred it?
 11 A No.
 12 Q Did Chief Duffy give you any
 13 instructions regarding this letter?
 14 A No.
 15 Q Did Mr. Rebert give you any
 16 instructions regarding this letter?
 17 A No.
 18 Q After you received the subpoena did
 19 you contact Mr. Rebert?
 20 A No.
 21 Q Did you contact Mr. Duffy regarding
 22 this letter?
 23 MR. HUTCHINSON: I think he's already
 24 testified to that, counsel.
 25 THE DEPONENT: We all discussed it on

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1 to the association, correct?
 2 A That's correct.
 3 Q Down at the last paragraph does it
 4 not ask -- does it not say: Accordingly, I
 5 would respectfully request that the association
 6 discontinue their illicit relationship with Miss
 7 Downing forthwith?
 8 MR. HUTCHINSON: Objection.
 9 THE DEPONENT: Yes.
 10 BY MR. JACOB:
 11 Q And you as secretary, would you have
 12 the power to take action in regard to that
 13 statement?
 14 A I wouldn't think so.
 15 Q Who would?
 16 A I would say the executive board
 17 would.
 18 Q Is there a reason then why you did
 19 not take this request in written form to the
 20 board?
 21 A Because the letter was addressed to
 22 me.
 23 Q In the second-to-last paragraph it
 24 states: Finally, I cannot, as a practical
 25 matter, have a relationship at all with the

1 Chiefs of Police Association under those
2 circumstances. I have enough back-seat drivers
3 without a woman scorned. Speaking of that, who
4 is it that's driving your bus?

5 Did you advise the executive board of
6 these statements made by Mr. Rebert?

7 A I may have. I don't recall.

8 Q When you read that statement, did
9 that mean anything to you? Did you understand
10 what Mr. Rebert was asking?

11 A That he was upset.

12 Q With what?

13 A With the fact that I had sent him a
14 roster with a notation that Rebecca Downing was
15 still a chief; and that I had asked that his
16 county detective join the association.

17 Q Have you spoken to Mr. Duffy about
18 what your testimony today might be?

19 A Other than I have to appear at this
20 date and this time.

21 Q Was there any discussion regarding
22 this letter, Exhibit Number 4?

23 A No.

24 Q I'm just about finished here.
25 (Whitson Exhibit Number 5 was marked

1 association.

2 A I don't think I've received anything
3 for the association, period.

4 Q Except for the subpoena from me,
5 correct?

6 A Except for the subpoena from you.

7 Q And you didn't shred that subpoena,
8 right?

9 A No.

10 (Whitson Exhibit Number 6 was marked
11 for identification)

12 Q Let me show you what's been marked as
13 Whitson Exhibit Number 6. Can you explain to me
14 what these documents are?

15 A These are documents that I sent to
16 your office trying to comply with the first
17 subpoena.

18 Q All of the documents in Exhibit
19 Number 6 were produced to my office in regard to
20 the subpoena?

21 A Yes.

22 (Whitson Exhibit Number 7 was marked
23 for identification)

24 Q I'm showing you a document that was
25 marked as Whitson Number 7. Can you tell me

1 for identification)

2 Q I'm showing you a document which has
3 been marked as Whitson number 5. Can you tell
4 me what this is?

5 A It's my notes that I prepared after I
6 had gotten the first subpoena.

7 Q We're not going to go through all
8 these today, but I'm just going to ask you
9 basically to adopt the facts in here. Are the
10 facts that are contained in these notes true and
11 correct to the best of your knowledge?

12 A Yes.

13 Q How did you receive Exhibit Number 4?
14 Was it through first-class mail?

15 A Yes, I believe.

16 Q And did it come to your home, to the
17 your place of business? Where did it arrive?

18 A My office.

19 Q Which office is that?

20 A Hanover Borough Police Department.

21 Q Is that where you normally receive
22 mail on behalf of the association?

23 A I don't think I've ever received
24 anything from the association at that address.

25 Q Not from the association. For the

1 what this document is?

2 A It's an e-mail that I sent to Rebert
3 when I replied back to his question about a
4 letter from the association to Becky. And then
5 it's a forward to Dave Duffy from me about the
6 same thing from Stan Rebert.

7 (Whitson Exhibit Number 8 was marked
8 for identification)

9 Q I'm showing you a document that's
10 been marked as Exhibit Number 8. Can you tell
11 me what that is?

12 A I believe that is the letter that
13 Dave Duffy -- a copy of the letter that Dave
14 Duffy sent to Becky.

15 Q How about the rest of it?

16 A It's a York County Chiefs of Police
17 December 2004 monthly meeting minutes; a 2005
18 monthly meeting minutes of the organization.

19 Q What's the reason you brought the
20 December minutes to the meeting today?

21 A Because I was asking Darrell what was
22 the position of Becky, and he had those minute
23 meetings and he gave them to me.

24 Q So she's referenced in these December
25 minutes?

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF YORK

H. STANLEY REBERT
DISTRICT ATTORNEY



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45 NORTH GEORGE STREET
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TELEPHONE
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December 28, 2005

Chief Randy Whitson
Hanover Borough Police Department
44 Frederick Street
Hanover, PA 17331

RE: York County Chiefs of Police Association

Dear Chief Whitson:

I recently had occasion to review your membership information. "Chief" M. Rebecca Downing is listed as a member. As you well know, Ms. Downing is no longer my Chief County Detective and was terminated from that position in December of 2004. I am therefore curious as to what department Ms. Downing allegedly is Chief of. I have also reviewed the by-laws of the Association and noted no section that would permit her membership, even as an associate. It is my understanding that lieutenants may be associate members upon authorization of their then Chief. However, I cannot imagine Bill Hose giving his blessing to then Lt. Downing for membership.

The association has encouraged me to have my present Chief County Detective, Julio Mendez, apply for membership. You can understand my reluctance to do so. First of all, there is only one Chief County Detective. Secondly, Ms. Downing's membership represents a conflict of interest. Thirdly, his membership in an organization that recognizes two Chief County Detectives as police chiefs would be counterproductive at best. Finally, I cannot, as a practical matter, have a relationship at all with the Chiefs of Police Association under those circumstances. I have enough back seat drivers without a woman scorned. Speaking of that, who is it that's driving your bus?!

Accordingly, I would respectfully request that the Association discontinue their illicit relationship with Ms. Downing forthwith. Should there be facts or circumstances of which I am unaware, please enlighten me.

Sincerely yours,

H. Stanley Rebert
District Attorney

Whitson

cc: William Hose, Sheriff
HSR/alb

