

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 FOR THE COUNTY OF BENTON

3
4 WALTER L. TAMOSAITIS, PHD, an)
individual, and SANDRA B.)
5 TAMOSAITIS, representing the)
marital community,)
6)
Plaintiffs,)

7 vs.)

No. 10-2-02357-4

8)
9 BECHTEL NATIONAL, INC., a Nevada)
Corporation, URS CORPORATION, a)
Nevada Corporation, FRANK RUSSO, an)
10 individual, GREGORY ASHLEY, an)
individual, WILLIAM GAY, an)
11 individual, DENNIS HAYES, an)
individual, and CAMI KRUMM, an)
12 individual,)
13 Defendants.)

14
15 VIDEO DEPOSITION OF FRANK RUSSO, VOLUME 2

16 Taken at the instance of the Plaintiffs

17
18 Thursday, July 14, 2011
19 9:34 a.m.
20 1030 North Center Parkway
21 Kennewick, Washington

22
23 BRIDGES REPORTING & LEGAL VIDEO
24 Certified Shorthand Reporters
1030 North Center Parkway
25 Kennewick, Washington 99336
(509) 735-2400 - (800) 358-2345

1 BE IT REMEMBERED that the deposition of FRANK
2 RUSSO, Volume 2 was taken in behalf of the Plaintiffs
3 pursuant to the Washington Rules of Civil Procedure before
4 Susan E. Anderson, Certified Shorthand Reporter for
5 Washington on Thursday, the 14th day of July, 2011, at 1030
6 North Center Parkway, Kennewick, Washington, commencing at
7 the hour of 9:34 a.m.

8
9 * * *

10 APPEARANCES:

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19
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23
24 Also Present: Walter L. Tamosaitis, Ph.D
25 Greg Glover - Videographer

1 A. Because they hire contractors to deal with
2 employment issues.

3 Q. Okay. Because it's true, is it not, that DOE's
4 not allowed to get involved in employment issues for all
5 but a select group of contract employees?

6 MR. BAUMGARDNER: Object to the extent it
7 calls for a legal conclusion.

8 A. What I know to be true is that they hire us to
9 deal with our employees.

10 Q. (By Mr. Sheridan) Okay.

11 A. And that includes professional and union.

12 Q. Okay.

13 (EXHIBIT NO. 20 MARKED.)

14 Q. (By Mr. Sheridan) Okay. I'm handing you what's
15 been marked as Exhibit 20 for identification, and it's
16 Bates stamped BNI 4812.

17 And take a moment to review this E-mail string
18 and then we'll talk about it.

19 A. Uh-huh.

20 Q. Okay.

21 A. Let me just look at the top.

22 Q. Please.

23 A. Okay.

24 Q. All right. So the bottom E-mail is an E-mail
25 from Ms. Ogilvie to you, David Walker -- and David Walker.

1 David Walker is the president, correct?

2 A. Of BNI.

3 Q. Okay. He's your boss?

4 A. Yes.

5 Q. And you are direct report to him?

6 A. Yes.

7 Q. And the subject is WTP Tamosaitis events and

8 Ms. Ogilvie -- oh, if you just remind us who Ogilvie works

9 for.

10 A. Ogilvie's now retired.

11 Q. Who did she work for?

12 A. She worked for BSII.

13 Q. Oh, what's that?

14 A. The -- the parent company of BNI.

15 Q. And what position did Ogilvie have?

16 A. President.

17 Q. Okay. So this is the president of the -- of

18 the parent company?

19 A. The business unit.

20 Q. Okay. And writing to you and -- and -- and

21 your president and he says -- he's asking you have you

22 briefed Ines on the Tamosaitis matter, right?

23 A. Right.

24 Q. Okay. And you wrote to him that "Yes, she,

25 Poneman and Dale stated that they understand reason for

1 Walt's departure and support BNI management. They are not
2 happy with URS handling, but this could all change. DOE
3 can't be seen as involved."

