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THE STATE EDUCATION DEPARTMENT  
THE UNIVERSITY OF THE STATE OF NEW YORK



In the Matter of  
THE NEW YORK CITY DEPARTMENT OF EDUCATION

v

THEODORE SMITH

Section 3020-a Education Law Proceeding (File# )

DATE: April 18, 2007

TIME: 10:34 a.m. to 11:45 a.m.  
12:00 p.m. to 12:15 p.m.  
12:30 p.m. to 12:45 p.m.  
12:50 p.m. to 1:00 p.m.

LOCATION: New York City Department of Education  
Office of Legal Services  
49-51 Chambers Street, 6th Floor  
New York, New York

BEFORE: JACK D. TILLEM, ESQ.  
Hearing Officer  
20 West Marie Street  
Hicksville, New York 11801

1 Theodore Smith - 4-18-2007  
 2 FOR THE DEPARTMENT:  
 3 SUSAN JALOWSKI, ESQ., Of counsel  
 4 THERESA EUROPE, Deputy Counsel  
 5 MICHAEL BEST, ESQ., General Counsel  
 6 New York City Department of Education  
 7 Office of Legal Services  
 8 49-51 Chambers Street, 6th Floor  
 9 New York, New York  
 10 FOR THE RESPONDENT:  
 11 DAVID KEARNEY, ESQ.  
 12 317 Madison Ave, 21st Floor  
 13 New York, New York 10017  
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1 Theodore Smith - 4-18-2007  
 2 EXHIBIT INDEX  
 3 Marked as Description  
 4 Respondent  
 5 Thirty-one 657 - 04  
 6 Letter dated December 22nd, 2004  
 7 Thirty-two 659 - 13  
 8 Letter from Mr. Smith addressed to  
 9 Peter Heany and Michael Laforgia dated  
 10 December 31st, 2004  
 11  
 12 Thirty-three 662 - 22  
 13 Copy of Mr. Smith's program  
 14 during the 2004-2005 school year  
 15  
 16 Thirty-four 668 - 14  
 17 Letter dated July 26th from the New  
 18 York City Department of Education dated  
 19 September 12, 2005  
 20 Thirty-five 679 - 11  
 21 E-mail exchange between Mr. Smith and  
 22 Principal Linda Uehling  
 23  
 24

1 Theodore Smith - 4-18-2007  
 2 THE HEARING OFFICER: The  
 3 appearances we'll note, Jack D. Tillem as the  
 4 hearing officer.  
 5 For the Complainant?  
 6 MS. JALOWSKI: Susan  
 7 Jalowski for the Department of Education.  
 8 THE HEARING OFFICER: For the  
 9 Respondent?  
 10 MR. KEARNEY: David Kearney  
 11 for Ted Smith.  
 12 THE HEARING OFFICER: And  
 13 Ted Smith the Respondent is present also.  
 14 Okay. I think we're going to  
 15 continue with the Respondent's case today.  
 16 Mr. Kearney?  
 17 MS. JALOWSKI: I would just  
 18 like to put on the record that, you know, as  
 19 you know we had a hearing -- a hearing date  
 20 of -- I can't remember what the date was.  
 21 THE HEARING OFFICER: The  
 22 date was April 12th.  
 23 MS. JALOWSKI: April 12th --  
 24 that was cancelled because Mr. Smith was

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1 Theodore Smith - 4-18-2007  
 2 purportedly ill. But I just wanted to put it  
 3 on the record that we had -- had conf -- we had  
 4 had a conference call in regard to Mr. Smith's  
 5 wanting to testify again. And just note for  
 6 the record that the Department is objecting.  
 7 He already has testified and I believe at this  
 8 point it is -- that there's no reason for him  
 9 to testify again.  
 10 MR. KEARNEY: In response I'd  
 11 just like to say that Mr. Smith feels strongly  
 12 that there are certain questions that I  
 13 neglected, as his counsel, to ask him.  
 14 And in order to give Mr.  
 15 Smith the opportunity for a fair hearing, I  
 16 think he should be heard on all matters.  
 17 MS. JALOWSKI: And then the  
 18 other issue also is with the subpoenas. It was  
 19 my understanding that Mr. Smith was going to  
 20 testify on the 12th and that there were  
 21 supposed to be witnesses that I -- that I did  
 22 say that I would assist in subpoenaing. And  
 23 those were just Darlene Miller, John Lussick --  
 24 that's -- Darlene Miller is D-A-R-L-E-N-E,

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1 Theodore Smith - 4-18-2007  
 2 MS. JALOWSKI: Well, the  
 3 Board would submit that -- I would stipulate  
 4 that the -- that the letters were mailed to the  
 5 people that Mr. Smith says he mailed them to.  
 6 The -- I don't believe there is an issue of  
 7 notice, the oversized classes, as we know, is  
 8 allowed by the contract.  
 9 THE HEARING OFFICER: All  
 10 right. So we --.  
 11 MS. JALOWSKI: So, there's no  
 12 illegal oversized class and there was -- there  
 13 was an illegal lunchroom class. She had  
 14 open -- Ms. Uehling had allowed the kids to  
 15 have gym during lunch.  
 16 When it was found out that  
 17 that did violate the contract, she stopped it.  
 18 THE HEARING OFFICER: Yeah.  
 19 But this is more appropriate for closing  
 20 arguments as to the points raised. Let's start  
 21 the hearing today. I'll grant your request to  
 22 have Mr. Smith recalled. I just want to  
 23 caution you that I don't want this to become a  
 24 closing argument or polemic. If he has facts

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1 Theodore Smith - 4-18-2007  
 2 Miller is M-I-L-L-E-R. John Lussick is  
 3 J-O-H-N, L-E-S-S-U-C-K. And also John Lackey,  
 4 which is L-A-C-H-K-Y. And other subpoenas were  
 5 given to me for Peter Heany, Michael Laforgia,  
 6 and Chancellor Joel Klein. I did not say that  
 7 I would assist in -- in getting those people  
 8 subpoenaed to testify.  
 9 And I would like an offer of  
 10 proof, this is the first I'm hearing when I  
 11 received the e-mail of the subpoenas that that  
 12 these people were even on -- on the Defendant's  
 13 witness list.  
 14 MR. KEARNEY: The --  
 15 Chancellor Klein, Michael Laforgia, and Peter  
 16 Heany were copied on all correspondence between  
 17 Mr. Smith and Principal Uehling regarding  
 18 oversized classes, regarding the open gym lunch  
 19 program, which was later conceded to be illegal  
 20 and cancelled.  
 21 Mr. Smith would like to call  
 22 them for the purpose of establishing that the  
 23 Department had notice, and an opportunity to  
 24 correct these problems but failed to do so.

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1 Theodore Smith - 4-18-2007  
 2 to state, I -- I will hear them, as a result of  
 3 your questions. But if it becomes an argument  
 4 or that sort of thing, then I'm going to  
 5 sustain an objection to its continuing.  
 6 As far as the subpoenas, if  
 7 you serve subpoenas and you have witnesses that  
 8 are present, we'll have the witnesses testify.  
 9 But I want to caution you, that I am not going  
 10 to extend the hearing forever. We've already  
 11 had a number of adjournments, as a result of  
 12 witnesses who haven't shown. So I'm going to  
 13 have the case on today. I'll allow your  
 14 witnesses if you have any next time and that's  
 15 the end of the hearing. And then I'm going to  
 16 have closings. But this is not going to  
 17 continue forever, Counsel. Okay?  
 18 MS. JALOWSKI: Well,  
 19 according to --  
 20 THE HEARING OFFICER: Let's  
 21 call a witness.  
 22 MS. JALOWSKI: -- but does it  
 23 satisfy that I will stipulate that Mr. Smith  
 24 did mail --

3 (Pages 648 to 651)

1 Theodore Smith - 4-18-2007  
 2 THE HEARING OFFICER:  
 3 Well --.  
 4 MS. JALOWSKI: -- Peter  
 5 Haney, Michael Laforgia; that that -- that  
 6 those witnesses wouldn't -- wouldn't even be  
 7 needed?  
 8 THE HEARING OFFICER: Well,  
 9 that's up to him. If he wants to press for  
 10 witnesses, I'm not going to interfere with that  
 11 at this point.  
 12 MS. JALOWSKI: Okay.  
 13 THE HEARING OFFICER: I'm not  
 14 encouraging it of course --  
 15 MS. JALOWSKI: Uh-huh.  
 16 THE HEARING OFFICER: -- but  
 17 I'm going to hold the hearing today. We have  
 18 one more hearing date. We're going to have  
 19 closings, and that'll be the end of it.  
 20 MS. JALOWSKI: I know but --.  
 21 THE HEARING OFFICER: I think  
 22 you've had -- the Respondent has a fair chance,  
 23 so he'll be given -- given enough opportunity  
 24 to state the -- the merits of his case.

