STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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| IN RE: | : | |
| | : | |
| APPLICATION OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 16 BELL ROAD EXTENSION, CORNWALL, CONNECTICUT | : | DOCKET NO. 402 |
| | : | AUGUST 24, 2010 |

OPPOSITION TO INTERVENOR FREDERIC THALER'S MOTION

On August 16, 2010, the Connecticut Siting Council ("Council") received an e-mail from Frederic Thaler, an Intervenor in Docket No. 402. In that e-mail, Mr. Thaler claims that Council Chairman Daniel Caruso was "dismissive and rude . . ." during the July 20, 2010 public hearing. Mr. Thaler further claims that the Chairman is "not a fair judge and he should recuse himself from the vote on Docket 402." (*See* E-mail from Frederic Thaler to CSC-DL Siting Council (August 16, 2010, 4:32 p.m.) attached as Exhibit A). Although the intent of Mr. Thaler's e-mail is unclear, to the extent that the e-mail is treated by the Council as a motion seeking recusal of the Council Chairman, the applicant, Cellco Partnership d/b/a Verizon Wireless ("Cellco") hereby objects.

I. Procedural Background

On May 6, 2010, Cellco filed an application ("Application") with the Council for a Certificate of Environmental Capability and Public Need ("Certificate") to construct a wireless telecommunications facility at 16 Bell Road Extension in the Town of Cornwall, Connecticut (the "Cornwall Facility"). The proposed Cornwall Facility would provide for wireless services

along portions of Routes 7 and 4 and local roads in the area and significant portions of the Housatonic State Forest, in westerly portions of the Town of Cornwall and easterly portions of the Town of Sharon, Connecticut.

On June 9, 2010, the Council received a request from Frederic Thaler and Kathleen Mooney seeking intervenor status in Docket No. 402. The Council granted Mr. Thaler and Mrs. Mooney intervenor status on June 17, 2010. As intervenors, Mr. Thaler and Ms. Mooney were invited to attend the Council's Pre-Hearing Conference held on June 24, 2010. At this conference, Council staff reviewed hearing procedures and schedules and discussed the role and responsibility of each of the parties and intervenors who asked to participate in the proceeding. Mr. Thaler and Ms. Mooney chose not attend the Council's Pre-Hearing Conference. A public hearing was held on the Application on July 20, 2010. Mr. Thaler and Ms. Mooney both attended and participated in the Council's hearing. On August 16, 2010, the Council received an e-mail from Mr. Thaler in which he asks, among other things, that the Chairman "recuse" himself from the vote on Docket No. 402.

II. Standard of Review

"[T]here is a presumption that administrative board members acting in an adjudicative capacity are not biased." *Clisham v. Board of Police Commissioners*, 223 Conn. 354, 362, 613 A.2d 254 (1992); *see also Petrowski v. Norwich Free Academy*, 199 Conn. 231, 236, 506 A.2d 139 (1986). To overcome this presumption, a party "must demonstrate actual bias, rather than mere potential bias, of the board members challenged, unless the circumstances indicate a probability of such bias 'too high to be constitutionally tolerable.'" *Rado v. Board of Education*, 216 Conn. 541, 556, 583 A.2d 102 (1990), quoting *Withrow* v. *Larkin*, 421 U.S. 35, 47 (1975). "The test for disqualification has been succinctly stated as being whether a 'disinterested observer may conclude that [the hearing officer] has in some measure adjudged the facts as well

as the law of a particular case in advance of hearing it.'" *A&M Towing & Recovery v. Zoning Bd. of Appeals*, CV 970568209, 1998 Conn. Super. LEXIS 2250 (Conn. Super. Ct. Aug. 6, 1998), quoting *Transportation General, Inc. v. Insurance Department*, 36 Conn. App. 587, 592-93, 652 A.2d 1033 (1995).[1] "Vague and unverified assertions of opinion, speculation and conjecture cannot support a motion to recuse nor are they sufficient to warrant an evidentiary hearing on the same." *DeMatteo v. DeMatteo*, 21 Conn. App. 582, 591 (1990) (denying a request to recuse a judge based on speculation and conjecture).

