

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
THE CIVIC ASSOCIATION OF THE DEAF OF :
NEW YORK CITY, INC. (also known as :
the New York City Civic Association :
of the Deaf) and STEVEN G. YOUNGER II, :
on behalf of themselves and all :
others similarly situated, :

Plaintiffs, :

95 Civ. 8591 (RWS)

V. :

RUDOLPH GIULIANI, as Mayor of the :
City of New York, HOWARD SAFIR, as :

Commissioner of the Fire Department :
of the City of New York, CARLOS :
CUEVAS, as City Clerk and Clerk of :
The New York City Council, PETER :
VALLONE, as Speaker and Majority :
Leader of the New York City Council, :
THOMAS OGNIBENE, as minority Leader :
of the New York City Council, and :
the CITY OF NEW YORK, :

Defendants. :

**CORRECTED
DECLARATION OF
ROBERT B. STULBERG
IN SUPPORT OF
PLAINTIFFS'
OPPOSITION TO
DEFENDANTS' MOTION
TO VACATE OR
MODIFY INJUNCTION**

-----X
EXHIBIT 5

1
2
2
3
3
4
4
5
5
6
6
7
7
8
8
9
9
10
10
11
11
12
12
13
13
14
14
15
15
16
16
17
18
19
20
21
22
23
24
25

1241civd
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
THE CIVIC ASSOCIATION OF THE
DEAF OF NEW YORK CITY, INC.
(also known as the New York
City Civic Association of the
Deaf) and STEVEN G. YOUNGER II,
on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

95-CV-8591 (RWS)

RUDOLPH GIULIANI, as Mayor of the
City of New York, HOWARD SAFIR, as
Commissioner of the Fire Department
of the City of New York, CARLOS
CUEVAS, as City Clerk and Clerk of
The New York City Council, PETER
VALLONE, as Speaker and Majority
Leader of the New York City Council,
THOMAS OGNIBENE, as Minority Leader
of the New York City Council, and
THE CITY OF NEW YORK,

Defendants.

-----X
Deposition of STEPHEN RUSH, dated
February 4, 2011, 11:13 a.m., at the United
States District Court, Southern District of
New York, 500 Pearl Street, New York, New York,
before Khristine D. Sellin, RDR-CRR-CSR and
Notary Public of the State of New York.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

8

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd Rush

in your current title?

A. Yes. I've had other responsibilities on and off through the years, but those have stayed with me.

Q. Okay. Have there been any additional responsibilities that you've had other than what you mentioned since 2009 -- or, sorry, since the beginning of 2009?

A. No.

Q. You submitted a declaration in support of the city's motion in this case; is that your understanding?

A. Yes.

Q. And is it your understanding that the motion is seeking to modify or vacate an injunction so that the city can remove alarm boxes?

A. Yes.

Q. Why, if you know, is the city seeking to modify the injunction?

A. This developed -- we've been discussing it on and off for several years internally, at least in the budget area. This really developed in the fiscal year 2009, where

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

9

1 1241civd

Rush

2 we were given a budget reduction target by the
3 Office of Management and Budget, which does
4 these exercises each year, but as we know of
5 late, the financial uncertainty in the city has
6 grown increasingly more challenging, and in that
7 year we were given a reduction target of
8 4 percent, which was about \$70 million. So I've
9 been doing budget reductions practically my
10 entire career, and so we always look at all
11 things that we've done, proposed in the past,
12 and decided it was time to take a look again at
13 the whole alarm box issue, which we first raised
14 probably 1994, '95, '95-ish, and we had talked
15 about as early as going back to 1989, when I was
16 assistant commissioner. So it was always on --
17 in the back of my mind and, you know, had
18 discussions internally and vetted it with the
19 fire commissioner; eventually decided, given the
20 challenges we were facing, talking about closing
21 fire companies, reducing the staffing on engine
22 companies -- which, by the way, we did just this
23 week -- those kind of challenges that we were
24 facing required us to start looking at things
25 that we felt were lower priority.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

10

1

1241civd

Rush

2

Q. Okay. And when you say discussing challenges, were you talking about financial challenges?

3

4

5

A. Yes.

6

7

Q. Were there any other types of challenges you were referring to?

8

9

A. No. Financial.

10

11

Q. What is the department's fiscal year? And by department, I mean fire department. So any time that's not clear, just let me know.

12

13

A. The City of New York runs on a fiscal year; starts July 1st and ends June 30th.

14

15

Q. So what fiscal year are we in currently?

16

17

A. We're in fiscal year '11. I have to always check myself on that because --

18

19

Q. And that started July 1, 2010?

20

21

A. July 1st, that's right.

22

Q. Okay. Who at OMB -- how did you first learn -- strike that.

23

24

With whom did you first have discussions in response to the budget reduction given -- budget reduction target given to you by OMB about removing alarm boxes?

25

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

11

1 1241civd

Rush

2 A. The fire commissioner at the time, who
3 was Nicholas Scoppetta.

4 Q. And who initiated the proposal to
5 remove the boxes? Was it from -- was it the
6 fire department or OMB?

7 A. It was the fire department.

8 Q. And that was in response to --

9 A. Well --

10 Q. Sorry.

11 A. I should just clarify. The fire
12 department is given a target and we have to try
13 to reach that target, giving the -- ultimately
14 the mayor a menu of options of what he can
15 choose to reduce in the fire department. The
16 ultimate selection is done by the Office of
17 Management and Budget in consultation with the
18 mayor's office. It's our recommendations to
19 them, what we think is viable. Some of the
20 things, you know, obviously we submit we
21 wouldn't want to do, like closing fire
22 companies, but, you know, given that we have to
23 meet targets, we have to come up with programs
24 to do such things like that.

25 Q. There were 16 fire companies that were
SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd Rush
potentially scheduled to close July 1, 2010.

Did those actually close?

A. They -- no, they did not.

Q. Okay. There were also approximately 500 positions that were set to attrit July 1, 2010. Did those positions attrit?

A. No, they did not. Those were associated with the closing of the companies.

Q. The closing of the fire companies. Okay.

A. Ultimately it became 20 companies, in the next fiscal year.

Q. Okay.

MR. PINES: Sorry. Could I have the last answer read back.

