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IN THE MATTER OF INDEPENDENT INVESTIGATION
UNDER EXECUTIVE LAW 63(8)

July 23, 2021
3:34 p.m.

CONTINUED VIDEOCONFERENCE
INVESTIGATION of ELIZABETH GARVEY, taken
by The New York Attorney General's Office
pursuant to Notice, held via Zoom
videoconference, before Wayne Hock, a
Notary Public of the State of New York.

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A P P E A R A N C E S :

VLADECK, RASKIN & CLARK, PC
Attorneys Representing the New York
State Attorney General's Office

565 Fifth Avenue
New York, New York 10017

BY: ANNE L. CLARK, ESQ.
(via videoconference)
EMILY G. MILLER, ESQ.
(via videoconference)

FREEMAN, NOOTER & GINSBERG
Attorneys for WITNESS

75 Maiden Lane
New York, New York 10038

BY: LOU FREEMAN, ESQ.

ALSO PRESENT:

NADJIA LIMANI
(via videoconference)

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E L I Z A B E T H G A R V E Y, having
been first duly re-sworn by a
Notary Public of the State of
New York, upon being examined,
testified as follows:

EXAMINATION BY

MS. CLARK:

Q. Good afternoon, Ms. Garvey. I'm
sorry we had to bring you back. This
should not be long.

I'm not going to go over all of
them, but I went through a series of rules
the first time, including not sharing what
we discuss. All those rules still apply,
as well as that neither you nor your
counsel should be recording. All those
rules are still in effect.

The first time around there was
two conversations for which privilege was
asserted that the Executive Chamber has
told us they are not asserting privilege,
so I'm just going to ask you about those
two conversations.

The first one, you had testified

1 E. Garvey

2 about having been on the phone with Mr.
3 Ajemian and a reporter talking about Ms.
4 Bennett's allegations and said that after
5 the call that Mr. Ajemian was on, that
6 there was a call that you were a part of
7 that included Melissa DeRosa, Judy Mogul,
8 Linda Lacewell, you thought Liz Smith, you
9 thought Josh Vlasto, Peter Ajemian, and
10 Steve Cohen, you thought perhaps Rich
11 Azzopardi.

12 Do you recall what was discussed
13 in that conversation after the one that
14 you had with Mr. Ajemian and the reporter?

15 A. Yeah, primarily what we
16 discussed on the call was to relay the
17 information to the group that Jesse
18 McKinley had just outlined for us, and
19 then, you know, we had a discussion about,
20 you know, the incident that Charlotte --
21 incidents that Charlotte was describing
22 from notes that Judy Mogul had from her
23 interview, and then discussed potential
24 responses.

25 Q. And did Ms. Mogul read from her

1 E. Garvey

2 notes in that call?

3 A. She did.

4 Q. Did she read all of her notes in
5 that call?

6 A. As far as I know, yes.

7 Q. And what do you recall Ms. Mogul
8 said about the conversation she had months
9 earlier with Ms. Bennett?

10 A. You mean the entire contents of
11 her notes?

12 Q. What do you recall that she was
13 relaying in this group conversation?

14 A. She was relaying what Charlotte
15 had relayed to her and Jill Desrosiers in
16 two conversations, one at the end of June
17 and another, you know, following up at the
18 beginning of July -- July 1 or 2 I think
19 was what Judy thought it was -- with
20 respect to her interactions with the
21 Governor and her request for a transfer.

22 Q. And do you recall any of the
23 particular interactions that Ms. Mogul
24 shared with the group in that call?

25 A. Yeah. She largely recounted a

1 E. Garvey

2 similar set of facts so what was relayed
3 by Jesse to us. You know, I don't think
4 that sitting here right now I could go
5 chapter and verse through all of them.
6 But I remember, you know, the main facts
7 were largely the same. I think there were
8 some aspects that were, you know, not -- I
9 think the way I recall was that
10 Charlotte's characterization when Judy
11 asked Charlotte to characterize how she
12 felt about particular interactions or how
13 she felt about particular conversations
14 was different with respect to Judy's notes
15 from how she had recounted how she had
16 felt to Jesse McKinley.

17 Q. Just to make sure I understand,
18 are you saying that some of the particular
19 incidents in terms of what Charlotte said
20 the Governor said to her were the same or
21 similar, but how she described how she
22 felt about it had changed?

23 A. Correct.

24 Q. And what do you recall were the
25 differences in terms of how she felt about

1 E. Garvey

2 it between what Ms. Mogul said she said
3 months earlier versus what the New York
4 Times reporter was saying?

5 A. Well, I think, you know, with
6 respect to, you know, conversations about
7 her dating life or, you know, what she
8 thought about certain people in the office
9 and, you know, whether or not she was
10 dating, you know, I think one example Judy
11 had recounted was that he had asked if she
12 was interested in [REDACTED] [REDACTED], who was
13 someone working in the office. And Judy
14 recounted from her notes that she asked if
15 that made her uncomfortable and she said
16 no; that she at one point -- I don't think
17 this was relayed to us by Jesse, but
18 Charlotte relayed to Judy that at one
19 point the Governor challenged her to a
20 push-up competition, and she showed that
21 she could do a certain number of push-ups.
22 Judy asked if that made her feel
23 uncomfortable and she said no.