In disqualifying an administrative adjudicator, the burden of proof is on the person making the accusation and it is a "difficult burden." *Rado v. Board of Education*, *supra*, at 556-557. "The applicable due process standards for disqualification of administrative adjudicators do not rise to the heights of those prescribed for judicial disqualification . . .. Such a rarefied atmosphere of impartiality cannot practically be achieved where the persons acting as administrative adjudicators, whose decisions are normally subject to judicial review, often have other employment or associations in the community they serve. . . .Neither the federal courts nor this court require a standard so difficult to implement as a prerequisite of due process of law for administrative adjudication." *Petrowski v. Norwich Free Academy*, *supra*, at 238; *Jutkowitz v. Department of Health Services*, 220 Conn. 86, 100, 596 A.2d 374 (1991).

III. Argument

Mr. Thaler, in his motion, fails to meet the "difficult burden" to justify disqualification of Chairman Caruso. Mr. Thaler has provided no evidence that Chairman Caruso was or is biased or prejudiced in any way, and offers only his own personal belief that the Chairman was "rude" and "dismissive" during the hearing. To bolster his assertion that the Chairman is "not a fair judge," Mr. Thaler claims that Chairman Caruso threatened him and his wife, Ms. Mooney, by

[1] All unreported cases are attached as Exhibit B.

telling them "I'm [g]oing to suggest you guys get out of here while the getting is good . . .." *See* July 20, 2010 Transcript (evening), p. 77 (relevant portions are attached as Exhibit C). Mr. Thaler, however, grossly mischaracterize Chairman Caruso's statement as threatening by taking this comment completely out of context. When reviewed in the context of the hearing, Chairman Caruso's statement was merely an indication to Mr. Thaler and Ms. Mooney that they were fortunate when Council members, the Applicant and other parties and intervenors all declined the Chairman's offer to cross examine them on their testimony and exhibits.

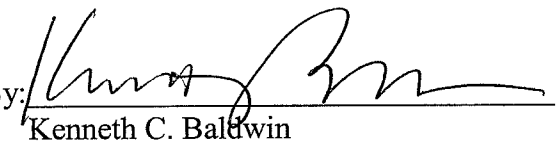
At the time, it is fairly clear that neither Mr. Thaler nor Ms. Mooney took the Chairman's comment as a threat. Prior to this comment, the Chairman spent a significant amount of time helping Mr. Thaler and Ms. Mooney introduce and verify their exhibits so that they could become a part of the record and helped them get answers to their specific questions from the Applicant's witnesses panel. (Hearing Transcript (evening) pp. 37-77). Following the Chairman's "threatening" remarks, Ms. Mooney did not complain, object or argue. She simply responded "Thank you" after the Chairman's remarks and left the witness table. (Hearing Transcript (evening) p. 77).

Further, Mr. Thaler has failed to meet his burden of showing bias by Chairman Caruso. To overcome the presumption that an administrative adjudicator is not biased, Mr. Thaler "must demonstrate actual bias, rather than mere potential bias". *Rado v. Board of Education, supra.* Mr. Thaler has provided no legitimate evidence of bias. Mr. Thaler's allegations of bias alone are insufficient. *See DeMatteo v. DeMatteo*, 21 Conn. App. 582, 591 (1990) ("Vague and unverified assertions of opinion, speculation and conjecture cannot support a motion to recuse nor are they sufficient to warrant an evidentiary hearing on the same.")

IV. Conclusion

Based on the foregoing, Cellco respectfully requests that Mr. Thaler's motion be denied.

Respectfully submitted,
CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS

By: 

Kenneth C. Baldwin
ROBINSON & COLE LLP
280 Trumbull Street
Hartford, CT 06103-3597
Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of August, 2010, a copy of the foregoing was sent, postage prepaid, to:

Gordon M. Ridgeway, First Selectman
Town of Cornwall
P.O. Box 97
Cornwall, CT 06753

Frederic I. Thaler and Kathleen Mooney
66 Popple Swamp Road
Cornwall Bridge, CT 06754

Nicholas and Caroline Daifotis
239 Brushy Hill Road
New Canaan, CT 06840

Courtesy copy also sent to:

Perley H. Grimes, Jr. Esq.
Cramer & Anderson LLP
46 West Street
P.O. Box 278
Litchfield, CT 06759-0278

Kenneth C. Baldwin

# EXHIBIT A

**Fontaine, Lisa**

**From:** FRED THALER [fthaler@snet.net]
**Sent:** Monday, August 16, 2010 4:32 PM
**To:** CSC-DL Siting Council
**Subject:** Re; Docket 402

Observations and Questions for the Siting Council.