(Record read)

Q. What is the alternative to alarm boxes that the city's proposing in its motion for persons to report or signal emergencies from the street?

A. From a general perspective, I think what we were thinking was that -- obviously the phone network and there was also the cellphone network, which is -- from reports that I read,

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

13

1 1241civd Rush
2 in the tristate area, there's approximately
3 10 million cellphone users.

4 Q. When you just said phone network, what
5 phone network were you referring to?

6 A. Street phones. I mean, the primary
7 means of reporting fires, emergencies of any
8 type right now is the phone network. It has
9 been for many, many years.

10 Q. Okay. I just want to try to
11 understand. So when you say phone network,
12 which types of phones are you discussing?

13 A. Actually home phones, street phones,
14 and --

15 Q. And by street --

16 A. Sorry. I'm sorry. Are the phones on
17 the street, the pay phones. I'm sorry.

18 Q. Pay phones. Okay.

19 A. And of course, you know, cellphones.

20 Q. Okay. Are there any other
21 alternatives that the city is proposing to alarm
22 boxes for persons to report or signal
23 emergencies from the street?

24 MR. PINES: Object to the form. You
25 can answer.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

14

1 1241civd

Rush

2 A. Not that I'm aware.

3 Q. Okay. To your knowledge -- strike
4 that.

5 Who, if you know, made the decision
6 that the alternatives you just mentioned, the
7 home phone, pay phones, and cellphones, would be
8 proposed as the alternative to the alarm -- city
9 alarm boxes?

10 MR. PINES: Objection. You can
11 answer.

12 A. Okay. I think what, you know, we felt
13 was that the alarm box network was in fact not
14 being utilized and is, you know -- has been
15 shown, through the statistics that have been
16 reported over the years, the usage has gone
17 further and further down. And in fact when --
18 even, indeed, when it is utilized, there's,
19 generally speaking, a second source from a
20 phone, whether it be a cellphone, a home phone,
21 or a pay phone on the street, that we are
22 receiving these communications. So given those
23 numbers, which are overwhelmingly showing
24 that -- and there are thousands of boxes that
25 actually have no alarm transmissions at all

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

15

1

1241civd

Rush

2

through them. Given that, we felt, you know, the priority had to be protecting fire companies, and -- and if this means that we had to reduce the alarm boxes, we felt they were not being utilized, that the city could live with that safely.

3

4

5

6

7

8

9

10

11

12

13

14

Q. I just want to go back to something. You mentioned home phones as a notification alternative. Is the city proposing home phones as an alternative for reporting or signaling emergencies from the street as opposed to from a home?

15

16

17

18

19

MR. PINES: Let me just make the objection, and I'll tell you what it is. When you're saying "the city," Mr. Rush, as competent as he is, is speaking for the fire department.

20

21

22

23

24

25

MS. SHULMAN: That's fair.

Q. Is the fire department, to your knowledge -- well, let me ask: To your knowledge is the city proposing the alternatives that you mentioned or is it the fire department?

A. I don't -- I'm not sure what the city's proposing, but I will just say from the fire department's perspective is, it's not that

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

16

1

1241civd

Rush

2

these are alternatives. These are the means that people are reporting fires now. It's clear. The numbers show it. And that's why we made our decision from the fire department's perspective.

3

4

5

6

7

Q. Okay. Who, if you know -- who, to your knowledge, would know what the city is proposing as the alternative to alarm boxes for signaling emergencies from the street?

8

9

10

11

A. I'm --

12

13

MR. PINES: Objection to the form of the question, but you can answer if you can.

14

15

A. You know, I assume that's in -- I don't know. I don't know.

16

17

18

19

Q. Okay. You mentioned home phones. Are you saying that home phones are used or are proposed as a -- as an alternative for reporting emergencies from the street?

20

21

22

23

24

25

A. Let me, you know, be certain, and throughout New York, you know, we all live -- it's a densely populated city, and homes are adjacent -- people see things from their homes and see things in other homes, and, you know, thankfully, you know, when we look at the number SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

17

1

1241civd

Rush

2

of fires we have out there, we see there's
30,000 or 26,000 fires, whatever the number is.

3

4

Most of those fires, you know, probably more
than half, and probably -- are what we would
call a food on the stove fire, kitchen fire. So
there is -- the number of fires activity has
dropped tremendously, so it is low, thankfully.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q. Okay.
A. -- classified as serious fires, so --
Q. Okay. But I'm talking about for
reporting emergencies from the street as opposed
to from inside a home. Is the city proposing
that home phones are an alternative to alarm
boxes for reporting -- excuse me. Is the fire

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

18

1

1241civd

Rush

2

department proposing that home phones are an alternative to alarm boxes for proposing -- for signaling emergencies from the street?

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

A. So I think what the city is saying is that given that the technology has changed and that practically everyone -- present company excluded, perhaps -- carries a cellphone nowadays, there are alternate methods other than home phones, other than pay phones available on the street. I mean, that's from the fire department's perspective.

Q. Okay. I just want to make sure I understand.

A. But to be clear --

Q. Sorry.

A. -- you know, you know, phone calls can come from homes, because you can be looking out the window -- and there are plenty of people who do that in New York City -- and see, you know, something going on, of course smoke coming out of the next building. So, you know, generally if there's a fire and there's smoke, there are lots of calls coming in to the system, you know, telling us about that, so --

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

19

1

1241civd

Rush

2

Q. I hear what you're saying, and thank you. But what I'm asking -- and I just want to follow up -- is, but if somebody is on the street --

3

4

5

6

A. Okay.

7

Q. -- and needs to report an emergency --

8

A. Right.

9

Q. -- what are the alternatives to alarm boxes that the city -- that the fire department is proposing that person -- what alternatives is the fire department proposing that person use?

10

11

12

13

A. Sure. Obviously we would look at the pay phones, if they're available, and cellphones.

14

15

16

Q. Okay. And when you said "pay phones, if they're available," what did you mean by that?

17

18

19

A. You know, to the extent there's -- you can go out and there could be a fire in the street and there may not be a pay phone nearby.

