

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 05 CR 644
)	
ROBERT SORICH, et al.)	Judge Coar

GOVERNMENT'S EVIDENTIARY PROFFER SUPPORTING THE
ADMISSIBILITY OF CO-SCHEMER AND AGENT STATEMENTS

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The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully submits this written proffer, pursuant to the provisions of Federal Rule of Evidence 801, including Federal Rules of Evidence 801(d)(2)(D) and 801(d)(2)(E), and *United States v. Santiago*, 582 F.2d 1128 (7th Cir. 1987), of the government's evidence supporting the admission of co-schemers' and agents' statements at trial. This proffer sets forth a summary of the evidence that the government will offer at trial relating to a scheme among defendants Robert Sorich, Timothy McCarthy, John Sullivan, and Patrick Slattery, who acted together and with others to commit offenses against the United States, namely mail fraud and (in the case of John Sullivan) making false statements. This proffer also summarizes the defendants' and their co-schemers' statements that furthered the defendants' criminal scheme.

This proffer sets forth the agency principles under which the statements of these additional actors are admissible pursuant to Rule 801(d)(2)(D) and 801(d)(2)(E) as statements of co-schemers and agents. The legal principles governing admissibility of co-conspirator statements apply to the joint mail fraud scheme in this case, even though the scheme was not formally charged as a conspiracy. *See, e.g., United States v. Godinez*, 110 F.3d 448, 454 (7th Cir. 1997)(government need not charge conspiracy in order for a co-conspirator statement to be admitted); *Santiago*, 582 F.2d at 1130 (establishing law concerning *Santiago* proffers in a one-count case with no conspiracy charge).

This proffer begins by briefly discussing the scheme charged in this case. It then discusses the law governing the admissibility of co-schemer statements under Federal Rule of Evidence 801(d)(2)(E), and the agency provisions of Rule 801(d)(2)(D). Next, this proffer summarizes some of the evidence supporting the admission of co-schemers' statements and agents' statements.

The government is not detailing all of its evidence showing the existence of the scheme charged in the mail fraud and false statement charges in the superseding indictment, all of the statements that were made in furtherance of the scheme, or all statements made by agents within the scope of the agency. Instead, this proffer outlines the law governing the admissibility of such statements, provides background to the Court for evaluating the admissibility of these statements, and highlights examples of its evidence. In this manner, the government will establish to the Court the existence of the evidence available to complete the necessary foundation at trial and the roles of various witnesses, as well as the bases for admission.

I. OVERVIEW OF THE CHARGED SCHEME.

On September 22, 2005, a federal grand jury returned a five-count indictment against defendants Robert Sorich, Timothy McCarthy, John Sullivan, Patrick Slattery, and Daniel Katalinic. The indictment charged that defendants used fraudulent processes to award City of Chicago (“City”) jobs and promotions on bases other than merit. The fraudulent scheme emanated from the Office of Intergovernmental Affairs (“IGA”), a division of the Mayor’s Office.

Following a guilty plea by Katalinic, the government returned an eight-count superseding indictment on February 23, 2006 against Sorich, McCarthy, Sullivan, and Slattery. The superseding indictment included six counts of mail fraud, and two counts of false statements by Sullivan.

The superseding indictment charges that defendants were full-time salaried employees at the City. Each of the defendants had a role in administering the hiring and promotion process at the City, and each owed a duty of honest services to the City and the people of the City in performing that duty, as well as various duties under state and local law:

- Robert Sorich was Assistant to the Director of IGA, and worked in the Office from 1993 to 2005. In addition to his public employment, the superseding indictment

alleges that Sorich had a role in coordinating political campaign activities, and that he assigned field workers to work on behalf of certain candidates in conjunction with the Mayor's political organization.

- Timothy McCarthy worked in the City's Department of Aviation since at least 1994, and served as Assistant Commissioner for personnel in that Department from 1996 until 2001. In 2001, he was assigned to IGA. There, he assisted Sorich, taking over many of Sorich's duties with respect to hiring and promotion.
- John Sullivan began working at the City no later than 1994. From 1999 through 2005, Sullivan was Managing Deputy Commissioner in the Department of Streets & Sanitation. In his capacity as Managing Deputy Commissioner, Sullivan supervised employees who administered the hiring and promotion process for Streets & Sanitation.
- Patrick Slattery began working at the City no later than 1988. In about March 2000, Slattery became the Director of Staff Services in Streets & Sanitation. In the position of Director of Staff Services, Slattery, working with other Streets & Sanitation employees, helped supervise the interview process for hiring and promotions in Streets & Sanitation.

The superseding indictment charges that the defendants operated a scheme to subvert the City's formal hiring process by having employment decisions for many City jobs dictated by and from IGA. To operate this scheme, defendants caused the falsification of City hiring and promotion records, in order to conceal the fact that IGA controlled the candidate screening, interview, and selection processes for these particular positions. As detailed below in Section III, the superseding indictment identifies several categories of co-schemers, including:

- personnel officials, who manipulated the process to ensure that persons preselected by IGA would be interviewed for positions, falsified rating sheets, and/or falsely certified that political considerations played no role in the decision-making process;
- supervisors, who participated in sham interview panels and falsified rating sheets to ensure the IGA picks would be selected;
- certain campaign coordinators, who ran political organizations that operated at the direction of IGA, and lobbied IGA for City jobs for their political workers;

- and other City officials and employees who participated in, or benefitted from, fraudulent aspects of the scheme.

II. THE LAW GOVERNING THE ADMISSIBILITY OF CO-SCHEMER AND AGENTS' STATEMENTS.

Rule 801(d)(2)(E) of the Federal Rules of Evidence provides that a “statement” is not hearsay if it “is offered against a party” and is “a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.” The admission of a co-conspirator statement against a defendant is proper where the government establishes by a preponderance of evidence that: (1) a conspiracy or scheme existed; (2) the defendant and the declarant were members of that particular conspiracy or scheme; and (3) the statement was made during the course and in furtherance of the conspiracy or scheme. *See, e.g., Bourjaily v. United States*, 483 U.S. 171, 175 (1987); *United States v. Westmoreland*, 312 F.3d 302, 309 (7th Cir. 2002); *United States v. Hassan*, No. 98 CR 0613, 1998 U.S. Dist. LEXIS 17538 (Oct. 29, 1998)(Coar, J.).

A. The Santiago Proffer Is the Approved Method of Proffering Co-Schemer Statements.

In this Circuit, the preferred way for the government to make its preliminary factual showing as to the admissibility of such statements is by filing a pretrial written proffer of the government's evidence. *See, e.g., United States v. Hoover*, 246 F.3d 1054, 1060 (7th Cir. 2001); *United States v. Irorere*, 228 F.3d 816, 824 (7th Cir. 2000).^{1/} In making its preliminary factual determinations, the court must consider the statements themselves as evidence of a joint scheme and whether the statements the government seeks to admit were made in furtherance of that scheme. *United States v. Brookins*, 52 F.3d 615, 623 (7th Cir. 1995); *United States v. Maholias*, 985 F.2d 869,

^{1/}*Accord, e.g., United States v. Haynie*, 179 F.3d 1048, 1050 (7th Cir. 1999); *United States v. Rodriguez*, 975 F.2d 404, 406 (7th Cir. 1992); *Hassan*, 1998 U.S. Dist. LEXIS 17538, at **5-6.

877 (7th Cir. 1993). Indeed, the court may consider all non-privileged evidence. *United States v. Lindemann*, 85 F.3d 1232, 1238 (7th Cir. 1996).

B. Co-Schemer Statements Are Admissible as Nonhearsay Despite the Absence of a Formal Conspiracy Charge, and Regardless of the Criminal Intent of Each Co-Schemer.

Statements may be admitted under Rule 801(d)(2)(E) notwithstanding the lack of any formal conspiracy charge. *See, e.g., Godinez*, 110 F.3d at 454; *Santiago*, 582 F.2d at 1130.^{2/} In addition, there is no requirement that each member of the venture share a criminal intent for the co-schemer rule to apply to statements that members made in furtherance of the scheme. These two rules are based on the very nature of the co-conspirator doctrine:

The distinction should be noted between “conspiracy” as a crime and the co-conspirator exception to the hearsay rule. Conspiracy as a crime comprehends more than mere joint enterprise. It also includes other elements, such as a meeting of the minds, criminal intent and, where required by statute, an overt act. . . . The co-conspirator exception to the hearsay rule, on the other hand, is merely a rule of evidence founded, to some extent, on concepts of agency law. It may be applied in both civil and criminal cases. . . . Its rationale is the common sense appreciation that a person who has authorized another to speak or to act to some joint end will be held responsible for what is later said or done by his agent, whether in his presence or not.

* * *

The substantive criminal law of conspiracy, though it obviously overlaps in many areas, simply has no application to this evidentiary principle. Thus, once the existence of a joint venture for an illegal purpose, or for a legal purpose using illegal means, and a statement made in the course of and in furtherance of that venture have been demonstrated by a preponderance of the evidence, it makes no difference whether the declarant or any other “partner in crime” could actually be tried, convicted and punished for the crime of conspiracy.

United States v. Gil, 604 F.2d 546, 549-550 (7th Cir. 1979)(citations omitted)(emphasis added).

^{2/}*See also, e.g., United States v. Cox*, 923 F.2d 519, 526 (7th Cir. 1991)(conspiracy charge not a condition for admitting statements under Rule 801(d)(2)(E)). *Accord, United States v. Reynolds*, 919 F.2d 435, 439 (7th Cir. 1990); *United States v. Kelley*, 864 F.2d 569, 573 (7th Cir. 1989); *United States v. LeFevour*, 798 F.2d 977, 983 (7th Cir. 1986).

This distinction was also explored in *United States v. Coe*, 718 F.2d 830 (7th Cir. 1983). In *Coe*, the court explained that a so-called co-conspirator statement's admissibility does not depend on the substantive law of conspiracy:

Conspiracy as an evidentiary rule differs from conspiracy as a crime. The crime of conspiracy comprehends much more than just a joint venture or concerted action, whereas the evidentiary rule of conspiracy is founded on concepts of agency law. . . . Recognizing this, some courts refer to the coconspirator exception as the "joint venture" or "concert of action" exception. . . . A charge of criminal conspiracy is not a prerequisite for the invocation of this evidentiary rule. . . . Indeed, it may be invoked in civil as well as criminal cases. . . .

The proposition that the government did have to establish by a preponderance of independent evidence was that [the individuals] . . . were engaged in a joint venture-- that there was a "combination between them"

Coe, 718 F.2d at 835 (citations omitted).^{3/}

C. The Supreme Court's *Crawford* Decision Has Not Changed the Admissibility of Co-Schemer Statements.

The Supreme Court's decision in *Crawford v. Washington*, 541 U.S. 36 (2004), changed much of the law concerning out-of-court testimonial statements, but it did not affect the admissibility of co-schemer statements. In *Crawford*, the prosecution introduced a tape-recorded statement made before trial by the defendant's wife to law enforcement. *Id.* at 38. At trial, however, the wife was unavailable as a witness due to the state's spousal privilege law, and thus the defendant did not have an opportunity to cross-examine her. *Id.* at 40. The Court ruled that admission of the statement violated the Confrontation Clause, holding that where the government offers an unavailable declarant's hearsay that is "testimonial" in nature, the Confrontation Clause requires actual

^{3/}See also *Hitchman Coal & Coke Co. v. Mitchell*, 245 U.S. 229, 249 (1917)(explaining origin of the co-conspirator rule in the law of partnership)("the act or declaration of one, in furtherance of the common object, is the act of all, and is admissible as primary and original evidence against them.").

confrontation, that is, cross-examination, regardless of how reliable the statement may be. *Id.* at 51-52. As examples of “testimonial” statements, the Court listed prior testimony at a preliminary hearing, before a grand jury, or at a former trial, and to police interrogations. *Id.* at 68.

The rule in *Crawford* does not apply, however, to statements that are not hearsay.^{4/} Thus, the Seventh Circuit has squarely held that *Crawford* does not apply to – and did not change the law relating to – co-schemer statements. In *United States v. Jenkins*, 419 F.3d 614 (7th Cir.), *cert. denied*, 126 S. Ct. 782 (2005), the court noted:

As to the Confrontation Clause argument, *Crawford* does not apply. The recordings featured the statements of co-conspirators. These statements, by definition, are not hearsay. *Crawford* did not change the rules as to the admissibility of co-conspirator statements.

419 F.3d at 618. *Accord*, *United States v. Bailey*, No. 05 CR 8, 2005 U.S. Dist. LEXIS 28070 at *5 (N.D. Ill. Nov. 14, 2005)(Shadur, J.)(following *Jenkins*). Because co-schemer statements are not “testimonial” hearsay statements, *Crawford* is not implicated, and those statements may be admitted without offending the Sixth Amendment.

D. The Proper Standard for Admissibility Is Preponderance of the Evidence.

A district court’s preliminary determination of admissibility for purposes of Rule 801(d)(2)(E) is distinct from the standard required in determining on appeal whether sufficient evidence exists to uphold a jury verdict. The standard to be applied in the context of admissibility

^{4/}The rule in *Crawford* also does *not* apply where: (1) a statement, though testimonial in nature, is not offered for the truth of the matter asserted, 541 U.S. at 59 n.9; (2) the declarant testifies at trial and is subject to cross-examination regarding the prior statement, *id.* at 59 n.9; (3) the statement is non-testimonial, *id.* at 60; or (4) the declarant is unavailable to testify and the defendant had a prior opportunity for cross-examination, *id.* at 59. Another exception to the confrontation requirement applies where the defendant procured the declarant’s unavailability, that is, “forfeiture by wrong-doing,” *see id.* at 62; Fed. R. Evid. 804(b)(6).

under Rule 801(d)(2)(E) is a preponderance-of-the-evidence standard. *Lindemann*, 85 F.3d at 1238 (citing *Bourjaily*, 438 U.S. at 175-76); *Hassan*, 1998 U.S. Dist. LEXIS 17538 at *7 (quoting *Godinez*, 110 F.3d at 454).

E. Principles for Determining Membership in and Existence of the Criminal Scheme.

1. The court may consider the proffered statements themselves.

A district court may consider the proffered statements themselves in determining the existence of a scheme, and a defendant's participation in it. *Bourjaily*, 483 U.S. at 180; *United States v. de Ortiz*, 907 F.2d 629, 633 (7th Cir. 1990); *United States v. Kapp*, 02 CR 418-1, 2003 U.S. Dist. LEXIS 3989 (N.D. Ill. March 17, 2003)(Manning, J.). However, the government typically must present some evidence, independent of the statements. *Lindemann*, 85 F.3d at 1238.

2. Both direct and circumstantial evidence can be considered.

Once the scheme is established, the evidence may be either direct or circumstantial. *Irorere*, 228 F.3d at 823; *United States v. Patterson*, 213 F. Supp. 2d 900, 910-11 (N.D. Ill. 2002)(Bucklo, J.), *aff'd*, 348 F.3d 218, 225-26 (7th Cir. 2003).^{5/} Indeed, “[b]ecause of the secretive character of conspiracies, direct evidence is elusive, and hence the existence and the defendants’ participation can usually be established only by circumstantial evidence.” *United States v. Redwine*, 715 F.2d 315, 319 (7th Cir. 1983). *See also Lindemann*, 85 F.3d at 1238 (secretive nature of conspiracies one reason for conspirator exception to hearsay rule).

In this case, the evidence is both direct and circumstantial. The defendants conducted their schemes through campaign coordinators, personnel directors, interviewers, and other City

^{5/}Even though the government need not prove the crime of conspiracy for the co-conspirator doctrine to apply, criminal conspiracy cases are helpful in stating the types of evidence that are sufficient to show conspiracy. If the government meets the higher standard for criminal conspiracy, *a fortiori*, the evidentiary standard is met.

employees. Many of those individuals will testify about conversations with defendants and other co-schemers. In addition, defendants acted to conceal their activities by forging documents, and by destroying records. The circumstances surrounding those activities are circumstantial evidence of the defendants' intent.

3. Requirements for determining if a person has joined the scheme.

A defendant joins a criminal scheme if he agrees with another person to one or more of the common objectives of the scheme; it is immaterial whether the defendant knows, has met or has agreed with every co-schemer. *United States v. Boucher*, 796 F.2d 972, 975 (7th Cir. 1986); *United States v. Balistreri*, 779 F.2d 1191, 1225 (7th Cir. 1985); *see also Rodriguez*, 975 F.2d at 411 (defendant must have intended to join and associate himself with the conspiracy's criminal design and purpose). The government need not prove, however, that a defendant knew each and every detail of the scheme or played more than a minor role in the scheme. *United States v. Sims*, 808 F. Supp. 620, 623 (N.D. Ill. 1992)(Alesia, J.). As the Supreme Court has said:

A conspiracy may exist even if a conspirator does not agree to commit or facilitate each and every part of the substantive offense. . . . The partners in the criminal plan must agree to pursue the same criminal objective and may divide up the work, yet each is responsible for the acts of each other. . . . If conspirators have a plan which calls for some conspirators to perpetrate the crime and others to provide support, the supporters are as guilty as the perpetrators.

Salinas v. United States, 522 U.S. 52, 63-4 (1997)(citations omitted).^{6/}

In this case, defendants Robert Sorich and Tim McCarthy acted jointly in directing the overall fraud scheme from IGA. Slattery and Sullivan participated in the criminal scheme within the Department Streets & Sanitation only.

^{6/}*See also United States v. Liefer*, 778 F.2d 1236, 1247 n.9 (7th Cir. 1985); *United States v. Towers*, 775 F.2d 184, 189 (7th Cir. 1985); *United States v. Morrow*, 971 F. Supp. 1254, 1256-57 (N.D. Ill. 1997)(Alesia, J.).

A defendant may be found to have participated in a scheme even if he joined or terminated his relationship with others at a different time than another defendant or co-schemer. *United States v. Ramirez*, 796 F.2d 212, 215 (7th Cir. 1986); *United States v. Noble*, 754 F.2d 1324, 1329 (7th Cir.1985).^{7/} A district court may consider the conduct, knowledge, and statements of the defendant and others in establishing participation in a scheme. A single act or conversation, for example, can suffice to connect the defendant to the scheme if that act leads to the reasonable inference of intent to participate in an unlawful enterprise. *See, e.g., Sims*, 808 F. Supp. at 623.^{8/} Statements made during the course of and in furtherance of a scheme, even in its embryonic stages, are admissible against those who arrive late to join a going concern. *United States v. Potts*, 840 F.2d 368, 372 (7th Cir. 1987). A schemer who has become inactive in the scheme nevertheless is liable for his co-schemers' further statements unless he openly disavows the scheme or reports it to the police. *United States v. Feldman*, 825 F.2d 124, 129 (7th Cir. 1987). *See also United States v. Andrus*, 775 F.2d 825, 850 (7th Cir. 1985).

