

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

LARRY GERACI, AN INDIVIDUAL,
PLAINTIFF,

VS.

DARRYL COTTON, AN INDIVIDUAL;
AND DOES 1 THROUGH 10,
INCLUSIVE,

DEFENDANTS.

CASE No. 37-2017-
00010073-CU-BC-CTL

AND RELATED CROSS-ACTION.

DEPOSITION OF
JAMES P. BARTELL
Lemon Grove, California
Wednesday, March 13, 2019

Reported By:
Lorena Barron
CSR No. 12058
NDS Job No. 212545

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF SAN DIEGO
3
4 LARRY GERACI, AN INDIVIDUAL)
5)
6 Plaintiff,)
7)
8 vs.)
9) Case No. 37-2017-
10 DARRYL COTTON, AN INDIVIDUAL; AND) 00010073-CU-BC-CTL
11 DOES 1 THROUGH 10, INCLUSIVE.)
12)
13 Defendants.)
14)
15 DEPOSITION OF JAMES BARTELL
16 WEDNESDAY, MARCH 13, 2019
17 LEMON GROVE, CALIFORNIA
18
19
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21
22
23 Reported by: Lorena Barrón
24 CSR. No. 12058
25 NDS Job No.: 212545

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Page 3

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9) Case No. 37-2017-
10 DARRYL COTTON, AN INDIVIDUAL; AND) 00010073-CU-BC-CTL
11 DOES 1 THROUGH 10, INCLUSIVE.)
12)
13 Defendants.)
14)
15 DEPOSITION OF JAMES BARTELL, taken on behalf of the
16 Defendant/Cross-Complainant Darryl Cotton, beginning at
17 10:02 a.m. and ending at 12:06 p.m. on Wednesday,
18 March 13, 2019, at 7880 Broadway, Lemon Grove,
19 California, before Lorena Barrón, CSR. No. 12058, for
20 the State of California.
21
22
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24
25

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3 JAMES BARTELL
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1 Q How many marijuana outlets, or as formerly

2 known MMCCs are you involved with getting the CUP for?

3 A Currently?

4 Q Yes.

5 MR. TOOTHACRE: Vague as to time.

6 THE WITNESS: I would say seven.

7 BY MS. PLASKETT:

8 Q Since 2014, just an estimate of how many

9 you've worked with?

10 A Since when?

11 Q 2014. Or even in the last five years, four

12 years. I'm looking for any estimate of how many you've

13 worked with historically.

14 A I would say 20.

15 Q Okay. And this is in San Diego County?

16 A California.

17 Q In the state of California?

18 How many do you recall that have received

19 approval for their applications?

20 MR. TOOTHACRE: Of those 20?

21 MS. PLASKETT: Of those 20.

22 Thank you.

23 THE WITNESS: 19.

24 BY MS. PLASKETT:

25 Q Good job. All right.

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1 JAMES BARTELL,

2 having first been duly sworn, was

3 examined and testified as follows:

4

5 EXAMINATION

6 BY MS. PLASKETT:

7 Q Mr. Bartell, what is your full name, please?

8 A James Patrick Bartell.

9 Q Have you used any other names or aliases?

10 A No.

11 Q All right. Where do you work?

12 A Bartell & Associates.

13 Q Are you the president?

14 A I am.

15 Q And what does your company do?

16 A Public relations and government relations.

17 Q And do you specialize in any particular

18 relations or processes?

19 A Um, well, we -- I say development services.

20 Land use entitlement.

21 Q How long have you had this company?

22 A Since 2006.

23 Q And do you or your company have any

24 professional licenses?

25 A No.

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1 And I'm going to have to go into denial.

2 And these have gone through the entire

3 process?

4 A Yes.

5 Q All right. Have you spoken with anybody

6 today, other than your counsel, about this case?

7 A No.

8 Q Have you reviewed any documents pertinent to

9 this case prior to coming to the deposition today?

10 A Yes.

11 Q And what documents have you reviewed?

12 A I can't specify which ones.

13 Q Okay. Are they pleadings or --

14 A No.

15 Q -- notes?

16 A A combination.

17 Q A combination? Thank you.

18 Have you met with Mr. Geraci's attorney before

19 today?

20 A Yes.

21 Q Have you met with Gina Austin?

22 MR. TOOTHACRE: Ever?

23 MS. PLASKETT: Ever.

24 THE WITNESS: Ever?

25

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1 BY MS. PLASKETT:
2 Q Ever.
3 A Yes.
4 Q Do you have any working relation with Gina
5 Austin?
6 A Yes.
7 Q And are these for CUP applications?
8 A Yes.
9 Q Have you ever worked with Mike Weinstein?
10 A Yes.
11 Q Are you currently working on any projects with
12 him?
13 MR. TOOTHACRE: I'm going to put an objection.
14 That's vague as to "work."
15 I think he doesn't understand the question.
16 BY MS. PLASKETT:
17 Q Are you promoting any CUP applications for
18 marijuana outlets with Mike Weinstein?
19 A No.
20 Q Have you ever discussed the outcome of this
21 case with Mr. Geraci's attorney?
22 MR. TOOTHACRE: The outcome?
23 MS. PLASKETT: Of the case between -- let me
24 lay some foundation.
25

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1 BY MS. PLASKETT:
2 Q Are you aware of the case between Mr. Cotton
3 and Mr. Geraci?
4 A Yes.
5 Q And have you ever discussed the merits of this
6 case with Mr. Geraci's attorney?
7 A Yes.
8 Q Have you ever been to Mr. Cotton's website?
9 A No.
10 Q Okay. How did you meet attorney Gina Austin,
11 do you recall -- if you recall?
12 MR. TOOTHACRE: Can we go back and clear that
13 up?
14 MS. PLASKETT: Sure.
15 MR. TOOTHACRE: When you're saying Geraci's
16 attorney, I think we should clear up if it's Austin or
17 Weinstein or myself.
18 MS. PLASKETT: Okay. He has three attorneys.
19 MR. TOOTHACRE: Essentially, yeah. Well, our
20 firm and Gina Austin.
21 THE REPORTER: I'm sorry. Who?
22 MR. TOOTHACRE: He has Ferris & Britton as his
23 attorneys, the law firm, and Gina Austin on the CUP.
24 So when she says, Have met with the attorneys, we
25 should clear up who it is.

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1 MS. PLASKETT: So it would be you, Weinstein
2 and Gina. Gina is basically the CUP person.
3 Okay. Thank you for the clarification.
4 BY MS. PLASKETT:
5 Q Was working -- when you worked with Gina
6 Austin, was it related to getting a CUP approved for a
7 marijuana outlet?
8 A Yes.
9 Q Did you do any work --
10 A I worked with Gina on more than just CUP.
11 Q Okay. And what else do you work with Gina on?
12 A Development permits.
13 Q All right. How many of these projects for the
14 CUP application for the marijuana outlets have you
15 worked with Ms. Austin on since 2017?
16 A Of the 20?
17 Q Of the 20.
18 A Approximately 15.
19 Q How many of the CUP applications for the
20 marijuana outlets are currently under review of your
21 seven?
22 Are all of them?
23 A They're all under review, yes.
24 Q Have you met with Larry Geraci?
25 A Yes.

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1 Q Did Gina Austin introduce you to him?
2 A I don't recall.
3 Q Do you remember who introduced you to Darryl
4 Cotton?
5 A I've never met Darryl Cotton.
6 Q Okay. Do you know Abhay --
7 A Abhay.
8 Q Thank you.
9 A Yeah.
10 Q And how did you meet him?
11 A I don't recall.
12 Q Do you know Rebecca Berry?
13 A I have never met her.
14 Q Did you know that Ms. Berry was the name of
15 the owner for the application of Mr. Cotton's CUP?
16 MR. TOOTHACRE: Misstates evidence.
17 You can go ahead and answer.
18 THE WITNESS: Yes.
19 BY MS. PLASKETT:
20 Q Do you use an agent when you're applying for a
21 CUP? Let me rephrase that.
22 Is it traditional for an owner to use an agent
23 when applying for a CUP for the marijuana outlets?
24 A Yes.
25 MR. TOOTHACRE: Vague and ambiguous and calls

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1 for speculation.
 2 You can answer.
 3 BY MS. PLASKETT:
 4 Q Is your name on any of the applications for
 5 the CUP for the marijuana outlets as an owner?
 6 A No.
 7 Q Do you have any agents currently that
 8 represent you in that process?
 9 A No.
 10 Q Did you have any involvement with Darryl
 11 Cotton, defendant's, CUP for the federal project, 7667?
 12 MR. TOOTHACRE: Vague as to Darryl Cotton's
 13 CUP.
 14 To my knowledge, he didn't have one.
 15 MS. PLASKETT: To the application for the CUP?
 16 Let me rephrase that.
 17 BY MS. PLASKETT:
 18 Q At any point, did you work with Mr. Darryl
 19 Cotton, who's a defendant in this lawsuit, in his
 20 application for a marijuana outlet?
 21 A No.
 22 Q Did you have any involvement with the
 23 application for a CUP for a marijuana outlet for 622
 24 Federal, Mark Magagna?
 25 MR. AUSTIN: Aaron.

