

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

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	:
STEVEN J. ROSEN,	:
	:
Plaintiff,	:
	:
	:
v.	: Civil Action No.
	: 09-125.6
	: Calendar 12
AMERICAN ISRAEL PUBLIC	:
AFFAIRS COMMITTEE, INC.,	:
Et al.,	:
	:
Defendants.	:
	:
-----	x

Washington, D.C.

Thursday, October 7, 2010

Deposition of

HOWARD KOHR

a witness of lawful age, taken on behalf of the
Plaintiff in the above-mentioned action, before
Jon G. Hundley, Notary Public in and for the District
of Columbia, in the offices of Swick & Shapiro,
Suite 1290, 1225 Eye Street, NW, commencing at
10:01 a.m.

Diversified Reporting Services, Inc.
(202) 467-9200

APPEARANCES:

On behalf of the Plaintiff:

DAVID H. SHAPIRO, ESQ.
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On behalf of the Defendants:

THOMAS L. McCALLY, ESQ.
ALLY WRIGHT, ESQ.
Carr Maloney
1615 L Street, NW, Suite 500
Washington, D.C. 20036

1 Q Okay. And your testimony is to this day
2 you've not received that, --

3 A That is --

4 Q -- as best as you know?

5 A That is correct.

6 Q Okay. Has anybody in AIPAC received
7 classified information, to the best of your knowledge?
8 Again, U.S. Government --

9 MR. McCALLY: U.S. classified?

10 MR. SHAPIRO: U.S. Government, classified by
11 the U.S. Government.

12 THE WITNESS: To the best of my knowledge, no.

13 BY MR. SHAPIRO:

14 Q Okay. Have you heard of anybody receiving
15 classified information?

16 A Only what I've heard about Steve Rosen and
17 Keith Weissman.

18 Q That's the only time you've heard --

19 A That is correct.

20 Q -- of anybody receiving classified
21 information --

22 A That is correct.

1 Q -- in the whole time that you've been at
2 **AIPAC?**

3 A In the time I've been at AIPAC.

4 Q **Okay.**

5 MR. McCALLY: Let him ask the question and
6 then take a pause and then you can answer. Otherwise
7 the reporter has people talking over each other.

8 THE WITNESS: Okay.

9 BY MR. SHAPIRO:

10 Q **And what did you hear about Steve Rosen and**
11 **Keith Weissman receiving classified information?**

12 MR. McCALLY: To the extent you have knowledge
13 that is outside attorney-client privilege, in other
14 words, meetings with -- with your attorneys during that
15 time, don't discuss what your attorneys told you, but
16 knowledge that you have outside of that, such as
17 reading the Indictment --

18 THE WITNESS: Right. Just what I've read in
19 the Indictment or the Washingtonian Magazine.

20 BY MR. SHAPIRO:

21 Q **You didn't talk to Steve Rosen and Keith**
22 **Weissman?**

1 **Q What were they?**

2 A Well, it started with conduct that we learned
3 was not appropriate or to the standards of AIPAC, and
4 it was a series of things, including disregard of
5 counsel's advice to immediately come to the office
6 immediately after learning about the FBI indictment.

7 It was lack of total candor with myself and
8 others about what transpired, about Larry Franklin, his
9 importance, the nature of the relationship between the
10 two of them, inappropriate materials being found on his
11 computer.

12 **Q What inappropriate materials?**

13 A Pornographic materials on his computer, and on
14 advice of counsel here, as well, about the experience
15 of Abbe Lowell and Nat Lewin that they experienced with
16 the Government and their recommendations, as well,
17 based on what they experienced, their recommendation of
18 termination.

19 **Q Abbe Lowell recommended termination?**

20 A No, no. Nat Lewin and Richard Cullen, but Nat
21 Lewin in particular, but it was a combination of all
22 these things, not a single act in and of itself.

1 **Q Were all these things presented to the Board**
2 **of Directors?**

3 A Except --

4 MR. McCALLY: Wait, wait, wait. In terms if
5 what was presented was presented with counsel, then
6 you're not permitted to go into it. I would advise you
7 not to answer that question.

8 THE WITNESS: That was done with counsel.

9 MR. SHAPIRO: Well, I'm sorry, but a member of
10 the Board has already answered that question and in a
11 deposition. So I think if there was any -- if there
12 was any privilege, and I doubt there's any privilege to
13 this, it's been -- it's been waived.