20

21

22

Q. To what -- did anyone at the fire department do any studies of the availability of pay phones in connection with seeking to deactivate the alarm boxes?

23

24

25

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

20

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

A. This time around the fire department did not conduct any studies of the pay phone. I mean, I believe that was a part of the '95, '96, '97 case, but we did, you know -- obviously, we were attuned to the fact that, you know, cellphone technology was available in greater levels and, you know, in our responses to fires, you know, I think our structural fire response is less than -- it is less than four and a half minutes citywide, so we have a -- we're getting there very quickly.

Q. Okay. Okay. So to be clear, the alternatives for somebody on the street to signal or report an emergency, the fire department is proposing, are pay phones and cellphones.

A. That's correct.

Q. Okay. To your knowledge are pay phones useable by persons who are deaf or hearing impaired?

A. I'm --

MR. PINES: Objection to the form. You can answer.

A. I'm not sure.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

Q. To your knowledge has the fire department undertaken any study or looked into whether pay phones are useable by persons who are deaf or hearing impaired?

A. I'm not sure.

Q. To your knowledge are cellphones useable by persons who are deaf or hearing impaired?

A. Again, I'm --

MR. PINES: Objection to form.

A. -- not sure.

Q. To your knowledge has the fire department conducted any inquiry or study of whether cellphones are useable by people who are deaf or hearing impaired?

A. We did have some discussions with the mayor's Office for Disabilities, and they were just very preliminary discussions, and I was only party to one of the discussions and, you know, there might be subsequent discussions that I have not been involved with.

Q. Okay. Thank you.

A. Okay.

Q. And for persons who are deaf or

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

A. I have -- I'm not aware of that, no.

Q. Do you know whether -- to your knowledge, has the city conducted any such study?

A. To my knowledge, I'm not --

MR. PINES: Objection. What's -- oh, the study you just mentioned?

MS. SHULMAN: Right.

A. I'm not aware.

Q. All right. And I want to circle back to a question we were discussing a few moments ago. What is the department's position as to -- strike that.

What is the department proposing that a deaf person who needs to report -- or hearing-impaired person who needs to report an emergency on the street use instead of alarm boxes if the alarm boxes are deactivated?

A. I guess what we talked about in house is -- and we originally thought about the use of cellphones and how they're contacting their friends now or text messaging to their friends, other people on the street, and generally, you know, if there's a fire, if it's on the street,

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

people -- usually people are out and about. So we thought about it in those terms. But to be clear, our overwhelming thought was, the system's not being utilized. We're in a funding crisis here. We need to make cuts. This is a place we should be cutting.

Q. So -- and I just want to make sure I'm clarifying for the record.

A. Sure.

Q. So the alternative to alarm boxes that the department is proposing deaf people use or hearing-impaired people use to report emergencies from the street in connection with this motion is contacting friends or other persons on the street to have them report the emergency.

MR. PINES: Objection. You can answer.

A. That's some of our thought process. Ultimately we believe the alarm, you know -- the alarm boxes are not really a notification process for the most part anyway. So we think there is very little risk that whatever alternative is being used now would not continue

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

26

1 1241civd Rush

2 going forward.

3 Q. Okay. But what is the alternative
4 that the city is advocating deaf or
5 hearing-impaired people use to report
6 emergencies from the street instead of alarm
7 boxes?

8 A. I can't speak to what the city is
9 proposing. I'm just --

10 Q. I'm sorry. The department.

11 A. I think I just stated that.

12 Q. Okay.

13 A. And other than that, again --

14 Q. Okay. So the answer would be having
15 friends or other persons on the street report
16 the emergency.

17 A. Contacting other friends. You know,
18 I'm assuming what is going -- what has been the
19 practice, what we have thought is the practice
20 that must be going on as it exists, because
21 certainly the alarm box network, to our
22 knowledge, is not being used to any degree that
23 would require us to maintain this vast network
24 of coverage.

25 Q. Okay. I hear what you're saying. I

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

27

1 1241civd

Rush

2 just want to say, I'm -- are you saying that the
3 alternative to alarm boxes that deaf people --
4 if the alarm boxes are deactivated, how would a
5 person who is deaf or hearing impaired report or
6 signal an emergency from the street?

7 MR. PINES: Asked and answered.

8 MS. SHULMAN: I just don't think it's
9 been -- I want to just get a clear, directed
10 answer.

11 A. I think we -- as I just stated, that,
12 you know, they can text friends, they can call,
13 you know, if they have a cellphone, assuming
14 they have a cellphone, if there's a pay phone
15 available, they can use a pay phone, they can
16 talk to people on the street, or they can signal
17 people on the street. I shouldn't say -- I
18 can't talk about their abilities. And they
19 could -- I assume they could go about what
20 they've been doing, as most New Yorkers have
21 been doing without alarm boxes for the last 20
22 years, as the numbers even continue to decline.
23 I mean, ultimately the choices that the city
24 made, the fire department made, were largely
25 driven by the fact that the system is not

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

utilized. We're in a budget crisis, and we far prefer to take alarm boxes out, which we feel creates no issues for any New Yorker, than to close fire companies. That was our judgment.

Q. Fire companies weren't taken out this past year; right?

A. They were not. They are on the chopping block as we speak. We did reduce the staffing on 60 engine companies from five firefighters per tour to four, which is the equivalent of a 300-firefighter reduction, effective February 1st. We're making difficult choices. We're talking about all sorts of things -- night closings, which are on the table, and actually effectuated two years ago; we're talking about full closings. In the budget that starts July 1st, 2010, again, 20 engine -- 20 fire companies are out of the budget.

Q. Those positions that you said, the fifth firefighter positions, were those closed due to attrition? There were no firefighters laid off; right?

A. We've been at a point where we can't

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

hire right now, which is obviously another challenge for the city, because we're paying large amounts of overtime because we cannot hire firefighters because the city and the federal court have reached an impasse on methods to hire and therefore we probably won't be hiring for another year or so.