F. Statements Made in Furtherance of the Scheme.

In determining whether a statement was made “in furtherance” of the scheme, courts look for a reasonable basis upon which to conclude that the statement furthered the scheme’s goals. *United States v. Johnson*, 200 F.3d 529, 533 (7th Cir. 2000). Under the reasonable-basis standard,

^{7/} A defendant, even if not an “agreeing” member of a conspiracy, may nonetheless be found guilty of conspiracy if he knew of the conspiracy’s existence at the time of his acts, and his acts knowingly aided and abetted the business of the conspiracy, *see United States v. Scroggins*, 939 F.2d 416, 421 (7th Cir. 1991); *Sims*, 808 F. Supp. at 623 n.1, even if the defendant was not charged with aiding and abetting, *see United States v. Kasvin*, 757 F.2d 887, 890-91 (7th Cir.1985).

^{8/} Similarly, efforts by an alleged co-schemer to conceal a scheme may support an inference that he joined the scheme while it was still in operation. *See Redwine*; 715 F.2d at 321; *United States v. Robertson*, 659 F.2d 652, 657 (5th Cir. 1981).

a statement may be susceptible to alternative interpretations and still be “in furtherance” of the scheme; the statement need not have been exclusively, or even primarily, made to further the scheme in order to be admissible under the co-schemer exception. *See, e.g., Johnson*, 200 F.3d at 533 (citing *United States v. Stephenson*, 53 F.3d 836, 845 (7th Cir. 1995)).

The Seventh Circuit has found a wide range of statements to satisfy the “in furtherance” requirement. *See, e.g., United States v. Cozzo*, No. 02 CR 400, 2004 U.S. Dist. LEXIS 7391 (N.D. Ill. April 16, 2004)(Zagel, J.)(collecting cases). In general, a statement that is “part of the information flow between conspirators intended to help each perform his role” is admissible under Rule 801(d)(2)(E). *United States v. Santos*, 20 F.3d 280, 286 (7th Cir. 1994), *quoting United States v. Johnson*, 927 F.2d 999, 1001 (7th Cir. 1991); *accord, United States v. Gajo*, 290 F.3d 922, 929 (7th Cir. 2002). These include statements made: (1) to identify other members of the scheme and their roles, *United States v. Roldan-Zapata*, 916 F.2d 795, 803 (2d Cir. 1990); *United States v. Magee*, 821 F.2d 234, 244 (5th Cir. 1987); (2) to recruit potential co-schemers, *United States v. Curry*, 187 F.3d 762, 766 (7th Cir. 1999); (3) to control damage to an ongoing scheme, *United States v. Van Daal Wyck*, 840 F.2d 494, 499 (7th Cir. 1988); *Kapp*, 2003 U.S. Dist. LEXIS 3989, at *3; (4) to keep co-schemers advised as to the progress of the scheme, *Potts*, 840 F.2d at 371; *Kapp*, 2003 U.S. Dist. LEXIS 3989, at *3; (5) to conceal the criminal objectives of the scheme, *United States v. Kaden*, 819 F.2d 813, 820 (7th Cir. 1987); (6) to plan or to review a co-schemer’s exploits, *United States v. Molt*, 772 F.2d 366, 368-69 (7th Cir. 1985); or (7) as an assurance that a co-schemer can be trusted to perform his role. *United States v. Pallais*, 921 F.2d 684, 688 (7th Cir. 1990); *Van Daal Wyck*, 840 F.2d at 499. The Seventh Circuit has also said that “[s]tatements made to keep coconspirators informed about the progress of the conspiracy, to recruit others, or to control damage to the

conspiracy are made in furtherance of the conspiracy.” *Stephenson*, 53 F.3d at 845. *Accord*, *United States v. Curtis*, 37 F.3d 301, 307 (7th Cir. 1994); *United States v. McCarroll*, No. 95 CR 48, 1996 U.S. Dist. LEXIS 2540 (N.D. Ill. Jan. 22, 1996)(Coar, J.).

1. Statements made to execute the scheme.

Statements made by co-schemers to conduct the business of the scheme and to accomplish its goals are “classic examples of statements made to conduct and further” a scheme. *Cox*, 923 F.2d at 527. Statements such as these, which are “intended to promote the conspiratorial objectives,” should be admitted pursuant to Rule 801(D)(2)(E).^{9/} Statements that prompt the listener to act in a manner that facilitates the carrying out of the scheme are also made “in furtherance” of the scheme.^{10/} Whether a particular statement tends to advance the objectives of the scheme or to induce the listener’s assistance is determined by an examination of the context in which it is made. *Garlington v. O’Leary*, 879 F.2d 277, 284 (7th Cir. 1989).

2. Statements regarding the scheme’s activities.

Statements “describing the purpose, method, or criminality of the conspiracy,” are made in furtherance of the scheme because co-schemers make such statements to guide each other toward achievement of the objectives of the scheme. *United States v. Ashman*, 979 F.2d 469, 489 (7th Cir. 1992). Similarly, statements that are part of the information flow between co-schemers made in order to help each co-schemer perform his role are “in furtherance” of the scheme. *See, e.g., Godinez*, 110 F.3d at 454; *Garlington*, 879 F.2d at 283-84; *Van Daal Wyk*, 840 F.2d at 499.

^{9/}*United States v. Sinclair*, 109 F.3d 1527, 1534 (10th Cir. 1997); *accord*, *United States v. Shores*, 33 F.3d 438, 444 (4th Cir. 1994).

^{10/}*United States v. Monus*, 128 F.3d 376, 392 (6th Cir. 1997); *United States v. Simmons*, 923 F.2d 934, 945 (2d Cir. 1991); *United States v. Smith*, 833 F.2d 213, 219 (10th Cir. 1987).

Statements to assure that a co-schemer can be trusted to perform his role also satisfy the “in furtherance” requirement. *See, e.g., United States v. Romo*, 914 F.2d 889, 897 (7th Cir. 1990); *de Ortiz*, 907 F.2d at 635-36 (7th Cir. 1990).

3. Statements to recruit co-schemers.

Statements made to recruit potential members of the scheme are made “in furtherance” of the scheme. *Curry*, 187 F.3d at 766; *Godinez*, 110 F.3d at 454.^{11/}

4. Statements regarding the activities of other co-schemers designed to inform or reassure the listener.

Statements made by schemers to other individuals who participate in, or interact with, the scheme contribute to the scheme. *See Van Daal Wyk*, 840 F.2d at 499 (wholesaler instructed his courier not to deliver any additional quantities of cocaine to the defendant, a dealer).

The exchange of information is the lifeblood of a conspiracy, as it is of any cooperative activity, legal or illegal. Even commenting on a failed operation is in furtherance of the conspiracy, because people learn from their mistakes. Even identification of a coconspirator by an informative nickname. . . is in furtherance of the conspiracy, because it helps to establish, communicate, and thus confirm the lines of command in the organization. Such statements are "part of the information flow between conspirators intended to help each perform his role," and no more is required to make them admissible.

Pallais, 921 F.2d at 688. The same logic dictates that discussions concerning a scheme’s successes are admissible as statements in furtherance of the scheme. *See id.*; *Van Daal Wyk*, 840 F.2d at 499.

Statements intended to reassure the listener regarding the progress or stability of the scheme also further the scheme. *United States v. Sophie*, 900 F.2d 1064, 1073 (7th Cir. 1990) (description of past drug deals). Likewise, statements made to reassure and calm the listener may further the

^{11/}*See also, e.g., United States v. Doerr*, 886 F.2d 944, 951 (7th Cir. 1989); *Garlington*, 879 F.2d at 283.

scheme, *see Garlington*, 879 F.2d at 284 ; *United States v. Molinaro*, 877 F.2d 1341, 1343-44 (7th Cir. 1989)(upholding admission of statements designed to iron out disputed details of the conspiracy and to control the damage apparently done to the conspiracy).

5. Statements relating to the progress and past accomplishments of the scheme.

Statements made by co-schemers concerning past exploits by members of the scheme are in furtherance of the scheme when made to assist in managing and updating other members of the scheme. *Potts*, 840 F.2d at 371; *Molt*, 772 F.2d at 368-69. Similarly, statements regarding a co-schemer's failure to fully accomplish the objective of the scheme are admissible "as updates on the status of the conspiracy" and how that status affected the future of the scheme. *United States v. Doyle*, 771 F.2d 250, 256 (7th Cir. 1985).

6. Statements to conceal the criminal objectives of the scheme.

Finally, statements made to conceal the criminal objectives of the scheme are made "in furtherance" of the scheme where, as here, ongoing concealment is one of its purposes. *See, e.g., United States v. Maloney*, 71 F.3d 645, 660 (7th Cir. 1995); *Kaden*, 819 F.2d at 820; *United States v. Bouzanis*, No. 00 CR 1065, 2003 U.S. Dist. LEXIS 16218, at *21 n.5 (N.D. Ill. Sept. 15, 2003)(Lefkow, J.). "Avoiding detection by law enforcement officials clearly furthers the aims of a conspiracy." *United States v. Troop*, 890 F.2d 1393, 1404 (7th Cir. 1989). Statements made to control damage to an ongoing scheme have also been found to have been made in furtherance of the scheme. *See Stephenson*, 53 F.3d at 845; *Van Daal Wyk*, 840 F.2d at 499.

G. Alternative Bases for Admissibility of Statements.

The government believes that the statements of co-schemers set forth in this proffer should be admitted as non-hearsay under the co-schemer doctrine. There are alternative bases, however, for admission of many of the statements. These bases do not require a Rule 801(d)(2)(E) analysis.

1. Agency admissions pursuant to Rule 801(d)(2)(D).

Many of the participants in the scheme were acting as agents for the defendants. Federal Rule of Evidence 801(d)(2)(D) sets forth the evidentiary foundation for admission of statements by agents against their principals – including criminal defendants. *See Feldman*, 825 F.2d at 127-29.^{12/} Rule 801(d)(2)(D) provides that a statement is not hearsay if it is offered against a party and is “a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship.”^{13/} Thus, out-of-court statements by agents of a defendant may come into evidence as non-hearsay admissions against the defendant principal when the principal is an individual who directs the conduct of the entity and is otherwise directing and supervising the conduct of his employee subordinates. *See Wilkinson*, 920 F.2d at

^{12/}This is different than the substantive principals applicable to criminal liability for an entity. For purposes of corporate criminal liability, it is not necessary to show that the particular act was itself authorized or directed by the entity, *see Seventh Circuit Federal Jury Instr. Section 5.03*, but is necessary to show that the agent was motivated, at least in part, by an intent to benefit the corporation. *See, e.g., United States v. One Parcel Of Land Located At 7326 Highway 45 North, Three Lakes, Wisconsin*, 965 F.2d 311, 316 (7th Cir. 1992); *United States v. Automated Med. Labs.*, 770 F.2d 399, 407 (4th Cir. 1985).

^{13/}A strict agency analysis is not contemplated by the terms of Rule 801(d)(2)(D). *Wilkinson v. Carnival Cruise Lines, Inc.*, 920 F.2d 1560, 1565-66 (11th Cir. 1991). The Rule broadened the traditional view so that it is no longer necessary to show that an employee or agency declarant possesses “speaking authority” – tested by the usual statements of agency law – before a statement can be admitted against the principal. *Wilkinson*, 920 F.2d at 1565. *Cf. Aliotta v. National R.R. Pass. Corp.*, 315 F.3d 756, 762-63 (7th Cir. 2003)(discussing admissibility of agent’s statements).

1565; *United States v. Ramsey*, 785 F.2d 184, 191 (7th Cir. 1986)(statements by “executive assistants” were admissible against defendant corporation under Rule 801(d)(2)(d)). Thus, for purposes of admission under Rule 801(d)(2)(D), a statement made by an agent is admissible against the principal, provided that the agent’s statement was made within the scope of the agency.^{14/}

In this case, as noted below, the defendants worked through a number of agents to effectuate their criminal scheme. To the extent these agents’ statements are being offered for the truth of the matters asserted, their statements should be admitted pursuant to Rule 801(d)(2)(D).

2. Defendants’ own statements.

A defendant's own admissions are admissible against him pursuant to Fed. R. Evid. 801(d)(2)(A), without reliance on the co-schemer-statement rule.^{15/} *Maholias*, 985 F.2d at 877. A defendant’s own admissions, moreover, are relevant to establishing the factual predicates for the admission of co-schemer statements against him. *See, e.g., Godinez*, 110 F.3d at 455; *Potts*, 840 F.2d at 371-72.^{16/}

3. Non-hearsay statements – including false statements.

The co-schemer statement analysis also is not triggered when the relevant verbal declaration is not a “statement” within the meaning of Federal Rule of Evidence 801(a) and when it is not

^{14/} With respect to statements made by certain cooperating witnesses, among others, another basis for admission is Rule 801(d)(2)(C), which provides for the admission of “authorized” statements within the context of an existing agency relationship. *See Feldman*, 825 F.2d at 127.

^{15/} Rule 801(d)(2)(A) provides in pertinent part that a “statement” is not hearsay if “[t]he statement is offered against a party and is . . . the party’s own statement, in either an individual or a representative capacity.”

^{16/} Other sections of Rule 801(d)(2) provide alternative bases of admissibility that may apply. Rule 801(d)(2)(B), for example, provides for the admissibility of “adopted” statements.

hearsay. This rule defines “statement” as “an oral or written assertion” or “nonverbal conduct of a person, if it is intended by the person as an assertion.”

Thus, a statement that is incapable of verification, such as an order or a mere suggestion, is not hearsay and does not invoke a Rule 801(d)(2)(E) analysis. *See, e.g., United States v. Tuchow*, 768 F.2d 855, 868 n.18 (7th Cir. 1985). Accordingly, statements by alleged co-schemers may be admitted into evidence without establishing the *Bourjaily* factual predicates, but with corresponding limiting instructions, when such statements are offered simply to show, for example, the existence, illegality, or nature and scope of the charged scheme.^{17/} In addition, when words are being introduced as a verbal act, or as background for an alleged statement, they are not admitted for the truth of the matter asserted. For that reason, they are not hearsay, and may be admitted. *See, e.g., United States v. Robinzine*, 80 F.3d246, 252 (7th Cir. 1996).

In this case, the government will seek to introduce certain false statements of the defendants and their co-schemers as evidence of their fraud. Because these statements are not being offered for the truth of the matters asserted, they are non-hearsay and hence admissible in light of their relevance. *See, e.g., Santos*, 20 F.3d at 285 (false statement properly admitted since it was not admitted for truth of matter asserted); *United States v. Hoag*, 823 F.2d 1123, 1127 (7th Cir. 1987) (“Statements introduced solely for the purpose of proving that they were made as a predicate for other proof they were false are not hearsay.”).

^{17/} *See, e.g., United States v. Herrera-Medina*, 853 F.2d 564, 565-66 (7th Cir. 1988); *Van Daal Wyk*, 840 F.2d at 497-98; *Tuchow*, 768 F.2d at 867-69. In some cases, statements by an alleged co-schemer will include a combination of declarations offered for the truth of the matters asserted and declarations offered for other non-hearsay purposes.

III. THE GOVERNMENT'S PROFFER REGARDING THE EXISTENCE
OF A SCHEME AND BASIS OF AGENCY ADMISSIONS

As set forth in the superseding indictment, the charged scheme was accomplished through the statements and actions of the charged defendants and uncharged co-schemers spanning over at least a dozen years. As alleged principally in Count One, Sorich and McCarthy worked with and directed other City officials to corrupt the City's personnel process by directing the awarding of certain jobs and promotions in non-policymaking positions to candidates pre-selected by IGA through sham and rigged interviews coordinated by personnel directors and conducted by interviewers. In addition, defendants and co-schemers concealed and otherwise protected the joint criminal activity from public exposure and possible criminal prosecution.

The government submits the following summary of evidence:^{18/}

- A. Background Concerning the Typical Hiring and Promotion Process for City Operating Departments.
1. The formal hiring process.

Between no later 1993 and continuing through 2005, there was a formal hiring and promotion process for certain positions in the City's operating departments, including its Departments of Sewers, Streets & Sanitation, Water, Buildings, Aviation, General Services, and Transportation (the "Operating Departments").^{19/} These positions were also covered by the consent decree in *United*

^{18/}This summary is based on information contained in investigative reports, grand jury transcripts and documents obtained during the investigation. Defendants have been provided relevant investigative reports, as well as grand jury transcripts of likely government witnesses. In addition, defendants have been given electronic copies of many documents, and have been given access to (along with an index of) other documents collected by the government during its investigation.

^{19/} As indicated in some of the summarized testimony in this proffer, components of the charged scheme predate the defendants' participation. Based on the allegations of the superseding
(continued...)

States v. Shakman, No. 69 C 2145, a court order that, among other things, prohibited the City from conditioning, basing, or knowingly prejudicing or affecting any term or aspect of government employment, including hiring, upon or because of any political reason or factor. To enforce the decree, the Court entered Principles for Plan of Compliance in May 1984, and the City issued Detailed Hiring Provisions for Compliance on Oct. 31, 1984 (“Detailed Hiring Provisions”). The latter provided that the City would, among other things, prohibit political influences and considerations at every stage of the selection and hiring processes for non-policymaking positions.

After the Operating Departments determined their hiring and promotion needs, personnel staff at the Operating Departments prepared “A forms,” which sought approval from the City’s Office of Budget Management for hires or promotions. The “A forms” identified positions for which the departments intended to hire or promote people, including the number of jobs that the departments wanted to fill for a particular hiring or promotion sequence. An Operating Department needed to have the Budget Director’s signature on the “A form” before filling a vacancy.

For certain union positions, after the “A form” was signed, the Operating Departments posted the jobs, permitting interested candidates to bid on the positions. Candidates bid on job postings by submitting bid applications, either to the Operating Departments or to Main Personnel. The standard City application required an applicant to identify his or her relevant educational and employment experience, among other information. After the bids were in, Main Personnel prepared lists for the Operating Departments, known as “bid lists,” identifying the people who submitted applications for

¹⁹(...continued)

indictment, this proffer will focus on the charged defendants’ participation which, as a general matter, began in or about 1993.

the particular sequence. Analysts in Main Personnel determined whether candidates met minimum qualifications for the jobs, such as being a member of a certain union.

For certain positions, when an “A form” was approved, under the *Shakman* Detailed Hiring Provisions, Main Personnel was to “screen” the applications of the minimally qualified candidates, to select which of those candidates would get interviews. (While department personnel officers were permitted to sit on a screening panel, at least an equal number of screeners were to be from Main Personnel.) The screeners were required to fill out forms rating the candidates. For some positions, where there were too many applicants to screen candidates, the interview list was determined by lottery. After completion of the screening process (or lottery), Main Personnel sent the Operating Departments lists of candidates to be interviewed for the positions. These lists were known as “*Shakman* referral lists,” “referral lists,” or “*Shakman* lists.”

It was then each Operating Department’s responsibility to schedule interviews for the positions, and to notify interview candidates of the dates and times of the interviews. Representatives from the Operating Departments conducted interviews and scored candidates on various criteria, depending on the job. Scores were given on written ratings sheets, on a scale from one to five. The criteria varied for each job sequence.^{20/} According to the Municipal Code of the City of Chicago and various collective bargaining agreements between the City and unions, the most

^{20/}For example, for the position of House Drain Inspector described below, each candidate was rated on the following: (A) quality and relevance of previous job experience in the inspection or construction and repair of drains and sewers; (B) previous satisfactory performance in positions involving similar duties in the Department; and (C) interpersonal skills (sufficient to deal with general public regarding city code drain/sewer requirements and complaints filed). For the position of General Foreman of Motor Truck Drivers, each candidate was rated from one to five on the following criteria: (A) experience in operation, scheduling and five years supervisory experience; (B) written communication skill; and (C) valid CDL.

qualified applicants (who met eligibility requirements) were to receive positions (with the exception of certain union positions to be filled by seniority).