1 Theodore Smith - 4-18-2007  
 2 MS. JALOWSKI: No, I know,  
 3 but can you ask the Respondent if that -- if  
 4 the stipulation satisfies the need to subpoena  
 5 those other people. That's all.  
 6 THE HEARING OFFICER: Does  
 7 that satisfy your need?  
 8 MR. KEARNEY: Can I have a  
 9 moment with my client?  
 10 THE HEARING OFFICER: Yes, of  
 11 course.  
 12 Off the record.  
 13 (Off the record)  
 14 THE HEARING OFFICER: The  
 15 Respondent is recalled to testify and Ted Smith  
 16 is on the stand.  
 17 He's already under oath; he's  
 18 been sworn in.  
 19 Your witness.  
 20 THEODORE SMITH; Previously sworn  
 21 DIRECT EXAMINATION  
 22 BY MR. KEARNEY:  
 23 Q. Mr. Smith, there was --  
 24 during the 2004-2005 school year, did you ever

1 Smith - Direct - Kearney  
 2 request to transfer from the Museum School?  
 3 **A. Yes, I did.**  
 4 Q. How many times?  
 5 **A. I'd say four times. Roughly,**  
 6 **four times.**  
 7 Q. When was the first time that  
 8 you asked for a transfer out of the Museum  
 9 School?  
 10 **A. Sometime around -- around**  
 11 **December -- around December 16th, 2004.**  
 12 Q. And how did you request that  
 13 you be transferred?  
 14 **A. I requested, in writing --**  
 15 **first verbally, sometime between Thanksgiving**  
 16 **and Christmas to Principal Uehling that I**  
 17 **didn't want to be in this school because of**  
 18 **this illegal program, and oversized classes,**  
 19 **particularly the open gym lunch program.**  
 20 **We had over a hundred**  
 21 **students in it from the beginning of the year**  
 22 **to the end of the year. Plus, the other**  
 23 **oversized classes too where I didn't have any**  
 24 **help.**

1 **Smith - Direct - Kearney**  
 2 Q. Mr. Smith, I just -- I just  
 3 wanted to know how you requested the transfer?  
 4 **A. In writing and verbally.**  
 5 Q. You testified a moment ago  
 6 that you requested to transfer sometime between  
 7 Thanksgiving and Christmas of 2004?  
 8 **A. That is correct.**  
 9 Q. Is -- did there come another  
 10 time when you requested a transfer from the  
 11 Museum School?  
 12 **A. Yeah. It was sometime around**  
 13 **December 30th or 31st; right before the new**  
 14 **year of '04.**  
 15 Q. I'm going to show you a  
 16 document that I will mark for identification as  
 17 Respondent's Thirty-six.  
 18 THE HEARING OFFICER: I have  
 19 a Respondent's Thirty-one. Am I missing  
 20 something?  
 21 MR. KEARNEY: Thirty-one,  
 22 I -- it's my handwriting maybe.  
 23 THE HEARING OFFICER: The  
 24 last exhibit I have for the Respondent, excuse

Page 656

1 Smith - Direct - Kearney  
 2 me, is Dr. Scheide's letter of June 8th, '05  
 3 and that was Respondent's Twenty-nine, or I may  
 4 be mistaken.  
 5 MR. KEARNEY: I -- I had  
 6 written down a different number.  
 7 THE HEARING OFFICER: Well,  
 8 was it Dr. Scheide's --  
 9 MR. KEARNEY: Yes.  
 10 THE HEARING OFFICER: -- so  
 11 then I could --  
 12 MR. KEARNEY: Uh-huh.  
 13 THE HEARING OFFICER: --  
 14 Respondent's Twenty-nine.  
 15 MR. KEARNEY: As  
 16 Respondent's --  
 17 THE HEARING OFFICER: The one  
 18 before that was an e-mail.  
 19 MR. KEARNEY: -- yeah.  
 20 THE HEARING OFFICER: That's  
 21 Respondent's Twenty-nine. All right, so we'll  
 22 mark this please, Respondent's Thirty-one,  
 23 Thirty-one, please. Okay.  
 24 MR. KEARNEY: I have a copy

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1 Smith - Direct - Kearney  
 2 that -- that he mailed it. I don't see any, I  
 3 mean, there's no proof of mailing.  
 4 MR. KEARNEY: It is an issue  
 5 of credibility. The witness has testified that  
 6 he mailed the letter.  
 7 THE HEARING OFFICER: Yes, on  
 8 that basis, I'll take it. In evidence. He  
 9 said he mailed the letter; in evidence.  
 10 BY MR. KEARNEY: (Cont'g.)  
 11 Q. Mr. Smith, what -- I'll  
 12 direct your attention back to Respondent's  
 13 Thirty-one. Did you state any particular  
 14 reason for wanting to transfer from the Museum  
 15 School?  
 16 MS. JALOWSKI: Objection.  
 17 Leading.  
 18 THE HEARING OFFICER: Yes.  
 19 Sustained. The letter speaks for itself. If  
 20 you wish him to point out some particular  
 21 paragraph, I'd allow you to do so. But the  
 22 letter speaks for itself.  
 23 BY MR. KEARNEY: (Cont'g.)  
 24 Q. Mr. Smith, why did you

Page 657

1 Smith - Direct - Kearney  
 2 for the record, yes.  
 3 BY MR. KEARNEY: (Cont'g.)  
 4 Q. It's a letter dated December  
 5 22nd, 2004.  
 6 Mr. Smith, do you know what  
 7 this is?  
 8 **A. Yes I do.**  
 9 Q. What is it?  
 10 **A. It's a letter I wrote to**  
 11 **Linda Uehling around December 16, 2004.**  
 12 Q. And do you recall, first of  
 13 all, did -- did you send this letter?  
 14 **A. Yes, I did.**  
 15 Q. And how did you send it?  
 16 **A. Regular mail.**  
 17 Q. Did you receive a response to  
 18 the best of your recollection?  
 19 **A. No, I didn't.**  
 20 MR. KEARNEY: I'd like to  
 21 offer this as Respondent's Twenty-nine --  
 22 Respondent's Thirty-one.  
 23 MS. JALOWSKI: I -- I'm going  
 24 to object. There's no -- I mean, that --

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1 Smith - Direct - Kearney  
 2 request a trans -- a transfer at the end of the  
 3 summer of 2005?  
 4 **A. Because I was very unhappy of**  
 5 **the program because of all the oversized**  
 6 **classes and the illegal open gym program, where**  
 7 **she had me teaching over a hundred students all**  
 8 **alone, and I couldn't handle it.**  
 9 Q. Okay. I'm going to show you  
 10 what I'll mark for identification as  
 11 Respondent's Thirty-two.  
 12 It is a -- for the record,  
 13 it's another letter from Mr. Smith addressed to  
 14 Peter Heany and Michael Laforgia dated December  
 15 31st, 2004, Respondent's Thirty-two.  
 16 Q. Do you know what that is Mr.  
 17 Smith?  
 18 **A. Yes, I do.**  
 19 Q. What is it?  
 20 **A. It's a letter I sent to Peter**  
 21 **Heany, the regional superintendent of Region**  
 22 **Nine, and Michael Laforgia, the Local**  
 23 **instructional superintendent of Region Nine.**  
 24 Q. Did you write it?

5 (Pages 656 to 659)

1 Smith - Direct - Kearney  
 2 **A. Yes, I did.**  
 3 Q. Okay. Did you mail it?  
 4 **A. Yes.**  
 5 Q. How did you mail it?  
 6 **A. Regular mail.**  
 7 MR. KEARNEY: I offer it as  
 8 Respondent's Thirty-two.  
 9 MS. JALOWSKI: I have no  
 10 objection.  
 11 THE HEARING OFFICER: It's in  
 12 evidence.  
 13 MR. KEARNEY: Thank you.  
 14 BY MR. KEARNEY: (Cont'g.)  
 15 Q. Mr. Smith, you testified  
 16 earlier that there were four separate occasions  
 17 that you requested a transfer from the Museum  
 18 School?  
 19 **A. That is correct.**  
 20 Q. What was the purpose of  
 21 sending the letter of December the 31st, 2004?  
 22 **A. Because I didn't hear**  
 23 **anything from Linda Uehling about the earlier**  
 24 **letter that I sent her. I had no response from**

1 **Smith - Direct - Kearney**  
 2 **her, verbally and in writing.**  
 3 Q. And what was -- aside from  
 4 what you just testified to, what did you hope  
 5 to accomplish by sending the December 31st,  
 6 2004 letter?  
 7 **A. I was hoping that I could**  
 8 **find another school that had normal class sizes**  
 9 **and also a second P.E. teacher that I was**  
 10 **always comfortable working with for the last**  
 11 **ten years.**  
 12 **I wanted out -- out of this**  
 13 **program, illegal program.**  
 14 Q. I'm going to direct your  
 15 attention to what I'll mark as --  
 16 MS. JALOWSKI: You know what,  
 17 I'm going to object to the word -- the word --  
 18 use of the word illegal. It's no -- there's  
 19 no --  
 20 THE HEARING OFFICER: Well,  
 21 it's his testimony --  
 22 MS. JALOWSKI: -- penal law  
 23 broken.  
 24 THE HEARING OFFICER: -- I'm

1 Smith - Direct - Kearney  
 2 not sure --  
 3 MS. JALOWSKI: Well --  
 4 THE HEARING OFFICER: -- how  
 5 relevant it is or how accurate it is. But it's  
 6 his testimony. It goes to his credibility.  
 7 Go ahead.  
 8 MR. KEARNEY: And just for  
 9 the record, there was an offer to stipulate as  
 10 to that point, that it was volatile of the  
 11 contract to the extent that the contract in --  
 12 MS. JALOWSKI: That's an  
 13 off-the-record discussion, that was in lieu of  
 14 some people testi -- testifying. So I don't  
 15 think that that should be put on the record.  
 16 BY MR. KEARNEY: (Cont'g.)  
 17 Q. I'm going to direct your  
 18 attention to what I'll mark for identification  
 19 as Respondent's Thirty-three. It is a schedule  
 20 that we received in discovery. Do you know  
 21 what this is Mr. Smith?  
 22 **A. Yeah. This is a copy of my**  
 23 **program during the 2004-2005 school year at**  
 24 **Museum School.**

1 **Smith - Direct - Kearney**  
 2 Q. Is that -- did you produce  
 3 that schedule, Mr. Smith?  
 4 **A. I didn't produce it. It was**  
 5 **produced in discovery.**  
 6 Q. No. Did you make it?  
 7 **A. No, I didn't make it. The**  
 8 **principal made it.**  
 9 Q. Were you required to abide by  
 10 that schedule --  
 11 **A. Yes, I was --.**  
 12 Q. -- in the ordinary course?  
 13 **A. Yes.**  
 14 MR. KEARNEY: I'm going to  
 15 offer it as a schedule produced in the ordinary  
 16 course --  
 17 MS. JALOWSKI: All right. I  
 18 have no objection.  
 19 THE HEARING OFFICER: In  
 20 evidence, R-Thirty-three.  
 21 MS. JALOWSKI: So you're  
 22 stating that that's Linda Uehling's handwriting  
 23 on it? Is that --?  
 24 BY MR. KEARNEY: (Cont'g.)

