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ARBITRATION PROCEEDINGS

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SACRAMENTO CITY TEACHERS)
ASSOCIATION, CTA/NEA)

) Case No.
) 01-18-00034761

Grievant,)

vs.)

SACRAMENTO CITY UNIFIED)
SCHOOL DISTRICT,)

Employer/Respondent)
-----)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME II

SACRAMENTO, CALIFORNIA

MARCH 8, 2019

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ARBITRATION PROCEEDINGS

- - -

SACRAMENTO CITY TEACHERS)
ASSOCIATION, CTA/NEA)
) Case No.
) 01-18-00034761
Grievant,)
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Vs.)
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SACRAMENTO CITY UNIFIED)
SCHOOL DISTRICT,)
)
Employer/Respondent)
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TRANSCRIPT OF ARBITRATION PROCEEDINGS, Taken at
5735 47th Avenue, Sacramento, California, Commencing At
9:13 a.m., FRIDAY, MARCH 8, 2019, Before Wendy Harrity,
CSR No. 11494.

A P P E A R A N C E S

1
2
3 ARBITRATOR:

4 KENNETH PEREA, ARBITRATOR
5 P.O. Box 2788
6 Del Mar, California 92014-5788

7 FOR The CALIFORNIA TEACHERS ASSOCIATION:

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9 1705 Murchison Drive
10 Burlingame, California 94010

11 FOR THE SACRAMENTO CITY UNIFIED SCHOOL DISTRICT:

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13 By: SLOAN SIMMONS, ESQUIRE
14 By: ERIN M. HAMOR, ESQUIRE
15 One Capitol Mal, Suite 640
16 Sacramento, California 95814

17 ALSO PRESENT:

18 JOHN BORSOS, CANCY McARN, TERESA STINSON,
19 NICOLE MILEVSKY
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I N D E X

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1 SACRAMENTO, CALIFORNIA; FRIDAY, MARCH 8, 2019;

2 9:13 A.M.

3
4 MR. SIMMONS: Under housekeeping, two issues
5 this morning, Mr. Arbitrator. One is, although not
6 entirely unclear to the District, it seemed to me that
7 at least at one particular moment in yesterday's hearing
8 that the issue identified for which SCTA desires to be
9 addressed in the arbitration, there is something beyond
10 the salary structure dispute, which in my mind is not
11 clear on the face of the Grievance and certainly isn't
12 clear in the pre-hearing opening brief.

13 Now, to the extent there is an issue beyond the
14 salary structure, which I think everyone will agree is
15 the main reason we're here, fully understand that we
16 want to get that resolved. But that in light of our
17 time restraints -- and I'm not calling for testimony.
18 In fact, there is this other issue that may be out
19 there, that that be bifurcated for purposes of this
20 arbitration because of the central focus and response of
21 the salary structure piece.

22 MR. RUKEYSER: Mr. Arbitrator, there is a an
23 ancillary issue raised in the Grievance. Obviously the
24 heart of the Grievance, the heart is the parties'
25 dispute that has to do with the salary schedule and what

1 the Framework Agreement sent out and requires of the
2 District with respect to that salary schedule and the
3 '18/'19 year and moving forward. There is an ancillary
4 issue having to do with the agreement that the parties
5 reached that the athletic directors's stipend would move
6 from column B stipend to the higher column A stipend,
7 specifically when that move is effective, whether it's
8 retro at the start of the contract on July 1, 2016, as
9 the Union contends or whether it is -- whether that
10 change is effective the day of the ratification or some
11 other date as the District has contended.

12 We would submit that the evidence on this is
13 really rather straight forward and it has to do with the
14 plain language of the Tentative Agreement that the
15 parties ratified. We don't see need for bifurcating the
16 proceeding to address those. I think it's squarely
17 presented and relatively straight forward.

18 THE ARBITRATOR: All right. Well, I accept the
19 issue in terms of the Grievance. It's contained in the
20 Grievance. The question is whether or not we want to
21 include not only from SCTA's perspective, but also from
22 the District's perspective. We want to include that in
23 the evidence record that has been developed yesterday
24 and today or do we want to say it's still in the
25 Grievance, it's timely before the Arbitrator, but what

1 we're going to do is we're going to focus our energy and
2 time presenting the larger issue about salary structure
3 and whether there's an agreement first.

4 And then, obviously, whatever happens there, it
5 may be necessary to reprimand if there is a finding,
6 yes, there was a violation, in which case then the
7 parties can consider that and supplement the record with
8 any additional evidence concerning this ancillary issue.
9 That's the only question. Do we want to -- I mean, you
10 said bifurcate. I guess that's the right term for it,
11 bifurcate. Bifurcate in terms of our presentation today
12 because we're going to have a full day in any event.

13 The District may feel based on what's been
14 presented in the SCTA's Case in Chief yesterday, that it
15 now needs to present some additional evidence concerning
16 this ancillary issue.

17 But in the interest of our time, would it
18 perhaps be wise to say we have this understanding, that
19 issue is still alive, still before the Arbitrator, but
20 we're not going to present evidence concerning that
21 today unless we have ample time to do that.

22 We're going to focus on the salary structure
23 and then get that done. And then if it -- after briefs
24 and everything, if it's determined that goes back to the
25 parties, then that issue can still be addressed at a

1 future point in time.

2 MR. RUKEYSER: Sure. I appreciate that,
3 Mr. Arbitrator. I think the question then really is --
4 as a practical matter, as a matter of scheduling, does
5 the District reasonably anticipate that it would not be
6 able through questioning the witnesses that he's already
7 going to be calling today, introduce whatever evidence
8 it wishes to introduce with respect to the athletic
9 director stipend issue. As I said before, it seems to
10 be a matter of contract construction and the language to
11 our mind is very clear.

12 I'm not -- as I sit here today, I'm not sure
13 what sort of evidence the District wants to introduce,
14 but it seems like all of the principals, which the
15 District is already calling its witnesses, would be well
16 positioned to answer any questions that counsel wishes
17 to ask about that issue.

18 THE ARBITRATOR: My reaction to these types of
19 situations is generally that we try to anticipate too
20 much and I don't know if it was made clear that this was
21 going to be an issue in the proceedings yesterday and
22 today. But my suggestion would be let's develop the
23 record as best we can. When we hit the pause button or
24 the conclusion button, whichever it might be after the
25 District's Case in Chief, the District can look back on

1 what it has presented and make an assessment of whether
2 or not it believes based upon the developed evidence
3 record. It believes some additional information might
4 be helpful with regards to this issue. If that's the
5 case, they we can return to this subject. It may be
6 that based on everything that has been presented by both
7 sides, the District looks back and says, okay, we have
8 done everything we think we need to do.

9 MR. SIMMONS: Can I respond to that, Mr.
10 Arbitrator? So one, the explanation that counsel gave
11 at the beginning of this as to what that issue was. And
12 he included that in his opening pre-hearing brief, he
13 would have been fully -- he could have likely addressed
14 that. There has never been an explanation like that.

15 So one, I'm not going to ask my folks questions
16 on that today. I think the parties would agree the
17 reason this was elevated immediately from a level one
18 Grievance to an arbitration is because the magnitude of
19 the salary structure issue, not this side issue. That's
20 why we're here. So I don't want to waste time with
21 providing witnesses on this issue and I don't want -- I
22 would ask Mr. Arbitrator to not permit cross to save
23 time spent on this. I'm not -- the Grievance is a
24 Grievance. It needs to be addressed, but I don't think
25 our time should be spent on it today.

1 THE ARBITRATOR: All right. We can return to
2 this after the record has been developed. I will just
3 tell you I'm inclined to say, based upon the pre-hearing
4 briefs, that perhaps the District has a point that it
5 was not fully prepared to address that issue in its Case
6 in Chief today. And after you develop the record today,
7 you can return to this if you still feel the same way.
8 I'll probably have to say you're going to have to call
9 that issue out. It's still alive. It will still be
10 determined, but it just might not be possible to do it
11 today.

12 MR. RUKEYSER: Thank you, Mr. Arbitrator.

13 MR. SIMMONS: One other issue. So with our
14 witnesses today, including the Superintendent, Ms.
15 McArn, Board President Ryan, there is certainly with
16 District officials and administrators like this to risk
17 the issue of closed session confidential communication
18 and those which cannot be disclosed based upon
19 discussions had in the Brown Act or other closed
20 sessions -- whether it was including counsel -- for
21 purposes of negotiations.

22 My concern is that if I'm called upon each time
23 the question is asked, where I think it applies to
24 object and direct my witnesses, do not respond to the
25 extent it relates to closed session.

1 THE ARBITRATOR: In the direct exam, you're
2 going will instruct the witness?

3 MR. SIMMONS: No, if --

4 THE ARBITRATOR: On cross?

5 MR. SIMMONS: On cross, if I'm called upon to
6 have to object each time I think it's a question that's
7 calling for that, it might be the objection itself is,
8 in fact, going to the issue of disclosing what was
9 discussed in that closed session. So what I'd like --
10 what I would propose is the stipulation that I direct my
11 witnesses whether on my questions or on cross, they're
12 to assume all questions relate to matters outside of
13 closed session. And then -- so if the question goes to
14 something which the only answer they have is based upon
15 closed, they would not have -- their answer would be --
16 well, did you discuss X? If X only was discussed with
17 them in closed, the answer will be no. Because
18 otherwise, if I have to object to the question and say,
19 objection to the extent that asked for closed-session
20 information, I have now, in essence, confirmed when and
21 how what was discussed where, which is the whole notion
22 of not having to disclose what is occurring within
23 closed sessions under the Brown Act and with the board
24 on negotiation matters such as this.

25 THE ARBITRATOR: All right.

1 MR. RUKEYSER: Mr. Arbitrator, certainly we
2 recognize attorney-client confidentiality. In a matter
3 like this where we're talking about negotiations in
4 arbitral settings, it's certainly not clear to me that
5 nothing that is discussed within closed session could be
6 testified to at all. And we can't agree to this
7 stipulation that counsel is just now, at the start of
8 their Case in Chief, putting in it front of us because
9 what it essentially precludes is any development of a
10 record. It's also impossible to test the witness's
11 testimony and their veracity about when something was
12 discussed. I would also observe right now that to the
13 extent that the District believes this is an issue, I
14 don't understand why we're only now hearing about this.

15 Three was a pre-hearing conference. There were
16 pre-hearing briefs. There were considerable e-mail
17 correspondence at District's counsel's request. We took
18 the unusual steps of filing pre-hearing briefs and
19 having a pre-hearing conference. This was never raised.

20 MR. SIMMONS: My response to that is what
21 dawned on me last night, having intended and having
22 prepared my witnesses for the notion of their, you know,
23 attorney-client matters, you can't speak because of the
24 Brown Act matters. That type of confidentiality raises a
25 number of rules including a legal prohibition as far as

1 the Brown Act discussion.

2 And it dawned on me last night when I was
3 preparing for today, well, heck, when I object, I'm
4 going to be, in fact, confirming that exact disclosure
5 that I was trying to prevent based on the nature of the
6 question and if I have to assert that objection.

7 MR. RUKEYSER: If I may respond, Mr.
8 Arbitrator. The Union is aware that legal privileges
9 that have been developed are caused frivolously that
10 work in evidentiary manner to exclude testimony or
11 documentary evidence from consideration and from prior
12 applied in arbitral settings, Brown Act closed session
13 discussions are not a legal privilege. And if -- I'm
14 certainly not aware of arbitrators in arbitral settings
15 extending willy-nilly the notion of privilege to cover
16 discussions about collective bargaining that might occur
17 in closed sessions proceedings of a governing board.

18 THE ARBITRATOR: Well, as far as I'm aware --
19 and you can tell me if I'm incorrect -- I don't know
20 that there's any exception to the Brown Act with respect
21 to communications that are considered to be
22 confidential. If we have a witness on the witness stand
23 and the witness is sworn to tell the truth and the whole
24 truth, the questions are directed to the witness, which
25 call for an answer the information which would be

1 privileged -- not privileged, confidential. Because I
2 respect the law of privileges, all of the laws of
3 privilege, spousal privilege or attorney-client or
4 whatever.

5 With respect to the Brown Act, you would be, in
6 a sense, putting the witness in a position where they
7 are required under oath to tell the truth and to answer
8 a question, which would reveal critical confidential
9 information. And the revelation of confidential
10 information -- and I don't have the Act in front of me,
11 but I think there's something in the Act which indicates
12 if someone discloses that confidential information,
13 there is some civil -- I think it's civil, I don't know.

14 MR. SIMMONS: There may be a criminal aspect,
15 as well, but you're correct.

16 THE ARBITRATOR: There's something in there
17 that prevents board members who are political creatures
18 from going out into public after a confidential --
19 privileged confidential communication among other board
20 members and holding a news conference and advising the
21 public as to what occurred in that confidential setting.
22 And I just don't see how we can get around that. I
23 don't like it. I will admit that to you. I don't like
24 these hurdles, but I'm afraid that it's just the reality
25 of the circumstance that we're in.

1 I think what we'll do is we will -- as counsel
2 has suggested, we'll admonish the witness that in terms
3 of the questions asked, we're only asking for -- but
4 we're telling you must tell the truth, but we're only
5 asking you for information which is not confidential in
6 terms of statements made within the context of the Brown
7 Act.

8 MR. RUKEYSER: Mr. Arbitrator, my concern about
9 the stipulation that counsel has just now in this 11th
10 hour proposed, is that it's a proposal to skew the
11 record. What he's proposing is if a question is asked,
12 did you ever discuss subject A, that the witness under
13 oath may, as part of this record would say, no, I never
14 did, in fact, the witness had, but in a confidential
15 setting.

16 THE ARBITRATOR: Right.

17 MR. RUKEYSER: What I would propose at a
18 minimum without prying necessarily into the substance of
19 the discussion, what was said, who said what, how was
20 the response formulated. The mere fact that something
21 was discussed, that alone is not confidential in much
22 the same way that a question could be asked, did you
23 ever have a discussion about this part? Yes, I did.
24 With whom? My wife.

25 THE ADMINISTRATOR: I'm glad you had this

1 discussion because I wouldn't want this to come out, you
2 know, in the middle of the testimony. So let me do this
3 --

4 MR. SIMMONS: One addition on that,
5 Mr. Arbitrator. So Kleitman -- in preparing the
6 objections and I assume there would be a back and forth
7 today when I raised my first objection, but the Kleitman
8 Case, 74 Cal.App 4th 324, he's holding with disclosure
9 of closed session pursuit by members of the legislative
10 body necessarily destroyed the closed-session
11 confidentiality which is inherent in the Brown Act.
12 That's the whole concept we're talking about here. To
13 even ask them to verify what was being discussed in
14 closed, it's inherently destroyed with what the Brown
15 Act is doing.

16 THE ARBITRATOR: We're getting into this --
17 these splitting hairs questions sometimes with
18 attorney-client privilege. And with attorney-client
19 privilege, one position might be even to disclose that
20 there may have been a communication on a particular
21 topic without disclosing what, in fact, that
22 communication is an invasion of the attorney-client
23 privilege.

24 I'm not sure I agree that that is. So for
25 example, Mr. Rukeyser could follow up on

1 cross-examination to say, we understand that there were
2 no communications on subject A that were outside of a
3 closed session. Mr. Witness, to the best of your
4 recollection, were there communications on subject A in
5 closed session and he answers, yes, we stop right there.
6 We do not disclose what the communication was.

7 It doesn't really probably get us very far in
8 terms of the search for truth. I'm not going to know
9 what was discussed. It could be almost anything. But
10 at least we know that there was something that -- I'm
11 trying to satisfy the interests of search of the truth.
12 And I'm not willing to violate the Brown Act. That
13 would be a horrible thing to do, especially when you're
14 putting a witness in a position of having to tell the
15 truth. Then you're telling the witness, okay, but I
16 want you to violate the law in telling the truth. And I
17 respect that from either sides' perspective.

18 MR. SIMMONS: Can I have one more passage from
19 Kleitman, Mr. Arbitrator?

20 THE ARBITRATOR: I think I've got it.

21 MR. SIMMONS: It's says, Have the legislature
22 who attend, the members of the legislative body, be
23 required upon court order, for that matter, the
24 Arbitrator's direction, to disclose their personal
25 recollection of a non-recorded closed session during

1 discovery and Brown Act litigation. We are confident
2 such intention would have been made and expressed
3 through the Act.

4 Now, I feel like it's exactly what we're asking
5 them to do, to even acknowledge whether something was
6 discussed in closed.