After interviews were conducted and ratings sheets were completed, officials with the Operating Departments signed the “*Shakman* referral lists,” identifying, based on the ratings sheets, who had been selected for the jobs. At the bottom of each *Shakman* referral list were spaces for the Commissioner and Assistant Commissioner to sign, certifying that:

I understand that political considerations may, in no manner, enter into decisions to hire employees for the City of Chicago. I understand that any person who willfully violates this may be subject to both administrative and legal action. I verify that, to the best of my knowledge, political considerations did not enter into the hiring decisions documented on this form.

The *Shakman* referral lists were then sent to Main Personnel, along with the ratings forms and other hiring and promotion paperwork.^{21/} In the written City procedures, IGA was not designated *any* role in the hiring and promotion process for non-policymaking positions.

2. Summary of the scheme to rig the hiring and promotion process.

In fact, however, as set forth herein, the City’s hiring process for certain jobs in certain departments covered by the *Shakman* decree was controlled by IGA, including defendants Sorich and McCarthy, during the relevant time periods. The government has not alleged that IGA controlled the award of all *Shakman*-covered positions, but rather that IGA’s control focused on certain Operating Departments and certain positions. Campaign coordinators, union leaders, and

^{21/}Section 2-74-090(B) of the Municipal Code provides:

No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this ordinance or in any manner commit or attempt to commit any fraud, prevent the impartial execution of this ordinance and any rules issued thereunder.

other politically connected people nominated job candidates to Sorich and McCarthy. After participating in the decision to predetermine the winners for these particular jobs, Sorich and/or McCarthy communicated with personnel directors and other employees of the Operating Departments and then provided the personnel directors with lists of preselected candidates that IGA wanted the Operating Departments to place in those positions.

After receiving names from Sorich or McCarthy, the personnel directors screened for those candidates, causing them to be chosen from among other eligible candidates so that IGA's candidates would be certain to be included on referral lists for interviews.^{22/} Interviewers from the Operating Departments then conducted sham interviews. As described in detail below, in some hiring sequences, personnel directors identified IGA's preselected winners to the interview panelists, so that interview panelists would give the IGA picks the highest numerical ratings on interview rating forms, without regard to the candidates' relative qualifications. In other hiring sequences, interviewers just left the numerical ratings blank on the interview rating forms, and the personnel director filled in the scores later, after getting the winners' names from IGA. In yet other hiring sequences, the interviewers or their managers obtained the names directly from IGA. However the names were delivered to the Operating Departments, the highest scores were assigned to favored candidates on the basis of their IGA designations, without regard to the Operating Department's evaluation of the candidates' relative qualifications.

^{22/}Contrary to the Detailed Hiring Provisions, screening was frequently conducted by the department personnel officers (or their assistants), without the participation of Main Personnel. (On some occasions, Main Personnel officers received the IGA names from the department personnel officers, and conducted the screening for them).

Personnel directors reported back to IGA, including Sorich and McCarthy, regarding the job winners. They also reported back to Sorich and McCarthy if an IGA selection were rejected for any reason (such as failing a drug test).

B. Department of Sewers.

Until January 2003, the City operated an independent Department of Sewers, which maintained the City's underground sewer system. (In January 2003, the Department of Sewers merged with the Water Department to form the Department of Water Management.) During the relevant time frame, the Department of Sewers employed workers such as Bricklayers, House Drain Inspectors, Mason Inspectors, Laborers, and Motor Truck Drivers, among others.

From approximately December 1994 to January 2003, Mary Jo Falcon was the personnel director for the Department of Sewers.^{23/} She continued as personnel director for the Department of Water Management until her resignation in 2005. As personnel director, Falcon administered the hiring and promotion of employees within the department.

1. IGA's role in hiring at Sewers.

Around the time Falcon started at Sewers in December 1994, she spoke with the person who was the Sewers personnel director from approximately 1991 to 1994 (the "former Sewers personnel director"). The former Sewers personnel director told Falcon that Falcon worked for IGA, not the Sewers Commissioner. The former Sewers personnel director explained that as personnel director, Falcon helped IGA select employees by controlling the ratings that job candidates were given when

^{23/}Falcon has been provided with an immunity letter by the U.S. Attorney's Office, promising that so long as she provides truthful information and testimony, she will not be prosecuted. In addition to other witnesses indicated in this proffer, the U.S. Attorney's Office has provided immunity letters to some additional witnesses, as identified in discovery.

they were interviewed by the department. By giving the highest scores to the people that IGA wanted to hire or promote, the department ensured that IGA selected the winners. The former Sewers personnel director told Falcon to conceal the fact that IGA controlled the process. The former Sewers personnel director told Falcon not to put Robert Sorich's name on anything, and to "deny everything – deny, deny, deny."

For many years, Sorich was the IGA official from whom Falcon took direction on hiring and promotion matters. In approximately 2001, Tim McCarthy became an additional contact person for Falcon at IGA. Falcon then dealt with both Sorich and McCarthy through 2005. From December 1994, when she became Director of Personnel, until 2005, for each of an average of approximately five hiring sequences each year, Falcon met with Sorich or, beginning in 2001, McCarthy, at IGA offices to receive instructions on whom to hire or promote.^{24/} Sorich gave Falcon names by reading the names from index cards, for the first years that Falcon met with Sorich, and later, from typed or written lists. Falcon observed that the cards and lists had the job candidates' names and their political clout, such as the their political ward. Sorich ranked the names, saying words to the effect of, "No. 1 [priority] is [name]," "No. 2 [priority] is [name]." Sorich did not discuss job candidates' skills or qualifications when giving Falcon the list of names. Falcon wrote Sorich's names down to ensure selection of these candidates through the ensuing hiring process. Based on her interactions with Sorich and McCarthy and on what the former Sewers personnel director had told her, Falcon

^{24/}Falcon executed the predetermined selections from Sorich and McCarthy for hirings and promotions in the following Department of Sewers positions: Sewer Bricklayer, Foreman of Sewer Bricklayers, House Drain Inspector, Supervising House Drain Inspector, Motor Truck Driver, Foreman of Motor Truck Drivers, Mason Inspector, Chief Mason Inspector, Foreman of Hoisting Engineers, Assistant Foreman of Sewer Cleaning, Foreman of Sewer Cleaning, Stores Laborer, Sewer Laborer, and Sewer Laborer Subforeman.

understood that her direction was to ensure that the Sorich and McCarthy “priorities” were to get the positions.

Between December 1994 and 2005, whenever there was a hiring that permitted the Department of Sewers to screen applications, after having met with Sorich (or, after 2001, McCarthy), Falcon went to Main Personnel and selected the names that IGA had provided, so that those people received interviews. During that time period, there were occasions when one or more of the names Sorich had provided was not on the Main Personnel list at the screening stage. On those occasions, Falcon told Sorich, and Sorich said words to the effect of, “Give me a couple of days,” or “Hold off.” A few days after each such occasion, the name was on file at Main Personnel. Falcon gave Sorich lists of the people who were getting interviews, but did not put Sorich’s name on the cover letter because the former Sewers personnel director had told her not to put Sorich’s name on anything.

During meetings in Sorich’s office, Sorich commented to Falcon on several occasions over the years “You’ll get rid of that, right?,” referring to the list that Falcon was writing down. Falcon said that she would, and she did. In approximately 2005, McCarthy also asked Falcon a similar question about whether she would destroy the list she was writing of names he was providing; she said that she would, and she did.

2. The interview process at Sewers.

Before each interview for rigged sequences, Falcon told at least one interview panelist (whom she trusted to be aware of the scheme) that IGA had already selected the winners. On at least one occasion, Sorich asked Falcon if a panelist was going to be a problem. Falcon understood

Sorich to be asking if the panelist could be trusted to give high ratings to the people preselected by IGA.

One of the people that Falcon told about the rigged interview process, in order to further the scheme and ensure that IGA's selections were implemented, was a former Deputy Commissioner of Sewer Operations (the "Sewer Operations official"). During that ten-year time period, for most hiring and promotions in Sewer Operations, before interviews, the former Sewers personnel director, and later Falcon, told the Sewer Operations official which job candidates "got the blessing" from IGA, meaning that they were preselected to get the job. Falcon communicated the "blessed" names to the Sewer Operations official by putting asterisks next to the names of the preselected candidates on a list of interviewees. The Sewer Operations official ensured that the IGA selections got the highest ratings on the ratings forms. On occasion, when an interviewer in Sewer Operations gave the wrong candidate a winning score, Falcon called the Sewer Operations official and informed him that a blank ratings form was going to be sent back for the interviewer to sign. The interviewer signed the blank form in the Sewer Operations official's office.^{25/}

Between December 1994 and 2004, after interviews were conducted for positions where IGA had given Falcon the winners' names, the panelists forwarded the ratings sheets to Falcon. Falcon made sure the IGA picks got the highest scores. Where panelists left the scores blank, Falcon filled them in, giving the highest scores to IGA's selections. Sometimes the panelists filled in the scores.

^{25/}In approximately 1995, Individual A, a supervisor at IGA, told the Sewer Operations official that he wanted a certain bricklayer promoted to mason inspector. The Sewer Operations official told Individual A that he had suspended that employee several times for showing up late and leaving early, and told Individual A his negative views about the employee. Individual A had the employee promoted anyway. The employee was a member of the Hispanic Democratic Organization ("HDO"), a large political organization, with whom Individual A was an active participant.

Usually, because at least one panelist knew who was picked ahead of time, the high scores were given to the IGA selection. When an IGA selection did not get a high enough score to get the job, Falcon had the panelist sign a new form with a new higher score. Sometimes Falcon had to lower another applicant's score to make sure an IGA pick got the job.

Occasionally, the commissioner or an interview panelist told Falcon that one of IGA's picks was a particularly poor choice. Falcon reported such problems to Sorich. Sometimes Sorich told Falcon to move down the list, meaning choose the next person on the list Sorich had provided. At the conclusion of the scoring process, Falcon told Sorich, and later McCarthy, who the winners were.

3. 2002 House Drain Inspector.

In 2002, the Department of Sewers was seeking to hire up to ten individuals for the position of House Drain Inspector. A House Drain Inspector evaluates and approves new-construction plans to ensure house sewer lines are properly connected to the City's sewer system, repairs clogged sewer lines, and performs related tasks. Falcon received a list of seven priority names from Sorich for that position, in 2002, several of which were known to Falcon to be from political groups.

One of the preselected candidates, Richard Coveliers, was part of Michael Harjung's political group. As discussed in more detail in Section G, below, Michael Harjung was a former Sewers employee who ran a political organization for the Mayor's campaign office. With respect to the House Drain Inspector position, in 2002, Harjung lobbied Sorich on behalf of Coveliers, who was a City employee who actively participated in Harjung's political organization.^{26/} Sorich indicated

^{26/}Harjung and Coveliers also had a relationship involving Cayla Trucking, a company in the City's Hired Truck Program. In 1998, Harjung asked Coveliers to participate in forming and
(continued...)

that he would attempt to assist Coveliers. Later, Sorich told Harjung that Coveliers would get the promotion two days before the winners were announced. Harjung told Coveliers that he “should be okay,” and told Coveliers that he had been in contact with Sorich about the job. Coveliers received the House Drain Inspector position, along with nine others.

One of the other winners was a current House Drain Inspector (the “current House Drain Inspector”). Beginning in November 1994, and continuing through approximately September 2002, the current House Drain Inspector was a City employee and member of HDO. The current House Drain Inspector joined HDO before he was a City employee, in hopes that his political work would assist him in getting a job with the City. After approximately two years of doing political work for HDO, in fall 1996, the current House Drain Inspector spoke to Individual A about getting City employment. Approximately one month later, the current House Drain Inspector received a position as a Career Service Laborer in the Sewers Department. In approximately December 2000, the current House Drain Inspector spoke with Sorich in Sorich’s office about advancing to another City job. The current House Drain Inspector and Sorich spoke about possible positions. In approximately December 2001, the current House Drain Inspector and Sorich both attended an HDO-sponsored breakfast meeting. Sorich took the current House Drain Inspector aside, and told him that House Drain Inspector positions were opening up in the Sewers Department, and he should

^{26/}(...continued)

running Cayla, and informed Coveliers that Cayla would have a steady stream of business because Harjung had agreed to make bribe payments to Donald Tomczak, the First Deputy Commissioner in the Department of Water. Coveliers agreed, and thereafter acted as a hidden owner and operator of Cayla. Coveliers hid his participation in Cayla, because he was a City employee and prohibited from having an interest in a company doing City business. Based on these activities, Coveliers was indicted for mail fraud and false statements in *United States v. Donald Tomczak, et al.*, 04 CR 921-10 (Der-Yeghiayan, J.). He pled guilty and is awaiting sentencing. Harjung is finalizing a deferred-prosecution agreement with the U.S. Attorney’s Office.

apply for the job. The current House Drain Inspector's name was one of the names Sorich gave to Falcon, and he was hired for the position.

According to the current Supervisor of House Drain Inspectors, several of the selected candidates were poor choices and did not know what they were doing. A third preselected House Drain Inspector who was awarded the position after being "prioritized" by Sorich failed to show up at a work site where he was assigned to check a sewer connection, which resulted in sewage backing up into a private residence. The third preselected House Drain Inspector told the Supervisor that he had no idea what had happened, and admitted that he had never gone to check the work site. The third preselected House Drain Inspector also told the Supervisor that he got the job due to his political work.

4. Falcon's false certifications concerning whether IGA's selections were based on political considerations.

After the ratings sheets were completed, Falcon signed *Shakman* referral lists, identifying who had been selected for the job. Falcon signed these certifications, knowing that they were false. Falcon knew from her discussions with Sewers Commissioners, Sorich, and McCarthy, among others, that political considerations dictated IGA's selections of job winners in the Department of Sewers.^{27/} Moreover, Falcon herself had performed political work for a political organization, and based on statements by the head of her political organization and others, knew that she received her own job through political work.

^{27/}Falcon once asked Sorich to get a seasonal laborer job in the Department of Transportation for the brother of a friend of hers. Falcon told Sorich that this person had helped a few times, meaning helped on political campaigns. The person Falcon sponsored got the job.

5. Concealment of IGA's role in fixing Sewers jobs in 2004.

Beginning around 2004, after publicity surrounding the Hired Truck Program and hiring problems in the Buildings Department, Falcon noticed that McCarthy started to say things like, "Pick whoever you think is best," when giving her the list of names.^{28/} This was the first time an IGA representative ever gave an instruction to Falcon indicating that the "best" candidate should be selected for the job. Between 2004 and 2005, therefore, Falcon felt more free to hire or promote based on qualifications instead of the IGA preselections.

C. Department of Streets & Sanitation.

One of the City's largest operating departments is its Department of Streets & Sanitation. Streets & Sanitation's approximately 4,500 employees were divided into six operating bureaus: Sanitation, Street Operations, Electricity, Forestry, Rodent Control, and Traffic Services. Each of the bureaus had its own operational hierarchy, consisting of a Deputy Commissioner, various General and Assistant Superintendents, General Foremen, Foremen, and workers, among other titles.

1. Streets & Sanitation management personnel.

From 1999 to 2005, there was a Commissioner of the department (the "Commissioner" or the "Streets & Sanitation Commissioner"), and defendant John Sullivan was the Managing Deputy Commissioner. Between 2000 and 2003, Daniel Katalinic was Deputy Commissioner of the Street

^{28/}Federal investigators went public with an investigation concerning the City's Hired Truck Program with the January 2004 arrest of the Program's director, Angelo Torres, on a criminal complaint, *United States v. Angelo Torres*, 04 CR 86. Thereafter, the United States charged City officials and private truck company owners and operators (including Coveliers and Harjung, as described above) with various offenses relating to corruption in the Program. 2004 press inquiries regarding the hiring of certain Building Inspectors are described in Section E, *infra*.

Operations Bureau.^{29/} Within the Forestry Bureau, there was a General Superintendent who worked at the Bureau from 1996 through 2004 (the “Forestry General Superintendent”), and a Deputy Commissioner during the same period of time (the “Forestry Deputy Commissioner”). Bruno Bertucci worked in Forestry between 1974 and 2004, most recently as an Assistant General Superintendent.^{30/} There was an Assistant Commissioner in the administrative services bureau from 1998 to present who was responsible for handling union grievances in the department, among other responsibilities (the “Administrative Assistant Commissioner”).

Streets & Sanitation had its own personnel office, which coordinated hiring and promotions for the department. From 1998 through May 2004, Jack Drumgould was the Assistant Commissioner in charge of personnel for Streets & Sanitation.^{31/} Working with Drumgould, defendant Patrick Slattery was the Director of Staff Services for the department, from 2000 through May 2004. In May 2004, following Drumgould’s retirement, Slattery became Acting Assistant Commissioner in charge of personnel. Mike Bartello took over as Assistant Commissioner in mid-July 2004, with Slattery remaining as Director of Staff Services through early 2005.^{32/}

^{29/}Katalinic was charged with one count of mail fraud in this case, and pled guilty pursuant to a written plea agreement on November 15, 2005.

^{30/}Bertucci was charged with obstruction of justice in connection with a federal investigation relating to Bertucci’s role in the attempted removal of two City-owned trees. *United States v. Bertucci*, 05 CR 802 (Gottschall, J.). Bertucci pled guilty under a written plea agreement and is awaiting sentencing.

^{31/}Drumgould has been provided with an immunity letter by the U.S. Attorney’s Office.

^{32/}Bartello has been provided with an immunity letter by the U.S. Attorney’s Office.

2. IGA's role in hiring at Streets & Sanitation.

Between 1998 and 2004, before hiring for *Shakman*-covered sequences, Sorich, Slattery (beginning in 2000), and Drumgould met to discuss who would receive the positions for particular sequences. During this time period, Drumgould typically spoke with Sorich on the phone several times per week, and met with Sorich in person at least every few weeks – often much more frequently – to discuss sequences. When Slattery joined Streets & Sanitation in 2000, Slattery accompanied Drumgould to the Sorich meetings.^{33/} During the phone calls and in-person meetings, Sorich told Drumgould and Slattery the names of the job applicants who should be interviewed and receive job positions at Streets & Sanitation. Beginning in approximately 2001, Slattery and Drumgould had similar meetings with McCarthy.

Drumgould observed that IGA's job selections for Streets & Sanitation were based primarily on job applicants' political affiliation or union sponsorship. For certain positions, seniority was taken into account. Neither Sorich nor McCarthy ever indicated that their selections took a candidate's qualifications or experience into account. To the contrary, based on the negotiations Drumgould witnessed between IGA and Streets & Sanitation officials, and other factors, IGA was balancing job requests from campaign coordinators (*i.e.*, heads of political organizations who took direction from the Mayor's campaign office, as discussed in more detail in Section G, below), aldermen with political groups, and union representatives. In balancing the job requests, IGA made selections irrespective of the interview process. When drug or attendance problems caused Streets & Sanitation to refuse a preselected candidate, Sorich and McCarthy asked for those records so they could explain why the candidate wasn't hired to the candidate's political sponsor.