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1 did for Mr. Magagna?
 2 A I didn't do any work.
 3 MR. TOOTHACRE: Misstates testimony.
 4 THE WITNESS: I stated that I never worked for
 5 him.
 6 BY MS. PLASKETT:
 7 Q But you knew about the application?
 8 A Yeah.
 9 Q Okay. Did you understand that Mr. Magagna's
 10 CUP application and approval would then disqualify
 11 Mr. Cotton's CUP application?
 12 MR. TOOTHACRE: Vague and ambiguous.
 13 Do you understand the question?
 14 THE WITNESS: Well, I understand what --
 15 what -- what application are you talking about?
 16 BY MS. PLASKETT:
 17 Q The CUP application for a marijuana outlet.
 18 A You said Mr. Cotton.
 19 Q What I'm driving at -- my question is, did you
 20 know that if Mr. Magagna's CUP application for a
 21 marijuana outlet, if approved, would then disqualify
 22 Mr. Cotton's property?
 23 MR. TOOTHACRE: I think the confusion is --
 24 MR. AUSTIN: It's Geraci's. It's Geraci's
 25 application.

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1 MS. PLASKETT: Aaron. I'm sorry.
 2 THE WITNESS: No.
 3 BY MS. PLASKETT:
 4 Q Have you ever met Aaron Magagna?
 5 A Once.
 6 Q And who introduced you, if you remember?
 7 A He did.
 8 MR. TOOTHACRE: He did?
 9 THE WITNESS: Well, can I describe how I met
 10 him?
 11 MR. TOOTHACRE: Sure.
 12 THE WITNESS: He introduced himself after --
 13 at a city council hearing in the council chambers, as he
 14 was walking out.
 15 THE REPORTER: Can I have you speak up, sir,
 16 please.
 17 THE WITNESS: Yes.
 18 BY MS. PLASKETT:
 19 Q Have you ever done any lobbying for
 20 Mr. Magagna?
 21 A No.
 22 Q Do you have any knowledge of Mr. Magagna's CUP
 23 application for a marijuana outlet on 6220 Federal?
 24 A Yes.
 25 Q And what was the extent of the work that you

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1 MS. PLASKETT: It's Geraci's -- well,
 2 actually, it's Berry's application, but...
 3 THE WITNESS: Yes.
 4 MS. PLASKETT: Thank you.
 5 BY MS. PLASKETT:
 6 Q Did you have any knowledge of the denial of
 7 Mr. Geraci's CUP application?
 8 MR. TOOTHACRE: Vague as to time.
 9 BY MS. PLASKETT:
 10 Q When did you know of Mr. Geraci's -- that
 11 Mr. Geraci's CUP application for the marijuana outlet
 12 would be denied?
 13 A At the time that Magagna's was approved.
 14 Q Prior to his approval, did you believe that
 15 Mr. Geraci's CUP application would be denied for other
 16 reasons?
 17 MR. TOOTHACRE: Vague and ambiguous. Calls
 18 for speculation.
 19 But you can answer.
 20 THE WITNESS: Can you repeat the question?
 21 BY MS. PLASKETT:
 22 Q At what point did you believe that
 23 Mr. Magagna's -- excuse me. Now I messed up.
 24 At what point did you believe that
 25 Mr. Geraci's application for the marijuana outlet would

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1 be denied?
2 A I never did.
3 Q Did you believe that this application could be
4 approved?
5 A Yes.
6 Q Did you see any problems or defects in
7 Mr. Geraci's CUP application for the marijuana outlet?
8 MR. TOOTHACRE: Vague and ambiguous.
9 THE WITNESS: The process you go through is a
10 continuing of issues raised by the City and your ability
11 to resolve those issues, which is what I get paid to do.
12 THE REPORTER: Sir, please speak up.
13 BY MS. PLASKETT:
14 Q Was there a point where you believed
15 Mr. Geraci's CUP application would fail to make it
16 through the process?
17 A No.
18 Q Do you know Elizabeth? Have you ever met
19 Elizabeth White? She's a geotechnical engineer.
20 A No.
21 Q Did you promote any actions to take any soil
22 samples of the 7176 Federal Avenue?
23 A Did I?
24 Q Did you promote any person or anything to
25 happen, to get the soil samples for the CUP application

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1 for the marijuana outlet?
2 A I was not involved in it.
3 Q Are soil samples important in getting a CUP
4 application for a marijuana outlet approved?
5 A In some cases.
6 MR. TOOTHACRE: Vague and ambiguous.
7 BY MS. PLASKETT:
8 Q At what point in the CUP application approval
9 process would the soil samples become necessary in the
10 processing of the application?
11 MR. TOOTHACRE: Calls for speculation.
12 Incomplete hypothetical. Vague and ambiguous.
13 THE WITNESS: It's vague and ambiguous.
14 BY MS. PLASKETT:
15 Q Are the soil samples mandates for the CUP
16 application for a marijuana outlet normally done in the
17 beginning, middle, or end of the application process?
18 MR. TOOTHACRE: In your experience.
19 BY MS. PLASKETT:
20 Q In your experience?
21 A It varies. It depends on when the City raised
22 that issue as --
23 THE REPORTER: "It depends on when the City
24 raised that issue as" --
25 MR. TOOTHACRE: Jim, you've got to speak up.

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1 The court reporter can't hear you.
2 THE WITNESS: At the time that the City raises
3 that's an issue and requires that documentation at the
4 point to repair, and it varies from project to project.
5 BY MS. PLASKETT:
6 Q Thank you.
7 Does the City usually accept recommendations
8 from the contractor soil engineer when applying for a
9 CUP for marijuana outlet?
10 MR. TOOTHACRE: Vague and ambiguous. Calls
11 for speculation.
12 THE WITNESS: I have no way of knowing that.
13 BY MS. PLASKETT:
14 Q So does it -- can it vary from the beginning
15 of the process, the City asking for a soil sample, or
16 towards the end?
17 A It varies.
18 Q Do you know of them accepting anything from
19 the contractor soil engineer through the process?
20 MR. TOOTHACRE: Vague and ambiguous.
21 THE WITNESS: I can't speak for the City.
22 BY MS. PLASKETT:
23 Q Have you seen them accept this at pending the
24 processing of a CUP applications?
25 MR. TOOTHACRE: Same objection.

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1 THE WITNESS: Can you repeat the question?
2 BY MS. PLASKETT:
3 Q Will the City accept recommendation from a
4 contractor soil engineer when applying for a CUP
5 application throughout the project, prior to the
6 processing of the application?
7 MR. TOOTHACRE: Same objection.
8 BY MS. PLASKETT:
9 Q Basically what I'm asking you is, will the
10 City take that while they're processing other parts of
11 the application?
12 MR. TOOTHACRE: Same objection.
13 THE WITNESS: I don't know how to answer that.
14 BY MS. PLASKETT:
15 Q Do you ever meet with investors interested in
16 submitting a CUP application in San Diego County or the
17 state of California for marijuana outlets?
18 A Yes.
19 Q How long, in your opinion, do you think the
20 normal CUP application process in San Diego takes?
21 A Year and a half.
22 Q Is there any way to expedite that process?
23 A No.
24 Q Do you believe, based on your experience, that
25 the CUP application for 7176 Federal, the Geraci

Page 20

1 application, took longer than the normal process?
2 A Yes.
3 Q Do you have any opinion as to why it took
4 longer?
5 A Yes.
6 Q And what is your opinion regarding what took
7 longer in Mr. Geraci's CUP application?
8 A I would say the controversy between Mr. Geraci
9 and Mr. Cotton.
10 Q Did that controversy between them have to do
11 with the necessary grant deed the City required to
12 process the application?
13 A I don't know.
14 Q Do you have any opinion as to why the CUP
15 application for 7220 Federal, the Magagna application --
16 MR. TOOTHACRE: 6220.
17 MS. PLASKETT: 6220. Thank you.
18 BY MS. PLASKETT:
19 Q -- Federal, took less time than the
20 application for Geraci's 7176 Federal?
21 MR. TOOTHACRE: Calls for speculation.
22 But you can answer.
23 THE WITNESS: No.
24 BY MS. PLASKETT:
25 Q Is Mr. Magagna represented by any of your

Page 21

1 attorneys?
2 MR. TOOTHACRE: Calls for speculation.
3 THE WITNESS: I have no idea.
4 BY MS. PLASKETT:
5 Q Did you know if Mr. Magagna was represented by
6 Matt Shapiro or Gina Austin?
7 A I don't know.
8 Q Did you know that Ms. Austin represented the
9 Plaintiff, Mr. Geraci, in this action?
10 MR. TOOTHACRE: Misstates testimony.
11 With regarding to the CUP, not this action.
12 MS. PLASKETT: So -- well, I'll ask it later
13 about it.
14 MR. TOOTHACRE: She represented him on the CUP
15 process.
16 MS. PLASKETT: But not as his attorney.
17 MR. TOOTHACRE: Correct.
18 MS. PLASKETT: Okay. Thank you for clarifying
19 that.
20 BY MS. PLASKETT:
21 Q Have you ever met Corina Young?
22 A Yes.
23 Q Who introduced you to Ms. Young?
24 A Mr. Shapiro.
25 Q Did you know that Ms. Young had a CUP