7 THE ARBITRATOR: I don't see a great harm in
8 just knowing that a subject may have been discussed. It
9 would surprise me in a lot of instances, but it was
10 never discussed. That would surprise me. But to get
11 into the contents of this speech, it seems to me it does
12 clearly violate the Brown Act and I cannot allow that to
13 happen. You know, even despite the fact that I don't
14 like it, I mean, as an Arbitrator, we say give us more
15 information, not less information. Our job is search
16 for the truth. More information usually enhances that
17 ability within reasonable bounds. We don't want to get
18 into a lot of redundancy and irrelevancy.

19 I think that sounds like, at least, a little
20 bit of the Association's concern that we're at least
21 going to know, okay, there was something said. We're
22 not going to know what it was. Might have been totally
23 innocuous, might have even been in your favor. I don't
24 know. But at least we know that there's some guidelines
25 to what the communications were.

1 But outside of the Brown Act, you know,
2 communications are fair unless protected by
3 attorney-client privilege.

4 MR. RUKEYSER: Thank you, Mr. Arbitrator.

5 MR. SIMMONS: I would say that the other light
6 of this is the Brown Act discussions are also in the
7 presence of counsel, so you have attorney-client
8 privilege, as well. I understand your conclusion, but
9 for the record, I object that they would have to respond
10 to even acknowledging discussion in closed because
11 counsel is there.

12 THE ARBITRATOR: As I said, I've had that
13 discussion. And an attorney can take the position that
14 even if you're disclosed that in the course of the
15 attorney-client communication, the attorney asks the
16 client whether the sky was blue and even to know there
17 was a discussion as to the color of the sky, that
18 violates the attorney-client privilege. In my
19 estimation, that really probably goes too far. I don't
20 want to know what they said, but did you ask, you know
21 -- go ahead. All right.

22 MR. SIMMONS: Thank you.

23 THE ARBITRATOR: Anything else preliminarily?

24 MR. RUKEYSER: Mr. Arbitrator, just one since
25 we're talking about preliminary matters. For the

1 record, I know we discussed this in the hearing
2 conference, under the AAA rules, evidence through
3 affidavit can be admitted. And you've already indicated
4 your decision to admit these for whatever they're worth
5 on the record.

6 I would like to just object to not their
7 admission, but to the weight that should be afforded to
8 the declaration and affidavit. These were submitted by
9 witnesses, many of whom are District employees. They're
10 District administrators. If they're not District
11 administrators, they're individuals who live and work in
12 the area. They have, according to their own
13 declaration, provided services at various times or
14 interacted with the District. Witnesses who are going
15 to testify and provide evidence, provide the most waging
16 evidence when they are speaking with their own mouth and
17 providing their own testimony, not testimony that is
18 crafted and shaped and perhaps drafted by counsel.

19 And for that reason, in hearing in the arbitral
20 setting, in the administrative law setting, in
21 courtrooms, when witnesses take the stand and they
22 answer questions on direct and on cross -- and this may
23 save some time perhaps -- but just for the record, I
24 want to object that the best record is a record that is
25 made with witnesses who are testifying on the stand, not

1 on paper.

2 THE ARBITRATOR: I understand. You know,
3 99 percent of the cases that I hear, it's all based on
4 live testimony subject to cross-examination. And that's
5 my preference. We did somewhat tailor that ideal
6 situation in the interest of time.

7 Now, there's two things on the subject. One is
8 certain declarations be admitted without the person's
9 presence subject to cross-examination. I have indicated
10 those are hearsay. Counsel's question, well, they can
11 serve as corroborative. Well, yes, in a sense, they can
12 serve as corroborative kind of -- what is a good word
13 for it -- further back up with the understanding that
14 they will not be relied upon. These are the only the
15 affidavits or declarations where the declarant is not
16 present. They are not going to serve as a tie-breaker
17 in terms if there's a dispute as to whose testimony is
18 most accurate. To me, it would be unbelievable to think
19 I would use a declaration from a person who is not here
20 and present testifying to break the tie between two
21 other witnesses whose testimony is in conflict. It just
22 doesn't make sense to me.

23 So I'm pretty clear on this. So they're a very
24 limited purpose if the declarant doesn't come in and
25 testify. It's hearsay. They're a very limited purpose,

1 but maybe.

2 Now, on the other hand, in the interest of
3 time, we've got a lot of declarations here of people who
4 are going to be testifying. They're going to be subject
5 to -- I assume they're all District witnesses, so
6 they're going to be subject to Mr. Rukeyser's vigorous
7 cross-examination. If you don't go into
8 cross-examination on a point, then I would say most
9 likely that means that you don't have a fundamental
10 difference of opinion about that statement. It may just
11 be background or whatever. But, you know, if you have
12 questions of the declarant, you have limited time. You
13 had some time to review those declarations and you have
14 an opportunity to go into it and drill down and find
15 out, in the interest of the whole truth, what happened
16 in terms of those declarations.

17 And believe me, I fully understand
18 declarations. I drafted declarations. I've
19 cross-examined witnesses. I've done all of that, so I
20 understand how it works. So take all that in stride. I
21 will sort through the record and prepare my findings of
22 fact.

23 MR. RUKEYSER: Thank you, Mr. Arbitrator.

24 MR. SIMMONS: You ready?

25 THE ARBITRATOR: I think so. We better get

1 going before somebody else has another issue.

2 THE ARBITRATOR: Witness chair right there,
3 sir. How are you? You're Superintendent Aguilar?

4 THE WITNESS: Yes.

5 THE ARBITRATOR: Let me just -- we're still on
6 the record. So the lady seated there is our court
7 reporter. She's taking down my words as I speak, your
8 words as you speak, counsels' words as they speak. So
9 keep your voice elevated, if you would. Nobody will be
10 offended if you shout out. Okay?

11 THE WITNESS: Thank you.

12 THE ARBITRATOR: So you have a lot of binders
13 there in front of you.

14 THE WITNESS: Uh-huh.

15 THE ARBITRATOR: So they've all been carefully
16 marked on the front there. You'll see Witness
17 Declarations. I did have a chance yesterday coming in
18 to look at your declarations. So I know one of those is
19 probably yours in there. So I'm sure counsel will have
20 questions of your declarations.

21 Then we also have the District's exhibits
22 somewhere in there. And I'm sure counsel will have some
23 questions in that regard, as well.

24 So I'm going to have you state your name, spell
25 your first and last name for the record. Then we're

1 going to swear you under oath. We're going to begin
2 with counsel's questions on direct by Mr. Rukeyser. I
3 don't know if you met Mr. Rukeyser.

4 MR. RUKEYSER: Good morning.

5 THE ARBITRATOR: Mr. Rukeyser is counsel for
6 the California Teachers Association, counsel for SCTA in
7 this matter, okay? All right. So if you don't
8 understand a question, obviously, you can speak up and
9 say, I don't understand the question. I'll ask counsel
10 to rephrase. All right, you ready to go?

11 THE WITNESS: Sure.

12 MR. SIMMONS: Mr. Arbitrator, do we want to
13 clarify that issue that we discussed?

14 THE ARBITRATOR: Yeah, we can do that now. So
15 counsel brought up an interesting point. I have to
16 admit quite honestly, I'm up front about things. In my
17 40 years' experience, I've never had a question like
18 this raised, but you are a Superintendent. You
19 participate in closed sessions --

20 THE WITNESS: Uh-huh.

21 THE ARBITRATOR: -- with the Board of
22 Education. And pursuant to those sessions, there's is
23 external law called Ralph and Brown Act, which you're
24 obviously familiar with. And our quick discussion about
25 that this morning leads me to believe that there might

1 be some implication in terms of the law, not in terms of
2 our proceeding here, but in terms of the law, external
3 to this proceeding, if you were to disclose
4 communications which are confidential under the Brown
5 Act.

6 So counsel will preface his questions and I
7 will repeat it, if you would like. But counsel's
8 questions are going to be posed in terms of those
9 communications among various people which are outside of
10 a closed session of the Sacramento City Board of
11 Education. That's all you're asked to testify to. He's
12 not asking you to testify to any confidential
13 communications. All right?

14 THE WITNESS: Okay.

15 THE ARBITRATOR: Now, we did have no further
16 recourse on this and I think it would be extreme if I
17 precluded Mr. Rukeyser on cross-examination from even
18 probing whether a subject, not getting into the
19 substance of the subject, but just a subject was
20 discussed in the closed confidential session. I'm not
21 going to prevent counsel to go any further than that
22 other than to say, yes or no, the subject of A was
23 discussed, the subject of A was not discussed. That's
24 as far as we're going.

25 Now, I do that in the interest of the Brown

1 Act. It's external law. It's unusual, I have to say,
2 in my experience, but nevertheless, that's where we are.
3 That's where we are.

4 MR. SIMMONS: Thank you, Mr. Arbitrator.

5 THE ARBITRATOR: Same thing with confidential
6 communication between the District's counsel and
7 yourself. And you will -- obviously, you're not
8 asking -- going to ask the witness about your
9 confidential communication.

10 MR. SIMMONS: Right.

11 THE ARBITRATOR: But Mr. Rukeyser, on behalf of
12 SCTA may ask questions, but if it privileged on the
13 attorney-client privilege. I recognize under California
14 law, the attorney-client privilege does apply. I think
15 it's pretty clear to arbitration proceedings. It would
16 in other types of administrative proceedings or court
17 proceedings. All right, satisfied?

18 MR. SIMMONS: Thank you, Mr. Arbitrator. I
19 appreciate it.

20 THE ARBITRATOR: We're ready to begin except we
21 need first and last names and spelling, please, and I
22 will swear you on the oath.

23 THE WITNESS: Sure. Jorge Aguilar. J-O-R-G-E,
24 A-G-U-I-L-A-R.

25 THE ARBITRATOR: Thank you, Superintendent.

1 Please raise your right hand. Do you solemnly swear to
2 tell the truth, the whole truth and nothing but the
3 truth?

4 THE WITNESS: I do.

5 THE ARBITRATOR: Thank you, sir.

6

7

DIRECT EXAMINATION

8

9 BY MR. SIMMONS:

10 Q. Good morning, sir?

11 A. Good morning.

12 Q. How are you? Did you submit a declaration for
13 these proceeding, Superintendent?

14 A. I did.

15 Q. Before you, is that a copy that appears to be
16 that declaration that you did submit?

17 A. It is.

18 Q. When did you sign that declaration?

19 A. When?

20 Q. When did you sign that declaration?

21 A. I signed it -- I just want to confirm, a couple
22 days ago, the 6th of March.

23 Q. There is a unique procedure that we're
24 utilizing that we all discussed, but obviously that
25 declaration and everything within it, will be the

1 subject of as much and as heavy and hard
2 cross-examination as counsel desires to do with you.

3 There still may be -- there is some areas of
4 testimony I want to talk about with you this morning and
5 go over regardless of what is in the declaration. Some
6 of it mirrors and relates to what is in the declaration.
7 Some is beyond what's in the declaration.

8 Just curious, board meeting last night,
9 Mr. Superintendent?

10 A. We did have a meeting last night.

11 Q. What was the biggest issue at hand yesterday?

12 A. The biggest issue at hand is addressing our
13 fiscal challenges and the board took action to make some
14 additional layoffs to try to address those fiscal
15 challenges.

16 Q. Okay.

17 THE ARBITRATOR: Is that -- isn't that like a
18 March 15th? That's way back.

19 THE WITNESS: That's what made yesterday so
20 significant.

21 THE ARBITRATOR: That's what you're talking
22 about?

23 THE WITNESS: The regularly-scheduled board
24 meeting before that March 15th deadline.

25 BY MR. SIMMONS:

1 Q. Let's leave yesterday and go all the way back
2 to 2017.

3 A. Uh-huh.

4 Q. At any time prior to November 2017, were you
5 present in-person as a member of the District's
6 negotiating when negotiating with SCTA in-person?

7 A. I was not.

8 Q. You had a team that did that for you?

9 A. We did.

10 Q. As of November -- early November 2017, what was
11 the nature of the relationship between the SCTA
12 bargaining team and the District's bargaining team?

13 A. I arrived in July of 2017 and began to have
14 discussions with our team. And I understood that
15 relationship to be one that was not yielding any kind of
16 agreement.

17 Q. Would you -- how would you characterize the
18 nature of the in-person interaction, especially
19 in-person or by e-mail as it approached early November
20 of 2017?

21 A. Well, again, as I had been briefed, it was a
22 difficult relationship with SCTA.

23 Q. Going into the weekend of November 4th of 2017,
24 what was the status of the contract negotiations with
25 SCTA?

1 A. Well, there was an announcement that there
2 would be a strike and we just had finished fact-finding,
3 as well. And, you know, as far as I could tell, we were
4 headed into a very difficult situation for our
5 community.

6 Q. Can I have you take the white binder in front
7 of you?

8 A. Uh-huh.

9 Q. And I'm going to have you turn to what's been
10 identified as the Union Exhibit 3. That's the title of
11 that document.

12 A. This is the fact-finding proceedings.

13 Q. Were you aware of this report before the
14 weekend of November 4th and 5th?

15 A. Yes.

16 Q. Did you review it?

17 A. Yes.

18 Q. Can I have you turn to page 11 of that report?

19 A. Yes.

20 Q. I want to go over what the neutral fact-finder
21 had recommended in that report. If you were to review
22 that set of cells on page 11 that says, Neutral
23 Fact-Finder's Recommendation, what was the cost of those
24 cells for what the neutral was proposing through '18/'19
25 as a percentage?

1 A. As a percentage, it's 9 percent.

2 Q. How much of that would go towards salary
3 schedule?

4 A. That would be 2.5.

5 Q. Can I also have you read the next sentence in
6 the recommendation that follows from the Neutral?

7 A. Of course. "The parties should endeavor to
8 make a second 2.0 salary schedule adjustment in '19/'20.

9 Q. So in considering the neutral's recommendation,
10 as of '18/'19, the percentage value of what the neutral
11 was proposing was again?

12 A. Nine percent.

13 Q. And as of '19/'20, though, it would increase to
14 what?

15 A. Eleven percent.

16 Q. How much of that would go to salary?

17 A. That would be --

18 Q. Or -- sorry, salary schedule?

19 A. -- 4.5.

20 Q. So you were aware of this report going into the
21 4th or 5th that that -- this was your understanding what
22 the new board recommended in advance of the weekend of
23 November 4th and 5th?

24 A. On that topic.

25 Q. Let's turn to the meeting at the Mayor's house,

1 which the parties have stipulated to having occurred,
2 which the parties have stipulated to resulted in the
3 Framework Agreement. I don't want to talk about more of
4 the details of that day. How did the meeting -- how was
5 the meeting initiated, as you recall it?

6 A. As I recall, the Mayor reached out and invited
7 me to participate in a session with SCTA. And he
8 offered to host a meeting at his house.

9 Q. Out of curiosity, did the Mayor reach out to
10 you directly, did he go through a wave on first before
11 coming to you?

12 A. No, he would have come to me. I had just
13 started my own relationship with the Mayor. He was one
14 of the first individuals that called me when I had been
15 selected as a finalist to serve as Superintendent. And
16 we had had several conversations by then about what he
17 saw as a potential for a strong community school
18 district partnership, which he felt -- and as he
19 described, he told me that he had ran on a platform that
20 focused on the well-being of our students from an
21 educational standpoint.

22 Q. Of the two days of meetings, which one lasted
23 longer?

24 A. I think it would have been the meeting on
25 Sunday.

1 Q. Sunday. So approximately how long do you
2 recall meeting on the Saturday the 4th?

3 A. Saturday the 4th, a couple of hours probably.

4 Q. Sunday was longer you were saying. That would
5 have had to be at least more than two hours?

6 A. Yeah, yeah, certainly because I also remember
7 that there were points, at least one, where there were
8 caucusing, as well.

9 Q. Caucusing by you or separate with the Mayor?

10 A. I was separate with the Mayor, yes.

11 Q. What part of the Mayor's house was that
12 caucusing occurring in?

13 A. I would call it his den, sort of a room where I
14 think he probably does some work. There's a desk, book
15 cases, memorabilia and such.

16 Q. Fairly nice. The Mayor's house was fancy?

17 A. He does. Well, he said he just recently
18 remodeled his home. Yes.

19 Q. When not caucusing with the Mayor, where were
20 the discussions occurring in the Mayor's house?

21 A. It would have been on the south part of his
22 home, toward the front of the home.

23 Q. How were people arranged as you were having
24 these discussions?

25 A. If we were sitting at this table, the Mayor was

1 where Mr. Arbitrator is. I was here and then our SCTA
2 partners were across the -- the rectangular table.

3 Q. Living room?

4 A. No, I think that would have been the dining
5 table.

6 Q. Dining table?

7 A. Yeah, the dining table.

8 Q. Without asking you to disclose what the Mayor
9 would have discussed with you, the caucusing with him,
10 what were the subject matters that you were raising or
11 discussing in those -- the caucus session?