Sirs and All.

When the Chairman said to my wife and I "Then I'm Going to suggest you guys get out of here while the getting is good, how's that." I wondered if the statement was a threat, what powers as chairman he had with which to threaten my wife and me, and what consequences there would be if I tried to say what I had wanted to say.

I shall not ever know.

Due process has not been served. Executive indiscretion and excess has been observed.

But this I know, for the people of this community, the chairman's dismissive and rude behavior will forever taint any decision. The day the Connecticut Siting Council came to Cornwall and treated it poorly is now part of our permanent history.

These, his words show that he is not a fair judge and he should recuse himself from the vote on Docket 402.

Respectfully Submitted.

Frederic I. Thaler

# EXHIBIT B

LEXSEE 1998 CONN. SUPER. LEXIS 2250

**A&M Towing & Recovery, Inc. v. Zoning Board of Appeals Town of East Hartford**

**CV 970568209**

**SUPERIOR COURT OF CONNECTICUT, JUDICIAL DISTRICT OF HARTFORD - NEW BRITAIN, AT HARTFORD**

***1998 Conn. Super. LEXIS 2250***

**August 6, 1998, Decided**
**August 7, 1998, Filed**

**NOTICE:** [*1] THIS DECISION IS UNREPORTED AND MAY BE SUBJECT TO FURTHER APPELLATE REVIEW. COUNSEL IS CAUTIONED TO MAKE AN INDEPENDENT DETERMINATION OF THE STATUS OF THIS CASE.

**DISPOSITION:** Appeal dismissed.

**JUDGES:** MALONEY, J.

**OPINION BY:** MALONEY

**OPINION**

MEMORANDUM OF DECISION

Plaintiff A&M Towing & Recovery, Inc. appeals the decision of the defendant Zoning Board of Appeals of the Town of East Hartford, which affirmed three cease and desist orders issued to the plaintiff by the town's zoning enforcement officer (ZEO). The board acted pursuant to *General Statutes 8-7*. The plaintiff appeals pursuant to 8-8. The court finds the issues in favor of the defendant board.

The plaintiff is the owner of the property which is the subject of the cease and desist orders and the orders were directed to the plaintiff. The plaintiff is, accordingly, aggrieved by the board's decision.

Most of the facts essential to the court's decision are not in dispute. The court held an evidentiary hearing concerning some of the issues raised in this appeal, and its findings will be set forth at appropriate points in this decision.

On September 28, 1995, the defendant board denied the plaintiff's request for variances of zoning [*2] ordinances regulating off street parking and the use of unpaved areas for parking motor vehicles. The plaintiff did not appeal those decisions to this court, and they are, therefore, binding on the plaintiff.

On October 18, 1995, following an inspection of the premises, the zoning enforcement officer issued a cease and desist order demanding the discontinuance of irregular parking of vehicles and the use of the premises for a "junkyard," the latter order based on the presence of more than two unregistered motor vehicles. There is no dispute that town ordinances and regulations prohibited the conditions that the ZEO found to be present.

The plaintiff and his attorney attempted to resolve the town's complaints, but the ZEO continued to find violations of the same ordinances. On April 11, 1996, the Acting ZEO issued another cease and desist order, subsequently confirmed by the permanent ZEO a week later. This order also related to illegal parking of vehicles.

On July 30, 1996, after discovering that the plaintiff

had dumped a large load of paving materials on his property without first securing a permit, the ZEO issued a third order, citing violations of sections 16-17 **[*3]** and 261.1 of the ordinances, which prohibit such dumping.

After a series of missteps and miscues by both the plaintiff and the board, the plaintiff ultimately perfected appeals of the three cease and desist orders to the board pursuant to *General Statutes 8-7*. After more false starts, the board eventually conducted a hearing on the substance of the plaintiff's appeals on January 23, 1997. The plaintiff has cited some of the procedural glitches as grounds for its appeal to this court, and the court will address them as appropriate.