Q. The positions that you mentioned going from a fifth firefighter position to a fourth, there were no layoffs; right?

A. There were no layoffs.

Q. Okay. Are you aware of whether there are instructions on the alarm boxes for deaf or hearing-impaired persons?

A. I am not sure.

Q. Do you know one way or another?

A. I don't know.

Q. Has the city, to your knowledge, conducted any outreach to -- sorry.

Has the department conducted any outreach, to your knowledge, to the deaf and hearing -- other than the meeting with the mayor's office that you've already mentioned, has the department conducted any outreach to the

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

32

1 1241civd Rush

2 A. So just so you know, every year the
3 mayor puts out a preliminary budget, more or
4 less in January, late January, and then the city
5 council has a series of hearings before all the
6 agencies come in and testify on the impact of
7 that preliminary budget for the next fiscal
8 year, which it is, on each of the agencies. So
9 the commissioner of the fire department will go
10 and testify on all the things that are in that
11 budget that affect the fire department. That's
12 the preliminary -- that follows the preliminary
13 budget, so it generally is around February or
14 March.

15 Q. Okay. Okay. And it would have been
16 at some point -- and it's accurate to say it
17 would have been February, March, and certainly
18 in the first half of 2010.

19 A. That's correct.

20 Q. Okay. If you -- did you participate
21 in drafting this document?

22 A. Yes.

23 Q. Which parts did you participate in
24 drafting?

25 A. Well, the actual drafting was done by
SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

34

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

THE WITNESS: Oh, okay.

Q. I haven't reached the end of that yet.
17 -- let me get it.

A. Oh.

Q. Okay. It's 1742. Sorry. If you look
at the section Fire Companies, and it says,
"Last year --" the first sentence says, "Last
year, the City Council restored funding for 16
fire companies that were scheduled to close
during this fiscal year." In that sentence,
"this fiscal year" refers to fiscal year 2010?

A. Yes.

Q. Okay. And it says funding was
restored. "That funding was restored for this
fiscal year only. In other words, those 16
companies are still scheduled to close on
July 1st." Those 16 companies did not close
on July 1, 2010; correct?

A. They did not.

Q. Okay. And then it says, "and the
Preliminary Budget for Fiscal 2011 calls for an
additional four company closings." Those
additional four company closings did not occur.

A. The city council and the mayor reached
SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

35

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

a compromise on the budget, as they adopt the budget in June, that restored funding for the firehouses for fiscal year '11 only.

Q. Okay. But those companies, those four additional companies did not close on July 1.

A. They did not.

Q. Okay. And it says -- this says up to a loss of 20 fire companies and 505 firefighting positions via attrition. Those 505 firefighting positions via attrition doesn't refer to layoffs; it refers to positions that were potentially going to attrit.

A. That's right. The whole plan was premised on losing firefighters as they retire, resign, promoted, and not replacing them.

Q. Okay. And -- but that -- and that attrition of those positions did not happen effective July 1.

A. Well, the attrition has continued to happen because we haven't been hiring.

Q. Okay. Okay.

A. So we're actually probably 400 below our authorized head count right now.

Q. Oh, okay. If you turn, please, to SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

36

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

page 1745, the first full paragraph says, "We do not foresee the need for layoffs if we deactivate the call boxes since we are projecting savings based on headcount reductions through attrition, a reduction of contractual spending, supplies and equipment, and reduced overtime." What layoffs in this document is that referring to?

A. The -- there is a group of employees, as you're aware, who maintain the alarm box network and the whole cable network for the New York City Fire Department. Those electricians -- communications electricians is their civil service title -- maintain the boxes, and we wanted to be clear I think in the last case, I think when we were saying we were going to, you know, take -- disband the fire alarm network and the workers would be laid off or proposed for layoff, this time we were not proposing -- we were indeed just saying that we would reduce the strength of our alarm box repair staff and cable network maintenance group by 19 through the same way we were doing firefighter reductions -- attrition.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

37

1 1241civd Rush

2 Q. Attrition. Okay. So it wasn't
3 layoffs, there weren't going to be -- it wasn't
4 proposed that there were actual layoffs; it was
5 attrition of positions.

6 A. Right. If at all possible, we've
7 always tried to avoid layoffs in the fire
8 department. We did a hundred layoffs in 2003,
9 and that was one of two times that -- in my 30
10 years with the fire department that we've had
11 layoffs. So we've been -- our goal is never to
12 try to hurt the employee. We try to do it
13 through attrition.

14 Q. Okay. Right. So there weren't going
15 to be layoffs of employees.

16 A. No.

17 Q. Okay. Okay. So --

18 A. At least not yet.

19 Q. But if the call boxes were not
20 deactivated, there were not going to be layoffs
21 of employees either, under this budget.

22 A. That's correct.

23 Q. Okay. I'd like to turn your attention
24 to page 1744. It says -- and if you want to
25 take your time to read, I'm going to be asking

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

38

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

about the end of the first paragraph. If you want to take a minute or as long as you need to read the paragraph that starts on the end of page 3 and continues onto page 4.

A. (Witness complies.) Okay.

Q. Okay. And the last sentence says, "The Court also expressly permitted the Department to apply to the Court to modify or lift the injunction at any time in the future, upon a showing that the deaf and hearing-impaired had other adequate means to report a fire." If you know, what are the other adequate means to report a fire that are referenced in this sentence, if any?

A. At the time when this was written, it was our thought that the technology changes that have occurred in the whole country, or world, I guess, namely cellular communications, would assist in that regard.

Q. So that's referring to cellphones.

A. Yes, and of course there's always -- it was always believed that yes, the main transmission, the home phones and pay phones would be other means of reporting. Base -- and

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

39

1 1241civd Rush

2 you know, really based upon the fact that,
3 again, the alarm box system is not being
4 utilized.