12 A. The focus would have been on the total cost to
13 the District for the agreements that we were making.

14 Q. Now, let's move forward to as you are reaching
15 the what ends up being the Framework Agreement that day,
16 how many issues -- well, let me have you turn to a Joint
17 Exhibit. So the binder that says Joint Exhibits, do you
18 have it there?

19 A. Uh-huh.

20 Q. Can I have you turn to Joint Exhibit 1, the
21 first document there?

22 A. Okay.

23 Q. You are familiar with that?

24 A. Yes, I am.

25 Q. The Framework Agreement -- you know, that

1 agreement, how many issues did you resolve by way of the
2 Framework or did you reach agreement on strike resolve?
3 Did you reach agreement on in the Framework Agreement?

4 A. There were several. But I thought that the
5 appropriate title to this document was a -- was the term
6 Framework Agreement.

7 Q. I will go back to the question. Do you recall,
8 at least approximately, even based upon the document
9 itself, how many issues you and SCTA worked through that
10 day?

11 A. One was the salary agreement. There was
12 another issue around calendar. There was another issue
13 around looking to achieve health savings. Those were
14 some of the issues.

15 Q. Several issues addressed in the agreement?

16 A. Uh-huh.

17 Q. Did you spend the discussion of SCTA largely
18 and solely focused on salary or did the discussion --
19 how was the discussion balanced throughout those few
20 hours you had together that day?

21 A. Most of it would have been on the salary piece
22 because of the prior day's discussions.

23 Q. In discussing the salary piece, was there ever
24 -- do you recall any discussion as to what -- where did
25 the 3.5 maximum expenditure concept come from?

1 A. Well, in large part, it came from my
2 understanding that we had a certain segment of our
3 teachers that, as I had been briefed, were incentivized
4 to leave the District because on a salary piece alone,
5 they could make more money elsewhere in the region. And
6 so the idea was that we would try to find a way in which
7 we incentivized our current employees to stay with us.

8 Q. How does that relate to the 3.5 maximum
9 expenditure in the Framework Agreement?

10 A. That would be the total cost to the District to
11 distribute that percentage of resources for those
12 individuals.

13 Q. Was there any discussion that you recall that
14 that 3.5 maximum expenditure would apply to '18/'19
15 alone and then go away thereafter?

16 A. Say it again.

17 Q. Was there any discussion that the 3.5 maximum
18 expenditure was only applicable to '18/'19 and then
19 would go up afterwards?

20 A. No.

21 Q. Were you aware -- were you -- did you have a
22 great deal of knowledge about any salary structure that
23 the Union had previously proposed?

24 A. Not detailed knowledge.

25 Q. So if you didn't have great detail about their

1 salary structure, why would you still agree to it
2 without having great total detail understanding about
3 their salary strike?

4 A. Well, what I was agreeing to was the maximum
5 expenditure to the District. And I felt that again,
6 given my conversation with the Mayor and the potential
7 occurrence of a strike, that I was willing to, at that
8 point, forgo understanding the details, if you will, of
9 a schedule and instead make sure that we could focus on
10 the maximum expenditure to the District.

11 Q. So if we look at the Framework Agreement, what
12 is the percentage cost of this salary arrangement in the
13 Framework Agreement?

14 A. The total?

15 Q. Total percentage?

16 A. It would be 11 percent.

17 Q. So that's 11 percent. Now, what -- have you
18 been -- has the District been working on trying to
19 understand what the cost is to what the Union currently
20 proposes or anticipates the cost to be for their salary
21 schedule as we sit here today?

22 A. Have we been working?

23 Q. Do you have any -- strike that.

24 A. Uh-huh.

25 Q. One more question on the Framework Agreement.

1 A. Uh-huh.

2 Q. Then we will move way from that.

3 A. Uh-huh.

4 Q. Did SCTA -- two questions. Did you ask the
5 Mayor to put in detail in the Framework Agreement that
6 this 3.5 cost would stay the same going forward? Did
7 you ask him to enter a notation in the agreement?

8 A. Not in terms of moving forward.

9 Q. So why wouldn't you have told him to put a
10 detailed note that it was going to stay at 3.5?

11 A. No, that's an assumption, you know, I made as
12 Superintendent and I think most counterparts would make.

13 Q. Let's leave that Framework Agreement. Let's go
14 to the District's exhibit binder, the third binder that
15 you have before you, Superintendent. And if we go to
16 Exhibit C, are you familiar with what Exhibit C is?

17 A. Yes, I am.

18 Q. What is it?

19 A. This is an e-mail from our chief of HR,
20 Ms. Cancy McArn, in which she summarizes a meeting that
21 took place with SCTA on November 9th -- or November 8th,
22 I'm assuming.

23 Q. So can you read that second paragraph in the
24 e-mail? I'm not going to ask you to necessarily read it
25 into the record, we have it as an exhibit.

1 A. Sure.

2 Q. But go ahead and read what's reflected there?

3 THE ARBITRATOR: Just to yourself.

4 BY MR. SIMMONS:

5 Q. Just to yourself.

6 A. Oh, okay.

7 Q. Having read that, is what is stated there --
8 would you say that's consistent with what occurred on
9 November 4th and 5th with the Mayor?

10 A. It is.

11 Q. Can I ask you to go down to the paragraph that
12 follows the bullet point list?

13 A. Okay.

14 Q. You can read that to yourself.

15 A. Uh-huh.

16 Q. What generally is Ms. McArn describing to you
17 in that paragraph?

18 A. From my perspective, she's describing that
19 there was an explanation about the 3.5 maximum
20 expenditure, which as I know, would amount to
21 \$7 million.

22 Q. Any mention from Ms. McArn that SCTA had stated
23 that 3.5 --

24 (Simultaneous discussion; reporter
25 interruption.)

1 BY MR. SIMMONS:

2 Q. Any mention in Ms. McArn's summary here that
3 SCTA indicated the 3.5 maximum was only applicable to
4 '18/'19?

5 A. No.

6 MR. RUKEYSER: Document speaks for itself.

7 BY MR. SIMMONS:

8 Q. I'm done with that exhibit, but it reminds me
9 of something else. November 5th, the afternoon --

10 A. Yes.

11 Q. You wrap up -- if you go back to the Framework
12 Agreement itself on page 1, there's a time up at the top
13 of the document?

14 A. Yes.

15 Q. I assume 3:25 p.m., is that when you guys
16 wrapped this up and you signed it at that time?

17 A. Yes.

18 Q. Did you update your District team as to the
19 results of these last minute meetings with the Mayor?

20 A. I did.

21 Q. How quickly did you update your team?

22 A. It was immediately after I left the Mayor's
23 home and, again, at that point I was still fairly new to
24 the community, but it would have been within 15 minutes
25 of that time.

1 Q. Without asking anything in terms of the details
2 of what is described, did you -- I assume you explained
3 to them the elements that are in the Framework
4 Agreement?

5 A. Yes.

6 Q. Including as to salary?

7 A. Absolutely.

8 Q. Were there any other parties present as you
9 gave this update or involved in that update?

10 A. There was some parties joining remotely,
11 including the Mayor and others.

12 Q. Okay. Moving ahead. There is a joint exhibit
13 list, Superintendent Aguilar. If you go to the joint
14 exhibit list, all the way to 11. As you are familiar
15 and as we went over yesterday, there were two e-mail
16 chains that both joint exhibits here, Loose Ends and
17 Tying Up the Loose Ends in which is a large amount of
18 correspondence. I'm not going to go into detail with
19 you on that. You covered it in your declaration, but I
20 will tell you that you obviously recollect the ongoing
21 exchange when it came to Loose Ends. At some point in
22 the Loose Ends, there is discussion about the salary
23 component, right?

24 A. Yes.

25 Q. So you perceive that as being something from

1 which there was still work to be done?

2 A. Absolutely.

3 Q. Do you recall a meeting with Mr. Borsos on or
4 around November 27, 2017?

5 A. I do.

6 Q. Do you recall what -- well, let's do this:
7 Let's, in fact, go to the Joint Exhibit 1 that I was
8 going to have you ignore.

9 A. Okay.

10 Q. Joint Exhibit 11.

11 A. Okay.

12 Q. There on page 1 --

13 A. Okay.

14 Q. There's an e-mail from you to Mr. Borsos. Do
15 you recall if that e-mail was sent before or after the
16 meeting you said occurred with Mr. Borsos that day?

17 A. It would have been after.

18 Q. Would you say -- would this -- what was this
19 e-mail -- if it occurred after that meeting, what would
20 you say this e-mail reflects?

21 A. It's just a summary of the conversations and
22 discussions that took place.

23 Q. During your November 27th meeting with
24 Mr. Borsos, were there discussions about the 3.5 limit
25 for the salary schedule coming off after '18/'19?

1 A. No.

2 Q. Let's go to Joint Exhibit 12 that follows that?

3 A. Okay.

4 Q. If you turn all the way back to the first
5 e-mail in that chain and the last page of that chain --

6 A. Okay.

7 Q. -- Mr. Aguilar?

8 A. Page 8.

9 Q. Bear with me for just a moment. I may be
10 sending us all to the wrong spot prematurely. Hold on.

11 A. Okay.

12 Q. Go all the way to what is marked as page 8 in
13 the Joint Exhibit 12, please?

14 A. Okay.

15 Q. The last couple of passages, I haven't asked
16 you to read into the record. I am -- in this instance,
17 I'm going to ask you to read into the record the
18 contents -- let's go back just to be clear. Go back up
19 one page --

20 A. Okay.

21 Q. -- to 7. This e-mail in the chain is drafted
22 by you?

23 A. Yes.

24 Q. So if we go to page 8, and I am going to ask
25 you to read into the record, this sub-part 6-A.

1 A. In its entirety?

2 Q. Yes, please.

3 A. "Salary schedule adjustment. I appreciate your
4 high level overview of the proposed salary schedule
5 adjustment, but still need further clarification in
6 order to clearly explain the compression that you
7 described that at Mayor Steinberg's home and during our
8 meeting on Monday. I understand that you're still
9 unable to provide more exact information about how the
10 3.5 maximum expenditure will be utilized, but will need
11 to provide assurances to the board that teachers in
12 columns B and C will be impacted most. We will also
13 need to further discuss the proposal you described on
14 Monday to reduce the number of years of service from 26
15 to 20 and the proposed adjustments made to columns.
16 Please send me a written description that I can use to
17 brief our board prior to finalizing TA agreement.

18 We will have to continue the conversation about
19 the reduction of years of service in column adjustments
20 post ratification approval, especially as we get more
21 information from you that allows us to do our own
22 costing projections to present to our board for their
23 consideration."

24 Q. Thank you, Superintendent. Two questions.
25 One, why would you ask Mr. Borsos to provide you a

1 written description of what he proposed?

2 A. That was the understanding coming out of the
3 meeting with the Mayor's office that we had, the
4 Framework Agreement, that obviously I wanted to make
5 sure was cost out and that that cost would align to the
6 3.5 maximum expenditure.

7 Q. And in the last sentence of that paragraph,
8 that last clause says, "present to our board for their
9 consideration." Did you envision something additionally
10 having to go back to the board again at a later date?

11 A. Absolutely.

12 Q. Did you meet with Mr. Borsos after that
13 November 29th e-mail within the next day or two. I
14 should be more direct. Did you meet Mr. Borsos on or
15 around November 30th? Do you recall having a meeting
16 with Mr. Borsos and/or other SCTA members on
17 November 30th?

18 A. I believe we would have.

19 Q. Let's -- in order to give you a better
20 recollection, Superintendent, let's turn to -- again, in
21 Joint Exhibit 12.

22 A. Uh-huh.

23 Q. Page 2.

24 A. Uh-huh.

25 Q. Is that an e-mail message from you?

1 A. Uh-huh.

2 Q. And having read the opening there, does that
3 refresh your recollection as to whether or not you met
4 with the Mayor -- not the Mayor -- Mr. Borsos?

5 A. Yes.

6 Q. And in that meeting with Mr. Borsos on
7 November 30th, is this e-mail by you intending to
8 summarize what was discussed with Mr. Borsos that day?

9 A. Yes, that typically has been sort of my
10 practice. I tend to want to memorialize and reflect
11 through a summary of meetings of what was discussed.

12 Q. That having been the summary, do you recall in
13 that meeting with Mr. Borsos that day there being a
14 discussion that the 3.5 '18/'19 maximum expenditure
15 would go away after '18/'19?

16 A. No.

17 Q. I will ask you to go down to item 6-A?

18 A. Okay.

19 Q. On that page --

20 A. Uh-huh.

21 Q. -- can you read the explanation there at 6-A?

22 A. Yeah, on November 30th. "Within 30 to 45 days
23 of the Tentative Agreement's approval, the parties agree
24 to finalize a mutually agreeable adjustment to the
25 salary schedule for 2018/'19 that does not exceed a

1 total expenditure of 3.5 percent."

2 Q. So your intent of that explanation was what?

3 A. Again, to continue to determine and confirm
4 that whatever proposal would cost out to the maximum
5 expenditure of 3.5.

6 Q. Can you turn to the next page?

7 A. Sure.

8 Q. That's what follows. Could you read the second
9 sentence on that next page?

10 A. Starting with "I need?"

11 Q. Yes, sir.

12 A. "I need this to provide assurance to the board
13 that teachers in columns B and C will be benefited the
14 most and that there will not be unexpected fiscal
15 impacts associated to this after implementing the 3.5
16 maximum expenditure."

17 Q. Okay. I'm going to ask you to turn to Union
18 Exhibits, back to the white binder. Union Exhibit 10,
19 please.

20 A. Okay.

21 Q. Does that document look familiar to you?

22 A. Yes.

23 Q. And what -- why did you receive this document
24 from Mr. Borsos?

25 A. It was in response to the previous set of

1 communications.

2 Q. In your view, the value of this narrative of
3 Mr. Borsos was what?

4 A. Again, it was working toward figuring out how
5 we would ensure that the cost to the District of
6 whatever we were to implement around the adjustments to
7 the salary schedule would amount to a maximum of 3.5.

8 Q. Did you consider this memo and its contents --
9 I'll come back to that. I'll come back to that.

10 Go to page -- go to the last page within it?

11 A. Sure.

12 Q. Do you remember this session of Mr. Borsos's
13 explanation?

14 A. Yes.

15 Q. Is there anything in this explanation that
16 indicates that the 3.5 cap was something that would go
17 away after '18/'19? Would the 3.5 maximum expenditure
18 come off post '18/'19?

19 A. No.

20 Q. Let's go to Joint Exhibit 4, sir. Does this
21 document look familiar to you, Superintendent?

22 A. It does.

23 Q. What is it?

24 A. This is the AB 1200 disclosure.

25 Q. If we are Joint Exhibit -- if you go to the

1 front of -- are you in the Joint Exhibit binder?

2 A. Yeah, yes.

3 Q. Go to the front of 4 -- the front of -- the
4 very first page of Joint Exhibits. There you are.

5 A. Yes.

6 Q. What is that?

7 A. This is an agenda item.

8 Q. What is this agenda item for?

9 A. The subject is to approve AB 1200 disclosure
10 cost and approval of the of Tentative Agreement with the
11 Bargaining Unit, Sacramento City Teachers Association.

12 Q. What is the AB 1200 hundred components in terms
13 of its relationship to approve the Tentative Agreement?

14 A. Well, this is mandated. The County office has
15 to review and then certify and approve that any
16 agreement is one that the District can afford.

17 Q. Does the AB 1200 disclosure contemplate cost
18 for a given year or multiple years?

19 A. It's multiple years.

20 Q. It's a projection?

21 A. It's a projection.

22 Q. So in that agenda packet, is this packet made
23 available to the public?

24 A. It is.

25 Q. Can I ask you to turn to the part of the agenda

1 backup that is the AB 1200 disclosure?

2 A. Sure.

3 Q. Well, actually turn to the last page of the
4 disclosure first. On page 9 of the disclosure --

5 A. Okay.

6 Q. -- did you sign this?

7 A. Yes, I did.

8 Q. Who else signed it?

9 A. Our former chief business officer, Mr. Gerardo
10 Castillo.

11 Q. If we go back to page 1.

12 A. Yes.

13 Q. In the first set of cells.

14 A. Uh-huh.

15 Q. For purposes of the AB 1200 disclosure, what is
16 the cost projected for salary under the Tentative
17 Agreement?

18 A. In year 1, it's 2.5. In year 2, it's 2.5. And
19 in year 3, it's 6.0, which going back to the agreement,
20 would be made up of the 2.5 towards salary and 3.5
21 towards salary schedule.

22 Q. Total percentage?

23 A. Eleven percent.

24 Q. Projected forward for purposes of the AB 1200?

25 A. Yes.

1 Q. Were there presentations on this agenda item to
2 your board that night?

3 A. Yes, I think, again, they're mandated.

4 Q. So let's look at the agenda item, in general?

5 A. Okay.

6 Q. On 484, were there one or more presentations to
7 your board?

8 A. Yes.

9 Q. Who would have conducted those presentations?

10 A. As I recall, it was our chief of HR, Ms. McArn,
11 as well as other members of our staff to begin with and
12 then Superintendent Dave Gordon also presented to our
13 board.

