

1 IN THE MATTER OF PETITION  
 2 FOR REPRESENTATIVE ELECTION  
 3 -----  
 4 City of Minneapolis, Minnesota  
 5 and  
 6 Minnesota Public Employees Association, Roseville,  
 7 Minnesota  
 8 and  
 9 American Federation of State, County and Municipal  
 10 Employees, Council 5, South St. Paul, Minnesota  
 11 and  
 12 Minnesota Teamsters Public and Law Enforcement  
 13 Employees Union, Local 320, Minneapolis, Minnesota  
 14 -----  
 15 BMS Case No. 14PRE0167  
 16 VOLUME II  
 17  
 18  
 19 The above-entitled matter came on for hearing  
 20 before Stephen Befort, Labor Referee, taken on the 9th  
 21 day of January, 2014.  
 22  
 23  
 24 TRANSCRIBED OFF OF CD BY:  
 25 ANGELA D. SAURO RPR  
 COURT REPORTER

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 (952) 922-1955

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1 APPEARANCES  
 2 ON BEHALF OF AFSCME COUNCIL 5  
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 30 \*\*\*

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1 REFEREE BEFORT: This should be  
 2 recording.  
 3 MR. FOWLER: If the professor asks  
 4 you questions, you have to be responsive to the  
 5 questions.  
 6 THE WITNESS: I understand. I  
 7 always listen to the professor.  
 8 REFEREE BEFORT: Can I get you to  
 9 raise your right hand? Do you swear to tell the  
 10 truth, the whole truth, and nothing but the truth in  
 11 this proceeding?  
 12 THE WITNESS: I do.  
 13 REFEREE BEFORT: Thank you.  
 14  
 15 DIRECT EXAMINATION  
 16 BY MR. CORWIN:  
 17 Q Please state your name for the record.  
 18 A Eliot Seide, S-E-I-D-E.  
 19 Q And what is your position?  
 20 A I'm the executive director of AFSCME  
 21 Council 5.  
 22 Q Okay. Would you please state your  
 23 experience in the labor movement.  
 24 A I'm in my 36th year working for AFSCME in  
 25 various positions. I started in 1978. I worked in

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1 the in-field services, I worked in legislation for the  
 2 national union, I worked directly for our leg and  
 3 financial president Jerry Worp for a year.  
 4 I came to Minnesota on a special  
 5 assignment in 1980 as a result of PELRA changes that  
 6 were made in 1980, created the right to strike,  
 7 created broad horizontal units that I was sent here to  
 8 help out with that. I became the acting area director  
 9 later that year, and the permanent area director in  
 10 1981.  
 11 I have organized workers in Illinois,  
 12 Alaska, New York, Florida, I am missing a place, but a  
 13 number of places. I have been a business agent for  
 14 Council 14.  
 15 I have been a legislative of director for  
 16 AFSCME Council 6, the old State employee's council. I  
 17 was international area director for AFSCME in  
 18 New York. I have also served as the administrator of  
 19 Council 82, corrections law enforcement council there.  
 20 I was a deputy administrator of District Council 37 in  
 21 New York City, 125,000 member union, and I was -- I  
 22 came here as director over Council 14. I have been  
 23 director of Council 5 since it was created in 2004.  
 24 Q What is your educational background?  
 25 A I have a high school degree from

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1 (inaudible) High School in New York; a bachelor's  
 2 degree and magna cum laude, phi beta kappa from NYU;  
 3 a master's degree from the University of Toronto; and  
 4 I have completed all my coursework to my Ph.D. at the  
 5 University of Toronto, but did not write my thesis.  
 6 Q What is your job title at AFSCME  
 7 Council 5?  
 8 A I am the executive director of AFSCME  
 9 Council 5.  
 10 Q What are your job duties?  
 11 A I am the chief executive officer of AFSCME  
 12 Council 5 pursuant to the constitution. I am  
 13 responsible for hiring and firing staff, for carrying  
 14 out the direction of the executive board of the union.  
 15 I am chief administrator for the union and a person  
 16 who has to -- does all the assignments. I have people  
 17 who I appoint as department directors and heads, and  
 18 they also hire their own staff who work for them. We  
 19 have about 68 or so staff.  
 20 Q Do you hold a position with the  
 21 international union?  
 22 A I'm the international vice president for  
 23 the North Central District, which covers Minnesota,  
 24 North and South Dakota. I was elected in 2006.  
 25 Q Do you presently serve in that position?

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1 A I am presently the international  
 2 vice president this district.  
 3 Q And what are the duties and  
 4 responsibilities of that position?  
 5 A The national executive board sets the  
 6 policy for the national union in between conventions.  
 7 Conventions are held every two years. We meet  
 8 quarterly.  
 9 We also have assignments as assigned by  
 10 the international president. I have been assigned to  
 11 do investigations in Southern California, I have been  
 12 assigned to -- right now I am assigned to help with a  
 13 major retreat we are doing, we are planning a  
 14 conference of all Council directors around the country  
 15 in Baltimore coming up later this month. We have been  
 16 to Paris and things.  
 17 Q Okay. You understand the purpose of this  
 18 hearing is to determine whether or not MNPEA is an  
 19 employee organization under the statute. First of  
 20 all, will you talk or give us your opinion as to the  
 21 importance of lobbying closeness within the Minnesota  
 22 Legislature with respect to the role of a union in the  
 23 public sector.  
 24 A Well, you know, in Minnesota there is the  
 25 collective bargaining law, which is the Public

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1 Employee Labor Relations Act, defines where there is  
 2 mandatory and permissive subject of bargaining. A  
 3 prohibitive subject of bargaining is pensions, and so  
 4 pensions have to be legislative. You can't be a  
 5 public sector union and truly represent your people if  
 6 you're not also going to defend their retirement  
 7 benefits.  
 8 Retirement benefits are a contract between  
 9 that person and the State or the local government  
 10 body, there is MSRS, PRA, PERA, and it's a contract  
 11 per wages in the future, and our defined benefits  
 12 plans are not something we can negotiate. It is  
 13 something that has to be legislated.  
 14 There is a Pension Commission that is set  
 15 up with members from both bodies. You need to work  
 16 with that Pension Commission. You also need to work  
 17 administratively with the Minnesota State Retirement  
 18 Board, the Public Employee Relations Board. If one  
 19 would have members in the teachers, you would deal  
 20 with the PERA board.  
 21 The formula for a defined benefit, and the  
 22 very fact that there is a defined benefit, is defined  
 23 in statute. There have been a number of attacks in  
 24 the last decade and even before that going back to  
 25 1982 to fight over the 2 percent contribution by the

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1 State, which was a massive fight to make sure that the  
2 State made that contribution. They missed that  
3 contribution, but has never missed a contribution  
4 since because of the pressure of the unions in the  
5 State, and AFSCME was a leader in that, to make sure  
6 those contributions are being made. That is why we  
7 are not Illinois, we are not New Jersey, we are not  
8 one of those states because of our activity in that  
9 regard.

10 Over the years we have advocated for  
11 things like the Rule of 90. We have also advocated to  
12 protect pensions from being undermined.

13 For instance, there was an attempt to move  
14 from defined benefit to defined contribution while Tim  
15 Pawlenty was the governor. There was also a number of  
16 attempts, multiple attempts to do it while the key  
17 party ran the Minnesota Legislature. There were a  
18 number of direct attacks and assaults to undo the  
19 defined benefit plan, and it was only the intervention  
20 of AFSCME and other unions like my union that was able  
21 to stop that attack.

22 Additionally, there is -- coming up there  
23 are people who need pension benefits, and amongst  
24 those are 9-1-1 operators, probation officers. These  
25 folks are not currently in the early corrections,

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1 early retirement plans at PRA, and we need to include  
2 them, and so our council has passed a resolution to  
3 support those attempts to improve that.

4 You can only approve -- you can only  
5 approve or protect pension benefits by acting in the  
6 Legislature. You can't do it at the bargaining table.  
7 You can't do it by wishing it away. You have to be  
8 involved in order to protect the benefits of public  
9 workers and improve the benefits of public workers,  
10 otherwise they are going to go away. That is just one  
11 area.

12 The whole notion of collective bargaining  
13 is define in the Legislature. So PELRA always sets  
14 out the right to strike, the right to arbitrate. This  
15 is not the private sector. If PELRA does not set up  
16 the right strike, there is no common law background.  
17 You do not have the right to strike if the right to  
18 strike was taken away. The same thing with interest  
19 arbitration, you would lose that opportunity for the  
20 essential units.

21 So protecting the right to bargain, and  
22 this is not academic, not at all, I mean it is  
23 absolutely real. In the 2003, 2004 legislative  
24 session, Tim Pawlenty made a number of concerted  
25 attempts and there were actual pieces of legislation

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1 introduced to remove our right to bargain over wages,  
2 to freeze our right to bargain over health insurance,  
3 to take away our right to bargain completely over  
4 successive years. These fights took place over a  
5 whole number of years.

6 And, of course, over the last ten years  
7 there were two State shutdowns. State shutdowns not  
8 only affect State employees, they affect local  
9 government employees. There were Ramsey County  
10 employees had to watch out for the shutdown pieces in  
11 both those shutdowns, so did Hennepin County, so did  
12 every county in the State because counties receive  
13 State money, and when there is a shutdown that affects  
14 the subdivisions in the State as well. So, you know,  
15 you have the shutdowns.

16 And the budget of the State of Minnesota  
17 funds not only State agencies, but it funds local  
18 governments, county programming aid, social service  
19 aid, local government aid. You cannot say you  
20 represent workers if you aren't fighting to get the  
21 jurisdictions, the finances they need so the workers  
22 can have a stable staffing environment and also get  
23 the wages, hours and working conditions that they  
24 deserve. That faucet, if you will, gets turned on at  
25 the Legislature. It's impossible, impossible to

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1 represent public workers if you're not involved in the  
2 Legislature.

3 We are proud of the fact that AFSCME got  
4 an award, from of all places, the League of Greater  
5 Minnesota Cities for our work to fight for local  
6 government aid for our cities.

7 Last session we fought to improve the tax  
8 system so that there would be money to invest in  
9 higher education, local government aid, county program  
10 aid. We helped deliver those. We met with editorial  
11 boards around the State, we lobbied legislators.  
12 Those are key pieces that one needs to do if one is  
13 going to protect the public sector and protect the  
14 people who work in the public sector.

15 To say that you can somehow represent the  
16 public sector and not do all these things  
17 legislatively is at best disingenuous and at worst is  
18 a cynical comment.

19 Q Would it be fair to say that, unlike the  
20 private sector, the rights of public employees are  
21 defined by statute rather than common law?

22 A Well, no question. In fact, the right to  
23 strike is defined in the Public Employee Labor  
24 Relations Act. The right to -- in fact, the right to  
25 interest arbitration is defined in that. Without

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1 those definitions in the law, in 179, there would be  
2 no right to strike in Minnesota. In fact, that is  
3 really how PELRA was created.

4 Q Okay. And you're aware of what happened  
5 in the State of Wisconsin with public employees?

6 A Absolutely. In the State of Wisconsin  
7 Scott Walker changed the law, introduced the law, got  
8 it passed by the Legislature that took away the right  
9 to bargain for public workers in Minnesota.

10 Q In Wisconsin?

11 A In Wisconsin, pardon me, in Wisconsin. It  
12 destroyed the right to bargain. It allowed the  
13 Governor or and public employees to unilaterally,  
14 capriciously and arbitrarily set the terms and  
15 conditions of employment. It's one of the most  
16 heinous laws in the country. Scott Walker is now  
17 talking about running for president.

18 That attempt to replicate that was done in  
19 Senate Bill 5 in Ohio and was attempted in  
20 Pennsylvania. It was attempted here in the first few  
21 years of the Dayton administration by members of the  
22 Minnesota Legislature.

23 Currently Dave Thompson is running for  
24 governor, Jeff Johnson is running for governor, and  
25 most of the other candidates running for governor,

1 collective bargaining rights.

2 AFSCME was the first union to endorse  
3 Governor Dayton. I am proud of that, I will brag  
4 about that anywhere. If it wasn't for our activity,  
5 Mark Dayton, in my opinion, would not be governor  
6 today; and if Mark Dayton hadn't been governor today,  
7 then we would have been Wisconsin, and instead when  
8 Scott Walker did that in Wisconsin, we had a huge  
9 rally at the Capitol. Thousands of union members,  
10 private sector, public sector showed up at the Capitol  
11 right after President's Day after Walker did this, and  
12 I was the emcee of that rally. And I personally  
13 called over to Dayton to come; and unlike Scott  
14 Walker, he came up in front of the press corps, the  
15 whole State of Minnesota and said what happened in  
16 Wisconsin won't happen here because I'm here, I will  
17 veto any legislation that tends to take away the right  
18 to collective bargaining. How anyone, any sane person  
19 who wants to represent public workers says that  
20 doesn't matter to public workers, they either don't  
21 care or they are just not real bright.

22 Q So the right to strike, the right to  
23 collectively bargain, the right of fair share, the  
24 right to -- all the rights public employees have are  
25 statutory rather than common law; is that correct?

1 frankly, on the republican side are calling for the  
2 end of collective bargaining with the introduction of  
3 the right to work for less so that we would have no  
4 fair share, so that we would have no collective  
5 bargaining rights, so that we wouldn't have the right  
6 to strike, and only would have the right to arbitrate.  
7 Those are real issues that are coming up in the  
8 gubernatorial campaign because of what Scott Walker  
9 did in Wisconsin.

10 As a result of what Scott Walker did, when  
11 a contract expires everyone should picture that. I  
12 mean we have collective bargaining agreements, you go  
13 to sleep one night and wake up the next morning and  
14 you have no right -- your agreement is expired and you  
15 don't have the right to bargain a new one. You don't  
16 have a right to have a say in your wages, hours and  
17 working conditions.

18 To say that politics doesn't matter is the  
19 most runtiness and disingenuous concept you can  
20 possibly have.

21 If it wasn't for 8,100 votes in this  
22 state, then we would not have Mark Dayton as governor.  
23 We would have Tom Emmer, and it would make Scott  
24 Walker in Wisconsin like look Minnesota would be Scott  
25 Walker on steroids because Mr. Emmer wanted to destroy

1 A Absolutely.

2 Q And therefore are subject to the  
3 legislative and executive branch of government to  
4 continue to support that legislation?

5 A Absolutely. As demonstrated by the fact,  
6 again, over time certainly since 2003 there have been  
7 attempt after attempt by various legislators and the  
8 former government of the State of Minnesota to  
9 eliminate the right to collectively bargain, to  
10 eliminate the right to bargain over specific pieces,  
11 either wage or healthcare, those are other pieces of  
12 legislation, and also there were attempts to destroy  
13 the defined pension. You have to be able to fight  
14 back or you can't represent public workers.

15 Q And how did PELRA come about?

16 A PELRA came about in it was 1972 there was  
17 a teacher strike, a very material and difficult  
18 teacher strike here in the State, as part of the  
19 settlement of that strike everyone agreed that they  
20 would fight for collective bargaining at the State of  
21 Minnesota; but that was part of a national trend going  
22 on. Our former and (inaudible) national president who  
23 I worked for Jerry Worp in the '60s was leading the  
24 illegal strikes in New York City of social workers and  
25 hospital workers. There was strikes of police

1 officers going on at various parts of the country.  
 2 There was just a complete agitational piece in the  
 3 '60s because public workers could try to move from  
 4 simple civil service protections and collective  
 5 begging to a true notion of collective bargaining by  
 6 creating collective bargaining laws.  
 7 It was the context of that naturally and  
 8 then the specificity of Minnesota with the teachers'  
 9 strike that led to the formation of PELRA in the early  
 10 '70s.  
 11 It was then amended in 1980 because the  
 12 right to strike was not in the original bill, and then  
 13 it was amended, but the power amendments of 1980 gave  
 14 local and -- State workers and local level workers the  
 15 right to strike. We organized the bargaining units in  
 16 state service and then set up certain procedures on  
 17 local government. They are very important amendments  
 18 of 1980 that actually for the most part improved the  
 19 Public Employee Labor Relation Act. We have been  
 20 fighting the deterioration of that pretty much ever  
 21 since.  
 22 Q So the statutes that give rise to the  
 23 rights that public employees have today were  
 24 accomplished through political lobbying at the  
 25 Legislature and the executive branch?

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1 A Most definitely, with the help of the  
 2 AFL-CIO, AFSCME, and, you know, there were a number of  
 3 unions around the State that introduced the Public  
 4 Employee Labor Relations. We have a picture in our  
 5 office of the signing of that bill. It involved the  
 6 unions, it involved legislators. It's a magnificent  
 7 moment in the history of the State for public workers  
 8 because instead of collective begging, instead of  
 9 having no voice, they now had an instrumentality for  
 10 voice at the table.  
 11 Q Does AFSCME have a political arm?  
 12 A It's called the People Public Employees  
 13 Organization to Promote Legislative Equality.  
 14 Q What does it do?  
 15 A We have pursuant to our constitution of  
 16 Council 5 and pursuant to the national union  
 17 constitution, we have a National People Committee, and  
 18 we have a State People Committee here. The People  
 19 Committee in Minnesota is chaired by the president of  
 20 the Council. We have subcommittees around the State,  
 21 rank and file members and retirees, we now have a  
 22 retiree chapter who is retirees, and those folks  
 23 screen candidates, so it's rank and file, they screen  
 24 candidates; putting out questionnaires, engaging  
 25 candidates in what their positions are on everything

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1 from collective bargaining, support for local  
 2 government aid, county aid, to outsourcing -- there is  
 3 another issue for the legislature, you can bargain  
 4 things about that, but, you know, they can legislate  
 5 the outsourcing and privatizing. We barely get  
 6 protections for -- I should mention that, we barely  
 7 get protections for the State employees under 16C that  
 8 allows people some protections from privatization.  
 9 So coming back to that --  
 10 Q As far as privatization, isn't it true  
 11 that the decision to subcontract out has been held by  
 12 courts to be --  
 13 (Long inaudible due to static.)  
 14 A The People Committee then make the  
 15 recommendation to the executive board of Council 5.  
 16 The executive board of Council 5 is made up of 43  
 17 members of (inaudible). I serve on the (inaudible)  
 18 with no vote. That 43-member board then determines if  
 19 we should make contributions, if we should make  
 20 endorsements, if we should make contributions, those  
 21 types of things.  
 22 But this is a rank and file driven  
 23 operation. Decisions are made by members, decisions  
 24 are recommended by members. It's a robust process,  
 25 and we are in the process of setting up (inaudible)

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1 right now in some of the districts where there are  
 2 some controversial races.  
 3 Q How does People get its funding?  
 4 A People gets its funding through the -- in  
 5 Minnesota we are a soft money state, so People gets  
 6 its money by the type year we are in. Here we're in a  
 7 big election year, and so, you know, we budget a  
 8 certain amount of money to do politics every year  
 9 through the budget process of the executive board of  
 10 the Council.  
 11 Q And to the extent that you haven't just  
 12 testified, how does People --  
 13 A It's (inaudible) on the Hill, I should say  
 14 that too. The People Committee also has a major day  
 15 on the Hill every year. We have been doing this since  
 16 19 -- we have multiple councils. We started it and I  
 17 started it with a guy named Rick Scott in 1982 at the  
 18 old Prom Center on University. We now have the  
 19 biggest legislative event of the year at the Capitol  
 20 every year. We have not had less than 1,000 people.  
 21 We have had as many as 1,500.  
 22 Those members come up, they give  
 23 presentations about the budget, about collective  
 24 bargaining issues, privatization issues, pension  
 25 issues, and then they go forth and do a rally at the

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1 Capitol. It always makes major news in the State.  
2 And then we go out and they lobby all their  
3 legislators. At the end of the day they have a  
4 legislative reception as well.

5 It is most robust -- and in between that  
6 our locals send out folks to do lobbying regularly at  
7 the legislation -- at the Legislature. The  
8 legislation that (inaudible) improve the lives of  
9 worker, public workers. Also we try to stop those  
10 things that I mentioned. That program goes on through  
11 the entire legislative session.

12 Q All right. Before we get to --  
13 (Long inaudible due to static.)

14 BY MR. CORWIN:

15 Q -- is that statutory in Minnesota?

16 A Yeah, I mean in Minnesota the  
17 (inaudible-static), but there have been a number of  
18 events in recent years. In the first few years of the  
19 Pawlenty administration -- pardon me, the first few  
20 years of the Dayton administration, of the key  
21 (inaudible-static) House and the Senate, there were a  
22 number of bills that would take away the right to  
23 bargain health insurance (inaudible-static) government  
24 employees, and there were also attempts to  
25 unilaterally change (inaudible), plus the State

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1 part, you have got to do federal lobbying too, that is  
2 the other part. A union that is not doing federal  
3 lobbying, the tap is turned off in the states at the  
4 federal level.

5 I mean right now, for instance, you know,  
6 food stamps, the Staff program is under attack. There  
7 is going to be 100 layoffs at the University of  
8 Minnesota as a result of the cut at the Staff program.  
9 So these are bread and butter issues that get dealt  
10 with at the federal level.

11 So we have our federal legislative  
12 director or the assistant director comes to our event,  
13 makes a presentation about federal issues, brings  
14 people up-to-date on that.

15 Our chief lobbyist here makes a  
16 presentation about the issues that are coming up. We  
17 have folders with fact sheets on each of the issues.  
18 We make appointments with all the legislators, with  
19 all the legislators for all the members that are  
20 there, and we tally our members in every legislative  
21 district or near every legislative district when we  
22 get up there.

23 After the plenary they break into groups.  
24 They (inaudible-static) meetings with their  
25 legislators. They do that by legislative district.

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1 employee group insurance plan and the rules and  
2 regulations thereof. Some of that is bargained.  
3 Other of that is defined in 43A pursuant to the law.

4 So, again, it is impossible to represent  
5 public workers and not do work at the Legislature.  
6 One must do that, and you can't do effective work at  
7 the Legislature if you're not involved in politics  
8 because it's a democracy and these folks get elected.

9 Q Okay.

10 A And they also get beat.

11 Q Tell us a little bit about Dan Hill.

12 A Dan Hill we every year, like I said, since  
13 1982 we have a -- prior to Council 5, the AFSCME  
14 councils have a joint event. Dan Hill started out as  
15 a couple hundred people in 1982. It blossomed over  
16 the years to be more and more. Since our merger we  
17 have not had less than 1,000 people at the Capitol.

18 We start at 10:00 in the morning. There  
19 is a plenary that we have. We usually have, like I  
20 say, we have not had less than 1,000 people. We have  
21 had as many as 1,500 people. We have a plenary. Our  
22 president of our council sets the direction of the  
23 union at the Legislature. We have a report from our  
24 national legislative department, our federal lobbying  
25 program, which, by the way, Gregg, that is the other

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1 We then bus them up to the Capitol, we have a rally in  
2 the rotunda, and then they go forth and meet with all  
3 the legislators (inaudible).

4 The Executive Committee, the chair  
5 officers and myself meet with the speaker and the  
6 majority leader and the governor, and we will meet  
7 with the minority leaders, you know, so there, you  
8 know, work on -- try to work on a bipartisan basis  
9 where there is the ability to do that.

10 And then at the end of the day we have a  
11 reception for the legislators and invite them to come  
12 so we can do some more work.

13 By the way, when we have that, not only do  
14 State legislators come to that, but we have local  
15 government leaders come to that as well. We have had  
16 candidates for the mayor of Minneapolis, candidates  
17 for St. Paul who just stop in and they have an  
18 opportunity to chat with people.

19 Q For an example where AFSCME has its  
20 political arm, do you discuss AFSCME political success  
21 or progress with respect to bridge work right after  
22 the 35W bridge collapse.

23 MR. FOWLER: I am going to interpose  
24 an objection, Mr. Arbitrator, it's cumulative. We  
25 have already had two witnesses testify (inaudible) six

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1 hours total the first day how AFSCME works, how AFSCME  
2 does things. We are here to determine how MNPEA is  
3 somehow not a union. None of this is relevant or  
4 addresses that is fact, and I don't want to be here  
5 all day.

6 MR. CORWIN: Obviously we have a  
7 different opinion. Quite frankly, we believe MNPEA is  
8 not a union because it has no political function, and  
9 in the private -- in the public sector it's impossible  
10 to be a public sector union without having a political  
11 function, so we believe it's essential to our argument  
12 that MNPEA is not a union, but is some kind of  
13 corporate structure to benefit a law firm.

14 UNIDENTIFIED MALE: According to  
15 you.

16 MR. FOWLER: Mr. Arbitrator, I would  
17 like a ruling on --

18 MR. CORWIN: I don't think Mr.  
19 (inaudible) ought to be able to comment.

20 MR. FOWLER: I would like a ruling  
21 as to whether that is germane to either of the two  
22 statutes, 179 or 179A because, again, this is  
23 cumulative, and this is not an opportunity for AFSCME  
24 to pop out how great it supposedly is. This is  
25 whether or not MNPEA fails to meet those two

1 aware of these things.

2 (Long inaudible due to static.)

3 A So we did that in front of -- again, this  
4 is when the key party ran the Legislature in -- pardon  
5 me, this was when Pawlenty was governor. His  
6 department said we were wrong. Two weeks later  
7 Congressman Oberstar came in and the committee said,  
8 well, we have got these facts from (inaudible), facts  
9 from AFSCME, what do you think (inaudible-static).

10 The bridge collapsed, and then we worked  
11 diligently to, as we were working all along, to  
12 restore the bridge inspectors (inaudible-static) to  
13 make sure the bridges because there were more bridge  
14 inspectors, people to maintain those bridges or repair  
15 those bridges, and we did some public relations work  
16 about that too.

17 Halloween the year before, I believe the  
18 bridge collapse was in August, Halloween the year  
19 before we had taken whole crews of legislators under  
20 the bridge on 494 over by --

21 Q Lafayette bridge?

22 A No, the Wacouta bridge and showed them --  
23 if you remember, that ended up having problems after  
24 it was built. We showed them the problems that were  
25 going to happen.

1 definitions, and I would like a ruling.

2 REFEREE BEFORT: I think it's  
3 permissible for --

4 (Long inaudible due to static)

5 REFEREE BEFORT: -- testified very  
6 eloquently when he was on the stand very much of the  
7 same thing and is --

8 MR. CORWIN: This is our last  
9 question.

10 UNIDENTIFIED MALE: (Inaudible) is  
11 very eloquent.

12 REFEREE BEFORT: He is very  
13 eloquent, right.

14 MR. CORWIN: This is our last  
15 question.

16 BY MR. CORWIN:

17 Q Just talk about the 35W bridge.

18 A So the 35W bridge crush, we had been  
19 arguing to the State up at the Legislature that, in  
20 fact, we had a number of deficient bridges in the  
21 state. We represent bridge inspectors, we represent  
22 the (inaudible) people, we represent the highway  
23 inspectors, we represent people who do the maintenance  
24 on the roads, and so we had done -- testified up in  
25 front of the Legislature that, in fact, we need to be

1 We took them to another of series of  
2 bridges. We did it on Halloween because we called it  
3 the scary bridge story, and we took around a whole  
4 group. We had a couple of vans of legislators,  
5 reporters around, and we demonstrated to them all the  
6 different bridges.

7 When the collapse --

8 (Long inaudible due to static.)

9 A -- people dying because of that bridge  
10 collapse, but then we work diligently to restore  
11 bridge inspection and make --

12 (Long inaudible due to static.)