5 Q. Have there been, to your knowledge,
6 any directives or orders in the department not
7 to repair alarm boxes?

8 A. No.

9 Q. You're not aware of any?

10 A. I'm not aware of any.

11 Q. Is that something that would in the
12 normal course of business be something that you
13 would see if it existed?

14 A. Probably not, but, you know, we've
15 always looked at statistics on alarm boxes out
16 of service and there are a lot. You know, at
17 any given time there could be a good number of
18 alarm boxes -- there used to be statistics on
19 this, but I'm not the keeper of statistics
20 anymore. And we'd monitor alarm box -- you
21 know, when I was looking at it, years ago, we
22 would monitor and talk to communications about
23 alarm boxes out of service.

24 Q. Okay. If you look at the second full
25 paragraph on page 4 -- I'm sorry, 1744.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

40

1 1241civd Rush

2 A. Okay.

3 Q. Where it says, "With the passage of
4 nearly 15 years and the introduction of vast
5 changes in communications technology, we are
6 confident that call boxes can be deactivated
7 without jeopardizing public safety." Does the
8 vast changes in communications technology in
9 this document, to your knowledge, refer to
10 cellular telephones?

11 A. It primarily -- that was our -- our
12 thought at the time, yes.

13 Q. And when you say "we," who's "we"?

14 A. The executive staff, the commissioner
15 was -- who testified to this.

16 Q. Okay. Was there any -- you said
17 primarily cellphones. Were there any secondary
18 contacts?

19 A. Well, it's talking about the vast
20 changes in the communications technology, so I
21 mean, the other means were not phone, home
22 phones or pay phones. They've always been
23 available, so --

24 Q. Okay. So to your knowledge that
25 refers to cellphones.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

41

1 1241civd Rush

2 A. Yes.

3 Q. Okay. What's the percentage of the
4 department's budget that is attributable to the
5 alarm boxes, if you know?

6 A. Well, the budget is 1.5 billion,
7 roughly. The alarm, you know, what we're
8 proposing was cutting roughly half of the
9 workforce, so -- and that was 6 million -- it's
10 probably in the -- in the operating budget, it's
11 probably in the 10 to \$12 million range. Then
12 there's capital funding on top of that.

13 That's --

14 Q. Where is the 10 to 12 million coming
15 from?

16 A. I'm just using the numbers that, you
17 know -- well, on the personal services side,
18 we're cutting 19 lines and we're still going to
19 be I believe 29 workers still employed. So --
20 and we're saying those cuts, salary cuts were
21 about 3 million, 4 million -- probably closer to
22 10 million. I don't know exact numbers, but
23 I'm -- it would be in that range.

24 Q. Well, okay. Last year, the most
25 current budget, what percent of the budget was

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

42

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd
Rush
devoted -- was attributable to the alarm boxes?
A. It's got to be less than 1 percent.
Q. Okay. Less than 1 percent.
A. Right.
Q. Okay. Let me just show you, one
second.
A. Could a clarify one point, though, on
this?
Q. Sure.
A. Just with regard to -- we had to make
a substantial -- after the case, we lost a case
in 1997, '98, thereabouts. We had to make a
substantial investment to upgrade the
infrastructure, which was decaying in the five
dispatch offices, and those -- that's how it
maintains the cabling network that comes into
those offices for dispatching purposes. We
spent upwards of \$37 million in capital funding,
which translates into a lot more in debt service
that the city pays out when. The bonds are
mature and the interest has to be paid, that had
to be paid out over the years because, you know,
it will be being paid out as we speak right now.
That's not part of the number I spoke to you

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

46

1 1241civd Rush

2 A. Okay.

3 Q. If you could turn, please, to 1748,
4 the last page. Oh, sorry, 1747. The second
5 sentence says -- or sorry -- the first sentence
6 at the bottom of the page says, "The FDNY does
7 have some New Needs funded in the Preliminary
8 Budget. These include the addition of 402,000
9 for a Captain and six Lieutenants for a new EMS
10 Station that opened in Sunset Park this year."
11 Was that funding granted?

12 A. Yes. The new needs that are presented
13 here are indeed what has been authorized in the
14 budget.

15 Q. Okay. So everything that has been --
16 everything listed under New Needs here in this
17 document was authorized.

18 A. Yes.

19 Q. Okay. Are you aware of any
20 announcements or statements by the fire
21 department in the last year that it will be
22 hiring new firefighters?

23 A. In the last year? Well, we were
24 hoping to hire a class of firefighters this past
25 September, and that's when it got caught up with

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

47

1 1241civd Rush
2 the -- the EEO lawsuit brought by the Department
3 of Justice and the Vulcan Society, and that
4 class has been held up due to a disagreement on
5 hiring options, so there will be no hiring in
6 the fire department for at least another year.

7 Q. Because of the litigation over that
8 case.

9 A. Correct.

10 Q. Not because of budgetary reasons.

11 A. Not because of budgetary reasons.

12 Q. Okay. And how large was that class?

13 A. 300.

14 Q. Those were firefighters.

15 A. Correct.

16 Q. Okay. I'd like to introduce or have
17 marked -- you can put the declaration -- we'll
18 come back to it so keep it in front of you, but
19 you can put it aside for now.

20 (Plaintiff's Exhibit Y marked for
21 identification)

22 Q. Have you ever seen this before?

23 A. Yes. It's my e-mail.

24 Q. This is a document bearing Bates
25 numbers NYC 7630 to 31. If you turn -- and at
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

48

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd
Rush
the top it says that it's an e-mail from you to
Julian Bazel and Kristine Ryan, with a cc to
Daniel Shacknai. Who is Kristine Ryan?
A. Kristine Ryan is the assistant
director of the Office of Management and Budget.
Q. Who's Julian Bazel?
A. He's our general counsel.
Q. Okay. And who is Daniel Shacknai?
A. Currently he's our first deputy
commissioner.
Q. If you look at the bottom, the last
e-mail on the page, on the second page, it
says -- it appears to be an e-mail from you on
January 4, 2010. Who, if you can recall, were
you sending this to?
A. I think it was Kristine Ryan.
Q. And for what reason were you
sending -- it says, "Here's what appears to be
one of the later (last) court decisions with
Judge Sweet." Does that refer to court
decisions in this case?
A. In the prior -- in this case. The
prior case, I should say.
Q. In this case, referring to the
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

49

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd
Rush
decisions that were issued in connection with
the injunction in this case?
A. Current case? I'm sorry. I'm not --
I'm going back to 1997. This is --
Q. Yes. In connection with the
injunction that was issued?
A. Yes.
Q. Okay.
A. Okay. Sorry.
Q. And why were you forwarding her the
court decision?
A. You know, we had submitted this as a
budget reduction, and she was just trying to
familiarize herself with the case.
Q. What had been submitted as a budget
reduction?
A. The alarm boxes.
Q. Okay. And in what -- how had that
submission been made?
A. In November we were given a budget
target, as I stated earlier, 4 percent reduction
target, which totaled \$70 million, so I came up
with a menu of options for the commissioner. We
ultimately wring our hands in house for weeks

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

50

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

and then we submit something over to OMB, and the alarm box reduction was part of our plan.