1 Smith - Direct - Kearney  
 2 Q. Do you know -- do you  
 3 recognize the handwriting --?  
 4 MS. JALOWSKI: -- is that  
 5 your handwriting?  
 6 THE WITNESS: No. That's  
 7 Linda Uehling's handwriting.  
 8 BY MR. KEARNEY: (Cont'g.)  
 9 Q. Mr. Smith, what can you tell  
 10 me about your hours -- your teaching hours  
 11 during the 2004-2005 school year?  
 12 **A. Well, I had usually a normal,**  
 13 **regular full-time program is twenty-five hours**  
 14 **or more of teaching program. I had about**  
 15 **seventeen or eighteen teaching hours, which is**  
 16 **severely under programmed.**  
 17 Q. And was there any attempt to  
 18 remedy this?  
 19 **A. No. There wasn't any attempt**  
 20 **to remedy it at all.**  
 21 Q. How did you -- how were you  
 22 paid a full-time salary?  
 23 **A. Well, the principal --.**  
 24 MS. JALOWSKI: Objection.

1 Smith - Direct - Kearney  
 2 THE HEARING OFFICER: Yes.  
 3 Sustained.  
 4 You might want to rephrase  
 5 that somehow. How would you pay salary? I  
 6 assumed you've mailed a check or deposited a  
 7 check, so, it's irrelevant.  
 8 BY MR. KEARNEY: (Cont'g.)  
 9 Q. Were you paid as a part-time  
 10 employee during the 2004-2005 school year?  
 11 **A. No. I believe I was paid**  
 12 **full-time. But it was a part-time program.**  
 13 MS. JALOWSKI: Objection.  
 14 THE HEARING OFFICER: Yeah.  
 15 I'll sustain that. I'll ask to strike the  
 16 testimony.  
 17 Try and answer the questions,  
 18 but not state your conclusion --  
 19 BY MR. KEARNEY: (Cont'g.)  
 20 Q. Were you part --  
 21 THE HEARING OFFICER: Go  
 22 ahead.  
 23 BY MR. KEARNEY: (Cont'g.)  
 24 Q. -- were you part time during

1 Smith - Direct - Kearney  
 2 2004-2005 academic year?  
 3 **A. I believe so.**  
 4 MS. JALOWSKI: Objection.  
 5 THE HEARING OFFICER: Let's  
 6 continue.  
 7 BY MR. KEARNEY: (Cont'g.)  
 8 Q. You testified a moment ago  
 9 that you were under programmed?  
 10 **A. Yes.**  
 11 Q. Did you have additional  
 12 duties other than teaching during 2004-2005?  
 13 **A. Well, I had an -- an open gym**  
 14 **where I was told by the supervisor, which was**  
 15 **illegal because there were over a hundred**  
 16 **students --**  
 17 MS. JALOWSKI: Objection --  
 18 THE HEARING OFFICER:  
 19 Sustained.  
 20 MS. JALOWSKI: -- objection.  
 21 THE HEARING OFFICER:  
 22 Sustained.  
 23 These are arguments.  
 24 Remember I cautioned you before his testimony

1 Smith - Direct - Kearney  
 2 that I'm not going to allow his testimony to  
 3 become a polemic in lieu of a closing or make  
 4 two closings.  
 5 His arguments about illegal,  
 6 part-time, full-time, those are all arguments.  
 7 So, I will sustain at this  
 8 point and allow you state those conclusions or  
 9 arguments at the close of the case.  
 10 Let's continue.  
 11 MR. KEARNEY: For the record,  
 12 I think the witness is -- is trying to testify  
 13 as to the facts concerning his case.  
 14 THE HEARING OFFICER: No.  
 15 No. Whether it is a part-time or a full-time  
 16 job or something is illegal is not a fact.  
 17 That's a conclusion, an opinion and I'm going  
 18 to sustain objections to those questions.  
 19 BY MR. KEARNEY: (Cont'g.)  
 20 Q. Mr. Smith, can you just tell  
 21 me about your teaching hours in 2004-2005?  
 22 MS. JALOWSKI: Ob --  
 23 objection, asked and answered.  
 24 THE HEARING OFFICER: Go

1 Smith - Direct - Kearney  
 2 ahead. We'll allow it.  
 3 MS. JALOWSKI: It is  
 4 scheduled and then he said he didn't have a  
 5 full schedule.  
 6 THE HEARING OFFICER: Yeah,  
 7 I'll sustain it. The objection is sustained,  
 8 I'll sustain it. Let's move on.  
 9 BY MR. KEARNEY: (Cont'g.)  
 10 Q. Mr. Smith, I'm going to show  
 11 you what I'll mark for identification as  
 12 Respondent's Thirty-Four.  
 13 It is -- appears to be a  
 14 letter dated July 26th from the New York City  
 15 Department of Education addressed to colleagues  
 16 followed by a proof of mailing, a peer  
 17 intervention form and a peer intervention  
 18 response dated September 12, 2005.  
 19 THE HEARING OFFICER: It's  
 20 R-Thirty-four.  
 21 MR. KEARNEY: Thirty-four.  
 22 THE HEARING OFFICER: Okay.  
 23 BY MR. KEARNEY: (Cont'g.)  
 24 Q. Mr. Smith, do you recognize

1 Smith - Direct - Kearney  
 2 that document?  
 3 **A. Yes, I do. Yeah.**  
 4 MS. JALOWSKI: Do you have a  
 5 copy for me?  
 6 MR. KEARNEY: Yes I do. I  
 7 apologize.  
 8 BY MR. KEARNEY: (Cont'g.)  
 9 Q. Did you receive -- first of  
 10 all, let's start with the -- the cover sheet.  
 11 Did you receive that letter?  
 12 **A. Yes, I did.**  
 13 Q. What is it?  
 14 **A. It's a letter stating that**  
 15 **I'm entitled to have peer intervention because**  
 16 **I received a U rating.**  
 17 Q. Turning your attention to the  
 18 next page of the document, what is that?  
 19 **A. This is a letter confirming**  
 20 **that I sent a copy of my peer intervention**  
 21 **letter, that they received the letter.**  
 22 Q. And the next page of the  
 23 document, what is it?  
 24 MS. JALOWSKI: I have no

1 Smith - Direct - Kearney  
 2 objection to this going into evidence.  
 3 THE HEARING OFFICER: Well,  
 4 let him finish, let him finish. Go ahead.  
 5 BY MR. KEARNEY: (Cont'g.)  
 6 Q. What is the next page of the  
 7 document?  
 8 **A. That I requested peer**  
 9 **intervention. I wanted to be part of the peer**  
 10 **intervention program.**  
 11 Q. And the last page?  
 12 **A. And the last page was a**  
 13 **letter from Marilyn Chadwick (phonetic**  
 14 **spelling), coordinator, in September 12th, '05.**  
 15 Q. Did you receive that letter?  
 16 **A. Yes.**  
 17 Q. I offer this --.  
 18 MS. JALOWSKI: I have no --  
 19 no objection.  
 20 THE HEARING OFFICER: In  
 21 evidence, R-Thirty-four.  
 22 BY MR. KEARNEY: (Cont'g.)  
 23 Q. Mr. Smith, you were charged  
 24 initially in this matter with refusing peer

1 Smith - Direct - Kearney  
 2 intervention, isn't that right?  
 3 **A. Yes.**  
 4 **THE HEARING OFFICER: Was**  
 5 **abusing, is that what word you said?**  
 6 MS. JALOWSKI: Refusing.  
 7 MR. KEARNEY: Refusing.  
 8 THE HEARING OFFICER:  
 9 Refusing. I'm sorry; go ahead.  
 10 BY MR. KEARNEY: (Cont'g.)  
 11 Q. When to the best of your  
 12 recollection, when is the first time you've  
 13 ever heard the words peer intervention?  
 14 **A. Somewhere around March 9th,**  
 15 **2005.**  
 16 Q. And in what context did you  
 17 hear peer intervention?  
 18 **A. It was a meeting with Linda**  
 19 **Uehling in the -- the conference.**  
 20 Q. Okay. What took place during  
 21 that meeting, Mr. Smith?  
 22 **A. She asked me if -- if I would**  
 23 **consider peer intervention and I said I didn't**  
 24 **want to talk at this time because the peer**



1 **Smith - Direct - Kearney**  
 2 **intervention sounded like a kind of a**  
 3 **disciplinary word, and I wasn't exactly sure**  
 4 **what that meant. It didn't sound too great.**  
 5 Q. What was your understanding  
 6 of what peer intervention was at that time?  
 7 **A. I had no idea what it was,**  
 8 **but it just didn't sound good. It sounded like**  
 9 **I was going to be removed from the classroom,**  
 10 **is what it sounded like.**  
 11 Q. Did you refuse peer  
 12 intervention at that time?  
 13 **A. No, I did not.**  
 14 Q. Did there come a time  
 15 subsequent to March of 2005 that you were  
 16 invited to enroll in peer intervention?  
 17 **A. Yeah. Sometime -- sometime**  
 18 **in June of '05 or early July, I was invited to**  
 19 **enroll in it.**  
 20 Q. And the -- the cover page  
 21 of -- of the exhibit in front of you, please  
 22 look at it.  
 23 Is that the invitation that  
 24 you testified to a moment ago?