13 A -- in the Star Tribune and the Pioneer  
14 Press to point out there was public workers when there  
15 is danger, they come to protect people, they save  
16 people -- they save lives. They are what is critical  
17 to the safety of our society. Public workers are  
18 beaten up every day by politicians, and someone has  
19 got to stand up for them, that is what AFSCME does.

20 Q Okay. So finally my last question: Why  
21 do you think MNPEA is not a union?

22 A Well, there is a whole variety of reasons  
23 I think it's not a union. It's an entity run by a few  
24 guys from a law firm. It's an entity that says --  
25 that goes ahead and tells people that they don't need

1 to be engaged in politics, they don't need to be  
2 engaged in legislation when you cannot protect the  
3 rights of public workers, if it's the right to  
4 collectively bargain, the right to pensions, the right  
5 not to be privatized, all of these issues they tell  
6 them you don't have to be involved in that.

7 Like I said, it's naive at best and it's  
8 ruinous at worst, and it's selling a bill of goods to  
9 a bunch of people obviously for the profit of a law  
10 firm. So I think they fail to provide representation  
11 on that point.

12 (Long inaudible due to static.)

13 A -- you know, there is plenty of workers to  
14 go organize to use and be unionized who are not  
15 currently unionized, but instead what they do is they  
16 are a predatory organization on other labor  
17 organizations -- on labor organizations and they  
18 attempt to undermine and discourage them.

19 Frankly, not only don't I consider them a  
20 labor organization, they are the boss's agent. MNPEA  
21 is the boss's agent. The people who run them or work  
22 for them are the boss's agent because what they try to  
23 do is divide workers against each other and create an  
24 environment of workers fighting against workers.  
25 Workers need to be united to fight employers and

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1 you are not a witness. All morning (inaudible) during  
2 the testimony, that is not permissible. If you do it  
3 a third time, you're out of this room.

4 UNIDENTIFIED MALE: All right.  
5 REFEREE BEFORT: Cross-examine.

6 BY MR. FOWLER:

7 Q So starting backwards, Mr. Seide, you  
8 stated that one of the reasons why MNPEA is not a  
9 union.

10 (Long inaudible due to static.)

11 BY MR. FOWLER:

12 Q Isn't it fair to say that MNPEA has, in  
13 fact, organized a number of previously unorganized  
14 groups?

15 A Correct. Apparently you have organized  
16 supervisors, not workers.

17 Q (Inaudible) Patrol officers like the one  
18 that was involved in the police-involved shooting is  
19 not -- is that a supervisor, a rank and file police  
20 officer?

21 A Apparently that is a police officer.

22 MR. FOWLER: Approach the witness?

23 REFEREE BEFORT: Sure.

24 BY MR. FOWLER:

25 Q Before we delve into the book for some

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1 politicians, not divide against each other. What  
2 MNPEA does --

3 (Long inaudible due to static.)

4 MR. CORWIN: No further questions.

5  
6 CROSS-EXAMINATION

7 BY MR. FOWLER:

8 Q Well, Mr. Seide --

9 THE WITNESS: Was that a threat?  
10 Did he say he's got your number.

11 UNIDENTIFIED MALE: Yes, I did.

12 UNIDENTIFIED MALE: And he went like  
13 this.

14 THE WITNESS: He said he's got my  
15 number, does that mean you're going to be --

16 UNIDENTIFIED MALE: Politically.

17 THE WITNESS: You've got my number,  
18 you're going to come to my house, you're going to --

19 UNIDENTIFIED MALE: (Inaudible) we  
20 don't normally go to houses?

21 THE WITNESS: You got my number.

22 MR. FOWLER: Can I start my  
23 cross-examination?

24 REFEREE BEFORT: (Inaudible-static)

25 I don't want to hear any more comments on the side if

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1 questions, are you aware that MNPEA is a relatively  
2 new organization being founded in about 2011?

3 A I'm aware that MNPEA is a result of people  
4 who left another organization, worked for a law firm,  
5 and are an enterprise in this state, not a union.

6 Q Let me just ask you: Are you aware of  
7 when about that organization came about, was it 2011?

8 A I don't know the exact date.

9 Q Okay. Any reason to dispute that it was  
10 in 2011?

11 MR. CORWIN: Objection, lack of  
12 foundation, calls for speculation.

13 REFEREE BEFORT: You can answer the  
14 question.

15 A I don't know exactly when you were  
16 founded.

17 BY MR. FOWLER:

18 Q So you also testified, your last line of  
19 questioning about the approximately four reasons why  
20 you believe MNPEA is not a union. You started, not  
21 only that question by earlier on that, you can't be a  
22 public sector union unless you were active at the  
23 Legislature, is that your position?

24 A My position is that if you're going to be  
25 a public sector union, in order to represent workers

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1 you have to also represent them at the Legislature  
2 because there are things in the public sector that can  
3 only be done at the Legislature and cannot be done at  
4 the bargaining table. There are things that are  
5 specifically prohibited under the Public Employee  
6 Labor Relations Act and the Public Employee Labor  
7 Relations Act itself is a creature of the Legislature.

8 But that is not the only reasons I don't  
9 think that MNPEA is a union. I don't think MNPEA is a  
10 union because I don't think it's a worker  
11 organization, a democratic organization that involves  
12 workers in decisions that you make. Because it tells  
13 workers that you don't have to collectively get  
14 together and act. What you have to do is just pay us  
15 dues and then we will do all of this for you instead  
16 of telling workers that power comes when workers  
17 combine together to do together what they can't do  
18 separately and to act in a democratic fashion.

19 It gives them the opportunity to gather,  
20 to vote, to get that policy and direction. You don't  
21 do any of that. I don't consider you a union. I  
22 consider you an enterprise. In fact, a for-profit  
23 enterprise.

24 Q Let's try and break those components and  
25 parts up. Again, I asked if you think that it's

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1 bargain, and now they have a right to work bill that  
2 is threatening them at this point, and that also  
3 attempts to take away their (inaudible).

4 Q So that initiative, that prior initiative,  
5 are you aware of another union called Fraternal Order  
6 of Police?

7 A I'm aware that there is a union -- that  
8 there is an organization called the FOP. The FOP is  
9 not always a collective bargaining organization.  
10 Sometimes it's a professional organization. Other  
11 times it's kind of a lobbying organization. It  
12 depends on the state.

13 Q In particular Ohio, in Ohio are you aware  
14 that the Ohio FOP spent millions of dollars to defeat  
15 that bill?

16 A No, I'm not aware.

17 Q Any reason to dispute that the Ohio FOP  
18 spent million of dollars?

19 A I'd have to check with (inaudible) of Ohio  
20 who were co-chairs of the campaign to stop SB-5. I  
21 know about the Teacher's Union, I know about AFSCME, I  
22 know about the AFL-CIO. I have never heard anything  
23 about the FOP in that right.

24 Q Do you know --

25 A I have heard about police unions, but I

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1 legally required in order to be a public sector union  
2 you had to (inaudible) at the Legislature, yes or no?

3 A I think it's morally required, and it's  
4 also if you are going to represent workers at the  
5 Legislature, maybe you can tell me, Mr. Fowler, how  
6 are you going to protect people's pensions if you  
7 don't go to the Legislature and deal with the Pension  
8 Commission and don't deal with the people who are on  
9 the Pension Commission? How are you going to protect  
10 public workers if you aren't fighting to get the money  
11 into their counties and their cities, there is money  
12 to bargain for into those cities by fighting for local  
13 government aid and county aid.

14 How are you going to make sure that the  
15 work that (inaudible-static) that takes away the right  
16 to collectively bargain, which can actually happen.  
17 I'm not an active (inaudible-static) it there weren't  
18 for unions like AFSCME that stood up and fought it,  
19 then those things would have happened and then none of  
20 us would be doing anything.

21 Q We'll get to that. So in Ohio, you had  
22 testified about how Ohio had a right to work  
23 (inaudible), correct?

24 A Ohio had SB-5, which attempted to take  
25 away the rights of public workers to collectively

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1 have not heard anything about the FOP in that fight.

2 Q Do you know who Chuck Canterbury is?

3 A No, I don't.

4 Q Did you know that he is the president of  
5 the national FOP overseeing all of the states with  
6 FOPs?

7 A I have no idea.

8 Q So in that Ohio situation it sounds like  
9 there was a collaborative of different labor  
10 organizations that were working to defeat that bill,  
11 is that fair to say?

12 A It was a coalition of labor organizations  
13 and community organizations and others. The bill  
14 passed and was signed by the governor, and then there  
15 was a re-call of the bill, and there was a mass  
16 movement to re-call the bill, which passed two to one.  
17 I know that our union was heavily involved in this,  
18 our affiliates, our national union. Plus I know  
19 Council 5 sent folks to help out to fight SB-5 in  
20 Ohio. We had people in I think eastern Ohio who  
21 helped out with that in eastern Ohio. We volunteered  
22 folks to go and help.

23 It's like cancer, if it starts in a place,  
24 it grows, it goes down to other places, and so we  
25 wanted to help defeat it.

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1 Q The reason I am asking you these questions  
2 is because you have asserted in your testimony that  
3 MNPEA is not, in fact, active at the Legislature and  
4 is not, in fact, involved in legislative efforts, do  
5 you remember testifying to that?

6 A That is correct.

7 Q Okay. So then do you have any firsthand  
8 knowledge of whether or not MNPEA has partnered with  
9 the Fraternal Order of Police here in Minnesota?

10 A I have been before the Petition  
11 Commission, I have testified before that commission, I  
12 have lobbied at the commission.

13 Q That is not the question.

14 A I have never seen MNPEA or anyone like  
15 MNPEA up at the Capitol doing anything. When the  
16 attempt came to take our defined benefit pension plan  
17 and turn it into a defined contribution plan, I was  
18 working with the fund directors, members of the  
19 Pension Commission --

20 Q Again, I just asked you --

21 A I was up there --

22 MR. FOWLER: That is not responsive,  
23 Mr. Arbitrator.

24 REFEREE BEFORT: I think you have  
25 got to narrowly respond to the question asked.

1 A (Inaudible answer-static.)

2 Q Are you aware of whether or not MNPEA has  
3 partnered with the Police Officers Alliance of  
4 Minnesota again at the Legislature, yes or no?

5 A No.

6 Q So you have the book. In Tab 12 there is  
7 two sets of statutes that appear in Tab 12, just to  
8 give you on the right page. The first statute is  
9 Chapter 179.

10 A Uh-huh.

11 Q So about midway through that stack of  
12 papers on Tab 12 starts 179A, which is, as you know,  
13 is PELRA?

14 A Uh-huh.

15 Q And if you could turn to 179A.03.

16 A Political activities (inaudible).

17 Q Just if you have what is marked as --

18 A 179A.

19 Q A.03.

20 A Okay.

21 Q In your direct examination by Mr. Corwin  
22 you were talking -- you were asked questions about  
23 rights to strike and (inaudible-static) in PELRA gives  
24 public employees the right to strike, do you remember  
25 that testimony?

1 BY MR. FOWLER:

2 Q I didn't ask what you did.

3 A I'm not aware that they are up there ever.  
4 I'm not aware that MNPEA is up there. MNPEA,  
5 Professor Befort, the reason I am answering this,  
6 MNPEA has told work group after work group that they  
7 don't do politics, they don't engage in legislation  
8 like AFSCME does, they don't do all these things, and  
9 so --

10 (Long inaudible due to static.)

11 Q Mr. Delmonico, his organization does lobby  
12 at the Capitol, correct?

13 A They work with the MPPOA, the lobby  
14 (inaudible), and, you know, it's interesting to me  
15 because I thought you guys didn't do that. You tell  
16 (inaudible) county you don't lobby, you don't do  
17 politics, so do you or don't you, I am confused?

18 Q Well, let me ask you: How do you know  
19 that MNPEA says that, is that what you have heard,  
20 have you personally heard people from MNPEA actually  
21 say that?

22 A (Inaudible answer-static.)

23 Q So you are hearing it secondhand. You  
24 don't have any personal knowledge of MNPEA saying  
25 that?

1 A PELRA is -- the law itself gives folks the  
2 right to strike. It's in definitions or another  
3 section of the law, but the law itself gives people  
4 their rights in the public sector to collectively  
5 bargain and what the appropriate dispute resolution  
6 mechanisms are, so those bargaining units.

7 Q Sure, it defines the bargaining units in  
8 the local government sector, and then it (inaudible)  
9 the dispute resolution mechanism for those bargaining  
10 units?

11 A Right.

12 Q And so the law kind of applies and tells  
13 us what rights of employees are, whether it be by  
14 definition or just what is in the laws, right? Right?

15 A Yeah.

16 Q So if I could have you look at 179A.03,  
17 Subdivision 6, can you tell us what the definition of  
18 employee organization is under that objection?

19 MR. CORWIN: Objection, the statute  
20 speaks for itself.

21 REFEREE BEFORT: I think it has  
22 (inaudible).

23 A What is the question? What is the point?  
24 Do you want me to read it?  
25

1 BY MR. FOWLER:  
 2 Q If you could, just to set up the rest of  
 3 the questioning.  
 4 A Okay, I will read to. "An employee  
 5 organization means any union or organization of public  
 6 employees whose purpose is, in whole or in part, to  
 7 deal with public employees concerning grievances and  
 8 terms and conditions of employment."  
 9 Q Now, are you aware that earlier on in this  
 10 hearing your attorney Mr. Corwin and I stipulated to  
 11 Joint Exhibit 1, which is a list of all the different  
 12 cases in which MNPEA has represented its members not  
 13 only in grievances, but in contract negotiations,  
 14 elections and things like that, are you aware that  
 15 there is that exhibit?  
 16 A I need to consult with my counsel.  
 17 MR. CORWIN: Just answer whether  
 18 you're aware or not.  
 19 A I'm not aware of what Gregg stipulated to  
 20 on that.  
 21 BY MR. FOWLER:  
 22 Q Okay. So under this definition,  
 23 Subdivision 6, which you already read, does that --  
 24 does the words in that definition say that a union  
 25 must have a political legislative arm, yes or no?

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1 A No. You asked me a question. It says in  
 2 whole or in part to deal with public employers  
 3 concerning grievances and terms and conditions of  
 4 employment. Terms and conditions of employment and  
 5 the right to participate in those are defined by the  
 6 Public Employee Labor Relations Act. So if one is not  
 7 involved in protecting, defending or improving the  
 8 Public Employee Labor Relations Act, then one can't be  
 9 dealing with terms and conditions of employment.  
 10 Additionally, other terms and conditions  
 11 of employment as defined by statute, which is  
 12 specifically prohibited by PELRA, pensions being one  
 13 of those.  
 14 Also various pieces of outsourcing of  
 15 privatization, which can only be -- only the effect  
 16 can be negotiated, not the private part.  
 17 So, in fact, to deal with terms and  
 18 conditions of employment one has to be able to operate  
 19 legislatively and politically as well or one cannot  
 20 deal with terms and conditions of employment.  
 21 Q And, again, that is your opinion?  
 22 A Most definitely my opinion, and it happens  
 23 to be a fact.  
 24 Q Didn't you think if that was that  
 25 important that the legislators who you went and

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1 lobbied for this bill, apparently your organization  
 2 did back in the '70s and '80s, would have made that  
 3 part of the definition?  
 4 MR. CORWIN: Objection, calls for  
 5 speculation, lack of foundation, goes beyond the scope  
 6 of direct examination.  
 7 REFEREE BEFORT: I will let you ask  
 8 it.  
 9 A What is the question?  
 10 BY MR. FOWLER:  
 11 Q The idea or notion that a legislative arm  
 12 of a union is required to be a union, don't you think  
 13 that that would have been put in the statute back when  
 14 your organization lobbied for it?  
 15 A I think that this is broad language, and  
 16 the term -- the phrase terms and conditions of  
 17 employment, since the law also specifically prohibits  
 18 certain things from being done at the negotiating  
 19 table, but, in fact, says that they must be done at a  
 20 legislative table means that you have to operate in  
 21 the legislature, and that is real clear to me out of  
 22 this.  
 23 Because the same piece you're citing here,  
 24 which is 179 and 179A, also prohibits at 356 then  
 25 prohibits pensions from being negotiated. So if you

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1 can't negotiate pensions and you have to deal with  
 2 them, they are terms and conditions of employment,  
 3 where one gets a job you're told you have a pension,  
 4 here's the pension, here's the formula, here's what it  
 5 kicks out, the only way you can deal with that pension  
 6 is legislatively. There was no need to write all of  
 7 that in. Terms and conditions describes that.  
 8 Q Okay. So yes or no, do you recognize the  
 9 gentleman who is sitting here behind me, Mr. Perkins,  
 10 do you recognize who that is?  
 11 A I haven't seen him in a long time. If  
 12 that is Mr. Perkins, then it's Mr. Perkins.  
 13 Q Are you aware -- did you know him when he  
 14 worked for the Teamsters?  
 15 A Sure.  
 16 REFEREE BEFORT: Is there somebody  
 17 back there I can't see.  
 18 MR. FOWLER: I didn't know he left.  
 19 A Mr. Fowler, I haven't seen Mr. Perkins in  
 20 many years, so I thought that was him, but I wasn't  
 21 positive.  
 22 BY MR. FOWLER:  
 23 Q But you were aware that he had worked  
 24 previously for Teamster 320, correct, yes or no?  
 25 A Oh, yes.

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1 Q Now, are you aware of whether or not  
2 Mr. Perkins has testified at the Legislature regarding  
3 correction officer pensions?  
4 A I know Mr. Perkins when he worked for the  
5 Teamsters did politics. I know he tried to get the  
6 former county sheriff endorsed by our union, he was  
7 very involved with that, and I think he also did  
8 politics with the Hennepin County Sheriff, amongst  
9 others. This is Mr. Perkins. When he worked for the  
10 Teamsters, Mr. Perkins was involved with politics,  
11 certainly aware at the county levels, and I am sure he  
12 was up there with the Teamsters testifying on that. I  
13 don't know it, but I have no doubt that when he worked  
14 with the Teamsters that he did those things.  
15 Q Okay. So Mr. Perkins certainly has the,  
16 not only history, but the ability to do that part of  
17 union activities, which is testifying at the  
18 Legislature?  
19 A Anybody who has -- who can think and  
20 breathe and talk can learn to do that.  
21 Q Do you have any direct knowledge --  
22 A You need some -- you need to know of the  
23 issues and get up on the issues, and he worked for an  
24 organization that was involved with these issues. He  
25 now works for an organization that is not.

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1 Q Did he suddenly lose that knowledge by  
2 switching to MNPEA?  
3 MR. CORWIN: Objection, this is  
4 irrelevant and immaterial, goes beyond the scope of  
5 the direct. It has nothing to do with whether MNPEA  
6 is (inaudible).  
7 REFEREE BEFORT: What was the  
8 question, Mr. Fowler?  
9 BY MR. FOWLER:  
10 Q Did he somehow lose that knowledge and  
11 experience that he gained with the Teamsters when he  
12 switched to MNPEA?  
13 A All I know is when he worked for the  
14 Teamsters, I worked with the Teamsters on the  
15 2 percent fight in 1982, we worked to protect pensions  
16 over the years with the Teamsters. MNPEA has not been  
17 involved in fighting to protect pensions or fighting  
18 against privatization. The Teamsters were, and when  
19 Mr. Perkins worked with the Teamsters as part of the  
20 Teamster organization he did those things.  
21 Q Do you have any firsthand knowledge of  
22 whether or not Mr. Perkins has sent our State  
23 legislators letters, packets, pamphlets, any  
24 information from MNPEA?  
25 A No.

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1 Q So you have asserted that MNPEA doesn't  
2 deal with the Legislature, but you have no firsthand  
3 knowledge of what, if any, communication MNPEA has had  
4 with the legislators directly?  
5 A Only what workers have told us from  
6 bargaining units where you have gone in to divide  
7 worker against worker, that you have gone in and said  
8 that unlike AFSCME, you don't do politics and you  
9 don't do legislation, that's what workers have told  
10 us.  
11 Q So you don't have any firsthand knowledge  
12 of MNPEA's actual legislative activity undertaken by  
13 (inaudible)?  
14 MR. CORWIN: Objection, asked and  
15 answered.  
16 A Well, we have a pension coalition that my  
17 legislative director is the chair over, and we have  
18 never seen MNPEA at that. All of the other unions are  
19 in. We have never seen MNPEA at anything, so I don't  
20 know that MNPEA is doing any lobbying at the Capitol.  
21 BY MR. FOWLER:  
22 Q Thank you. So if MNPEA somehow doesn't  
23 join your coalition, is MNPEA somehow not active at  
24 the Legislature?  
25 A It's a coalition that includes the

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1 teacher's union, the police, Mr. Rice and the police,  
2 the MPPOA, service employees. Every organization in  
3 the public sector that is a real union is involved in  
4 it in protecting Minnesota's public worker's pensions.  
5 Q So you have talked about what you have  
6 been hearing from members, et cetera. So isn't it  
7 true that AFSCME, the way that, as I gathered from  
8 your testimony, AFSCME encourages people to vote for  
9 certain politicians like Mark Dayton; isn't that  
10 correct?  
11 A What AFSCME does is we have a People  
12 Committee by constitution. Our constitution sets out  
13 a People Committee that is chaired by rank and file  
14 and sets out committees around the State. Those  
15 committees of rank and file then screen candidates.  
16 Those candidates are screened, they get asked  
17 questions about where they stand on pensions, public  
18 workers, local government, all the issues that affect  
19 public sector workers.  
20 They do that screening, and then those  
21 committees make recommendations to our executive  
22 board. Our executive board decides if they are  
23 endorsements; and if there is a contribution to be  
24 made, the committees can make the recommendation. The  
25 executive board makes the decision. Once that

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1 decision is made, then it's indicated that AFSCME  
2 Council 5's executive board is recommending the  
3 endorsement.

4 In the case of your example of Mark  
5 Dayton, which came as a result of, by the way, of a  
6 long process, the gubernatorial election, we had the  
7 first live television debate in our convention in  
8 Duluth.

9 (Long inaudible due to static.)

10 A Then we had formal screening that took  
11 place. The union executive board (inaudible) the  
12 endorsement, and then our candidates came to  
13 (inaudible-static).

14 So rank and file leadership, elected  
15 leadership in the union voted to endorse, and then  
16 they recommended that to the members.

17 Q My question is do you then send out  
18 correspondence, mail, fliers, et cetera to every  
19 member telling them who to vote for?

20 A People are asked --

21 MR. CORWIN: Objection, non --

22 A (Inaudible) talk to.

23 BY MR. FOWLER:

24 Q Let me be more specific. Do your members  
25 receive mail that has the AFSCME name on it telling

1 process and send people mail?

2 A All I know is what we heard you say, which  
3 is you don't get involved in politics. That is how  
4 you differentiate yourself from us, you don't get  
5 involved in politics, you don't do legislation. We  
6 do. You're not going to do that. You tell people  
7 that. So when you tell people that, that is the only  
8 thing I can believe.

9 Q Well, again, your -- you have not been at  
10 any meeting to hear MNPEA's exact words and message,  
11 correct?

12 A I haven't been invited to be at one them.  
13 Are you planning on inviting me?

14 Q I just want to know, Mr. Seide.

15 A I mean if you would like to invite me, I  
16 would be happy to show up at a MNPEA meeting and we  
17 could have that discussion in front of the workers.

18 Q We have invited AFSCME to come in  
19 Washington County, and that opportunity was declined,  
20 just so you're aware.

21 MR. CORWIN: Objection, Counsel is  
22 testifying.

23 A I'm not aware of it at all. I haven't  
24 been invited.  
25

1 them who to vote for?

2 A We don't tell anyone who to vote for,  
3 Mr. Fowler. We recommend folks, and we give the  
4 reasons for that, that they support our public  
5 pensions, that they support the right to bargain, that  
6 they are willing to support collective bargaining and  
7 strong contracts, that they are willing to support  
8 staffing, staffing in the -- of agencies in state and  
9 local government, and we tell -- give them the reasons  
10 that we have done it.

11 We do not tell members how to vote.  
12 That's their choice as citizens. We do it as a result  
13 of an intense rank and file process, make  
14 recommendations to vote, and then we explain our  
15 reasons for doing it. How they vote is up to them,  
16 and we tell them that, how you vote is up to you. We  
17 are recommending these candidates and here are the  
18 reasons we are recommending them.

19 Q Okay. Isn't it fair to say that at  
20 least -- there must have been at least one person who  
21 has told AFSCME to stop sending me that kind of stuff?

22 A Yeah, occasionally it happens.

23 Q So when MNPEA says that we are not going  
24 to be political, how do you know that doesn't mean  
25 that we are not just going to simply do an endorsement

1 BY MR. FOWLER:

2 Q Moving forward to what is relevant.

3 A I did work with Mr. Perkins though in the  
4 corrections.

5 MR. CORWIN: You have got to wait  
6 for the question.

7 BY MR. FOWLER:

8 Q So under AFSCME's leadership at the  
9 Legislature doing your lobbying, has the State  
10 corrections unit ever seen a reduction in their  
11 pensions?

12 A We have over the years, and not just  
13 the -- in all the pension systems, which is PRA, MSRS  
14 and PERA, we had to deal with -- we had to deal with a  
15 funding situation, which had dropped perspicuously  
16 low. The people who wanted to get rid of the defined  
17 benefit pension system wanted to use that a way to --

18 (Long inaudible due to static.)

19 A -- sat down with the Finance Commissioner  
20 and Tom Hanson, sat down with the Legislature with the  
21 Commission, and tried to work on ways to smooth out  
22 the ups and downs of the pension system so that we  
23 could protect the pension from being undone  
24 completely, and so that is what we did because the  
25 pension -- the defined benefit pension -- if workers

1 would lose defined benefit pensions, Mr. Fowler, that  
2 would a tragedy for those workers. Defined  
3 contribution did not match defined benefit.

4 (Long inaudible due to static.)

5 A So we were involved with the State the  
6 Legislature, with the (inaudible-static), with other  
7 unions and try to figure out a way to preserve the  
8 system because, if you remember, in 2008 there was  
9 something called the great recession and the stock  
10 market took a real blow. One of the ways pension  
11 funds got their annual return is by the stock market,  
12 and so we had to deal with the reality of that  
13 situation, and in all of the pension systems there was  
14 various legislation passed over I think four years  
15 that smoothed out the types of loans.

16 (Long inaudible due to static.)

17 A Police officers in Minneapolis, you know,  
18 the state troopers, all of this together did this to  
19 make sure we are protected. We have a member of --  
20 REFEREE BEFORT: Why don't we stop.

21 BY MR. FOWLER:

22 Q My question was yes or no, did it go down  
23 during that time for the State corrections?

24 MR. CORWIN: If you can answer yes  
25 or no.

1 have to give up a .2 percent?

2 A Again there was a --

3 (Long inaudible due to static.)

4 A -- a variety of things were done,  
5 including increasing employee contributions, employee  
6 contributions, making sure that that fiduciary  
7 (inaudible) of the fund are being met. I must tell  
8 you that at this point Minnesota has a much better and  
9 much more stable pension system than in states like  
10 Illinois and New Jersey, and that is because we  
11 insisted that employees pay every year because we  
12 responsibly took corrective action by Democrats,  
13 Republicans, employers, employees to protect the  
14 defined benefit pension plan, that is what we did, and  
15 we are proud of having done that.

16 (Long inaudible due to static.)