Following the close of the hearing, the board discussed the plaintiff's appeals and then voted to affirm the cease and desist orders, basing its decision essentially on the finding that the plaintiff had admittedly not complied with the literal requirements of the zoning regulations and ordinances. It is that decision of the board which is the subject of this appeal.

In support of its appeal, the plaintiff advances a barrage of arguments as set forth below.

Inadequate Record

The plaintiff claims that the transcription of the board hearing on January 23, 1997 fails to identify the speakers on numerous occasions and contains many omissions **[*4]** and "inaudibles." The plaintiff claims it is prejudiced because, as a result of these defects, the record fails adequately to reveal the bias against the plaintiff, exhibited during the hearing, by two board members, Michael Morelli and Robert Burns, the chairman.

The court has reviewed the entire transcript in question. While it is true that the transcript is full of unattributed statements and indications of statements that are designated as inaudible, the court concludes that the plaintiff is not prejudiced thereby. In most cases where the speaker is not identified, his or her identity is not of crucial importance or it can be gleaned from the context. Certainly, the substance of the hearing is clear throughout.

With respect to the question of alleged bias on the part of Morelli and Burns, this court held an evidentiary hearing at which both board members were questioned and cross examined. The court is able to resolve issues of their alleged bias de novo, therefore, without resorting to the transcript of the earlier hearing. Even so, at the court hearing, plaintiff's counsel pointed to relevant portions of the transcript to support his position, and the court did, of **[*5]** course, give that evidence full consideration. The court concludes that the plaintiff was not prejudiced in raising the issue of bias by the gaps in the transcript of the administrative hearing.

With respect to other issues raised in the plaintiff's brief to this court, the plaintiff has not specified how it is prejudiced by any gaps in the transcript of the hearing, and the court finds that it is not prejudiced thereby.

Although the court finds that the plaintiff in this case has not been prejudiced by the condition of the record, the matter should not be passed without noting that the record does indeed indicate a need to improve the transcription procedure at board meetings. In another case, the failure to identify who is speaking and the failure to record statements at the hearing could be of critical significance.

Bias of Burns and Morelli

Pursuant to *General Statutes 8-8(k)(1)* and *(2)*, the court held an evidentiary hearing on the plaintiff's claims that these two board members were biased against the plaintiff and had prejudged its appeal of the ZEO's orders. Both Burns and Morelli testified, and the court has examined exhibits that were already part of the record.

Michael **[*6]** Morelli, an alternate member of the board, was present at a meeting of the board on December 19, 1996, at which the plaintiff's appeal was scheduled to be heard. Morelli was a police officer in the East Hartford Police Department. The plaintiff was on the department's list of towing companies that the department called when it was necessary to order a vehicle towed in the course of police business. Morelli had never had occasion to use the plaintiff's services in the course of his police duties, but he testified that in December 1996, he was nevertheless concerned that he might have some conflict of interest if he were to participate in hearing and deciding the plaintiff's appeal. He testified that he did not feel "comfortable." He recused himself from that December 19 meeting, therefore, for that reason.

The hearing on the plaintiff's appeal did not end at the December 1996 meeting of the board, however.

Instead, the board decided to "table" the hearing to a date in January 1997 to allow it to consult with counsel.

Between the December 1996 meeting and the January 23, 1997 meeting, Morelli reconsidered his decision to recuse himself from the plaintiff's appeal. He had had **[*7]** a conversation with Donald Vigneau, the ZEO, who had convinced him that he did not have a conflict sufficient to disqualify him. So, at the January 23, 1997 meeting, when the hearing resumed, Morelli rejoined the proceedings and ultimately voted on the final decision.

Robert Burns, the chairman of the board, testified that he, too, was concerned that he might have shown bias or acted so as to prejudice the plaintiff's interests prior to the hearing on the appeal. In particular, he had concluded that he had wrongfully instructed the plaintiff that a fee was required to appeal the ZEO's orders to the board and that the plaintiff was supposed to post a sign on the property notifying the public of the appeal. Burns resolved, therefore, to recuse himself from the proceedings until he obtained advice from the town attorney as to the propriety of his participating.