14 Q. The purpose of County Superintendent Gordon's
15 presentation was?

16 A. In this case, he came and shared that he was
17 approving and certifying the AB 1200, but that he also
18 had some concerns about the total expenditure to the
19 District. And just wanted to make sure that we were
20 aware of that.

21 Q. So when he gives his report, is he technically
22 approving or what is he -- what is he doing when he's
23 advising the board on the AB 1200 disclosure? Is it
24 technically approval?

25 A. That's my understanding, yes. And that's --

1 you know, I think it dates back to the '90s or so when
2 Districts were in trouble as a result of Collective
3 Bargaining Agreements that had been settled and such.

4 Q. Let's go to the agenda item and the executive
5 summary within it.

6 A. Okay.

7 Q. On page 4?

8 A. Okay.

9 Q. Would you read that -- in particular, the first
10 two bullets of the compensation article? Read it to
11 yourself, not out loud.

12 A. Got it.

13 Q. Do those first two bullets look consistent to
14 you with what you believe is before the board in that
15 aspect?

16 A. Yes.

17 Q. The second bullet, what does the 45-day piece
18 mean to you?

19 A. Well, it meant that we would continue to work
20 with SCTA, again to arrive at an actual adjustment to
21 the schedule that would align with the agreement that we
22 made and that is included in all of this documentation.

23 Q. Did your board -- did your District team's
24 presentation to the board in public that night report
25 that the 3.5 expenditure maximum would be removed post

1 '18/'19?

2 A. No.

3 Q. Did County Superintendent Gordon report and
4 advise to the District's board that night assume removal
5 of the 3.5 maximum post '18/'19?

6 A. No.

7 Q. Your board approved agenda item 8.4 that night?

8 A. Yes.

9 Q. After the board's approval and in light of that
10 45-day time window, was the District SCTA successful in
11 finding a way to work out the salary structure
12 adjustment consistent with SCTA's proposed structure and
13 the 3.5 maximum expenditure? Were you successful by
14 February in doing that?

15 A. No.

16 Q. Were you successful by April in doing that?

17 A. No.

18 Q. Were there complications in calculating the
19 cost for it?

20 A. Yes.

21 Q. By the summer of 2018, was there still
22 complications in calculating the costs?

23 A. Yes, certainly by then, we had also been able
24 to do our own costing, as well as the costing by a third
25 party as well, and it was not acceptable.

1 Q. What has been the costing of SCTA's proposal
2 presently in terms of what information you were
3 consulting, the total?

4 MR. RUKEYSER: Object to relevance grounds.
5 It's something that happened long after the contract was
6 struck.

7 MR. SIMMONS: I think there will be relevance.
8 There will be. It will be to show, in fact, the value
9 of this contract in the absence of -- in the absence of
10 that expenditure limit if that expenditure limit went
11 away and how it ties back to the 11 percent measure,
12 which was discussed in negotiations. It's all tied
13 together.

14 THE ARBITRATOR: All right. So there is
15 definitely a cost involved in these various items that
16 are discussed and arguably agreed to. That last
17 question calls for the District's analysis of that cost.
18 That was obviously based upon the question that was
19 obviously an analysis that occurred long after the fact,
20 but still relates to the cost. The missing component,
21 however, is what did the District know at the time when
22 these discussions were occurring.

23 So I think the question is proper. It's not
24 the whole picture. I understand that. And I'll allow
25 the question to be answered.

1 MR. SIMMONS: Let me do a better job of walking
2 us through this.

3 BY MR. SIMMONS:

4 Q. So you testified, Superintendent, that when
5 your board took action on the night of December 7th,
6 what they understood was before them was a contract for
7 which the salary component had an 11 percent ongoing
8 cost?

9 THE ARBITRATOR: Yes?

10 THE WITNESS: Correct.

11 BY MR. SIMMONS:

12 Q. And you said subsequent to that, there's been
13 difficulties, which we heard testimony -- we'll go into
14 detail later today the factors that go into the
15 difficulties in costing out the structure. But you have
16 subsequently done -- let me start here. Did you learn
17 at a point in time that SCTA knew that the 3.5 maximum
18 expenditure, in their view, would go away after '18/'19?

19 A. That was their suggestion.

20 Q. But after December 7th, when did you learn
21 their position that it was going to go -- that they
22 thought that what was approved by the board on
23 December 7th that the 3.5 expenditure would no longer be
24 in place?

25 THE ARBITRATOR: Counsel, there is an element

1 of ambiguity that is coming up in these recurring
2 questions. We talked about the figure 3.5 and going
3 away. But what I think is being said is that the 3.5
4 represents a cap, that the cost would not exceed 3.5.
5 So I think if we state the question in terms of whether
6 the 3.5 cap is going away, the question would be clearer
7 for the record. I think we're all talking about the
8 same thing.

9 MR. SIMMONS: I don't disagree with you at all,
10 Mr. Arbitrator. I was trying to stick to the language
11 of the Framework Agreement itself, but I'm fine with
12 describing it that way.

13 BY MR. SIMMONS:

14 Q. If the 3.5 cap goes away, what's the cost --
15 what would the cost be to the District for implementing
16 SCTA's salary structure?

17 THE ARBITRATOR: This is based upon the post --

18 MR. SIMMONS: Right.

19 THE ARBITRATOR: -- discussion analysis that's
20 done by the District's financial experts. All right.

21 MR. SIMMONS: Right.

22 THE WITNESS: 7.3 percent.

23 BY MR. SIMMONS:

24 Q. 7.3. So if you added the 2.5, 2.5, 2.5 to the
25 7.3, the total cost as of '19/'20 for this

1 implementation, would be approximately what?

2 A. The total, the 14.3 percent.

3 Q. Or -- well, so 7.5 plus 7.3?

4 A. That's right. Okay.

5 Q. Almost 15 percent?

6 A. Uh-huh. Uh-huh.

7 Q. What your board approved on December 7th, 2017,
8 was a salary structure that -- and an agreement to a
9 change in salary in the amount of -- to an 11 percent
10 ongoing cost?

11 A. That's what the board approved. That's what
12 the board submitted to the County office and also
13 certified by the County office.

14 MR. SIMMONS: No further questions, sir.

15 THE ARBITRATOR: Mr. Rukeyser, would you like
16 to take a short break before --

17 MR. RUKEYSER: I would, Mr. Arbitrator. Thank
18 you.

19 THE ARBITRATOR: We'll take a break.

20 (Whereupon a recess was taken.)

21 THE ARBITRATOR: We're back on the record.

22 Cross-exam, please.

23

24

CROSS-EXAMINATION

25

1 BY MR. RUKEYSER:

2 Q. Good morning, Superintendent.

3 A. Good morning.

4 Q. My name is Jacob Rukeyser. I'm counsel for the
5 Union in this matter. I'll try to keep this brief, but
6 I don't make any promises.

7 You have been Superintendent for the District
8 since?

9 A. July 1 of 2017.

10 Q. And just to get some background, prior to
11 coming to the District, what other jobs did you hold in
12 the education realm?

13 A. I started my career as a teacher, a high school
14 teacher, right after college. Then I worked at the
15 University of California Merced, worked at Fresno
16 Unified School District and then Sac City Unified.

17 Q. When you were working at UC Merced, what
18 position or positions did you hold there?

19 A. Several. Student Affairs officer.
20 Coordinator, Director, Specialist to the Chancellor.

21 Q. In any of those positions, were you involved in
22 labor relations?

23 A. Not directly.

24 Q. And you always worked at the Fresno Unified
25 School District?

1 A. Uh-huh.

2 Q. And am I right in understanding that you worked
3 as the Associate Superintendent for Equity and Access?

4 A. Correct, and special assistant to the
5 Superintendent.

6 Q. Were you involved directly in labor relations
7 in those?

8 A. In negotiation?

9 Q. Yes.

10 A. No.

11 Q. Prior to coming to Sacramento, you had never
12 participated directly in contract negotiations --
13 contract bargaining?

14 A. No, I had -- while I was in law school, I did a
15 three-year externship in mediation, alternative dispute
16 resolution, so I did manage meditation for members of
17 our community.

18 Q. As far as actual collective bargaining, no
19 experience prior to coming here?

20 A. No.

21 Q. And you were present for at least some time at
22 the fact-finding hearing that occurred on October 6,
23 2017, correct?

24 A. Yeah, I remember stopping by and making sort of
25 an introductory statement in hoping that we would

1 resolve our ongoing disputes.

2 Q. Someone else actually presented the District's
3 case at that fact-finding hearing, correct?

4 A. Uh-huh.

5 Q. Do you recall who was the person or persons who
6 presented the District's case of fact-finding?

7 A. It would have been John Gray, as well as our
8 team.

9 Q. If I can have you turn to the white binder, the
10 small or white binder and turn to tab 3. Look at the
11 first page. Down about two-thirds of the way down, it
12 says for the employer.

13 A. Uh-huh.

14 Q. John Gray, School Services of California and
15 Scott K. Holbrook from Atkinson Andelson, does that
16 refresh your recollection?

17 A. Yes.

18 Q. Those two individuals presented the District
19 case?

20 A. Yes, they were -- Scott Holbrook was already
21 negotiating.

22 Q. I'm sure your current counsel doesn't begrudge
23 that.

24 During that '16/'17 bargaining, I realize that
25 you arrived on the scene some ways into the bargaining,

1 so you weren't Superintendent when the bargain began or
2 when impasse was declared when the mediation occurred.
3 But when you arrived on the scene and began work as
4 Superintendent, who was your -- who was on the District
5 bargaining team?

6 A. Well, it was made up of the several members
7 including our chief of HR, Ms. McArn, our CBO,
8 Mr. Holbrook. Those were individuals that were on our
9 team.

10 Q. The CBO was?

11 A. Mr. Gerardo Castillo.

12 Q. He is no longer at the District?

13 A. He is not.

14 Q. Just so I am clear, Ms. McArn, the Chief of HR,
15 Mr. Castillo, the CBO and Attorney Holbrook, they were
16 -- is it your understanding that they were -- that they
17 complied the core of the District bargaining team
18 throughout the entire '16/'17 bargain?

19 A. That's who I interacted with when I arrived.
20 That's who I asked to brief me on the negotiation
21 process.

22 Q. They were your resident experts?

23 MR. SIMMONS: Objection as to the use of
24 experts.

25 THE ARBITRATOR: I don't think there was

1 anything significant attached to that. These are the
2 folks you relied on. Nobody else outside of that group,
3 right?

4 THE WITNESS: Well, I mean, they were the ones
5 that would brief me. I had conversations in cabinets
6 and others. Those were the people.

7 BY MR. RUKEYSER:

8 Q. And it was your understanding that they were
9 the ones -- that these individuals who were most up to
10 speed on the bargain on the District's side?

11 A. Correct.

12 Q. You testified on direct when you were
13 questioned by District's counsel that you characterized
14 the bargain -- the bargaining relationship between the
15 parties by the time you arrived as less than ideal. How
16 would you characterize that relationship at the time
17 that you arrived?

18 A. I mean, as far as I had been briefed, it had
19 been going on for many months. And so I wasn't seeing a
20 lot of movement from what I was being briefed in terms
21 of the conversation.

22 Q. It is true, isn't it, that that understanding
23 of yourself of the dysfunctional dynamic, as you saw it,
24 that played a role in your decision to go to the Mayor's
25 house and try to strike a deal, you wanted to break the

1 logjam, correct?

2 A. It was one of the reasons why I accepted his
3 invitation to attempt to arrive at some kind of
4 agreement.

5 Q. It's your testimony that it was the Mayor who
6 initiated this?

7 A. From what I recall, yeah.

8 Q. He reached out to you?

9 A. Yeah, I think so. That's my recollection.

10 Q. Okay. He was the one who proposed a meeting at
11 his house the weekend of November 4th and 5th?

12 A. I believe so. That's -- I wouldn't have gone
13 elsewhere.

14 Q. And you're certain, as you sit here today, that
15 you did not request that the Mayor convene a meeting?

16 A. I don't recall it that way.

17 Q. Just so I'm clear, when you say you don't
18 recall it, are you saying that you don't remember it one
19 way or the other or that it is your testimony that it
20 was the Mayor who reached out and invited the parties to
21 come together?

22 MR. SIMMONS: Both those questions are asked
23 and answered already.

24 THE ARBITRATOR: There's an ambiguity there as
25 I recall, but give us your best testimony.

1 THE WITNESS: I don't recall it.

2 BY MR. RUKEYSER:

3 Q. Okay. Do you have an understanding as to why
4 the parties went to fact-finder -- what was the dispute
5 or disputes were outstanding that ended up -- that
6 resulted in the parties ending up at fact-finding?

7 A. Certainly, the salary piece. There were other
8 questions around -- that was the biggest piece.

9 Q. But there were other pieces?

10 A. Yeah.

11 Q. Would it be correct to say that the parties
12 went to fact-finding over the salary issue alone?

13 A. That was the primary driver.

14 Q. But not the only one?

15 A. No.

16 Q. What was your understanding of -- strike that.
17 Was healthcare a big issue in the bargaining?

18 A. What portion of it?

19 MR. SIMMONS: That would -- I know you are
20 using this, Jacob, the bargaining, but what are you
21 referring to there in terms of -- are you back with --
22 that question is vague and ambiguous to me as to what
23 you are asking him.

24 MR. RUKEYSER: I will rephrase the question.

25 BY MR. RUKEYSER:

1 Q. During that '16/'17 bargain from the initial
2 proposal until the deal was struck, isn't it true that
3 the healthcare package was included in the Collective
4 Bargaining Agreement for the SCTA Union employees?
5 Wasn't that also a major point of contention between the
6 parties?

7 A. That was one of the areas that was being
8 discussed.

9 Q. A major area, right?

10 A. I would say an area.

11 Q. It was addressed at fact-finding, to your
12 understanding, correct?

13 A. One area.

14 Q. What was your understanding of the Union's
15 proposal regarding salary at fact-finding, what was the
16 Union asking for, in your mind?

17 A. They were asking for an amount of salary
18 increase that was higher than we could afford.

19 Q. So they wanted a raise. True, isn't it, that
20 they were also asking -- they, being SCTA, they were
21 also asking for a new salary schedule structure?

22 A. I interpreted that they were asking to try to
23 make sure that teachers weren't incentivized to leave
24 the District, particularly a group of teachers in the B
25 and C columns.

1 Q. But you didn't have any particular
2 understanding of how SCTA wanted that issue addressed
3 through salary?

4 A. Not the detail.

5 Q. Just that they were concerned about -- they
6 being SCTA -- were concerned about teachers in the
7 middle of their career leaving the District for other
8 employment?

9 A. That was their assertion.

10 Q. Okay. Was it an assertion that you agreed
11 with?

12 A. It was an assertion that I asked to be briefed
13 and understood that outside of other factors, salary
14 alone, we could try to make some improvements.

15 Q. Who briefed you about that?

16 A. Our negotiations team.

17 Q. So Ms. McArn, Gerardo Castillo and Scott
18 Holbrook?

19 A. I don't remember which one at any given time.

20 Q. But you turned to your team to bring you up to
21 speed on what the Union was proposing?

22 A. Uh-huh.

23 MR. SIMMONS: Objection; vague and ambiguous as
24 to time when we are asking about the sequence of when
25 things are occurring.

1 THE ARBITRATOR: All right. We can get a time
2 on that. Do you know when you were briefed by your
3 bargaining team?

4 THE WITNESS: No, I don't know the exact date,
5 no.

6 BY MR. RUKEYSER:

7 Q. Was it before fact-finding?

8 A. Yeah, there was briefings before.

9 Q. After fact-finding?

10 A. I don't recall after fact-finding if there was
11 briefings. There were briefings about the fact-finding
12 process.

13 Q. Sure. Let's turn to the meetings at the
14 Mayor's house. I wanted to talk to you about the
15 meeting on Sunday. You testified on direct examination
16 that this meeting lasted several hours. What's your
17 recollection, as you sit here today, about when it
18 began?

19 A. I would say probably -- maybe want to say noon.
20 We started at noon.

21 Q. And you wrapped up when?

22 A. Shortly when the agreement was signed, 3:25.

23 Q. Isn't it true that after it was signed, the
24 parties stayed at the Mayor's house for a little bit
25 longer while copies were made of the agreement?

1 A. Yeah, there was some copies made.

2 Q. But you don't have a specific recollection of
3 that?

4 A. No.

5 Q. Going into that meeting on the 5th of November,
6 what was your understanding of the purpose of the
7 meeting?

8 A. From my perspective, I knew that we were on the
9 verge of a strike. Again, the Mayor and I had begun a
10 relationship and we had discussed the impact of a
11 strike. And I agreed to see if we could come to some
12 agreement that potentially could avert a strike.