17 MR. CORWIN: I am going to object  
18 for lack of foundation because the pension plan for  
19 county correctional offices may not be in the same  
20 fund because of corrections early requirement that is  
21 for state pension funds, that is the question. It  
22 assumes --

23 (Long inaudible due to static.)

24 REFEREE BEFORT: Counsel certainly  
25 does understand that. My point is simply to ask the

1 A It's not a yes or no answer.  
2 BY MR. FOWLER:

3 Q Let me rephrase. Did the percent -- was  
4 there a reduction from 2.4 percent to 2.2 percent for  
5 the State corrections?

6 A We protected the client benefit pension  
7 plan because the funding levels in the corrections  
8 plan had gotten so low as a result of the recession  
9 that we had to do that.

10 Where I was going with this is that  
11 decision about what to do on that was made by our  
12 state (inaudible). The chairman of our committee,  
13 Pete (inaudible) was on the MSRS board, they had a  
14 discussion about doing this. In order to protect the  
15 defined benefit pension to make sure that pension  
16 wasn't eliminated because the real attempt was to  
17 eliminate the early retirement for State corrections  
18 officers, and we did not want that to happen. So that  
19 we worked on a plan that would protect the pension  
20 system for correctional officers and improve the  
21 situation with the unfunded liability.

22 Q The State corrections DOC is an AFSCME  
23 unit, correct?

24 A That is correct.

25 Q So did the county corrections workers also

1 witness whether or not under AFSCME's leadership of  
2 the State corrections unit whether it saw a  
3 2.2 percent decrease, whereas counties who were  
4 represented by a number of different unions did not  
5 have the same corresponding decrease.

6 A As far as I know, we all collectively  
7 acted to protect the -- each plan had different sets  
8 of liabilities. The State correction's plan liability  
9 was much higher. The pension -- the 2008 hit by the  
10 stock market because of the relatively small number of  
11 people in that plan took a larger hit proportionally  
12 than others.

13 So we worked, as I said, we worked with  
14 the directors of PRA, MSRS and PERA. We worked with  
15 the coalition of unions. We worked with a coalition  
16 of legislators to protect the defined benefit pension  
17 plan and to protect at the state level corrections  
18 early retirement because correctional employees,  
19 public safety workers need to be able to get out a  
20 little earlier. Their life span after retirement  
21 isn't that long, they are in very stressful jobs, and  
22 they need to have those protections.

23 Q I agree that protections are important.  
24 Are you aware of whether or not Mr. Perkins in his  
25 career representing labor has testified at the

1 Legislature and advocated for the Corrections  
2 Officer's Bill of Rights, yes or no?  
3 A I was aware of that when he worked for the  
4 Teamsters he did that.  
5 Q Okay. Are you aware of whether or not  
6 Mr. Perkins had been an advocate and testified at the  
7 Legislature for passage of the Bloodborne Pathogen  
8 Bill for corrections?  
9 A I am not particularly familiar with that.  
10 (Long inaudible due to static.)  
11 BY MR. FOWLER:  
12 Q You testified about, you testified just  
13 recently AFSCME is involved with dispatchers and  
14 making changes to who is included in the pension for  
15 the groups such as probation and dispatching and  
16 corrections, do you remember that testimony?  
17 A Yeah, it hasn't happened yet. That is  
18 something that these officers, probation officers and  
19 9-1-1 operators had asked to be part of that plan, and  
20 our board has endorsed their efforts to do that and  
21 will be lobbying that this legislative session.  
22 Q Because I believe wasn't there already  
23 some testimony on that?  
24 A We have lobbied 9-1-1 operators and  
25 probation. Our position on probation officers has

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1 been there for quite some time, and we have been  
2 trying to get that for a number of years now, and  
3 9-1-1 operators we had started to do that, but we are  
4 going to put a push on that so it unifies all of those  
5 pieces together.  
6 Q Okay. And so my understanding of the  
7 status of that is that even under a DFL-controlled  
8 Legislature, that that received quite a cool reception  
9 from the legislators; is that correct?  
10 A As I indicated, where we are at is if we  
11 look at the different plans, I believe that the PRA  
12 (inaudible-static). I believe the State fund is  
13 somewhere in the high 80s. PERA I believe is also in  
14 the 70s. The corrections plans, I may stand to be  
15 corrected on this, have greater liability than the  
16 general PRA and MSRS plans. I see Mr. Perkins is  
17 nodding, so I must have it right.  
18 And so, you know, they have had that, so  
19 the reception was not about should workers have these  
20 rights, but could they afford to be given to the state  
21 of plans at this point in time. I didn't agree with  
22 the legislators on that, and I don't agree with the  
23 legislators on that. I think there is a way to do  
24 this, but, you know, I don't -- I can lobby  
25 legislators, so as lobbyists I don't get to vote on

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1 the floor of the House or the Senate.  
2 Q I am going to wrap this up. So at least  
3 on several issues you have acknowledged Mr. Perkins  
4 has a fair amount of experience in dealing with this  
5 when he worked for the Teamsters, in your words. So  
6 how do you know that MNPEA as a fairly new  
7 organization isn't reaching out to the legislators  
8 through Tom Perkins' actions and that he isn't meeting  
9 with legislators, isn't sending them mail, isn't  
10 setting up meetings, how do you know any of that?  
11 A All I know is this: That there are a  
12 coalition that includes the state troopers, the MPPOA,  
13 us, the teachers, all of us, and we are trying to  
14 protect our pensions, improve our pensions, and that  
15 is why I say I have never seen MNPEA involved with  
16 this at all.  
17 So you're asking me what I know, I know  
18 that all of these other organizations are involved in  
19 lobbying to protect pensions and to promote pension  
20 improvement and to protect the defined benefit pension  
21 system, and those are the organizations that I am  
22 aware are doing that. I'm not aware that MNPEA is  
23 doing anything like that.  
24 Q So if MNPEA chooses not to join your  
25 coalition, are they somehow not a union?

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1 A In my opinion, they are not a union for  
2 the variety of reasons. They are not a union because  
3 they don't --  
4 MR. CORWIN: We have already done  
5 that.  
6 THE WITNESS: We have done that.  
7 BY MR. FOWLER:  
8 Q So I guess I just want to see if you know  
9 of any facts or personal knowledge that says that  
10 MNPEA has made a promise to anybody not to be involved  
11 at the Legislature, are you aware of that?  
12 A I am aware that I have received reports  
13 from bargaining workers where MNPEA has attempted to  
14 divide worker against worker. In order to  
15 differentiate yourself from AFSCME, you have indicated  
16 that you do not do politics and do you not do  
17 legislation. If they just give you their money,  
18 you'll take care of everything for them, whatever that  
19 might be, but that you don't do politics and that you  
20 don't do (inaudible), that is the reports I have  
21 received, Mr. Fowler.  
22 Q Isn't it possible that what was said was  
23 that MNPEA will not directly solicit its members with  
24 propaganda who to vote for?  
25 MR. CORWIN: Objection, calls for

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1 speculation, lack of foundation.  
 2 MR. FOWLER: I am trying to  
 3 differentiate what he knows, what he has heard these  
 4 reports to actually be.  
 5 REFEREE BEFORT: You can ask it.  
 6 Based on the last half hour, I don't think it's very  
 7 (inaudible). You can ask it.  
 8 BY MR. FOWLER:  
 9 Q So do you have any facts or firsthand  
 10 knowledge to indicate that MNPEA has told its members  
 11 it will not be active in the Legislature?  
 12 A I have had reports, as I have indicated  
 13 before, I have had reports from bargaining unit  
 14 employees, members and non-members, that, in fact, you  
 15 have told people, MNPEA has told people they will not  
 16 engage in politics, it won't bother with politics,  
 17 they don't do that sort of thing, they won't waste  
 18 their money or time, those are the things I have been  
 19 told.  
 20 Q Okay. Fair enough.  
 21 A If you don't do politics and don't do  
 22 legislation, I don't see how you can represent public  
 23 workers.  
 24 Q And I understand. So I want to follow  
 25 that up: Are you sure the reports that you're

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1 receiving are, in fact, that MNPEA has indicated to  
 2 members that they won't do mailings on telling people  
 3 who to vote for?  
 4 A What I have heard, again, Mr. Fowler, I  
 5 will repeat it, is that MNPEA has told folks when you  
 6 have attempted to raid and divide worker against  
 7 worker, lower the wages of all public workers, where  
 8 you have done that, if you want to differentiate  
 9 yourself from us, you have indicated that you are not  
 10 like us, you don't do politics, you don't go up to the  
 11 Legislature, you don't do those things that we do. If  
 12 you don't do those things, you can't represent public  
 13 workers because you can't be a union because terms and  
 14 conditions include people's pensions, organization and  
 15 all the things that PELRA said (inaudible-static) and  
 16 must be dealt with legislatively.  
 17 Q And to wrap up the whole politics notion  
 18 here, so you testified that if Emmer had been elected,  
 19 that we'd probably be a right to work state, and that  
 20 it would be foolish to work to support anybody but  
 21 Dayton, do you remember something like that?  
 22 A I didn't say that. What I said was that  
 23 if Mr. Emmer had been elected governor, that we would  
 24 be Wisconsin on steroids. There were other candidates  
 25 besides Mr. Dayton, Ms. Kelliher, Mr. Entenza, who

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1 also wanted to protect public worker's rights,  
 2 public --  
 3 (Long inaudible due to static.)  
 4 A -- he talked about it then, he talks about  
 5 it now. He said it publicly both before he got  
 6 elected and (inaudible-static) at a rally at the  
 7 Capitol, that got national news, that Wisconsin won't  
 8 happen (inaudible), and so, you know, that if we had  
 9 not been involved in that race the way we had, 8,100  
 10 votes is a difference between Wisconsin and Minnesota,  
 11 and to tell people not get involved in politics you  
 12 might as well give (inaudible) to Mr. Emmer or  
 13 Mr. Thompson this time or Mr. Johnson this time, all  
 14 who want to eliminate collective bargaining rights and  
 15 create a right to work state in this state. So to  
 16 tell people not to be involved in politics and that  
 17 they shouldn't be means that you're not protecting the  
 18 terms and conditions of employment and, in fact,  
 19 you're not representing public workers.  
 20 Q Thank you. So if MNPEA chooses to remain  
 21 silent --  
 22 (Long inaudible due to static.)  
 23 A You advocate for privatization of public  
 24 service. If MNPEA finds that unimportant, I would  
 25 suggest that you stop playing with conditions and

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1 terms and conditions of employment because that  
 2 directly affects the terms and conditions of  
 3 employment of public workers.  
 4 Q Again I have asked you several times  
 5 whether you have firsthand knowledge of whether or not  
 6 MNPEA has partnered with other organizations to be  
 7 (inaudible), whether the board members or the  
 8 organization itself has reached out to the Capitol and  
 9 the legislators being involved in that, so I am not  
 10 going to ask you those again.  
 11 But do you have -- are you saying that if  
 12 we don't do an endorsement process and send the  
 13 materials to its member, that somehow we are lesser of  
 14 a union?  
 15 A I am saying you're not a union, and the  
 16 reason you're not a union is because you're not  
 17 entirely democratic, because you don't promote workers  
 18 working together, you promote them fighting with each  
 19 other, because you will not fulfill the term and  
 20 conditions of employment as part of the statute in  
 21 179A, because you're not -- I mean Dave Thompson is  
 22 saying create a right to work state, and he is going  
 23 to eliminate the right to collectively bargain, it's  
 24 been in the press. Jeff Johnson has done the same  
 25 thing, and so have a number of the other candidates.

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1 If you don't inform public workers, in fact,  
 2 (inaudible) is an issue, that there is these people  
 3 out there who want to destroy their with wages, hours  
 4 and working conditions, take away their very right to  
 5 bargain, destroy their public -- their defined  
 6 benefit, then, yes, you're not fulfilling the various  
 7 terms and conditions, and you're not being a union.  
 8 You're being some kind of organization or enterprise,  
 9 but you're not being a union because the workers are  
 10 directly affected by that and you're choosing not to  
 11 even discuss that with them.  
 12 MR. FOWLER: I have don't have  
 13 anything further for Mr. Seide?  
 14 MR. CORWIN: I have no questions.  
 15 THE WITNESS: Thank you.  
 16 REFEREE BEFORT: Thank you. Why  
 17 don't we take short break here. I will see what I can  
 18 find out about the transcript availability and then --  
 19 THE WITNESS: What do I do with the  
 20 book?  
 21 MR. CORWIN: Leave it there.  
 22 (At this time there was a mostly  
 23 inaudible conversation on the recording  
 24 during the break when the recorder was  
 25 not turned off.)

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1 MR. CORWIN: Are we ready to go?  
 2 MR. FOWLER: Yes.  
 3 REFEREE BEFORT: If I could get you  
 4 to raise your right hand. Do you swear to tell the  
 5 truth, the whole truth, and nothing but the truth  
 6 throughout the proceed?  
 7 THE WITNESS: I do.  
 8 REFEREE BEFORT: Thank you.  
 9  
 10 DIRECT EXAMINATION  
 11 BY MR. FOWLER:  
 12 Q Could you please say and spell your full  
 13 name for the record so the court reporter can get it.  
 14 A Okay. Amy, A-M-Y, Lanell, L-A-N-E-L-L,  
 15 Sizer, S, as in Sam, I-Z-E-R.  
 16 MR. CORWIN: We'll raise an  
 17 objection that this witness wasn't listed on the  
 18 witness list.  
 19 MR. FOWLER: It certainly was. Is  
 20 Lanell your middle name, or is that a hyphenated last  
 21 name?  
 22 THE WITNESS: Middle name, L-A,  
 23 capital N-E-L-L.  
 24 MR. CORWIN: We'll withdraw it. My  
 25 memory is faulty. We are just trying to find it.

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1 MR. FOWLER: L-A capital N?  
 2 MR. CORWIN: I'll take the  
 3 representation that she's on the list.  
 4 REFEREE BEFORT: Go ahead.  
 5 MR. FOWLER: I just want to make  
 6 sure everybody is on the same page.  
 7 BY MR. FOWLER:  
 8 Q Ms. Sizer, where are you currently  
 9 employed?  
 10 A The City of Minneapolis in the 9-1-1  
 11 department.  
 12 Q So in laymen's terms, are you then a  
 13 dispatcher for the City of Minneapolis?  
 14 A Yes, I am.  
 15 Q How long have you worked in that position?  
 16 A I started in June of 2004.  
 17 Q Currently are you a dues-paying AFSCME  
 18 member?  
 19 A Yes, I am.  
 20 Q Now, in the year of 2013, so just a year  
 21 prior to '14 here, did you become aware about a  
 22 organization with the acronym of MNPEA?  
 23 A Yes, I did.  
 24 Q What did you do to learn about that  
 25 organization?

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1 A Recommended by a co-worker of mine in  
 2 another department, I went online and did some  
 3 research. I contacted some other people that are  
 4 represented by them and just got some feedback, and  
 5 thought it would be something that may be a good fit  
 6 for us.  
 7 Q Did you talk to your coworkers about  
 8 signing authorization cards to have an election to  
 9 decide who is going to be your new representative?  
 10 A Yes, I did.  
 11 Q Did you gather those cards from your  
 12 employees?  
 13 A Yes, I did.  
 14 Q Approximately how many employees are in  
 15 your unit?  
 16 A We have been hiring and losing and hiring.  
 17 I would say about 70 now. 62, okay, maybe hiring  
 18 more.  
 19 Q So somewhere in the neighborhood of 60 to  
 20 70 employees?  
 21 A Uh-huh.  
 22 Q Is that right?  
 23 A Yeah.  
 24 Q Okay. So did you -- did anyone from MNPEA  
 25 solicit you, or were you aware of anybody else in your

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1 group who was solicited by MNPEA to come to this  
2 organization?  
3 A No.  
4 Q And so how did you get in touch with  
5 MNPEA?  
6 A I contacted them or I did the email, I  
7 expressed interest on behalf of the group that we  
8 would be interested in hearing what you guys had to  
9 offer.  
10 Q Did you set up informational meetings with  
11 MNPEA?  
12 A Yes, I did.  
13 Q Did you meet with this gentleman here,  
14 Mr. Perkins?  
15 A Yes, I did.  
16 Q On more than one occasion?  
17 A Yes, we did.  
18 Q Did you ask him -- did you have an  
19 opportunity to ask him all kinds of questions about  
20 what MNPEA is?  
21 A Yes, we did.  
22 Q And were these meetings just held with you  
23 and Tom, or was there other people present?  
24 A Other people were present.  
25 Q Okay. Did you -- did you then after all

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1 of that was said and done, did you turn in those cards  
2 to Mr. Perkins.  
3 A (Inaudible.)  
4 Q And approximately how many of the cards of  
5 60 to 70 did you turn in --  
6 (Long inaudible due to static.)  
7 BY MR. FOWLER:  
8 Q If you can turn to Tab 3 of that book.  
9 A Okay.  
10 Q If you could look at the first four pages.  
11 A Okay.  
12 Q Now, do you recognize what these four  
13 pages are?  
14 A Yes, I do.  
15 Q What are they?  
16 A These are fliers that started showing up  
17 at --  
18 (Long inaudible due to static.)  
19 Q Did you hand those over to (inaudible)?  
20 A I did.  
21 MR. FOWLER: I would offer Tab 3,  
22 Pages 1 through 4.  
23 MR. CORWIN: Besides relevance, I  
24 don't (inaudible).  
25 REFEREE BEFORT: Besides

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1 (inaudible)?  
2 MR. CORWIN: Let's just say  
3 (inaudible).  
4 (Long inaudible due to static.)  
5 MR. CORWIN: I am going to object to  
6 this line of questioning, I don't understand the  
7 materiality or relevance to the issue of whether MNPEA  
8 is an employee organization.  
9 MR. FOWLER: Can I respond?  
10 REFEREE BEFORT: Why don't you do an  
11 offer of proof or something.  
12 MR. FOWLER: Well, what is the  
13 relevant factor -- and ultimately this is a  
14 certification issue. Okay. The Commissioner has  
15 referred it to you for some issues on a challenge.  
16 One of the most relevant factors by statute is the  
17 intent of the employees and the wishes of the  
18 employees. That is right in the statute.  
19 So I think it's relevant for Ms. Sizer to  
20 talk about how they had a sufficient showing of  
21 interest, a large showing of interest, how they were  
22 frustrated with this process, and that they wanted to  
23 (inaudible). I think it's all relevant.  
24 MR. CORWIN: I would object on  
25 jurisdictional grounds. That isn't the mandate given

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1 to this referee and the hearing with respect to the  
2 unit before the Commissioner. In fact, all issues  
3 have been resolved in that unit except for this issue,  
4 so it goes beyond the scope of the jurisdiction of the  
5 referee and is not relevant to the one issue before  
6 the referee, and that is whether MNPEA is an employee  
7 organization.  
8 REFEREE BEFORT: Does the employee  
9 intend to go to that issue?  
10 MR. FOWLER: I believe it does  
11 because if the opinion of AFSCME is that we are not a  
12 real union, certainly the employee who has a right to  
13 vote, their opinion of whether or not MNPEA is a  
14 legitimate organization is relevant, and it should  
15 also be relevant as to what the true intent of AFSCME  
16 is in terms of making this challenge in the first  
17 place, I think that is all relevant. If she has an  
18 opinion as to, you know, this is delay, this is  
19 whatever, that is all relevant.  
20 MR. CORWIN: First of all, there is  
21 a lack foundation for that testimony; second of all,  
22 it's speculative; third of all, it's irrelevant to the  
23 legal determination; fourth of all, it caused -- it  
24 would -- he is asking the witness for a legal  
25 conclusion; and, fifth of all, it's irrelevant what

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1 her opinion is as to whether MNPEA is or is not an  
 2 employee organization. It is ultimately a legal  
 3 conclusion and her opinion is irrelevant. Finally, to  
 4 the extent that she attempts to represent --  
 5 (Long inaudible due to static.)  
 6 BY MR. FOWLER:  
 7 Q So as it relates to those documents, let  
 8 me rephrase, do the documents here impact your opinion  
 9 as to whether or not MNPEA is a legitimate labor  
 10 organization?  
 11 A Well, we would probably do more research,  
 12 but we didn't know even how to verify any of this  
 13 because there is nothing in there that we could check  
 14 it with against. I don't know, so --  
 15 Q Okay. Did you have an opportunity to ask  
 16 Mr. Perkins about these four pieces of paper at that  
 17 meeting?  
 18 A Yeah, uh-huh.  
 19 Q In fact, had you met Mr. Ditsch at one of  
 20 these meetings?  
 21 A Yes.  
 22 Q The person to my right?  
 23 A Yup.  
 24 Q Do you feel like MNPEA had answered all of  
 25 your questions sufficiently?

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1 A Yup.  
 2 Q So when you were talking -- you said you  
 3 talked to other employees who are represented by  
 4 MNPEA, do you remember that testimony?  
 5 A Uh-huh, I do.  
 6 Q Please do try to answer yes or no.  
 7 A Sorry. Yes.  
 8 Q So in terms of did you have any question  
 9 in your mind that MNPEA was representing the members  
 10 you spoke with in other units about their terms and  
 11 conditions of employment?  
 12 MR. CORWIN: Objection, hearsay.  
 13 REFEREE BEFORT: Well --  
 14 MR. FOWLER: I didn't ask what was  
 15 said.  
 16 REFEREE BEFORT: What was the  
 17 specific question?  
 18 MR. FOWLER: The question was after  
 19 speaking with those people, do you have any question  
 20 in your mind about whether MNPEA was engaging in  
 21 representing the terms and conditions of employment of  
 22 these employees. It goes to her knowledge, not what  
 23 was said.  
 24 REFEREE BEFORT: I will let you ask  
 25 that question.

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1 A (Inaudible) I'll try.  
 2 BY MR. FOWLER:  
 3 Q So based on your conversations with other  
 4 employees represented by MNPEA.  
 5 A Yeah.  
 6 Q Did you have any question in your mind  
 7 that MNPEA was representing those employees' interests  
 8 with respect to their terms and conditions of  
 9 employment?  
 10 A (Inaudible).  
 11 Q So you were satisfied that MNPEA was doing  
 12 that?  
 13 A (Inaudible).  
 14 Q Had MNPEA ever told you that as a union  
 15 MNPEA would never be active at the Capitol?  
 16 MR. CORWIN: Objection, MNPEA is not  
 17 a person, and therefore the question is vague. I  
 18 don't know who MNPEA is or is MNPEA somebody who can  
 19 speak, I don't know.  
 20 MR. FOWLER: Seriously?  
 21 REFEREE BEFORT: MNPEA officers or  
 22 agents, right?  
 23 MR. FOWLER: I am sorry, I am having  
 24 a hard time since we have been here for a long time  
 25 talking about on behalf of MNPEA and now it's raised

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1 as an objection now.  
 2 MR. CORWIN: You're asking whether  
 3 MNPEA said something, that is not a proper question.  
 4 It would have to be an officer or director or some  
 5 agent of MNPEA. MNPEA itself doesn't talk.  
 6 BY MR. FOWLER:  
 7 Q Ms. Sizer, let me rephrase. Did anybody  
 8 purporting to be connected with the Minnesota Public  
 9 Employees Association Organization ever tell you that  
 10 the Minnesota Public Employees Association would not  
 11 be active at the Capitol or Legislature?  
 12 A No.  
 13 Q In fact, you met with Mr. Perkins?  
 14 A Yes.  
 15 Q Did Mr. Perkins tell you directly about  
 16 his involvement and knowledge with respect to pension  
 17 issues, for example?  
 18 A Yes.  
 19 MR. CORWIN: Objection, hearsay.  
 20 MR. FOWLER: Not from the party  
 21 opponent it's not.  
 22 MR. CORWIN: He is not a party.  
 23 REFEREE BEFORT: He's in the room.  
 24 I think you can answer that question. You can  
 25 cross-examine him.

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1 BY MR. FOWLER:  
 2 Q Did Mr. Perkins ever tell you about his  
 3 work, for example, with the Corrections Officer's Bill  
 4 of Rights?  
 5 A Yeah.  
 6 Q Did he talk to you about his work and  
 7 knowledge with the Bloodborne Pathogen Bill?  
 8 A Yes -- actually, I don't remember that  
 9 part, that was a long time ago.  
 10 Q Was he talking generally about his  
 11 qualifications --  
 12 A Yes.  
 13 Q -- and history?  
 14 A Yup.  
 15 Q Were you satisfied with the answers?  
 16 A I was.  
 17 (Long inaudible due to static.)  
 18 BY MR. FOWLER:  
 19 Q (inaudible) was that ever concealed or  
 20 hidden by anybody from Minnesota Public Employees  
 21 (inaudible)?  
 22 A No.  
 23 Q The fact that MNPEA is new, for you  
 24 personally what impact does that have, if any, on  
 25 whether or not that MNPEA is a legitimate labor

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1 organization?  
 2 A What do I -- is that a concern to me that  
 3 it's new?  
 4 Q Sure, if that is way you take it?  
 5 A No, it's not a concern to me. You guys  
 6 you're going to hopefully have a new outlook, and I'm  
 7 excited to get a chance to work with you guys.  
 8 Q So as a new organization would you expect  
 9 that there are goals that MNPEA hopes to accomplish as  
 10 they get bigger?  
 11 A Yes.  
 12 Q Was that ever told to you?  
 13 MR. CORWIN: By whom, objection.  
 14 BY MR. FOWLER:  
 15 Q Did Mr. Perkins ever tell you, for  
 16 example, that in the future MNPEA plans to do X, Y, Z?  
 17 A Oh, we talked about general things. I  
 18 mean we didn't get super specific. We were basically  
 19 more focused on what he could do for us and our  
 20 organization, and those were our main concerns at that  
 21 time.  
 22 Q Okay.  
 23 A We didn't go much into that.  
 24 Q Now, you have been an AFSCME member since  
 25 2004?

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1 A Yup. Yes. Sorry.  
 2 Q So do you feel that in terms of the  
 3 ability to represent the terms and conditions of your  
 4 employment, that it is necessary for a union to send  
 5 you mail on telling you information about who the  
 6 union has endorsed?  
 7 A No.  
 8 Q Why not?  
 9 A I want to be able to vote for who I want  
 10 to vote for. I don't need fliers and mailings. It  
 11 just piles up a lot. I can't talk for everybody else.  
 12 For myself it means nothing to me.  
 13 Q How many -- if you would to estimate all  
 14 the fliers you have received from AFSCME since 2004,  
 15 how large of a stack of mail would that be?  
 16 MR. CORWIN: Objection, calls for  
 17 speculation, lack of foundation and (inaudible) it's  
 18 probative.  
 19 A I'm sure I have a pile at home --  
 20 REFEREE BEFORT: She can answer.  
 21 A -- I could bring in. I recycle it so I  
 22 save it.  
 23 BY MR. FOWLER:  
 24 Q So have you received a lot of this?  
 25 A Yes.