4 Did you write that?

5 A. Yes, I did.

6 Q. All right. And when you wrote she and Poneman
7 and Dale, that's Dale Knutson?

8 A. That's right.

9 Q. And Poneman is who?

10 A. The deputy secretary.

11 Q. Of?

12 A. Energy.

13 Q. Okay. And she is Ms. Ines --

14 A. Triay.

15 Q. -- Triay, who is also -- that she was the
16 person in charge of the site from DOE's perspective; is
17 that right?

18 A. She is EM 1.

19 Q. Meaning?

20 A. She is responsible for all the environmental
21 management work across the complex.

22 Q. Okay. The Hanford complex?

23 A. And -- and the rest of the country.

24 Q. Okay. And so when you wrote that she, Poneman
25 and Dale stated they understood the reasoning for Walt's

1 departure and support BNI management, did you hear that
2 from them individually?

3 A. Yes.

4 Q. All right. And Dale -- strike that.

5 Why is that important?

6 MR. BAUMGARDNER: Object to the form.

7 A. Because by that point in time I believe Dr.
8 Tamosaitis had indicated that he was either sending a letter
9 or had sent a letter to the defense board that asserted
10 certain things. And what they were aware of was the string
11 of E-mails that were the basis for my decision.

12 So they supported them -- my decision was
13 predicated on the fact that [REDACTED] and days earlier a
14 gentleman named [REDACTED] and others took offense to some
15 of Dr. Tamosaitis's E-mails at a point in time when his
16 assignment was already supposed to be over. And we were
17 paying him a professional courtesy by keeping him on the
18 government payroll.

19 Q. (By Mr. Sheridan) Is that -- what you just
20 testified to, is that what you told Triay, Poneman and Dale
21 Knutson?

22 A. In substance.

23 Q. Okay. All right. And then Ogilvie writes back
24 thanks in the E-mail chain. And then above it is an E-mail
25 from David Walker again, that's the president, right?

1 A. Right.

2 Q. All right. And he writes -- he's writing to

3 Ogilvie, his boss and you, and the subject is WTP

4 Tamosaitis event. Update on WMAB technical committee.

5 What's the WMAB technical committee?

6 A. Waste management advisory board.

7 Q. And what do they do, if you know?

8 A. That's a standing committee under FACA rules,
9 meaning it's all public. And they do whatever Dr. Triay asks
10 them to do.

11 Q. Okay. And are they private citizens?

12 A. I believe so.

13 Q. Okay. And -- and the date of this E-mail is
14 July 28th, 2010, right?

15 A. Uh-huh.

16 Q. All right. And that's a "yes"?

17 MR. BAUMGARDNER: You have to answer.

18 A. Yes. I'm sorry. I'm sorry.

19 Q. (By Mr. Sheridan) All right. And then so David
20 Walker writes in this E-mail, "I talked with Ines, she had
21 talked with Leo earlier this a.m.," and Leo is Leo Sain,
22 right?

23 A. I assume that would be true.

24 Q. All right. "And we had pretty much the same
25 message. Her fundamental question unanswered is why and

1 how did we handle Walt Tamosaitis's move departure so
2 poorly."

3 And you read this E-mail at the time it was
4 sent, right?

5 A. I really don't recall it, but I probably did.

6 Q. Okay. And then he writes, "What was
7 communicated by whom to whom, and what were we thinking?
8 She believes from DK feedback that we will manage through
9 the technical issues and DNSB investigation.

10 "Part satisfactorily, although at cost of
11 significant disruption and time, et cetera. Need to be
12 sure Hill get covered and protect the 50 million."

13 First of all, what's DK mean to your -- as far
14 as you know?

15 A. Don't know.

16 Q. Well, could that be Dale Knutson?

17 A. It could.

18 Q. Okay. You just don't know?

19 A. I just don't know who he was referring to there.

20 Q. All right. Was it your understanding that he
21 talked to David -- Dale Knutson from time to time?

22 A. Who?

23 Q. David Walker.

24 A. No, I don't believe at that point he had spoken
25 to Dale Knutson.

1 Q. Okay. But he clearly had direct communications
2 with Ines Triay, right?

3 A. Yes.

4 Q. All right. And then he's -- he's writing
5 saying that -- that -- so this is the president of BNI is
6 writing saying, "Need to be sure Hill get covered and
7 protect the 50 million."