^{33/}Sorich's secretary has corroborated that beginning in 2000, Drumgould was usually accompanied by Slattery when he met with Sorich.

One time when Drumgould went to see Sorich, in approximately 2002 or 2003, Sorich gave Drumgould a document listing approximately ten job candidates whom he wanted to be selected for Streets & Sanitation positions. Next to each job winner's name was his political clout, such as a number referring to a ward. Sorich took the list away from Drumgould. In Drumgould's presence, Sorich called his secretary, and asked her to make a copy of the left side of the document only. When Drumgould received the document from the secretary, the political affiliation column had been removed.^{34/}

Between 1998 and 2004, Sullivan called Drumgould once or twice a month and asked him to transmit names of certain candidates to Sorich for consideration in upcoming *Shakman*-covered jobs for some positions in Streets & Sanitation. Based on Drumgould's observations, Sullivan was very involved in the hiring process, and often selected the interview panelists.

Sometimes there was tension between Sorich and McCarthy, on one side, and the Commissioner and Sullivan, on the other side, over certain *Shakman*-covered job positions. For example, for a job that had 50 openings, the Commissioner instructed Drumgould to tell Sorich that the Commissioner should be able to choose half of the winning candidates. When Drumgould gave this message to Sorich, Sorich told Drumgould that the Commissioner could choose only ten winners. The dispute typically continued until some combination of the Commissioner, Sullivan, Sorich, and McCarthy met to resolve the matter. Drumgould never had any decision-making authority over who should win, and based on Drumgould's observations, the selections were not

^{34/}As discussed below, the secretary has confirmed that she maintained lists of job applicants and their political sponsors, and that she would sometimes copy lists for persons meeting with Sorich, in a way that would block out any references to political sponsors.

made on the basis of merit.^{35/} For the rigged *Shakman*-covered positions, IGA had the final say in who was hired. While the Commissioner and Sullivan frequently provided their input and negotiated with IGA for control over more jobs, the final decisions were IGA's.^{36/}

On occasions between 1998 and 2004 when there was conflict between IGA and the Commissioner and Sullivan, Sullivan prepared a color-coded list of the job applicants, identifying each by political affiliation, union sponsorship, seniority, or other criteria.^{37/} Sullivan provided copies of these lists to Drumgould, the Commissioner, and Sorich, to keep track of the political and other groups who succeeded in persuading IGA to direct the hiring of their favored candidates and as an aid to lobby Sorich for additional candidates. Various Streets & Sanitation personnel, in addition to Drumgould, saw such lists in Sullivan's office from time to time.

Some union representatives told Drumgould that they, too, met with Sorich about jobs and gave him lists of names of people that they wanted to be hired or promoted. For example, a representative from a local electrician's union told Drumgould that he met with Sorich and McCarthy. Some union representatives told Drumgould that the unions gave money to political

^{35/}This tension arose repeatedly over hirings and promotions for Motor Truck Drivers and Laborers, including sequences in 2004.

^{36/}When the Commissioner and Sullivan did provide names to IGA, or filled spots that IGA had not controlled, the selections were likewise influenced by politics and guaranteed through rigged interviews. One example was the mother of a leading member of HDO, who was given a time-keeping position by Drumgould, at the direction of the Commissioner, in September 2001, and was transferred to another position on the Commissioner's direction in 2002, in order to avoid a budgetary layoff.

^{37/}Two such color-coded lists were recovered from IGA and Streets & Sanitation offices during the government's searches of City offices. One list dealt with the 2004 hiring of Motor Truck Drivers, and another dealt with the hiring of Laborers in 2003. The Laborers list has handwriting that has been identified by witnesses as Sullivan's. The IGA list has post-it notes in handwriting that has been identified as McCarthy's.

candidates, and that they sent union members to do political work at IGA's direction. Union members likewise received job positions through the rigged interview process, at IGA's direction.

3. The interview process in Streets & Sanitation.

Between 1998 and 2004, for interviews for certain *Shakman*-covered positions with many vacancies and applicants (such as Motor Truck Driver or Laborer), Drumgould and Slattery participated in efforts to rig the interview process to ensure selection of IGA's picks. Streets & Sanitation customarily used two different sets of interviewers. First, candidates sat with a two-person panel comprised of Streets & Sanitation supervisors. These supervisors were instructed to ask general questions concerning the candidates' willingness and ability to do the job. They did not give any numerical ratings to the candidates. Second, candidates were directed into a room with another two-person panel, typically comprised of Drumgould and – beginning in 2000 – Slattery. Slattery filled out a ratings form for each candidate, writing down the candidates' names and social security numbers. Drumgould gave the candidates an overview of the job and its benefits. Neither Slattery nor Drumgould filled out any numerical ratings at the time of the interview.

Later – sometimes months later – after finding out who IGA wanted for the jobs, Slattery and Drumgould sat down with the ratings forms and filled in the numerical scores to obtain the IGA-directed results. They intentionally gave the highest ratings to the people on the IGA lists, without regard to those candidates' interview performance or qualifications. They intentionally gave lower ratings to the people that IGA had not selected. The purposes of filling in the ratings forms in this manner were to create a paper record that made it appear that the interview process was legitimate and fair, and otherwise to comply with the requirements of Main Personnel. Slattery and Drumgould agreed up front what the scale would be (for example, winners get 5.0, losers get 4.5), then they

mechanically filled out all the forms in a short period of time. There was no analysis of the hiring criteria listed on the ratings forms, or how the candidate actually should be rated on such criteria.

For interviews involving fewer applicants (*e.g.*, supervisory positions like General Foreman of Motor Truck Drivers), Streets & Sanitation usually used fewer interviewers. Sometimes Slattery and/or Drumgould participated in these interviews. On these occasions, Slattery and Drumgould instructed the other panelists not to fill in the numerical ratings on the ratings forms. Other times, supervisors at the bureaus conducted the interviews on their own, without participation by Drumgould or Slattery. In those situations, Slattery and Drumgould relied on the bureau personnel liaisons or the bureau deputy commissioners to instruct the panelists not to fill in the numerical ratings on the ratings forms. Drumgould then provided the names of the winners to the bureau personnel liaisons and/or bureau deputy commissioners, and they filled out the numerical ratings on the forms consistent with Drumgould's instructions (which were from IGA), and returned the forms to the personnel office.

(a) Rigged interviews in the Bureau of Electricity.

One of the operating bureaus within Streets & Sanitation is the Bureau of Electricity. Since July 1998, there has been a personnel liaison in the Bureau of Electricity who worked with Drumgould and Slattery on hirings and promotions for the Bureau (the "Electricity liaison"). When Electricity had vacancies,^{38/} the Electricity liaison worked with the Streets & Sanitation personnel office to get Budget approval, post the bids, and get paperwork in order. The Electricity liaison set

^{38/}Between 2000 and 2005, Electricity hired for positions such as Traffic Signal Repairman (2001 and 2004), Lineman (2001 and 2004), Load Dispatcher (2001), Carpenter (2001), Laborer (2000 and 2004), Foreman of Street Light Repairman (2000 and 2004), Foreman of Linemen (2004), General Foreman of Lineman (2004), and various administrative positions.

up the interviews, which were conducted by Electricity personnel. For some Electricity positions, applicants were required to take written tests.

Interviewers for Electricity positions did not complete the numerical ratings on the ratings sheets. Based on his observations about how the process worked once he started working at Electricity in 1998, and on conversations he had with former Deputy Commissioner of Electricity, the Electricity liaison instructed some Electricity interviewers either directly, or implicitly, not to give ratings; other interviewers already knew not to give ratings. When an interviewer did give ratings, the Electricity liaison either discarded the form, or asked the interviewer to sign a new form with no ratings.

After the interviews, Drumgould informed the Electricity liaison of the names of the IGA selections for Electricity positions, and the Electricity liaison filled out the numerical ratings on the ratings forms to give IGA's picks the highest scores. Ratings forms were always completed after the interviews, based on the list of names that the Electricity liaison received from Drumgould, rather than any evaluation of the candidates as part of the interview process. To the extent that interview candidates had to complete written tests as part of the interview process, their performance on the tests was not factored into the numerical ratings, and was not considered in determining who received the job or promotion. Written tests frequently were not even scored.

(b) Rigged interviews in the Bureau of Forestry.

The process concerning interviews and ratings sheets worked substantially the same way with other Streets & Sanitation bureaus, including Forestry. Other than supervisory positions, the primary job titles within Forestry were truck drivers, Tree Trimmer I, and Tree Trimmer II.^{39/}

^{39/}Tree Trimmer I was an entry-level position. There was no difference in job responsibilities
(continued...)

According to City records, between 2000 and 2005, the City hired and promoted approximately 38 people, during a variety of hiring sequences, to Tree Trimmer I or Tree Trimmer II positions. For Tree Trimmer I interviews, the Bureau administered a series of practical tests, such as identification of tools and throwing a rope. At each testing station, a Forestry employee gave a numerical rating to the job candidate, based on the candidate's performance on the practical test. The grades (scored on different forms than the interview rating sheet) then went with the candidate into an interview.

Beginning no later than 1996, and continuing through 2004, based on instructions from the Forestry General Superintendent and the Forestry Deputy Commissioner, during interviews for Tree Trimmer I, Tree Trimmer II, and other Forestry positions, interview panelists in Forestry did not assign numerical ratings on the ratings sheets. They just signed their names on the ratings forms and left the numerical ratings blank. Based on direction from the Forestry General Superintendent and the Forestry Deputy Commissioner, interview panelists were informed that the numerical ratings for both the practical tests and the interviews were unnecessary and irrelevant, because IGA picked the winners.

Between 1998 and 2004, the Forestry General Superintendent and/or the Forestry Deputy Commissioner typically received a telephone call from Drumgould after the interviews were conducted, or saw Drumgould in person in his office. Drumgould gave them the names of some of the people who had been interviewed and said words to the effect of, "Here's the winners," or "Here's the list from downstairs." When Drumgould gave the names to the Forestry Deputy Commissioner, he passed the names on to the Forestry General Superintendent. On one occasion

^{39/}(...continued)

between a Tree Trimmer I and a Tree Trimmer II. Tree Trimmer II's got paid more, and the position existed as an incentive to Tree Trimmer I's.

between 2000 and 2003, the Forestry Deputy Commissioner received the winners' names directly from John Sullivan. Based on discussions with Drumgould and their own experiences at the City, the Forestry General Superintendent and the Forestry Deputy Commissioner understood that the names provided by Drumgould and Sullivan were the names of the people to hire. The winners' names were not based in any way on how candidates performed on the practical tests, or in the interviews.

Between 1996 and 2004, when no one asked the Forestry General Superintendent for the interview ratings forms for *Shakman*-covered hiring sequences in Forestry, the Forestry General Superintendent just threw them away. When he was asked for the ratings forms, he made sure that the numerical ratings were filled out on the forms by doing it himself or by having someone else in Forestry fill in the ratings, giving the highest scores to the people whose names had been provided by Drumgould.

4. Examples of rigged sequences in Streets & Sanitation.

(a) 2001 General Foreman of Motor Truck Drivers.

General Foreman was the highest *Shakman*-covered union position within Streets & Sanitation. In February 2001, approximately 36 City workers bid on the General Foreman of Motor Truck Drivers job, including six titled Foremen of Motor Truck Drivers.

In approximately March 2001, a General Superintendent in Streets & Sanitation's Bureau of Sanitation (the "Sanitation General Superintendent") was alone with John Sullivan in his office, and they were discussing the General Foreman position. Sullivan told the Sanitation General Superintendent that a certain truck driver (the "preselected General Foreman of MTDs") would get the job. Sullivan also stated that the union, particularly the Local 726 representative, was pushing for the preselected General Foreman of MTDs.

On Saturday, March 13, 2001, 36 job candidates came in and interviewed for the one position. That day, before any interviews occurred, the Sanitation General Superintendent met with Drumgould and Slattery at the interview location. In Slattery's presence, Drumgould told the Sanitation General Superintendent not to fill in any numerical ratings on the ratings form; instead, Drumgould said the Sanitation General Superintendent should just sign his name on a ratings form for each applicant, leaving the numerical ratings blank. Drumgould said words to the effect of, "We are going to try to get this done fast. We'll ask a couple of questions. Just sign the bottom." Slattery, the Sanitation General Superintendent, and Drumgould asked basic questions of the candidates but did not conduct detailed interviews, because – based on the direction given through Drumgould – the candidates' answers did not matter.

The ratings forms sat in Drumgould's office until Sorich told Drumgould who should be the winner. After the interviews, Slattery and Drumgould went to Sorich's office, and Sorich told them that the preselected General Foreman of MTDs should receive the General Foreman position. Based on Sorich's direction, Drumgould then filled out the numerical ratings on the interview ratings sheets for all the candidates, giving the preselected General Foreman of MTDs the highest score.

The preselected General Foreman of MTDs, who had worked politics for a particular Ward Democratic Organization since 1975, was given the job despite the fact that he did not have the required amount of supervisory experience.^{40/} As of March 2001, the preselected General Foreman of MTDs had been a Foreman of Motor Truck Drivers for approximately two years and five months; he had no other supervisory experience. One of the categories on the evaluation form was whether

^{40/}Before the interviews, the preselected General Foreman of MTDs told workers in his alderman's office that he had applied for the General Foreman position. A Local 726 union leader told preselected General Foreman of MTDs, after he received the job, that the leader had "okayed" him for the position.

the candidate had five years or more of supervisory experience. The preselected General Foreman of MTDs was the only candidate who received the highest numerical rating, a “5,” for having five years or more supervisory experience – despite the fact that he was the only Foreman of Motor Truck Drivers candidate who did *not* have the requisite amount of supervisory experience. The other Foremen of Motor Truck Drivers interviewing for the position had between six and 23 years of supervisory experience.

(b) 2001 Program Director.

Also in early 2001, there was a hiring sequence for Program Director. This was a non-union, *Shakman*-covered position. Sullivan told Drumgould that he wanted Drumgould and Slattery to be the interviewers for this position, and to give the job to a certain person (the “preselected Program Director”). Drumgould had observed that the preselected Program Director was a close friend of Sullivan’s. On February 28, 2001, Drumgould and Slattery interviewed two people for the job, and gave the preselected Program Director the highest scores. The high scores were based solely on Sullivan’s directive to hire the preselected Program Director, not on the candidate’s performance in the interview.

(c) 2001 Tree Trimmer II.

In March 2001, two Tree Trimmer I’s were promoted to the position of Tree Trimmer II. One of the winners told the Forestry General Superintendent, the Forestry Deputy Commissioner, and Bruno Bertucci, among others, that he did political work with the Commissioner and was a member of HDO. A union representative told Drumgould that he had talked to Sorich about promoting the other winner.

The job notice for the Tree Trimmer II position required three years of experience as a Tree Trimmer I. One of the winners had 1 year, 10 months of experience; the other winner had 2 years,

5 months of experience. Other Tree Trimmer I's who applied for the promotion had between three and 11 years' experience.

Sorich gave these two names to Drumgould, instructing that they be promoted to the position. Based on Sorich's direction, Drumgould provided the names to the Forestry General Superintendent in Forestry, so that the preselected candidates would get the highest scores on the interview ratings forms. The ratings forms for this promotion sequence contain signatures of the people who conducted the interviews, including Bruno Bertucci, but no numerical ratings at all.

(d) 2004 Motor Truck Drivers.

In February 2004, Streets & Sanitation posted a notice for Career Service Motor Truck Drivers, a *Shakman*-covered position. As discussed in more detail in Section I below, campaign coordinator and former Streets & Sanitation official Daniel Katalinic met with Sorich in early 2004, and gave him lists of political workers in Katalinic's political organization who were seeking the Motor Truck Driver position. Sorich told Katalinic to give the names to McCarthy also, and he did.

At least three of the people on Katalinic's list ("Katalinic MTD 1," "Katalinic MTD 2," and "Katalinic MTD 3") were already City employees. Katalinic MTD 1 had joined Katalinic's organization around 2001 or 2002, after his supervisor (who was also in the Katalinic organization) told him that it would be good to join Katalinic's group because it might help Katalinic MTD 1 along at the City. Likewise, Katalinic MTD 2 joined Katalinic's organization around 2002, after his father-in-law (who was also in the Katalinic organization) told him that Katalinic had a lot of pull within the City and that participating in political work would help his career at the City.

Katalinic MTD 3 joined Katalinic's organization through Bruno Bertucci. Bertucci started working with Katalinic's organization in the 2002 elections, and brought his own small group of volunteers into Katalinic's group. Between 2002 and 2004, Katalinic (after receiving marching

orders from Sorich and others affiliated with the Mayor's campaign office, as described above) told Bertucci where to go and what candidates to support. For approximately the same time period, to get political volunteers City jobs or promotions, Bertucci went to Katalinic and, on occasion, to Sorich. For example, in 2004, Bertucci spoke directly to both Katalinic and Sorich about Katalinic MTD 3. When Bertucci met with Sorich, Bertucci said that Katalinic MTD 3 was with him and that "she is one of mine," referring to Katalinic MTD 3's political work.

The interviews for Career Service Motor Truck Driver were conducted on March 27, 2004. All of the panelists except Drumgould and Slattery filled out "willing and able" forms^{41/} that had no numerical ratings. Slattery and Drumgould had the sheets with the numerical ratings, but they did not give any scores at the time of the interviews.

Drumgould retired from the City in May 2004. During the approximately six weeks between the interviews and Drumgould's retirement, Slattery and Drumgould participated in discussions with IGA and with Sullivan concerning who would be hired. McCarthy raised a question about whether one of Katalinic's candidates, Katalinic MTD 2, was in Iraq at the time of the bid period and the interviews. Sullivan told Drumgould that he called Katalinic MTD 2's mother, and that the mother said that the candidate was in Chicago during those time periods. Drumgould then called IGA to pass on the information from Sullivan. In fact, according to Katalinic MTD 2, he had been in Iraq at the time of the bid period and the interviews.^{42/} He was never interviewed and never took a drug test for the Motor Truck Driver job.

^{41/}Such forms simply ask the candidate whether he or she is willing and able to perform certain characteristics of the job, and the candidate marks boxes "yes" or "no."

^{42/}One of Katalinic's written letters to McCarthy and Sorich before the interviews specifically stated that Katalinic MTD 2 was in Iraq.

In approximately late July 2004 – about two months *after* Drumgould retired – Slattery called Drumgould and asked him to come back to the office to help him fill out the numerical ratings on the Motor Truck Driver interview sheets. Slattery told Drumgould that he was being pestered about completing ratings forms from past interviews. Slattery and Drumgould filled out the interview sheets, giving all the IGA selections 5.0, and everyone else 4.5.^{43/} These ratings were based solely on IGA’s selections; Slattery and Drumgould did not ever evaluate the candidates or determine their qualifications for the Motor Truck Driver position.