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1 Q I mean are we talking more than one or two  
 2 pieces of mail, or are we talking hundreds of pieces  
 3 of mail?  
 4 A Hundreds.  
 5 Q Okay. Do you feel that -- do you pay dues  
 6 to AFSCME?  
 7 A Yes, I do.  
 8 Q Do you feel that that is an appropriate  
 9 use of your dues that you pay out of your paycheck so  
 10 they can send you information about (inaudible)?  
 11 MR. CORWIN: Objection, AFSCME is  
 12 not on trial here. It's irrelevant and immaterial  
 13 whether MNPEA is an employee organization.  
 14 MR. FOWLER: No, Mr. Arbitrator,  
 15 AFSCME has made it very clear because we do not engage  
 16 that sort of activity that somehow we are less of a  
 17 union, so this person's opinion is directly relevant.  
 18 REFEREE BEFORT: I will let you ask  
 19 and answer.  
 20 A I did not like it. I felt --  
 21 BY MR. FOWLER:  
 22 Q Do you think it was an appropriate use of  
 23 your union dues?  
 24 A No, I prefer for my money to be spent  
 25 elsewhere.

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1 Q Now, you understood, for example,  
2 Mr. Ditsch showing up at these meetings and  
3 Mr. Perkins, did you understand that you would receive  
4 services from MNPEA through a lawyer, correct?  
5 A Yes.  
6 Q Now, is that appealing to you?  
7 A Yes.  
8 Q Why?  
9 A (Inaudible answer due to static.)  
10 Q So in the past have you ever needed the  
11 services of AFSCME to represent you individually?  
12 A Yes, did.  
13 Q Did they send a lawyer?  
14 A No.  
15 Q Would you have liked to have had a lawyer?  
16 A Yes.  
17 Q You understood that MNPEA told you as part  
18 of its structure that you will receive direct lawyer  
19 services to defend you if you have a disciplinary  
20 problem, for example?  
21 A Yes.  
22 Q Is that appealing to you?  
23 A Yes.  
24 Q Do you feel that having a lawyer is  
25 beneficial to the union's ability to navigate the

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1 terms and conditions of your employment?  
2 A Yes.  
3 Q In the past when you have needed AFSCME's  
4 services since 2004, has AFSCME essentially sent one  
5 of your fellow stewards to help you?  
6 A Yes. Well, I asked for one.  
7 Q Have you ever asked, for example, for a  
8 lawyer to come and sit in with you on your issue?  
9 A Yes, but the union steward that I had said  
10 that she could do the representation.  
11 Q So you were not provided with lawyer?  
12 A No.  
13 Q Do you feel that the steward did a better  
14 job than if AFSCME had sent a lawyer?  
15 MR. CORWIN: Objection, calls for  
16 speculation, lack of foundation. I mean that is  
17 assuming that the lawyer that was sent by MNPEA was  
18 even competent, so I don't understand why this  
19 testimony --  
20 MR. FOWLER: Let me narrow my  
21 question.  
22 BY MR. FOWLER:  
23 Q As opposed to the steward that AFSCME  
24 sent, who was not a lawyer, am I correct on that?  
25 A Right, yes.

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1 Q So instead of having a coworker, do you  
2 feel if AFSCME had sent a lawyer that that would have  
3 improved your representation?  
4 MR. CORWIN: Objection, speculation.  
5 MR. FOWLER: Not on her own case.  
6 REFEREE BEFORT: I think she can  
7 answer.  
8 A Yes, I think it would have. My union  
9 steward didn't say anything during the whole meeting,  
10 so at the end she just said I should just take what I  
11 get for the offer.  
12 BY MR. FOWLER:  
13 Q In your experience since 2004, have you  
14 had every contract negotiated by AFSCME?  
15 A Yes.  
16 Q Has AFSCME sent a lawyer to negotiate?  
17 A (Inaudible answer).  
18 Q Had anybody told you that there was a  
19 lawyer there?  
20 A No.  
21 Q By contrast, MNPEA has indicated that as  
22 part of its setup with its union, that lawyers will  
23 come to the table to negotiate?  
24 A Yes.  
25 Q Is that something that is attractive to

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1 you?  
2 A Yes.  
3 Q Do you feel like AFSCME's challenge to  
4 MNPEA, as you understand it claiming that they are not  
5 a union, is that an appropriate use of your union  
6 dues?  
7 A No.  
8 MR. FOWLER: I have nothing further.  
9  
10 CROSS-EXAMINATION  
11 BY MR. CORWIN:  
12 Q Ma'am, do you know whether anybody at  
13 MNPEA is registered with the State of Minnesota as a  
14 lobbyist?  
15 A I do not.  
16 Q Do you know whether Mr. Perkins is a  
17 registered lobbyist?  
18 A I do not.  
19 Q Are you aware of whether if someone  
20 engages in lobbying activity or political activity and  
21 they are not registered, whether that happens to be a  
22 violation of the State law?  
23 A I do not know.  
24 Q Are you aware of the competence of MNPEA's  
25 attorneys?

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1 (Long inaudible due to static.)  
 2 Q Do you know that she went to steward  
 3 training?  
 4 A Yes (inaudible).  
 5 Q Do you know whether MNPEA's attorneys have  
 6 ever been trained as stewards?  
 7 A (Inaudible).  
 8 Q Do you know whether that steward also has  
 9 the right or ability to seek the help of a  
 10 professional business agent?  
 11 A Yes.  
 12 (Long inaudible due to static.)  
 13 BY MR. CORWIN:  
 14 Q Who is she?  
 15 A No longer with AFSCME.  
 16 Q Who was she at that time?  
 17 A Business agent.  
 18 Q Do you know that she participated in your  
 19 (inaudible)?  
 20 A (Inaudible).  
 21 Q Do you know if any other professional  
 22 staff participated in negotiations?  
 23 A I have no idea.  
 24 Q Do you know what training Laurie Warner  
 25 had as a business agent?

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1 A No, I do not.  
 2 Q Do you think that any lawyer would  
 3 represent you better than a trained business agent or  
 4 steward?  
 5 A My opinion, yes.  
 6 Q An intellectual property lawyer?  
 7 A Yes.  
 8 Q Okay. A criminal lawyer?  
 9 A Yes.  
 10 Q A lawyer who does tax work?  
 11 A I don't know.  
 12 Q So you think just having a lawyer, no  
 13 matter what their ability or experience, that is  
 14 better than having a steward?  
 15 A Well, I feel like they have gone to way  
 16 more school and know laws better.  
 17 Q You don't know whether they know PELRA  
 18 better or the duties of a steward or a business agent?  
 19 A No, I am sorry, I do not.  
 20 Q Now, when you were testifying about your  
 21 knowledge of MNPEA.  
 22 A Yes.  
 23 Q Did that come through statements or  
 24 representations made by Mr. Ditsch?  
 25 A How do you mean?

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1 Q Well, did you rely on anything he said to  
 2 you?  
 3 A Well, yes.  
 4 Q Okay. And he was speaking to you about  
 5 organizing units?  
 6 A The meeting that we had for our coworkers?  
 7 Q Yes.  
 8 A Yes.  
 9 Q That was before MNPEA had -- MNPEA was not  
 10 your certified exclusive representative; is that  
 11 right?  
 12 A No, they were just basically generally  
 13 telling us what they would do. They didn't tell us  
 14 anything specific.  
 15 Q Mr. Ditsch was not your attorney, was he?  
 16 A No.  
 17 Q So he was, in fact, like an organizer or  
 18 someone speaking on behalf of MNPEA?  
 19 A Yes.  
 20 Q Have you seen any of the campaign material  
 21 that MNPEA has presented?  
 22 A No.  
 23 Q You have never seen any documents or  
 24 fliers?  
 25 A Like those from other agencies?

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1 Q Have you seen any fliers from MNPEA? You  
 2 testified that you saw the AFSCME flier. I want to  
 3 know if you have seen the --  
 4 A They weren't fliers. We got letters from  
 5 other agencies just saying that they were happy with  
 6 their representation with MNPEA.  
 7 Q Did you ever get any material, campaign  
 8 material from MNPEA?  
 9 A I wouldn't call it campaign.  
 10 Q Oh, so you draw a distinction between what  
 11 you got from AFSCME and what you got from MNPEA?  
 12 A Well, I draw a distinction between  
 13 positive and negative stuff. I mean --  
 14 Q Okay.  
 15 A If they can speak on behalf that they are  
 16 to help with what they have received, I guess I would  
 17 separate the two.  
 18 Q Okay.  
 19 MR. CORWIN: I'm not sure what  
 20 exhibit we are up to.  
 21 A What am I looking at?  
 22 BY MR. CORWIN:  
 23 Q I am going to ask you about that.  
 24 REFEREE BEFORT: It looks like 15 is  
 25 the most recent, in your booklet anyway.

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1 MR. CORWIN: So let's mark this for  
2 identification as exhibit --  
3 REFEREE BEFORT: 16.  
4 UNIDENTIFIED MALE: Do you have one  
5 more of this?  
6 MR. CORWIN: Yeah, I have got all  
7 sorts of them.  
8 UNIDENTIFIED MALE: Professor  
9 Befort, before we get to questioning of this, would  
10 you able to track with some of the documents?  
11 MR. CORWIN: Who else needs them? I  
12 have got more.  
13 REFEREE BEFORT: How about me?  
14 MR. CORWIN: Oh, yeah, that might  
15 help.  
16 MR. FOWLER: Mr. Corwin, is this a  
17 document that appeared on your document list?  
18 MR. CORWIN: No.  
19 MR. FOWLER: I am going to object to  
20 it as not disclosed.  
21 MR. CORWIN: It's rebuttal.  
22 MR. FOWLER: This is not rebuttal.  
23 It's cross-examination. Rebuttal is --  
24 MR. CORWIN: You obviously don't  
25 understand that in cross-examination you can provide

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1 rebuttal testimony. Would you like me to get out the  
2 org book?  
3 REFEREE BEFORT: Well, I understand  
4 your objection, and I will let you use this.  
5 BY MR. CORWIN:  
6 Q Have you seen this document before?  
7 A No.  
8 Q Okay. I would like you to read it because  
9 the question I am going to ask you is whether this is  
10 a positive or a negative document.  
11 A Okay.  
12 Q You testified that AFSCME's material was  
13 all negative, so I would like you to read that.  
14 A I will.  
15 (Long inaudible due to static.)  
16 MR. FOWLER: Hold on, Mr. Befort, he  
17 made an objection as to what her personal knowledge  
18 was. Now, she has never seen this document, how is it  
19 relevant to her line of questioning? Because I want  
20 to be held to the same standard. I had to be limited  
21 in my questioning of this witness to what she  
22 personally knew. She has already said I haven't seen  
23 this. Why is there questions?  
24 MR. CORWIN: The question is she  
25 testified that all the campaign material that AFSCME

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1 provided was negative, that she was disappointed  
2 because none of it was positive. She then said that  
3 MNPEA, on the other hand, was all positive. I am just  
4 asking her for her opinion as to whether this is  
5 negative or positive.  
6 REFEREE BEFORT: Okay. I'm not sure  
7 it's relevant, but if that is the sole question being  
8 asked, I will let you do it.  
9 A It looks positive to me.  
10 BY MR. CORWIN:  
11 Q You think it's positive?  
12 A Yeah. It doesn't say anything bad about  
13 you guys.  
14 Q It doesn't say anything bad about us?  
15 A No. Where does it say that? It just says  
16 you guys are different.  
17 Q Okay. We will let the document speak  
18 itself.  
19 A It didn't show a picture of a nose or a  
20 wolf or a scam.  
21 Q We will let the document --  
22 A Or a ball.  
23 Q We will let the document speak for itself.  
24 MR. FOWLER: I will object to the  
25 receipt of this document.

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1 MR. CORWIN: Well, it's not being  
2 offered. It will be offered through Mr. Perkins.  
3 (Long inaudible due to static.)  
4 REFEREE BEFORT: Okay, I am going to  
5 receive it.  
6 UNIDENTIFIED MALE: And the exhibit  
7 number is?  
8 REFEREE BEFORT: 16.  
9 UNIDENTIFIED MALE: 16. Thank you.  
10 MR. CORWIN: I have no further  
11 questions.  
12 MR. FOWLER: Nothing.  
13 REFEREE BEFORT: Thank you very  
14 much.  
15 THE WITNESS: Thank you.  
16 REFEREE BEFORT: You can go.  
17 MR. FOWLER: At this time we call  
18 Tom Perkins.  
19 REFEREE BEFORT: Would you raise  
20 your right hand. Do you swear to tell the truth, the  
21 whole truth, and nothing but the truth in this  
22 proceeding?  
23 THE WITNESS: Yes, I do.  
24 REFEREE BEFORT: Okay.  
25

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1 DIRECT EXAMINATION  
 2 BY MR. FOWLER:  
 3 Q Mr. Perkins, are you currently a public  
 4 employee?  
 5 A Yes, I am.  
 6 Q Where are you employed?  
 7 A I'm on a leave of absence, a medical leave  
 8 of absence from Ramsey County.  
 9 Q Okay. In what capacity with Ramsey  
 10 County?  
 11 A Correctional officer II.  
 12 Q When was the last time you physically put  
 13 on a uniform and worked at Ramsey County?  
 14 A It was prior to my surgery. It would have  
 15 been February -- some time February 2013.  
 16 Q So within the last year even you have  
 17 worked as a correctional officer wearing a uniform  
 18 inside a jail?  
 19 A This year, yes, that is correct.  
 20 Q Okay. You mentioned you're on a medical  
 21 leave. How did you -- were you injured on duty?  
 22 A Yes, I was.  
 23 Q In the role as a corrections officer?  
 24 A Yes, in the line of duty, yes.  
 25 Q Let's go way back in time. So when were

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1 the workhouse, I contacted OS groups, Sergeant Dave  
 2 Beal (inaudible). I started going about it would be  
 3 the Teamster Local 320 groups and I began hounding my  
 4 business agent pretty much every single day my goal or  
 5 the phone calls.  
 6 At which time I started going after my  
 7 local rep, who was a great rep, Democrat by the name  
 8 of Mike Belmont. Mike took it upon himself as a  
 9 dispatcher that there was a need and he began working  
 10 on some ideas.  
 11 We had a big meeting at Teamsters Local  
 12 320. AFSCME was invited. I think our lobbyist at the  
 13 time was Steve Hunter and Julie. We had Elliott Luss  
 14 participated. We sent Dan Wells, and then it was  
 15 myself, but I took it upon myself to take it a little  
 16 bit farther as a grassroots movement. I invited  
 17 groups from all across the State.  
 18 I worked with -- we invited the ladies  
 19 from up in St. Louis County. There was a president of  
 20 their association up in the St. Louis County area.  
 21 From throughout the State they came to the  
 22 meeting at Teamsters Local 320, at which time there  
 23 was decisions to go about hiring a lobbyist to make  
 24 that move forward. The unions weren't going to take  
 25 it in that capacity. We as a group decided we would

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1 you first hired as a correctional officer?  
 2 A I was hired as a correctional officer back  
 3 in 1994.  
 4 Q With Ramsey County?  
 5 A Yes, that is correct.  
 6 Q Please tell me your public employee union  
 7 experience.  
 8 A I started out at Ramsey County on the  
 9 birth of my first child. I came back from the birth  
 10 of my first child and found out that I was elected as  
 11 a steward, chief steward because I had made a few  
 12 comments and stuff, and I was the only one that had  
 13 their name up, and I basically started out as chief  
 14 steward at the Ramsey County Correctional Facility  
 15 with Teamsters Local 320. From there -- do you want  
 16 me to continue?  
 17 Q Please.  
 18 A From there I worked in that capacity in  
 19 negotiating contracts with a business agent. I became  
 20 more involved as I saw there was a major need for  
 21 pensions in the State of Minnesota in that  
 22 correctional officers have a major lacking, began  
 23 contacting a number of different agencies around the  
 24 State at the time concerning the pension. Some of the  
 25 agencies I contacted (inaudible) would be Andy from

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1 go forward and try to get a lobbyist to go after  
 2 pension benefits.  
 3 As you well know, we were very successful  
 4 with the pension. It began with the Disability Bill.  
 5 We were very successful. Granted, you know, there  
 6 were many participants that needed letters. AFSCME  
 7 participated. They provided a letter, Elliot Luss  
 8 through the MPPO (inaudible) showed up.  
 9 My recollection was it was myself that  
 10 testified at the Capitol and someone else verifies and  
 11 Bob Johnson were the primary at the table concerning  
 12 the Disability Bill.  
 13 The following year we went back. I still  
 14 maintained my duties, but I went on a leave of  
 15 absence. I had to go on no pays from the Teamsters  
 16 for a period of time as we were doing the pension from  
 17 Ramsey County. My wife was working in the capacity as  
 18 a deputy, and at which I was on no pays duty at work,  
 19 and I started to become well-known because I carried  
 20 my son around in the little tote on my chest. I would  
 21 show up at the Hennepin County workhouse with fliers  
 22 and all over the place. He and I would go around the  
 23 State handing out stuff. I took him with me.  
 24 At which time we went back to the Capitol,  
 25 all the parties participated. We testified again, and

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1 probably one of the most significant pieces of  
2 legislation done by unions in the State of Minnesota  
3 was when they recognized that local county  
4 correctional offices had a distinguished need because  
5 of the hazardous duty assignments and working within  
6 county jails.

7 At that point I was approached by  
8 representatives from Teamster Local 320 as I was  
9 becoming more active, and they asked me if I was  
10 interested in the position on their executive board.

11 I had to talk to my wife, and, you know, a few  
12 different things. I have a great love for  
13 corrections, and I loved my job at Ramsey County, it  
14 was a great place to work.

15 We had some discussions. I spoke to my  
16 business agent, Mike Golen, and at that time I  
17 accepted the position of trustee as appointed. I was  
18 reelected about a year and a half later as a trustee  
19 with Sue Maren. I was reelected one more time, at  
20 which time I was appointed to the position of business  
21 agent for Teamsters Local 320, and I had to resign  
22 my position as trustee, and I went on from there as a  
23 business agent with Teamsters Local 320.

24 During the meantime I was assigned  
25 different groups as we proceeded forward with

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1 Teamsters Local 320, getting involved more in the  
2 internal politics of different items within the local.  
3 I continued that capacity until April of 2011 when I  
4 was terminated from Teamsters Local 320.

5 Q You heard I think it was Mr. Wes Morlan  
6 and Mr. Lehto testify that they serve at the will of  
7 the AFSCME executive board. As a Teamsters business  
8 agent were you an at-will employee serving at the will  
9 of the Teamsters executive board?

10 A Yes, I was an at-will employee for the  
11 Teamsters Local 320. That is why under PELRA I  
12 maintained my leave of absence through Ramsey County  
13 where I could return back at any time at my  
14 discretion.

15 Q And you were terminated by Teamsters 320?

16 A Yes, I was.

17 Q And you were returned to work shortly  
18 thereafter to Ramsey County?

19 A I reported back to Ramsey County. I was  
20 going through a pretty well-known medical issue at the  
21 time. I went back on to continue on my leave of  
22 absence until I was done with that medical issue  
23 through the form of period. At which time I reported  
24 back. I contacted Ramsey County, and I returned back  
25 to duty and start the process of (inaudible) starting

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1 negotiations, but my love for corrections and pensions  
2 for the union and working people continued. I  
3 participated, along with Elliott, we participated with  
4 the probation -- the initial probation, assigned  
5 Mary -- no, I think Julie was assigned.

6 We participated in the MSRS and the  
7 (inaudible) on the possibility of implementing  
8 probation officers and 9-1-1 dispatchers into a  
9 specific pension plan. At which time I continued to  
10 move forward.

11 There is a great need on the correctional  
12 officers where peace officers already had the Peace  
13 Officer Disability Procedure Act, we began a function  
14 of moving forward with a Correctional Officer Bill of  
15 Rights. There was a lot of -- unfortunately to this  
16 day I don't understand, but there was a lot of  
17 resistance from both parties towards a Correctional  
18 Officer Bill, but I will -- Bill Cudo to AFSCME they  
19 stuck there with us, they participated. There was a  
20 correctional officer in the State of Minnesota that  
21 testified, and we went forward, and we did get some  
22 legislation concerning a Correctional Officer Bill of  
23 Rights.

24 At that time I began to function more in  
25 the capacity of taking over other groups within

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1 the training, agendas, everything else.

2 Q And you worked there as a public employee  
3 in uniform until you were injured on duty?

4 A Full-time, that is correct.

5 Q Okay. Now, are you also a board member of  
6 the organization known as the Minnesota Public  
7 Employees Association or MNPEA?

8 A Yes, I am.

9 Q How many board members does MNPEA have?

10 A The initial board has three board members.

11 Q Is the Fowler Law Firm or Robert Fowler or  
12 Joseph Ditsch a board member of MNPEA?

13 A Absolutely not.

14 Q When, to the best of your knowledge, was  
15 MNPEA formed?

16 A The original MNPEA I was out pretty much a  
17 good piece of time. The original documentation was  
18 filed with Sergeant Dave Deal out at Washington  
19 County, who is now the president, was filed some time  
20 around July. At which time the initial appointments  
21 that took place, Sergeant Deal made the first  
22 appointment, that was Mike Golen, and that was some  
23 time in August. It would have been July or August.

24 Q And was there some delay in forming that  
25 in origination due to a State government shutdown?

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1 A Yes, there was.  
 2 Q Were you appointed to the board?  
 3 A I was appointed after the initial couple  
 4 of months afterwards.  
 5 Q What is, to the best to your recollection,  
 6 of whether or not the original board members that were  
 7 initially appointed were ratified by a vote of the  
 8 members, did that ever happen?  
 9 A Yes, our initial membership board meeting  
 10 took place, and what happened was that we reaffirmed  
 11 that the board, if there were any issues, and it was  
 12 reaffirmed in the November 2011 --  
 13 Q Meeting?  
 14 A Meeting, yes, that is correct.  
 15 Q Was that posted well in advance?  
 16 A Yes, it was.  
 17 Q How does MNPEA's board meetings -- when do  
 18 you hold them?  
 19 A Well, if look at our structure, it's  
 20 bimonthly. The board meeting is on even months. The  
 21 membership meetings are on odd months. So like  
 22 tonight is one of our board meetings, that will take  
 23 place after 6:30 tonight.  
 24 Q Okay. Is that the normal time?  
 25 A Yes, it is.

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1 you represent?  
 2 A Yes, I do.  
 3 Q Now, have you sat down with the employer  
 4 and talked about terms and conditions of employment  
 5 with their contract, for example?  
 6 A Yes, we have.  
 7 Q And have you had occasion in our business  
 8 rep capacity with MNPEA to discuss with the employer  
 9 about grievance issues arising out of the contracts?  
 10 A Yes.  
 11 Q And Joint Exhibit 1 is a recitation of all  
 12 the case (inaudible) that have been assigned to those,  
 13 correct?  
 14 A Yes.  
 15 Q Any doubt in your mind that you represent  
 16 public employees on their terms and conditions of  
 17 employment?  
 18 A There is no doubt on that.  
 19 Q Now, initially were your bylaws set up  
 20 with a five year period for elections for officers?  
 21 A Yes, they were.  
 22 Q Why did you choose five years initially?  
 23 A The initial purpose is that myself,  
 24 Mr. Golen and Mr. Deal, particularly Mr. Golen and  
 25 Mr. Deal, has just came back -- and had come back from

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1 Q And do you set these on your calendar far  
 2 in advance?  
 3 A Yes.  
 4 Q Now, in your current role with the  
 5 Minnesota Public Employees Association do you act as a  
 6 business agent for various bargaining units that are  
 7 represented by MNPEA?  
 8 A Yes, I do.  
 9 Q If such -- let me show you what has been  
 10 marked for identification as Joint Exhibit 1. You can  
 11 flip through those. Do you recognize Joint Exhibit 1  
 12 as a list of all the election cases that MNPEA has  
 13 been involved in, all the grievance cases that MNPEA  
 14 has been involved in, and interest contract  
 15 arbitration cases that MNPEA has been involved in with  
 16 the Bureau of Mediation Services?  
 17 A Yes, I do.  
 18 Q Does that information look fair and  
 19 accurate to you?  
 20 A Yes.  
 21 Q Do you have any reason to dispute the  
 22 Bureau's record with respect to Joint Exhibit 1?  
 23 A No.  
 24 Q Now, in those, for example, in, for  
 25 example, with Sibley County, is that one of the groups

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1 Teamsters national convention that was held at the end  
 2 of June, and one of the big purposes with the  
 3 Teamsters was that they had their international's five  
 4 year elections, so we took it upon us that it was five  
 5 years, and that was one of the reasons is that the  
 6 international had five years in the Teamsters, and  
 7 that was one of the reasons that we based it on that  
 8 initially.  
 9 Q Now, you realize that the case here today  
 10 has a dispute of whether or not the Union Democracy  
 11 Act even applies to public employee -- solely public  
 12 employee unions, do you understand that?  
 13 A That is correct.  
 14 Q What is your position as to your  
 15 understanding as to whether or not the Union Democracy  
 16 Act applies to the public only union?  
 17 MR. CORWIN: Objection, calls for a  
 18 legal conclusion, lack of foundation, calls for  
 19 speculation.  
 20 REFEREE BEFORT: It sort of does. I  
 21 mean is there some special expertise that --  
 22 MR. FOWLER: You know, it's  
 23 foundational to my next lines of questions in terms of  
 24 showing a chronology of the bylaw change, that is the  
 25 only purpose for it.

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1 REFeree BEFORT: Why don't we just  
2 skip over that one.  
3 MR. FOWLER: Okay.  
4 BY MR. FOWLER:  
5 Q So in terms of -- at some point did AFSCME  
6 early on in MNPEA's existence make an objection  
7 claiming that the Union Democracy Act did not -- that  
8 the Union Democracy Act that MNPEA was in violation of  
9 it, do you recall that?  
10 A Yes, I do.  
11 Q In front of you you have a book, would you  
12 turn to Tab 7, please. If you could quickly  
13 familiarize yourself with the exhibits in this  
14 document.  
15 A Okay.  
16 Q Mr. Perkins, tell us in your own words, I  
17 don't mean to lead you, but tell us in your own words  
18 what Exhibit 7, Tab 7 is.  
19 MR. CORWIN: We are not going to  
20 object to BMS -- this is part of the BMS official  
21 record with respect to all of these documents, so --  
22 MR. FOWLER: Well, let me --  
23 MR. CORWIN: They are part of the  
24 record, whether --  
25 MR. FOWLER: Let me (inaudible)

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1 been received as part of the record. I definitely  
2 want it admitted if it's not. But if Mr. Corwin is  
3 saying it's part of the record --  
4 MR. CORWIN: It's part of the  
5 record, we don't have any objection to it, it's part  
6 of the record.  
7 MR. FOWLER: So then formally, I  
8 want to make this clear on the record, formally I move  
9 for the admission of what I am calling Exhibit 1, Tabs  
10 1 through 13 with the accompanying brief on the first.  
11 MR. CORWIN: Wait, wait, I thought  
12 we were talking about Tab 7.  
13 MR. FOWLER: My plan is to get all  
14 of this in, Gregg, so this is what I submitted to the  
15 Bureau as ordered by them.  
16 MR. CORWIN: You know, to speed this  
17 along, this is -- I am going to say that that is fine,  
18 you can --  
19 MR. FOWLER: Okay.  
20 MR. CORWIN: -- you can submit your  
21 entire book as an exhibit. I don't want to start  
22 spending hours going through the documents.  
23 MR. FOWLER: I appreciate it. So  
24 that is received then, Mr. Arbitrator?  
25 MR. CORWIN: As long as it's

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1 because I think we left off last time saying, hey, is  
2 MNPEA's response that they gave to the Bureau part of  
3 the record or not. If there is no objection, then I  
4 can skip a lot of the questions.  
5 MR. CORWIN: There is no objection  
6 because it's part of the BMS record. We don't dispute  
7 that these letters were sent to the BMS, and  
8 therefore, they are incorporated into the record.  
9 REFeree BEFORT: Gregg, are you  
10 talking about Tab 7 in particular or the entire?  
11 MR. CORWIN: Well, I have read all  
12 of Tab 7, and Tab 7 either has official Bureau  
13 documents, letters that were sent to the Bureau of  
14 Medication Services, which is I am not going to  
15 contest whether they received them or not. I am going  
16 to assume that they did receive them, and so therefore  
17 as far as I am concerned, they are all part of -- they  
18 were all part of the record, they were all submitted  
19 to the Bureau of Medication Services.  
20 MR. FOWLER: Okay. Fair enough.  
21 But I remember a discussion last time being we were  
22 ordered by the Bureau to give a response prior to your  
23 involvement, Mr. Befort. We submitted a 13 tab  
24 document, which I have been calling Exhibit 1, Tab 7,  
25 for example, and so my question was had they already

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1 reciprocal and that our booklet is received.  
2 MR. FOWLER: Absolutely.  
3 MR. CORWIN: All right.  
4 MR. FOWLER: Well, your -- what was  
5 submitted as ordered by the Commissioner.  
6 MR. CORWIN: Right.  
7 MR. FOWLER: Yes.  
8 MR. CORWIN: So both submissions of  
9 the parties are received into evidence without  
10 objection.  
11 REFeree BEFORT: Okay. That  
12 includes MNPEA's Exhibit 1 with 13 tabs. Is AFSCME's  
13 submission this booklet, or is that something  
14 different?  
15 MR. CORWIN: Right, it's that.  
16 REFeree BEFORT: Okay. It's all  
17 received.  
18 MR. FOWLER: Fair enough. That is  
19 fair.  
20 BY MR. FOWLER:  
21 Q Mr. Perkins, so did AFSCME in a subsequent  
22 election than Jordon make an objection claiming that  
23 MNPEA was not a real union and in violation of the  
24 Union Democracy Act?  
25 A Yes.