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1 application for a marijuana outlet in San Diego County?
2 MR. TOOTHACRE: Vague as to time.
3 THE WITNESS: No.
4 BY MS. PLASKETT:
5 Q In 2017, '18.
6 A No.
7 Q Okay. Did you know that her CUP application
8 was recently approved for the marijuana outlet in
9 La Mesa?
10 A I don't know. I knew she was an investor. I
11 didn't know which CUP. I never dealt with her on any
12 application, per se.
13 Q Okay.
14 A I remember one time. That was it.
15 Q You met her just the one time?
16 A Uh-huh.
17 MR. TOOTHACRE: Is that yes?
18 THE WITNESS: Yeah.
19 BY MS. PLASKETT:
20 Q Did Ms. Young tell you that she was
21 considering financing Defendant, Mr. Cotton's litigation
22 against Plaintiff, Mr. Geraci?
23 A No.
24 Q Did she tell you that she was interested in
25 participating with Defendant, Mr. Cotton and Geraci, CUP

Page 23

1 application?
2 A I don't recall.
3 Q Did you give her any -- did you provide
4 Ms. Young with your opinion on investing in any CUP
5 applications?
6 A I don't recall.
7 Q Do you recall telling Ms. Young not to invest
8 in Mr. Geraci's, slash, Cotton CUP application?
9 A No.
10 Q Did you ever tell Ms. Young that everybody
11 hates Darryl? Meaning, Mr. Cotton?
12 A I don't recall.
13 MS. PLASKETT: I would like to show you an
14 email from Ms. Young regarding her meeting with you, and
15 submit it into evidence as Exhibit 1.
16 (Exhibit 1 was marked.)
17 MR. TOOTHACRE: Who is this purported in the
18 claim?
19 THE WITNESS: Yeah, what --
20 MS. PLASKETT: It's between Ms. Young and
21 Joe -- how do you pronounce that.
22 MR. TOOTHACRE: Hurtado?
23 MS. PLASKETT: Hurtado.
24 MR. TOOTHACRE: Okay.
25 THE WITNESS: And who is he?

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1 BY MS. PLASKETT:
2 Q Joe Hurtado is a litigation investor in
3 Mr. Cotton's CUP application and lawsuits.
4 MR. TOOTHACRE: Is this a complete document?
5 It looks like they start -- look, I don't know what to
6 say. It looks like it should have been something
7 previous.
8 MS. PLASKETT: It does look like there's
9 something prior to this.
10 MR. AUSTIN: It could have been that they were
11 having --
12 MS. PLASKETT: A conversation on the subject.
13 MR. TOOTHACRE: I'm just going to put an
14 objection on the record, that there's no foundation for
15 this document. It appears to be an incomplete document.
16 It's purported to be between Corina Young and Joe
17 Hurtado, but Mr. Hurtado's name is not on here anywhere.
18 And I don't see a phone number which could be linked to
19 him.
20 So based on that objection, we object to the
21 document.
22 But you can go ahead and question him on it so
23 that -- for what it's worth.
24 BY MS. PLASKETT:
25 Q Does reading through those text messages help

Page 25

1 you recall any of the conversation you had with
2 Ms. Young?
3 A No.
4 Q Did you tell Ms. Young not to invest in the
5 CUP application for Mr. Geraci?
6 MR. TOOTHACRE: Who's Michelle?
7 MR. AUSTIN: Corina Young.
8 BY MS. PLASKETT:
9 Q Corina Young?
10 A Not to invest in Mr. Geraci's application, no.
11 Q Did you participate in Mr. Geraci's
12 application for the CUP?
13 A Yes.
14 Q Do you recall preparing a timeline for the
15 application approximately February 15th of 2017?
16 THE REPORTER: I can't hear you.
17 THE WITNESS: I may have.
18 MS. PLASKETT: I'm going to hand this to you
19 and have you mark it as Exhibit 2.
20 (Exhibit 2 was marked.)
21 MS. PLASKETT: I'm trying to go as fast as
22 possible, you guys.
23 THE WITNESS: When was this document?
24 BY MS. PLASKETT:
25 Q It looks to be February 2017.

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1 A Yes, I'm familiar with it.
2 Q I'm going to enter this into evidence as
3 Exhibit 2.
4 A So what's the question?
5 Q Do you have -- in your opinion, do you have
6 any idea of why this timeline couldn't be followed?
7 MR. TOOTHACRE: Assumes facts. Calls for
8 speculation.
9 But you can answer.
10 THE WITNESS: Let me see it again.
11 Well, this is February 2017. I would say that
12 something happened at cycle 2 that caused further delays.
13 BY MS. PLASKETT:
14 Q And did you say in cycle 2?
15 A I reference -- in the timeline I reference
16 that we'd be getting cycle 2 from the City in
17 April 24th. This was done in February, two months
18 earlier. So cycle 2 must have raised issues that it
19 caused the project to be extended.
20 MS. PLASKETT: Thank you.
21 BY MS. PLASKETT:
22 Q Back to Ms. Young.
23 Did you know that Mr. Magagna had offered
24 Ms. Young money to say that she dreamt of the
25 conversation with you?

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1 A No.
2 MR. TOOTHACRE: Assumes facts. Lacks
3 foundation.
4 THE WITNESS: No.
5 BY MS. PLASKETT:
6 Q Do you know why Mr. Geraci's application
7 listed Rebecca Berry as the owner instead of himself?
8 A No.
9 Q Do you know if Geraci was ever fined by the
10 City for operating illegal pot operations?
11 A No.
12 Q So you had no idea that he had been fined
13 previously?
14 A No.
15 MR. TOOTHACRE: Assumes facts.
16 BY MS. PLASKETT:
17 Q In the Geraci application, did you see that
18 Ms. Berry was listed as both an owner and as a lessee of
19 the property?
20 MR. TOOTHACRE: Assumes facts. Misstates the
21 document.
22 BY MS. PLASKETT:
23 Q There's two different documents.
24 A I'm not aware of that, no.
25 Q Can you -- is it legal to lobby for a project

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1 that doesn't have the actual owner's name on it?
 2 MR. TOOTHACRE: Calls for a legal conclusion
 3 and speculation.
 4 THE WITNESS: Ask the question again.
 5 BY MS. PLASKETT:
 6 Q When lobbying -- is it legal to lobby for a
 7 CUP marijuana outlet application when the projects --
 8 where the name on the project is not the owner's name?
 9 MR. TOOTHACRE: Same objection.
 10 THE WITNESS: I -- I don't know.
 11 BY MS. PLASKETT:
 12 Q Did you know that it is illegal to process an
 13 application that doesn't -- that fails to have the
 14 person's -- the owner -- the person who's owner -- as
 15 the owner's name on it?
 16 MR. TOOTHACRE: Same objections. Assumes
 17 facts. Calls for legal conclusion.
 18 THE WITNESS: I'm not an attorney, so I
 19 don't -- I wouldn't get involved in those issues.
 20 BY MS. PLASKETT:
 21 Q Okay. Did you know that all owners' names
 22 must be disclosed on a CUP application for a marijuana
 23 outlet?
 24 MR. TOOTHACRE: Assumes facts not in evidence.
 25 THE WITNESS: That's a legal issue that I

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1 wouldn't be involved in.
 2 BY MS. PLASKETT:
 3 Q Do you ever cross-check to make sure that the
 4 owners' names on the application are the true owners of
 5 the property?
 6 A No. That's not my role.
 7 Q Do you ask your clients if they're
 8 representing themselves as the owner? Or if they're using
 9 an agent?
 10 A No.
 11 Q In Mr. Geraci's CUP application for a
 12 marijuana outlet, did you ever see any part of the
 13 application with his name on it?
 14 A No.
 15 Q Do you know if Mr. Geraci chose to use an
 16 agent because of his history of fines?
 17 MR. TOOTHACRE: Calls for speculation. Also
 18 assumes facts.
 19 THE WITNESS: No.
 20 BY MS. PLASKETT:
 21 Q Do you know who discovered the Geraci property
 22 for a CUP, a possible CUP application for a marijuana
 23 outlet?
 24 A No.
 25 Q Do you know Neil Dutta?

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1 A Yes.
 2 Q And how did you meet Mr. Dutta?
 3 A Through Mr. Geraci.
 4 MR. TOOTHACRE: Through who?
 5 THE WITNESS: Mr. Geraci.
 6 BY MS. PLASKETT:
 7 Q Okay. Did Mr. Dutta claim a 10 percent
 8 finder's fee?
 9 THE WITNESS: I have no idea.
 10 BY MS. PLASKETT:
 11 Q Do you know if there's any liens or holds on
 12 the Geraci application because of a finder's fee?
 13 A I have no idea.
 14 Q Do you know if anybody was promised a finder's
 15 fee on the Geraci project?
 16 A No.
 17 MR. TOOTHACRE: Calls for speculation.
 18 BY MS. PLASKETT:
 19 Q Do you work with a company called T-e-c-h-n-e,
 20 Techne?
 21 A Yes.
 22 Q And do you work with a man named Greg Kenneth
 23 Mills?
 24 A No.
 25 Q And do you have a primary point of contact

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1 with working with Techne?
 2 A Abhay Schweitzer.
 3 MR. TOOTHACRE: Can you spell Abhay for the
 4 court reporter.
 5 THE WITNESS: A-b-h-a-y.
 6 THE REPORTER: And the last name also, please.
 7 THE WITNESS: S-c-h-w-e-i-t-z-e-r.
 8 BY MS. PLASKETT:
 9 Q Did Mr. Schweitzer, in 2017 -- did
 10 Mr. Schweitzer ask for your assistant [sic] regarding
 11 the geological review, the geotechnical investigation
 12 for the Geraci property in CUP application?
 13 A Ask my -- in what context?
 14 MS. PLASKETT: We'll mark this as Exhibit 3.
 15 It's a email from Mr. Bartell to Mr. Schweitzer, July
 16 24th of 2017.
 17 (Exhibit 3 was marked.)
 18 THE WITNESS: Okay.
 19 BY MS. PLASKETT:
 20 Q Did you assist them -- I see a response to
 21 your email was, "Good morning. I will set it up."
 22 A Asking me to set up the meeting with the City.
 23 Q With the City.
 24 Were you able to set up that meeting, if you
 25 recall?