14 MR. McCALLY: Well, we're asserting the
15 privilege.

16 BY MR. SHAPIRO:

17 **Q So you're saying it's all these things**
18 **were -- were placed before the Board?**

19 MR. McCALLY: You asked, I allowed him to
20 answer the question, the reasons as to what was given
21 to the Board with attorneys present. I would advise
22 you not to answer that question. If communications

1 were made without counsel present or involved, then
2 you're permitted to answer.

3 THE WITNESS: Communications were with
4 counsel.

5 BY MR. SHAPIRO:

6 Q So let me make sure I have the list complete.
7 It was conduct not appropriate for AIPAC employees?

8 A Of meeting the standards of AIPAC employees.

9 Q And that included disregarding counsel's
10 advice to come immediately to the office. That would
11 be on the 27th of August?

12 A Correct.

13 Q And who'd be that counsel?

14 A Phil Friedman.

15 Q I see. And lack of candor to you about what
16 happened on the 27th of August?

17 A No. Lack of candor -- well, mostly lack of
18 candor regarding the nature of his relationship with
19 Larry Franklin.

20 Q And how -- how -- what -- what did he say that
21 was not candid to you? How was he not candid to you?
22 You said to you and others. How -- how was he not

1 **candid to you?**

2 A Well, again, that's --

3 MR. McCALLY: That with counsel?

4 THE WITNESS: Yes.

5 BY MR. SHAPIRO:

6 **Q Well, how was he not candid?**

7 A Well, again, --

8 **Q Talking about what my client said that was not**
9 **candid. What was not candid?**

10 MR. McCALLY: That he learned --

11 HE WITNESS: What I learned --

12 MR. McCALLY: Go ahead. If you learned -- if
13 you have independent knowledge of --

14 HE WITNESS: No independent knowledge.

15 MR. McCALLY: Go ahead and answer.

16 HE WITNESS: I learned from counsel.

17 BY MR. SHAPIRO:

18 **Q Well, when did he make these non-candid**
19 **disclosures to you? When did he say something that**
20 **wasn't candid, fully candid?**

21 A Well, through the entire period of time to
22 counsel.

1 MR. McCALLY: You can -- you can say --

2 BY MR. SHAPIRO:

3 Q I'm talking about to you.

4 MR. McCALLY: You can say the time period.

5 BY MR. SHAPIRO:

6 Q You said to me and others, he said -- he was
7 not candid to me and to others. I'm asking you not
8 candid to you.

9 A The -- well, the -- the conversation regarding
10 me is that this is -- the statement, I believe, that
11 this was a kook, regarding Franklin, he said to me.

12 Q I'm sorry. I didn't -- I didn't even hear
13 what you said. What did you say?

14 A He said -- the description of Larry Franklin
15 as being a kook, a nobody, an insignificant figure.

16 Q That was not candid?

17 A I don't believe that that was candid.

18 Q When did he make that --

19 A In the -- in the early days, even with -- with
20 counsel and without counsel.

21 Q Let's talk about without counsel. Was it on
22 or before August 27th?

1 A It was on or after August 27th.

2 Q So it wasn't before August 27th?

3 A Correct.

4 Q Okay. And the non-candid statement was that
5 Larry Franklin was a kook and a nobody?

6 A Correct.

7 Q All right. And did both Keith Weissman
8 and -- and Steve Rosen make that statement to you?

9 A I don't recall if it was Keith or not.

10 Q Okay. Did Keith Weissman have porn on his
11 computer?

12 A To the best of my knowledge, no.

13 Q Did Keith Weissman disregard counsel --

14 MR. McCALLY: Objection.

15 BY MR. SHAPIRO:

16 Q -- on the 27th --

17 MR. McCALLY: Why is this -- this -- I'm
18 objecting as to relevance about Mr. Weissman.

19 MR. SHAPIRO: Your objection is noted.

20 MR. McCALLY: This has nothing to do with this
21 case.

22 MR. SHAPIRO: I don't think it has nothing to

1 do but be that as it may.