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1 Q So now here is it your understanding that  
2 this is the third time that AFSCME has raised the  
3 objection that MNPEA is in violation of the Union  
4 Democracy Act and is somehow not a union?  
5 A Yes.  
6 Q So why don't we talk about the early  
7 stages of MNPEA before it was in existence. Whose  
8 idea was it come up with the Minnesota Public  
9 Employees Association.  
10 A Mike Golen's.  
11 Q Did he have any discussions with you about  
12 those plans?  
13 A Yes, he did.  
14 Q Did the Fowler Law Firm create MNPEA?  
15 A No.  
16 Q How was the Fowler Law Firm even involved,  
17 if it is, with MNPEA?  
18 A There was a lot of political stuff going  
19 on with the Teamsters at the time, and what happened  
20 was was that Mike Golen worked with Gary Cayo, who was  
21 the FOP in the City of Minnetonka. Gary Cayo spoke  
22 nothing but the goods about you. We had known you  
23 previously from, many members did, from your  
24 representation with Teamsters Local 320 and Kelly  
25 Fosset with our firm, Beck's firm, and we knew about

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1 your representation, you were very popular, and at  
2 which time Mike, you know, said you were the guy, that  
3 we should contact you.  
4 Q Okay. Was it ever in the planning phrases  
5 to have Rob Fowler, Robert Fowler or Joe Ditsch or  
6 anybody associated with the law firm be a voting board  
7 member of this organization?  
8 A Never.  
9 Q What -- do you have a contract with  
10 (inaudible) services with my law firm?  
11 A Yes, we do.  
12 Q So am I a contract employee or am I a  
13 board member?  
14 A You're a contract employee, and that  
15 contract was insisted upon us.  
16 Q And so does the Fowler Law Firm under any  
17 version of the bylaws have the authority to dictate  
18 decisions made by MNPEA?  
19 MR. CORWIN: Objection, the document  
20 speaks for itself, calls for a legal conclusion. I  
21 think the documents are in evidence.  
22 REFEREE BEFORT: Which document are  
23 we talking about?  
24 MR. CORWIN: Constitution, bylaws,  
25 they are all part of the record.

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1 REFEREE BEFORT: I think it would  
2 speed things up to let the question stand, so I will  
3 overrule the objection.  
4 BY MR. FOWLER:  
5 Q Do you need me to repeat that?  
6 A Yes, please.  
7 Q Does the Fowler Law Firm under any  
8 organizational documents or by any power whatsoever  
9 have decision-making abilities for the Minnesota  
10 Public Employees Association?  
11 A Absolutely not.  
12 Q Tell us -- tell us who governs MNPEA.  
13 A First, it's run by the executive board,  
14 and the way we have it is that our meetings are open  
15 to anyone that shows up. Granted, like most unions,  
16 it's pretty tough to get members to come, but the  
17 members are the ones that run our union. I would make  
18 issue with anyone else, but the members have the final  
19 say-so when it comes down to representation. We act  
20 at the will of the members, and you are a contract  
21 firm with us, and you have no say whatsoever with  
22 MNPEA, and that was one of the things that was made  
23 very, very clear from the very beginning.  
24 Q For example, do I have the ability to bind  
25 MNPEA to spend money?

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1 A You don't have the ability to sign  
2 nothing, spend money, or tell us what to do. You work  
3 at the will of the members, and you work at the will  
4 of the board.  
5 Q Okay. Mr. Perkins, I want to walk you  
6 through the bylaws. First of all, has MNPEA been in  
7 existence for four years?  
8 A No, we have not.  
9 Q So let me ask you this: Even if the Union  
10 Democracy Act applied to this organization, has  
11 sufficient time passed for MNPEA to have even been in  
12 violation of that statute?  
13 MR. CORWIN: Objection, calls for a  
14 legal conclusion. The statute speaks for itself.  
15 MR. FOWLER: Well, at least I need  
16 to get into the facts that four years hasn't passed,  
17 Mr. Arbitrator.  
18 REFEREE BEFORT: I think that is  
19 sufficient.  
20 BY MR. FOWLER:  
21 Q Has four years passed, Mr. Perkins?  
22 A No.  
23 Q Okay. Now, if I understand it right, the  
24 bylaws have been amended four times, does that sound  
25 right to you?

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1 A That sounds right.  
 2 Q Does it sound correct that on 10/27/11  
 3 they were amended to reflect a new mailing office for  
 4 MNPEA?  
 5 A That is correct.  
 6 Q For example, initially when MNPEA was  
 7 filled with the Secretary of State's Mr. Deal couldn't  
 8 use a Post Office box as the address, correct?  
 9 A That is correct.  
 10 Q And once MNPEA was filed and the  
 11 organization got started, you obtained a business  
 12 office, correct?  
 13 A That is correct, in Roseville, yes.  
 14 Q So have you always maintained that  
 15 business office since then?  
 16 A Yes, we have.  
 17 Q And so that is the reason for the first  
 18 bylaw change?  
 19 A Yes.  
 20 Q Was that largely administrative in nature?  
 21 A Yes.  
 22 MR. CORWIN: I wish he would quit  
 23 leading the witness.  
 24 MR. FOWLER: I will slow it down if  
 25 you would like.

1 BY MR. FOWLER:  
 2 Q Does it refresh your memory that the  
 3 bylaws were amended a second time to reflect the  
 4 proper address on file with the Secretary of State?  
 5 A It would, and that is about the time of my  
 6 injury too so I was out for quite a while during that  
 7 period.  
 8 Q Okay. Do you know -- can you tell us  
 9 about the last two, I will let you do it narratively,  
 10 tell us about the last two times that the bylaws were  
 11 changed?  
 12 A Well, initially we had put in the bylaws  
 13 when the Commissioner approved our bylaws before MNPEA  
 14 had our first group, it came to our attention through  
 15 AFSCME and their protest is that they were making  
 16 different statements concerning Fowler Law, which he  
 17 is not part of it, at which time there was discussions  
 18 among us and the group and MNPEA, and that which time  
 19 we had spoke to Mr. Fowler, and one of the times is we  
 20 had the name taken from the bylaws through a  
 21 membership vote.  
 22 The other time was, which I truly, truly  
 23 believed that we can have five-year terms, but we  
 24 reverted to four years to make an administrative  
 25 adjustment.

1 MR. CORWIN: Just let him, he can  
 2 talk narratively too.  
 3 MR. FOWLER: All right.  
 4 BY MR. FOWLER:  
 5 Q Narratively, was there an additional  
 6 administrative amendment to the bylaws that happened  
 7 on or about January 2012?  
 8 A I vaguely remember, yes.  
 9 Q Do you remember why that was changed  
 10 again?  
 11 A Not exactly, unless I look at it.  
 12 Q Do you have any reason to dispute that  
 13 that was to change the address?  
 14 MR. CORWIN: Objection, he is  
 15 leading the witness. The witness already testified he  
 16 had no knowledge. Now he is trying to lead him and  
 17 give him the answer.  
 18 REFEREE BEFORT: I don't think it  
 19 really matters.  
 20 MR. FOWLER: I don't either.  
 21 REFEREE BEFORT: Go ahead and lead  
 22 on the second and third ones and maybe we will get --  
 23 MR. FOWLER: That is all I am trying  
 24 to do is get through the mundane.  
 25

1 Q And, in fact, through that membership, the  
 2 time that you -- did you post the fact that you were  
 3 proposing a bylaw change to change the terms from four  
 4 to five years?  
 5 A Yes, we did.  
 6 Q And that is found, in fact, in the  
 7 documents that we submitted to the Commissioner on  
 8 this very issue, correct?  
 9 A That is correct.  
 10 Q If you could turn to Tab 2 of the book, I  
 11 want to ask you a specific question about a document  
 12 here. About the 12th page in from this stack where it  
 13 appears on the heading a Gmail, urgent question  
 14 regarding MNPEA. Now, as part of your arrangement  
 15 with the Fowler Law Firm, your contract, do you use  
 16 the Fowler Law Firm to be the communicator on behalf  
 17 MNPEA with agencies such as the Bureau?  
 18 A Yes, we do.  
 19 Q Did you authorize -- did the board  
 20 authorize my firm to let Commissioner Tilson know that  
 21 we planned -- MNPEA planned to change the bylaws from  
 22 a four to five-year term?  
 23 A That is correct.  
 24 Q And that is found in this document here;  
 25 is that right?

1 A Yes, it is.  
 2 Q In fact, you let the Commissioner know  
 3 that it was being posted on the website to that avail?  
 4 A Yes, we did.  
 5 Q And if you keep turning about seven pages  
 6 forward where there is a letterhead that says BMS.  
 7 A Yes.  
 8 Q Do you see there -- what does the  
 9 Commissioner say about assuming hypothetical facts?  
 10 MR. CORWIN: Objection, the document  
 11 speaks for itself. The witness -- there is no  
 12 foundation for this witness other than the document.  
 13 MR. FOWLER: Well, okay.  
 14 BY MR. FOWLER:  
 15 Q Mr. Perkins, you were CC'd on this  
 16 document, correct?  
 17 A That is correct.  
 18 Q What did the Commissioner tell you about  
 19 assuming hypothetical facts?  
 20 MR. CORWIN: Well, the document  
 21 speaks for itself.  
 22 MR. FOWLER: I need to do my  
 23 questioning, Gregg.  
 24 MR. CORWIN: But as a function of  
 25 legal proof, the document says it, that is fine. He

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1 can't add anything. His testimony --  
 2 MR. FOWLER: He can --  
 3 REFEREE BEFORT: Let's just move  
 4 this along. Point out what I want to read for the  
 5 record.  
 6 MR. FOWLER: Right, otherwise I will  
 7 just lead the witness, but I have been objected to on  
 8 that, so whatever you would like me to do, Mr. Corwin.  
 9 BY MR. FOWLER:  
 10 Q So, Mr. Perkins, what did the Commissioner  
 11 tell you about assuming hypothetical facts? If you  
 12 want to read it, that will be fine.  
 13 A What page are we on, 19?  
 14 Q It has got the BMS -- do you want to read  
 15 that into the record about where I indicated to you?  
 16 A Yeah, I will read it.  
 17 THE WITNESS: Is that okay?  
 18 REFEREE BEFORT: Yes, sir.  
 19 A "Mr. Fowler, MNPEA's motion concerning the  
 20 above-captioned matter you submitted via email on  
 21 Friday, October 4, 2013 seeking clarification of the  
 22 BMS letter October 2, 2013 is denied. Your letter  
 23 assumes hypothetical facts. To ask for the impact of  
 24 those facts on Council 5's objections in this matter  
 25 without a written argument from MNPEA, including the

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1 facts and law as you understand them and response from  
 2 the other parties to request a ruling, would be  
 3 speculative and otherwise inappropriate. Also, please  
 4 note that Council 5 is seeking changes, notice to  
 5 eligible voters. This issue should be addressed by  
 6 MNPEA."  
 7 Q Now, as it relates to whether or not there  
 8 has been an election, isn't it fair to say that  
 9 assuming that there would not be an election in the  
 10 next four years is also speculative and hypothetical?  
 11 MR. CORWIN: Objection, again, there  
 12 is no probative value in speculating at this. We are  
 13 wasting time. I don't understand how it advances.  
 14 MR. FOWLER: All this line of  
 15 questioning goes to the ripeness doctrine, which I  
 16 need to make a record of for when AFSCME appeals this  
 17 decision, so I want it clear that there are facts that  
 18 support the ripeness doctrine.  
 19 MR. CORWIN: The facts are in the  
 20 record. They're in your exhibits.  
 21 MR. FOWLER: I just want -- I want  
 22 the point made. It's stylistic, Gregg, but I think  
 23 that is --  
 24 REFEREE BEFORT: You made the point.  
 25 MR. FOWLER: All right. Moving on.

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1 BY MR. FOWLER:  
 2 Q Mr. Perkins, do you plan to have an  
 3 election within the next four years?  
 4 A Yes.  
 5 Q So what is the reason for -- well, let me  
 6 ask you this: So did you post the proposed changes  
 7 verbatim to the website?  
 8 A Yes, we did. They are still posted on the  
 9 website, yes.  
 10 Q And under your bylaws is that an adequate  
 11 method of giving notice to members?  
 12 MR. CORWIN: Calls for a legal  
 13 conclusion.  
 14 MR. FOWLER: That is not a legal  
 15 conclusion. It's under his bylaws is that allowed.  
 16 REFEREE BEFORT: Go ahead.  
 17 A Yes, they are, and they were approved by  
 18 the Commissioner.  
 19 BY MR. FOWLER:  
 20 Q Has MNPEA been certified by the  
 21 Commissioner with the set of bylaws that are in place  
 22 on other groups since those were filed?  
 23 A Multiple times.  
 24 Q Well --  
 25 A Since the new updated?

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1 Q Yes.  
 2 A The updated we have been certified, yes.  
 3 Q And which is the two most recent?  
 4 A The Zumbrota Police Department, Niswara and  
 5 Sherburne County.  
 6 Q Is Mr. Deal a public employee?  
 7 A Yes, he is.  
 8 Q Does he pay dues in his capacity as a  
 9 Washington County correctional officer?  
 10 A Yes, he does.  
 11 Q Was he present at the meeting by which the  
 12 bylaws were amended?  
 13 A Yes, he was.  
 14 Q Did he vote?  
 15 A Yes, he did.  
 16 Q Mr. Perkins, it's been insinuated that  
 17 MNPEA does not engage in the legislative process. Do  
 18 you remember that testimony?  
 19 A Yes, I do.  
 20 Q Is that true?  
 21 A We have begun the process of --  
 22 MR. CORWIN: Objection,  
 23 non-responsive. Calls for a yes or no answer.  
 24 BY MR. FOWLER:  
 25 Q At the present time?

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1 A Right now as an individual?  
 2 Q Yes.  
 3 A As an individual, yes, myself.  
 4 Q I will ask it narratively, does MNPEA plan  
 5 to be active at the Legislature?  
 6 A Yes, we have sent out our letters to the  
 7 House, and we sent out letters to the Senate.  
 8 Q Okay. Are you in the process of  
 9 scheduling meetings with elected officials?  
 10 A No, we are not in the process at this  
 11 point. At the present time we are right now in the  
 12 process of doing our paperwork to turn in for lobbying  
 13 and being filed as registered lobbyists. It is no  
 14 different than Desk Ronkey from Local 320 or AFSCME  
 15 with their lobbyist.  
 16 Q Has MNPEA given any money to any political  
 17 candidate up to this point?  
 18 A No.  
 19 Q Talk generally, if you could, about, you  
 20 know, MNPEA as a new organization, were you able to do  
 21 everything right away that you planned to do?  
 22 A No.  
 23 Q Give us some examples.  
 24 A Well, one of the big examples right now,  
 25 and I think our friends from AFSCME would support

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1 this, is that correctional officers need because of  
 2 the pension plan that we have, we need an individual  
 3 on the pension PERA board, and we need someone to  
 4 serve in that capacity because police and fire has an  
 5 individual that is on the board.  
 6 One of the other ones I am sure that  
 7 representing different correctional groups, we need to  
 8 go back, there was a promise that we all made to  
 9 ourselves a long time back, and people might forget  
 10 because Mr. Seide and I actually worked on a major  
 11 campaign concerning a (inaudible) with AFSCME, that  
 12 one of our agreements we would go back down the road  
 13 with the Correctional Officer Bill of Rights, and that  
 14 was one of our priorities that we go back, and that  
 15 was one of the foundations is that corrections and my  
 16 involvement was that there was a lack of  
 17 representation and that we needed that to go forward,  
 18 and that is where I went and I support, and my heart  
 19 has always been there, with unionized correctional  
 20 workers and building with the rights, so that will be  
 21 something that will happen, and that is the  
 22 foundation, so that is where we are at.  
 23 Q What about the allegation that MNPEA has  
 24 told its member we are not going to be political, did  
 25 you hear that testimony?

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1 A Yes, I did.  
 2 Q Now if you can explain what MNPEA actually  
 3 says to its members concerning political activities.  
 4 A From my part on it from what we state to  
 5 members is that I'm not going to tell you how to vote,  
 6 who to vote for, why I should vote. I'm not going to  
 7 tell you you need to go do this, you're not going to  
 8 do that. My political affiliations are pretty well  
 9 known. I served as a sergeant in arms at the DFL  
 10 conventions. I did different things. I (inaudible)  
 11 caucus, where it's at, but I am not going to tell  
 12 someone, particularly when you get into different  
 13 demographics in the State of Minnesota, there are  
 14 individuals that they believe in the union  
 15 (inaudible), but they are not going (inaudible), so I  
 16 tell people as individuals you vote for who you want  
 17 to vote for, and we are not going to use your money to  
 18 tell you how to vote.  
 19 Q So when you say you're not going to use  
 20 your money to tell you how to vote, that means you're  
 21 not going to send out endorsement letters, you know,  
 22 rah-rah --  
 23 MR. CORWIN: Objection, leading.  
 24 BY MR. FOWLER:  
 25 Q Let me ask you this way: Do you plan to

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1 send out any campaign endorsement letters?  
 2 A At this time, no, but the membership has  
 3 the ability to override or change that.  
 4 Q So you have told members what as it  
 5 relates to what kind of mail they are going to get?  
 6 A The mailing on political?  
 7 Q Right.  
 8 A We would not be doing that. That is one  
 9 of the big things with the groups that we organized  
 10 was that they want to be able to make their own  
 11 choices, and they are adults to make those choices,  
 12 and that we would not get involved in that political  
 13 process.  
 14 But we also told them that a big piece if  
 15 we found something where they were going to be hurt by  
 16 concerning correctional officer issues, pension  
 17 issues, you know, right to work in the State of  
 18 Minnesota, those are issues we would get involved in.  
 19 We would be nuts to say that we would ever support a  
 20 right to work state in the State of Minnesota. We  
 21 would nuts to say that we wouldn't support  
 22 correctional officer issues or fellow brothers and  
 23 sisters that want pension enhancement, we would be  
 24 nuts to say that. That is just absolutely, you know,  
 25 as far as we know, it's a farce on that, you know.

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1 MR. FOWLER: I don't have any  
 2 further questions for Mr. Perkins.  
 3 REFEREE BEFORT: Mr. Corwin.  
 4  
 5 CROSS-EXAMINATION  
 6 BY MR. CORWIN:  
 7 Q Mr. Perkins, most of your lobbying  
 8 activity and political activity was while you were  
 9 employed by the Teamsters Local 320; is that correct?  
 10 A It was prior, the majority of it was prior  
 11 as a steward as coming on board, the solid majority of  
 12 it.  
 13 Q You never registered as a lobbyist for the  
 14 State of Minnesota; is that correct.  
 15 A No, I have not.  
 16 Q And MNPEA has never registered as a  
 17 lobbyist with the State of Minnesota?  
 18 A That is correct.  
 19 Q And you understand that to lobby  
 20 politically and comply with state law you must be  
 21 registered?  
 22 MR. FOWLER: That calls for a legal  
 23 conclusion.  
 24 REFEREE BEFORT: I will let the  
 25 question stand, if you know the answer.

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1 A Yes, I do.  
 2 BY MR. CORWIN:  
 3 Q And have your political activities been  
 4 reported to the State?  
 5 A There have been no political activities  
 6 outside of some letters introducing that we were a new  
 7 organization.  
 8 Q Okay. You testified you were fired from  
 9 the Teamsters Local 320?  
 10 A I was terminated, yes.  
 11 Q Why were you terminated?  
 12 MR. FOWLER: Objection, relevance.  
 13 We covered this in the prehearing way back when. It's  
 14 not relevant in a public forum. Not relevant to  
 15 whether or not MNPEA is an organization. I thought we  
 16 had kind of already been down this with the proposed  
 17 letter of Sue Moore and some other things. It's not  
 18 relevant.  
 19 MR. CORWIN: Well, it is relevant if  
 20 he is claiming that MNPEA does things that he didn't  
 21 do when he was at Teamsters 320.  
 22 MR. FOWLER: No, that is not a  
 23 connection there. The question was why were you  
 24 fired. He has already laid out testimony that he was,  
 25 in fact, terminated and that he was an at will

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1 employee. The reason is really irrelevant also as an  
 2 at will employee. So what possible fact or inference  
 3 or anything can be proven to the answer to that  
 4 question as to whether or not MNPEA is in violation of  
 5 the Union Democracy Act or is not a real union?  
 6 Nothing.  
 7 REFEREE BEFORT: What relevance does  
 8 it have, Gregg?  
 9 MR. CORWIN: Well, the relevance is  
 10 whether or not -- you just heard testimony that the  
 11 steward from AFSCME didn't do anything, she never met  
 12 the business agent, and these were negative complaints  
 13 against AFSCME for not doing some of the duties of an  
 14 exclusive representative, and the evidence we would  
 15 proffer indicates that when Mr. Perkins was with the  
 16 Teamsters Local 320 he did a lot less than that.  
 17 REFEREE BEFORT: So the evidence  
 18 would show that Mr. Perkins was fired for performance  
 19 related?  
 20 MR. CORWIN: For non-performance  
 21 with respect to the duties as an exclusive  
 22 representative.  
 23 MR. FOWLER: That specific instances  
 24 of supposed misconduct, which is not a proper method  
 25 of proving character, or actually in conformity there

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1 with. It is black letter law on methods of proving  
2 character; and, Number 2, that was while he was  
3 employed with Teamsters, so what relevance does it  
4 have for the MNPEA duty.  
5 MR. CORWIN: Well good, then we will  
6 exclude all of the testimony that you elicited from  
7 this witness about all the activities he performed  
8 while he was a member of Teamsters Local 320.  
9 MR. FOWLER: No (inaudible).  
10 MR. CORWIN: You opened the door. I  
11 can ask him questions about this.  
12 REFEREE BEFORT: It doesn't seem to  
13 me to be relevant. Why can't we just stipulate that  
14 Mr. Perkins was terminated for performance or  
15 non-performance --  
16 MR. FOWLER: Allegations.  
17 REFEREE BEFORT: -- allegations with  
18 regard to the Teamsters.  
19 MR. FOWLER: As long as you put it  
20 in there, you know, he disputes it, that he is an at  
21 will employee, I mean -- I will stipulate to that.  
22 MR. CORWIN: All right, that is  
23 fine.  
24 REFEREE BEFORT: Okay.  
25

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1 BY MR. CORWIN:  
2 Q Now, you were on medical leave that was  
3 for a workers' comp issue, you said it was a  
4 work-related injury?  
5 A Yes.  
6 Q And did that affect your ability to travel  
7 or to perform duties at Teamster Local 320?  
8 A Pardon me?  
9 Q That injury?  
10 A My injury was after I came to MNPEA. I  
11 reported back to duty as a Ramsey County correctional  
12 officer.  
13 Q So Ramsey County is the one that put you  
14 on disability? You made your disability claim against  
15 Ramsey County, your workers' comp claim?  
16 A Yes, I reported back to duty, when I  
17 informed them it was April 2011.  
18 Q Does that limit you in any way in  
19 performing the duties that you have for MNPEA?  
20 A It is a medical issue. I have had one  
21 surgery already. I would have gone back if we  
22 wouldn't have extended this hearing for a second  
23 surgery. This is my elbow. I will lose the ability  
24 of my arm over the next year. My shoulder is torn. I  
25 have no feeling in my hands. You can see the

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1 swelling.  
2 So down the road I have got some big  
3 decisions. I am going to always use my mouth, but I  
4 mean even people would agree which, you know, I have  
5 some big decisions, and that is between myself and the  
6 MNPEA board where I go for the future.  
7 Q Okay. All right. I am just -- so it  
8 doesn't impact right now your role at MNPEA, that is  
9 all I was trying to get at?  
10 A The majority of it, no.  
11 Q You can still travel?  
12 A Pretty much.  
13 Q And do whatever you have to do. Okay.  
14 Now, are you aware of when MNPEA filed its paperwork  
15 with the IRS and the State Department of Revenue with  
16 respect to its tax status?  
17 A I am vaguely familiar with it, yes.  
18 Q What are you familiar with?  
19 A We filed a 501(c)(5).  
20 Q When did you file it?  
21 A It would be done a while back. I don't  
22 have the exact date on that.  
23 Q Was it after AFSCME started raising  
24 objections?  
25 A No, it was previously done because I know

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1 the State of Minnesota with that and we had the  
2 (inaudible), going off the top of my head, was the  
3 main part; and then it was refiled because there was a  
4 statutory requirement, I'm not a lawyer, but there was  
5 a requirement that we had a period to file it, and it  
6 was refiled and they requested new information from  
7 us.  
8 Q We received a document from you that you  
9 made an application for recognition for exemption  
10 under 501(a) on November 7, 2013. Do you have any  
11 reason to dispute that? I can show you the document.  
12 A No.  
13 REFEREE BEFORT: On what date?  
14 MR. CORWIN: November 7, 2013.  
15 REFEREE BEFORT: Okay.  
16 BY MR. CORWIN:  
17 Q And that is signed by David Deal?  
18 A I know.  
19 Q Do you know whether a similar  
20 determination request for tax exempt status was filed  
21 with the State Department of Revenue?  
22 A Yes, there were Revenue forms, I don't  
23 know the exact date.  
24 Q Would that be about the same time as you  
25 filed for federal exemption?