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1 A I don't recall. Um, I don't recall.
2 **Q Did you have any further involvements with the**
3 **soil sampling on this project?**
4 A No. That was Abhay that he held it.
5 **Q Okay. And all you did was set up the meeting?**
6 A Uh-huh.
7 MR. TOOTHACRE: Is that a yes?
8 THE WITNESS: Yes.
9 Yeah, I don't recall setting up the meeting, but
10 if Abhay asked me to do it, I probably did.
11 BY MS. PLASKETT:
12 **Q Okay. And is that a normal part of your**
13 **business?**
14 A Yes.
15 **Q Do you know a Bianca Martinez?**
16 A Yes.
17 **Q Did Bianca work with you?**
18 A Yes.
19 **Q When did Bianca stop working for you,**
20 **approximately?**
21 A Sometime in 2017.
22 **Q Did Ms. Martinez ever mention to you in**
23 **2016/2017 being owed a finder's fee on the Geraci/Cotton**
24 **property?**
25 A Did he mention it to me?

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1 **Q Yes.**
2 A No.
3 THE WITNESS: Can I confer with you for a
4 minute?
5 MR. TOOTHACRE: Sure.
6 MS. PLASKETT: Why don't we take a few-minute
7 break.
8 THE WITNESS: Okay.
9 (Off the record.)
10 MR. TOOTHACRE: Back on.
11 Mr. Bartell has some concerns about the privacy
12 rights of Bianca Martinez, as she was an employee of his.
13 So if we are going to probe that area, then we
14 need some stipulation that it's not going to be shared with
15 anybody outside the litigation.
16 Are you able to seal a portion of it?
17 THE REPORTER: Yes. If you tell me from where
18 to where, I can mark that confidential.
19 MR. TOOTHACRE: Okay. From now until the end,
20 it's going to be confidential, until the end of this
21 topic of Bianca. I'll let you know.
22 MS. PLASKETT: I will focus now on Bianca.
23 (The following excerpt was deemed confidential.)
24 ///
25 ///

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1 THE WITNESS: They had a couple
2 disqualifications that never finished the process,
3 because they were disqualified, because another
4 competing application was approved first in conflict
5 with between site separation.
6 BY MS. PLASKETT:
7 **Q The thousand-foot --**
8 A The thousand-foot, yeah.
9 **Q Did you represent the Geraci's CUP application**
10 **and the Magagna CUP application?**
11 A No.
12 **Q Do you know who represented the Magagna**
13 **application --**
14 A No.
15 **Q -- who promoted it?**
16 **When did you find out that Mr. Geraci's CUP**
17 **application was going to be disqualified?**
18 A The day that Magagna's application was
19 approved.
20 MR. TOOTHACRE: That's M-a-g-a-g-n-a.
21 BY MS. PLASKETT:
22 **Q Did any of the associates -- in my opinion in**
23 **looking at this, there's a lot of the same players in**
24 **the Magagna and the Geraci applications.**
25 **Was the Magagna application brought up to you**

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1 **prior to it being approved?**
2 **MR. TOOTHACRE: Misstates the evidence.**
3 **THE WITNESS: Generally speaking, I know about**
4 **all applications. I monitor all applications that**
5 **were -- that have been submitted to the City, and in**
6 **some cases that we're competing with.**
7 **BY MS. PLASKETT:**
8 **Q And so you were competing with Mr. Magagna's**
9 **application?**
10 A Yeah, because of the separation, was less than
11 a thousand feet.
12 **Q And in the Magagna application -- excuse me.**
13 **Generally speaking, do you see a lot of**
14 **competition within the thousand feet for an application?**
15 **Do you see a lot of competing CUP applications**
16 **within the square foot of each other?**
17 A I don't know what "a lot" is. I see a few.
18 MR. TOOTHACRE: Vague and ambiguous.
19 BY MS. PLASKETT:
20 **Q How much do you -- in your opinion, how much**
21 **do you think it cost to process a CUP application?**
22 **MR. TOOTHACRE: Calls for speculation.**
23 **THE WITNESS: Yeah, it varies. And I don't --**
24 **I wouldn't be privy to that anyway.**
25 ///

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1 BY MS. PLASKETT:
 2 Q Okay. Thank you.
 3 Matt Shapiro, did you know if Mr. Shapiro
 4 worked on the Magagna application?
 5 A No.
 6 Q You don't know?
 7 A I didn't know that.
 8 Q So you have no idea who worked with Magagna?
 9 A No.
 10 Q Okay. Just to clarify. Thank you.
 11 Is it commonplace in your industry for the
 12 same attorneys and players to be involved in this
 13 process?
 14 MR. TOOTHACRE: Vague and ambiguous.
 15 BY MS. PLASKETT:
 16 Q What I'm seeing is a lot of the same names
 17 keep popping up.
 18 A Uh-huh.
 19 Q Is it like a group of you that are in the C
 20 application process, common players?
 21 A Yeah.
 22 Q Do you know if anybody intentionally did
 23 anything to slow down the process of the Geraci CUP
 24 application?
 25 A I would say Mr. Cotton.

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1 Q And what do you believe Mr. Cotton did that
 2 slowed down the CUP application for Mr. Geraci?
 3 A No. 1, confusion. He created confusion as to
 4 who the applicant actually was with the City. Confusion
 5 with the City as to who the applicant was.
 6 Q Okay.
 7 A He delayed our ability to access the property
 8 to do the geological study. He misrepresented himself
 9 to the committee planning group in terms of who the
 10 applicant was. Those are the primary issues.
 11 Q Do you have any -- I'm going to ask this
 12 politely.
 13 Have you heard of any conspiracy theories
 14 regarding stopping the Geraci CUP application?
 15 A Conspiracy theories?
 16 Q Conspiracy theories.
 17 A Can you define that better?
 18 Q What is -- did you hear of anything that would
 19 lead you to believe that people were backing the Magagna
 20 CUP application, and while trying to stall or stop the
 21 Geraci application?
 22 A What's the question again. Am I aware of --
 23 Q Are you aware of anything.
 24 Besides Mr. Cotton, do you believe that
 25 anybody interfered with the Geraci CUP application for

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1 the marijuana outlet?
 2 A No.
 3 Q Do you believe that you had Mr. Geraci's best
 4 interest in getting the CUP application approved?
 5 A Yes.
 6 Q Have you ever reviewed the initial document
 7 between Mr. Cotton and Mr. Geraci regarding the
 8 potential sale of the real property?
 9 A No.
 10 Q Do you have any idea of what that litigation
 11 is about, generally speaking?
 12 A Generally speaking. I'm not privy to the --
 13 Q You haven't read the complaint?
 14 A No.
 15 Q And you haven't looked at the supporting
 16 documents?
 17 A No.
 18 Q Thank you.
 19 Were you paid by Mr. Geraci to assist him in
 20 processing the CUP application?
 21 A Yes.
 22 Q And are you paid after? Like on success, if
 23 you successfully get it --
 24 A No.
 25 Q -- does that amount change?

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1 A No.
 2 Q It's a flat fee?
 3 A Monthly retainer.
 4 Q Do you lobby for anything, in addition to the
 5 CUP application for marijuana outlets? Or is that
 6 solely your practice now?
 7 A No. It's about 20 percent of my practice.
 8 Q Are there any contingencies in the contract
 9 between you and Mr. Geraci if he fails to get approval
 10 for his CUP application?
 11 A No.
 12 Q And for the monthly fees, what services does
 13 that cover?
 14 A Assisting with the processing of the
 15 application.
 16 Q And does that include working with the City?
 17 A Yes.
 18 Q Who at the City, when you're processing a CUP
 19 application, do you primarily work with?
 20 A Whatever project manager is assigned to that
 21 project.
 22 Q So to clarify, once a CUP application has been
 23 submitted to the City, what is the process at that
 24 point?
 25 Is it assigned to a proper project manager?

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1 A Yes.

2 **Q And the project manager, do you reach out to**

3 **him to work with?**

4 A Or her. Um, usually it's -- it's a direct

5 point of contact for efficiency reasons between the

6 project manager and the -- something like Abhay

7 Schweitzer, who's actually doing the detail application.

8 I get involved when we hit a bump in the road.

9 I'm at all the meetings for the City, but they generally

10 like a one point of contact. That's Abhay or someone

11 like him.