Most of the people that Katalinic recommended to IGA, including Katalinic MTDs 1, 2, and 3, received the position. Katalinic MTDs 1 and 2 both thanked Katalinic for helping them get the job. Katalinic told Katalinic MTD 2 that it took a lot of work to get him the job.

In approximately August 2004, shortly after receiving the promotion, Katalinic MTD 3 had an accident. She drove a City truck under a viaduct that was too low for the truck to clear. She was injured in the accident and received a 20-day suspension. On September 15, 2004, in a recorded telephone call intercepted by a Court-authorized wiretap, Katalinic spoke with a member of his political organization, who said that Katalinic MTD 3 “whacked the viaduct” about a month ago, and was issued a 20-day discipline.

In mid-2005, after law enforcement searched various City offices, Bartello found a color-coded document in a file cabinet in the office he was sharing with Slattery. Slattery previously shared the same office with Drumgould. The document contained names of candidates for the position of Career Service Motor Truck Driver, color-coded by political affiliation. For example,

^{43/}Michael Bartello began work as Assistant Commissioner on or about July 15, 2004. Shortly after he started work, he saw Drumgould and Slattery in the Streets & Sanitation personnel office filling out hiring and promotion paperwork.

Katalinic MTDs 1, 2, and 3's names (along with others) were highlighted in purple, and the key designated purple as the color for Katalinic's organization. Slattery was present at the time, and said words to the effect of, "Oh, shit."^{44/}

(e) 2004 Laborer.

In March 2004, Streets & Sanitation accepted bids for promotions of hand laborers to seasonal laborers, and seasonal laborers to career-service laborers. Laborers perform manual labor involving hand sweeping and transporting of heavy objects, among other duties. Approximately 450 people were interviewed for approximately 150 positions in April 2004. The interviews for this position worked the same way as interviews for the 2004 Motor Truck Driver positions: interviewers from the operating departments did not give numerical ratings; candidates were interviewed a second time by Drumgould and Slattery, who had the rating forms. The department promoted approximately 150 people following the interviews.

Beginning in June 2004, the Administrative Assistant Commissioner investigated a class-action grievance submitted to the City by the Laborers Local Union #1001, which challenged the Streets & Sanitation hiring and promotion process for the laborers. At the time the grievance was filed in early June 2004, Drumgould had retired as Assistant Commissioner in charge of personnel; Slattery was the acting personnel director for Streets & Sanitation.

Among other things, the grievance questioned the criteria that Streets & Sanitation used in deciding whom to promote. The union requested that the City provide copies of all the ratings forms that were used in making the selections. The Administrative Assistant Commissioner asked Slattery to give her copies of all the relevant hiring and promotion paperwork, including the ratings forms.

^{44/}Drumgould also identified the document as the type Sullivan created and used to keep track of political hiring during the hiring process in the period before Drumgould left in 2004.

Slattery did not immediately provide the documents. The Administrative Assistant Commissioner repeatedly asked Slattery for the documents. The union filed an unfair labor practice charge with the Illinois Labor Relations Board in July 2004, based on the City's failure to provide the documents.

After the Administrative Assistant Commissioner's third request to Slattery, still in July 2004, Slattery came into her office and closed the door. Slattery told the Administrative Assistant Commissioner that the documents were not ready. She asked what he meant. Slattery told the Administrative Assistant Commissioner that the documents were in the process of being completed. Slattery told the Administrative Assistant Commissioner that he brought Drumgould back to Streets & Sanitation to help complete the paperwork. Slattery said words to the effect of, "He started the process, we need him to finish it." (On the same occasion, Slattery and Drumgould filled in the Motor Truck Driver ratings forms, as discussed above.) The Administrative Assistant Commissioner asked Slattery how he selected the winning candidates. Slattery did not respond. The Administrative Assistant Commissioner said words to the effect of, "Please tell me you had a legitimate business reason for selecting them." Slattery did not respond. The Administrative Assistant Commissioner asked Slattery, "What did you base your hiring decisions on, attendance, performance, anything?" Slattery replied, "No."

The Administrative Assistant Commissioner told Slattery that based on his information, she needed to settle the union grievance, because if he could not explain the ratings, she could not defend the City. The Administrative Assistant Commissioner told Slattery that he needed to give her the hiring documents immediately so that she could turn them over to the union. The Administrative Assistant Commissioner told the Commissioner that there were problems with the grievance; the Commissioner responded with words to the effect of, "Do what you've got to do."

Slattery subsequently provided the Administrative Assistant Commissioner a box of hiring documentation, consisting of completed ratings sheets and other hiring and promotion paperwork. After receiving the documents from Slattery, the Administrative Assistant Commissioner made them available to the union for inspection and copying. The union later sent her letters questioning the hiring process. In an August 2004 letter, the union asked for an explanation of how the numerical ratings were selected, and the bases for the City's promotion decisions. The Administrative Assistant Commissioner responded, among other things, that the numerical ratings were "based on the interviewers' subjective findings concerning the performance of the applicants during the interview process and the contents of their respective bid applications." Slattery reviewed and approved the letter before the Administrative Assistant Commissioner sent it, telling her that the letter was accurate. The Administrative Assistant Commissioner copied the Commissioner, Sullivan, Bartello, and Slattery on the letter. None of them contacted her to indicate that the letter was incorrect.

After Mike Bartello became Assistant Commissioner in charge of personnel in July, Bartello learned that the Administrative Assistant Commissioner had been asking Slattery for documents relating to the laborer promotions, and that the union had filed a grievance. Slattery told Bartello words to the effect of, "I don't know why she's [the Administrative Assistant Commissioner's] sticking her nose into it," and "I don't trust her."^{45/}

^{45/}After sending her August 2004 letter, the Administrative Assistant Commissioner received a telephone call from a union representative, stating that she had not answered the union's questions. The Administrative Assistant Commissioner told the union representative to put his questions in writing, and that City representatives would be available to answer the union's questions. In late October 2004, the union sent another letter, wanting to know the details of how numerical ratings were assigned, and why certain people were promoted over others. The Administrative Assistant Commissioner did not know the answers to the union's questions, because Slattery never explained
(continued...)

- (f) 2004 Equipment Dispatchers.
- (i) The hiring process.

In February and March 2004, Streets & Sanitation accepted bids for the position of Equipment Dispatcher. After the bidding period, but before the interviews took place, the Sanitation General Superintendent was alone with John Sullivan in Sullivan's office. Sullivan asked the Sanitation General Superintendent to be an interview panelist. Sullivan showed the Sanitation General Superintendent a handwritten list of names and said words to the effect of, "These are the guys who are going to get it." There were five names on the list. Three were part of Katalinic's political organization, and Katalinic was pushing for them, and some other dispatchers in his organization, to get the jobs through IGA. For instance, in a March 2004 letter to Sorich, Katalinic specifically requested the three men for the Equipment Dispatcher position, along with several others in his political organization. In addition, the Sanitation General Superintendent overheard Katalinic say that he was pushing for these three to get the job.

In July 2004, after the Sanitation General Superintendent saw the list in Sullivan's office, one of the people whose name had been on Sullivan's list (and on Katalinic's list) died. Before the interviews took place, but after the candidate died, Michael Bartello met with Sullivan in Sullivan's office. Sullivan told Bartello the names of the five people that he wanted to be selected for the Equipment Dispatcher job. The names were the same as the names Sullivan had given to the Sanitation General Superintendent, except Sullivan replaced the deceased candidate with another

⁴⁵(...continued)

his actions. The Administrative Assistant Commissioner showed Slattery the list of the union's questions and told him that she was going to schedule a meeting with the union, and he would have to answer the union's questions. Slattery just shrugged his shoulders. In 2005, the union reached a negotiated settlement with the City on other issues, and the meeting was never held.

candidate. When Sullivan told Bartello the names, Bartello wrote them down. Sullivan told Bartello that the Department would hold interviews for the Equipment Dispatcher job on a Saturday, and there would be interview panels who would question the candidates. Sullivan explained that even though the panels would do the interviews, the ratings forms should be filled out by Bartello or Bartello's staff. Sullivan said that he did not trust the panelists to score the candidates to get the desired results. Sullivan said that Bartello should be responsible for the ratings forms. Based on the conversation, Bartello understood that he was to fill out the numerical ratings himself, even though he would not be sitting on the interview panels.

Bartello told Sullivan that he was uncomfortable with this process. Bartello said that he could not rate people he did not know. Sullivan told Bartello again that this was the process, and that he was responsible for the ratings forms.

After meeting with Sullivan, Bartello spoke with Slattery about his concerns about the process, and told him that it did not seem right to fill out the ratings forms in the way Sullivan described. Slattery told Bartello that this is the way they have been doing it in Streets & Sanitation, and that this was the "best way to do it." Slattery told Bartello that he and Drumgould had signed off on the ratings forms for Career Service Motor Truck Driver positions. As to the Equipment Dispatcher sequence, Slattery told Bartello that all of the candidates selected were acting Equipment Dispatchers.^{46/}

^{46/}According to the bid applications, the candidates that Sullivan identified to the Sanitation General Superintendent and Bartello were, in fact, acting Equipment Dispatchers. The one with the most seniority, however, was a candidate who had been acting Equipment Dispatcher for 14 years, but was not originally slated for the position. He was added to the list only after another of the candidates – who'd been an acting Equipment Dispatcher for nine years – passed away. The other winning candidates had between six and 11 years' experience.

The Equipment Dispatcher interviews were held at a City building at 39th and Ashland on August 6 and 7, 2004. The Sanitation General Superintendent sat on an interview panel with another Streets & Sanitation official. They took turns writing comments for each job candidate on evaluation forms; there were no spaces for the interviewers to give numerical ratings. Bartello did not sit on any of the interview panels.

On August 7, 2004, in a recorded call intercepted pursuant to a Court-authorized wiretap, Katalinic spoke by telephone with one of the candidates about the Equipment Dispatcher interviews. The candidate said he did his interview “yesterday” (*i.e.*, August 6, 2004), and it lasted two minutes. The candidate said the interviews were just formalities. Katalinic and the candidate discussed who conducted the interviews. On August 9, 2004, Katalinic spoke by telephone with the acting Deputy Commissioner of Street Operations. Katalinic asked the acting Deputy Commissioner to make sure he gave John Sullivan a call about the Equipment Dispatcher positions. Katalinic said he heard there were a lot of guys fighting for the jobs, and over 150 people were interviewed on Saturday, August 7, 2004. The acting Deputy Commissioner said that people he has not heard from in 15 or 20 years were calling him about the position. Katalinic told the acting Deputy Commissioner that when he spoke with Sullivan, he needed to make sure to mention certain members of Katalinic’s political organization. Katalinic had a similar telephone call with a Streets & Sanitation Assistant General Superintendent the same day, telling him to go in to Sullivan and give him the names of certain dispatchers who were in Katalinic’s political organization.

About a week after the interviews, Sullivan told Bartello that he heard the Equipment Dispatcher interviews went very well. Bartello repeated his concerns to Sullivan, and told him that it wasn’t right for Bartello to fill out ratings sheets for people he didn’t know. In a recorded September 8, 2004 call between Bartello and Katalinic, Bartello told Katalinic that Sullivan talked

to Bartello about the Equipment Dispatcher position “yesterday” (*i.e.*, September 7, 2004), and told Bartello to “get that ready.” Bartello told Katalinic that the department planned to appoint one of Katalinic’s candidates to dispatcher, and that Sullivan briefed Bartello on making that candidate the Chief Equipment Dispatcher. Katalinic said he would go to the guys “downstairs” regarding the candidate’s promotion.

On September 9, 2004, Bartello filled out numerical ratings forms for each of the Equipment Dispatcher job candidates. Based on his conversation with Sullivan, and at Sullivan’s direction, Bartello gave the highest score, a 5.0, to the five names Sullivan had provided. Bartello gave lower scores to the remaining candidates.^{47/}

(ii) Sullivan’s subsequent concern about an investigation.

On May 3, 2005, federal agents searched the offices of Streets & Sanitation, including the office shared by Bartello and Slattery. During the search, agents recovered a handwritten list of five names Sullivan had previously provided to the Sanitation General Superintendent, corresponding to the pre-selected winners for the Equipment Dispatcher position. This list, dated July 15 [2004], included the name of the candidate who had died before the interviews were conducted.

After the federal agents’ searches, a Streets & Sanitation personnel employee told Bartello the 2004 Equipment Dispatcher personnel file was missing from her office. Bartello told Sullivan

^{47/}Bartello did not do any independent check of the candidates’ experience or qualifications, other than to verify from the records that they had been acting dispatchers, which he had learned from Sullivan. Other than Sullivan’s telling Bartello that these candidates had been acting dispatchers, he didn’t know anything else about their qualifications for the position. Bartello did have forms that had been filled out by the interviewers with some impressions of the candidates, but he did not review those in detail. In the “Comments” section on the ratings sheets, Bartello wrote some comments based on the information Sullivan had provided. He did this so that if any of the candidates who were not selected filed grievances with the union, the City would be able to argue that the jobs were filled based on seniority, even though that was not the basis of the selections.

that the file was missing. Bartello once again told Sullivan that he was uncomfortable with the hiring and promotion process. Sullivan said words to the effect of, "Somebody has to make these decisions."

Bartello and Sullivan then had a series of conversations about the federal investigation of hiring in Streets & Sanitation. During a phone call, Bartello took contemporaneous notes of Sullivan's statements. In one conversation, Bartello told Sullivan that he was planning to meet with his attorney. Sullivan asked Bartello if he wanted to go over things before he met with his attorney. Bartello said no. When Bartello came back to the office after meeting with his attorney, Sullivan asked him how it went. Bartello said he didn't want to discuss it.

The next week, Sullivan called Bartello at work. Sullivan asked Bartello if his attorney thought that the Equipment Dispatcher hiring sequence was illegal. Sullivan stated that he would take the heat for the Equipment Dispatcher hiring because he had been the person to go to the Commissioner with the recommendations. Sullivan said that the reason the personnel office signed the ratings forms was because of problems in the past with a particular Streets & Sanitation employee picking his friends or people from his political organization for promotions. Sullivan also said words to the effect of, "if goofy Danny [Katalinic] was running around saying he got the Equipment Dispatcher job for someone for \$500, then f--- him."

A few days later, Bartello received another phone call from Sullivan. Sullivan told Bartello that, in the past, certain Streets & Sanitation employees had been giving their friends the highest interview ratings, suggesting that that was the reason why Streets & Sanitation had its personnel directors fill out the ratings forms. Sullivan told Bartello that the panel system was not flawed, and that he should continue to use the panel system for hiring and promotions.

Slattery and Bartello then met with Sullivan in Sullivan's office. Sullivan said that he and the Commissioner had met with officials of the City's Corporation Counsel. In the wake of the federal raid, the Corporation Counsel wanted to know about the Streets & Sanitation hiring process. Sullivan asked Bartello to prepare an outline of hiring procedures, and suggested that Bartello start with the mass hiring process. Based on this and his previous conversations with Sullivan, Bartello understood Sullivan's direction to be to create an outline of how the process was supposed to work, and not how it actually worked. Slattery and Bartello worked with some of the assistants in the Streets & Sanitation personnel office to create hiring outlines for various positions, including Laborer, Hand Laborer, Career Service Motor Truck Driver, and Equipment Dispatcher. The outlines they created and provided Sullivan to give to the Corporation Counsel were accurate as to how the process was supposed to work, but not accurate as to how the process actually worked.

In June 2005, Sullivan told Bartello that he heard the federal government had some kind of color-coded list. Sullivan asked Bartello whether it was Sullivan or Drumgould who wrote on the color-coded list. Bartello said he didn't know.

In July 2005, Sullivan called Bartello into his office. Bartello thought they were going to discuss the Streets & Sanitation personnel budget. Sullivan said, "Let me buy you a cup of coffee," and stood up. Bartello said that he was not going to talk about the investigation. Sullivan said that Bartello was right, and sat down. Sullivan told Bartello that he was going to see his attorney to make sure he had the right perception of the hiring process. Sullivan said words to the effect of, "Didn't you come in here and ask me and [the Commissioner] who we're interested in regarding the Equipment Dispatchers?" Bartello said words to the effect of, "No, you told me we were going to make all the actors," *i.e.*, make all the acting Equipment Dispatchers into titled Equipment

Dispatchers. Bartello believed Sullivan was trying to coach Bartello on what to say to investigators, in order to minimize damage to the scheme.

(g) 2005 Motor Truck Driver.

In January 2005, bids were posted for vacancies for Career Service Motor Truck Drivers and Foreman of Motor Truck Drivers positions. Between January and May 2005, Sullivan asked Bartello when the interviews were going to be, and stated words to the effect of, “no one has given me the names yet.” Bartello told Sullivan that he (Bartello) would not fill out the rating forms. Sullivan said something to the effect that Bartello’s completing the rating forms would be the best way. The interviews did not take place.

5. Certification of the *Shakman* referral lists.

After the ratings sheets were completed for each job position, a staff member in Streets & Sanitation personnel filled out the *Shakman* certification, identifying who had been selected for the job.^{48/} Based on campaign coordinators like Katalinic, their own activities, conversations with Sorich and McCarthy, and their observations during their time at the City, Drumgould and Bartello knew when they signed the *Shakman* referral forms, or caused them to be signed, that – contrary to the certification on the bottom of the forms – political considerations had, in fact, entered into the hiring and promotion decisions. By filling out the ratings forms the way Drumgould, Slattery, the Electricity liaison, the Forestry General Superintendent, the Forestry Deputy Commissioner, and others did, they attempted to create an appearance of propriety in the interview process, and to conceal the violations of the *Shakman* Order.

^{48/}Drumgould, Slattery, and Bartello had various assistants who performed this task between 1998 and 2005.

D. Department of Water.

The Department of Water (now part of the Department of Water Management) employed approximately 2,000 employees and delivered potable water from pumping stations to City residents and businesses, as well as to certain suburban communities. The Department of Water hired and promoted people for *Shakman*-covered positions like Laborer, Caulker, Foreman, Hoisting Engineer, and Operating Engineer, among others.

From approximately 1992 to 2003, Phyllis Bergthold was the department's head of personnel. She had previously worked in personnel for the Department of Streets & Sanitation. From approximately 1989 through 2003, Donald Tomczak was the First Deputy Commissioner for Water.^{49/}

1. IGA's role in hiring at the Water Department.

Between 1993 and 2003, Phyllis Bergthold routinely met with Sorich about vacancies in the Water Department. At those meetings, Sorich identified for Bergthold the names of those who should be awarded the vacancies. This typically occurred before the applicants were interviewed.^{50/} Sorich did not tell Bergthold why the names he had given her were to be chosen.

^{49/}Tomczak was indicted on charges of racketeering, mail fraud, bribery, obstruction of justice, and filing false tax returns in *United States v. Donald Tomczak, et al.*, 04 CR 921 (Der-Yeghiayan, J.). He pled guilty pursuant to a written plea agreement and is awaiting sentencing.