13 Q. So am I right in understanding that this was,
14 in your view at least, a last chance to strike a deal to
15 avert an impending strike?

16 A. It was the weekend before.

17 Q. Just days away from when the strike was, at
18 least, scheduled to commence?

19 A. Uh-huh.

20 Q. If a deal was to be struck, it needed to be
21 struck quickly?

22 A. Correct.

23 Q. You were down to the wire essentially?

24 A. Yes.

25 Q. And you didn't bring with you Chief of Human

1 Resources, Cancy McArn, did you?

2 A. No.

3 Q. You didn't bring Gerardo?

4 A. No.

5 Q. You didn't bring Scott Holbrook?

6 A. No.

7 Q. You didn't bring anyone from the bargaining
8 team?

9 A. No.

10 Q. You were going to do it alone?

11 A. It was a conversation that we had had with the
12 Mayor. I mean, it was, you know, let's see if we can
13 figure something out. And based on what I had
14 understood and been briefed about the relationship
15 between our team and SCTA, I agreed that, you know, we
16 would see if this might be a different approach.

17 Q. And in some point in that meeting on the 5th,
18 it became clear to you that the parties were making
19 progress towards striking some sort of an agreement,
20 correct?

21 A. Yeah.

22 Q. And specific terms were discussed?

23 A. In some areas.

24 Q. Sure. And it became clear at that point that
25 you were moving from preliminary discussions to actually

1 talking about a document that you would be signing on
2 behalf of the District?

3 A. Yes.

4 Q. And even at that point when it became clear
5 that the parties were potentially going to be signing a
6 document, you didn't bring in the Chief of Human
7 Resources, Cancy McArn?

8 A. No.

9 Q. Nor Gerardo Castillo, CBO?

10 A. No.

11 Q. Nobody?

12 A. Huh-uh.

13 Q. You testified earlier that after this document
14 -- Framework Agreement was signed, that you provided an
15 update to your team?

16 A. Uh-huh.

17 Q. Do you recall who was on the team that you
18 briefed?

19 A. It would have been along with the Mayor, some
20 of our -- I think our executive committee, several of
21 our staff, as well. Again, it was some in-person, some
22 remotely.

23 Q. Where were you when you briefed them?

24 A. We were at a home.

25 Q. Whose home?

1 A. A board member's home.

2 Q. Board member?

3 A. At the time, I think it was Board Member
4 Hansen.

5 Q. The Mayor was there?

6 A. The Mayor was there remotely. He was -- he
7 joined us telephonically.

8 Q. And was Ms. McArn at that meeting?

9 A. Telephonically.

10 Q. And you wanted to advise Ms. McArn, your Chief
11 Of Human Resources officer, of the significant
12 development?

13 A. It was to brief our entire team.

14 Q. Okay. And yet you didn't give Ms. McArn a copy
15 of that Framework Agreement; did you?

16 A. Not at that time.

17 Q. When did you?

18 A. Don't recall when it was. That was a Sunday.
19 Maybe a couple days later.

20 Q. You were aware, weren't you, that when
21 Ms. McArn met with the SCTA officer and the executive
22 director that several days later, she still had not seen
23 a copy of the Framework Agreement?

24 A. Yeah.

25 Q. Are you aware of that?

1 A. Yes, I'm aware.

2 Q. Thank you. Let's take a look at the Framework
3 Agreement.

4 A. Okay.

5 Q. It's in the Joint Exhibit binder.

6 A. Uh-huh.

7 Q. I apologize. There are so many binders in
8 front of you. This is Joint Exhibit 1. Turn to the
9 second page, item No. 2.

10 A. Okay.

11 Q. This appears to reflect -- and please let me
12 know if I am wrong. It appears to reflect some
13 agreement that was reached on the November 5th meeting
14 about the school calendar?

15 A. Uh-huh.

16 Q. And could you just -- so we're clear, could you
17 read the first sentence of this item, item No. 2, school
18 calendar.

19 A. I'll try. I'll try.

20 Q. Out loud, please?

21 A. I'll try. "Within 60 days, the parties agree
22 to meet and confer about the school calendar for the
23 next three years."

24 Q. Okay. And this was an agreement to talk about
25 something down the road, correct?

1 A. Yes.

2 Q. Let's then turn to page No. 6, item 6.

3 A. Uh-huh.

4 Q. CTE?

5 A. Okay.

6 Q. Do you have an understanding what the acronym
7 CTE refers to?

8 A. Career Technical Education.

9 Q. This is something over which the parties were
10 bargaining during the '16/'17 bargain, correct?

11 A. Yes.

12 Q. And could you read out loud what this says
13 under CTE?

14 A. "The parties agree to negotiation permanent
15 status for the District CTE teachers."

16 Q. Again, this memorialized the parties' agreement
17 at the Mayor's house, that this was going to be
18 something that was discussed in the future, correct?

19 A. Uh-huh.

20 Q. Take a look at --

21 A. Same one?

22 Q. Page 1, yeah, of Joint Exhibit 1.

23 A. Okay.

24 Q. The first page?

25 A. Okay.

1 Q. The salary agreement. There is no language, is
2 there, that talks about the parties negotiating or
3 agreeing down the line, is there?

4 A. In what piece?

5 Q. Anywhere on that first page?

6 A. Okay, no.

7 Q. There is not. You remember some discussion
8 about the Union's proposed salary schedule structure at
9 the November 5th meeting, correct?

10 A. I remember the spirit of what we were
11 discussing up to that point.

12 Q. What do you mean by the spirit?

13 A. The idea that the Union or SCTA had discussed
14 and asserted that there were a group of teachers that
15 were incentivized to leave the District.

16 Q. Beyond that, SCT's characterization and
17 assertion that there were some teachers who were
18 incentivized somehow to leave the District, you don't
19 recall any other discussion of that November 5th meeting
20 about a salary schedule structure?

21 A. On the 5th?

22 Q. On the 5th.

23 A. No. Uh --

24 Q. There is no question pending.

25 At that meeting on the 5th, you did not take

1 any notes; did you?

2 A. I did not.

3 Q. Okay. Thank you. Nor did you take any notes
4 on the meeting on Saturday the 4th of November; did you?

5 A. I don't recall.

6 Q. There certainly are no notes attached to your
7 declaration, right?

8 A. Not to the declaration.

9 Q. Speaking of declaration, did you write this
10 declaration? I know you signed it, but did you write
11 it?

12 MR. SIMMONS: Objection to the extent it asked
13 for attorney-client discussions and/or --

14 MR. RUKEYSER: I'm just asking whether he wrote
15 it.

16 THE ARBITRATOR: We're not asking about the
17 content of the meeting, attorney-client communication.
18 But I think the question is clear. You can answer.

19 THE WITNESS: I reviewed it.

20 BY MR. RUKEYSER:

21 Q. But just so we're clear, I'm not asking who
22 wrote it, but just so we are clear, you did not actually
23 write this declaration?

24 A. Not in its entirety.

25 Q. Did you write portions of it?

1 A. I reviewed and made corrections and additions.

2 Q. But the first draft, you did not write?

3 A. No.

4 Q. Okay. Thank you. Let's take a look at this
5 declaration if it's in front of you. If you could take
6 a look at page No. 5?

7 A. Uh-huh.

8 Q. Paragraph 19.

9 A. Uh-huh.

10 Q. Let's take a look at -- starting at line
11 number 26.

12 A. Uh-huh.

13 Q. Why don't you read that to yourself, that
14 sentence that goes from the beginning of line 26 down to
15 the end of line 28.

16 A. Uh-huh.

17 Q. Here you're testifying in this declaration that
18 you recalled SCTA describing some compression of the
19 salary schedule?

20 A. At the time I think -- the conversations were
21 such that I think I even used the analogy of an
22 accordion and then the compression piece and that I
23 understood that they -- that SCTA was looking to make
24 sure that we could address again this assertion of some
25 teachers being incentivized to leave.

1 Q. Sure. So this refreshens your memory that
2 there actually was some additional discussion at that
3 November 5th meeting about the salary schedule structure
4 and that SCTA talked about compressing the schedule?

5 A. That was -- I framed it as -- at the time, it
6 came to my mind was sort of an accordion, but there were
7 no specific or detailed conversations about it.

8 Q. That you can remember?

9 A. That I can remember.

10 Q. It was a while ago. But as of mid-November of
11 2017, when you e-mailed SCTA Executive Director Borsos
12 and SCTA President Fisher, as of that -- as of
13 November 17th, the only thing that you could remember
14 about that November 5th discussion about salaries was
15 some SCTA description of compression? That's the only
16 thing you could remember?

17 A. Correct.

18 Q. Time had passed. You are a busy man, right?

19 A. Yes.

20 Q. Yes. And you were -- you had not taken notes
21 at November 5th meeting?

22 MR. SIMMONS: Asked and answered.

23 THE ARBITRATOR: Sustained.

24 BY MR. RUKEYSER:

25 Q. Your memory was not crystal clear about what

1 was discussed at the November 5th meeting when you wrote
2 an e-mail to SCTA on November 17th, correct?

3 A. I don't know about crystal clear. I mean, I
4 wrote the e-mail.

5 Q. Sure. But when you wrote that e-mail, the only
6 thing that you could remember about the November 5th
7 discussion about salary was some discussion -- some
8 description of compression?

9 A. That was the extent of the conversation.

10 Q. So your testimony now is that the only thing
11 that was discussed by way of salary schedule on
12 November 5th was an idea of a compression; is that your
13 testimony?

14 MR. SIMMONS: I think it oversimplifies and
15 misstates the testimony so far this morning.

16 MR. ARBITRATOR: I'm not sure that is an
17 objection.

18 MR. SIMMONS: He's already testified to it. It
19 depends how narrow you're trying to take it.

20 THE ARBITRATOR: Let's take it one step at a
21 time. Do you recall some discussion about compression?

22 THE WITNESS: I recall that I interpreted it
23 that way and again, I used accordion as the term.

24 THE ARBITRATOR: Did you understand by your
25 phrase compression that that meant that the number of

1 columns were going to be reduced, I think?

2 THE WITNESS: I interpreted it, again, as being
3 tied to the assertion about making sure that a group of
4 teachers were not incentivized to leave the District.

5 THE ARBITRATOR: Let me ask you this: When you
6 -- and forgive me. I don't know if you used the term
7 compression. You used the term accordion?

8 THE WITNESS: Uh-huh.

9 THE ARBITRATOR: So there was a discussion that
10 was described as this accordion aspect. So what do you
11 recall being discussed in terms of that accordion, in
12 fact, to the salary schedule?

13 THE WITNESS: I don't recall any specific
14 conversation about that being tied to the salary
15 schedule, but rather to making sure that there were a
16 group of teachers that on salary alone would not be
17 incentivized to leave the District.

18 THE ARBITRATOR: You recall that -- that
19 accordion discussion, do you recall specific to the
20 salary schedule any other discussion than the
21 accordion --

22 THE WITNESS: No.

23 THE ARBITRATOR: -- aspect.

24 THE WITNESS: No.

25 THE ARBITRATOR: Okay. Counsel.

1 MR. RUKEYSER: Thank you, Mr. Arbitrator.

2 BY MR. RUKEYSER:

3 Q. And during this time, November 2017, after the
4 meeting at the Mayor's house, there was considerable
5 e-mails back and forth between you on the one hand and
6 the SCTA leadership on the other hand. You were trying
7 to nail down a contract, right?

8 A. Yeah.

9 Q. Yeah.

10 A. And there were e-mail exchanges.

11 Q. And it is fair to say, isn't it, that this was
12 a top priority for you, as Superintendent, trying to
13 resolve this contractual dispute that had been festering
14 for over a year?

15 A. We were trying to, yeah, figure out how to come
16 to terms.

17 Q. And that was a significant issue for the
18 District?

19 A. Sure.

20 Q. And significant presumably for SCTA, correct?

21 A. Correct.

22 Q. It was significant for you personally as
23 Superintendent?

24 A. As Superintendent, yes.

25 Q. Let's take a look at Joint Exhibit 11.

1 A. Okay.

2 Q. If I may have you turn to page 11 in Joint
3 Exhibit 11.

4 A. Okay.

5 Q. This is an e-mail thread regarding loose ends?

6 A. Uh-huh.

7 Q. On page 11, beginning with the e-mail that
8 Mr. Borsos sent to you on November 9th.

9 A. Uh-huh.

10 Q. Do you recall receiving that e-mail?

11 A. Yes.

12 Q. Okay. Let's look at the first paragraph.

13 A. Okay.

14 Q. Mr. Borsos is -- in the second sentence --
15 strike that.

16 You understand that Mr. Borsos was asking to
17 meet with Gerardo Castillo, the CBO?

18 A. That's what it says.

19 Q. Okay. Did you ever ask Mr. Castillo, the CBO,
20 to meet with the Union?

21 A. I don't recall that.

22 THE ARBITRATOR: Court reporter, do you
23 understand that is C-B-O?

24 THE WITNESS: C-B-O.

25 (Off-the-record discussion.)

1 BY MR. RUKEYSER:

2 Q. Thank you. And I think I'm done. Bear with
3 me, Mr. Arbitrator and Superintendent.

4 THE ARBITRATOR: Certainly.

5 BY MR. RUKEYSER:

6 Q. Mr. Aguilar, you testified earlier that you had
7 asked SCTA to provide some explanation or case studies
8 about this salary schedule. When you asked them to
9 provide a case study, it's true that you were aware
10 there was, in fact, a salary schedule, from which the
11 case study could be presented?

12 A. I just was asking for case study.

13 Q. You were asking --

14 A. For case studies.

15 Q. When you asked for a case study -- strike that.

16 How can a case study be prepared if there is no
17 -- how can a case study about a salary schedule be
18 prepared if there is no salary schedule from which a case
19 study could be derived?

20 A. Case study request was for me to be able to
21 understand that the cost to the District after
22 implementing would be a maximum of 3.5. And I wanted
23 assurances that that was, in fact, going to happen.

24 Q. You wanted assurances that the District was not
25 going to be spending more than an additional 3.5 percent

1 to implement the salary schedule in '18/'19?

2 A. On an ongoing basis.

3 Q. I didn't see anything in any of the e-mail
4 traffic that is in front of you in which you say that.
5 Are you aware of an e-mail in which you asked for a case
6 study showing that the cost to the District of the
7 salary schedule would not exceed 3.5 percent on an
8 ongoing basis?

9 A. I'd have to look at them. I think I have some
10 language at some point where I did say the ongoing cost.

11 Q. I don't believe I've seen that. The documents
12 are in the record. There was also some discussion when
13 you were being examined by District counsel about the
14 parties coming together in either 30 or 45 days after
15 ratification. And your testimony is that the parties
16 were going to come together in 30 to 45 days to
17 negotiate and agree upon an entirely new salary
18 schedule?

19 A. To agree upon how the 3.5 maximum expenditure
20 would be applied, again, on an ongoing basis.

21 Q. Applied to what?

22 A. To the -- how the adjustments to a salary
23 schedule would happen.

24 Q. Okay. So it's your testimony that your
25 understanding in November 2017 was that within 30 to 45

1 days of the Tentative Agreement being ratified, the
2 parties would come together and agree upon a new salary
3 schedule?

4 A. That we would work together to make sure that
5 the cost of it of whatever we worked toward would amount
6 to the maximum expenditure of 3.5 for '18/'19 and an
7 ongoing basis, as well.

8 Q. And that process would necessarily entail
9 altering the salary schedule that was then in effect,
10 correct?

11 A. Well, that it would entail some adjustments.

12 Q. Did you have anything specific in your mind
13 about what an adjustment would look like if it was not
14 an actual change to the salary schedule?

15 A. Particularly for the area of those teachers
16 that we had identified as -- again, as SCTA indicated,
17 of being incentivized to leave the District.

18 Q. But you don't have any clear idea in your mind
19 about what judgment might actually look like?

20 A. No, that was the -- the intent was for us to
21 work toward a common agreement.

22 Q. And you thought it was feasible to not only
23 work toward an agreement, but to have one within a month
24 and a half of the Tentative Agreement being ratified by
25 the parties?

1 A. That's what we agreed upon.

2 Q. But my question was, did you think that was a
3 real true time frame?

4 A. Sure.

5 Q. Even though the parties had been at loggerheads
6 over the issue of salary for over a year?

7 A. Well, salaries and other things.

8 Q. Sure. But you thought it was realistic that a
9 new salary schedule could be hammered out in 45 days?

10 A. Well, that we would come to an agreement about
11 the adjustment that would amount to the 3.5 maximum
12 expenditure.