12 **Q So Abhay is one of several project managers**

13 **that work for the City?**

14 A No. Abhay is on our team. He's our designer.

15 **Q Can you describe what a designer does?**

16 **Because I personally was confused by that term.**

17 A Someone like Abhay?

18 **Q Yes.**

19 A He works with other consultants like him.

20 Engineers and geotechnical people, landscapers, traffic

21 engineers, whatever we need to assist with preparing our

22 application and responding to City cycle issues.

23 **Q Do you know if Abhay worked with Mr. Magagna**

24 **on his CUP applications?**

25 A I'm not aware of that.

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1 **Q Do you know what project manager was assigned**

2 **to Mr. Magagna's CUP application?**

3 A No.

4 **Q And Abhay was your designer that worked on the**

5 **Geraci?**

6 A Yes.

7 **Q Was Abhay the one who primarily worked with**

8 **the soil engineers on the Geraci project?**

9 A Yes.

10 **Q Does Abhay have the ability to either expedite**

11 **or slow down when the City requires the soil analysis?**

12 A No.

13 **Q The City is -- is the only person that can**

14 **speed up or slow down when they want the soil**

15 **information?**

16 A They don't speed up or slow down. They --

17 whenever they request a document, like a soil study,

18 geotechnical report, then we find somebody who can do

19 that, prepare it and resubmit it to the City to meet

20 that requirement.

21 **Q Okay. And in Geraci's CUP application, it was**

22 **Abhay who worked with Techne?**

23 A Well, Abhay is Techne.

24 **Q Okay. All right.**

25 A Abhay worked with the geotechnical engineer to

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1 prepare the study that the City was requiring.

2 **Q And was it submitted timely?**

3 **MR. TOOTHACRE: Vague and ambiguous.**

4 **BY MS. PLASKETT:**

5 **Q Was the soil samples --**

6 A It was delayed, because we couldn't get access

7 to the property because of Mr. Cotton.

8 **Q And the delay in -- when the City requests a**

9 **document like the soil sample, does that stop the**

10 **process from continuing until they receive the document**

11 **requested?**

12 A You can't resubmit to the -- cycle reviews are

13 around 12 or 13 different disciplines that review your

14 application.

15 The project manager oversees those different

16 departments. So they review your landscaping plan, they

17 review your traffic study. There's 12 or 13 different

18 disciplines they do that at the City. They send you a

19 cycle review with their comments that you have to

20 respond to.

21 You can't respond to those comments until

22 everything that they've requested is resubmitted. So we

23 can't -- if we're missing the geological study, we can't

24 resubmit -- we have everything else prepared, we can't

25 resubmit until that's done.

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1 **Q All right. Thank you. That clarified a lot.**

2 **This is an odd question for me personally, but**

3 **if somebody accused you of being the mastermind of**

4 **getting the Geraci CUP denied so Magagna could get his,**

5 **how would you respond to that allegation?**

6 A That's ludicrous.

7 **Q Thank you.**

8 **What is your relationship with Matt Shapiro?**

9 A I have no relationship with him. I just know

10 him.

11 **Q Have you worked on projects together?**

12 A No.

13 **Q Why would he bring Ms. Young into your office?**

14 **MR. TOOTHACRE: Calls for speculation.**

15 **THE WITNESS: I don't know.**

16 **BY MS. PLASKETT:**

17 **Q As a potential client possibly?**

18 **MR. TOOTHACRE: Same.**

19 **THE WITNESS: It could be. Investor.**

20 **BY MS. PLASKETT:**

21 **Q And you don't remember telling Ms. Young not**

22 **to invest in the Geraci --**

23 A I don't recall, no.

24 **Q -- litigation or application?**

25 A I don't recall.

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1 MR. TOOTHACRE: Those are two questions.
 2 You don't recall telling her not to invest in the
 3 CUP application?
 4 THE WITNESS: That's correct.
 5 MR. TOOTHACRE: And you don't recall her --
 6 telling her not to invest in the litigation.
 7 THE WITNESS: I don't recall either.
 8 MS. PLASKETT: Yeah. I asked him the other
 9 one earlier.
 10 BY MS. PLASKETT:
 11 Q Do you have any idea why she would make that
 12 claim?
 13 MR. TOOTHACRE: Calls for speculation.
 14 MS. PLASKETT: I really don't think I have
 15 anything else.
 16 THE WITNESS: Okay.
 17 MR. TOOTHACRE: I have some.
 18 MS. PLASKETT: What you got for me?
 19 MR. TOOTHACRE: I'm going to mark as next in
 20 order.
 21 Are we on 4?
 22 THE REPORTER: Yes.
 23 (Exhibit 4 was marked.)
 24 ///
 25 ///

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1 EXAMINATION
 2 BY MR. TOOTHACRE:
 3 Q Mr. Bartell, this purports to be a declaration
 4 by Joe Hurtado.
 5 Do you know who Mr. Hurtado is?
 6 A Um, I know the name. I can't recall if and
 7 when I ever met him.
 8 Q Okay. Did you come in contact with him
 9 vis-a-vis CUP applications?
 10 A I don't recall.
 11 Q I want you to turn to Page 5, if you could.
 12 Paragraph 21.
 13 MS. PLASKETT: This contains the same text
 14 messages?
 15 MR. TOOTHACRE: Yes.
 16 BY MR. TOOTHACRE:
 17 Q With regarding to paragraph 21, he says he's
 18 providing his testimony because on May 27, 2018, he was
 19 present at a meeting at which Corina Young described a
 20 meeting to Mr. Cotton and Mr. Austin that she had with
 21 Mr. Jim Bartell on or around October 2017.
 22 Do you recall that meeting in October of 2017?
 23 A I recall the meeting.
 24 Q Do you know what the purpose of the meeting
 25 was?

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1 A The purpose was an introduction by Mr. Shapiro
 2 of Corina to me.
 3 Q Do you recall who set up that meeting?
 4 A I don't recall.
 5 Q Was that meeting in your office?
 6 A Yes. And I probably discussed with
 7 Mr. Shapiro and we came up with a date.
 8 Q Do you recall who was present for that
 9 meeting?
 10 A Um, Mr. Shapiro and Ms. Young, Gina Austin.
 11 Q Is that --
 12 A And Mr. Abhay -- I think Abhay Schweitzer.
 13 Q Do you think Mr. Abhay Schweitzer might have
 14 been there?
 15 A Yes.
 16 Q Okay. She indicated -- Mr. Hurtado indicates
 17 that she informed you that she was contemplating
 18 investing in Mr. Cotton's litigation against Mr. Geraci.
 19
 20 He says, "Mr. Bartell informed her that he
 21 owns the CUP on Mr. Cotton's property."
 22 Did you ever say you owned the CUP on
 23 Mr. Cotton's property?
 24 A I don't recall.
 25 Q She goes on to say -- well, did you own -- did

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1 you own the CUP on Mr. Cotton's property?
 2 A No, I did not.
 3 Q Does anybody own a CUP?
 4 A No, not until they get approved.
 5 Q Okay. And she goes on to say that you would
 6 be getting a denied, because everybody hates Darryl.
 7 Do you recall telling her that everyone hates
 8 Darryl?
 9 A No, I don't recall that.
 10 Q Had you been experiencing frustrations at the
 11 City level with Darryl's interactions with the City?
 12 A Yes, I have.
 13 Q And do you recall with whom you were
 14 experiencing or people who had told you they were
 15 experiencing frustrations with Mr. Cotton's contact with
 16 the City?
 17 A Not specifically, no.
 18 Q Okay. Is there a way for you to get a CUP
 19 denied?
 20 A Me?
 21 Q Could you intentionally get a CUP denied?
 22 A No.
 23 Q In the last sentence of paragraph 23, he says
 24 he believes Ms. Young's testimony was required to prove
 25 Mr. Bartell's statements. And that Mr. Shapiro and

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1 Mr. Magagna are closely connected to Mr. Bartell and
 2 Mrs. Austin, both of whom are agents of Mr. Geraci.
 3 Are you closely connected to Mr. Shapiro?
 4 A No.
 5 Q Are you closely connected to Mr. Magagna?
 6 A No.
 7 Q You've already described you haven't done any
 8 projects with Mr. Shapiro, correct?
 9 A Correct.
 10 Q And you haven't done any work with
 11 Mr. Magagna?
 12 A Correct.
 13 Q I have the same exhibit. Exhibit No. 3, if
 14 you could look at that again, that was previously
 15 marked.
 16 And this is regarding the geology, the soil
 17 sample?
 18 A Uh-huh.
 19 Q And you said you would set up this meeting
 20 with the City?
 21 A Yes.
 22 Q And do you recall problems that you had with
 23 the geotechnical engineers having access to Mr. Cotton's
 24 property?
 25 A They couldn't -- they couldn't prepare the

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1 report until they had access to the property.
 2 Q Are you aware from any source that Mr. Cotton
 3 was preventing access to the property?
 4 A We attempted to get access to the property.
 5 Q Are you aware of whether or not Mr. Weinstein
 6 had to go to court to obtain a court order to have
 7 access to the property?
 8 A Yes.
 9 Q Do you recall how many weeks or months this
 10 denial of access to the property caused delay in
 11 Mr. Geraci's CUP application?
 12 A I would guess roughly three to four months.
 13 Q Do you think that was a factor in the Magagna
 14 CUP application getting through to the City vote before
 15 Mr. Geraci's CUP application?
 16 A Yes, it was.
 17 Q What did you mean by there were some confusion
 18 down at the City about the identity of who had the CUP
 19 on the Geraci property?
 20 A Because Mr. Cotton was representing himself as
 21 the applicant with City staff.
 22 Q Are you aware of whether or not Mr. Cotton
 23 attempted to have Mr. Geraci's CUP withdrawn?
 24 A I'm not aware of that.
 25 Q You're not aware?