1 Smith - Direct - Kearney  
 2 **A. Yes.**  
 3 Q. And how did you respond?  
 4 **A. I responded by filling out a**  
 5 **form saying that I wanted it.**  
 6 Q. And is that form included in  
 7 the exhibit?  
 8 **A. Yes.**  
 9 Q. All right. And were you  
 10 given the opportunity to participate in peer  
 11 intervention?  
 12 **A. No I was not.**  
 13 Q. And how -- how did you  
 14 receive notice that you would not be allowed,  
 15 or you would not participate in peer  
 16 intervention?  
 17 **A. Sometime around September**  
 18 **12th, I got a letter from Marilyn Chadwick**  
 19 **stating that I couldn't have peer intervention**  
 20 **because I was reassigned to a disciplinary**  
 21 **room.**  
 22 **But, I applied for the peer**  
 23 **intervention before I got to the disciplinary**  
 24 **room.**

1 **Smith - Direct - Kearney**  
 2 Q. And did you have -- have any  
 3 opinion about that?  
 4 MS. JALOWSKI: Objection.  
 5 BY MR. KEARNEY: (Cont'g.)  
 6 Q. Did you follow -- did you  
 7 follow up on your request for peer  
 8 intervention, Mr. Smith, to the best of your  
 9 recollection?  
 10 **A. It was in July, early July, I**  
 11 **asked to be placed in a -- in a peer**  
 12 **intervention program.**  
 13 **After that, when I got the**  
 14 **letter in September, you know, I -- I followed**  
 15 **up on it also. But they said they weren't**  
 16 **giving it to me because they reassigned me.**  
 17 **But I applied well before that, before I was**  
 18 **reassigned to have peer intervention, so I**  
 19 **should have had peer intervention --.**  
 20 MS. JALOWSKI: Objection.  
 21 THE HEARING OFFICER:  
 22 Sustained. One way or the other, he's going to  
 23 get his opinion in.  
 24 Good try.

1 Smith - Direct - Kearney  
 2 BY MR. KEARNEY: (Cont'g.)  
 3 Q. With regard to the peer  
 4 intervention program, did you have any  
 5 awareness as to your entitlement under the  
 6 collective bargaining agreement to participate?  
 7 MS. JALOWSKI: Objection.  
 8 **A. Yes.**  
 9 **THE HEARING OFFICER: All**  
 10 **right. Wait. Wait. Wait. Wait. Again, but**  
 11 **only because I think you're wearing me down**  
 12 **with this. I'll allow it, go ahead.**  
 13 THE HEARING OFFICER: -- but  
 14 I'll allow it.  
 15 **A. (Cont'g.) Yes, I was aware**  
 16 **of that.**  
 17 MR. KEARNEY: I -- I have to  
 18 state for the record that this is not a game.  
 19 I am trying to elicit facts under the direction  
 20 of my client.  
 21 THE HEARING OFFICER: And I'm  
 22 confused about what the difference is between a  
 23 fact an opinion. When he states what his  
 24 thoughts are on the contract or what it means,

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1 Smith - Direct - Kearney  
 2 or whether or not something is right or wrong,  
 3 that's an opinion, Counselor.  
 4 MR. KEARNEY: I just want to  
 5 know if he's --.  
 6 THE HEARING OFFICER: -- at  
 7 least I've always thought it that way.  
 8 Now, continue with your  
 9 cross -- with your examination, please.  
 10 BY MR. KEARNEY: (Cont'g.)  
 11 Q. Why did you think you were  
 12 entitled to peer intervention?  
 13 MS. JALOWSKI: Objection.  
 14 What --?  
 15 BY MR. KEARNEY: (Cont'g.)  
 16 Q. Mr. Smith, I'm going to  
 17 direct your attention to the specifications in  
 18 this case --  
 19 **A. Uh-huh.**  
 20 Q. -- if you would just look at  
 21 Specification number One.  
 22 **A. Yes.**  
 23 MS. JALOWSKI: I'm going to  
 24 object to this. This is -- this is --.

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1 Smith - Direct - Kearney  
 2 Off the record.  
 3 (Off the record)  
 4 THE HEARING OFFICER: In an  
 5 off-the-record discussion, Counsel indicates  
 6 that he wants to proceed through  
 7 specification -- every specification and ask  
 8 the witness the questions about it. Is that a  
 9 fair assessment of what you were indicating to  
 10 me in the in-camera discussion?  
 11 MR. KEARNEY: That is, and  
 12 additionally Mr. Smith would like to submit  
 13 letters that he wrote in response, addressing  
 14 some of the specifications and/or letters from  
 15 Linda Uehling.  
 16 MS. JALOWSKI: I object.  
 17 This has already gone over with Mr. Smith  
 18 testified the first time.  
 19 THE HEARING OFFICER: Yes.  
 20 I'm going to grant -- sustain that objection,  
 21 grant the motion to refuse to allow him to do  
 22 that or to submit any of those letters. You  
 23 may have an exception. Let's move on.  
 24 MR. KEARNEY: I'm going to

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1 Smith - Direct - Kearney  
 2 THE HEARING OFFICER: Let me  
 3 hear the question. I didn't hear the question  
 4 yet, Counselor. Let's -- let's hear a  
 5 question, you know.  
 6 MS. JALOWSKI: Yeah. All  
 7 right.  
 8 THE HEARING OFFICER: Go  
 9 ahead.  
 10 BY MR. KEARNEY: (Cont'g.)  
 11 Q. You have been charged with  
 12 failing to provide a substitute on or about  
 13 November the 18th of 2004. What, if anything,  
 14 can you tell me about that day?  
 15 MS. JALOWSKI: Objection.  
 16 THE HEARING OFFICER:  
 17 Sustained. That's been gone over and you had  
 18 an opportunity to -- I'm not going to hear that  
 19 testimony again. It's too late. The train has  
 20 left the station. Let's move on.  
 21 MR. KEARNEY: Can we go off  
 22 the record for a moment?  
 23 THE HEARING OFFICER: Yeah,  
 24 sure.

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1 Smith - Direct - Kearney  
 2 have to speak to Mr. Smith outside.  
 3 THE HEARING OFFICER: Off the  
 4 record.  
 5 (Off the record)  
 6 THE HEARING OFFICER: Yes  
 7 David, ball is in your court once again.  
 8 BY MR. KEARNEY: (Cont'g.)  
 9 Q. I'm going to direct your  
 10 attention to what I'll mark for identification  
 11 Respondent's Thirty-five. It is an e-mail  
 12 exchange between Mr. Smith and Principal Linda  
 13 Uehling --.  
 14 THE HEARING OFFICER: All  
 15 right. Just bear with me one moment. Let me  
 16 find my --  
 17 BY MR. KEARNEY: (Cont'g.)  
 18 Q. -- dated July 17, 2005 --  
 19 THE HEARING OFFICER: Okay.  
 20 Go ahead.  
 21 BY MR. KEARNEY: (Cont'g.)  
 22 Q. Mr. Smith, do you recognize  
 23 this document?  
 24 **A. Yes, I do.**

10 (Pages 676 to 679)

1 **Smith - Direct - Kearney**  
 2 Q. What is it?  
 3 **A. It's a letter from Linda**  
 4 **Uehling to me.**  
 5 Q. And it's also -- is your  
 6 response also indicated in this document?  
 7 **A. Yes, it is.**  
 8 Q. All right. I -- you were --  
 9 did you write and receive this e-mail exchange?  
 10 **A. Yes.**  
 11 MR. KEARNEY: I -- I'd offer  
 12 it into evidence as --  
 13 THE HEARING OFFICER: Okay.  
 14 MR. KEARNEY: -- Respondent's  
 15 Thirty-five.  
 16 MS. JALOWSKI: Voir dire.  
 17 THE HEARING OFFICER: I beg  
 18 your pardon?  
 19 MS. JALOWSKI: I'd like voir  
 20 dire. Just give me a minute.  
 21 THE HEARING OFFICER: Go  
 22 ahead.  
 23 MS. JALOWSKI: I have no  
 24 objection that it's a letter, it is an e-mail

1 Smith - Direct - Kearney  
 2 that Mr. Smith wrote --.  
 3 THE HEARING OFFICER: In  
 4 evidence.  
 5 BY MR. KEARNEY: (Cont'g.)  
 6 Q. Mr. Smith, do you recall the  
 7 e-mail exchange that's reflected in  
 8 Respondent's Thirty-five?  
 9 **A. Yes.**  
 10 Q. Okay. Who initiated it? Who  
 11 wrote first in other words?  
 12 **A. I did.**  
 13 Q. And just putting the document  
 14 aside for a -- for moment, why did you initiate  
 15 this particular e-mail correspondence?  
 16 **A. Basically, because I was --**  
 17 **wanted to find out if I was going back to the**  
 18 **Museum School or not. But the principal said**  
 19 **it was always a part-time program and she**  
 20 **couldn't hire me back because it was --**  
 21 **otherwise it was going to be a -- it would be**  
 22 **illegal to hire me in a full-time program.**  
 23 MS. JALOWSKI: Objection.  
 24 THE HEARING OFFICER: All

1 Smith - Direct - Kearney  
 2 right. I'll allow. Go ahead, let's continue.  
 3 **A. (Cont'g.) And the reason why**  
 4 **it's illegal in the full-time program --.**  
 5 MS. JALOWSKI: Objection.  
 6 THE HEARING OFFICER: I -- I  
 7 will allow the testimony; overruled. Go ahead.  
 8 **A. (Cont'g.) The reason why**  
 9 **it's an illegal program is basically because of**  
 10 **the open gym. She had to make four extra**  
 11 **periods a week to inflate my program to make it**  
 12 **twenty-five hours of teaching time.**  
 13 **So, she had to inflate my**  
 14 **program in order to make it full-time. So, she**  
 15 **said there wasn't any way I could possibly come**  
 16 **back to the Museum School because I couldn't**  
 17 **teach the oversized classes, of over a hundred**  
 18 **students alone.**  
 19 BY MR. KEARNEY: (Cont'g.)  
 20 Q. Mr. Smith, when is the first  
 21 time you ever heard the term point six  
 22 position?  
 23 THE HEARING OFFICER: What --  
 24 what position? I didn't hear you.