Prior to the November 1996 meeting of the board, however, Burns wrote a memo to the other board members advising them to "keep Attorney Block on the subject (meaning the appeal, presumably) and not allow him his know(n) shotgun approach of discussing any matter." Burns further advised the board members to continue the **[*8]** hearing to a later date in order to allow consultation with the town attorney on the issues related to the fee for appealing and the posting of a sign.

The board did continue the hearing to December 1996, and Burns consulted the town attorney. Based on the attorney's advice, Burns concluded that he was not biased and that he should not recuse himself. He rejoined the proceedings, therefore, in December 1996 and participated actively from then on, including voting on the final decision.

"A presumption of impartiality attends administrative determinations, and the burden of establishing a disqualifying interest on the part of an adjudicator rests upon the one seeking disqualification." *Rado v. Board of Education, 216 Conn. 541, 556, 583 A.2d 102 (1990).* There is a presumption that agency administrators who serve as adjudicators are unbiased. *Clisham v. Board of Police Commissioners, 223 Conn. 354, 362, 613 A.2d 254 (1992).* This rule is in line with the more general presumption that public officials are presumed to have done their duty until the contrary appears. *Leib v. Board of Examiners for Nursing, 177 Conn. 78, 84, 411 A.2d 42 (1979).* The burden of proof is, **[*9]** of course, on the person making the accusation and it is a heavy burden. The person must demonstrate either actual bias or the existence of circumstances indicating "a probability of such bias too high to be constitutionally tolerable." *Rado v. Board of Education, 216 Conn. 541, 556, 583 A.2d 102 (1990).* The test for disqualification has been succinctly stated as being whether "a disinterested observer may conclude that (the administrative hearing officer) has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it." (Emphasis added.) *Transportation General, Inc. v. Insurance Department, 36 Conn. App. 587, 592-93, 652 A.2d 1033 (1995).*

In the present case, both officials whom the plaintiff accuses of bias and prejudging testified in court and were, of course, subjected to cross examination by the plaintiff. Each of them gave plausible reasons for their initial hesitation to participate in the hearing that were, in essence, based on a desire not to prejudice the plaintiff. Morelli, in particular, showed no actual bias or prejudice and his apprehensions concerning conflict of interest proved to be groundless. Burns, while admitting **[*10]** to some exasperation and annoyance with plaintiff's counsel, denied any actual bias against the plaintiff. The court found these officials to be credible and that they had not prejudged the merits of the plaintiff's appeal to the board. With regard to the merits, the court notes that the fact finding and adjudicatory roles of the board were not complex or difficult in this case. There was virtually no dispute as to the facts, nor was there any real dispute as to the meaning of the applicable regulations. The board members had very little discretion, therefore, and consequently had little or no opportunity to exercise any bias against the plaintiff even if they so desired.

The court concludes that the plaintiff has not sustained its burden of proving bias or prejudice against the plaintiff on the part of Morelli or Burns such that they were required to recuse themselves from participating in the plaintiff's appeal.

Orders Void for Vagueness

It is inconceivable that the plaintiff did not know

what conduct and activities were prohibited by the ZEO's orders. This claim is without merit.

Delay in Hearing

The board commenced the hearing in November 1996. Prior to that, the **[*11]** plaintiff, the ZEO and the board had engaged in constant negotiations attempting to resolve the violations found by the ZEO. The negotiations had not been successful and the violations continued unabated. Under these circumstances, the court cannot find that the plaintiff was prejudiced in the least by any delay in obtaining formal review of the orders by the board.

Appeal "Fees"

The plaintiff never paid any such fees. Therefore, although there is no legal justification for the imposition of such fees, the plaintiff was not prejudiced by the town's action. To the extent that the argument about the fees delayed the plaintiff's appeal, there was no prejudice to the plaintiff. See above.

Grandfathering

The record reflects that the board fully considered the plaintiff's arguments on this issue and, in the end, disagreed. The basis of the board's position was that there had been a change in the principal use of the property which nullified the nonconforming secondary use. The court declines to reverse this decision, finding ample basis in the record and on the law.

Other Issues

The court has reviewed the other issues raised by the plaintiff in its brief and concludes that **[*12]** they do not afford a basis for reversing the board's decision.

The appeal is dismissed.

MALONEY, J.