Q. What was submitted to OMB, was that a written document?

A. It's actually transmitted via the computer. It's -- it's referred to by everyone who works for the city as the PEG program.

Q. Okay.

A. PEG standing for program to eliminate the gap. So these things were instituted going back to the financial crisis of 19 -- of 1976. So the PEG program has existed my whole career with the city.

Q. But the submission was made in writing, or electronically?

A. Electronically, yeah.

Q. An electronic document?

A. It's very basic, saying alarm box reduction, \$6.2 million savings.

Q. Okay. And to whom at OMB was that submitted, if you know?

A. It just goes to a central server there, and then there is a group at OMB that handles fire department issues only, the fire --

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

52

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

discussions, to your knowledge, with OMB about deactivating the boxes?

A. Just, you know, very general discussions.

Q. And when did those occur?

A. In 2009. I don't recall. I might have -- I think as early as the springtime of 2009 I was discussing this, you know. I know OMB was asking for statistics on, you know, how often alarm boxes were utilized, and so we were providing this data to them and so -- I believe it was 2009, and, you know, subsequently, in the fall of 2009, we decided to submit this as a cut. It was a fire department-prompted cut; it was not an OMB-prompted cut.

Q. What prompted OMB to ask for the specifics you mentioned?

A. Well, because they're doing their own fact finding, so they're always looking at ways to reduce our budget as well. You know, everyone -- this was a big case, and so everyone's aware of the history of the alarm boxes, so they're just doing part of their due diligence in looking at the fire department's

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

53

1 1241civd Rush
2 budget.

3 Q. When the OMB asked -- when you said
4 they asked for statistics about alarm boxes --

5 A. Not too much alarm boxes; on alarm
6 transmissions, sources, the general, you know --
7 we have all these data: how many fires are
8 transmitted by phones, by alarm boxes, and how
9 many are structural fires, nonstructural fires,
10 fire emergencies -- I mean, nonfire emergencies,
11 medical emergencies, etc. So --

12 Q. How are you aware of that request from
13 OMB?

14 A. It probably came through my staff, who
15 would let me know about it.

16 Q. Was it a -- to your knowledge was it a
17 request that was informally or formally made in
18 writing?

19 A. No, I think it -- usually it's
20 informal. Could it have been made -- certainly
21 everything --

22 Q. Could it have been an e-mail?

23 A. It could have been in an e-mail.
24 Everything is e-mail nowadays. But it could
25 have just been a phone call.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

55

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

on -- strike that.

Was it in September, I think you said, that you think your earliest communication with OMB about removing the alarm boxes was?

A. Well, we would chat about it. I thought it was the springtime 2009.

Q. Okay.

A. But I didn't firm up that, you know, that I was going to present to the commissioner that we should try to do this again until fall of 2009.

Q. Okay.

A. And that was done -- we don't do that with OMB; we do that on our own.

Q. Okay. And between the time that the injunction was issued and in or around the spring of 2009, had you had any discussion, oral or in writing, about deactivating the alarm boxes?

A. I think I do recall that I brought it to the commissioner's attention for some, you know -- in looking at -- I'm looking at the statistics, I'm saying, the statistics are even more overwhelming, far more overwhelming than

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

58

1 1241civd Rush
2 Q. Is that a type of document that has a
3 name or generic term?
4 A. No. We do -- no.
5 Q. Okay.
6 A. I would just say like, "Can you give
7 me the stats on alarm box utilization by
8 source --"
9 Q. And that's for 2009.
10 A. "-- by type of call." For 2009 or
11 2000 -- whatever the year was.
12 Q. Okay. You think it was 2009, though.
13 A. I think it was 2009.
14 Q. Okay. Who, if you know, is -- strike
15 that.
16 If you look at -- did you receive any
17 response to this e-mail, to your knowledge?
18 A. Which -- I'm sorry. Which --
19 Q. The bottom e-mail that we just looked
20 at. After you sent the decision --
21 A. I don't think so.
22 Q. Okay. And then if you look above that
23 bottom e-mail, there's another e-mail, appears
24 to be another e-mail from you dated
25 January 5th, 2010. To whom, if you recall,
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

61

1 1241civd Rush

2 and again, I don't want you to reveal any
3 communications with your attorney. What was the
4 reason that that proposal was not -- that that
5 proposal was not proposed?

6 A. It was discussed, but, you know, I
7 think the city's financial situation ultimately
8 dictated that they needed to put, you know, hard
9 choices on the table for everyone to look at
10 because, you know, the budget wasn't getting any
11 better, and again, it was companies in there. I
12 think in this financial plan that ultimately
13 came out, we announced effective February 1st,
14 2011, there would be 300 less firefighters on
15 the engine companies and close -- proposing
16 closing 20 companies effective July 1st, which
17 obviously did not occur, because the council
18 restored the funding, and the alarm box. So it
19 was a clearly a doomsday budget, fitting a
20 doomsday budget that the city was facing.

21 Q. Okay. The second paragraph of the
22 e-mail says, "Of course this assumes we would
23 need the Courts to buy the cell phone coverage +
24 cell phone TTY availability, which I guess --
25 which I would guess if you are hearing impaired

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

62

1 1241civd Rush
2 you might already have." When you say, "which I
3 guess if you are hearing impaired you might
4 already have," what might a hearing-impaired
5 person already have, did you mean to refer to
6 there?