^{50/}Sorich's predecessor at IGA was the first person to tell Bergthold about IGA's role in hirings and promotions at the City, while Bergthold was working in personnel at Streets & Sanitation. Sorich's predecessor at IGA gave Bergthold lists of names, saying words to the effect of, "Here's the list of guys you should look at." He often prioritized the names. When Bergthold transferred to Water, the department's Commissioner told her to continue meeting with IGA. Sorich's predecessor at IGA introduced Bergthold to Sorich, and told her that Sorich would be taking over for him.

Between 1993 and 2003, after Bergthold met with Sorich at IGA to receive the list of selected applicants, and typically before any interviews had been conducted, she went to Tomczak's office and gave him the names of the applicants selected by IGA. Bergthold told Tomczak that these were the people whom IGA wanted selected for the available positions. Tomczak then would oversee the interview process to ensure that the IGA-selected candidates won the positions.

On several occasions between the early 1990s and 2003, based on his own observations and conversations with other Water Department supervisors, Tomczak believed IGA had selected to win certain candidates who were unqualified or less competent than other candidates for the position. Tomczak told Sorich his views of the relative incompetence of candidates selected by IGA. Sorich's typical response was for Tomczak to do the best he could with the candidate. Tomczak took that to mean that he had to hire the candidate anyway. As one example, IGA directed Tomczak to accept a transfer employee from the Department of Transportation who had serious drinking problems. Sorich told Tomczak words to the effect of, "Do the best you can with him." Sorich never asked Tomczak for input about the job-related qualifications of candidates, including candidates for supervisory positions.

Even when Tomczak was unhappy with IGA's selected candidate, he did not order that candidate's score to be lowered or reject IGA's selection. Instead, Tomczak scheduled another meeting with Sorich or Individual A. On one or more occasions, Tomczak said words to the effect of, "you can't do this to me, it will look like I don't have control or I'm not in charge, the other guys worked harder politically." However, IGA, via Sorich or Individual A, always made the final determination as to who obtained the position.

2. The interview process at Water.

Between 1992 and 2003, for rigged *Shakman*-covered hiring sequences, after receiving the list from Bergthold, Tomczak provided the IGA-dictated results to an interview coordinator that Tomczak selected. Several Water Department officials served as interview coordinators for Tomczak. The interview coordinators in turn selected interviewers and conducted the interview process to achieve the IGA-dictated results, generally irrespective of the employment-related merits of the individual candidates. To achieve these results, the interview scoring sheets were falsified and manipulated in such a way as to guarantee that the person preselected by IGA would win the promotion.

Water Department interviewers systematically rigged the interviews for these sequences. For example, two of the interviewers (the “Water District Foreman” and the “Water Assistant Commissioner”) each worked for the City for 33 years, with most of their time in the Water Department. The Water District Foreman and the Water Assistant Commissioner served as interviewers on panels for Water Department jobs between the early 1990s and 2003 (the Water District Foreman) or 2004 (the Water Assistant Commissioner), and *all* of them were rigged. During that time period, Tomczak’s top aide (who later served as Sewers Commissioner from 1998 to 2000; the “former Sewers Commissioner”), and later another Water official (the “Water official”), instructed the Water District Foreman and the Water Assistant Commissioner not to fill in the numerical ratings on the forms. Later, after interviews were conducted, the Water official met with the Water District Foreman and the Water Assistant Commissioner and told them the final scores to give each interviewee. The Water Assistant Commissioner occasionally told Tomczak and the Water official that the interview and hiring system was a sham and wrong; they responded by saying that the Water Assistant Commissioner should just follow the rules.

Between approximately 1993 and 2003, after the applicants were interviewed, Bergthold received a package of application materials, which included the ratings sheets. Bergthold and her staff checked the scores tallied by the interviewers for mathematical errors, and then gave the list of selected applicants to the Water Commissioner for approval.

3. Examples of rigged sequences in Water.

(a) 2001 Foreman of Water Pipe.

In May 2001, the Department of Water interviewed candidates for the position of District Foreman of Water Pipe Construction. The Water General Superintendent was one of the interviewers for the position. At the time he retired from the City, the Water General Superintendent was a political worker, and had his own small group of workers who assisted him.

The Water General Superintendent conducted interviews in the Water Department between approximately 1992 and 2004. When he began interviewing applicants, the Water General Superintendent was instructed not to score the applicants during the job interviews, and not to fill out the rating forms. Accordingly he did not do so for the District Foreman position.

One of the people selected for the District Foreman position was a member of Tomczak's political organization, as discussed further in Section G, below. Before the candidate was selected, Tomczak had requested the candidate's promotion from Sorich, along with another member of Tomczak's political organization. The candidate's interview rating form was signed by a Water employee, who was instructed what scores to provide by the interview coordinator, irrespective of how candidates performed in the job interviews.

(b) 2001 Career Service Motor Truck Drivers.

A similar process resulted in the award of a Motor Truck Driver position in 2001 to another member of Tomczak's political organization. Another Water Assistant Commissioner knew the candidate through family connections, and she (the candidate) was a part of his political organization. Both the Water Assistant Commissioner and Tomczak lobbied Sorich on behalf of the Motor Truck Driver candidate. The interview panelist who signed the candidate's ratings sheet was instructed to give her a winning score, irrespective of her performance in the interview.

4. Certification of the *Shakman* referral lists.

After the ratings sheets were completed for each job position, a staff member in the Water Department personnel office filled out the *Shakman* certification, identifying who had been selected for the job. Based on her conversations with Sorich, and her observations during her time at the City, Bergthold knew when she signed the *Shakman* referral forms, or caused them to be signed, that – contrary to the certification on the bottom of the forms – political considerations had, in fact, entered into the hiring and promotion decisions.

E. Department of Buildings.

The Department of Buildings is responsible for the enforcement of the Chicago Building Code governing the construction, rehabilitation, and maintenance of approximately 450,000 structures located in the City. The Department's primary function is to guarantee that all structures located within the City are built correctly to insure the life, health, and safety of its citizens. Beginning in 2003, Chris Kozicki was the Managing Deputy Commissioner for the Buildings Department, and handled the department's day-to-day operations.^{51/}

^{51/}Kozicki has been provided with a immunity letter by the U.S. Attorney's Office.

1. The 2004 Building Inspectors hiring sequence.

In 2004, Sorich gave the name of a patently unqualified candidate for Building Inspector to the head of personnel at the Buildings Department; the candidate (“Buildings Candidate A”) was too young to have the requisite experience. Buildings Candidate A was subsequently given an interview in June 2004. Though the senior interviewer, Kozicki, was advised of pressure to hire Buildings Candidate A by McCarthy, a top IGA official, and the Buildings Department Commissioner, the interviewers inadvertently did not rate him high enough to be selected in an initial interview.

In the interim, the candidate took a brief course (which still did not leave him qualified for the position). McCarthy called back Kozicki and told him that the top IGA official had authorized that the candidate now be hired. Without conducting a new interview, Kozicki filled out a new rating form, giving Buildings Candidate A a high-enough score to be hired. His papers were processed, and he was hired.

(a) Sorich gave Buildings Candidate A’s name to the personnel director.

In 2004, the Buildings Department received budget approval to hire Building Inspectors. At a meeting, Sorich gave the Buildings personnel director names of potential hires for the Building Inspector position, including Buildings Candidate A.^{52/} Buildings Candidate A was the 19-year-old son of an official with Carpenters Union Local 13 (the “Carpenters Official”).

^{52/}Sorich summoned the Buildings personnel director to his office when she first took her position, and subsequently routinely gave her names of persons for vacancies in the Building Department. The personnel director routinely ensured that those names were given interviews through the screening process.

(b) The first set of interviews.

The personnel director requested a list of eligible candidates from Main Personnel. After receiving a referral list, the personnel director gave it to Kozicki, on the instruction of the Buildings Department Commissioner, because Kozicki would be doing the interviews. The personnel director gave Kozicki a copy of the referral list, along with a blank interview ratings form.

There were two sets of interviews and selections for Building Inspectors in 2004. Before the first set of interviews, the Carpenters Official told Kozicki that his son, Buildings Candidate A, and another candidate (“Buildings Candidate B”), the 23-year-old son of another official with the Carpenters Union Local 13, were applying for Building Inspector positions. Kozicki told the Carpenters Official that he should talk to the Buildings Department Commissioner and to a top IGA official about the applications.

Before the first set of interviews were conducted, the Carpenters Official told Kozicki that Buildings Candidates A and B did not make the qualified list of applicants. In fact, Main Personnel had determined that Buildings Candidates A and B did not have the requisite experience to be deemed minimally qualified for the position of Building Inspector. Kozicki spoke to Tim McCarthy at IGA. McCarthy also told Kozicki that Buildings Candidates A and B did not make the qualified list for Building Inspectors and that the top IGA official had told the Carpenters Official that Buildings Candidates A and B could appeal to Main Personnel to get on the qualified list.

Kozicki received a list of names to be interviewed for the first set of Building Inspector interviews and hires in 2004 from the personnel director. Buildings Candidates A and B were not on this list, because they still had not been designated as qualified. After the interviews, which occurred in March 2004, but before completing the rating sheets scoring the applicants, Kozicki received a call from McCarthy. McCarthy named several applicants and asked Kozicki how those

applicants performed in the interviews. The Buildings Department hired six Inspectors from the first set of interviews in 2004.^{53/}

- (c) Buildings Candidates A and B file new applications before the second set of interviews.

The Buildings Department then prepared to hire a second round of Inspectors. Before the second set of interviews for Building Inspectors in 2004, Main Personnel received new applications from Buildings Candidates A and B, and the applications were re-scored. The new applications showed that Buildings Candidates A and B met the minimum requirements for eligibility, and Main Personnel placed Buildings Candidates A and B on the Building Inspector eligibility list. Both the Carpenters Official and Tim McCarthy then told Kozicki, in separate conversations, that Buildings Candidates A and B were now on the qualified list.

The Carpenters Official told Kozicki that he had talked to the Buildings Department Commissioner and to the top IGA official about hiring Buildings Candidates A and B. Around the same time, Kozicki talked to the Buildings Department Commissioner, who told Kozicki that he would like to hire Buildings Candidates A and B. The Commissioner said that he hired Buildings Candidate B's brother in another City Department and that he knew the candidates' families, and they were good people. The Commissioner said that if Buildings Candidates A and B did a bad job, the manager could talk to their fathers. The Commissioner also said that hiring Buildings Candidates A and B would help in maintaining good relations with the Carpenters Union Local 13.

^{53/}Buildings Candidate C was one of the names McCarthy mentioned to Kozicki after the interviews. Buildings Candidate C was not hired. Kozicki later saw John Sullivan at a meeting in City Hall. Sullivan told Kozicki that the Streets & Sanitation Commissioner was upset that Buildings Candidate C was not hired. Sullivan said that Buildings Candidate C was "one of [the Commissioner's] people," which Kozicki understood to mean that she was a member of HDO.

Kozicki instructed an employee at the Buildings Department to screen the qualified list to identify the applicants to be interviewed for the second set of interviews and hirings. Kozicki told the screener to make sure that Buildings Candidates A and B made the list of people to be interviewed, because IGA and the Buildings Commissioner wanted them to be hired. Buildings Candidates A and B were included on the interview list.

(d) The second set of interviews.

A department Building Inspector (the “interviewing Inspector”) and Kozicki conducted the second set of Inspector interviews, which occurred in June 2004. Before the interviews, Kozicki told the interviewing Inspector that the Mayor’s Office (meaning IGA) and the Buildings Commissioner wanted to hire Buildings Candidate A. After the interviews, the interviewing Inspector and Kozicki discussed the merits of the applicants. They completed the rating sheets for the applicants separately; they did not discuss the specific scores they intended to give the applicants, and Kozicki did not see the scores that the interviewing Inspector gave the applicants.

After the interviews, Kozicki received a call from the top IGA official, who asked Kozicki how Buildings Candidate A did in the interview. Kozicki told that Buildings Candidate A did fine, but that he looked young. The top IGA official said that the Carpenters Official was “busting my balls” to hire Buildings Candidate A. The top IGA official said that he told the Carpenters Official that he was willing to hire Buildings Candidate A in the Department of General Services, but the Carpenters Official insisted on a Building Inspector job for Buildings Candidate A.

When Kozicki filled out the rating sheets, he understood that the department was hiring seven additional Inspectors from this round of interviews (in addition to the six that had already been hired earlier in 2004). Kozicki scored Buildings Candidate A in a seventh-place tie with other applicants. He gave Buildings Candidate A a score of 3.0. Kozicki believed that the interviewing

Inspector would score Buildings Candidate A high enough to place him alone in seventh place (thus giving him the job). Because Buildings Candidate A looked so young and was a union official's son, Kozicki was uncomfortable being the rating official to give him the winning grade. Unbeknownst to Kozicki, the interviewing Inspector scored Buildings Candidate A in twelfth place.

After the interviews, McCarthy called Kozicki. McCarthy told Kozicki that the top IGA official was blocking the hire of Buildings Candidate A because he wanted Buildings Candidate A to take a home-inspection course. Kozicki told the personnel director that the department would hire only six additional Inspectors, and asked her to complete the paperwork. The personnel director completed the referral list for the hiring of the six Inspectors, and had the Buildings Commissioner sign it. The personnel director then sent the referral list to Main Personnel.

(e) Kozicki inflates Buildings Candidate A's score.

Near the end of August 2004, McCarthy told Kozicki that Buildings Candidate A finished his home-inspection course. McCarthy told Kozicki that the top IGA official had cleared Buildings Candidate A to be hired. Kozicki told the personnel director to complete the paperwork for Buildings Candidate A. But there was a problem with Buildings Candidate A's score. The personnel director told Kozicki that Kozicki's score and the interviewing Inspector's score for Buildings Candidate A did not put Buildings Candidate A in seventh place. Kozicki decided to redo his rating sheet for Buildings Candidate A and give him a score of 4.0. He did not re-evaluate Buildings Candidate A's merits, but instead simply increased his score in order to place him in the position to be hired.

After watching Kozicki fill out the new ratings form, giving Buildings Candidate A a higher rating, the personnel director submitted that changed form to Main Personnel, along with the other ratings forms and a completed referral list.

(f) The reaction to the hiring.

Buildings Candidate A was hired. Shortly after he started work, the *Chicago Sun-Times* ran a story that identified Buildings Candidate A as an inexperienced Building Inspector whose father was the Carpenters Official. Buildings Candidate A was only 19 years old and did not in fact have the requisite experience to be a Building Inspector. Both Buildings Candidates A and B had falsified information on their applications, and resigned from their positions. Kozicki told reporters that he did not know that Buildings Candidate A was the Carpenters Official's son. This was not true.

F. IGA's Role in Hiring in Other Departments.

The superseding indictment charges that IGA's scheme extended to other departments. The government anticipates presenting evidence at trial concerning IGA's role in hiring in additional departments, including the following:

1. Department of General Services.

The Department of General Services is responsible for maintenance of City buildings such as garages, libraries, and office buildings. General Services employs people in a variety of positions, including electricians, engineers, plumbers, carpenters, watchmen, motor truck drivers, clerks, and administrative assistants. From 1992 to 1998, Jack Drumgould was the department's Assistant Commissioner in charge of personnel. From 1998 to May 2004, Joseph Vetrano had that position.^{54/}

While Drumgould was at General Services, hirings and promotions in the department were rigged to implement IGA's selections for *Shakman*-covered jobs. The rigged process in General Services worked substantially the same way as it did during Drumgould's tenure at Streets & Sanitation, as described above. Between 1993 and 1998, Drumgould met with Sorich in Sorich's

^{54/}Vetrano has received an immunity letter from the U.S. Attorney's Office.

office, and Sorich gave Drumgould lists of people who should receive interviews and jobs for *Shakman*-covered General Services positions. Drumgould then rigged and coordinated the rigging of the interviews and ratings sheets to ensure that Sorich's selections received the highest ratings, and got the jobs. While at General Services, Drumgould participated in approximately 20-25 such hiring sequences per year, each of which was rigged.

The fraudulent process continued during Vetrano's time at General Services. Within a couple of months after he started working at General Services in 1998, Vetrano received a telephone call from Sorich to come over and see him at IGA. Sorich told Vetrano that he understood General Services was hiring. Sorich verbally gave Vetrano a list of names, and he wrote them down. Sorich did not say where the names came from. Vetrano understood that Sorich wanted him to give interviews to and hire the people on his list.

After the first meeting, Vetrano met with Sorich at least several times per year to get the names of people that IGA wanted to be interviewed and hired. At these meetings, Sorich continued to give Vetrano names of people when certain job positions at General Services became open. Sorich sometimes prioritized the names by saying things like, "take a look at the top two first." After McCarthy joined IGA in 2001, and until Vetrano left General Services in 2004, McCarthy provided Vetrano names of the people that IGA wanted to be interviewed and hired with approximately the same frequency that Sorich had. Just as Drumgould had done, Vetrano then gave Sorich's or McCarthy's lists of names to employees within the General Services personnel group who went to Main Personnel to screen interview candidates. Vetrano instructed the screeners to pick the names identified by Sorich or McCarthy.^{55/}

^{55/}Two of those employees have corroborated that they received the names from Vetrano and
(continued...)

Next, interviews were conducted. Between 1998 and 2004, Vetrano sat in on some of the General Services interviews for trades and engineering positions. Due to the fact that Sorich or McCarthy had told him who was to be hired, he did not try to determine who was best for the job. Vetrano assigned numerical ratings to job candidates on written ratings forms, giving the highest ratings to the people whose names had been provided to him by Sorich or McCarthy. He told interview panelists words to the effect of, “look at these candidates here.” Vetrano’s practice, and the general practice in the Department, was to stagger the losing candidates’ scores, to give the appearance that there were real and significant differences among the candidates. He did this to create an appearance of legitimacy and to facilitate any defense of union grievances based on allegations of unfairness in the hiring process.

During this period, there was a manager in charge of the trades and engineering section, which included a large number of General Services employees (the “trades manager”). While Drumgould was in charge of personnel at General Services, Drumgould and the trades manager discussed IGA’s role in hiring and promotions.^{56/} While Vetrano was in charge of personnel, he saw the trades manager with Sorich on occasion. Many times, before the interview process for General Services sequences, the trades manager indicated to Vetrano that he had already spoken to Sorich

^{55/}(...continued)

screened for them, ensuring that the names appeared on the referral lists.

^{56/}For instance, in approximately 1994, the trades manager had a cousin who was applying to be a painter at General Services. The trades manager told Drumgould that he knew Sorich and had told Sorich that he wanted the cousin to be hired. When Drumgould met with Sorich to discuss who would be hired for the painter position, Sorich told Drumgould that the trades manager requested the cousin be hired.

about personnel selections.^{57/} Vetrano observed that when he conducted interviews, the trades manager always gave the highest ratings to IGA's selections.

2. Department of Transportation.

The Chicago Department of Transportation ("CDOT") is responsible for City street, alley and sidewalk reconstruction, bridge maintenance, public-way inspections and permits, traffic services, and planter and median maintenance. One CDOT official worked for the City for 32 years, including working in the Streets & Sanitation personnel office before 1989, as a General Supervisor of Administration in CDOT from 1989 until 1997, and as a Deputy Commissioner from 1997 until his retirement in January 2004 (the "CDOT manager").