2 BY MR. SHAPIRO:

3 Q Answer the question.

4 A No. To the best of my knowledge, no.

5 Q Did Keith Weissman make statements to you that
6 lacked candor?

7 A Again, some of this gets into counsel.

8 Q I'm talking about made to you. I'm not asking
9 about counsel.

10 MR. McCALLY: If you have individual knowledge
11 about Mr. Weissman outside what the attorneys told
12 you, --

13 HE WITNESS: The answer is no. I mean, I
14 don't have individual information outside of what I
15 learned from counsel.

16 BY MR. SHAPIRO:

17 Q Did Mr. Rosen make any other statement to you
18 that lacked candor, other than that Larry Franklin was
19 a kook and a nobody?

20 MR. McCALLY: To him personally, outside the
21 presence of counsel?

22 MR. SHAPIRO: He told me that -- right.

1 MR. McCALLY: You said others. So I'm making
2 it clear that he can answer the question, that this is
3 directed at him talking to you, not what you --

4 HE WITNESS: No.

5 MR. McCALLY: -- got from counsel.

6 BY MR. SHAPIRO:

7 **Q So that was the only -- that was the only --**

8 A No. But -- and there was also the omission of
9 the conversation that took place with the FBI that was
10 taking place even prior. That was failed to be
11 mentioned to us, as well.

12 **Q What conversation with the FBI was failed to**
13 **be mentioned to you?**

14 A The FBI conversation looking for security
15 clearance questions about Mr. Franklin was not revealed
16 either.

17 **Q And when did he fail to reveal those?**

18 A When they occurred.

19 **Q And when was that, as you understand it?**

20 A Some time in the previous year, 2004-2003,
21 some time period.

22 **Q How many times have -- has Mr. -- has Mr.**

1 did I have a conversation with him about certain of his
2 behaviors that needed to change, the answer to that is
3 absolutely yes.

4 Q When did you have that conversation?

5 A Several times over the course of the years,
6 about his relationships with other staff members.

7 Q No, no. I'm talking about from -- from August
8 27, 2004, till placing him on involuntary leave in
9 February 2005, did you ever reprimand him about his
10 conduct?

11 A To the best of my knowledge, no.

12 Q Did you ever discuss with him the fact that he
13 had porn on his computer?

14 A No.

15 Q Did you ever discuss with him that he
16 disobeyed Mr. Friedman's instructions or you understood
17 he disobeyed Mr. Friedman's instructions to come
18 immediately to the office?

19 A No, because on advice of counsel, from August
20 27th forward here, all issues regarding this were meant
21 to be done only with counsel.

22 Q Did you ever discuss with him that he lied to

1 **the FBI?**

2 A Same thing.

3 MR. McCALLY: Same answer you mean?

4 THE WITNESS: Same answer. Excuse me.

5 BY MR. SHAPIRO:

6 **Q How about that he wasn't candid with you --**

7 A Same answer.

8 **Q -- on August 27th?**

9 A Same answer.

10 **Q Or on failing to warn AIPAC about the FBI's**
11 **interest in Larry Franklin?**

12 A Again, same answer.

13 **Q Did you ever -- did you ever reprimand him**
14 **with counsel?**

15 MR. McCALLY: Objection. Don't go into
16 anything involving attorney-client privileged
17 communications.

18 MR. SHAPIRO: I'm not talking about that.

19 MR. McCALLY: Yes, you are.

20 MR. SHAPIRO: No. Reprimanding Steve Rosen
21 with AIPAC's counsel present is somebody who's not --

22 MR. McCALLY: Attorney-client privilege.

1 THE WITNESS: Yeah. To the best of my
2 knowledge, Ester Kurz did not receive a classified
3 document.

4 MR. SHAPIRO: I see.

5 BY MR. SHAPIRO:

6 Q You didn't know that she was ordered to return
7 a document that was stamped with a U.S. classification
8 on it? You had no knowledge of that?

9 A Again, --

10 MR. McCALLY: It was before his time, counsel.

11 MR. SHAPIRO: That's testifying, sir. Stop
12 it.

13 THE WITNESS: Events --

14 MR. McCALLY: Quit asking the same question.

15 MR. SHAPIRO: I didn't ask that question
16 before, not one time.

17 BY MR. SHAPIRO:

18 Q Go ahead, sir.

19 A Again, events regarding Ester, as -- as I
20 understand only from the current articles, took place
21 before my time at AIPAC.

22 Q Yes.