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1 A No, there was previous times filed on it  
2 because we get the paperwork, I know that, from the  
3 Department of Revenue.  
4 Q Do you know why MNPEA waited until this  
5 date to file its 501(c) request?  
6 A The 501(c)(5)?  
7 Q Yes.  
8 A We were waiting for a period of time I  
9 know with the government shutdown. We did the  
10 nonprofit when we filed, off the top of my head, the  
11 Secretary of State's Office, the paperwork was sent in  
12 originally. With the government shutdown that  
13 happened that time there were different attempts to  
14 contact concerning that with a nonprofit. I know  
15 there was work done with the Department of Revenue,  
16 and then when it came back when we looked into, as far  
17 as I know, that it had not been approved and it was  
18 refiled again.  
19 Q How long after MNPEA became an  
20 organization, how long -- let me ask you this: How  
21 long had MNPEA been organized by November 7, 2013?  
22 A At that time it would have two years and  
23 three months.  
24 Q And it took that long to file that 501(c)  
25 request?

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1 A If that is what it says.  
2 Q Do you know what your tax filing status  
3 with respect to federal taxes was prior to November 7,  
4 2013?  
5 A As far as I know, nonprofit.  
6 Q Is it true that you didn't ask for a  
7 initial determination letter from the IRS as to your  
8 tax exempt status until this document was filed on  
9 November 7, 2013?  
10 REFERENCE BEFOR: Why don't you  
11 repeat that.  
12 BY MR. CORWIN:  
13 Q Isn't it true that you didn't request an  
14 initial determination as to your tax exempt status  
15 until the Form 8718 was filed on November 7, 2013?  
16 A I don't have an answer to that part. I  
17 have not been doing on that part of the paperwork.  
18 Q So you're saying prior to a determination  
19 as to your tax exempt status you were filing returns  
20 as a tax exempt organization?  
21 A To the best of my knowledge is that we are  
22 a tax exempt organization or 501(c)(5), that's what  
23 was discussed at the initial Secretary of State  
24 filing.  
25 Q Right. But you did not seek that

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1 determination from the IRS until some two years after  
2 you were formed?  
3 A To my -- to the best of my knowledge, it  
4 was prior to that.  
5 Q Well, do you know of any form that was  
6 filed other than the form I have that is dated  
7 November 7, 2013? If it is, we didn't get it, so that  
8 is why I am asking, in our discovery.  
9 A To my knowledge, I thought there was a  
10 form filed prior to that.  
11 Q You're aware that we asked for those  
12 forms?  
13 A You asked for a 501(c)(3).  
14 Q Right.  
15 A And we don't have 501(c)(3)s.  
16 REFERENCE BEFOR: But that request  
17 was modified then to cover all tax submissions, and I  
18 okayed that.  
19 MR. CORWIN: Right.  
20 REFERENCE BEFOR: Subject to the  
21 redaction. Why don't we cut to the chase, Robert, is  
22 there another document?  
23 MR. FOWLER: We filed the document  
24 in September. It was returned, and then the  
25 government had its shutdown, and the exact same

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1 document was redated and sent. That is all there is  
2 to this, Mr. Befor. There is nothing -- and I would  
3 just state a lot is being made about a time  
4 difference. It says right on the instructions to that  
5 form that you have a longer time period, you don't  
6 need to file this immediately. It was within the  
7 three years that the IRS requires. There is no issues  
8 here. In other words, there does not exist a separate  
9 form, that I am aware of, that in any way differs from  
10 what you have.  
11 MR. CORWIN: Well, it seems to me  
12 that MNPEA would have had to have filed tax returns.  
13 If it doesn't have tax exempt status, then it might  
14 have filed them as a for profit, and that certainly  
15 would be relevant to this hearing.  
16 MR. FOWLER: Well, it assumes it  
17 didn't file as a regular nonprofit, doesn't it?  
18 MR. CORWIN: We don't know because I  
19 don't think we have seen all the documentation. That  
20 was requested.  
21 MR. FOWLER: I have given you  
22 everything now, with your amendment I have given you  
23 everything on the 501(c)(5). Everything else that was  
24 ordered, I have turned over. I have my notes from our  
25 hearing and what I actually provided in narrative

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1 form, and everything is there.  
 2 REFeree BEFOR: Well, from my  
 3 little work in this area, and I have done some in  
 4 terms of incorporating, the instructions with the IRS  
 5 does say you can operate as a nonprofit for a period  
 6 of time before getting official status.  
 7 MR. CORWIN: I understand that, but  
 8 it doesn't sound like I got all the documentation,  
 9 that is what I was concerned about.  
 10 MR. FOWLER: Scouts honor, I have  
 11 given everything. You can inspect it. I mean we have  
 12 done in camera, I have done no attempt to hide.  
 13 BY MR. CORWIN:  
 14 Q How much is a member's monthly dues?  
 15 A A member full member, \$39.  
 16 Q Are any additional fees charged?  
 17 A After the 39?  
 18 Q Yes.  
 19 A No.  
 20 Q You have to pay a fee to peace -- what is  
 21 it called, POF?  
 22 A FOP.  
 23 Q FOP, I am sorry?  
 24 A It's included in the \$39 if you join.  
 25 Q Can you object and have that deducted from

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1 your dues?  
 2 A You can become a fair share member.  
 3 Q That is the only way you get out of paying  
 4 FOP dues?  
 5 A Yes.  
 6 Q Okay. How much of that dues money pays  
 7 for legal services?  
 8 A Under the \$39, for the legal services, the  
 9 legal plan is pretty much same and similar and price  
 10 amount as the Teamsters legal defense fund, it's about  
 11 \$7 or \$8 goes towards that; and then I think we pay  
 12 about, just rough estimates here, about \$8 or \$9  
 13 towards all internal process with Mr. Fowler.  
 14 Q Can a member not agree to pay for that  
 15 legal service plan as part of their dues?  
 16 A Under --  
 17 Q Can a member say I don't want to have  
 18 Fowler represent me?  
 19 A Can a member object to that?  
 20 Q Yeah, they have to be a fair share?  
 21 A Well, there is two things under our dues.  
 22 If they are fair share, they still get legal  
 23 representation anything dealing with a grievance, and  
 24 they still get the representation concerning union  
 25 negotiating.

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1 Q But I am talking about the legal services  
 2 plan?  
 3 A Legal services plan?  
 4 Q Yeah.  
 5 A They can go fair share, and that's --  
 6 Q That is the only way, a member can't  
 7 simply say I don't want to pay for the legal services  
 8 plan?  
 9 A That is correct.  
 10 Q If you pay for the legal services plan,  
 11 then you have to use the Fowler Law Firm; is that  
 12 correct?  
 13 A There are other attorneys if you do not  
 14 like Rob or Joe, they are outside attorneys where  
 15 there is Ryan Case, Ben Gallagher, there were other  
 16 ones that you can go for. It's just like if you --  
 17 Q Would the plan reimburse you for that  
 18 then?  
 19 A What is that?  
 20 Q Would the plan then reimburse you for  
 21 that?  
 22 A That falls on Mr. Fowler as part of our  
 23 contract if a member goes out and asks for a different  
 24 lawyer.  
 25 Q What happens then? Let's say I as a

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1 member want to have whoever --  
 2 A Yup.  
 3 Q -- represent me.  
 4 A Yeah.  
 5 Q I don't want Fowler, what do I do?  
 6 A If you don't want Fowler, we would offer  
 7 Mr. Ditsch here.  
 8 Q Somebody out of his firm, I want a  
 9 different law firm?  
 10 A Then we would offer up Mr. Ryan Case would  
 11 be a backup attorney, and then from there it would be  
 12 Ben Gallagher, and there are several others.  
 13 Q And I can go to them and the legal service  
 14 plan will pay them?  
 15 A Through Mr. Fowler, yes.  
 16 Q So Mr. Fowler makes a determination about  
 17 whether I can seek an attorney other than him?  
 18 A No. No.  
 19 Q What does he do, you said it goes through  
 20 Mr. Fowler?  
 21 A At which time it comes to Mr. Fowler. To  
 22 give an example here, so if Mr. Befort here went to  
 23 Mr. Fowler, does not like Mr. Fowler, he came back to  
 24 our board, the first thing we have done, and we have  
 25 done it before, just like there is always personality

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1 conflicts, people like or hate people, we'd offer up  
 2 Mr. Ditsch. If they didn't want that, then we would  
 3 give another option that would be another attorney on  
 4 retainer, at which time that attorney would be offered  
 5 up to that member.  
 6 Q Do you have other attorneys on retainer?  
 7 A That would be -- yes.  
 8 Q Does MNPEA have other attorneys under  
 9 retainer?  
 10 A Do we have at the present time?  
 11 Q Yes.  
 12 A It all depends. You know, for workers'  
 13 comp issues and stuff like that, we refer to a  
 14 specific attorney that deals with public employees for  
 15 workers' comp. Injury on duty disability, there is a  
 16 firm we refer. But the attorneys that we have would  
 17 contract with the Fowler Law Firm to provide those  
 18 legal services. He also has the backup if he is gone  
 19 out of town or on vacation, there must be an attorney  
 20 there on stand-by.  
 21 Q Let's say that I don't want Fowler  
 22 representing me.  
 23 A Yup.  
 24 Q As part of my dues I am required to pay  
 25 for this legal services plan?

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1 A Yup.  
 2 Q And I want to pick a lawyer of my choice  
 3 and I don't want to ask Rob Fowler whether I can go to  
 4 this other attorney, do I have that right?  
 5 A Under the current plan the way I  
 6 understand it, no, it's same and similar as other law  
 7 firms.  
 8 Q And I have to go to Fowler to get his  
 9 permission to seek another attorney, and he's going to  
 10 refer me to somebody he has a relationship with, is  
 11 that what you're saying?  
 12 A No, we would have the backup. You would  
 13 go to us. If you had a problem with Rob, you would  
 14 come to us and we would tell him and he would provide  
 15 a different lawyer that is on contract or retainer at  
 16 that time.  
 17 Q On contract or retainer to Mr. Fowler?  
 18 A On contract or retainer -- I am not a  
 19 lawyer on the legal terms, but it would be someone  
 20 that would be it would be like in baseball, you have  
 21 someone on standby.  
 22 Q Does MNPEA have any other attorneys other  
 23 than Mr. Fowler's firm on contract or retainer?  
 24 MR. FOWLER: I am going to object  
 25 into relevance here. Number 1, the statute under 179

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1 179A defines what a union is. The attorney-client --  
 2 he is asking for attorney-client relationship  
 3 information. He is asking for billing structure, all  
 4 stuff which, frankly, is privileged from MNPEA and  
 5 myself. If he wants to get into this area -- I mean I  
 6 have been gracious enough to let a few questions go,  
 7 but now we are getting into legal services  
 8 arrangements, information that may be privileged, and  
 9 also may be trade secrets in term of how our plan is  
 10 run that the competitors sitting at this table do not  
 11 need to know.

12 MR. CORWIN: Our opinion is that the  
 13 Fowler Law Firm is a front for MNPEA, and that is why  
 14 we are asking these questions.

15 MR. FOWLER: Define what a front is.  
 16 I am tired of that word.

17 REFEREE BEFORT: I think if we  
 18 narrow the questions to is it -- is it, and how is it  
 19 possible for a member to obtain legal representation  
 20 through someone other than the Fowler Firm, I think  
 21 that is arguably relevant to --

22 MR. FOWLER: Can I address that for  
 23 one piece? Every organization that is here at the  
 24 table employs by some either in-house, or contract  
 25 like Mr. Corwin, some lawyers. Okay. Just like when

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1 you have a policy at State Farm, you don't get to tell  
 2 State Farm what I am paying for. The dues are the  
 3 dues. The rates are at the jurisdiction of the  
 4 insurance. This is not relevant. There being an  
 5 insinuation that a member gets to pick and choose from  
 6 what an organization offers. It's an exclusive  
 7 representative, they don't get their choices there,  
 8 okay, so none of this is relevant, none of it; and now  
 9 we are dealing on how one organization contracts with  
 10 a law firm which we were delving on to some pretty  
 11 well-established doctrines of privilege and things  
 12 like that and their ability to obtain legal services,  
 13 and to not have trade secrets and other personal  
 14 business information available for public viewing with  
 15 its competitors. Nobody else is in that situation.

16 MR. CORWIN: No other union --  
 17 REFEREE BEFORT: If you are asking  
 18 the question whether or not the contract for these  
 19 other attorneys is with MNPEA or with the Fowler firm,  
 20 I will allow it.

21 MR. CORWIN: Okay.

22 BY MR. CORWIN:

23 Q And who is the contract with?

24 A With the other attorneys?

25 Q Yes.

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1 A The backup attorneys would be Ryan Case  
2 and Ben Gallagher.  
3 Q Who is the contract with, MNPEA or Fowler?  
4 A Mr. Fowler with those attorneys.  
5 Q So what I am trying to get at is you  
6 require me as part of full member dues to pay for a  
7 legal service plan for legal services outside the  
8 union's scope of representation for which I do not  
9 have freedom of choice as to which attorney I use?  
10 MR. FOWLER: Objection, Number 1,  
11 that is not what the witness testified to. You're  
12 saying that a -- what your question asked is that a  
13 member can elect -- Mr. Perkins already testified that  
14 the member can elect to go fair share and not receive  
15 the additional legal plan at all; but if they do, what  
16 relevance does it have of any choice? What relevance  
17 is that to whether or not MNPEA is a union and whether  
18 it violates the Union Democracy Act?  
19 MR. CORWIN: Well, I think it's a  
20 legitimate question to know whether as a condition of  
21 full membership if I have to buy into a plan with the  
22 Fowler Law Firm where they provide the legal services  
23 and they control which attorney I can use for anything  
24 outside of the union's duties as exclusive  
25 representative for bankruptcy or for car accident or

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1 for a criminal matter, I think I am legitimately  
2 allowed to ask whether or not the member has that  
3 choice under a legal services plan as a condition of  
4 their membership.  
5 REFEREE BEFORT: Well, you got an  
6 answer on who the contract is with.  
7 MR. CORWIN: Yeah.  
8 REFEREE BEFORT: Fair enough?  
9 MR. CORWIN: Okay, that is fine.  
10 MR. FOWLER: Otherwise I was going  
11 to suggest we go to a side bar because this is not the  
12 appropriate --  
13 MR. CORWIN: I want to keep going.  
14 All right.  
15 BY MR. CORWIN:  
16 Q So you're aware that all post-certified  
17 licensed officers are automatically enrolled in the  
18 FOP legal defense plan; is that correct?  
19 A If they choose to be full members, yes.  
20 Q Of the FOP?  
21 A Yes.  
22 Q Okay. And FOP offers off duty legal  
23 coverage as well; isn't that true?  
24 A That is correct.  
25 Q And part of the member's dues to MNPEA is

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1 for full membership in FOP; is that correct?  
2 A That is correct.  
3 Q All right. So therefore the member could  
4 under the FOP membership that is part of their dues  
5 seek legal coverage from FOP?  
6 A That is a little more beyond my scope, but  
7 my understanding would be yes.  
8 Q So why would they need the Fowler Law Firm  
9 at all, why should they pay for the Fowler Law Firm,  
10 they are paying twice for the same thing?  
11 A It's no different --  
12 MR. FOWLER: Objection, now he is  
13 asking what the FOP has to do which is not a party.  
14 Come on.  
15 MR. CORWIN: Well, you keep saying  
16 that that is a big deal because they do all your  
17 lobbying and political stuff for you because you can't  
18 do it yourself, so evidently it is relevant.  
19 Evidently the members have to pay for the FOP to do  
20 all the political stuff.  
21 REFEREE BEFORT: What is the  
22 question you're seeking to ask?  
23 BY MR. CORWIN:  
24 Q Let me ask you this: Did you tell the  
25 members of the 9-1-1 bargaining unit that \$10 of every

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1 full member's dues or fair share fees go to the Fowler  
2 legal fund?  
3 A We gave a breakdown.  
4 Q Did you tell them --  
5 A As a rough guess. I don't remember that  
6 exactly, no.  
7 Q You don't remember saying that?  
8 A I remember telling them multiple times  
9 there is no promises and guarantee that every  
10 single --  
11 Q Did you tell them that \$10 of every --  
12 A That sounds about right.  
13 Q Okay. And you're aware that if I  
14 didn't --  
15 A You don't have to yell at me, I hear you  
16 clearly.  
17 Q Well, sometimes I mumble.  
18 MR. FOWLER: We're fairly  
19 (inaudible).  
20 MR. CORWIN: Well, I don't know, our  
21 executive director has already been threatened.  
22 MR. FOWLER: I didn't violate it.  
23 BY MR. CORWIN:  
24 Q What I am trying to get at is if I am an  
25 FOP full member, as my duties would indicate I am

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1 through MNPEA, and I have access to a legal service  
 2 plan through FOP for these dues, full dues.  
 3 A Yes.  
 4 Q You are in addition to that charging a  
 5 fair share member -- or fee paying member an  
 6 additional amount to provide to have legal services  
 7 from Fowler Law Firm as well?  
 8 A So what you're saying by -- you're asking  
 9 me if a member is already a member of the FOP prior to  
 10 coming to us, they have to pay for the extra services  
 11 at that time?  
 12 Q Right.  
 13 A No.  
 14 Q They don't?  
 15 A They don't.  
 16 Q And if I am not a member of FOP and I join  
 17 your organization, and as part of my dues I become a  
 18 full member of FOP; is that correct?  
 19 A Yes.  
 20 Q But then --  
 21 A A fair share member.  
 22 Q But then you're also telling me --  
 23 A A full share member.  
 24 Q -- that now because I joined MNPEA I get  
 25 to be represented under the FOP legal service plan,

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1 but in addition I also have to pay out of my dues an  
 2 additional amount of money for services by the Fowler  
 3 Law Firm?  
 4 A You're paying the FOP for those.  
 5 Q In addition you said there is like \$7 or  
 6 \$8 that goes to the Fowler Law Firm?  
 7 A Yeah.  
 8 Q Is that true?  
 9 A Basically, yes.  
 10 Q Okay. Now, when you do your MNPEA fair  
 11 share notice, you just simply state that the \$29  
 12 charge covers all representational costs, you don't  
 13 separate out the legal services costs; is that  
 14 correct?  
 15 A The legal services for the criminal and  
 16 civil stuff?  
 17 Q Yeah.  
 18 A That would not be included, but all  
 19 internal stuff would be included, that is correct.  
 20 Q Okay. Does MNPEA keep accounts as to what  
 21 is considered non-representational, political or  
 22 ideological activities within their dues assessments?  
 23 A Currently because we are not involved  
 24 politically and we are just getting the machine up and  
 25 going, there would be no political records kept

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1 because as per statute we have to register with the  
 2 State of Minnesota. We have done the initial this is  
 3 who we are with the State sending out our letters so  
 4 they are not all shocked who we are; and we are in the  
 5 process and the paperwork, which I have to file which  
 6 becomes a record, a public record, which you guys will  
 7 be able to look up. At that time then we would have  
 8 to start keeping track of that.  
 9 Q So out of the full dues that a MNPEA  
 10 member pays, what amount goes for the union or the  
 11 organization, whatever, whoever's side you're on in  
 12 this battle, what goes for their operational expenses,  
 13 what portion?  
 14 A For the dues?  
 15 Q Yeah.  
 16 A After the legal plan and everything else  
 17 is paid for, I am going to do a rough guesstimate on  
 18 that, you know, about 80 percent.  
 19 Q About how much?  
 20 A You're saying for representational?  
 21 Q Yeah.  
 22 A We put in about after the legal part is  
 23 paid for, that is including their on and off duty  
 24 coverage criminally and civilly, if they are a full  
 25 member, or if they are a fair or full member you have

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1 the internal legal coverage where if you want to have  
 2 a lawyer, you have a lawyer representing you on all  
 3 your step grievances, your arbitrations, all of that  
 4 stuff and you have the rest of it, are you asking me  
 5 for what is left over from the MNPEA part of it?  
 6 Q Well, I am trying to understand the  
 7 representational portion of the cost, excluding FOP  
 8 membership, excluding the legal services plan for  
 9 other than union, other related activities.  
 10 A Out of the dues?  
 11 Q Out of full dues?  
 12 A Out of the full dues after everything is  
 13 gone from that part for representation, you would have  
 14 about rough estimate 60 percent of the dues are left  
 15 over.  
 16 Q And that was what would go for salaries,  
 17 rent, office expenses and so on?  
 18 A Technology, paper, ink.  
 19 Q Right. Right. Okay. So does MNPEA bring  
 20 in more revenue than it spends in expenses?  
 21 A Does it bring in more revenue?  
 22 Q Yes.  
 23 A It's pretty consistent where we are at on  
 24 representation. We are a new organization, we run in  
 25 the black. We're never in the red. But for every

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1 dime we put out, particularly on the strategy move  
 2 right here we've been having to do a little bit more  
 3 mailing and a few extra things right now, so, you  
 4 know, there are expenses that have to go with mailing.  
 5 Q So MNPEA makes a profit?  
 6 A No profit.  
 7 Q You're in the black you said?  
 8 A Well, I am talking about you're asking me  
 9 if we're ever in debt, we are never in debt.  
 10 Q Do you take in more in gross revenue than  
 11 you spend in expenses?  
 12 MR. FOWLER: Objection as to a  
 13 legal -- first of all --  
 14 MR. CORWIN: They're a business.  
 15 THE WITNESS: No, we're not.  
 16 MR. FOWLER: First of all, let me  
 17 finish my objection. Any nonprofit can have a  
 18 surplus, that doesn't matter. That does -- that  
 19 legally does not matter whether a nonprofit takes in  
 20 more in revenue. That is giving an insinuation to  
 21 somebody reading this transcript that we are a  
 22 business, and it has no relevance. I want that answer  
 23 stricken.  
 24 REFEREE BEFORT: Well, the answer I  
 25 heard Mr. Perkins give is we are in the black, meaning

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1 we are not in debt, but we don't make a profit.  
 2 THE WITNESS: We are not like  
 3 Teamster's Local 320 where they have \$4 million or  
 4 whatever in their reserves.  
 5 MR. CORWIN: Well, I --  
 6 THE WITNESS: We spend our money.  
 7 MR. CORWIN: I ask that that be  
 8 stricken. That is non-responsive, and I think he's  
 9 just trying to disparage another organization.  
 10 REFEREE BEFORT: Well, we will  
 11 strike the Teamsters remark. We will -- the way I  
 12 interpreted it to state like I think is valid, and  
 13 that can stand.  
 14 BY MR. CORWIN:  
 15 Q Does MNPEA in its membership meetings use  
 16 Robert's Rules of Order?  
 17 A Yes, we do.  
 18 Q Do you? In the meetings where you passed  
 19 bylaw changes, how many members were present at those  
 20 meetings?  
 21 A Present at the meetings that we had the  
 22 bylaw changes, we posted it up, it was notified, we  
 23 even put it out to the public website so everyone  
 24 could see it on the public website beside the  
 25 membership site, we had a total of three members

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1 there.  
 2 Q And have you ever had more than three  
 3 members at a membership meeting since MNPEA has been  
 4 in existence?  
 5 A Yes, we have.  
 6 Q Have any of those meetings dealt with  
 7 bylaw changes?  
 8 A No.  
 9 Q How many members does MNPEA have at the  
 10 present time?  
 11 A Present rough estimate right now, close to  
 12 900 to 1,000.  
 13 Q What is the largest number of members you  
 14 have ever had at a meeting?  
 15 A At a meeting.  
 16 Q Yes.  
 17 A (Inaudible) it would have been about,  
 18 would have been a meeting probably about, I am going  
 19 to guesstimate anywhere between 7 to 11 people.  
 20 Q If a member wants to go to a membership  
 21 meeting they have to go to Roseville; is that correct?  
 22 A That is correct.  
 23 Q There is no option for video or telephone  
 24 conference?  
 25 A Not on that, but they can make a request

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1 to the board to have an outside meeting, membership  
 2 meeting I think in the bylaws.  
 3 Q Has it ever happened?  
 4 A There has never been a request, no.  
 5 Q And members are notified of meetings by  
 6 the website; is that correct?  
 7 A Electronically and the initial meetings  
 8 when we have it, yes.  
 9 Q You send to their email addresses or just  
 10 on your website?  
 11 A We put it out on the website, and we also  
 12 make I think it's actually public, I would have to  
 13 take a look at it.  
 14 Q Do you keep meeting minutes of membership  
 15 meetings?  
 16 A Pretty much, yes.  
 17 Q Are they typed up or handwritten?  
 18 A Handwritten.  
 19 Q And what is the length of the membership  
 20 meeting, how long do they last?  
 21 A Depending on one that was longer, it went  
 22 for a couple of hours. It was a very specific item  
 23 related to a very specific county, and the other ones  
 24 can go anywhere between, if there is a snowstorm or  
 25 whatever, anywhere between 15 minutes to an hour and a

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1 half.  
 2 Q Are there any rules with respect to what  
 3 constitutes a quorum for purposes of a membership  
 4 meeting?  
 5 A The members that were present at the time.  
 6 Q Does MNPEA make financial reports to any  
 7 governmental agency?  
 8 A I don't handle that part, so --  
 9 Q Is it true that under MNPEA's bylaws, the  
 10 three officers and staff at MNPEA are permitted to  
 11 draw up on MNPEA funds up to \$14,999.99 without  
 12 membership approval?  
 13 A It's actually \$15,000, and we have to have  
 14 membership approval to do anything along that line.  
 15 Members have any right at any meeting at any time to  
 16 request a copy of our finances to see where the  
 17 finances are, but we cannot do anything more, which is  
 18 same and similar when we looked at other unions.  
 19 Q I don't care about the Teamsters. I am  
 20 just asking you: Do the three officers and staff of  
 21 MNPEA, can they draw upon MNPEA funds of up to \$15,000  
 22 without membership approval.  
 23 A In the bylaws it does state that, yes.  
 24 Q Do you maintain a fare share/membership  
 25 database to determine that only members can vote on

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1 Q Who is on that right now?  
 2 A Sergeant Dave Deal is the president, of  
 3 Washington County, there is myself and Mr. Golen.  
 4 Q And how were they chosen?  
 5 A The initial bylaws, just like any other  
 6 union, when it was filed, the initial person who filed  
 7 with the Secretary of State Office appointed, and it  
 8 was a process that took place over a couple of months.  
 9 Q So the board members that are presently  
 10 running MNPEA, none of them have been elected by the  
 11 membership?  
 12 A We were reaffirmed by the membership back  
 13 in November of 2011.  
 14 Q When you say affirmed by the membership,  
 15 what do you mean?  
 16 A We had a membership meeting and the  
 17 members that were present, and it was put out there  
 18 that we were going to have a membership meeting  
 19 concerning policies, procedures, bylaws, go over  
 20 everything, the members that showed up at that  
 21 meeting, it was put out there that you reaffirm it.  
 22 Mr. Golen was pretty adamant about any time if a  
 23 member ever wants to challenge or encourage or  
 24 whatever, we encourage that for running, you know,  
 25 down the road.

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1 MNPEA matters?  
 2 A Yes.  
 3 Q Do you have any fair share members?  
 4 A Very few.  
 5 Q If a member wishes to attack -- not  
 6 attack, but question a procedure, eligibility to vote,  
 7 election integrity or whatever, is there any appeals  
 8 procedure for MNPEA members?  
 9 A For?  
 10 Q MNPEA members, let's say I don't like  
 11 something that happened at a meeting, I say there  
 12 wasn't a quorum or I don't think that a meeting was  
 13 posted properly or I want to object to an election of  
 14 an officer, is there any appeal procedure?  
 15 A You would come to the board on that  
 16 procedure, at which time, yes, there is the appeal  
 17 process and you can appeal to the board on that.  
 18 Q Does MNPEA utilize its office space in the  
 19 same office as Mr. Fowler?  
 20 A No, not even close to his.  
 21 Q Are you in the same building?  
 22 A No.  
 23 Q And MNPEA has an executive board; is that  
 24 correct?  
 25 A That is correct.