The CDOT manager was on many interview panels for applicants for City positions while he was General Supervisor of CDOT, between 1989 and 1997. Frequently, he received the names from the personnel director (there were three during this period) which candidates were preselected. For example, one personnel director gave the CDOT manager a list of names and told him, "We are interested in these people." On some occasions, he received the names from a supervisor. On at least one occasion, he received the names directly from Sorich.

Based on his experience at the City, the CDOT manager understood he was supposed to rate those people the highest in the interview process. In each case, he understood the names came from

^{57/}For example, on at least one occasion, when Vetrano started to tell the trades manager the names that had been pre-selected by IGA, the trades manager told Vetrano that he had "already talked to Robert."

IGA.^{58/} If it was a larger group of vacancies, the names were sometimes provided in writing. The interviewers then rated the candidates according to the list, regardless of the candidates' merit.

The CDOT manager was less involved in hiring after he became Deputy Commissioner, but did supervise the hiring of approximately 15 to 20 Inspectors during his time as Deputy Commissioner, between 1997 and 2004. Several came from other political organizations and were hired at Sorich's direction. During the hiring process, personnel directors and Sorich gave the CDOT manager the names of the Inspectors to hire. After getting the names, the personnel director or the CDOT manager passed the names on to the line managers doing the interviews, telling them that these were the people to hire. The interviewers gave the preselected candidates the highest scores.

3. Department of Aviation.

The Department of Aviation is responsible for the management, planning, design, operation and maintenance of O'Hare and Midway Airports. Defendant Timothy McCarthy was the Assistant Commissioner for personnel from 1996 until May 2001, when he transferred to IGA. From May 2001 through April 2004, Michael Bartello was Aviation's Assistant Commissioner of Personnel.

IGA had some positions in Aviation (usually lower-level positions) where its picks were routinely selected. IGA routinely attempted to affect the hiring process, by causing its selections

^{58/}The CDOT manager understood how this system worked before he began interviewing at CDOT because he had learned about it at Streets & Sanitation. As an assistant to Phyllis Bergthold, and in his prior time in the Streets & Sanitation personnel office, the CDOT manager knew that Bergthold met with the Mayor's Office and that she gave lists of names to screeners and interviewers, and that those people were always selected (absent failing a drug test, etc.). The CDOT manager himself had taken names given him by Bergthold and screened for them at Main Personnel.

to obtain interviews, by selecting the winners of many jobs, and by influencing the selection of other positions.

Between 1993 and 1996, McCarthy was the assistant to the personnel director, for at least part of that time. McCarthy's supervisor at the time met with Sorich at IGA approximately once a week. At these meetings, Sorich provided names of the people IGA wanted to be interviewed and hired for the Aviation jobs. McCarthy's supervisor provided the names to IGA personnel staff to screen, and also provided the names to the deputy commissioner in Aviation from the hiring bureau.^{59/}

When McCarthy took over as the personnel director, assuming the title of Assistant Commissioner in 1996, he routinely met and spoke with Sorich, according to Sorich's secretary. McCarthy provided names of IGA's preselected winners for Aviation positions to Aviation interview panelists. For example, a relative of McCarthy worked under McCarthy in the Aviation personnel office. The relative obtained names from McCarthy before screening for certain Aviation vacancies, such as aviation security officers. McCarthy never said how he obtained the names or where they were from, but the relative included the names on the referral list for interviews, if they were on the eligibility list.^{60/} When the relative asked McCarthy where the names came from, McCarthy said "What are you, a cop?"

Between 2001 and 2004, when Bartello was Assistant Commissioner, the process continued to work the same way. Bartello discussed hiring and promotion matters with McCarthy, after

^{59/}Some deputy commissioners would always hire the names from IGA; others would sometimes reject the IGA names. Those deputy commissioners would either tell Cummings the reason for the rejection, or say they would contact IGA directly to discuss it.

^{60/}Other personnel officers who screened for names while McCarthy was at Aviation also confirm that they obtained names from McCarthy.

McCarthy had moved to IGA, including hiring and promotions for *Shakman*-covered positions. Bartello also occasionally talked to Sorich. McCarthy gave Bartello names of people to be interviewed and hired for rigged sequences in Aviation. McCarthy said words to the effect of, “Let me know how [the candidate] did on the interview,” or when mentioning a particular candidate, “This is a priority for us.”

Bartello gave the names he received from McCarthy to interviewers, so that the persons doing the interviews would know those names were favored by IGA. On some occasions Bartello gave the names before the interviews, and on some occasions after the interviews were conducted but before the rating sheets were filled out. Bartello understood that when he passed on the names, the IGA picks would typically be selected for the positions, as long as they were minimally qualified. After the interviews, Bartello contacted McCarthy to let him know how the interviews went. If the IGA picks were not selected for certain positions, Bartello obtained the reason from the interviewer, and reported back to McCarthy.

G. Campaign Coordinators Sought Jobs and Promotions from IGA.

As described above, many of IGA’s directives to personnel directors to hire and promote certain candidates were based on recommendations from various campaign coordinators who assisted the Mayor’s campaign organization, as well as union leaders, aldermen, and others. Acting through Sorich, McCarthy and other high ranking IGA officials, IGA ultimately determined who should be selected for the jobs and promotions, and then passed the winners’ names to the personnel directors (and sometimes also other officials of the Operating Departments).

The campaign coordinators who met with Sorich and McCarthy and who were awarded *Shakman*-covered jobs and promotions on behalf of their political workers included Donald Tomczak, the former Sewers Commissioner, Michael Harjung, Daniel Katalinic, and the CDOT

manager, in addition to leaders of HDO. In the course of their meetings, particularly in recent years, Sorich and McCarthy took actions that showed that they understood that IGA's control of the hiring process was improper, and that it was to be concealed.

1. Donald Tomczak.

As described in Section D above, Tomczak actively sought *Shakman*-covered jobs and promotions for individuals associated with his political organization. From the early 1990's through late 2003, Tomczak ran a one of the largest City-employee based political organizations. His organization had 100 to 250 active participants at various points in time, consisting mostly of employees of the Water Department. The principal purpose of the political organization was to perform field-related political work (*e.g.*, knocking on doors in the community to promote certain candidates, putting up campaign signs, etc.) for candidates selected by top political operatives of the political organization supporting the Mayor of Chicago, including Sorich, and other IGA officials. Typically, at the beginning of an election cycle (which occurred at least once every two years), an IGA official – typically Individual A, and, later, Sorich – contacted Tomczak and told him the particular campaign that IGA (on behalf of the Mayor's political organization) wanted Tomczak's organization to support. Tomczak then convened an organization meeting of his political organization, on City time, at which time he instructed his coordinators in his organization, all of whom were City employees, what to do.

Between the early 1990's and 2003, on multiple occasions each year, Tomczak sought IGA assistance in an attempt to obtain City promotions for *Shakman*-covered positions for, among others, certain members of his political organization. Upon the announcement of the bidding process for a particular *Shakman*-covered position, Tomczak contacted IGA and scheduled a meeting, typically

with Sorich. Tomczak requested the meeting with Sorich so he could ask Sorich for a promotion to the posted position for employees active in Tomczak's political organization, during a process Tomczak described as "going forward" on a candidate. During the "going forward" process, Tomczak presented his candidates' names on index cards, which he then described to Sorich. In his presentation to Sorich, Tomczak focused on the political work of the particular individual so as to justify promotion requests. Sorich did not ask about the governmental qualifications of these employees, though Tomczak did occasionally make reference, to the extent Tomczak knew of their governmental work. From 1989 through 1998, Tomczak was often accompanied to the "going forward" meetings with Sorich and an IGA supervisor by The former Sewers Commissioner, who reported directly to Tomczak during this time period.^{61/}

During Tomczak's meetings with IGA between the early 1990's and 2003, Tomczak gave Sorich and the IGA supervisor the index cards that listed the name of the employee, his or her current salary and title, the salary and title desired, and the political sponsor of the employee. Occasionally, when Tomczak met with Sorich, Sorich said he would discuss the matter with Individual A. Tomczak did not receive the cards back from Individual A or Sorich. During the meetings, Tomczak told Individual A or Sorich specific details about an employee's political work, such as if someone helped in a certain precinct, or if someone ran a particular precinct. When

^{61/}In preparation for meetings with IGA officials, Tomczak asked the former Sewers Commissioner to create an index card on behalf of the particular candidate. The former Sewers Commissioner kept the index cards in a stack until the day of the IGA meeting. Tomczak instructed him to write "Don T" on the top-left corner of the index card, so that Individual A and Sorich knew the request's source. The former Sewers Commissioner kept a separate list or photocopied the index cards to track which employees' names had been submitted to IGA, and the outcome of the request.

Tomczak made his promotion requests, Individual A often said that he had to “look at the mix.”^{62/} Through communication with Phyllis Bergthold after she received the IGA list, Tomczak learned which of his campaign volunteers “got made” by IGA.

Based on his discussions with Sorich and Individual A, and his observations of other campaign coordinators, Tomczak understood he was competing against other political organizations and individuals with clout. Over the years, IGA granted approximately one-third of Tomczak’s promotion and raise requests due to competition from other campaign coordinators.^{63/}

2. The former Sewers Commissioner.

After working with Tomczak in the Water Department, the former Sewers Commissioner was promoted to be the Commissioner of Sewers Department and served as Commissioner between 1998 and 2000. In that position, and in consultation with Tomczak and others, the former Sewers Commissioner formed his own political organization, which was comprised of approximately 30 to 50 Sewer Department employees. His organization worked in various elections and on various campaigns at the direction of Individual A. During the time he was Commissioner, the former Sewers Commissioner met with Individual A or Sorich at IGA on about ten occasions.

As he had learned through working with Tomczak, the former Sewers Commissioner prepared index cards and sometimes a typed list to give to Individual A or Sorich. The index cards

^{62/}Between approximately 1989 and 1998, the former Sewers Commissioner was present at IGA meetings when Tomczak told Individual A and/or Sorich words to the effect of, “This one’s really important to me,” regarding a certain employee for whom he was lobbying. Individual A once responded with words to the effect of, “Don, I’ve got eight other guys saying ‘this one’s really important.’”

^{63/}When Bergthold met Sorich to receive the list of applicants selected by IGA for available positions, Sorich sometimes said that Tomczak would not be happy because all his people were not on IGA’s list of selections.

or typed list contained the names of politically active employees for whom the former Sewers Commissioner was “going forward on” for a promotion or a raise. In 2000, shortly before the former Sewers Commissioner left Sewers, an alderman called the former Sewers Commissioner with the name of a Sewers employee whom he wanted promoted. The alderman followed up with the former Sewers Commissioner again after he left Sewers. The former Sewers Commissioner then called Individual A about the alderman’s person. Individual A told the former Sewers Commissioner words to the effect of, “tell [the alderman] if he wants someone promoted, it has to go through me,” meaning Individual A.

In meetings with Sorich, the former Sewers Commissioner noticed that Sorich kept index cards in boxes. The boxes were organized by positions, and the index cards had the names of the individual employees and their political sponsors on them. Sorich wrote notes on the index cards regarding the employees that the former Sewers Commissioner presented to him. After the former Sewers Commissioner presented the names to Sorich, Sorich typically said he would get back to him after talking to Individual A. Sorich sometimes told the former Sewers Commissioner to lessen his expectations for job vacancies because he had to satisfy other political organizations with job requests. For example, during one of the meetings, Sorich said words to the effect of, “I received recommendations from three other political organizations that we haven’t helped in a while, so we have to help them.”^{64/}

^{64/}The former Sewers Commissioner’s experience at Sewers was similar to that of his predecessor. While the predecessor was Commissioner, from 1987 to 1998, IGA representatives gave her names of people to be hired and promoted for certain *Shakman*-covered positions in Sewers. The predecessor got the names from Sorich’s predecessor in IGA, Individual A, and from approximately 1993 to 1998, Sorich.

3. Michael Harjung.

Michael Harjung worked for the Department of Sewers from approximately 1978 to 1992, and then at the Department of Water until 1997. After 1997, when Harjung resigned from his City job under pressure of a City Inspector General investigation, Harjung obtained a position at the Chicago Transit Authority. He worked for the CTA through 2004, at which time he retired.^{65/}

In the early 1990s, Harjung organized a political organization to perform volunteer work for the Mayor's political organization. Harjung received his political assignments from Individual A and, later, a former IGA official who continued to do work for the Mayor's campaign. After being introduced to Sorich's predecessor at IGA, Harjung went to IGA to ask for jobs and promotions for himself and for people in Harjung's political organization. Beginning in approximately 1993, Harjung submitted his job requests to Sorich and later to McCarthy. However, even after McCarthy's arrival at IGA in 2001, Harjung continued to submit requests and notifications to Sorich as well.

During the period beginning in or about 1993 and continuing through periods in 2004, Harjung met with Sorich approximately five to ten times per year at Sorich's IGA office. At the tail end of the period, Harjung began meeting with McCarthy. The meetings customarily occurred at the time a hiring sequence was posted, before elections, and after elections. Harjung wrote the

^{65/}Harjung lost his City job in 1997, after the Inspector General ("IG") accused him of falsifying time sheets, and doing political work on City time. Shortly before the IG notified Harjung of the investigation, Sorich called Harjung at a political headquarters and told him to be careful about doing political work on City time. The next day, Sorich called Harjung and asked him to do political work. Later, Harjung communicated with Sorich and Individual A about the IG investigation, and was told that he had to resign. Approximately eight months later, Individual A called Harjung and told him that he had a job interview at the CTA, at which time he obtained his CTA job. (Documents obtained from the City confirm that Individual A assisted in placing Harjung in his CTA position.)

names of the candidates for whom he was lobbying on index cards, prioritized the names, and gave the original cards to Sorich and kept a duplicate for himself. When Harjung went to Sorich and McCarthy to lobby for jobs and promotions for particular candidates, he told them the type and amount of political work the candidate had done. Sorich and McCarthy never asked Harjung whether his volunteer was a good City employee or about his governmental work experience. Given his own employment position, Harjung rarely had personal knowledge of the governmental performance of the candidates he was promoting to Sorich and McCarthy.

When Harjung's volunteers were called for an interview for the posted position, it was Harjung's practice to call Sorich to thank him. Sometimes Sorich or McCarthy called Harjung to let him know that one of Harjung's volunteers had placed the wrong telephone number on his application. Harjung often heard directly from Sorich or McCarthy when his preferred job candidate received the job or promotion.

In the later stages, McCarthy did not want to meet Harjung in McCarthy's IGA office. Rather, on at least two occasions, in 2004, Harjung met McCarthy in the City Hall lobby, and they went outside and talked about the personnel matters on the street.

Over the years, through the meetings with Sorich and McCarthy, Harjung successfully obtained dozens of jobs and promotions for politically active employees, including positions for House Drain Inspector (described above), Hoisting Engineer Foreman, Assistant to the Commissioner, Motor Truck Driver (temporary and career service), and Laborer, among others.^{66/}

^{66/}As to the Hoisting Engineer Foreman position, in or about 2000, a Sewers employee who was an active member of Harjung's political organization sought a promotion to the position. The candidate asked Harjung for help getting the promotion to this position, and asked Harjung to put in a good word for him. Harjung went to Sorich and pushed hard for the candidate, telling Sorich
(continued...)

4. Daniel Katalinic.

As noted above, a prominent campaign coordinator based in Streets & Sanitation was Dan Katalinic. Katalinic worked at Streets & Sanitation from 1978 through his retirement in June 2003. From 2000 until his retirement, Katalinic was the Deputy Commissioner for the Street Operations Bureau. In approximately 1999, Sorich told Katalinic that he should put together a political group of his own. At that time, there were coordinators in the City who had their own political groups mostly of predominantly African-American members, and HDO had mostly Hispanic members. Sorich told Katalinic that in addition to the African-American and Hispanic groups, the Mayor's Office needed a group of white political workers to replace a political organization called the Coalition for Better Government ("CBG"). Sorich said that there was "too much heat" on the CBG, and the Mayor's Office could no longer use them.^{67/}

Katalinic agreed to put a group together. He asked people in Streets & Sanitation and other City departments to do political work for his organization. Around that time, in approximately 1999 or 2000, John Sullivan convened a meeting at Streets & Sanitation, calling in various bureau and department supervisors to a conference room at City Hall. The meeting was held during the workday, and was attended by approximately ten to fifteen Streets & Sanitation supervisory officials. Sullivan spoke during the meeting and announced that Katalinic was forming a political

^{66/}(...continued)

that this appointment was particularly important to Harjung given the candidate's importance to Harjung's political organization. After the interview, but before the results came out, Sorich notified Harjung that he believed the candidate would get the position. Harjung then told the candidate that "it looks good." In November 2000, the candidate received the promotion, and thanked Harjung. Harjung, in turn, thanked Sorich.

^{67/}Beginning in September 1998, the *Chicago Tribune* published negative articles about people running CBG, and its influence on City operations.

group to help the Mayor. Sullivan asked the attendees to join the group, and to encourage others to do so as well.

Katalinic supplied political workers for Sorich and the Mayor's campaign organization from 1999 through 2004. By 2004, his political group had grown to over 200 people, mostly employees at Streets & Sanitation. Based on advice from Sorich and others, Katalinic created a group hierarchy in which he assigned certain workers as coordinators, and others as precinct captains, so that the organization would run more efficiently.^{68/}

Before elections, Sorich and other current and former IGA personnel usually held a meeting for Katalinic and other campaign coordinators at Plumber's Hall in Chicago. At these meetings, Sorich and others provided direction on which candidates the Mayor's Office wanted the political organizations to support, and where the groups should go to campaign.

After receiving direction from IGA, Katalinic gathered his own political workers to give them their marching orders. Katalinic asked Sorich to attend these meetings from time to time, because he wanted his workers to see that he had ties to Sorich. Due to Sorich's influential position at IGA, Katalinic believed that if his workers saw him with Sorich, they would be more likely to work hard at the political work, because they would think Katalinic could help them with City jobs. Sorich did attend Katalinic's meetings between 1999 and 2004, and typically said words to the effect of, "Thank you for coming, helping, and spending this time away from your families."^{69/} During

^{68/}A member of the Katalinic organization provided investigators with a typed list of the members of Katalinic's organization, as of 2004. The list was broken down by coordinators, precinct captains, and helpers. There were approximately 200 people on the list, most of them Streets & Sanitation employees.

^{69/}Katalinic also sought Sorich's assistance in finding a meeting hall for Katalinic's political
(continued...)

those years, at the direction of Sorich and others, Katalinic sent his political workers to assist in elections for U.S. Congress, governor, state representative, and local positions.

Katalinic continued to communicate with Sorich about being the head of a political organization for the Mayor's Office through 2004. For example, in a September 15, 2004 telephone call (recorded pursuant to a Court-authorized wiretap), Katalinic described to an associate a conversation he had with Sorich. Katalinic, who had retired in mid-2003, had told Sorich that he was thinking of moving to the suburbs. According to Katalinic, Sorich replied, "How does it look that you're running a big [political] organization for me and you're moving to DuPage County?" Katalinic ultimately decided to continue to reside in the City.