8 Is the Hill Capitol Hill?

9 A. Yes.

10 Q. And what's the 50 million?

11 A. Projects funding was 690 million a year. And the
12 Department of Energy for one of the CPR reviews, the
13 construction project reviews that I mentioned earlier had
14 concluded that the most effective way to get the project
15 completed was to modify the funding profile. And that meant
16 that instead of the 690 a year there would be certain years
17 where we got more and other years where we got less. So that
18 the sum total remained what Congress authorized.

19 Q. So what was the 50 million that he was
20 referring to?

21 A. The difference between 690 in 2009 and 740 in
22 2010.

23 Q. Is it fair to say that the discussion that was
24 being had between you and your boss and his boss had to do
25 with the possibility that one of the consequences of Dr.

1 Tamosaitis's reports could be that the \$50 million could be
2 in jeopardy?

3 MR. BAUMGARDNER: Object to the form.

4 A. I think it's fair to say that he wanted to make
5 sure that Capitol Hill understood the -- the importance of
6 that 50 million in terms of protecting the 12.263 million
7 which they had authorized.

8 Q. (By Mr. Sheridan) All right. But -- but it's
9 true, is it not, that you had some concerns that the 50
10 million -- that Dr. Tamosaitis's conduct may in some way
11 jeopardize the 50 million?

12 A. He had some concerns.

13 Q. Your boss?

14 A. (Nods head.) Yes.

15 Q. And he expressed those concerns to you?

16 A. In that E-mail.

17 Q. Okay. Now, then -- then David Walker writes,
18 "Told her," meaning Ines Triay.

19 A. Right.

20 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Walker, David
Sent: Wed Jul 28 17:05:09 2010
To: Ogilvie, J; Russo, Frank M (WTP)
Subject: RE: WTP Tomasitis Event/Update on WMAB Technical Committee
Importance: Normal

I talked with Ines. She had talked with Leo earlier this AM. We had pretty much the same message. Her fundamental question (unanswered) is why/how did we handle WT's move/departure so poorly. What was communicated by whom to whom and what were we thinking. She believes from DK feedback that we will manage through the technical issues and DNSB investigation part satisfactorily although at cost of significant disruption/time etc. Need to be sure "Hill" get covered and protect the \$50 million.

Told her I met with Bernie. He is not allowed to be fully forthcoming under his Agreement and Ines knows that. What BM told me and I relayed to Ines: Expect that team will conclude plant will function but may they have a few improvement ideas—they are chemistry and process plant people. He thinks group will advocate more that project needs more effective transition plan from EPC to SU/operations; maybe operators working now or soon with more details—not new thought but group may have some ideas on how and what. The group will meet with WTP team and Ines for update next week. Tentative public meeting set for September 15th.

DW

-----Original Message-----

From: Ogilvie, J
Sent: Wednesday, July 28, 2010 12:15 PM
To: Russo, Frank M (WTP); Walker, David
Subject: Re: WTP Tomasitis Event

Thanks

----- Original Message -----

From: Russo, Frank M (WTP)
To: Ogilvie, J; Walker, David
Sent: Wed Jul 28 11:35:59 2010
Subject: Re: WTP Tomasitis Event

Yes. She, Poneman and Dale stated that they understand reason for Walt's departure and support BNI management. They are not happy with URS handling.

But this could all change. DOE can't be seen as involved.

----- Original Message -----

From: Ogilvie, J
To: Walker, David; Russo, Frank M (WTP)
Sent: Tue Jul 27 14:58:32 2010
Subject: Re: WTP Tomasitis Event

Frank, have u briefed Ines?

----- Original Message -----