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1 Q How many members were at that meeting?  
 2 A Top of my head I am going to say,  
 3 including Mr. Golen and myself and Mr. Deal, we pay, I  
 4 think there were two others. And a legal counsel was  
 5 present.  
 6 Q Are there minutes of the executive board  
 7 meetings?  
 8 A Pardon me.  
 9 Q Do you keep minutes of the executive board  
 10 meetings?  
 11 A Pretty much it's all consistent, yes.  
 12 Q Can a membership overrule a decision of  
 13 the executive board?  
 14 A The membership under our membership  
 15 meeting, at the meetings they can bring it forward and  
 16 bring a motion forward. There is a procedure in the  
 17 bylaws that they can come back and they can have a  
 18 vote on it, yes.  
 19 Q Do you have any stewards at MNPEA?  
 20 A Yes, we do.  
 21 Q And how are they selected?  
 22 A They are selected by the membership. We  
 23 do not change -- at the time a union come on board we  
 24 do not make any changes in the stewardship structure  
 25 until after the dues -- not the dues, but after the

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1 first contract, at which time we would have an  
 2 election. Give you Hennepin County, they had an  
 3 election right when the contract was done, there was  
 4 an election done for them. They nominate,  
 5 self-nominate their stewards, Washington County, all  
 6 the other ones.  
 7 Q Now, MNPEA asserts that an attorney will  
 8 be present at all step 2 grievances; is that correct?  
 9 A If a member wants them.  
 10 Q All right. So if a member doesn't  
 11 indicate that they want an attorney, then a steward  
 12 would be there?  
 13 A Yes, or one of us, that is correct. It  
 14 should always be one of us, but I would say the  
 15 majority of the same, the solid majority they always  
 16 want a lawyer.  
 17 Q Do stewards have a voice in how to proceed  
 18 with (inaudible)?  
 19 A Yes, they do.  
 20 Q How many of MNPEA's current stewards have  
 21 been elected by their peers rather than appointed by  
 22 the MNPEA staff?  
 23 A Elected by their peers?  
 24 Q Yes.  
 25 A Everyone but the brand-new groups, and

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1 they're consistent. Zumbrota maintain their -- they  
 2 left the Teamsters, they sought their current stewards  
 3 and go off contract. Sherburne County still has to go  
 4 through the process. Nisswa is a brand-new group, so  
 5 they are in the process of going through that, but the  
 6 solid majority have been elected.  
 7 Q By the membership?  
 8 A By the membership. We cannot do that.  
 9 Q But I thought you said that you normally  
 10 just incorporate the old stewards?  
 11 A At the very beginning of the process. So  
 12 if they are in the process of negotiations, right when  
 13 the contract is done the majority of the time is when  
 14 we have the election. Most of the times when we take  
 15 over the group they have already started the  
 16 negotiations.  
 17 Q Have you filed decertification petitions  
 18 against LLES units?  
 19 A Have we filed them?  
 20 Q Yes.  
 21 A To go after LLES?  
 22 Q Yes.  
 23 A Yes.  
 24 Q Have you filed decertification petitions  
 25 against Teamsters Local 320?

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1 A Yes.  
 2 Q And AFSCME?  
 3 A Yes.  
 4 Q What is MNPEA's relationship with FOP?  
 5 A With Fraternal Order of Police?  
 6 Q Yes.  
 7 A I'm not a lawyer, I am a layperson, but I  
 8 guess it would be more like friends with benefits.  
 9 One of the things that we use back and forth on the  
 10 knowledge and everything on the legal plans, we work a  
 11 lot of stuff when it has to do with internal issues  
 12 and where law enforcement goes, corrections, you know,  
 13 vision of where we have it.  
 14 The other part is that we -- that the  
 15 legal plan and our services and membership, so they  
 16 have the ability to have lobbying efforts, the  
 17 licensed part of it.  
 18 Q Does MNPEA consider itself a client of the  
 19 Fowler Law Firm?  
 20 A No.  
 21 Q Does MNPEA have a contractual relationship  
 22 with Fowler Law Firm?  
 23 A Yes, we do.  
 24 Q Does MNPEA consider it a client of the  
 25 Fowler Law Firm?

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1 A No.  
 2 Q You do not consider yourself a client?  
 3 A As a client, that we work for him?  
 4 Q Yes.  
 5 A That (inaudible).  
 6 Q An attorney-client relationship?  
 7 MR. FOWLER: Define what you mean,  
 8 Gregg, I don't know if I understand.  
 9 BY MR. CORWIN:  
 10 Q Does MNPEA have an attorney-client  
 11 relationship with the Fowler Law Firm?  
 12 A We hire, yes, the Fowler Law Firm, we  
 13 contract with them.  
 14 Q And if I were -- if MNPEA wanted to get  
 15 rid of the Fowler Law Firm, what would they have to  
 16 do?  
 17 A We have a process that we put in there as  
 18 part of the request of myself, Mr. Deal is that we  
 19 would have to give notification to Mr. Fowler, and  
 20 under our contract I think it's a 16-week period where  
 21 he can't just get up and leave us too. Because we  
 22 were a new organization at the time we demanded that  
 23 out of him, that we have to have a 16-week period  
 24 before he could leave and, you know, do anything else  
 25 with that. So we have to give notification because

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1 the transition because our arbitrations and everything  
 2 else, paperwork, I mean --  
 3 Q But what vote of the membership does it  
 4 take to end the contractual relationship with the  
 5 Fowler Law Firm?  
 6 MR. FOWLER: Objection, at this  
 7 point -- Mr. Arbitrator, I have allowed a little bit  
 8 of leeway with the attorney-client relationship  
 9 information, but that is as far as I am willing to let  
 10 it go, so I would object on attorney-client privilege.  
 11 MR. CORWIN: We think it's very  
 12 significant because it's almost impossible to get rid  
 13 of the Fowler Law Firm there, and that is one of our  
 14 big arguments that, in fact, it's a symbiotic  
 15 relationship.  
 16 REFEREE BEFORT: Your question isn't  
 17 about the 16-weeks provision, it's about who can  
 18 terminate?  
 19 MR. CORWIN: The contractual  
 20 relationship with the Fowler Law Firm and what is the  
 21 procedure for doing that.  
 22 REFEREE BEFORT: Well, let me guess  
 23 that the entity that can terminate it on behalf of  
 24 MNPEA is MNPEA's board?  
 25 MR. FOWLER: Yeah.

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1 MR. CORWIN: I don't want Fowler  
 2 testifying, unless he is going to put himself under  
 3 oath.  
 4 REFEREE BEFORT: Well, you can ask  
 5 that question.  
 6 BY MR. CORWIN:  
 7 Q How do you terminate the contractual  
 8 relationship with the Robert Fowler Law Firm?  
 9 A With any attorney that we could contract  
 10 with, the board would make a decision, we would  
 11 consult with the membership, we would give him his  
 12 notification, his notice, and we would terminate that  
 13 contract, and we would have a 16-week period.  
 14 Q Who makes the decision as to whether the  
 15 contract is terminated?  
 16 A The MNPEA board.  
 17 Q And that is you?  
 18 A Mr. Golen.  
 19 Q Deal, Golen?  
 20 A With consulting with --  
 21 Q You three have that power?  
 22 A With consulting with membership, yes.  
 23 Q Are you required by your bylaws and  
 24 constitution to consult with the members?  
 25 A There is a clause in the bylaws, it says

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1 as advisory capacity, as the stewards we would have to  
 2 ask and go back. But is there a final piece on say  
 3 about terminating him on that? As far as I know, no,  
 4 so it's the MNPEA board, no different than any other  
 5 organization's executive board.  
 6 Q Have you ever or Mr. Fowler under your  
 7 direction sent cease and desist letters to members of  
 8 your union -- or your union organization?  
 9 MR. FOWLER: Objection, relevance.  
 10 MR. CORWIN: Show that they are not  
 11 a union if they are threatening their own members.  
 12 MR. FOWLER: Come on. How is that  
 13 relevant to the statutory stuff that we are supposed  
 14 to be discussing? You know, you may have members who  
 15 are mentally ill come after you, you know what I mean?  
 16 What are you supposed to do in those situations? We  
 17 don't need to get into that, that is not relevant.  
 18 MR. CORWIN: Well, we are talking  
 19 about internal democracy.  
 20 MR. FOWLER: No, we're not. We are  
 21 talking about all kinds of stuff that is not relevant  
 22 as to the Union Democracy Act, which is the only basis  
 23 for that claim is that there is not four-year  
 24 elections.  
 25 MR. CORWIN: We are not making legal

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1 arguments.  
 2 MR. FOWLER: This is outside of that  
 3 scope, Mr. Befort.  
 4 REFEREE BEFORT: Well, let's -- I  
 5 don't think we need to go down cease and desist  
 6 orders. Move on.  
 7 BY MR. CORWIN:  
 8 Q Does the union post information about  
 9 membership grievances on Facebook?  
 10 A That came to our attention, and that was  
 11 removed. That is not the policy of the Minnesota  
 12 Public Employees Association.  
 13 Q But it happened, didn't it?  
 14 A What's that?  
 15 Q It happened, didn't it?  
 16 A Obviously if you're asking the question,  
 17 yes.  
 18 Q Who made that Facebook post?  
 19 A That is an internal MNPEA on that, but  
 20 under legal counsel's advice and then with our board,  
 21 that was to be removed on the process.  
 22 MR. CORWIN: So I am asking the  
 23 referee to instruct the witness to answer.  
 24 REFEREE BEFORT: If he knows who  
 25 posted it, is that the question?

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1 MR. CORWIN: Yes.  
 2 BY MR. CORWIN:  
 3 Q Do you know?  
 4 A I didn't do it.  
 5 Q Do you know who did it?  
 6 A Mr. Golen did.  
 7 Q If a member, a current member of MNPEA  
 8 filed a DRF lawsuit against MNPEA, would Fowler  
 9 represent MNPEA?  
 10 MR. FOWLER: Objection, speculative,  
 11 that hasn't happened.  
 12 REFEREE BEFORT: I think that is  
 13 right unless either one has happened or, two, there is  
 14 some arrangement that has already been entered into to  
 15 determine that result, so I will sustain the objection  
 16 to the question that is asked. If you want to  
 17 rephrase it in either of those two ways --  
 18 MR. CORWIN: Okay, that is fine.  
 19 BY MR. CORWIN:  
 20 Q If a member has -- has a member ever asked  
 21 to see meeting minutes?  
 22 A What is that?  
 23 Q Has a member ever asked to see meeting  
 24 minutes?  
 25 A Yes.

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1 Q And have they been provided to that  
 2 member?  
 3 A They have been told that there is a  
 4 membership meeting and they can come. Any member at  
 5 any time during membership meetings will be provided  
 6 any time at the meeting.  
 7 Q You have to come to the membership meeting  
 8 to get the meeting minutes?  
 9 A No, unless you make a formal request, at  
 10 which time we can send those out.  
 11 Q Did that member make a formal request?  
 12 A No, that member made what was called a  
 13 verbal request, at which time we had this ongoing  
 14 issue right now, and that member also asked for  
 15 extensive other issues that were pertaining to this  
 16 hearing, at which time they were considered a MNPEA  
 17 member, and that information will be disseminated to  
 18 that member at our meeting, which is tonight, if they  
 19 show.  
 20 Q Does MNPEA make financial reports to the  
 21 membership at membership meetings?  
 22 A All the time.  
 23 Q Has MNPEA's financial reports been  
 24 independently audited and verified to the membership?  
 25 A As far as I know, our requirement is yes.

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1 Q So have you seen independently audited and  
 2 verified financial statements?  
 3 A It's done every month with Mr. Deal.  
 4 Q Do you have a CPA or someone who audits  
 5 independently or verifies your financial statements?  
 6 A We do not have a CPA, no.  
 7 Q Do you have anyone outside MNPEA to audit  
 8 or verify financial statements?  
 9 A At this time, no.  
 10 Q Does MNPEA have trustees?  
 11 A No, that is not a requirement.  
 12 MR. CORWIN: I have no further  
 13 questions.  
 14 UNIDENTIFIED MALE: Hold on.  
 15 MR. CORWIN: Wait, wait, I guess I  
 16 might. First of all, I said I would introduce this  
 17 through Mr. Perkins, and that is Exhibit 16. Do you  
 18 have that in front of you? I have got more copies.  
 19 REFEREE BEFORT: Although it was  
 20 admitted.  
 21 MR. FOWLER: I mean it was admitted,  
 22 it's already in the record.  
 23 BY MR. CORWIN:  
 24 Q But you recognize that?  
 25 A It was a Washington County flier.

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1 Q But you recognize it as something you sent  
 2 out?  
 3 A I personally -- this was internally done  
 4 to Washington County. Mr. Deal is a full member, he  
 5 is also employed by the Washington County Sheriff's  
 6 Department. Mr. Deal internally is handling the  
 7 ongoing process with Washington County, so this would  
 8 be a letter that he had put out.  
 9 Q You don't doubt its authenticity as coming  
 10 from MNPEA?  
 11 A No, it was handed out.  
 12 MR. CORWIN: This will be 17 then.  
 13 I don't have a clean one. I don't have a clean one.  
 14 BY MR. CORWIN:  
 15 Q Do you recognize that document?  
 16 A I recognize the website, it's been around  
 17 for many years.  
 18 Q Do you know if this was posted by MNPEA?  
 19 A As far as I am concerned, no; but I see  
 20 there is Facebook things or whatever there, so it  
 21 could have been. I recognize this as a member, a duly  
 22 elected steward, it's his own blog that he has had for  
 23 years.  
 24 Q So you do recognize it as a steward of  
 25 MNPEA?

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1 A Uh-huh.  
 2 Q You have to say yes or no.  
 3 A Yes.  
 4 Q All right. So MNPEA has a Facebook page;  
 5 is that correct?  
 6 A Pardon me.  
 7 Q MNPEA has a Facebook page?  
 8 A Yes.  
 9 Q And do you know if this was posted on  
 10 MNPEA's Facebook page?  
 11 A I personally when it comes to the  
 12 internet, I do not go to the internet that much  
 13 outside of CCO, and I go CNN and that is about it and  
 14 emails.  
 15 Q Is it MNPEA's position in that first  
 16 sentence there that essential workhouse correctional  
 17 officers do not have to bargain with non-essential  
 18 clerks?  
 19 A Which one are you talking about?  
 20 Q An open letter to Hennepin County  
 21 workhouse POs, and then it says thanks, starts thanks  
 22 for the effort.  
 23 MR. FOWLER: Where are you at?  
 24 REFEREE BEFORT: That must be this  
 25 one.

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1 BY MR. CORWIN:  
 2 Q The first page, first page, thanks for the  
 3 effort. The members have spoken out. I hope you have  
 4 learned that essential workhouse correction officers  
 5 do not have to bargain with the non-essential clerks.  
 6 A This item --  
 7 MR. FOWLER: Hold on a second, I  
 8 don't have this. This is what I have been shown. I  
 9 just want to know what document --  
 10 REFEREE BEFORT: You don't have the  
 11 open letter?  
 12 MR. FOWLER: No, I have a different  
 13 one.  
 14 MR. BECK: Nor do I.  
 15 REFEREE BEFORT: This isn't the same  
 16 thing.  
 17 MR. BECK: So is this an exhibit at  
 18 this point?  
 19 MR. FOWLER: 17.  
 20 MR. CORWIN: 17.  
 21 MR. BECK: Thank you.  
 22 BY MR. CORWIN:  
 23 Q So the question is: Is it MNPEA's  
 24 position that essential workhouse correction officers  
 25 do not have to bargain with with the non-essential

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1 clerks?  
 2 A Is that our position?  
 3 Q Yes.  
 4 A We would say under State statute under  
 5 PELRA there is a distinct separation of it because  
 6 essential employees can go to arbitration,  
 7 non-essential, and that is what I thought, have the  
 8 ability to go on strike, so there is a big distinction  
 9 between the two.  
 10 Q What about the statement that says Ramsey  
 11 County makes \$4 an hour more than us. Why AFSCME  
 12 forces you to bargain as non-essentials and you get  
 13 stuck with clerks?  
 14 A This individual here is a 20-plus year  
 15 employee. This is a blog that he has had for many  
 16 years between Teamsters, us, everyone else. He has  
 17 been a member and he is an employee of Hennepin  
 18 County, and he is good friends with multiple workhouse  
 19 individuals, so on that I am not going to -- I don't  
 20 have a lot of knowledge about this. This is his own  
 21 personal blog, and the stuff that has been on this  
 22 blog is done by him and no discussion with us. I  
 23 mean --  
 24 Q Would you agree with that statement?  
 25 A What is that?

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1 Q Would you agree with the statement?  
 2 MR. FOWLER: Objection, relevance.  
 3 He has already testified it is not MNPEA's blog.  
 4 MR. CORWIN: It is a MNPEA steward.  
 5 MR. FOWLER: So.  
 6 MR. CORWIN: And it's on MNPEA's  
 7 Facebook page.  
 8 MR. FOWLER: It is not on MNPEA's  
 9 Facebook page. There is a link.  
 10 REFEREE BEFORT: What is the  
 11 question?  
 12 MR. CORWIN: Whether that is MNPEA's  
 13 position.  
 14 REFEREE BEFORT: What exactly is  
 15 MNPEA's position, I am a step behind you, sorry?  
 16 Which comment are we talking about?  
 17 MR. BECK: AFSCME forces you to  
 18 bargain with non-essential.  
 19 REFEREE BEFORT: Oh, that one.  
 20 MR. CORWIN: We are still on the  
 21 Ramsey County makes \$4 an hour more than us. Why  
 22 AFSCME forces you to bargain as non-essentials. You  
 23 get stuck with clerks.  
 24 MR. FOWLER: My objection is how  
 25 does a member of MNPEA, who is not on the executive

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1 board, who runs a private blog, how is the statements  
2 that that person makes on their own personal blog  
3 relevant to this case?  
4 MR. CORWIN: A steward's comments  
5 under case law can bind a union. If a steward does  
6 something wrong, a union can be sued for DFR and all  
7 sorts of things.  
8 MR. FOWLER: And where does this say  
9 it's being done under the capacity of MNPEA? It  
10 doesn't.  
11 MR. CORWIN: He's a steward.  
12 MR. FOWLER: Come on, that law  
13 doesn't stand for that.  
14 MR. CORWIN: That case law does if  
15 you read it.  
16 MR. FOWLER: In the official  
17 capacity, this is how --  
18 REFEREE BEFORT: I am going to  
19 uphold the objection. I don't think you need to do  
20 this.  
21 MR. CORWIN: I have no further  
22 questions.  
23  
24 MR. FOWLER: I am ready to proceed  
25 with my cross, is everybody okay with that, or do

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1 we --  
2 REFEREE BEFORT: It's been quite a  
3 march here. You still have one more witness after  
4 this, right?  
5 MR. FOWLER: That is it, that is the  
6 end of my witnesses.  
7 REFEREE BEFORT: Why don't we take a  
8 break here, and I need one. I guess my question  
9 logistics wise --  
10 MR. CORWIN: I want to finish this  
11 thing because I think we've spent enough time on this,  
12 and I am willing to keep going right now to get this  
13 thing done, and let him call his last witness and  
14 let's get this thing over. If we take lunch, it will  
15 be like the break we took and it will take half an  
16 hour.  
17 REFEREE BEFORT: We are not going to  
18 take a lunch. I can wait.  
19 MR. FOWLER: Mr. Befort, here's the  
20 deal, at some point I need to use the restroom.  
21 MR. CORWIN: I don't care about  
22 that.  
23 REFEREE BEFORT: Why don't we take a  
24 five-minute bathroom break right now. We will come  
25 back and try to march through it.

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1 (At this time there was a mostly  
2 inaudible conversation on the recording  
3 during the break when the recorder was  
4 not turned off.)  
5  
6 BY MR. BECK:  
7 Q -- when MNPEA bargain unit, it opens to  
8 other individuals?  
9 A Yes.  
10 Q Okay.  
11 MR. BECK: Thank you, that is all I  
12 have.  
13  
14 REDIRECT EXAMINATION  
15 BY MR. FOWLER:  
16 Q Mr. Perkins, you had mentioned about  
17 working with other unions in our history involving  
18 public employees. Are you familiar with the  
19 organization called Law Enforcement  
20 (inaudible-static)?  
21 A Yes.  
22 Q Have you worked with (inaudible)? Are you  
23 familiar enough with PELRA laws to understand its  
24 relationship with the Minnesota Peace Police Officer?  
25 A Yes.

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1 MR. CORWIN: Objection, lack  
2 foundation.  
3 (Long inaudible due to static.)  
4 BY MR. FOWLER:  
5 Q Is that unusual to have only a handful of  
6 members show up at these meetings?  
7 A From my experience, I cannot speak to  
8 AFSCME, I cannot speak for LLES or (inaudible), from  
9 my experience (inaudible-static) most of the time the  
10 meetings are pretty small, there is not a lot of  
11 people there.  
12 Q Is it part of your primary duties to file  
13 all of the tax forms that Mr. Corwin asked you about?  
14 A No.  
15 Q Whose duties are those?  
16 A (Inaudible).  
17 Q You were asked a question -- questions  
18 about the FOP and the percentage of (inaudible), is  
19 that part of your primary duties to set up that  
20 relationship with the FOP?  
21 A No.  
22 Q So who is the person with most knowledge  
23 in terms of how the FOP (inaudible)?  
24 A The executive director (inaudible).  
25 Q Did you try to do your best to answer Mr.

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1 Corwin's questions with what you know as a board  
2 member?  
3 A Yes.  
4 Q You were asked a question about how many  
5 fair share members MNPEA has. Why do you think it is  
6 MNPEA has (inaudible)?  
7 (Long inaudible due to static.)  
8 MR. FOWLER: MNPEA will call its  
9 last witness Mike Golen.  
10 REFEREE BEFORT: Do you swear to  
11 tell the truth, the whole truth, and nothing but the  
12 truth in these proceedings?  
13 THE WITNESS: (Inaudible).  
14  
15 DIRECT EXAMINATION  
16 BY MR. FOWLER:  
17 Q Mr. Golen, why don't you give us a little  
18 background starting with the time (inaudible).  
19 A In 1979 I was hired (inaudible-static).  
20 Nine individuals were allowed to be hired under that  
21 branch. (Long inaudible), and so we came in to make  
22 sure to cut down on assaults on staff. The grants ran  
23 out after a couple of years, and at that point I was  
24 transferred over to be a correctional officer there.  
25 I have been a steward since 1981. We were

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1 executive board ever been (inaudible). All of my  
2 stewards and members that ran with me all won, and we  
3 went out and represented Local 320 at the convention,  
4 and part of what went down there is we are not  
5 (inaudible). Our slate was called (inaudible). We  
6 won that election (inaudible) against their top  
7 secretary/treasurer at that time Sue Moore. None of  
8 them got to go. We went.  
9 Knowing the writing was on the wall, as it  
10 had been for Mr. Perkins, who was our campaign manager  
11 but was not running in the election so he did not have  
12 the protection of the federal magistrate like I did,  
13 but knowing the (inaudible) and the writing was on the  
14 wall, I went ahead and retired on July (inaudible)  
15 2011.  
16 I left in good standing, and it was during  
17 that time that Dave Deal asked me if I would assist  
18 them in setting up (indicating), and I said sure, I am  
19 retired, I might as well, I have got the time and  
20 stuff. So it was at that point that I (inaudible). I  
21 wanted to set something up that, Number 1, was not  
22 going -- because we were going to be new we would have  
23 to start out at the ground level, I didn't want to  
24 (inaudible), and so I looked around to see who was  
25 doing what out there, and I talked to Gary Kayo for

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1 the only correctional (inaudible). We were out for  
2 nine weeks.  
3 Shortly after that at the county level  
4 correction (inaudible) essential. I continued on I  
5 was chief steward until about the mid '80s, and I was  
6 doing a lot of business at that time.  
7 (Long inaudible due to static.)  
8 A And I was one of those folks who was asked  
9 to come over, so then I went over there, and I was  
10 both the business agent and I was a board member  
11 immediately. I started out as the secretary -- not  
12 the secretary/treasurer, but the secretary, recording  
13 secretary. I then moved up to the position of vice  
14 president, and then I finally held the position of  
15 president, so I have been in all of those positions.  
16 I was getting close to retiring, so about  
17 five years before I did retire I chose not to run  
18 again and stepped down from the board. I also wasn't  
19 happy with some of the directions it was taking, so I  
20 pretty much took over Southern Minnesota law  
21 enforcement corrections (inaudible).  
22 In 2011 as I was getting close to  
23 retirement, I also won an election against the  
24 (inaudible) executive board. It was a historic  
25 setting because never has a Teamster standing

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1 one. I knew that Rob Fowler was not only working on  
2 a -- on (inaudible) fee basis, and it was working out  
3 quite well, and Gary affirmed that (indicating) Rob  
4 was doing fine.  
5 I also knew that at that time he had  
6 (inaudible) of his own, so on top of all of the  
7 experience he had gained working with Pat Kelly's  
8 office and (inaudible) for Local 320, was also were to  
9 go out on his own and act not just as an attorney, but  
10 also as a business agent and negotiator and  
11 (inaudible).  
12 So I sat down and said would this not work  
13 for a setup like ours and what would it take on your  
14 end. He said, yeah, it should work, and part of why I  
15 went.  
16 (Long inaudible due to static.)  
17 A If they don't call us, we don't call them;  
18 and when they call us they are usually pretty well  
19 ready to go.  
20 (Long inaudible due to static.)  
21 A At any rate, when a group is ready to go  
22 and they are that upset, that is just the way it is,  
23 that is a fact of life. I don't need to go out and  
24 (inaudible) these people about anything. Again, they  
25 are ready to go, we simply tell them here's what we

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1 have got, here's what we are doing. You're all  
2 adults, if you want to come in, come on in. We aren't  
3 going to (inaudible), we aren't going to call you or  
4 anything else. We are going to come out here, lay it  
5 out (inaudible) we do it and I am going to leave. If  
6 you like the idea, if you want to come on board, well,  
7 then do it.

8 I've even extended to every group that I  
9 went out was the key organizer in that if there comes  
10 a day when you aren't happy and you show me a  
11 majority, we will just sign off. And indeed one group  
12 has chosen to not stay with us, Lakeville, and I  
13 honored that right there. We aren't going to go  
14 against all things that go on there like that.

15 Now, politically I had a new idea too.  
16 Obviously we were going to take a little time to get  
17 going, and obviously there is some big issue out there  
18 that we share in completely. You talked about Tom  
19 Emmer. Well, I don't want to swear in here, but that  
20 is what I could have assigned to Mr. Emmer. Yeah, I  
21 don't care for Mr. Emmer at all. I backed Mark  
22 Dayton.

23 I am a little taken aback that AFSCME  
24 decided that all 8,100 votes to put Mark in the office  
25 were all from them. I talked to over 700 police

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1 Q So let me ask you, Mr. Golen, when you  
2 said MNPEA would -- you testified that you had your  
3 first discussions with Mr. Deal, right?