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1 A I'm not aware.
 2 Q Okay. Are you aware of whether or not
 3 Mr. Cotton attempted to submit his own CUP after
 4 Mr. Geraci's CUP application was in on the 6176 Federal
 5 Boulevard?
 6 A I'm not aware that.
 7 MS. PLASKETT: Can you repeat what you just
 8 asked him?
 9 MR. TOOTHACRE: If he was aware whether or not
 10 Mr. Cotton submitted a second -- or attempted to submit
 11 a second CUP on the property.
 12 THE WITNESS: He did. In addition to
 13 misrepresenting himself to the City staff, he also
 14 misrepresented himself to the community planning group,
 15 chairman.
 16 BY MR. TOOTHACRE:
 17 Q And was that Mr. Ken Malbrough?
 18 A Yes, it was.
 19 Q And in what way did Mr. Cotton misrepresent
 20 himself to Mr. Malbrough.
 21 A He had communication with Mr. Malbrough to --
 22 representing himself as the applicant for the site and
 23 arrange for the community planning group to vote on
 24 that, in support.
 25 Q And did the community planning group actually

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1 vote --
 2 A Yes.
 3 Q -- on Mr. Cotton's --
 4 A Yes.
 5 Q -- project?
 6 A Yes.
 7 Q Do you know what that result of the vote was?
 8 A In support.
 9 Q Okay. Do you know whether or not
 10 Mr. Malbrough ever ceased communications with
 11 Mr. Cotton?
 12 A Yes, because at the time that I called to set
 13 up -- to arrange for a future community planning group
 14 consideration of Mr. Geraci's project, I was told that
 15 he had already been voted on through, Mr. Cotton, his
 16 project.
 17 He was confused that he thought that
 18 Mr. Cotton was the owner, not Mr. Geraci or the
 19 applicant -- excuse me, not owner.
 20 Q So did you ever get Mr. Geraci's CUP
 21 application in front of Mr. Malbrough and the community
 22 planning group for a vote?
 23 A No.
 24 Q Did Mr. Malbrough indicate to you why he was
 25 ceasing communications with Mr. Cotton?

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1 A Because he had been -- Mr. Cotton had
 2 misrepresented himself.
 3 MR. TOOTHACRE: Okay. No. 5 is next in order.
 4 Hand that to the reporter to mark it and she'll give it
 5 back to you.
 6 (Exhibit 5 was marked.)
 7 MR. TOOTHACRE: For the record, this is a
 8 memorandum of points and authorities in support of
 9 Darryl Cotton's ex parte application for appointment of
 10 a receiver and other relief. Jacob P. Austin as
 11 attorney of record.
 12 Jacob P. Austin as signatory. But there's just
 13 an S slash -- apparently it wasn't actually signed.
 14 BY MR. TOOTHACRE:
 15 Q Have you seen this document before?
 16 A Have I?
 17 Q Yes.
 18 A No.
 19 Q Okay. I'm going to call your attention to
 20 Page 8, if I could.
 21 On the back of the middle of the page, there's
 22 a heading that says, "Plaintiff has ceased prosecuting
 23 the CUP on the property in contradiction of his
 24 statements to this court."
 25 As far as you're aware, did Mr. Geraci ever

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1 cease prosecuting the CUP on the property?
 2 A No.
 3 Q In fact, you went to the -- strike that.
 4 Mr. Geraci CUP -- strike that.
 5 You went to appeal on Mr. Magagna's approval
 6 of the CUP, correct?
 7 A Yes, I did.
 8 Q And did you argue with that appeal?
 9 A It had originally gone to the hearing officer
 10 for the first step in the approval process. If you get
 11 approved at the hearing officer level, it's a final
 12 decision if someone does not appeal it within ten
 13 days -- ten working days to the planning commission.
 14 The planning commission is the final decision.
 15 Q And why did you appeal Mr. Magagna's decision
 16 on his CUP?
 17 A For over 30 reasons. And the document we
 18 submitted to the planning commission for our appeal
 19 citing -- over 30 cycle review issues had not been
 20 properly responded to.
 21 Q So at that point in time, were you still
 22 attempting to get Mr. Geraci's CUP approved?
 23 A Yes.
 24 Q And was the -- was the commission receptive to
 25 your complaints about Mr. Magagna's CUP application

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1 approval?
 2 A No.
 3 Q Are you aware of whether or not there were
 4 three different project managers on Mr. Geraci's CUP?
 5 A I believe there were three.
 6 Q Okay. And the first was Firouzeh Tirandazi?
 7 A He has a -- Firouzeh Tirandazi was a -- the
 8 original project manager.
 9 MR. TOOTHACRE: You have to spell that.
 10 BY MR. TOOTHACRE:
 11 Q I'm going to direct your attention,
 12 Mr. Bartell.
 13 MS. PLASKETT: He hasn't finished. He only
 14 named one of the three project managers.
 15 BY MR. TOOTHACRE:
 16 Q And the last project manager on the Geraci
 17 matter?
 18 A I believe it was Tim Daley.
 19 Q Is there a Hispanic name that might have
 20 been --
 21 A Oh, um, yes.
 22 Q I can't remember, but I think it was Hispanic.
 23 A Yes.
 24 Q That's okay.
 25 Do you know why there were three different

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1 project managers on that particular CUP application?
 2 A It was a work flow people. There are certain
 3 times of the year when the City gets a lot of
 4 applications for different things, different projects.
 5 Not just marijuana, but other projects. They're
 6 constantly trying to balance people's workload.
 7 Q Do you think that the fact that this project
 8 had three different project managers caused any delay in
 9 processing that application.
 10 A Yeah, there's a learning curve. We had to
 11 re-read previous cycle reviews, submittals.
 12 Understanding issues, where we are in the process.
 13 Q Okay. Was there also some zoning issue
 14 upfront in the beginning of --
 15 A Yeah. There was a clerical error that we
 16 discovered within the -- one of the cycle reviews that
 17 cited that our project was in the wrong zone for a CUP
 18 for a MMCC and the municipal code had the wrong zone,
 19 which the correct zone was in the bulletin 170 document,
 20 which everyone relies on when they send in the
 21 application to review the bulletin 170, that says these
 22 zones are -- allow this use, that -- that never got
 23 transferred to the municipal code. So when our cycle
 24 review went in, the municipal code said that it was
 25 inconsistent zoning, and potentially could have denied

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1 the project based on that.
2 **Q So did you have to resubmit after some change**
3 **in zoning?**
4 A We had to go through a process of getting the
5 municipal code amended by the city council to reflect
6 the correct --
7 **Q And are you aware that -- do you recall**
8 **what -- how -- what length of time that took?**
9 A Uh, a couple months.
10 **Q Okay. Are you aware of whether or not the**
11 **Magagna 6220 CUP had to go through that process?**
12 A They didn't have to, because we corrected it.
13 We got it corrected.
14 **Q So in other words, they benefited from your**
15 **work on the Geraci matter?**
16 A Yes.
17 **Q Go to No. 2 at the bottom of Page 8 there. It**
18 **says, "Plaintiff is attempting to sabotage the CUP on**
19 **the property with soils analysis."**
20 **Do you have any information to support that**
21 **allegation?**
22 A No.
23 **Q It says, "Evidence produced during discovery,**
24 **information provided by the City, and third-party**
25 **testimony supports the conclusion that Plaintiff's**

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1 political lobbyist, Jim Bartell and his building
2 designer, Schweitzer, have colluded to manipulate the
3 ordinary process for completing the soils testing."
4 **Is there any truth whatsoever to that**
5 **statement?**
6 A No.
7 **Q He says on line 4, "Of great note, pursuant to**
8 **applicable City of San Diego Codes, the City accepts the**
9 **recommendation the contract" -- it should say "of the**
10 **contract soils engineer."**
11 **Is that true or not? Did the soils engineer**
12 **make a recommendation to the City?**
13 A Yeah. After doing this -- the study, they
14 concluded that there were no impacts that needed to be
15 mitigated.
16 **Q So the soils study conducted on Mr. Geraci's**
17 **property passed? Was approved?**
18 A Yes. It was accepted and agreed with.
19 **Q Well, on the next page, Page 10, line 6.**
20 **Talking about Corina Young again.**
21 **It says, "Shapiro had a client, Corina Young,**
22 **who was considering financing Defendant's litigation**
23 **against Plaintiff as an investment in October of 2016,**
24 **but was taken by Shapiro to see Bartell who told her**
25 **that he 'owns' the CUP on Defendant's property and would**