24 So without going through sort of
25 each and every interaction, I think, as I

1 E. Garvey

2 sit here now, what I recall is that there
3 was certain aspects of how it had been
4 relayed to Jesse, not necessarily the
5 content dramatically changed but that, you
6 know, as it had been relayed to Judy, it
7 was Charlotte's characterization of the
8 conduct as being not bothersome or not
9 inappropriate.

10 Q. And did Ms. Mogul convey that
11 there were things that Ms. Bennett said
12 did make her uncomfortable when she was
13 recounting them to Ms. Mogul?

14 A. I think that what Charlotte
15 relayed -- again, this is a long time
16 later, but I think what made her request a
17 conversation was the request to find him a
18 girlfriend; was that he had requested, you
19 know, that Charlotte should assist him in
20 finding someone to date and that I think
21 she related to Judy. I don't think she
22 directly expressed it as feeling
23 uncomfortable, but that to her marked a
24 transition in their interaction. At this
25 point she thought it would be best to seek

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E. Garvey

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a transfer.

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Q. When Ms. Mogul was going through her notes and talking about her prior conversation with Ms. Bennett, did Ms. Mogul say she had found Ms. Bennett to be credible?

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A. You know, I don't recall that specifically as part of the conversation, but I don't think that Judy -- I don't remember Judy relaying that she found her not credible. But I don't specifically recall her outlining that.

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Q. And after Ms. Mogul shared what was in her notes, what do you recall people said on the call after that?

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A. Well, I think, you know, the question then was sort of back to whether or not -- you know, what the timing was, because the New York Times was planning to publish later that day. A response was necessary from our office, and so discussion about, you know, what the response -- who should make the response, you know, a spokesperson, the Governor,

1 E. Garvey

2 counsel, et cetera, and, you know, what
3 the content of that response should be.

4 Q. And what do you recall different
5 people were saying about what the content
6 of that response should be?

7 A. I think what I recall -- I don't
8 remember specifically, you know, this
9 person said this or this person said that
10 -- but I think there was an overwhelming
11 desire to proceed very, very carefully and
12 be sensitive to the fact that, you know,
13 Charlotte was relaying a story that I
14 don't think factually there was much
15 necessarily in dispute with respect to the
16 specific facts that were in the story, and
17 so how to be sensitive to that fact; that
18 it was not the intended meaning of any of
19 those conversations, but that, you know,
20 those conversations had occurred.

21 Q. Did anyone including Ms. Mogul
22 or Ms. DeRosa say whether they had ever
23 asked the Governor whether any of the
24 specific allegations made by Ms. Bennett
25 as to what happened in their interactions

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E. Garvey

was true or not?

MR. FREEMAN: Objection.

This could be leaning on the
privilege.

Q. I'm asking if in this
conversation, which the Executive Chamber
has agreed is not privileged, if anyone
relayed in this conversation oh, I spoke
to the Governor about Ms. Bennett before
and he admitted it or he denied this
allegation, whether there was any
discussion along those lines in this
conversation.

A. I don't recall specifically in
that stark of a context of, you know, I
spoke to the Governor and this is what he
said. But it is my recollection that,
from listening to the notes in that
conversation, that there were not factual
disputes about the majority of the
conversations, you know, without trying to
put too fine a point on it. I mean, there
may have been some discrepancies, but in
large measure the conversations had

1 E. Garvey

2 occurred. I don't know if it was
3 characterized as the Governor said.

4 Q. Do you recall in that
5 conversation if Melissa DeRosa said
6 anything to challenge the accuracy of any
7 of the allegations?

8 A. No, I don't specifically recall
9 that, no.

10 Q. And in that conversation, do you
11 recall anyone questioning Ms. Bennett's
12 motivations?

13 A. No, I don't. I don't think that
14 anyone felt that there was some ulterior,
15 you know, political motive or anything
16 like that.

17 Q. And in that conversation, did
18 anyone talk about whether there might be
19 other women who would come forward?

20 A. No, I don't think so.

21 Q. Did anyone saying about knowing
22 about any other women that might come
23 forward?

24 A. I mean, what sticks out to me
25 was that this was a pretty all-consuming

1 E. Garvey

2 conversation about Charlotte, and so I
3 don't have a specific recollection of
4 anything else, no.

5 Q. And in this conversation -- I
6 understand you knew the Times story was
7 coming out and you were talking about some
8 sort of a statement -- were you discussing
9 about anything to do after a statement was
10 issued with respect to these allegations?

11 A. Yes. There was a conversation
12 about, you know, what other sort of next
13 steps, you know, might be required in
14 terms of, you know, the GOER policy and
15 whether or not a referral needed to be
16 made. But the pressing inquiry was to
17 resolve the statement, and so I think it
18 was raised and then tabled for a later
19 discussion.