13 Q. The parties ratified the agreement by the 11th
14 of December, correct? The board, I think, approved the
15 agreement on the 7th?

16 A. Uh-huh.

17 Q. SCTA membership ratified it several days later?

18 A. Uh-huh.

19 Q. In the remainder of December 2017, after you
20 had a contract, it's true, isn't it, that the District
21 never made a proposal to SCTA about how to restructure
22 the salary schedule?

23 A. I don't recall when that happened.

24 Q. Is it your testimony that you think it is
25 conceivable that that happened in December of 2017?

1 A. That we would have started to request meetings,
2 that's conceivable.

3 Q. But you don't have any specific knowledge right
4 now of a request being made by the District?

5 A. Not at this time moment.

6 Q. And into January of 2018, you don't have any
7 recollection of the District requesting a meeting to
8 discuss a change to the salary schedule?

9 A. I don't have the date.

10 Q. Okay. Superintendent Aguilar, you, in fact,
11 did put together a proposal of how to change the salary
12 schedule; didn't you?

13 A. Eventually once we realized that the cost that
14 we had conducted, we did.

15 Q. That was in August of 2018, correct?

16 A. Yes.

17 Q. Apart from that August 2018 proposal that you
18 made, you're not aware of any other specific -- you
19 don't have any other specific understanding of a
20 proposal that the District provided to SCTA regarding a
21 restructure of a salary schedule; are you?

22 A. I'm aware of meetings that took place trying to
23 get to a place we were to determine how the cost would
24 be 3.5 maximum ongoing.

25 Q. You don't recall when that occurred?

1 A. No, not at this time.

2 Q. Could I have you turn to what has been marked
3 as Joint Exhibit 2? If you can turn several pages to a
4 page down at the very bottom right-hand corner, it says
5 DD-439. I think it's five pages in?

6 A. Yes, sir.

7 Q. Okay. So this is an e-mail that you sent to
8 SCTA Executive Director Borsos, President Fisher, and a
9 cc to Lisa Allen. And both you and President Fisher
10 initialled various portions of this?

11 A. Correct.

12 Q. Actually included in the Tentative Agreement,
13 right?

14 A. Yes.

15 Q. So you sent this e-mail just before midnight
16 November 30th. And if I can have you turn to the bottom
17 page, there's a paragraph following No. 6.

18 A. Uh-huh.

19 Q. It says, I asked Lisa and Cancy to make
20 themselves available so that you could discuss the
21 compression concept of the salary schedule. You jointly
22 drafted a written description. Written description of
23 what? What did you want a written description of?

24 A. The application of the agreed upon 3.5 percent
25 on an ongoing basis at a maximum level.

1 Q. Here is my question for you, Superintendent,
2 it's your testimony there was an agreement that there
3 was not going to be an expenditure greater than
4 3.5 percent. What is there to be described about that?
5 What sort of description were you looking for?

6 A. That the application of it was going to benefit
7 teachers in that column B and C because it's something
8 that we had shared a commitment toward. And I was
9 looking for assurances that those teachers would be the
10 ones that benefited the most within that cost.

11 Q. You actually wanted the description of the
12 3.5 percent cap, but the assurance that teachers in the
13 middle of the schedule were going to benefit the most?

14 A. Within the cost of 3.5.

15 Q. And why -- at the end of that paragraph, you
16 say, "There will need to be something in writing by
17 early next week so I can use it to brief our board to
18 finalize the TA agreement."

19 Why did you need a description before the TA
20 agreement was finalized?

21 A. At that time, it was because coming out of the
22 meeting with the Mayor, we didn't have that description
23 and more importantly, any assurances that whatever was
24 applied would cost out at a maximum of 3.5 percent on an
25 ongoing base.

1 Q. I thought it was perplexing that you testified
2 a moment ago it would be hammered out within 30 or
3 45 days after the Tentative Agreement being ratified.
4 It's your testimony, isn't Mr. Aguilar, that the details
5 of an adjustment to the salary schedule were going to
6 come later after the TA was ratified, correct?

7 A. At some point after -- at some point after the
8 Mayor -- the meeting at the Mayor's home that we would
9 work that out.

10 Q. Let's look up at 6-A on page DD-439, same page.
11 You write within 30 and then in parenthesis 45 days of
12 the Tentative Agreement approval, the parties agree to
13 finalize a mutually agreement adjustment to the salary
14 schedule for '18/'19. And you testified earlier that
15 what you meant by this -- it's your testimony that what
16 you meant by this is that within 45 days -- within a
17 month and a half after the TA being ratified, the
18 parties were going to come together and negotiate,
19 correct?

20 A. Correct.

21 Q. My question for you is: That being the case
22 that the parties weren't going to nail something down
23 about the salary schedule adjustment until perhaps as
24 long as a month and a half after the TA was ratified,
25 why did you need a description that would be presented

1 to the board before finalizing the TA?

2 A. Well, again in terms of closed session, it was
3 to provide some briefing to the board of the status of
4 that work.

5 Q. It's your testimony, Superintendent Aguilar,
6 the Framework Agreement set out an understanding that
7 the parties would adjust the salary schedule and spend
8 no more than 3.5 percent additional moneys doing so.
9 That was a document that you had in your hands since
10 November 5th, correct?

11 A. Uh-huh.

12 Q. If you had had that document in your hands
13 since November 5th, why did you need some additional
14 documentation that would reaffirm the fact that no more
15 than 3.5 percent was going to be spent for the board
16 before it ratified the TA?

17 A. Because of the understanding that what we
18 didn't have was the assurance of the -- how that would
19 be applied so that those teachers that would benefit the
20 most.

21 Q. And those details, weren't those details
22 reserved to be worked out within 45 days?

23 A. Correct.

24 Q. The Collective Bargaining Agreement -- or the
25 Tentative Agreement was approved by the board on the 7th

1 of December. And you were asked questions about Joint
2 Exhibit 4, AB 1200 documents. If I could have you turn
3 to the first page of the public disclosure, this chart.
4 Then I will ask questions about this. Immediately
5 following page 6 of the executive summary. Do you see
6 that in front of you?

7 A. Yes.

8 Q. Several lines down, it says, "The proposed
9 agreement covers the period beginning," and there's a
10 date and "ending" and there's a date. Could you read
11 the dates?

12 A. First column?

13 Q. Sorry, up at the top.

14 A. Oh, sorry.

15 Q. Say --

16 A. Yes. July 1, 2016, June 30, 2019.

17 Q. That was the term of the contract, correct?

18 A. Correct.

19 Q. And it was a contract with that term, 2016 to
20 2019, that was in front of the board at that
21 December 7th meeting, correct?

22 A. Correct.

23 Q. And it was that contract with that term, 2016
24 to 2019, that the board was going to vote on?

25 A. Correct.

1 Q. And it was a contract with that term, 2016 to
2 2019, that you advised the board about, correct?

3 A. Correct.

4 Q. And it's the contract with that term, 2016 to
5 2019, that you provided information to the County Office
6 of Education about?

7 A. Correct.

8 Q. And it was ultimately a contract with that
9 term, 2016 to 2019, that both parties ratified, correct?

10 A. Correct.

11 Q. Now, a couple more questions about the County
12 Office. The County Office Superintendent at that
13 meeting on December 7th, 2017, he informed the board
14 that he had concerns about the District's ability --
15 financial ability to pay the -- to make the payments
16 required under that contract in the year 1922. Looking
17 at -- past the term of the contract, the Superintendent
18 of the County expressed concerns about the financial
19 viability of the contract, correct?

20 A. I think under the law, he has to look two years
21 ahead.

22 Q. That's not what I'm asking. I'm asking you
23 it's true, isn't it, that at that meeting on
24 December 7th, the County Superintendent informed the
25 board that it was his opinion that this contract the

1 board was now considering, at least, had the possibility
2 of potential financial problems for the District after
3 the contract concluded from the 1920 year onwards?

4 A. Correct.

5 Q. He said that?

6 A. Correct.

7 Q. And you personally heard that, correct?

8 A. Correct.

9 Q. And you took it to heart?

10 A. Okay, yes.

11 Q. Yes. The board approved the contract after
12 hearing what the Superintendent of the County relayed,
13 correct?

14 A. Yes.

15 MR. RUKEYSER: Mr. Arbitrator, I think I'm just
16 about done.

17 THE ARBITRATOR: Do you need a moment?

18 MR. RUKEYSER: Five minutes or less.

19 (Whereupon a recess was taken.)

20 THE ARBITRATOR: Back on the record. Continue
21 cross.

22 MR. RUKEYSER: I have no further questions on
23 cross-examination.

24 THE ARBITRATOR: Good use of your break.
25 Redirect?

1 MR. SIMMONS: Yes, it's a brief redirect. And
2 then just as we were planning, Mr. Gordon, County
3 Superintendent is to testify at 1 o'clock. That is when
4 he is available. So I will not extend my redirect
5 longer than it should, but maybe we will hit into our
6 lunch break after I do this redirect, if that is
7 something everybody wants to do.

8 THE ARBITRATOR: So are you suggesting that we
9 have a hard fast end for the Superintendent before?

10 MR. SIMMONS: We have flexibility for when Mr.
11 Gordon comes in, but it starts at 1 o'clock. He can't
12 be available earlier.

13 THE ARBITRATOR: All right. Proceed.

14

15 REDIRECT EXAMINATION

16

17 BY MR. SIMMONS:

18 Q. Superintendent, the salary portion of the
19 Tentative Agreement approved on December 7th included
20 two components, correct?

21 A. Yes.

22 Q. What were those two components?

23 A. The salary increase to all employees of 2.5,
24 2.5, 2.5, 7.5 and the adjustment to the salary schedule
25 of the 3.5.

1 Q. So based upon the board's approval on
2 December 7th, part of that has been an implementation?

3 A. 7.5 has been fully implemented.

4 Q. Can I have you turn again back to -- I'll take
5 you back to AB 1200 again in Joint Exhibit 4 and the
6 document in which Mr. Rukeyser had questions for you on?

7 A. Okay.

8 Q. I believe you accurately testified that this
9 was with regard to a specific term contract. You also
10 testified as to 11 percent earlier today. You also
11 testified as to how it's a projection. What I would
12 like you to review is under -- bear with me. If we're
13 going to the second page, number 11.

14 A. Sorry, what section?

15 Q. If you are on the second page of that AB 1200.

16 A. Got it.

17 Q. Number 11?

18 A. Yes.

19 Q. What is number 11, the question it poses?

20 A. Oh, got it. Number 11 states, "Please include
21 comments and explanation as necessary. If more room is
22 necessary, please attach and additional sheet. And our
23 entry is commencing with the '18/'19 school year. There
24 will be maximum District expenditure of 3.5 to adjust
25 the salary schedule."

1 Q. So for purposes of -- let me start another
2 question before going there.

3 Is the 7.5 percent across-the-board that you
4 testified to at full implementation, is that a cost that
5 will move forward for the District?

6 A. Yes.

7 Q. Did you also assume the 3.5 cost was one that
8 would move forward for the District?

9 A. Of course.

10 Q. So if, for purposes of the AB 1200 disclosure,
11 the agreement you had reached with SCTA was that it
12 would be 3.5 in '18/'19 and then no cap thereafter,
13 would you have included a different answer here to
14 number 11?

15 A. Correct.

16 MR. SIMMONS: It doesn't feel right because I
17 feel like we're moving too fast, but I'm done with
18 redirect.

19 THE ARBITRATOR: Anything further?

20 MR. RUKEYSER: Just a few things. Thank you.

21

22 RE-CROSS-EXAMINATION

23

24 BY MR. RUKEYSER:

25 Q. Did you prepare this AB 1200 that counsel asked

1 you about?

2 A. No.

3 Q. Who prepared it?

4 A. Our CBO.

5 Q. That was Mr. Castillo?

6 A. Yes.

7 Q. And did you talk to him about the terms of the
8 contract as you understood them prior to him preparing
9 that AB 1200 report?

10 A. Yes.

11 Q. And that is where Mr. Castillo got his
12 understanding of the terms of the contract, from you?

13 A. Correct.

14 Q. Yes. And you testified earlier Mr. Castillo is
15 no longer working for the District?

16 A. Correct.

17 Q. Did you terminate him?

18 A. Yes.

19 Q. Why did you terminate him? You can answer the
20 question.

21 A. I terminated Mr. Castillo because --

22 MR. SIMMONS: Hold on. I'm going to object on,
23 one, to the extent it gets into confidential personnel
24 information and, two, as to the relevance of the
25 termination. I am not sure what the relevance would be

1 to this part of the proceeding.

2 MR. RUKEYSER: Mr. Arbitrator, there has been
3 considerable testimony about a document that Mr.
4 Castillo prepared. And the circumstances of
5 Mr. Castillo termination by the District are directly
6 relevant to what weight, if any, should be afforded to a
7 document that Mr. Castillo prepared. If Mr. Castillo
8 was terminated because of the Superintendent's doubts
9 about his competence, his thoroughness, I think that is
10 directly relevant on how this document, Joint Exhibit 4,
11 comes into play and what weight it is given.

12 THE ARBITRATOR: All right.

13 MR. SIMMONS: Isn't there an easier question as
14 to whether or not termination in any way relates?

15 THE ARBITRATOR: Direct the question to the
16 witness.

17 MR. RUKEYSER: That would be a question, but I
18 would prefer to ask a question about why he was
19 terminated. Counsel I think is proposing a further
20 redirect question.

21 THE ARBITRATOR: All right. It's a little bit
22 extreme, but I will permit you to go ahead and ask the
23 question.

24 MR. RUKEYSER: Thank you.

25 BY MR. RUKEYSER:

1 Q. Why did you termination Mr. Castillo?

2 A. I terminated Mr. Castillo after the AB 1200
3 certification in early March perhaps. And that was
4 because of a fundamental disagreement in terms of how we
5 perceive the work we were trying to advance around
6 issues of equity, assets and social justice.

7 Q. On redirect examination, you were asked
8 questions about the Framework Agreement itself, Joint
9 Exhibit 1. If I can have you turn to the first page of
10 that. Under number -- section 1 of this document, this
11 chart. There was a lot of testimony about this. Off to
12 the left-hand side, it says, adjustment to salary
13 schedule, Union proposed structure.

14 How do you understand those words, Union
15 proposed structure?

16 A. I understand it to mean that there was a
17 proposal and -- ask other question. There was a
18 proposal.

19 Q. That's your understanding. There was a
20 proposal?

21 A. Uh-huh.

22 Q. It's your testimony that you didn't have full
23 grasp of what that proposal was on November 5th,
24 correct?

25 A. At that point, again, I had agreed to do

1 everything we could to avert a strike.

2 Q. That's not my question. My question is: Your
3 testimony was that you did not fully understand all the
4 details of what the Union was proposing by way of a
5 salary schedule on November 5th?

6 A. Correct.

7 MR. RUKEYSER: No further questions.

8 MR. SIMMONS: One last question.

9

10 REDIRECT EXAMINATION

11

12 BY MR. SIMMONS:

13 Q. Not knowing those full details, how did
14 Mr. Aguilar feel comfortable agreeing to this?

15 A. I vividly remember because the Mayor wrote it
16 and he's a left-handed person and I remember saying it
17 has to be within the 3.5 maximum expenditure ongoing.

18 MR. SIMMONS: Nothing further.

19 MR. RUKEYSER: Nothing further.

20 THE ARBITRATOR: All right. Thank you very
21 much. I appreciate your testimony. Let's take a break.
22 Off the record.

23 (Whereupon a recess was taken.)

24 THE ARBITRATOR: We are going to mark as
25 District Exhibit 2, the declaration of the members of

1 the board of education with one exception because that
2 board member won't be testifying.

3 MR. SIMMONS: Yes, but it's not all. There's
4 five of the seven who would have been at the time.

5 THE ARBITRATOR: Five of the seven board of
6 education members. So mark as District Exhibit Q are
7 the declarations of the board members. And I'm going to
8 do it this way as they're handed to me. Q sub 1, we'll
9 say is Minnick. Q sub 2 is Woo. Q3, Hansen. Q4,
10 Pritchett. Q5 is Vang. Just let the record reflect
11 that attached to each of those exhibits is a common set
12 of documents, which is marked as Exhibit A. So in other
13 words, if you are referring to the declaration of
14 Michael Minnick, it would be District Q1, sub A. That
15 would be a complete description.

16 MR. SIMMONS: I think that the totality of
17 those exhibits run A through --

18 THE ARBITRATOR: Too many pages to count. So
19 I'm receiving into the record District Exhibit Q as
20 described.

21 MR. RUKEYSER: Just for record, Mr. Arbitrator,
22 I will reassert the objection that I raised at the
23 outset of the hearing today.