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1 **be getting it denied, 'because everyone hates Darryl.'"**
2 **Is there any truth in any of that statement?**
3 A No.
4 **Q Then it says, "Young, at some point**
5 **thereafter, also hired Bartell to have a CUP on a**
6 **separate property approved."**
7 **Were you ever hired by Corina Young on a**
8 **separate CUP application?**
9 A No. She may have been an investor with one of
10 my clients, but she never -- I never had an agreement
11 with her specifically.
12 **Q Did you know that she was an investor in one**
13 **of your projects?**
14 A I don't recall. I have many -- many people
15 get involved with investing and --
16 THE REPORTER: Many people get involved with
17 what?
18 THE WITNESS: Investing. And I only deal with
19 the principals.
20 BY MR. TOOTHACRE:
21 **Q So to the best of your knowledge, as you sit**
22 **here today, you didn't know she was a investor in one of**
23 **the projects?**
24 A No.
25 **Q Do you know which project she was invested in?**

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1 A No.
2 **Q Line 10. She -- Mr. Austin says,**
3 **"Additionally, Young also communicated that Shapiro has**
4 **stated he has a deep relationship with Bartell and it is**
5 **being 'groomed' by him to inherit his political**
6 **relationships and connections."**
7 **You laugh.**
8 **Did you have a deep relationship with**
9 **Mr. Shapiro?**
10 A No, I don't.
11 **Q Are you grooming Mr. Shapiro to inherit your**
12 **political relationships and connections?**
13 A No.
14 **Q And line 19 states, "The most material point**
15 **here is that Young's testimony provides support for the**
16 **conclusion that Plaintiff" -- that would be Mr. Geraci**
17 **-- "is using his agent, Bartell to influence the City to**
18 **have the CUP on the property denied. And it is**
19 **reasonable to assume Bartell is using his influence to**
20 **have the competing CUP approved."**
21 **I assume that is related to the 6220.**
22 **Did you use your influence to have 6220**
23 **approved?**
24 A No.
25 **Q And did you use your influence to have**

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1 Mr. Geraci's CUP denied?
 2 A No.
 3 Q On line 25 he says, "The CUP application
 4 process is highly suspect given Bartell's deep political
 5 connections with the City, his comments to Young, and
 6 the fact that the CUP on the property should already
 7 have been approved, per Plaintiff's own experts."
 8 You didn't use your deep political connection
 9 with the City to delay Mr. Geraci's application?
 10 A No.
 11 Q Page 11, line 7. It says, "To the extent it
 12 could be argued that Magagna did not submit the
 13 competing CUP, with knowledge of Plaintiff's unlawful
 14 scheme and that neither Shapiro nor Austin communicated
 15 to him that Bartell was getting the CUP denied on
 16 Defendant's property was because 'everyone hates
 17 Darryl,' Magagna joined the conspiracy when he took
 18 knowing and unlawful steps to profit from thereby."
 19 Do you know of any ongoing conspiracy with
 20 regard to getting Magagna's CUP approved?
 21 A No.
 22 Q Is there any conspiracy to get Geraci's CUP
 23 denied?
 24 A No.
 25 Q Were you aware of any unlawful scheme that any

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1 of those parties are involved with?
 2 A No.
 3 Q On line 19, same page, Page 11 it says, "In
 4 other words, after being made aware that Plaintiff was
 5 effectuating a fraud against Defendant, via Bartell,
 6 Magagna took knowing and willful steps to unlawfully
 7 benefit from said conspiracy and became a conspirator by
 8 ratifying Plaintiff's unlawful scheme and seeking to
 9 tamper with Young's testimony."
 10 Were you -- was Mr. Geraci effectuating a
 11 fraud through you?
 12 A No.
 13 Q Do you know of any knowing and willful steps
 14 Magagna took to unlawfully benefit from some conspiracy?
 15 A No.
 16 MR. TOOTHACRE: Next one in order.
 17 We're up to 6?
 18 THE REPORTER: Yes.
 19 MR. TOOTHACRE: For the record, this is a
 20 document on City of San Diego letterhead, Development
 21 Services Department, dated May 19, 2017.
 22 (Exhibit 6 was marked.)
 23 MS. PLASKETT: Can you show me what your --
 24 MR. TOOTHACRE: Yeah.
 25 Sent to Abhay Schweitzer.

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1 BY MR. TOOTHACRE:
 2 Q Have you seen this document before?
 3 A Have I seen it?
 4 Q Yes.
 5 A Yes.
 6 Q About halfway down it says, "City staff has
 7 been informed that the project site has been sold."
 8 Do you know what that's regarding?
 9 A That's part of the -- I would imagine, that's
 10 part of the confusion created by Mr. Cotton, as to who
 11 the applicant was.
 12 Q Did you take any action, in regard to this --
 13 well, what is this actually? Is this --
 14 A This is the initial cycle reviews. It's the
 15 first response we got from the City after resubmitting
 16 the application.
 17 Q Okay. And then on the second page, Required
 18 Approval. It says, "Your project as currently proposed
 19 requires a Process Three. Conditional Use Permit for
 20 the proposed Medical Marijuana Consumer Cooperative,
 21 pursuant to San Diego Municipal Code," and it states the
 22 code.
 23 And then the next paragraph talks about the
 24 zoning issue, I think; is that correct?
 25 A Yes.

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1 Q Is that the zoning issue you were referencing
 2 earlier?
 3 A Not specifically, no.
 4 Q That's not the same one?
 5 A No.
 6 Q And what is that in regards to?
 7 A They deem the project application complete in
 8 March of -- I don't recall when the issue came up. I
 9 don't know at what point I had to go through the
 10 process. I don't recall specifically when that was.
 11 Q Okay. But what was the process you went
 12 through, to get the zoning ordinance updated?
 13 A I had talked to the director of the department
 14 of that do all the services. Make them aware of the
 15 discrepancy between the municipal code and the bulletin
 16 170.
 17 They looked at it and said you're correct.
 18 They had to prepare an errata sheet to attach the
 19 municipal code and submit that to city council for their
 20 review and to change -- to make them consistent. Make
 21 the municipal code consistent with the bulletin.
 22 Q Okay. And ultimately that was made consistent
 23 with the municipal code with the bulletin?
 24 A Yes.
 25 Q And then did Abhay resubmit the CUP

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1 application?
 2 A Well, in that cycle after that happened, after
 3 they have it then it had been corrected --
 4 THE REPORTER: You need to face me when you're
 5 speaking, because I can't hear you.
 6 Repeat that answer for me, please.
 7 THE WITNESS: To the point that Abhay
 8 submitted at some point, the correction had been made by
 9 the city council to the municipal code and staff
 10 reviewed it, revised code requirement.
 11 MR. TOOTHACRE: Okay. This is 7.
 12 (Exhibit 7 was marked.)
 13 BY MR. TOOTHACRE:
 14 Q Have you ever seen this document before,
 15 Mr. Bartell?
 16 A Yes.
 17 Q Is this regarding the zone issue you were
 18 talking about?
 19 A Yes.
 20 Q Who authored this document?
 21 Is that from Abhay Schweitzer?
 22 A I believe it was from Abhay, yes.
 23 Q Okay. And the part that's circled, squared?
 24 A Yes.
 25 Q What does that mean to you, if anything?

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1 A Okay. This is service -- the bulletin says,
 2 "CO dash 2 dash 1 is allowed."
 3 Q Did you have anything to do with hiring
 4 Techne?
 5 A Hiring them?
 6 Q Yeah. Who selected Techne to represent Geraci
 7 on this?
 8 A I don't recall how they were selected. It's
 9 probably because Techne and me and Gina were working on
 10 a lot of projects together. So one of us was probably
 11 referred the other. I'm not aware of how they had --
 12 ultimately was played out. I don't know who
 13 specifically hired -- well, Geraci hired Abhay, but I'm
 14 not sure who recommended him. It could have been me or
 15 Gina.
 16 Q Do you have any explanation for how 6220 got
 17 to the finish line before --
 18 A All delays were created, because of Cotton's
 19 interference and misrepresentation.
 20 Q Are you aware of anything done intentionally
 21 by anyone on the Geraci team to delay the approval of
 22 Geraci's CUP?
 23 A No.
 24 MR. TOOTHACRE: Do you want to take a
 25 five-minute break?