1 Smith - Direct - Kearney  
 2 MR. KEARNEY: Point six.  
 3 THE HEARING OFFICER: Point  
 4 six position.  
 5 MR. KEARNEY: As in zero  
 6 point six.  
 7 **A. Somewhere around July of**  
 8 **2005.**  
 9 BY MR. KEARNEY: (Cont'g.)  
 10 Q. What -- what if anything were  
 11 you told concerning the meaning of point six?  
 12 **A. Point six meant, she told me**  
 13 **that that was a part-time position, part-time.**  
 14 Q. Who is she?  
 15 **A. Linda Uehling**  
 16 MR. KEARNEY: No further  
 17 questions.  
 18 CROSS EXAMINATION  
 19 BY MS. JALOWSKI:  
 20 Q. Mr. Smith --  
 21 **A. Yes.**  
 22 Q. -- so -- you testified that  
 23 you had -- that Linda Uehling had a  
 24 conversation with you in March in regard to the

1 Smith - Cross - Jalowski  
 2 peer intervention program, correct?  
 3 **A. Correct.**  
 4 Q. And that you told her you  
 5 didn't want to discuss that. You didn't want  
 6 to discuss it, is that correct?  
 7 **A. Yes, I did -- no, I didn't**  
 8 **say that. I said I didn't want to speak at**  
 9 **this time.**  
 10 Q. So -- and you say that you  
 11 really didn't know what the peer program was,  
 12 but it didn't sound good to you?  
 13 **A. That's true. Yes.**  
 14 Q. Did you go to your union rep  
 15 to ask him what -- what the -- exactly what the  
 16 peer intervention program --?  
 17 **A. No. I don't believe I did.**  
 18 Q. So, between March and June --  
 19 **A. Uh-huh.**  
 20 Q. -- you never requested peer  
 21 intervention, correct?  
 22 **A. Not to my knowledge I didn't.**  
 23 Q. So, it wasn't until you  
 24 received the letter from Elizabeth Aarons

1 Smith - Cross - Jalowski  
 2 (phonetic spelling) inviting you because you  
 3 had the U rating that you accepted the peer  
 4 intervention program?  
 5 **A. That's correct. Yes.**  
 6 Q. And then -- then what  
 7 happened was at the beginning of September you  
 8 found out that you were reassigned because  
 9 there was going to be disciplinary action taken  
 10 again you, correct?  
 11 **A. Well, it didn't exactly**  
 12 **happen that way.**  
 13 Q. Mr. Smith, isn't it true that  
 14 over this -- some time over the summer you  
 15 received a letter telling you that you had been  
 16 reassigned and that you were to report to the  
 17 regional office center?  
 18 **A. At the end of the summer,**  
 19 **yes.**  
 20 Q. All right. So, then  
 21 subsequently you found out that since you had  
 22 been reassigned because there were going to be  
 23 disciplinary charges brought against you, that  
 24 you couldn't have because you were not going to

1 Smith - Cross - Jalowski  
 2 be -- because you were re -- you were not going  
 3 to be teaching.  
 4 **A. That's not true. And the**  
 5 **reasons why it's not true is because --**  
 6 Q. Is it --  
 7 THE HEARING OFFICER: No.  
 8 It's not true. Let's -- if your lawyer wants  
 9 to pick up for an explanation he can on a  
 10 redirect, but -- but the answer is in.  
 11 MS. JALOWSKI: I have no  
 12 further questions.  
 13 THE HEARING OFFICER:  
 14 Redirect?  
 15 REDIRECT EXAMINATION  
 16 BY MR. KEARNEY:  
 17 Q. Mr. Smith, can you explain  
 18 the timing of the -- first the offer and then  
 19 ultimately the refusal.  
 20 THE HEARING OFFICER: Yeah --  
 21 MS. JALOWSKI: I -- I'm going  
 22 to object. It -- it's --  
 23 THE HEARING OFFICER: --  
 24 yeah --

1 Smith - Redirect - Kearney  
 2 MS. JALOWSKI: -- it's --  
 3 it's --  
 4 THE HEARING OFFICER: -- no,  
 5 no. He says he's  
 6 MS. JALOWSKI: -- it's --  
 7 it's in R-Thirty-four has been -- has -- what's  
 8 happened --.  
 9 THE HEARING OFFICER: He  
 10 wants a chance to explain his answer a little  
 11 more fully when he said he -- it's not accurate  
 12 I believe. I'm going to allow it.  
 13 MR. KEARNEY: Oh --.  
 14 THE HEARING OFFICER: Go  
 15 ahead sir, you want to explain?  
 16 THE WITNESS: Yeah, it  
 17 was -- some time in July that I received the  
 18 letter. Either late June or early July I  
 19 received a letter from Ms. Chadwick and then  
 20 the letter said that they wanted to have -- let  
 21 me have peer intervention.  
 22 So, sometime in July -- late  
 23 July, I accepted it, and I sent the letter to  
 24 Ms. Chadwick stating that I wanted --

1 Smith - Redirect - Kearney  
 2 MS. JALOWSKI: Objection.  
 3 THE WITNESS: -- peer  
 4 intervention -- in July. That's well before I  
 5 was sent to the disciplinary room. And with  
 6 one U rating, I understand you're allowed to  
 7 have peer intervention according to the state  
 8 law. I didn't have two U ratings. I only had  
 9 my first U rating.  
 10 THE HEARING OFFICER:  
 11 Anything else?  
 12 BY MR. KEARNEY: (Cont'g.)  
 13 Q. And had you received a U  
 14 rating prior to the summer of 2005?  
 15 **A. No, I didn't. I never**  
 16 **received one U rating, I always had S**  
 17 **ratings --**  
 18 Q. No --  
 19 **A. -- ten of them.**  
 20 Q. -- no further questions.  
 21 MS. JALOWSKI: I have nothing  
 22 further.  
 23 THE HEARING OFFICER: Thank  
 24 you very much.

1 Smith - Redirect - Kearney  
 2 THE WITNESS: Thank you,  
 3 sir.  
 4 MR. KEARNEY: We have three  
 5 more witnesses that we expect to testify and  
 6 it's been agreed between counsel that they'll  
 7 be testifying by phone.  
 8 THE HEARING OFFICER: Sure.  
 9 Okay.  
 10 MR. KEARNEY: Eric Johnson,  
 11 Lessuck --  
 12 THE HEARING OFFICER: Can we  
 13 get them on the phone now?  
 14 MR. KEARNEY: John Lachky.  
 15 MS. JALOWSKI: Give me a --  
 16 Dana, we need a -- how do we -- how are we  
 17 going to do that? Do we need a phone number to  
 18 call into?  
 19 THE REPORTER: For -- I  
 20 don't know what you mean.  
 21 THE HEARING OFFICER: We're  
 22 going to have a telephone --  
 23 MS. JALOWSKI: We have a  
 24 telephone conference of somebody's --

1 Smith - Redirect - Kearney  
 2 THE HEARING OFFICER: --  
 3 conference call of witnesses, a --.  
 4 THE REPORTER: Yeah, there's  
 5 a certain number. What you can do is just call  
 6 back and then Lynn will --.  
 7 THE HEARING OFFICER: We'll  
 8 do it when we call back?  
 9 THE REPORTER: Yeah. Like  
 10 they can just give it to you once you get up  
 11 front.  
 12 MS. JALOWSKI: All right. So  
 13 we'll call you --  
 14 THE HEARING OFFICER: Okay.  
 15 MS. JALOWSKI: -- we'll call  
 16 you back, you know.  
 17 THE HEARING OFFICER: Thank  
 18 you Dana.  
 19 MS. JALOWSKI: So you're  
 20 going to find out from Tracy the number also?  
 21 THE REPORTER: Yeah --  
 22 MS. JALOWSKI: Okay.  
 23 THE REPORTER: -- yeah.  
 24 MS. JALOWSKI: All right,

1 Smith - Redirect - Kearney  
 2 bye.  
 3 THE REPORTER: Okay, bye.  
 4 MS. JALOWSKI: All right,  
 5 bye.  
 6 (Off the record)  
 7 THE HEARING OFFICER: Hello?  
 8 THE REPORTER: Yes.  
 9 MR. LACHKY: Yes. This is  
 10 Mr. Lachky. John Lachky; I'm here.  
 11 THE HEARING OFFICER: Okay.  
 12 And this is our witness that  
 13 you're calling David? All right. You want to  
 14 state your name sir?  
 15 MR. LACHKY: My name is John  
 16 Lachky, spelt: L-A-C-H-K-Y.  
 17 THE HEARING OFFICER: Mr.  
 18 Lachky, you want to raise your right hand  
 19 please?  
 20 MR. LACHKY: I have it up.  
 21 THE HEARING OFFICER: Do you  
 22 affirm the testimony you're about to give will  
 23 be the truth, the whole truth and nothing but  
 24 the truth?