24 THE ARBITRATOR: We beat a dead horse on that
25 subject. I think we have a common understanding.

1 MR. RUKEYSER: Thank you, Mr. Arbitrator.

2 THE ARBITRATOR: Any other housekeeping?

3 MR. SIMMONS: I know our next witness will be
4 here at 1:00 to testify. I think we should take an
5 hour's lunch.

6 (Whereupon Exhibit Q was marked for
7 identification.)

8 (Whereupon a recess was taken.)

9 THE ARBITRATOR: Do you want to go on the
10 record?

11 MR. SIMMONS: Oh, yes.

12 THE ARBITRATOR: Let's go on the record,
13 please. Go ahead, counsel.

14

15 DIRECT EXAMINATION

16 BY MR. SIMMONS:

17 Q. Good afternoon, County Supereminent Gordon.

18 A. Good afternoon.

19 Q. How are you, sir?

20 A. I am well, thank you.

21 Q. As you know, we asked you to come here to
22 testify today. We have submitted other witnesses today
23 who have declarations. There are no declarations from
24 you. It's all live testimony.

25 State your name for the record, please?

1 A. David Gordon, G-O-R-D-O-N.

2 THE ARBITRATOR: And you are represented by
3 county counsel today?

4 THE WITNESS: Not county counsel, my general
5 counsel.

6 THE ARBITRATOR: Your general counsel?

7 THE WITNESS: Correct.

8 THE ARBITRATOR: Teresa Stinson. That's a good
9 step. I congratulate you on getting your own counsel.
10 That's good to hear. All right.

11 I'm going to ask you to please raise your right
12 hand. Do you solemnly swear to tell the truth, the
13 whole truth and nothing but the truth?

14 THE WITNESS: I do.

15 THE ARBITRATOR. Thank you, sir.

16 BY MR. SIMMONS:

17 Q. Superintendent Gordon, how long have you been
18 County Superintendent of schools in Sacramento?

19 A. This is my 15th year. I was appointed on
20 July 1, 2004.

21 Q. As County Superintendent, in terms of kind of a
22 general overview, your duties are what?

23 A. General assistance work in support of the
24 school districts in the county and certain oversight
25 functions specified in the education code.

1 Q. In terms of your position as County Sup, what's
2 the interaction between your role as County Sup and the
3 Sacramento County Office of Education?

4 A. The Sacramento County -- are you referring to
5 the County office or the County board?

6 Q. County office at this point?

7 A. I lead the County Office of Education staff.

8 Q. And does the Sacramento County Office of Ed,
9 does it exercise fiscal oversight over the districts in
10 the county?

11 A. Yes, for per state statues.

12 Q. And could you describe generally what that
13 fiscal oversight duty and responsibility would entail?

14 A. Generally, it's monitoring the fiscal health of
15 the districts by periodic reviews of their budgets.

16 Q. What is your role in that fiscal oversight
17 component?

18 A. I sign off on all of the approvals of the
19 budget or disapprovals of the budget or all other
20 actions related to approvals and disapproval.

21 Q. And you're familiar with the Assembly
22 Bill 1200?

23 A. Yes.

24 Q. As in terms of your role as County
25 Superintendent, is it in relation to AB 1200?

1 A. That's the statute that generally describes the
2 oversight of the District budget, so it's quite -- it's
3 quite complicated. But to summarize it quickly, it
4 requires the County Superintendent to approve the
5 District's budget once a year, but then also to do
6 interim reviews of the budget during the year to monitor
7 the fiscal health of the District between the points at
8 which it is formally approved, which is the end of June
9 of each year.

10 Q. What about in relation to Collective Bargaining
11 Agreements?

12 A. With relation to Collective Bargaining
13 Agreements, I am obligated to review Collective
14 Bargaining Agreements before they go before the
15 governing board of the school district for their
16 approval. I am required to review and comment on how
17 the Collective Bargaining Agreement will affect the
18 fiscal condition of the district.

19 Q. In that vein, what is an AB 1200 public
20 disclosure of Collective Bargaining Agreement?

21 A. The District is required to submit ten days
22 before an agreement is to come before the local District
23 governing board for approval. A disclosure form in
24 which the District is required to report the costs that
25 the Collective Bargaining Agreement will add to the

1 District's budget and how the District will reconfigure
2 their budget to be sure that they can afford those added
3 costs.

4 Q. So for Sacramento County Office of Education,
5 what's the process for the District to submit an AB 1200
6 relevant to a CBA?

7 A. There is a form which the District submits to
8 the County Superintendent and it's required to be signed
9 by the District Superintendent and the Chief Business
10 Official from the school district.

11 Q. Pardon me, sorry for the interruption. In
12 terms of the timeline, is there -- I think you said ten
13 days. Is that the timeline to submit that to the County
14 in advance of action?

15 A. The County is required to have ten days to
16 review the Collective Bargaining Agreement.

17 Q. Are there any particular requirements for the
18 local district when -- let me ask this: What is the
19 AB 1200 disclosure form for school districts on CBAs,
20 what information did it require to provide you?

21 A. It requires the district to provide me all of
22 the financials associated with the costs of the
23 Collective Bargaining Agreement. And it's intended to
24 allow me to analyze whether the district can afford the
25 costs of the Collective Bargaining Agreement as

1 proposed.

2 Q. So can you describe for me when you're
3 conducting that process, reviewing that information to
4 make your report and describe how it impacts fiscal
5 stability, what are the steps you take once you received
6 that information from the District?

7 A. The staff would -- the technical budget staff
8 in my office would review the form and the information
9 on the form. And then make a recommendation to me as to
10 how to respond to the disclosure form.

11 Q. Does that analysis by you look at a single year
12 or a projection?

13 A. It looks at the whole of the Collective
14 Bargaining Agreement. The bargaining agreements, it
15 could be a one-year, it could be a two-year, it could be
16 a three-year agreement. It looks at the whole of the
17 agreement with respect to costs.

18 Q. And then if it's through a particular year,
19 does it anticipate projective -- so let's say, for
20 example, you get a CBA for this year, '18/'19, but when
21 you're conducting your review, are you looking just at
22 '18/'19 or are you looking at the costs of that CBA for
23 not only '18/'19, but '19/'20 and '20/'21?

24 A. When we look at a budget, we're obligated by,
25 again, AB 1200, not to look at solely the year we are

1 in, but to look at the two subsequent years, as well.
2 The importance of that is to make sure that an agreement
3 is not going to put the District into an impaired
4 financial condition in those two out years.

5 Q. Can we talk about the type of -- so you receive
6 an AB 1200 from the school district. You reviewed what
7 the CBA impact would be financially. What are the types
8 of outcome your review or conclusions that you might
9 reach in that review? Are there a menu of conclusions
10 that you might come to?

11 A. The conclusion we would come to is, is the
12 agreement affordable in the year we are in when we
13 received the CBA, and, again, the two subsequent years
14 that I called them, the two out years, when the cost
15 must be brought forward to be paid for in the two out
16 years.

17 Q. If you believe that a given CBA will not be
18 affordable, what is -- what would you indicate to a
19 District if that was the conclusion you reached?

20 A. We would tell them to make reductions to their
21 budget to make the Collective Bargaining Agreement
22 affordable.

23 Q. Would there ever be an instance where the cost
24 of a CBA is so high that you would recommend not
25 adopting the CBA?

1 A. When we make recommendations about the CBA, we
2 tell the District what cuts to make to be able to afford
3 the CBA. And then as I mentioned, the budget process is
4 reviewed all along the year. So there are interim
5 reports and interim reviews. So we would ask the
6 District to make the cuts and then review it at the next
7 interim report stage to see if they had -- to see if
8 they had done so and keep reviewing it along the way
9 until the next year's budgeted option.

10 Q. County Superintendent Gordon, did you receive
11 an AB 1200 disclosure on the CBA from the Sacramento
12 City Unified School District?

13 A. We did.

14 Q. Can I have you turn to -- there's a whole range
15 of binders.

16 A. There is.

17 Q. The Joint Exhibit Binder, which is a black
18 cover -- maybe the one right there in front of you.

19 A. Okay.

20 Q. Can I have you turn to Joint Exhibit 4. And
21 then if you go past that agenda item in the executive
22 summary about seven or eight pages or so in.

23 A. Yes.

24 Q. The document at the top says, Sacramento County
25 Office of Education, Public Disclosure of Collective

1 Bargaining Agreement.

2 A. Got it.

3 Q. Are you familiar with this document, sir?

4 A. Yes.

5 Q. What is this document?

6 A. This is the document that we reviewed in the
7 latter part of November, early part of December 2017,
8 relative to the Collective Bargaining Agreement
9 submitted by the school District.

10 Q. When received, did you and/or your staff review
11 the submission by the District?

12 A. Yes.

13 Q. And based upon the document itself, what CBA is
14 at issue in the disclosure?

15 A. This was the Collective Bargaining Agreement
16 agreed upon for, as I recall, three years. '16/'17,
17 '17/'18 and '18/'19.

18 Q. Looking to the first set of cells, item 1 on
19 that form, what was your understanding in terms of the
20 percentage cost of salary on the District's disclosure?

21 A. The salary -- the proposed salary increases
22 were 2-1/2 percent for '16/'17, 2-1/2 percent for
23 '17/'18 and 2-1/2 percent for '18/'19.

24 Q. And to the extent the third cell there on the
25 third -- year three, No. 1, to the extent that number is

1 6 as opposed to 2-1/2, that accounts for another
2 component of salary?

3 A. There was another component relative to a
4 proposed enhancement of the salary schedule.

5 Q. So the difference between the 2-1/2 and the 6
6 is that salary schedule component?

7 A. Correct.

8 Q. Sir, can I have you turn to the next page of
9 the AB 1200 form? This page, what would a District do,
10 for example, on items 9, 10, and 11? What's the intent
11 of those questions?

12 A. I'm sorry.

13 Q. So on the AB 1200 form, there is -- if I look
14 at 9, 10 and 11, these sections of the form appear to be
15 there for the District to fill in information about the
16 salary schedule or about the CBA at issue?

17 A. Right.

18 Q. Under No. 11, can you review what No. 11 is and
19 what the District's response is there for your
20 consideration on the AB 1200 form?

21 A. It says that there will be a maximum District
22 expenditure of 3.5 percent to adjust the salary
23 schedule.

24 Q. Bear with me. When you are reviewing the
25 AB 1200 and you look and you consider that first row of

1 cells for salary and then an explanation like this and
2 you're doing your AB 1200 work on projections, what do
3 you presume -- what is -- when you're giving your report
4 to the District, what is the cost that you're presuming
5 is moving forward as to the CBA salary? Let me change
6 that. If we're look at -- strike that last question.

7 If we were again turning to section 1 on page 1
8 of the AB 1200 --

9 A. Right.

10 Q. When you're considering cost of the salary
11 portion of the CBA as of over the term of the contract,
12 what is the percentage value? Am I adding the 2.5, 2.5
13 and 6 as a matter of percentage?

14 A. As it says, the 6 percent for -- would be for
15 the 2-1/2 percent and 3-1/2 percent as it says to adjust
16 salary schedule.

17 Q. Superintendent Gordon, is there anything in
18 this, as you are reviewing it, to provide your report to
19 the District that would have indicated to you that this
20 salary, as contained in the CBA, would actually be more
21 expensive in '19/'20?

22 A. No, it speaks -- it speaks for itself in the
23 disclosure and those are the costs that we would carry
24 forward in our projection.

25 Q. If it was a higher cost as of '19/'20, would

1 that have -- could that impact the report you give to
2 the District when they're considering approval of a CBA?

3 MR. RUKEYSER: Objection; vague and calls for
4 speculation.

5 THE ARBITRATOR: Rephrase the question. Go
6 ahead.

7 BY MR. SIMMONS:

8 Q. Let me put it this way, Superintendent Gordon.
9 If the cost for the CBA was actually higher or different
10 than what it purports to be in this document, could that
11 have impacted the report you're required to give to the
12 District under AB 1200?

13 A. Yes.

14 Q. So based upon your review of these numbers and
15 the contents of that which was disclosed to you in this
16 form, did you issue a letter to the District,
17 Superintendent Gordon?

18 A. Yes.

19 Q. Can I have you turn to the District exhibit
20 binder, another -- go all the way --

21 A. I got it.

22 Q. Go all the way to P. All the way at the end,
23 the last document there.

24 A. Got it.

25 Q. Sir, does that appear to be the letter that we

1 just discussed?

2 A. It is.

3 Q. And your signature there on page 2?

4 A. Yes.

5 Q. On page 1, I assume that's summarizing the cost
6 as captured in the AB 1200 form for purposes of your
7 analysis?

8 A. Yes.

9 Q. And then the second paragraph there, could you
10 read the first sentence of that -- actually third
11 paragraph. Could you read the first sentence of that
12 third paragraph and perhaps read it into the record?

13 A. "On November 27th, 2017, staff from our office
14 met with Sacramento City Unified business staff to
15 discuss concerns regarding this agreement."

16 Q. The second sentence, as well, sir?

17 A. "Updated multi-year projections were provided
18 to our office for this meeting which showed the fiscal
19 impact of the proposed agreement to the current fiscal
20 year and two subsequent fiscal years."

21 Q. So the analysis done by you and your staff and
22 the report to the board were based upon their fiscal
23 year and two subsequent fiscal years with an assumed
24 cost for the CBA as described in the second paragraph of
25 your letter?

1 A. Correct.

2 Q. Did you give a presentation to the District's
3 board the night of December 7th, Superintendent Gordon?

4 A. I did.

5 Q. And I would say that as a matter of timing to
6 the arbitrator and to opposing counsel, we have copies
7 of the video. I'm happy to -- for us to play that video
8 and permit -- perhaps confirm -- well, we'll know it's
9 Superintendent Gordon on the video or to the extent
10 there's no question as to the video itself, forgo
11 showing the video?

12 MR. RUKEYSER: That's fine.

13 THE ARBITRATOR: All right. I think I
14 indicated that -- no, I haven't. I will receive the
15 video. No, that's a joint exhibit.

16 MR. SIMMONS: Joint exhibit.

17 THE ARBITRATOR: I have indicated that it's
18 been received, so I will review it.

19 BY MR. SIMMONS:

20 Q. So a couple final questions. Your December 7th
21 letter and your report to the board that night as you --
22 I think, you indicated there was going to be need to
23 make some cuts to make this work?

24 A. Yes.

25 Q. And had the value of the CBA been even higher

1 in subsequent years, that would have resulted in what
2 potential changes to your report to the board?

3 A. If the agreement cost even more, then it would
4 be likely that the cuts would have had to be higher for
5 the District to be able to afford the agreement.

6 Q. Have you had -- in all the years that you've
7 been the County Supervisor, have there been moments
8 where when you give a report, based upon your AB 1200
9 fiscal oversight, to a CBA that your report has been
10 followed by a board decision not to approve the
11 agreement because of the cost affects?

12 A. No, not to my recollection.

13 MR. SIMMONS: No further questions.

14 THE ARBITRATOR: Cross-examination.

15

16 CROSS-EXAMINATION

17

18 BY MR. RUKEYSER:

19 Q. Just a few questions. Thank you,
20 Superintendent. My name is Jacob Rukeyser. I'm a staff
21 attorney with California Teachers Association
22 representing the Sacramento City Teachers Association in
23 this arbitration. I'll try to make this brief. I know
24 your have plenty on your plate.

25 Are you here under subpoena?

1 A. Yes.

2 Q. And prior to appearing at this hearing, did you
3 have any discussions with District counsel?

4 A. I did not.

5 Q. I have questions about this AB 1200 document,
6 the public disclosure of Collective Bargaining Agreement
7 that was discussed. Your testimony is that is required
8 to be provided to the County office at least ten days
9 prior to the school board actions on the Collective
10 Bargaining Agreement?

11 A. Yes.

12 Q. And it doesn't appear that this document, Joint
13 Exhibit 4, was timely provided to your office; is that
14 correct?

15 A. I don't recall.

16 Q. Okay. And that's understandable. It's been
17 quite some time. If I could have you turn to nearly the
18 end of Joint Exhibit 4. By my count, it's five pages,
19 five or six pages to the end. There is a page 9 of
20 public disclosure of the Collective Bargaining Agreement
21 document.

22 A. Okay.

23 Q. This was a document -- the page of the document
24 that bears what appears to be the signature of the
25 District Superintendent and it's Chief Business Officer.

1 It bears the date by the Superintendent of 11/29/2017,
2 and of the CBO, the Chief Business Officer, one day
3 later, November 30th. I'll represent to you that the
4 governing board, the school district, approved the
5 Tentative Agreement on the 7th of December. These dates
6 certainly indicate that the document was not signed
7 until less than ten days before that governing board
8 meeting.

9 Do you recall any concerns that you had that
10 this was untimely filed?

11 A. When we get a Collective Bargaining Disclosure
12 Agreement, it's a top priority to review it as quickly
13 as possible and get feedback back to the District as
14 quickly as possible.