7 A. I was just conjecturing on my own
8 that, you know, if someone is in the deaf
9 community, they must have an alternative
10 means -- if they have a cellphone, they have a
11 method of communicating, and I'm not sure what
12 that method is, but, you know, I -- you know, I
13 looked up literature which talked about
14 cellphones with TTY compatibility, so I assumed
15 they were being used.

16 Q. What's the literature that you looked
17 up?

18 A. I just went to websites of various
19 cellphone providers.

20 Q. So when you're saying that second
21 sentence, "if you are hearing impaired you might
22 already have" means cellphones or cellphone
23 TTYs?

24 A. Cellphones, really. I mean,
25 cellphones -- I'm not sure how the technology

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

75

- 1 1241civd Rush
2 costs are not handled by the fire department.
3 Q. Okay. So what other agencies?
4 A. That would probably be it, because --
5 NYPD -- there is a button on the boxes which
6 sends to the NYPD 911 system. We -- they don't
7 pay for any of the maintenance cost to the
8 system; we do.
9 Q. Okay. So in this -- I'm just trying
10 to identify the agencies.
11 A. Right.
12 Q. NYPD?
13 A. NYPD doesn't have any financing, so --
14 Q. So it wouldn't be NYPD.
15 A. No. What I'm saying, I'm just saying
16 NYPD uses the alarm box network or has a button
17 on the alarm box networks. The extent they use
18 it, I'm not sure. But the Office of Management
19 and Budget basically allocates the funding for
20 pensions, healthcare, FICA, unemployment. All
21 those what we call fringe benefits on top of
22 salary that are part of our savings here are
23 handled by them.
24 Q. Okay. So does that refer to OMB?
25 A. That would be OMB, right.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

76

1 1241civd Rush

2 Q. Okay. Are there any other agencies
3 that refers to?

4 A. Not that I'm aware of.

5 Q. Okay. And then it says, "(and other
6 City agencies...) approximately \$6.3 million."
7 What is the source for that figure?

8 A. The \$6.3 million?

9 Q. Yes.

10 A. Several components of that figure.
11 It's all operating budget related. There is
12 salary savings, which would grow in future years
13 in salary savings through attrition of
14 personnel. We did a calculation based on
15 personnel we would be expected to lose, attrited
16 out, and counted their salaries; there is the
17 overtime savings where we were going to reduce
18 the overtime budget for the outside plant
19 personnel; there's the fringe benefits savings
20 which I just mentioned; and then there's the
21 OTPS, the O-T-P-S, which is the other than
22 personal services budget, which is for supplies
23 and equipment. And there's one big item in
24 there. That's the item -- there is the
25 maintenance of the alarm boxes. There's a

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

81

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

Q. Okay. I'm just -- I mean, the way this sentence -- this sentence states is that there would be 2.9 million in savings by FY 2014; correct?

A. Right. But I'm -- I guess what I'm saying is that you would enjoy most of the savings -- all but six of the employees would be covered in the savings in the earlier years of the budget. If we had enacted in FY '11 or FY '12, we would achieve 13 attritions, we would achieve the full overtime savings, and we would achieve fringe benefits savings, which I think calculates to roughly \$2.8 million, \$2.7 million, and then if we lose another six people at -- so it's got to be about 2.5, \$2.6 million. The value of a communication electricians salary is approximately \$86,000. So six more people would be roughly half a million dollars. So whatever that difference is, 2.4 to 2.9, that's what it would be.

Q. Well, the 2.9 includes fringe benefits as well; right?

A. That's right. I think it's roughly 30 percent. The fringe benefits go up by like a

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

85

1 1241civd Rush

2 A. Yeah.

3 Q. Okay. Now you refer in here,
4 paragraph --

5 A. Which document?

6 Q. I'm sorry. We're on the same -- in
7 the same document. To -- in paragraph 5, this
8 states the city -- "Additionally, the City would
9 realize a budgetary savings of approximately
10 \$3.4 million by terminating a contract the City
11 maintains with an outside vendor to repair alarm
12 boxes that the FDNY's Communication Electricians
13 are unable to repair themselves along with a
14 reduction in equipment and supplies for the
15 Outside Plant Unit." What is the outside -- who
16 is the outside vendor that that sentence refers
17 to?

18 A. The vendor is named Purvis,
19 P-U-R-V-I-S.

20 Q. And what is the total amount per year,
21 if you know, that the city pays to Purvis?

22 A. Roughly about \$3 million.

23 Q. Who calculated the \$3.4 million amount
24 that's in here?

25 A. That came from the budget unit.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

89

1 1241civd Rush

2 maintain the boxes.

3 A. Purvis has a contract to maintain the
4 boxes, to repair and maintain -- repair the
5 boxes. So if an electrician goes to a box and
6 it's a cable problem in the street, generally
7 speaking he's going to handle it. If it's the
8 guts of the box, the radio transistors, whatever
9 is in there, that box would be removed, gone to
10 a central location, Purvis, which is the vendor,
11 would come and pick up and do repairs and bill
12 us for that.

13 Q. Okay. So does the \$3.4 million refer
14 to the maintenance costs that Purvis charges
15 FDNY?

16 A. It's -- that's not 3. -- the full -- I
17 don't think that's the full -- the Purvis amount
18 is probably less, and then there's also money in
19 that number for ongoing supplies and equipment
20 and cable for the unit.

21 Q. Okay.

22 A. So it's a compilation of the spending
23 on the alarm box network for the outside plant,
24 that makes that \$3.4 million, the bulk of which
25 is the Purvis contract for maint -- repair of

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

90

1 1241civd Rush

2 the alarm boxes.

3 Q. How much is the Purvis contract for?

4 A. It's probably in the range of

5 3 million. I don't know the exact number.