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1 MS. PLASKETT: Sure.
 2 (Off the record.)
 3 MR. TOOTHACRE: We're back on.
 4 BY MR. TOOTHACRE:
 5 Q Mr. Bartell, during the break you were looking
 6 at Exhibit 7, and you came to some realization as to
 7 what that was.
 8 A Yeah. I was reading -- I was trying to figure
 9 out --
 10 MS. PLASKETT: That block thing?
 11 THE WITNESS: Yeah. So that block is from
 12 bulletin 170. And that's the CO2 -- our property is CO2
 13 dash 1. And that's allowed under the bulletin. That's
 14 what we relied on when we submitted the application.
 15 A And then Page 3 is a municipal code. And that
 16 shows where it was inconsistent with the municipal code,
 17 down at the bottom where it says "Medical Marijuana
 18 Consumer Cooperative," go to the CO section, all dashes.
 19 Which means they're not allowed.
 20 So that's what it stands for is the issue.
 21 Municipal code doesn't allowed that zone. So I went
 22 back to get that corrected. It was never corrected to
 23 represent.
 24 Q Okay.
 25 A We had that corrected through an errata sheet

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1 brought to the city council for amendment. So they
 2 amended the municipal code to reflect the CO2 dash 1,
 3 wasn't an allowed zone.
 4 MR. TOOTHACRE: Okay. I have nothing further.
 5 MS. PLASKETT: I have a couple follow-up
 6 questions.
 7
 8 EXAMINATION (RESUMED)
 9 BY MS. PLASKETT:
 10 Q How was Mr. Cotton able to get a vote from the
 11 planning commission?
 12 A Who?
 13 Q Mr. Cotton? You had mention that he --
 14 A The planning group.
 15 Q The planning group.
 16 How was he able to get a vote through the
 17 planning group without going through the process first?
 18 A I don't know.
 19 Q Have you ever seen that before?
 20 A No. People usually don't misrepresent
 21 themselves.
 22 Q But he got it to the vote and was given a yes?
 23 A That's my understanding. I've never seen the
 24 actual minutes of the minute.
 25 MR. TOOTHACRE: I'm sorry. I've never seen

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1 the actual --
2 THE WITNESS: Minutes of the meeting.
3 MR. TOOTHACRE: Oh, okay. Is that -- I'm
4 sorry.
5 THE WITNESS: That was based on the
6 conversation I had with Mr. Malbrough, the chairman of
7 the group. That was my understanding. And he was very
8 upset that, you know, he was having various
9 communications with Mr. Cotton and he -- thinking that
10 he was the applicant. When it was clarified, I think he
11 terminated his discussions with Cotton at that point.
12 BY MS. PLASKETT:
13 Q But the yes vote, would the yes vote give him
14 approval to actually have the marijuana out of there?
15 A No. No. That's just a recommendation.
16 Q So the recommendation. Do you still have to
17 go through the same process that --
18 A Yes.
19 Q Okay. So that's just preliminary?
20 A Yes. It's just a recommendation.
21 Q Okay. Do you have any idea why Ms. Corina
22 Young would lie and makes these statements that she had
23 this conversation with you?
24 MR. TOOTHACRE: Calls for speculation.
25 But you can answer.

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1 THE WITNESS: I don't understand. I don't
2 recall the context of the -- I don't recall the context
3 of the discussion.
4 BY MS. PLASKETT:
5 Q So do you not recall or do you deny that it
6 happened?
7 A I don't recall that discussion.
8 Q Okay. When you recommend an applicant for a
9 CUP application, do you owe them a fiduciary duty?
10 MR. TOOTHACRE: Calls for a legal conclusion.
11 BY MS. PLASKETT:
12 Q In your contract with potential CUP applicants
13 in your monthly retainer, is there any language about
14 owing them a fiduciary duty?
15 A What does that mean?
16 Q Like a duty -- for instance, if you represent
17 a CUP applicant, can you also represent a competing CUP
18 applicant at the same time?
19 A No.
20 Q And is that your firm's decision? Or is that
21 by some type of --
22 A There's no law.
23 Q No law?
24 A That I'm aware of. I would never agree to a
25 project if I had a competing project.

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1 Q Do you know who A & M Industries is?
2 A No.
3 Q Okay. Do you know that Gina Austin -- do you
4 know if Gina Austin represented Mr. Magagna in any
5 capacity?
6 A I don't know.
7 Q Is getting a license for -- a cultivation
8 license, a cannabis cultivation license, considered
9 competition for a CUP license for a marijuana outlet
10 license?
11 A They're both CUP's. CUP stands for
12 Conditional Use Permit.
13 You can have CUP's for marijuana outlets. You
14 can have CUP's for cultivation. CUP's for
15 manufacturing. They're all CUP's.
16 Q Okay. Would the CUP for cultivation be
17 considered a conflict if it were somebody trying to get
18 a cultivation license when there's a competitor trying
19 to get a marijuana outlet license?
20 A No.
21 Q So there's no conflict there?
22 A No.
23 Q Does Gina Austin work solely for your company
24 for you?
25 A No.

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1 Q Is she considered part of your team?
2 MR. TOOTHACRE: Vague and ambiguous.
3 THE WITNESS: My team for what project?
4 BY MS. PLASKETT:
5 Q For a CUP for a medical -- for a marijuana
6 outlet?
7 A Sometimes.
8 MR. TOOTHACRE: Same objection.
9 BY MS. PLASKETT:
10 Q Does she have an office or a desk in your
11 office?
12 A No.
13 Q Does Gina work for an outside firm, other than
14 you?
15 MR. TOOTHACRE: Calls for speculation.
16 THE WITNESS: Yes.
17 BY MS. PLASKETT:
18 Q Do you happen to know what the name of the
19 firm is?
20 A What kind of firm?
21 Q That Gina works for, in addition to you?
22 A Well, she doesn't work for me. She works for
23 our clients.
24 Q So if you have a client come in, does Gina
25 automatically become part of the --

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1 A No.
2 Q And do the clients hire her separately?
3 A Yes.
4 Q And when they hire her separately, that's how
5 you work the other --
6 A Yes. Sometimes she's on the team, sometimes
7 she isn't. Sometimes we're competing against each
8 other.
9 Q Okay. Do you know who fixed the 30 issues
10 there was with the Magagna application?
11 A Who did what?
12 Q Who fixed them?
13 A Who prepared them?
14 Q Yeah.
15 A Abhay did.
16 Q For Magagna's?
17 A Not for Magagna. Well, he reviewed their
18 cycle reports. And came up with a list of issues that
19 he felt were improperly reviewed.
20 Q And was that to assist getting -- since it was
21 competing with Mr. Geraci CUP?
22 A It was prepared for the appeal --
23 Q Thank you.
24 A -- submitted to the City, and presented to the
25 planning commission appeal hearing.

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1 Q And would all of those 30 factors need to be
2 cured prior to getting the approval?
3 MR. TOOTHACRE: Vague and ambiguous.
4 I don't think you understand.
5 MS. PLASKETT: No, I don't.
6 MR. TOOTHACRE: Can we go off the record for
7 just a second.
8 (Off the record.)
9 MS. PLASKETT: Back on.
10 I really don't have any other questions.
11 You've been wonderful. Thank you.
12 MR. TOOTHACRE: I don't have any questions
13 either.
14 Would you like to propose a stipulation?
15 MS. PLASKETT: I propose that we relieve you
16 of your duties and that you provide the original
17 transcript to --
18 MR. TOOTHACRE: Can we send it directly to
19 you?
20 Do you want to make changes, Mr. Bartell, and
21 then give it to us? We will notify them, Mr. Austin of
22 changes within five days of receipt from you.
23 THE WITNESS: Yeah. I'm going to be out of
24 town starting tomorrow.
25 MS. PLASKETT: Going anywhere fun?

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1 THE WITNESS: I am. Vegas. I'll back on
2 Monday.
3 MS. PLASKETT: So why don't we give him a
4 week, ten days.
5 MR. TOOTHACRE: Yeah. We'll give you ten days
6 to read and make any corrections you want to, and then
7 you'll notify our office and I'll get it from you. And
8 then we will notify Jacob of any changes.
9 If the original is lost or not -- unavailable for
10 any reason at trial, a certified copy can be used in its
11 stead.
12 Anything else?
13 MS. PLASKETT: No. That does it.
14 (Whereupon at 12:06 p.m. the deposition was
15 concluded.)
16
17
18
19
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21
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25

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1
2
3 * * *
4 I hereby declare under penalty of perjury that
5 the foregoing is my deposition under oath; that I have
6 read my deposition and have made the necessary
7 corrections, additions or changes to my answers that I
8 deem necessary.
9 In witness thereof, I hereby subscribe my name
10 this _____ day of _____, 2019.
11
12
13
14
15 _____
16 JAMES BARTELL
17
18
19
20
21
22
23
24
25

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1 STATE OF CALIFORNIA)
 : ss.
 2 COUNTY OF SAN DIEGO)
 3 I, LORENA BARRÓN, Certified Shorthand Reporter
 4 in and for the State of California, Certificate No.
 5 12058, do hereby certify:
 6 That the witness in the foregoing deposition was
 7 by me first duly sworn to testify the truth, the whole
 8 truth, and nothing but the truth in the foregoing cause;
 9 that the deposition was taken before me at the time and
 10 place herein named; that said deposition was reported by
 11 me in shorthand and transcribed, through computer-aided
 12 transcription, under my direction; and that the
 13 foregoing transcript is a true record of the testimony
 14 elicited at proceedings had at said deposition.
 15 I do further certify that I am a disinterested
 16 person and am in no way interested in the outcome of
 17 this action or connected with or related to any of the
 18 parties in this action or to their respective counsel.
 19 In witness whereof, I have hereunto set my hand
 20 this 28th day of March, 2019.
 21
 22

 23 LORENA BARRÓN
 24 CSR No. 12058
 25

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1 ERRATA SHEET
 2
 3 If any corrections to your deposition are necessary,
 4 indicate them on this sheet, giving the change, page
 5 number, line number and reason for change.
 6 PAGE LINE FROM TO
 7 _____
 8 Reason _____
 9 _____
 10 Reason _____
 11 _____
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 22 Reason _____
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 24
 25 Signature of Deponent Date

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