4 A Okay.

5 Q Who is the person who actually put their  
6 name to the Secretary of State's file?

7 A That was Dave Deal. Let me add one other  
8 thing in my experience, please.

9 Q I will get back to you.

10 A Hundreds of contracts that I have  
11 negotiated, somebody in here bantered a dozen or two,  
12 hundreds, hundreds of grievances I have taken care of.

13 Q Actually, that is part of your background.  
14 Okay. So Dave Deal was the person that filed the  
15 nonprofit with the Secretary of State, correct?

16 A Yeah. I was retired.

17 Q And at that time was Mr. Deal a public  
18 employee paid by Washington County?

19 A Yes, sir.

20 Q Now, does the Fowler Law Firm have any  
21 influence over you, Mr. Golen, as a board member who  
22 makes decisions on behalf of MNPEA?

23 A You have an advisory capacity, that it is  
24 our choice to either take what you have (inaudible) on  
25 advisory, tell you to go (inaudible) we (inaudible).

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1 officers and laid it out to them what was going to  
2 happen with Emmer, and I only had two out of 700 that  
3 told me they were still going to vote Republican, so  
4 we are not a Republican organization in itself.

5 I have got to say that while I am sitting  
6 here looking around, I have got to command the AFSCME  
7 people that they come here, and you know what, we may  
8 not be in agreement with everything, we may be at odds  
9 right now, but you're here, and you have had the  
10 courage to stand up and come in here, and, you know,  
11 you're starting to -- you're starting to actually make  
12 me believe that you care more than maybe I thought.

13 Our experience didn't come from you.  
14 Again, Tom and I and Dave Deal were with a different  
15 union, and our negative experience came out of there.  
16 I also have to say it's interesting to me that none of  
17 their board members or their attorneys show up here.  
18 A hired gun shows up instead.

19 UNIDENTIFIED MALE: Objection  
20 (inaudible) at this point.

21 THE WITNESS: Where are they?

22 BY MR. FOWLER:

23 Q Well, I think that sufficiently covers  
24 your background up to today.

25 A Yeah.

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1 Q Have you exercised disagreements with the  
2 Fowler Law Firm in the past two years?

3 A Many times, as you know, there has been a  
4 few times I almost caned to you.

5 Q So let me put it this way: In your  
6 governing documents does the Fowler Law Firm have any  
7 role in decision making?

8 A Beyond advisory, no. You have the right  
9 to advise what you believe, but, no, that ends, you  
10 leave, we do what we do.

11 Q So you have heard a few witnesses testify  
12 or comments by Mr. Corwin about MNPEA is a front for a  
13 law firm. Do you believe that is true?

14 A No, we were simply -- it was a way that --  
15 we saw the expedience to set up something new when we  
16 didn't have a big treasury or anything else, and to  
17 make sure that we weren't going to go into debt and we  
18 were going to be able to continue to run. It was  
19 simply a -- I know the word business model has been  
20 bantered around. Well, in my mind it was a better  
21 business model from an organization at our level. I  
22 am not saying it was necessarily better than the big  
23 model they have because they are a big union, but for  
24 our sense, it made sense.

25 Q Okay. Has any member, either fair share

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1 or a full share member of MNPEA, came to your board  
 2 and said we don't believe you're a real union?  
 3 A No.  
 4 Q Just in general, are the members happy  
 5 that are part of MNPEA?  
 6 MR. CORWIN: Objection, calls for  
 7 speculation, lack of foundation.  
 8 MR. FOWLER: I will rephrase more  
 9 specifically.  
 10 THE WITNESS: Well, who would know  
 11 if I didn't?  
 12 BY MR. FOWLER:  
 13 Q Let me rephrase. Let me rephrase,  
 14 Mr. Golen. So has anybody came to you with a  
 15 complaint about MNPEA not being -- not representing  
 16 their interests in terms of terms and conditions of  
 17 employment?  
 18 A No.  
 19 Q Have you had disagreements with members?  
 20 A I reserve the right to tell them what I  
 21 think, but I don't get a vote. So, yes, there are  
 22 times when members certainly see things different than  
 23 I do, but ultimately they get the vote to vote their  
 24 way.  
 25 Q Do members vote to approve the settlement

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1 of their contracts?  
 2 A Absolutely.  
 3 Q In fact, have members voted to reject  
 4 contracts that you have recommended?  
 5 A Absolutely.  
 6 Q So can you think of anything that is  
 7 undemocratic about MNPEA?  
 8 A I tried, and as the other board members,  
 9 to make it as democratic as we could. We went in  
 10 excess of the union we came out of in our bylaws to  
 11 make sure that would happen.  
 12 Q Are you referring to the veto of  
 13 70 percent clause?  
 14 A That would be one. The rights of business  
 15 agents to have due process would be one so that they  
 16 can't be flunkies of whoever is in charge. They  
 17 actually get the right to speak their mind and stuff  
 18 too.  
 19 Q So you have just cause -- do you have just  
 20 cause protections for your employees?  
 21 A Yes, we do.  
 22 Q Is that different than say the at will  
 23 arrangement that you had at Teamsters?  
 24 A Obviously, yes, that is different.  
 25 Q Mr. Golen, have the bylaws been amended to

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1 allow for elections every four years?  
 2 A Yes.  
 3 MR. CORWIN: Objection, this is  
 4 repetitive.  
 5 MR. FOWLER: I'll move on if I can  
 6 get an answer.  
 7 REFEREE BEFORT: He said yes.  
 8 MR. FOWLER: So yes is part of the  
 9 record?  
 10 REFEREE BEFORT: Yes.  
 11 MR. FOWLER: Okay.  
 12 BY MR. FOWLER:  
 13 Q Have you been in existence longer than  
 14 four years?  
 15 MR. CORWIN: Objection, this is  
 16 repetitive.  
 17 MR. FOWLER: I will move on, Gregg,  
 18 but --  
 19 REFEREE BEFORT: Go ahead, I will  
 20 let you answer.  
 21 A We have been in existence since I believe  
 22 it was August of 2011.  
 23 MR. FOWLER: I don't have anything  
 24 further for Mr. Golen.  
 25

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1 CROSS-EXAMINATION  
 2 BY MR. CORWIN:  
 3 Q Sir, you testified that people just come  
 4 to you, you don't do the active solicitation, you  
 5 don't try to raid other organizations, is what your  
 6 testimony was?  
 7 A We have no money or organism or process of  
 8 going out and organizing. All of it is word of mouth  
 9 that comes back to us, yes.  
 10 Q That is not what happened with Arrowhead  
 11 Regional Corrections, is it?  
 12 A Absolutely, they contacted us.  
 13 Q First?  
 14 A You would have to ask Shawn Birk because  
 15 that would be who it was because he did the  
 16 organizing, but --  
 17 Q You went after them, didn't you, you  
 18 deliberately attempted to raid that AFSCME --  
 19 A Absolutely not.  
 20 Q You say you don't have a vote, but you're  
 21 a member of the board, right?  
 22 A I said I didn't have a vote on the  
 23 contracts.  
 24 Q But you vote in the way the union is run,  
 25 don't you? In fact, there is only three of you that

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1 have --  
 2 A I have (inaudible), yes.  
 3 Q There is only three of you that really run  
 4 the union; isn't that true?  
 5 A No, that is not true. You have had that  
 6 explained to you already.  
 7 Q You have three executive board members,  
 8 right?  
 9 A Yes.  
 10 Q The same ones that founded the union?  
 11 A Actually Dave Deal founded it.  
 12 Q All right. But you were part of it, the  
 13 original?  
 14 A Uh-huh.  
 15 Q And you have never really been elected by  
 16 anybody, have you, except for the five members that  
 17 showed up at a meeting once?  
 18 A Actually, every single group that has come  
 19 to us knew who the executive board was and elected to  
 20 come to us; and when our time comes, yes, we will have  
 21 elections just like you guys.  
 22 Q First you weren't going to have elections  
 23 for five years; isn't that right?  
 24 A Because that is what the international  
 25 model was.

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1 lobbyist, is that correct, you haven't registered in  
 2 the State?  
 3 A Tom is in the process of registering.  
 4 Q Have you registered yet?  
 5 A No.  
 6 Q So have you done any lobbying up until  
 7 now?  
 8 A At the Capitol or anything, no.  
 9 Q You haven't engaged in any political  
 10 activity up until now, have you?  
 11 A Actually, I visited commissioners that I  
 12 know on behalf of members in Hennepin County and on  
 13 the fact with what is going on with the hiring process  
 14 there, and several new workers were hired shortly  
 15 after that.  
 16 Q So you have lobbied political officials?  
 17 A No, I have gone and visited commissioners  
 18 I have known to talk about a situation.  
 19 Q Do you know what the legal definition of  
 20 lobbying is?  
 21 A Well, no, we were visiting. We didn't ask  
 22 them to do anything. We simply appraised them of what  
 23 was going on, and I had all the stewards with me. All  
 24 of our meetings had stewards present.  
 25 Q Why did it take you so long to file for

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1 Q Whose international?  
 2 A Well, for one the international that I had  
 3 just come from had a five year conference on.  
 4 Q So you modeled your organization after the  
 5 Teamsters; is that right?  
 6 A We used that model initially of the five  
 7 years, yeah, since we are the only board.  
 8 Q Isn't the true the majority of the units  
 9 that you sought to organize were units that were  
 10 represented by other exclusive representatives?  
 11 A Sure.  
 12 Q So you are a raider, aren't you?  
 13 A By your term, maybe. By my term, I am a  
 14 liberator. Again, they came to me.  
 15 Q Now, up until AFSCME filed an objection,  
 16 you had no intent to reduce your term of office; isn't  
 17 that true? It was only --  
 18 A It hadn't been brought to our attention.  
 19 Q Huh?  
 20 A Up until then it hadn't been brought to  
 21 our attention. The Commissioner never pointed it out  
 22 and had certified us and was fine with it. Let me  
 23 just say, it was actually more on what Josh had to say  
 24 without you guys.  
 25 Q And your organization isn't a registered

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1 tax exempt status?  
 2 A You would have to ask Dave Deal. It's my  
 3 understanding --  
 4 Q I can't ask him because he didn't show up.  
 5 A Well, I will try to help you with what I  
 6 can, Gregg, but I can only answer to what I know, as  
 7 you're aware.  
 8 The first time that there was a problem  
 9 and it was sent back, as I recall, and part of it tied  
 10 into the fact that the government was shutdown. Then  
 11 there was a second time where Dave said -- for some  
 12 reason they were saying they didn't have everything.  
 13 He has since sent in everything they need, and the  
 14 word from them, he has checked several times since we  
 15 had the first hearing here on the 20th, all he gets  
 16 back on that is that it's pending.  
 17 Q MNPEA does not as of yet participate in  
 18 political processes and organizations; isn't that  
 19 true?  
 20 A What do you mean by that?  
 21 Q Well, I am reading from your flier. It  
 22 says we believe that the union should not --  
 23 A I don't have that flier, what flier would  
 24 that be?  
 25 Q Well, it's Exhibit 16. I give you another

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1 copy to read along.  
 2 A There is one up here, Gregg.  
 3 Q The first sentence says -- pardon me, the  
 4 third paragraph, "We believe that the union should not  
 5 spend time and money on politicians without the  
 6 direction of the members." Right?  
 7 A Yeah, our bylaws call for 70 percent of  
 8 our members to agree before we get involved in any  
 9 political races or anything. Unlike the organization  
 10 where I came from where one person made all the  
 11 decisions.  
 12 Q Isn't it true that up until now MNPEA has  
 13 not spent time and money on politicians?  
 14 A So far none of our members have saw the  
 15 need to do that, nor have they requested it of us.  
 16 Q And it says, "As a result, MNPEA does not  
 17 endorse any politician or political position without  
 18 first having a super majority vote of affected  
 19 members." Have you ever had a super majority of a  
 20 vote of affected members to endorse any policy, any  
 21 political position or politician?  
 22 A Not yet.  
 23 Q So MNPEA has not endorsed any politician  
 24 or political position; is that correct?  
 25 A Not officially.

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1 Q Well, you would violate this provision if  
 2 you did that, wouldn't you, it says it takes a super  
 3 majority of a vote to do it?  
 4 A No, Gregg. See, I have the right to tell  
 5 the members what I believe, and then they're adults  
 6 and they go out and do what they do from there. So  
 7 it's not quite like you're saying.  
 8 Q Well, I am just reading from your own  
 9 propaganda?  
 10 A Well, actually, it's not my own, but go  
 11 ahead.  
 12 Q It says it takes 70 percent of affected  
 13 members to endorse a candidate; is that true?  
 14 A Yes. Which we do expect to happen in some  
 15 of the upcoming sheriff races. Remember, our members  
 16 for the most part are on a daily basis are going to be  
 17 impacted by county commissioners, sheriffs and on a  
 18 city basis by mayors and city councils. We don't have  
 19 state groups yet.  
 20 Q Those are elected officials, right?  
 21 A Yes.  
 22 Q And to lobby them you have to be  
 23 registered with the State, right?  
 24 A And we're getting ready to do that.  
 25 Q But you haven't done that yet?

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1 A No.  
 2 Q It says, "Along with this, MNPEA holds  
 3 your personal information as private and doesn't share  
 4 it with anyone." You have shared information on  
 5 Facebook of personal information about members,  
 6 haven't you?  
 7 A Not that I am aware of, no. What we do  
 8 not share -- by the way, what we do not share are  
 9 addresses and phone numbers and stuff.  
 10 Q So you share information related to  
 11 grievance processing on Facebook; is that correct?  
 12 A No.  
 13 Q Look at Tab 1 of the union's book, do you  
 14 have that?  
 15 A No. This one?  
 16 Q I want you to look at -- this is the thing  
 17 that I think is the most outrageous thing I have ever  
 18 seen. Look at Page 3 of Tab 1, this is your MNPEA  
 19 Facebook page, and start reading where it says MNPEA  
 20 attorneys have filed a cease and desist, and keep  
 21 reading all the way through the next page.  
 22 A I can't respond to this, Gregg, because  
 23 there is possible litigation coming up.  
 24 Q You can respond to it, I am asking you the  
 25 question.

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1 A What is the matter with you? Don't have a  
 2 damn stroke. We have pending litigation, I have been  
 3 advised not to discuss this.  
 4 MR. CORWIN: I am asking,  
 5 Mr. Referee, I am asking --  
 6 MR. FOWLER: Let me see what we are  
 7 talking about. Let's go -- I would ask that we go  
 8 into a --  
 9 MR. CORWIN: No.  
 10 MR. FOWLER: Let me finish my word,  
 11 Gregg. I would ask that we go to have a bench  
 12 conference, Mr. Arbitrator, so that we can discuss  
 13 this, which is a subject of potential litigation. We  
 14 are recording as we are sitting here arguing this, so  
 15 I would like to, if possible, like we did on the whole  
 16 witness issue, go into a bench conference in a  
 17 conference room and talk about this before we spill it  
 18 all over the record, which is your intent anyway.  
 19 MR. CORWIN: It's already been  
 20 admitted into evidence. I am only asking -- if it is  
 21 in evidence, it is relevant; and I am only asking him  
 22 whether or not they shared personal information about  
 23 their members, private personnel data on their  
 24 Facebook page.  
 25 THE WITNESS: It's not private.

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1 BY MR. CORWIN:  
 2 Q You don't think anything in there is  
 3 private?  
 4 A He shared it. We didn't.  
 5 MR. FOWLER: Hold on. Nobody needs  
 6 to answer any damn questions now. Okay. Can we go  
 7 into conference or not first?  
 8 MR. CORWIN: I don't see any reason  
 9 to.  
 10 REFEREE BEFORT: I don't even  
 11 understand what the position --  
 12 MR. FOWLER: That is why I say we  
 13 need to have a conference. We are not spilling this  
 14 out over an audio recording for a public hearing.  
 15 Please.  
 16 MR. CORWIN: It says in Exhibit 16  
 17 MNPEA holds your personal information --  
 18 MR. FOWLER: Objection, he is not  
 19 speaking. Let's see what the Arbitrator --  
 20 MR. CORWIN: I am going to --  
 21 MR. FOWLER: I want to hear what his  
 22 ruling is.  
 23 REFEREE BEFORT: Let's everybody  
 24 stay put, the three of us will --  
 25 MR. FOWLER: Thank you.

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1 REFEREE BEFORT: Everybody else  
 2 resting?  
 3 MR. BECK: Yes.  
 4 UNIDENTIFIED MALE: I was ready to  
 5 go another two days or two weeks.  
 6 REFEREE BEFORT: I think this is --  
 7 we need to rest. We need to talk about how to wrap  
 8 this up. I would appreciate post-hearing briefs to  
 9 educate. We do have some legal issues that need to be  
 10 addressed, as well as just sort of through the factual  
 11 testimony.  
 12 MR. CORWIN: We need to a transcript  
 13 to be completed before we can make the legal argument,  
 14 so we need to run our time from when we receive the  
 15 rest of the transcript.  
 16 REFEREE BEFORT: And I have asked  
 17 Jan to call to get an estimate of when that would be  
 18 available. Perhaps I should just run and see if she  
 19 has got that information.  
 20 MR. CORWIN: I was to going to say  
 21 we just have to run the timelines from receipt of the  
 22 transcript.  
 23 REFEREE BEFORT: If she has got the  
 24 time figured out, let's see.  
 25 MR. FOWLER: Let's ask her.

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1 REFEREE BEFORT: -- go into the  
 2 library, and we are going to be back real quick.  
 3 (Tape turned on an off.)  
 4 REFEREE BEFORT: Okay, let's go back  
 5 on the record. We did in our sidebar agree to redact  
 6 the identifying information of the data subject in  
 7 Exhibit Number 1, and I think we can move on from  
 8 there.  
 9 THE WITNESS: Just be clear,  
 10 Employer 1.  
 11 REFEREE BEFORT: Employer Exhibit 1.  
 12 MR. CORWIN: AFSCME.  
 13 REFEREE BEFORT: AFSCME Exhibit 1.  
 14 MR. CORWIN: I have no further  
 15 questions.  
 16 MR. FOWLER: Based on his redirect,  
 17 I don't have anything. Kevin?  
 18 MR. BECK: No, sir.  
 19 THE WITNESS: You let me off too  
 20 easy, Gregg.  
 21 MR. FOWLER: I don't have any  
 22 further witnesses. We rest.  
 23 UNIDENTIFIED MALE: I rest.  
 24 MR. CORWIN: I rest.  
 25 MR. BECK: We rest.

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1 (At this time there was a mostly  
 2 inaudible conversation on the recording  
 3 during the break when the recorder was  
 4 not turned off.)  
 5 REFEREE BEFORT: Okay. So off the  
 6 record we have been talking about the schedule for  
 7 doing post-hearing briefs. A matter that is somewhat  
 8 complicated by the fact that a transcript of today's  
 9 portion of the hearing still needs to be prepared, and  
 10 we don't know exactly when that will be. The  
 11 arrangement that I think we agreed upon is that the  
 12 transcript will be ordered. Once it's received by the  
 13 Bureau of Medication Services, copies of the  
 14 transcript will be distributed to AFSCME Council 5 and  
 15 MNPEA.  
 16 I don't think you guys got the first,  
 17 Teamsters and the City of Minneapolis, you did not get  
 18 the first round. Do you want -- if you want a  
 19 transcript, I think you have to pay for it.  
 20 MR. BECK: If I recall correctly,  
 21 our discussion at the end of the first day of the  
 22 hearing is that we would pay for a copy of the  
 23 transcript, not the transcription costs itself.  
 24 REFEREE BEFORT: Right, but it would  
 25 have to be the copy that the transcriptionist charges.

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1 MR. BECK: I understand.  
 2 REFEREE BEFORT: Do you want one?  
 3 MR. BECK: I will have to discuss  
 4 that with my client. I can certainly let you know  
 5 prior to the transcript.  
 6 REFEREE BEFORT: Okay. Once the  
 7 transcript is received by the Bureau, they will  
 8 distribute the copies and send around in email or send  
 9 an email to me, and I will then set a deadline three  
 10 weeks hence at which time the briefs are due. So if  
 11 it takes two weeks for the transcript, we are looking  
 12 for a five-week span before the post-hearing briefs  
 13 are in. That still leaves me having to digest it and  
 14 write a decision, one that is intelligible enough for  
 15 the Court of Appeals, and I will try to do that within  
 16 a 30-day period.  
 17 Does that sound like what we agreed to?  
 18 MR. FOWLER: Yes.  
 19 MR. CORWIN: Yes.  
 20 REFEREE BEFORT: Anything else that  
 21 anyone wants to say before we adjourn today's session?  
 22 MR. FOWLER: The only thing I want  
 23 to clarify is the record is now closed, correct?  
 24 REFEREE BEFORT: The record is now  
 25 closed.

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1 STATE OF MINNESOTA)  
 2 COUNTY OF HENNEPIN)  
 3  
 4  
 5 REPORTER'S CERTIFICATE  
 6  
 7 I, Angela D. Sauro, do hereby certify that  
 8 the above and foregoing transcript, consisting of the  
 9 preceding 206 pages is a correct transcript of my  
 10 stenograph notes, and is a full, true and complete  
 11 transcript of the proceedings to the best of my  
 12 ability.  
 13  
 14 Dated January 27, 2014  
 15  
 16  
 17  
 18 Angela D. Sauro, RPR  
 19 Court Reporter  
 20  
 21  
 22  
 23  
 24  
 25

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1 MR. FOWLER: We will take care of  
 2 that other issue.  
 3 MR. CORWIN: Yes.  
 4 REFEREE BEFORT: Thank you all very  
 5 much. It's been a big undertaking trying to wrap this  
 6 up quickly and appropriately.  
 7 UNIDENTIFIED MALE: On behalf of  
 8 AFSCME, thank you, Professor.  
 9 (At this time the recording ended.)  
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<b>\$10 [2]</b> 366/25 367/11 <b>\$14,999.99 [1]</b> 376/11 <b>\$15,000 [2]</b> 376/13 376/21 <b>\$29 [1]</b> 369/11 <b>\$39 [3]</b> 356/15 356/24 357/8 <b>\$4 [3]</b> 373/3 394/11 395/21 <b>\$4 million [1]</b> 373/3 <b>\$7 [2]</b> 357/11 369/5 <b>\$8 [3]</b> 357/11 357/12 369/6 <b>\$9 [1]</b> 357/12	<b>2012 [1]</b> 333/7 <b>2013 [11]</b> 286/20 312/15 337/21 337/22 351/10 351/14 352/21 353/4 353/9 353/15 354/7 <b>2014 [2]</b> 220/21 426/14 <b>206 [1]</b> 426/9 <b>20th [1]</b> 415/15 <b>210 [1]</b> 221/15 <b>223 [2]</b> 221/20 222/3 <b>249 [1]</b> 222/3 <b>27 [1]</b> 426/14 <b>285 [1]</b> 222/6	<b>9-1-1 [7]</b> 228/24 276/19 276/24 277/3 286/10 317/8 366/25 <b>90 [1]</b> 228/11 <b>900 [1]</b> 374/12 <b>9th [1]</b> 220/20
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'14 [1] 286/21 '60s [2] 235/23 236/3 '70s [2] 236/10 262/2 '80s [2] 262/2 401/5	<b>3</b>	<b>A-M-Y [1]</b> 285/14 <b>A.03 [1]</b> 258/19 <b>aback [1]</b> 404/23 <b>abilities [1]</b> 330/9 <b>ability [15]</b> 243/9 264/16 298/3 300/25 304/9 305/13 330/24 331/1 344/3 349/6 349/23 363/12 382/16 394/8 426/12 <b>able [11]</b> 228/20 235/13 244/19 261/18 275/19 298/9 308/10 341/20 344/10 370/7 407/18 <b>about [133]</b> 225/19 232/17 234/4 235/15 235/16 238/4 239/23 239/23 241/11 242/13 242/16 245/17 246/16 251/2 251/7 251/7 251/19 253/22 254/21 254/21 254/22 254/23 254/25 255/1 258/11 258/22 267/5 267/17 273/11 273/14 276/12 277/19 282/4 282/4 284/18 286/21 286/24 287/7 287/17 288/19 290/20 292/16 293/10 293/20 294/25 295/15 296/2 296/6 296/10 297/17 298/5 299/10 305/20 306/4 307/23 308/13 310/12 310/14 314/2 314/23 316/18 322/4 322/9 325/10 326/12 328/6 328/11 328/22 328/25 329/23 333/7 334/5 334/9 334/10 335/11 335/12 336/5 336/9 336/18 337/11 337/15 341/19 342/23 348/7 348/11 351/24 355/3 356/9 357/10 357/12 357/12 358/1 359/16 367/12 370/18 370/19 370/22 371/14 372/8 374/17 374/18 376/19 378/22 384/17 384/17 386/3 386/19 386/21 387/8 392/13 392/19 394/10 394/20 395/16 397/21 398/16 399/13 399/18 400/4 401/5 401/16 403/24 404/18 407/12 408/15 409/7 414/18 418/5 419/7 419/17 419/22 422/7 423/6 <b>above [3]</b> 220/19 337/20 426/8 <b>above-captioned [1]</b> 337/20 <b>above-entitled [1]</b> 220/19 <b>absence [5]</b> 312/7 312/8 315/15 318/12 318/22 <b>absolutely [12]</b> 229/23 232/6 235/1 235/5 319/13 327/2 330/11 344/24 409/2 409/5 411/12 411/19 <b>academic [1]</b> 229/22 <b>accepted [1]</b> 316/17 <b>access [1]</b> 368/1 <b>accident [1]</b> 364/25 <b>accompanying [1]</b> 326/10 <b>accomplish [1]</b> 297/9 <b>accomplished [1]</b> 236/24 <b>According [1]</b> 244/14 <b>accounts [1]</b> 369/20 <b>accurate [1]</b> 321/19 <b>acknowledged [1]</b> 278/3 <b>acronym [1]</b> 286/22 <b>across [1]</b> 314/17 <b>act [23]</b> 227/1 231/24 236/19 252/6 252/7 252/14 252/18 261/6 261/8 317/13 321/5 323/11 323/16 324/7 324/8 327/24 328/4 330/19 331/10 347/5 364/18 386/22 403/9 <b>acted [1]</b> 275/7 <b>acting [2]</b> 224/8 229/5
'14 [1] 286/21 '60s [2] 235/23 236/3 '70s [2] 236/10 262/2 '80s [2] 262/2 401/5	<b>30-day [1]</b> 424/16 <b>303 [1]</b> 222/6 <b>312 [1]</b> 222/9 <b>320 [26]</b> 220/11 221/18 263/24 313/15 314/3 314/12 314/22 316/8 316/21 316/23 318/1 318/4 318/11 318/15 328/24 341/14 345/9 346/9 346/21 347/16 348/8 349/7 373/3 381/25 402/3 403/8 <b>3252 [1]</b> 221/10 <b>345 [1]</b> 222/9 <b>350 [1]</b> 221/16 <b>356 [1]</b> 262/24 <b>35W [3]</b> 243/22 245/17 245/18 <b>36th [1]</b> 223/24 <b>37 [1]</b> 224/20 <b>39 [1]</b> 356/17 <b>398 [1]</b> 222/10	
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.2 [1] 274/1 .2 percent [1] 274/1		
<b>1</b>	<b>4</b>	
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