1 Smith - Redirect - Kearney  
 2 MR. LACHKY: Yes I do.  
 3 THE HEARING OFFICER: Okay.  
 4 I think the record will show  
 5 that this testimony is being taken on the  
 6 phone.  
 7 It's your witness, Mr.  
 8 Kearney.  
 9 JOHN LACHKY, Sworn  
 10 DIRECT EXAMINATION  
 11 BY MR. KEARNEY:  
 12 Q. Good morning Mr. Lachky.  
 13 **A. Good morning.**  
 14 Q. Can you -- are you currently  
 15 employed?  
 16 **A. Yes, I'm a -- I'm actually**  
 17 **retired. I'm working F status for the -- the**  
 18 **Board -- the Department of Education.**  
 19 Q. And just for the record,  
 20 what's F status?  
 21 **A. I'm working three days a week**  
 22 **doing -- standing in for the assistant**  
 23 **principal for organization at the High School**  
 24 **for Environmental Studies.**

1 **Lachky - Direct - Kearney**  
 2 Q. And -- and prior to the  
 3 semi-retirement that you just testified to,  
 4 were you employed?  
 5 **A. Yes.**  
 6 Q. In what capacity?  
 7 **A. I was -- my last position was**  
 8 **interim acting principal at the High School of**  
 9 **Art and Design.**  
 10 Q. You're employed by the -- the  
 11 Department of Education?  
 12 **A. Yes I was.**  
 13 Q. How many years?  
 14 **A. Thirty-nine years.**  
 15 Q. Of those thirty-nine years,  
 16 how many were in administration?  
 17 **A. That's sixteen plus three and**  
 18 **a half as interim acting, but sixteen as**  
 19 **appointed.**  
 20 Q. And in these sixteen years,  
 21 did you have occasion to observe physical  
 22 education teachers?  
 23 **A. Yes, I did.**  
 24 Q. How many approximately?

1 Lachky - Direct - Kearney  
 2 **A. I -- I don't -- I can't**  
 3 **remember exactly, but we had I think a**  
 4 **department of about -- anywhere -- that ranged**  
 5 **from -- at Art and Design there was a**  
 6 **department of -- from four to six teachers at**  
 7 **any point in time.**  
 8 **And for about a year, I**  
 9 **supervised that department plus I -- I super --**  
 10 **I observed physical education teachers during**  
 11 **summer school. I was -- I -- for a number of**  
 12 **years.**  
 13 Q. And as a sixteen-year veteran  
 14 administrator, do you have a sense of what a  
 15 good gym class looks like?  
 16 **A. Yes, I feel I do. Yes.**  
 17 Q. Do you know Teddy Smith?  
 18 **A. Yes, I do.**  
 19 Q. How do you know Mr. Smith?  
 20 **A. Mr. Smith came to work -- was**  
 21 **assigned to a summer school that I was**  
 22 **working -- I was an administrator in. He -- I**  
 23 **worked -- he taught phys ed and I think he also**  
 24 **taught health at the time. And he was, you**

1 **Lachky - Direct - Kearney**  
 2 **know, I supervised him, and then he worked for**  
 3 **the -- the school. Then he -- he was hired at**  
 4 **Art and Design after that, he worked in the**  
 5 **phys ed department.**  
 6 Q. Did you ever observe Mr.  
 7 Smith teaching?  
 8 **A. Yes, I did.**  
 9 Q. Which subjects?  
 10 **A. If I remember correctly it**  
 11 **was phys ed.**  
 12 Q. Okay. Sitting -- sitting  
 13 here today, do you have any memory of your  
 14 observation of Mr. Smith's teaching?  
 15 **A. You know I'm not -- well,**  
 16 **I -- in general, yes. I remember I gave him a**  
 17 **very good obser -- a positive observation**  
 18 **report. He did -- as a matter of fact, I know**  
 19 **that he did a very good job for us --.**  
 20 MS. JALOWSKI: Objection.  
 21 Mr. Lachky the -- the -- the question was just  
 22 do you remember the observation?  
 23 THE WITNESS: I remember  
 24 observing him. I don't remember the specifics

1 Lachky - Direct - Kearney  
 2 of the observation, no.  
 3 BY MR. KEARNEY: (Cont'g.)  
 4 Q. All right. Generally, can  
 5 you describe what the -- what took place during  
 6 the observation?  
 7 **A. No, I really can't because I**  
 8 **really don't remember exactly what the**  
 9 **specifics of the lesson were, only that it**  
 10 **was -- that -- that he did a very positive --**  
 11 **he did a very positive job.**  
 12 Q. And -- and you -- you  
 13 submitted a written evaluation of this?  
 14 **A. I submitted a written**  
 15 **evaluation -- yes, every observation had to be**  
 16 **written that should have been in his file.**  
 17 Q. And -- and was that a  
 18 positive evaluation?  
 19 MS. JALOWSKI: Objection.  
 20 **A. It was a positive**  
 21 **observation, yes.**  
 22 MR. KEARNEY: Just -- will  
 23 you stipulate to the insertion of the  
 24 evaluation in the record, as part of his

1 Lachky - Direct - Kearney  
 2 personnel file?  
 3 MS. JALOWSKI: Yes.  
 4 MR. KEARNEY: Okay.  
 5 No further questions.  
 6 CROSS EXAMINATION  
 7 BY MS. JALOWSKI:  
 8 Q. Mr. Lachky, so you just  
 9 observed him that one time over the summer?  
 10 **A. That's all I did, yes.**  
 11 MS. JALOWSKI: All right. No  
 12 further questions.  
 13 THE HEARING OFFICER: Thank  
 14 you, sir.  
 15 THE WITNESS: That's it?  
 16 THE HEARING OFFICER: Yeah.  
 17 You can go.  
 18 MS. JALOWSKI: Yes.  
 19 THE WITNESS: Okay. All  
 20 right. Thank you very much  
 21 MR. KEARNEY: Thank you.  
 22 MS. JALOWSKI: Thank you,  
 23 Dana?  
 24 THE REPORTER: Yes, I'm

1 Lachky - Cross - Jalowski  
 2 here.  
 3 MS. JALOWSKI: Okay. I'm  
 4 going to see if we can try to set up another  
 5 one. I did -- did -- Tracy said we could use  
 6 the same code, right?  
 7 THE REPORTER: Yes.  
 8 MS. JALOWSKI: But -- but I  
 9 guess we might as well just -- I guess we have  
 10 to disconnect and we'll call -- I'll call the  
 11 eight hundred number to let you know what --  
 12 when we're going to do that one, okay?  
 13 THE REPORTER: Okay. That's  
 14 fine.  
 15 MS. JALOWSKI: All right,  
 16 thanks.  
 17 THE REPORTER: All right.  
 18 You're welcome.  
 19 MS. JALOWSKI: All right,  
 20 bye.  
 21 THE REPORTER: Bye.  
 22 (Off the record)  
 23 THE HEARING OFFICER: Okay,  
 24 Mr. Lessuck?

1 Lachky - Cross - Jalowski  
 2 MR. LESSUCK: Yes?  
 3 THE HEARING OFFICER: Okay.  
 4 We're ready to start your testimony. Would you  
 5 raise your right hand first, please?  
 6 MR. LESSUCK: Sure.  
 7 THE HEARING OFFICER: Do you  
 8 affirm the testimony you are about to give will  
 9 be the truth, the whole truth, and nothing but  
 10 the truth?  
 11 MR. LESSUCK: Yes, I do.  
 12 JONATHAN LESSUCK; Sworn  
 13 THE HEARING OFFICER: Thank  
 14 you, sir.  
 15 Your witness Mr. Kearney.  
 16 DIRECT EXAMINATION  
 17 BY MR. KEARNEY:  
 18 Q. Mr. Lessuck, good afternoon.  
 19 My name is David Kearney I represent Ted Smith.  
 20 **A. Good afternoon.**  
 21 Q. Are you currently employed?  
 22 **A. Yes.**  
 23 Q. Where?  
 24 **A. At the New York City Museum**

1 **Lessuck - Direct - Kearney**  
 2 **School.**  
 3 Q. And what's your job?  
 4 **A. I'm chemistry teacher and**  
 5 **chapter leader.**  
 6 Q. What does it mean chapter  
 7 leader?  
 8 **A. I'm the school's union**  
 9 **representative.**  
 10 Q. And how long have you been  
 11 the school's union rep?  
 12 **A. For two years. This is my**  
 13 **second year.**  
 14 Q. And how long have you taught  
 15 at the Museum School?  
 16 **A. For seven years, including**  
 17 **one year in which I was a Fulbright Fellow**  
 18 **Exchange Teacher and assigned to Kenmore,**  
 19 **Alberta, Canada.**  
 20 Q. How -- how many years have  
 21 you been teaching, sir?  
 22 **A. Twenty-three years.**  
 23 Q. And did you teach chemistry  
 24 for the duration of those twenty-three years.