6 Q. Have you ever seen the contract?

7 A. No.

8 Q. Oh. What department, if you know,
9 would be responsible -- would be in charge of
10 administering that contract?

11 A. Fiscal services, which reports to me.

12 Q. Okay.

13 A. They would let the contract and
14 prepare the contract documents. The outside
15 plant, the communications unit, would oversee
16 the actual usage of the contract.

17 Q. Okay. So are you saying that FDNY
18 pays 3 million to Purvis per year for the
19 maintenance of the boxes?

20 A. Whatever the --

21 Q. Whatever the contract says?

22 A. Whatever that number is, whatever the
23 exact number is, but it's maintenance repair of
24 the alarm boxes, when they're out, when they're
25 taken out of service.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

91

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

Q. Okay.

A. And probably -- and it may include some funding for the central services needs.

Q. Okay. So the contract for repairing the boxes, the contract with Purvis for repairing the boxes is less than 3.4 million?

A. Yes.

Q. Okay. So the number in paragraph 5 should be lower?

A. I'm not sure where you are.

Q. I'm sorry. In your declaration.

A. No. The 3.4, as it says, "along with reduction in equipment and supplies for the Outside Plant." So it includes both the Purvis contract, contract for repair of, you know, the boxes and ongoing supplies and equipment that any unit would require.

Q. Okay. You're saying you get those from Purvis but not pursuant to that contract.

A. No. The other supplies and equipment may not come from Purvis.

Q. Oh, I see. Okay.

A. Yeah. They may say they need cable and they let an order for cable.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

92

1 1241civd Rush

2 Q. I see. Okay. So how would the
3 3.4 million result -- in savings result from
4 terminating a contract with Purvis to repair
5 alarm boxes?

6 A. I think it's -- I think it's saying
7 the savings would be a cumulative savings by
8 eliminating the contract with Purvis and by
9 stopping buying equipment and supplies. It's a
10 combination of the two.

11 MR. PINES: Could we go off the record
12 just for a second just so we can --

13 MS. SHULMAN: Yeah.

14 (Discussion off the record)

15 Q. So are you saying -- just to clarify,
16 are you saying the 3.4 million number in
17 paragraph 5 consists of terminating the contract
18 with Purvis and other aspects of --

19 A. Other related costs that we fund in
20 the outside plant's budget for OTPS.

21 Q. Okay. Is it possible to tell from the
22 document marked as Exhibit AA what FDNY has paid
23 to Purvis for any particular year, whether it's
24 2009 -- we'll say FY 2009?

25 MR. PINES: You can answer. Although
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

107

1 1241civd Rush

2 A. Okay.

3 Q. Okay. It says, "The City's
4 Preliminary Budget for FY 2011 currently calls
5 for the closing of 20 FDNY fire engine companies
6 and the loss of 505 firefighting positions." As
7 we discussed before, that refers to company
8 closings that did not occur as of FY 2010 --
9 2011.

10 A. City council restored the funding
11 and -- during budget adoption.

12 Q. And that applies to the 500
13 firefighting positions as well.

14 A. Correct.

15 Q. Okay. And then it says, "The average
16 annual costs of a fire engine company is
17 currently \$1.7 million." Who calculated that
18 figure?

19 A. I'm not sure who calculated that
20 particular figure.

21 Q. What, if you know, does that figure --
22 what cost, if you know, does that figure consist
23 of?

24 A. It would -- it would consist --
25 primarily consist of firefighter salaries.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

108

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1241civd

Rush

Q. So how did you know that information, if you can remember?

A. I've seen various workups that we've discussed over the years of closing fire companies and what they're valued at.

Q. Okay. And is this the average of all -- annual costs of all fire engine companies?

A. No. In fact, it's, you know -- depending what's in that \$1.7 million, it can be -- there could be other things in there. I'm not sure what's in the 1.7, exactly what's in the 1.7, but when we did the cut, they threw in the fact that we weren't going to be having training instructors. The whole reduction in the budget was \$40 million, roughly, 37 for the salaries and -- and 3.5 million, I believe, for the training instructors, and they allowed us I believe to take a fringe benefit credit as well, partial credit. So the mechanics of arriving at that 1.7 I'm not totally familiar with, but I, you know -- in this particular exercise, 20 companies times 1.7 million is a little bit more than like 38 million, something like that.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

109

1 1241civd Rush

2 Q. Okay. Oh, okay.

3 A. You know, it was a combination of
4 things.

5 Q. Okay.

6 A. I will tell you that we went back and
7 forth on numbers many times. Ultimately
8 sometimes the numbers come from OMB. They'll
9 put the final numbers in, after consulting with
10 us. We don't have much -- when you're talking
11 about 38, 37, 40, we don't, you know -- we don't
12 bother too much with the difference, but it's,
13 you know, the value of a company in this
14 particular exercise was 1.7.

15 Q. I'm just trying -- I'm just trying to
16 get a sense of what this -- what this annual
17 cost was an average of. Was it an annual
18 average cost of all the FDNY companies, was it
19 an annual average cost of certain fire
20 companies?

21 A. It's the average cost, generally
22 speaking, of a four-firefighter engine company,
23 and how we do it, it's -- we look at what would
24 have happened if we had to hire firefighters, so
25 we're saying we're avoiding hiring firefighters,

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

110

1

1241civd

Rush

2

so in year -- what would have happened in the year one if you didn't hire those firefighters.

3

4

You would save the salaries of a rookie

5

firefighter. His salary would be, just, on the

6

salary side, 50,000, let's say, roughly, and

7

next year he would have -- if you would have had

8

that firefighter, he would have gone up a step,

9

and he might be making 60,000, and next -- so

10

the savings grow over the years. So there are

11

initial year savings and they grow in the out

12

years. So this was the -- the average cost in

13

the first year.

14

Q. The average cost of a four-firefighter company.

15

16

A. That's right. I think -- and I think in the mix of this, there was one

17

five-firefighter company, which was a ladder

18

company. The issue was that we really never

19

finalized the companies that were going to be

20

closed. And so we knew there was going to be

21

one ladder company in there, so OMB -- generally

22

speaking, a unit is valued at -- I think it's --

23

there are 20 companies being closed and they

24

have 25 firefighters. So -- but one company had

25

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300