20 Q. And do you recall whether anyone
21 took any position about a referral to GOER
22 or what the policy would be?

23 A. I think just that we had to
24 think carefully through the factual
25 analysis and re-read and examine the

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E. Garvey

executive order.

Q. And in that same conversation, did Ms. Mogul say anything about her not referring it to GOER back in June or July?

A. Yeah. I mean, she stated that, you know, after further consultation after the interview, that she did not feel it met the requirements of the policy to be referred.

Q. And did anyone challenge or question her on that?

A. Like I said, we had a discussion about whether or not next steps needed to be taken in light of how the story was being relayed to the New York Times, so it was certainly not to challenge Judy but just to think through and, you know, understand that we potentially had to look again at the policy and the statement as -- "statement" is not the right word. Whether the recounting that Charlotte gave to the New York changes the analysis that was done.

Q. And did you have any later

1 E. Garvey

2 non-privileged discussions about whether
3 it needed to be referred to GOER after
4 this conversation?

5 A. I don't think I had any
6 non-privileged conversations after this,
7 no.

8 Q. How long was this call with this
9 group of people talking about how to
10 respond to the story that was going to
11 come out in the New York Times?

12 A. It was fairly lengthy. I mean,
13 over an hour, probably.

14 Q. And do you recall anything else
15 that was said during this conversation
16 that you have recounted to me?

17 A. Not particularly, no.

18 Q. Did any of the people on this
19 call express surprise about these
20 allegations?

21 A. I think a lot of people on the
22 call were, you know, surprised. I don't,
23 you know, think that there was a sense
24 that this was an opportunity for everyone
25 to share their feelings on it. I think

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E. Garvey

there was a focus on figuring out what the next steps were in response to the inquiry that we had gotten from Jesse McKinley.

Q. The other conversation that I couldn't ask you -- couldn't get the substance of last time, you testified you had a conversation in late February or early March that involved the Governor, Melissa DeRosa, Liz Smith, and Jeff Pollack.

Do you recall that conversation?

A. Yes.

Q. And was that in person or on the phone?

A. That was on the phone.

Q. How long did that conversation last?

A. Maybe a half an hour or so.

Q. And what do you recall was said by each of the participants in that conversation?

A. The conversation was the Governor asking one -- you know, he said I asked Beth to be here to make sure that,

1 E. Garvey

2 in light of all of the investigations,
3 that we're not, you know, running afoul of
4 any legal requirements. And then he asked
5 Liz and Jeff about their perspectives on,
6 you know, some recent events that he had
7 held and, you know, polling and polling
8 numbers that, you know, Jeff and Liz were
9 seeing.

10 Q. And when you say the Governor
11 was asking about recent events, were those
12 press conferences or press events or
13 something else?

14 A. Press events, yes.

15 Q. And what feedback did Mr.
16 Pollack and Ms. Smith give the Governor
17 about what they thought of and what the
18 reaction was to those press events?

19 A. They felt that the, you know,
20 vaccine events that he was doing -- at the
21 time he was going and doing a number of
22 those events -- that that was really
23 getting good traction in the media and
24 was, you know, positive and seemed to be
25 resonating with everyday New Yorkers.

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E. Garvey

Q. Was there any discussion about any statements the Governor had made about any of the sexual harassment allegations?

A. I don't recall specifically.

Q. Do you recall whether there was anything that Mr. Pollack or Ms. Smith said was not getting a good reaction that the Governor was doing?

A. No, I don't.

Q. And you said the Governor said he wanted you on the call to make sure they didn't run afoul of any legal requirements.

What did you understand were the legal requirements that he was talking about?

A. Since he said it at the beginning of the conversation, truthfully I was not sure where the conversation was going to go, but the content of the conversation didn't really to me relate to anything that I would have had any salient advice on.

Q. In this conversation, was there

1 E. Garvey

2 any discussion about any statements or
3 actions the Governor should take in the
4 future that related to the sexual
5 harassment allegations?

6 A. I don't remember specifically
7 relative to the sexual harassment
8 allegations. I think it was a question
9 of, you know, are these events, you know,
10 losing the interest of the public and the
11 press, and I think it was largely focused
12 on vaccine delivery and reopening of the
13 economy.

14 Q. And was there any discussion
15 about whether the Governor was hoping that
16 the focus on vaccines and issues like that
17 would take attention away from the press
18 attention to things like sexual
19 harassment?

20 A. I don't remember him saying that
21 in so many words, but I think that was
22 implied in the conversation.

23 Q. Was there anything else
24 discussed in this conversation?

25 A. Not that I remember, no.

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E. Garvey

MS. CLARK: Then I think I'm done with you, Ms. Garvey. Sorry that you had to come back a second time.

Emily, is there anything you think I missed?

MS. MILLER: No, I don't think I have anything. Thank you.

MS. CLARK: I should have asked Emily that first.

Thank you, Ms. Freeman, Ms. Limani, and especially Ms. Garvey, for taking this time out on a Friday afternoon.

THE WITNESS: My pleasure. Thank you.

(TIME NOTED: 3:58 p.m.)

ELIZABETH GARVEY

Subscribed and sworn to before me this __ day of _____, 2021.

Notary public