1 Lessuck - Direct - Kearney  
 2 **A. In the majority, yes.**  
 3 Q. Do you know Ted Smith?  
 4 **A. I've never met -- I met him**  
 5 **once at a previous hearing.**  
 6 Q. And what was -- have you had  
 7 occasion to speak to Mr. Smith in the past?  
 8 **A. I spoke with him at the**  
 9 **hearing. I don't remember if I've spoken to**  
 10 **him other than that, outside of an occasional**  
 11 **e-mail.**  
 12 THE HEARING OFFICER: Could  
 13 you just give us the date of that meeting?  
 14 MR. KEARNEY: About.  
 15 THE WITNESS: About October  
 16 of 2005.  
 17 THE HEARING OFFICER: Thank  
 18 you. I'm sorry, go ahead.  
 19 BY MR. KEARNEY: (Cont'g.)  
 20 Q. Was that in a representative  
 21 capacity as the -- as a -- on behalf of the  
 22 union, sir?  
 23 **A. Yes.**  
 24 Q. All right. You -- in your

1 Lessuck - Direct - Kearney  
 2 position as a union representative at the  
 3 Museum School, do you have any knowledge about  
 4 the -- about the physical education program at  
 5 the Museum School currently?  
 6 **A. Yes.**  
 7 Q. And what is your current  
 8 understanding as to whether -- what is your  
 9 current understanding of the phys ed program?  
 10 **A. The phys ed program currently**  
 11 **is a point six position.**  
 12 Q. And what does that mean?  
 13 **A. It means that the phys ed**  
 14 **teacher is hired to teach the -- fifteen class**  
 15 **periods per week --**  
 16 Q. And --  
 17 **A. -- as opposed to the**  
 18 **twenty-five class periods that a full-time**  
 19 **teacher would teach.**  
 20 Q. And that is for the current  
 21 year 2006-2007?  
 22 **A. Correct.**  
 23 Q. Were you the union  
 24 representative at the Museum School last year?

1 Lessuck - Direct - Kearney  
 2 **A. Yes.**  
 3 Q. For 2005-2006?  
 4 **A. Yes.**  
 5 Q. And what was your  
 6 understanding as to the physical education  
 7 program in that year?  
 8 **A. In that year, it was also a**  
 9 **point six position.**  
 10 Q. And for the 2004-2005 school  
 11 year, do you have an understanding of what --  
 12 what the nature of the phys ed program was in  
 13 that year?  
 14 **A. I was not present in the**  
 15 **school in that year.**  
 16 Q. Were you -- were the -- were  
 17 you the union rep the year before that --  
 18 **A. I was not --.**  
 19 Q. -- that would be 2003-2004?  
 20 **A. I was not the union rep, but**  
 21 **I was in the school the year before that.**  
 22 Q. Did you have any opportunity  
 23 or access to information in the 2003-2004  
 24 school year?



1 Lessuck - Direct - Kearney  
 2 **A. Yes.**  
 3 Q. What?  
 4 **A. In 2003-2004, it was also a**  
 5 **part-time position. I don't remember if it**  
 6 **was -- exactly how much it was. But, it was**  
 7 **not full-time.**  
 8 MR. KEARNEY: All right, I  
 9 have no further questions for this witness.  
 10 THE HEARING OFFICER: Your  
 11 witness.  
 12 CROSS EXAMINATION  
 13 BY MS. JALOWSKI:  
 14 Q. I -- so -- Mr. Lessuck, so  
 15 were not at the -- the -- the Museum School the  
 16 year that Ted Smith taught at -- was -- was the  
 17 gym teacher there, correct?  
 18 **A. Correct.**  
 19 Q. All right.  
 20 MS. JALOWSKI: I have no  
 21 further questions.  
 22 THE HEARING OFFICER: Thank  
 23 you, sir.  
 24 THE WITNESS: Thank you.

1 Lessuck - Cross - Jalowski  
 2 THE REPORTER: I do need a  
 3 spelling on your first and last name please.  
 4 THE WITNESS: Spelling, first  
 5 name, J-O-N-A-T-H-A-N, last name,  
 6 L-E-S-S-U-C-K.  
 7 THE REPORTER: Okay. Thank  
 8 you, very much.  
 9 THE WITNESS: Thank you.  
 10 MS. JALOWSKI: All right,  
 11 thank you, Mr. Lessuck.  
 12 THE WITNESS: Bye-bye.  
 13 MS. JALOWSKI: All right,  
 14 Dana:  
 15 THE REPORTER: Yes?  
 16 MS. JALOWSKI: Right now --  
 17 off the record.  
 18 (Off the record)  
 19 THE HEARING OFFICER: Ms.  
 20 Miller?  
 21 MS. MILLER: Hello?  
 22 THE HEARING OFFICER: Yeah.  
 23 Hi, I'm the hearing officer. Would you tell us  
 24 your name please?

1 Lessuck - Cross - Jalowski  
 2 MS. MILLER: Darlene H.  
 3 Miller.  
 4 THE HEARING OFFICER: And you  
 5 spell your first D-A-R-L-E-N-E?  
 6 MS. MILLER: Yes.  
 7 THE HEARING OFFICER: H and  
 8 Miller, M-I-L-L-E-R?  
 9 MS. MILLER: Correct.  
 10 THE HEARING OFFICER: Thank  
 11 you. Ms. Miller would you raise your right  
 12 hand please?  
 13 MS. MILLER: Yes.  
 14 THE HEARING OFFICER: Do you  
 15 affirm the testimony you're about to give will  
 16 be the truth, the whole truth and nothing but  
 17 the truth?  
 18 MS. MILLER: Yes.  
 19 DARLENE H. MILLER; Sworn  
 20 THE HEARING OFFICER: Thank  
 21 you, okay.  
 22 You're going to be asked some  
 23 questions now by Mr. Kearney, the attorney for  
 24 Mr. Smith.

1 Miller - Direct - Kearney  
 2 THE WITNESS: Yes.  
 3 THE HEARING OFFICER: Your  
 4 witness.  
 5 DIRECT EXAMINATION  
 6 BY MR. KEARNEY:  
 7 Q. Good afternoon, Principal  
 8 Miller, how are you?  
 9 **A. I'm fine.**  
 10 Q. Are you -- what is your  
 11 current job, ma'am?  
 12 **A. I'm principal of the New York**  
 13 **City Museum School.**  
 14 Q. How long have you held that  
 15 position?  
 16 **A. I've been principal of this**  
 17 **school since the middle of August.**  
 18 Q. Of which year?  
 19 **A. Nine -- two thousand and --**  
 20 **2005, right? Let's see, last summer was 2006.**  
 21 **It's --**  
 22 THE HEARING OFFICER: What's  
 23 that?  
 24 THE WITNESS: -- yeah, 2005,

1 Miller - Direct - Kearney  
 2 yes.  
 3 BY MR. KEARNEY: (Cont'g.)  
 4 Q. And who was the principal  
 5 before you if you know?  
 6 **A. Lindley Uehling and she**  
 7 **vacated the position in the middle of August.**  
 8 Q. And you -- and you replaced  
 9 her, is that correct?  
 10 **A. That's correct.**  
 11 Q. How long have you been an  
 12 educator?  
 13 **A. Over twenty years.**  
 14 Q. And of those twenty years,  
 15 how long have you been an administrator?  
 16 **A. I'd say perhaps 2002, five**  
 17 **years, four or five years, five years.**  
 18 Q. Do you know what a point six  
 19 program is?  
 20 **A. Yes, I do.**  
 21 Q. What is a point six program?  
 22 **A. A point six program refers to**  
 23 **the number of periods a week a teacher would**  
 24 **teach.**

1 **Miller - Direct - Kearney**  
 2 Q. Is the phys ed program at the  
 3 Museum School this year a point six program?  
 4 **A. Is -- excuse -- ask again,**  
 5 **I'm on a cell phone, ask again?**  
 6 Q. All right. The -- the phys  
 7 ed program at the Museum School this year, is  
 8 it point six?  
 9 **A. It is a point six program.**  
 10 Q. And what about last year,  
 11 '05-06?  
 12 **A. I believe it was point six**  
 13 **also.**  
 14 Q. Do you know -- do you have  
 15 any knowledge as to whether it was point six in  
 16 '04-05?  
 17 **A. I have none.**  
 18 Q. Do you know Ted Smith?  
 19 **A. No, I do not. I've never met**  
 20 **the gentleman.**  
 21 Q. Have you corresponded with  
 22 Mr. Smith?  
 23 **A. No. I have forwarded his**  
 24 **correspondences.**

1 **Miller - Direct - Kearney**  
 2 Q. Were you aware when you  
 3 became principal in 2005, in August of 2005,  
 4 that Mr. Smith was seeking a transfer from the  
 5 Museum School?  
 6 **A. No, I wasn't.**  
 7 Q. Do you know what peer  
 8 intervention is?  
 9 **A. Yes, I do.**  
 10 Q. Do you know whether Mr. Smith  
 11 could have returned to the Museum School for  
 12 peer intervention subsequent to August of 2005?  
 13 **A. I have no particulars of Mr.**  
 14 **Smith's case, so I don't know. I don't know**  
 15 **the specifics of his case.**  
 16 Q. What is an F status program,  
 17 Ms. Miller?  
 18 MS. JALOWSKI: Objection  
 19 asked and answered.  
 20 THE WITNESS: It's a  
 21 program --  
 22 THE HEARING OFFICER: I'll  
 23 allow it. Go ahead.  
 24 THE WITNESS: Are you still

1 Miller - Direct - Kearney  
 2 there?  
 3 MR. KEARNEY: Yes.  
 4 THE HEARING OFFICER: Yeah.  
 5 Please.  
 6 THE WITNESS: An F status  
 7 program is a program for someone who is not  
 8 working full time.  
 9 BY MR. KEARNEY: (Cont'g.)  
 10 Q. Is -- is there a difference  
 11 between point six and F status, if you know?  
 12 **A. Well, a person can have a**  
 13 **point six program in license and point four out**  
 14 **of license and still be point -- and still be a**  
 15 **full-time position. However, if a person is**  
 16 **working only point six, then they're probably**  
 17 **an F status person -- program.**  
 18 MR. KEARNEY: I have no  
 19 further questions.  
 20 CROSS EXAMINATION  
 21 BY MS. JALOWSKI:  
 22 Q. Principal Miller, just to  
 23 clarify, F status, that's usually somebody  
 24 who's retired and then they come back to teach