Beginning around 2000, Katalinic met with Sorich in his office approximately three times a year, and gave him lists of his political workers who were seeking job promotions and other assistance at the City.^{70/} Katalinic typically met with Sorich after bids were posted for *Shakman*-protected sequences, but before interviews were held for the positions. Sorich told Katalinic to organize the names on the lists in order of priority, and he did so. He prioritized the names based on how much political work they did for the political organization, and how dependable they were when Katalinic asked for their political assistance.

^{69/}(...continued)

organization. In a September 17, 2004 recorded telephone call, Katalinic left a voice mail message for Sorich, requesting that Sorich set up use of the Union Hall on Halsted for a 5:00 p.m. meeting.

^{70/}Katalinic provided investigators with written lists of political recommendations to Sorich and McCarthy that he printed from his home computer. In addition, investigators recovered additional such lists from the City computer that Katalinic had used while he was Deputy Commissioner.

Around 1999 or 2000, Sorich told Katalinic that he would deal only with Katalinic on job recommendations for Katalinic's political organization, and that he did not want to meet about personnel matters with others in Katalinic's political group. The coordinators in Katalinic's group therefore did not directly ask Sorich for jobs, but went through Katalinic. A Project Administrator in Streets & Sanitation worked as one of the coordinators in Katalinic's political organization from approximately 2000 through 2004. During that time, the Project Administrator reported to Katalinic about how volunteers performed their political work. Between 2000 and 2004, members of the organization asked the Project Administrator for jobs and promotions, and he informed Katalinic. Katalinic asked the Project Administrator how the person performed politically.^{71/}

When Katalinic gave lists of job candidates to Sorich between 2000 and 2004, he told Sorich that the people on the lists were working for his political organization, and he wanted to help them because of their work for his political organization. Katalinic typically said words to the effect of, "Can we help these guys?" Sorich typically said that he would see what he could do, and that he would have to check with the Commissioner and the Budget Department.^{72/} Katalinic told Sorich of the workers' role in Katalinic's political organization. For example, Katalinic said things to Sorich such as, "These are my people. If we can't help them, how am I gonna hold them?"

^{71/}Between 2000 and 2004, the Project Administrator also had discussions with his direct supervisor, defendant John Sullivan, about the Project Administrator's work in Katalinic's political group.

^{72/}In September 2004, Katalinic sought Sorich's help in securing a County job for the son of a person who was in Katalinic's political organization. In a September 14, 2004 telephone call, Katalinic told the person that he'd given a copy of the son's resume to Sorich. Katalinic said that Sorich said he was going to try.

From approximately 2000 to fall 2003, Katalinic had these meetings with Sorich in his office at IGA. Around fall 2003, Sorich told Katalinic words to the effect of, “We shouldn’t be meeting in City Hall to discuss stuff like this. If anything, we should meet outside.” Also, on one occasion at Madison’s restaurant, in approximately 2001 or 2002, when Katalinic was having drinks with Sorich and another IGA official and discussing his political organization and jobs for his workers, Sorich stated that it was better to meet outside of City Hall and off City property because they shouldn’t be doing political work on City property or on City time. Katalinic told Sorich that it didn’t matter where they met, Katalinic just needed his help.^{73/}

In approximately 2003, Sorich told Katalinic to start giving names to McCarthy. After Sorich told him this, Katalinic gave his lists of names to McCarthy, and also provided copies to Sorich or asked McCarthy to do so.^{74/} In 2004, like Sorich, McCarthy told Katalinic that he did not want to receive the lists of names in his office at City Hall. McCarthy met with Katalinic in the hallway near the elevators on the fourth floor of City Hall, or outside the building. After meeting

^{73/}Katalinic recorded a discussion with Sorich in June 2005. During the discussion, Katalinic mentioned having given hiring-related documents to Sorich and asked where they were; Sorich did not deny having received the documents. Sorich also repeatedly told Katalinic to tell the truth.

^{74/}On September 16, 2004, in a recorded call intercepted by Court-authorized wiretap, Katalinic spoke by telephone with the Assistant General Superintendent in the Bureau of Street Operations, who was also a senior member of Katalinic’s political organization. With respect to Motor Truck Driver positions, Katalinic and the Assistant General Superintendent discussed the fact that Streets & Sanitation was beginning the process of selecting people for two-hour positions. (For two-hour positions, workers are promised a minimum of two hours’ pay; they are then called to work more or less, depending on the City’s needs for the day.) Katalinic said, “I already talked to Tim McCarthy and Sorich. They told me to give them a list. I’m going to give it to Bartello.” (Michael Bartello was, at the time, Assistant Commissioner of Personnel in Streets and Sanitation.)

with Sorich or McCarthy, Katalinic's practice was to follow up afterwards with a phone call about his requests.^{75/}

Katalinic gave his lists of names to the Streets & Sanitation Commissioner around the same time he gave them to Sorich, and the Commissioner told Katalinic that he would speak to Sorich about the recommendations and "see what they'll [IGA] allow us to do." The Commissioner also remarked once that he would have to check with "John [Sullivan]" to "see if we can make it happen." Katalinic also routinely spoke about his recommendations to Drumgould, who told Katalinic that decisions were made by IGA and the Commissioner's office. Drumgould said words to the effect of, "I have to find out what they're going to do downstairs," with "downstairs" referring to IGA.^{76/}

5. CDOT Manager.

As noted above, the CDOT manager met with IGA to promote City employees affiliated with his political organization. In the 1980's, the CDOT manager worked for different political organizations. In 1991, a top CDOT official asked for the CDOT manager's help with a political group of CDOT workers from the Bureau of Streets. The CDOT official told the CDOT manager that he was setting up the group at the request of Individual A. After the CDOT official left, the

^{75/}In a September 15, 2004 recorded telephone call, intercepted pursuant to a Court-authorized wiretap, Katalinic spoke with McCarthy about job positions for truck drivers. Katalinic asked if there would be a "couple [of positions] opening up for us," and McCarthy responded, "Yeah."

^{76/}Likewise, the Sanitation General Superintendent once heard from Sullivan that the Streets & Sanitation Commissioner was unhappy with the list from "downstairs," with "downstairs" referring to IGA.

CDOT manager took over leadership of the organization.^{77/} After the CDOT manager took over, he received phone calls to let him know that a coordinators' meeting was being held. The meetings were usually held at Plumbers Hall or campaign headquarters of the candidate. Individual A, Robert Sorich, and other then-current or former IGA officials were frequently at the meetings.

After the CDOT manager became Deputy Commissioner in 1997, he met with Sorich to submit his requests for hiring and promoting people in CDOT. (Before that time, he sometimes accompanied top CDOT officials to similar meetings.) Sometimes the CDOT Assistant Commissioner for Personnel would accompany the CDOT manager at the meetings with Sorich. The CDOT manager told Sorich who he thought would be good, and mentioned which of his people had done political work. The CDOT manager always shut the door when he entered Sorich's office. Sorich would review the CDOT manager's recommendations, and sometimes said he intended to discuss them with the person who was then the IGA director. Sorich sometimes indicated that he could do one or more of the persons requested by the CDOT manager, but that one or more specific other persons would also have to get the promotions. Those persons would then be promoted.

H. Additional Attempts to Conceal the Fraud.

1. Sorich's maintenance of a secret jobs list in the 1990's.

Beginning in 1989 and continuing to the present, there was an administrative assistant at IGA who worked first as an assistant for Sorich's predecessor at IGA, and after that person left in or

^{77/}The CDOT manager's organization was not the only political organization at CDOT. Another top CDOT official had a political group comprised primarily of African-Americans. Although that group originally was a part of the organization that the CDOT manager inherited, it operated separately during the time the CDOT manager ran the organization. Sorich's secretary confirmed that Sorich was in contact with both the CDOT manager and the head of the African-American organization.

about 1993, she became Sorich's assistant ("Sorich's secretary"). She worked for Sorich and, beginning in or about 2001, McCarthy as well.

In addition to her typical secretarial responsibilities for Sorich (and later McCarthy), Sorich's secretary had what she described as a "secret" job responsibility related to hiring and promotions in City employment. She was responsible for maintaining lists and files related to requests for jobs or promotions that campaign coordinators (such as Harjung, Katalinic, Tomczak, and HDO officials), aldermen, union officials, and others brought to IGA.

During the 1990's, Sorich's secretary kept a software program tracking employment-related requests on a City-owned laptop in her office, but did not tell others why she had the laptop there. Sorich's secretary also kept paper files tracking jobs and sponsors. There were also boxes of index cards kept in Sorich's office and/or Sorich's secretary's office. The index cards included employee names, job titles, and requests, and political sponsorship.

Sorich provided his secretary with the information to put in the database. Before meetings with campaign coordinators, aldermen, and others, Sorich sometimes asked his secretary to print out the jobs list by sponsor, so that he could talk to the sponsor about what requests had been granted and what requests had not. The jobs on the list were covered by the *Shakman* decree, including Motor Truck Drivers, Laborers, and Tree Trimmers. At one point, Sorich told his secretary to use the laptop at home and not at work.^{78/} She then printed Sorich's lists at home, and brought them to him at the office.

^{78/} Sorich's predecessor at IGA told Sorich's secretary to maintain the database and files, but not to tell other people that she was maintaining such lists and files.

As of December 1997, the jobs list contained over 5,700 entries relating to political employment requests. According to City records produced to the government in 2005, the laptop was checked out to Sorich.

2. Sorich's 1997 attempt to destroy IGA computer files.

In 1996 and 1997, a federal grand jury conducted an investigation into alleged federal criminal violations at the Department of Water, including a sequence involving the hiring of rate takers for the Water Department. In 1997, the grand jury returned an indictment against John Bolden, who had served as Water Department commissioner, for various criminal acts, including the hiring of a rate taker without disclosing that the rate taker owed money to Bolden. *See United States v. Bolden*, No. 97 CR 218.

As part of the Bolden investigation, in March 1997, a grand jury subpoena was issued to IGA calling for any and all records indicating how ten identified individuals were selected as water rate takers. On August 28, 1997, in furtherance of the *Bolden* investigation, the FBI case agent conducted a phone interview of Sorich. Sorich said that he provided the names of some rate-taker candidates to Phyllis Bergthold (the personnel director at Water), that he had obtained those names from "community leaders," and said that he had no records regarding the hiring of the rate takers. As investigators would later learn as part of the instant investigation, seven of the individuals who obtained rate-taker positions in 1997 were, at that time, listed on the Sorich database maintained by Sorich's secretary.

Within days after the FBI interview, Sorich spoke with a city employee who provided computer support to IGA (the "IGA computer liaison") in conjunction with the City's Management

Information Systems group (“MIS”).^{79/} Sorich asked the IGA computer liaison what information was on the City’s computer mainframe. The IGA computer liaison told Sorich that the data from each employee’s work computer was stored on the mainframe. The mainframe contained a backup of every file on the City computers. Sorich told the IGA computer liaison that he wanted to erase everything on his (Sorich’s) computer. Sorich also discussed erasing Individual A’s computer.

The IGA computer liaison told Sorich that erasing the computer by itself would not work, because everything on Sorich’s computer was backed up on the City’s mainframe computer. Upon hearing that, Sorich told the IGA computer liaison to get the mainframe files deleted, using words to the effect of, “I’m giving you an order.” Sorich also told the IGA computer liaison not to tell anyone. The IGA computer liaison told Sorich that he could not delete the backup files from the mainframe, as he didn’t know how to do it; he said he needed the help of a City employee who served as a systems programmer at MIS (the “systems programmer”). Sorich told the IGA computer liaison to get the systems programmer involved and delete the backup files from the mainframe. Sorich stated that he was giving the IGA computer liaison and the systems programmer a direct order from the Mayor’s Office to delete the backup files from the mainframe.

The IGA computer liaison went to the systems programmer and told him of Sorich’s order. The IGA computer liaison told the systems programmer that the Mayor’s Office had sensitive data that “they” did not want backed up. The IGA computer liaison told the systems programmer that “they” wanted MIS to stop backing up the files, and to destroy the files. The systems programmer

^{79/}According to the MIS Commissioner, the IGA computer liaison had received the position at Sorich’s direction. There was no vacancy when the IGA computer liaison was hired, and no interview was conducted for this *Shakman*-exempt position. The IGA computer liaison was related to an alderman.

thought the request was strange, but he deleted the mainframe tape files as he was instructed. The systems programmer deleted several particular directories, at the IGA computer liaison's direction, including one that belonged to Sorich.

A short time later, Sorich called the IGA computer liaison and asked him to come over to his office at IGA. The IGA computer liaison went over to IGA, and Sorich asked him if the mainframe files had been deleted. The IGA computer liaison stated that as far as he knew, the mainframe files had been deleted. Sorich asked the IGA computer liaison to delete the computer files on his personal computer at IGA. The IGA computer liaison again told Sorich that deleting files off Sorich's computer would be insufficient, because someone could retrieve the deleted files. The IGA computer liaison told Sorich that the only way permanently to delete the files was physically to destroy the computer. Sorich told the IGA computer liaison, "OK." The IGA computer liaison recalls that he either saw IGA computers or computer parts put into plastic bags to be destroyed, or Sorich told him that computers were put into plastic bags.

During this same time frame in 1997, the MIS Commissioner saw the IGA computer liaison in the hallway standing outside the computer data center, sweating profusely and looking terrible. She asked him what was wrong, and he said he'd just done something terribly wrong. The IGA computer liaison told the MIS Commissioner that he had just come from IGA. The MIS Commissioner asked if he had deleted files, and the IGA computer liaison said that he had, and that he'd destroyed the c: drives on the computers. When the MIS Commissioner asked the IGA computer liaison why he had done that, he said that he'd received a call from Sorich, who told him to come over to IGA and get rid of their computers. The MIS Commissioner called in her First Deputy.

The MIS First Deputy asked the systems programmer to create a set of backups of the information that had been deleted. The systems programmer created a set of tapes, in an attempt to recapture the information that Sorich had instructed the IGA computer liaison to delete. The systems programmer did not review the tapes. He provided the tapes to the MIS First Deputy. Investigators visited the MIS First Deputy and requested that she provide the tapes. The MIS First Deputy turned the tapes over to the investigators.^{80/}

City computer records show that certain files were deleted from the network server on September 2, 1997, the second business day after the phone interview of Sorich. Records show that one set of backup tapes was made on September 5, 1997. A second set of backup tapes was made in November 1997.

A federal grand jury subpoena was issued for the deleted materials on December 17, 1997. This subpoena was based on information the IGA computer liaison provided to an FBI agent. The IGA computer liaison did not disclose Sorich's name at that time. On December 19, 1997, the Corporation Counsel's office turned over two sets of backup tapes and certain documents, saying they were printed out from deleted files. The printed documents included printouts of portions of what was known to be the Sorich database listing City employees by ward, position, and sponsor.^{81/} They also included documents showing the sponsors of City employees in one City department, and

^{80/}The MIS First Deputy recently identified her handwriting on a box containing one set of the backup tapes, confirming that the tapes are the same ones that she caused to be created in 1997, following Sorich's order to destroy IGA computers and IGA files. Due to the age and format of the tapes, the information on them has not been recovered to date. Paper printouts associated with the tapes indicate that they contained, among other things, IGA files relating to political-hiring requests.

^{81/}Sorich's secretary identified these documents, and said that she had printed them out at Sorich's direction, so that he could give the lists to Individual A. Sorich's secretary printed as much as she could before her home printer broke.

documents concerning recommendations by Individual A and Sorich for City jobs on behalf of various persons.

3. Renewed use of the database.

With one exception, the files on the Sorich laptop appear not to have been accessed after December 16, 1997. One database file was accessed in January 1998, but there are no new entries after December 1997.

In the late 1990's, Sorich's secretary spilled wine on the laptop, and it stopped working. Sorich's secretary told Sorich what happened, and they were both concerned. Sorich's secretary purchased a home computer, and began using it to maintain the jobs list.^{82/}

After McCarthy arrived at IGA in 2001, Sorich and McCarthy purchased a new laptop for Sorich's secretary to use to maintain the jobs list. Both Sorich and McCarthy provided Sorich's secretary with information to update the database. In about 2002, they instructed her not to maintain the database on computer any longer.

4. Sorich ordered the political hiring files destroyed.

While Sorich was at IGA, and continuing through the time McCarthy was at IGA, Sorich's secretary maintained file cabinets with paper copies of files tracking jobs and sponsors. Sorich and McCarthy had access to the files, and did access the files. At some point in the past few years, Sorich told his secretary to shred the contents of the political hiring files in her file cabinets. She did so, on Sorich's instruction.

^{82/}Sorich's secretary has produced a record showing she purchased a computer in February 1999.

When federal agents searched IGA in May 2005, there were no paper files or index cards in or outside Sorich or McCarthy's offices containing job seekers' names or political sponsorship.

5. Sullivan's statements to investigators.

John Sullivan was interviewed by federal agents in the investigation, on August 5, 2004, February 18, 2005, and February 22, 2005. In the first interview, which took place at a City office, Sullivan was asked various questions about the City's Hired Truck Program. In addition, he was asked what he knew about HDO in Streets & Sanitation. Sullivan said he did not know much about it, and that it played no role that he knew of in getting people jobs. Sullivan said that he had not heard from anyone that being in the HDO helped in getting a City job.

In the February 18 interview, which also took place at a City office, Sullivan said that he had heard of Daniel Katalinic's having a political organization. He stated that Katalinic "may have some guys." Sullivan was asked about the interview process at Streets & Sanitation. He said that a committee rates each candidate, and the person with the highest score gets the job unless there is a problem with the employee's attendance. When asked if Sullivan had heard of HDO members getting preferential treatment in hiring, Sullivan said that Streets & Sanitation had been historically white, and the City was trying to push minority hiring. Sullivan stated that he had never heard of members of Katalinic's political organization getting preferential treatment. Sullivan said he did not know who the members of Katalinic's organization were.

On February 22, 2005, agents interviewed Sullivan over the phone, after Sullivan requested the opportunity to provide additional information regarding questions agents had asked on February 18. During the February 22 interview, agents asked if hiring, promotions, or overtime were in any way affected by political factors. Sullivan said that politics definitely played a role for *Shakman-*

exempt positions. As to *Shakman*-covered positions, Sullivan described general hiring processes for Motor Truck Drivers and Laborers, but did not describe IGA's role, or the roles of political factors, in the hiring and promotion process. Agents specifically asked Sullivan again about Katalinic's role in hiring, and Sullivan said he had thought about that all weekend. Sullivan stated that Katalinic spoke to the Streets & Sanitation Commissioner about hiring. Sullivan did not describe his tracking on color-coded lists of Katalinic political organization members' hirings and promotions in Streets & Sanitation, or his discussions with IGA about those positions.

IV. CONCLUSION.

The above is an outline of the evidence that the government will introduce to establish that a scheme or joint venture existed involving defendants Sorich, McCarthy, Sullivan, and Slattery, and their co-schemers as well as various individuals who acted as their agents in ways that allowed the

defendants to commit their frauds. This Court should find, based upon this proffer, that co-schemer and agents' statements are admissible pending the introduction of evidence to support this proffer.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following documents:

Government's Evidentiary Proffer Supporting the Admissibility of
Co-Schemer and Agent Statements

were served on April 10, 2006, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

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