# EXHIBIT C

STATE OF CONNECTICUT

SITING COUNCIL

| | | |
|---|---|---|
| CELLCO PARTNERSHIP<br>d/b/a VERIZON WIRELESS | * | JULY 20, 2010<br>(7:30 p.m.) |
| APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A TELECOMMUNICATIONS FACILITY LOCATED AT 16 BELL ROAD EXTENSION, CORNWALL, CONNECTICUT | * | DOCKET NO. 402 |

BEFORE: DANIEL F. CARUSO, CHAIRMAN

BOARD MEMBERS: Colin C. Tait, Vice Chairman
Brian Golembiewski, DEP Designee
Larry P. Levesque, DPUC Designee
Edward S. Wilensky
Philip T. Ashton
James J. Murphy, Jr.
Dr. Barbara Currier Bell

STAFF MEMBERS: S. Derek Phelps, Executive Director
Robert Mercier, Siting Analyst
Christina Walsh, Siting Analyst
Melanie Bachman, Staff Attorney

APPEARANCES:

FOR THE APPLICANT, CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS:

ROBINSON & COLE LLP
280 Trumbull Street
Hartford, Connecticut 06103-3597
BY: KENNETH C. BALDWIN, ESQUIRE

(Whereupon, Frederic Thaler and Kathleen Mooney were duly sworn in.)

MS. MELANIE BACHMAN: Thank you.

CHAIRMAN CARUSO: Great. And that -- first, you -- you filed a Motion to Intervene earlier. You prepared that as well as preparing this letter. And those are your -- going to be your exhibits in these proceedings, right?

MS. MOONEY: For the moment, yes.

CHAIRMAN CARUSO: And you also gave us a map. And I know you didn't prepare that, but you want that to be part of your -- your testimony --

MS. MOONEY: Well you were wondering what the Heritage area was --

CHAIRMAN CARUSO: You -- wait -- you know --

MS. MOONEY: Sorry.

CHAIRMAN CARUSO: Poor Gail is going to quit and I'm not typing this up myself, okay.

So the exhibits you gave us, the letter, the Motion to Intervene, you have no additions, changes, corrections, or deletions to those, right?

MS. MOONEY: Right.

CHAIRMAN CARUSO: And they're true to the

best of your knowledge and belief --

MS. MOONEY: Yes --

CHAIRMAN CARUSO: -- right?

MS. MOONEY: Yes.

CHAIRMAN CARUSO: And you want them to be exhibits in these proceedings, right?

MS. MOONEY: Yes.

CHAIRMAN CARUSO: And that's yes for both of you, right?

MR. THALER: Yes.

CHAIRMAN CARUSO: Okay. Very good. And is there any objection to those items coming in as exhibits for the Thalers and Mooneys? And hearing none, we'll make them full exhibits.

(Whereupon, Intervenor Thaler and Mooney Exhibit No. 1, 2,and 3 were received into evidence.)

CHAIRMAN CARUSO: Now do we have any questions -- does anyone on the Council have any questions for Mr. Thaler or Mr. Mooney? No. Mr. Baldwin, does the Applicant have any questions for them?

MR. BALDWIN: No questions, Mr. Chairman.

CHAIRMAN CARUSO: Very good. And Mr. and Mrs. Daifotis, do you have any -- Mr. and Mrs. Daifotis, do you have any questions of --

MR. PHELPS: Sir, please take the microphone.

MR. NICHOLAS DAIFOTIS: Yes, sir, I do.

CHAIRMAN CARUSO: You have questions of -

-

MR. DAIFOTIS: Well I --

CHAIRMAN CARUSO: -- of -- of the Mooneys and Thalers?

MR. DAIFOTIS: Oh, no. Not of the Mooneys. No, I do not.

CHAIRMAN CARUSO: Okay, good. You've always got to let me finish the sentence. Very good. Then I'm going to suggest you guys get out of here while the getting is good, how's that.

MS. MOONEY: Thank you.

CHAIRMAN CARUSO: Thank you very much. Then at this point I'd ask Mr. and Mrs. Daifotis to come forward.

(Pause)

CHAIRMAN CARUSO: What I think I'll do is I'll get you sworn in at the beginning so we don't have to otherwise, but -- but --

(Pause)

CHAIRMAN CARUSO: Alright. Nicholas and