1 Miller - Cross - Jalowski  
 2 part-time?  
 3 **A. That could be. Yes.**  
 4 Q. But so -- but you also  
 5 testified that it's say, theoretically --  
 6 hypothetically, Mr. Smith could have come back  
 7 point six as the gym teacher and then point  
 8 four as another teaching other classes,  
 9 correct?  
 10 **A. Yes. He could -- he could**  
 11 **have taught, you know, when I got there, Mr.**  
 12 **Smith had already been removed. But had he not**  
 13 **been removed, he could have taught point six in**  
 14 **his license. He's allowed to teach forty**  
 15 **percent out of his license, and, you know,**  
 16 **programs are cobbled -- put together for just**  
 17 **that -- that purpose. But Mr. Smith was**  
 18 **removed by the time I -- I arrived there.**  
 19 Q. Okay.  
 20 MS. JALOWSKI: I have no  
 21 further questions. Thank you.  
 22 MR. KEARNEY: Nothing  
 23 further.  
 24 THE HEARING OFFICER: Thank

1 Miller - Cross - Jalowski  
 2 you, very much.  
 3 MS. JALOWSKI: Thank you  
 4 Principal Miller.  
 5 THE WITNESS: You're welcome;  
 6 is that it? Am I done now?  
 7 THE HEARING OFFICER: That's  
 8 it. You can sign off.  
 9 MS. JALOWSKI: That's it,  
 10 you're done, okay?  
 11 THE WITNESS: All right.  
 12 MS. JALOWSKI: Bye.  
 13 Dana?  
 14 THE REPORTER: Yes?  
 15 MS. JALOWSKI: I think we  
 16 have some stipulations we might be putting on  
 17 the record, so we're going to -- we're going to  
 18 call -- we're going to call back in on the  
 19 regular number, okay?  
 20 THE REPORTER: Okay.  
 21 MS. JALOWSKI: All right;  
 22 thanks.  
 23 THE REPORTER: Yep, you're  
 24 welcome.

1 Miller - Cross - Jalowski  
 2 MS. JALOWSKI: All right,  
 3 bye.  
 4 THE REPORTER: Bye.  
 5 (Off the record)  
 6 THE HEARING OFFICER: All  
 7 right. On the record.  
 8 MS. JALOWSKI: All right.  
 9 It -- it looks like we were not able to come to  
 10 any stipulations in regard to resolving the  
 11 issues of having Mr. Laforgia, and Mr. Heany  
 12 and Mr. Klein testify.  
 13 THE HEARING OFFICER: Okay.  
 14 What's your pleasure, Mr. Kearney? You  
 15 wants -- you're going to issue some subpoenas,  
 16 is that the idea?  
 17 MR. KEARNEY: The subpoenas  
 18 have been issued.  
 19 THE HEARING OFFICER: Okay.  
 20 MR. KEARNEY: The -- I think  
 21 that if I understand the arbitrator's ruling  
 22 correctly that we're going to move forward with  
 23 their testimony on the next available hearing  
 24 date.

1 Miller - Cross - Jalowski  
 2 THE HEARING OFFICER: Is  
 3 there any other alternative? I assume you've  
 4 scheduled those subpoenas for the next hearing  
 5 date, which is, am I correct, April 24th?  
 6 MS. JALOWSKI: It's April  
 7 23rd at two o'clock.  
 8 THE HEARING OFFICER: You're  
 9 right. I'm sorry, okay.  
 10 MS. JALOWSKI: I would ask  
 11 that -- I think that we -- we should do  
 12 closings after these witnesses testify.  
 13 THE HEARING OFFICER: I  
 14 don't -- no. No. I -- I'm not sure, well --  
 15 MS. JALOWSKI: What?  
 16 THE HEARING OFFICER: -- you  
 17 want to respond to that?  
 18 No, I don't think I'll be  
 19 able to do closings for two reasons on April  
 20 23rd. I have to leave here by five --  
 21 MS. JALOWSKI: All right.  
 22 THE HEARING OFFICER: -- and  
 23 I want both sides to have a chance to review  
 24 the transcripts of the record before they make

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1 Miller - Cross - Jalowski  
 2 their closing arguments and I don't think that  
 3 allows adequate time.  
 4 So, unless there's an  
 5 objection from both of you that you want to do  
 6 it that evening --  
 7 MS. JALOWSKI: Then can we --  
 8 THE HEARING OFFICER: -- that  
 9 afternoon. I don't --.  
 10 MS. JALOWSKI: -- can we --  
 11 can we schedule the hearings for what --  
 12 what -- what is the next day?  
 13 THE HEARING OFFICER: Well,  
 14 the next days I have are the 24th and the  
 15 26th --  
 16 MS. JALOWSKI: Right.  
 17 THE HEARING OFFICER: -- but  
 18 do you want to --  
 19 MS. JALOWSKI: What -- what  
 20 are your May dates?  
 21 THE HEARING OFFICER: -- use  
 22 those dates for perhaps other case and --  
 23 MS. JALOWSKI: Yeah.  
 24 THE HEARING OFFICER: -- put

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1 Miller - Cross - Jalowski  
 2 you guys on for the 2nd?  
 3 MS. JALOWSKI: I --  
 4 THE HEARING OFFICER: May  
 5 2nd, give you time to prepare your closings  
 6 and, is that all right, or too long? What's  
 7 your pleasure?  
 8 MS. JALOWSKI: What's your  
 9 date after May 2nd because I have a lot going  
 10 on then.  
 11 THE HEARING OFFICER: May  
 12 8th.  
 13 MR. KEARNEY: That won't  
 14 work.  
 15 THE HEARING OFFICER: May  
 16 10th?  
 17 MS. JALOWSKI: Huh, excuse  
 18 me.  
 19 THE HEARING OFFICER: Okay.  
 20 The next hearing -- then just for the moment  
 21 is, we're going to definitely schedule for  
 22 April 23 at two p.m.  
 23 MS. JALOWSKI: Right. And  
 24 then we'll schedule the closings for the 8th?

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1 Miller - Cross - Jalowski  
 2 THE HEARING OFFICER: No, I  
 3 think Mr. Kearney said he'd prefer the 10th,  
 4 which --  
 5 MS. JALOWSKI: Okay. That's  
 6 fine.  
 7 THE HEARING OFFICER: Okay.  
 8 So the closings were going to assume will take  
 9 place on May 10 at ten a.m. -- excuse me.  
 10 Any other business today?  
 11 MS. JALOWSKI: No.  
 12 THE HEARING OFFICER: Dave?  
 13 MR. KEARNEY: I do. I just  
 14 wanted to make a motion with regard to some --  
 15 some of the specifications that relate to  
 16 witness testimony in case the other witnesses  
 17 did not testify on behalf of the Department.  
 18 MS. JALOWSKI: Well, I think  
 19 that when -- that motion should be made after  
 20 the --  
 21 THE HEARING OFFICER: Yeah --  
 22 MS. JALOWSKI: -- record --  
 23 you close the record.  
 24 THE HEARING OFFICER: --

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1 Miller - Cross - Jalowski  
 2 let's close the record on testimony and then  
 3 I'll hear those motions.  
 4 MR. KEARNEY: All right; I'll  
 5 reserve.  
 6 THE HEARING OFFICER: Right;  
 7 anything else?  
 8 MS. JALOWSKI: No.  
 9 THE HEARING OFFICER: That's  
 10 it?  
 11 Okay, thank you Dana.  
 12 (Off the record)  
 13 (The hearing adjourned)

20 (Pages 716 to 719)

1 Miller - Cross - Jalowski  
 2 STATE OF NEW YORK  
 3 I, Dana Jock, do hereby certify that the  
 4 foregoing was reported by me, in the cause, at  
 5 the time and place, and in the presence of  
 6 counsel, as stated in the caption hereto, at  
 7 Page 643 hereof; that the foregoing typewritten  
 8 transcription, consisting of pages number 643  
 9 through 719, inclusive, was prepared under my  
 10 supervision and is a true record of all  
 11 proceedings had at the hearing.  
 12 IN WITNESS WHEREOF, I have  
 13 hereunto subscribed my name, this the 2nd day  
 14 of May, 2007.  
 15  
 16 \_\_\_\_\_  
 17 Dana Jock, Reporter  
 18  
 19  
 20  
 21  
 22  
 23  
 24

1 Miller - Cross - Jalowski  
 2 E R R A T A S H E E T  
 3 Case: Theodore Smith, File #  
 4 Date: April 18, 2007  
 5 CORRECTIONS:  
 6 Page\_-\_line\_  
 7 \_\_\_\_\_  
 8 \_\_\_\_\_  
 9 \_\_\_\_\_ Word or phrase: \_\_\_\_\_  
 10 Corrected to: \_\_\_\_\_  
 11 \_\_\_\_\_ Word or phrase: \_\_\_\_\_  
 12 Corrected to: \_\_\_\_\_  
 13 \_\_\_\_\_ Word or phrase: \_\_\_\_\_  
 14 Corrected to: \_\_\_\_\_  
 15 \_\_\_\_\_ Word or phrase: \_\_\_\_\_  
 16 Corrected to: \_\_\_\_\_  
 17 \_\_\_\_\_ Word or phrase: \_\_\_\_\_  
 18 Corrected to: \_\_\_\_\_  
 19 \_\_\_\_\_ Word or phrase: \_\_\_\_\_  
 20 Corrected to: \_\_\_\_\_  
 21 \_\_\_\_\_ Word or phrase: \_\_\_\_\_  
 22 Corrected to: \_\_\_\_\_  
 23  
 24

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