15 Q. Sure.

16 A. And that's exactly what we did.

17 Q. The information that's contained in the cells
18 of this document that is otherwise provided in the
19 document, that is information that the Sacramento City
20 Unified School District provided you, correct?

21 A. Correct.

22 Q. You and the staff in your office can only work
23 off of the information that is provided to you, correct?

24 A. Correct.

25 Q. And as part of your review of this AB 1200

1 public disclosure Collective Bargaining Agreement form,
2 neither -- you did not personally review the Tentative
3 Agreement that the Union and the District had reached;
4 is that correct?

5 A. That's correct.

6 Q. And your staff did not review that document
7 either?

8 A. That's correct.

9 Q. Just so I'm clear, the function of your office
10 is to review and opine about the information that the
11 District reports to you?

12 A. That's correct. That's correct. Can I consult
13 with counsel?

14 THE ARBITRATOR: Let's give the witness an
15 opportunity to speak to his counsel. Off the record.

16 (Whereupon a recess was taken.)

17 THE ARBITRATOR: Let's go back. The witness is
18 indicating he would like to say something by way of
19 amendment to his answer to the last question.

20 THE WITNESS: Yes. To the extent that the
21 material attached to the disclosure form would have
22 spoken to any of the information on the disclosure form
23 the staff did review, the staff did review that
24 information. I did not personally review it, but the
25 staff did.

1 BY MR. RUKEYSER:

2 Q. Thank you for that clarification. The last
3 three pages of Joint Exhibit 4 indicate that the
4 Tentative Agreement assigned -- the next page is a list
5 of signatures and the final page is a memorandum of
6 understanding. As you sit here today, Superintendent
7 Gordon, do you recognize any of the three documents?

8 A. I have seen them.

9 Q. Do you recall whether they were appended to
10 this public disclosure Collective Bargaining Agreement
11 form that was transmitted to your office by the school
12 district?

13 A. I believe that they were.

14 Q. Okay. Thank you. You testified on direct
15 examination, Superintendent, that if your office, you or
16 your staff, had any concerns of the fiscal impact of a
17 proposed Collective Bargaining Agreement, that you might
18 advise the school District of the same and suggest that
19 the District make reduction to its budget in order to
20 make the Collective Bargaining Agreement affordable. Do
21 I have that straight?

22 A. Yes.

23 Q. And so am I right in understanding from that,
24 that if it appeared to you or your staff that the
25 Collective Bargaining Agreement that was being

1 considered was not affordable within a District budget,
2 you might advise the school District to revise its
3 budget in a way so it could afford the Collective
4 Bargaining Agreement it is contemplating?

5 A. That was the gist of my December 7th letter,
6 yes.

7 Q. Just so we're clear and my apologies,
8 Superintendent, for asking simplistic questions, but I
9 want to make sure the record is crystal clear, you did
10 not participate in the Collective Bargaining Agreement
11 between the District and SCTA, correct?

12 A. I did not.

13 Q. And you did not help draft the Tentative
14 Agreement that the school board, the governing board of
15 the District eventually approved?

16 A. I did not.

17 Q. As part of your office's review of this public
18 disclosure Collective Bargaining Agreement document, did
19 you personally have any discussions with Superintendent
20 Jorge Aguilar about the terms of the Tentative Agreement
21 that was going to be put in front of the school board on
22 December 7th?

23 A. Not that I recall.

24 Q. And your staff did not either, to your
25 knowledge, correct?

1 A. Not to my knowledge, no.

2 Q. Thank you. I believe that I am nearly done.
3 If I may have a moment?

4 THE ARBITRATOR: Okay. We'll go off the record
5 for just a moment.

6 (Whereupon a recess was taken.)

7 THE ARBITRATOR: Back on the record.

8 BY MR. RUKEYSER:

9 Q. Thank you, Superintendent Gordon and I think I
10 just have a couple last questions. In your
11 December 7th, 2017, letter to the District as the
12 Superintendent, you expressed your opinion that as you
13 understood it, the Collective Bargaining agreement that
14 the parties were considering approving might prove to be
15 unaffordable sometime in the future, correct?

16 A. Well, I think my letter -- I just want to say
17 my letter speaks for itself. It's a more nuance answer
18 than that and the letter speaks for -- I would say to
19 you the letter speak for itself.

20 Q. Just so I'm clear and the record is clear, I
21 believe that you testified about this on direct
22 examination. At that point in early December 2017, you
23 had some concerns about the -- about whether the
24 proposed Collective Bargaining Agreement would work
25 within the Sacramento City Unified School District's

1 budget, correct?

2 A. Yes. And they were expressed exactly as I
3 expressed them in the letter.

4 Q. Did you or your office recommend any specific
5 steps for the school District to take in order to
6 respond to the concerns that you identified?

7 A. They are all in the letter, which speaks for
8 itself.

9 Q. Did the District take -- did the District
10 follow any of those steps, to your knowledge?

11 A. The follow-up to the letter is also on the
12 record, so I'm not going to speculate here on exactly
13 what steps the District took because all of that is on
14 the record elsewhere.

15 Q. Why don't we then turn to the document in front
16 of you that you have been referring to, District Exhibit
17 B. This is your December 7th letter. Turn to the
18 second page of it. And in the third paragraph, let me
19 know when you found that page.

20 A. Yes.

21 Q. The third paragraph, the paragraph began, "If
22 the board approves the proposed Collective Bargaining
23 Agreement, we request that the District provide a
24 detailed budget reduction plan resolving the
25 \$15.6 million shortfall and the ongoing structural

1 deficit by December 15, 2017, with board approval by
2 January 15, 2018."

3 My question for you, Superintendent Gordon, is
4 did the Sacramento City Unified School District provide
5 a detailed budget reduction plan by December 15, 2017?

6 A. The District followed through in the required
7 subsequent reports, the interim reports they were
8 required to file. And those reports and all responses
9 are on the record and they speak for themselves. I
10 don't have them before me, but they are the record and
11 they speak for themselves.

12 Q. Sorry, Superintendent Gordon, perhaps my
13 question was not that clear. I'm not asking about
14 anything the District might have done at a later date.
15 I'm asking very specifically whether, to your knowledge,
16 the District provided a detailed budget reduction plan
17 for solving the \$15.6 million shortfall and the ongoing
18 structural deficit by December 15th, 2017?

19 MR. SIMMONS: I object; asked and answered.

20 THE ARBITRATOR: It wasn't a specific answer to
21 that question. I think the witness referred to ongoing
22 reports that must be filed. The question was: Was it,
23 sir, your instruction in the third paragraph, was this
24 not a request from the District's board to provide a
25 detailed budget reduction plan? Wasn't that something

1 in addition to the normal forms that are filed
2 periodically with your office?

3 THE WITNESS: I don't recall if that plan came
4 in the next interim report or as a separate report, but
5 as I said earlier, all of that is on the record and
6 could be reviewed.

7 BY MR. RUKEYSER:

8 Q. And just for purposes of clarification,
9 Superintendent, when you say on the record, you're
10 referring to what?

11 A. I am referring to submittals by the District to
12 our office and the interim reports that are required to
13 be submitted. This would be on the record within those
14 documents.

15 Q. The reason I'm trying to clarify this is
16 because within this proceeding, we have talking about an
17 evidentiary record that we are developing and we are
18 agreeing to in this proceeding. And just so we're
19 clear, when you say something is on the record, you're
20 referring not to the record within this hearing, this
21 arbitration. You are referring to documents that your
22 office has received from the District at some point in
23 time?

24 A. Correct.

25 Q. Okay. Okay. And then just to confirm, as you

1 sit here today, Superintendent, you are not aware of any
2 detailed budget reduction plan being provided to your
3 office by December 15, 2017?

4 MR. SIMMONS: Objection to the extent that it
5 misstates the testimony.

6 THE ARBITRATOR: Witness testified he's certain
7 that the required interim reports were filed. He wasn't
8 certain, however, as to whether or not this detailed
9 budget reduction plan was part and parcel to the interim
10 reports. That's unclear. We don't know, but that's the
11 best of his recollection.

12 BY MR. RUKEYSER:

13 Q. Superintendent Gordon, am I correct in
14 understanding that the school district's first interim
15 report -- sorry, the second interim report in the
16 '17/'18 year was prepared in March of 2018?

17 A. I don't recall. I don't recall the precise
18 day.

19 Q. Okay. Then finally, are you aware,
20 Superintendent, of whether or not the board approved by
21 January 15, 2018, a detailed budget reduction plan?

22 A. I do not recall.

23 MR. RUKEYSER: I have nothing further.

24 THE ARBITRATOR: Redirect.

25 MR. SIMMONS: Very brief, sir.

1 REDIRECT EXAMINATION

2
3 BY MR. SIMMONS:

4 Q. The purpose of that 10-day pre board action
5 timeline, what do you perceive the purpose of having --
6 generally wanting that material to you ten days in
7 advance of potential board action?

8 A. To allow the staff time to analyze the
9 agreement and project the costs.

10 Q. And under AB 1200, the idea is to get your
11 report before they take action, correct?

12 A. Correct.

13 Q. Because your conclusions could impact whether
14 or not they do take action?

15 A. Correct.

16 Q. And then one point of clarification. I just
17 want to ask one more time because it's unclear as to
18 whether or not opposing counsel's question suggested
19 something different. But your cost projections, as
20 described in your letter of December 7th are based upon
21 an assumed ongoing and level cost as described in AB
22 1200, not something that was going to be different, i.e.
23 higher than what is described in the document?

24 A. Correct.

25 MR. SIMMONS: No further questions.

1 MR. RUKEYSER: One further question about the
2 ten-day -- couple questions about the ten-day time
3 period.

4
5 RECROSS-EXAMINATION

6
7 BY MR. RUKEYSER:

8 Q. So we are clear, when you say ten days,
9 Superintendent, you are referring to ten working days,
10 correct, not ten calendar days, if you know?

11 A. I'm not sure what the statute says.

12 Q. One follow-up question. My apologies. Bear
13 with me, Superintendent. If you turn to Joint
14 Exhibit 4, the first page of the District's public
15 disclosure Collective Bargaining Agreement document. Do
16 you have that in front of you, sir?

17 A. The first page of the document?

18 Q. The first page of the District's public
19 disclosure Collective Bargaining Agreement form, the
20 document that was submitted to your office.

21 A. Yes.

22 Q. Right above the table that is labeled A,
23 there's a note and that note says, "This form, along
24 with the copy of the proposed agreement, must be
25 submitted to the County office at least ten" and then in

1 parenthesis, "(ten working days) prior to the date
2 governing board will take action."

3 Does that refresh your recollection that the
4 ten-day time period that we have been discussing is ten
5 working days?

6 A. That's what it says.

7 Q. Do you have any reason to think that is
8 incorrect, what it says in the form?

9 A. I don't, but I would say I --

10 MR. SIMMONS: I object as to relevance, as to
11 this is based upon what the purpose of testimony is, to
12 what the ten days is. I'm not certain where we're going
13 with this.

14 THE ARBITRATOR: Witness indicated it's
15 statutory, so I'm sure we can go to 1200 and find out
16 what the statute says. We have the documents, when they
17 were filed. You can make whatever argument you want.

18 MR. RUKEYSER: Thank you. No further
19 questions.

20 MR. SIMMONS: No further questions. Thank you,
21 sir.

22 THE ARBITRATOR: We appreciate your testimony.
23 Thank you, sir.

24 THE WITNESS: Pleasure.

25 THE ARBITRATOR: Off the record.

1 (Whereupon a recess was taken.)

2 THE ARBITRATOR: We are on the record. Our
3 next witness is Ms. Ryan, a member of the Board of
4 Education. Ms. Ryan, I need to swear you under oath.
5 Please raise your right hand. Do you solemnly swear to
6 tell the truth, the whole truth and nothing but the
7 truth?

8 THE WITNESS: I do.

9 THE ARBITRATOR: Thank you. And you just for
10 the record, it's formality, state your name, spell first
11 and last name?

12 THE WITNESS: Sure. Jessie Ryan. J-E-S-S-I-E,
13 Ryan, R-Y-A-N.

14 THE ARBITRATOR: Thank you.

15

16 DIRECT EXAMINATION

17

18 BY MR. SIMMONS:

19 Q. Good afternoon, Board President Ryan?

20 A. Good afternoon.

21 Q. One additional note. We discussed this between
22 the parties and our Arbitrator today. When I ask you
23 questions, you're -- presume that all I'm asking for is
24 information that would be in public as opposed to a
25 Brown Act closed session-type conversation. So any of

1 my questions, which I ask are intended for things
2 outside of closed, not that which is protective by the
3 Brown Act. There's a caveat --

4 THE ARBITRATOR: Counsel for the Union has
5 pointed out a small technicality. So if a question were
6 to be asked on cross-examination because I trust counsel
7 for the District will not enter into any question that
8 might call for confidential information subject to the
9 Brown Act. Counsel for the Union, however, might have a
10 question, not as to the specific -- not the content of
11 the communication, but whether a certain -- a subject of
12 the conversation within the Brown Act was asked -- was
13 expressed. And I ruled that I believe that does not
14 cross the line into the confidential communications
15 protected by the Brown Act. So you can indicate so in
16 cross-examination. If there even is any, there may not
17 be. It didn't come up with the Superintendent.

18 THE WITNESS: The specific subject?

19 THE ARBITRATOR: Just the subject. That's all
20 we want to know and that's where it stops right there.
21 We're not going to get into what the content of that
22 subject discussion was.

23 MR. SIMMONS: Again, for the record, I'll
24 continue my objection as to that procedure itself, but I
25 understand the Arbitrator's ruling.

1 BY MR. SIMMONS:

2 Q. Ms. Ryan, I'm going to ask you, do we have a
3 full copy --

4 A. No, this is not mine.

5 Q. Right here, Ms. Ryan.

6 A. Thank you.

7 Q. So before you are a number of binders which
8 contains exhibits. The exhibits in your declaration is
9 also in one of those binders. So to the extent I ask
10 you to refer to an exhibit, I will take you to the
11 appropriate binder as we discuss it.

12 A. Okay.

13 Q. Did you submit a declaration, Ms. Ryan, for
14 this matter?

15 A. Yes, I did.

16 Q. Do you remember when you signed that
17 declaration?

18 A. Yes, I signed that declaration a couple of days
19 ago.

20 Q. So with that declaration in place and the
21 procedure we agreed to here, that is if you testified to
22 those facts within that declaration, opposing counsel,
23 of course, will be able to cross-examine you about any
24 aspect within that declaration if he chooses to do so.

25 THE ARBITRATOR: Do you want to mark this now,

1 counsel?

2 MR. SIMMONS: Let's mark.

3 THE ARBITRATOR: Last one was Q, so the
4 declaration of Board President Ryan will become
5 District R.

6 MR. SIMMONS: So we don't forget, can we mark
7 Aguilar's declaration, which I don't think we marked.

8 THE ARBITRATOR: All right. Mark those three.
9 BY MR. SIMMONS:

10 Q. And, again, to be clear, all of my questions
11 today is with regard to information outside of closed,
12 that which you would have known and understood and we'll
13 go over some public agenda items and conversations that
14 you would have had that are outside closed session Brown
15 Act proceedings with the total governing board.

16 A. Understood.

17 Q. In November and December 2017, were you a
18 member of the board?

19 A. I was a member of the board.

20 Q. At that point, what was your position on the
21 board?

22 A. So in November of 2017, I was Vice-President of
23 the board. In December of 2017, I was elected President
24 of the board.

25 Q. So are you familiar with what the SCTA and

1 District have referred to over time as the Framework
2 Agreement?

3 A. Yes.

4 Q. What was your understanding as to the Framework
5 -- let me do this. I will have you turn to Joint
6 Exhibit 1. There is a binder that says Joint Exhibit 1.

7 A. Okay.

8 Q. And if you see under No. 1 there, have you seen
9 this document before?

10 A. This is the handwritten document that Mayor
11 Steinberg detailed of the Framework Agreement.

12 Q. So based on the numbers you see there, what was
13 your understanding of the cost as to that Framework
14 Agreement?

15 A. My understanding the cost of this Framework
16 Agreement was that we were getting 2.5 increase each
17 year over a period of three years and then additional
18 3.5 maximum expenditure for our least competitive salary
19 columns.

20 Q. And so the total cost of that amount to a
21 particular percentage in full, 2.5, 2.5, 2.5 --

22 A. Yes, so 7.5 with an additional 3.5 for a total
23 of 11 percent.

24 Q. Did you understand that 11 percent cost for
25 you, as a District and as a board member, was one that

1 would change in '19/'20 or was it ongoing specific cost?

2 A. I've always known it to be ongoing expenditure.

3 Q. At the same level?

4 A. At the same level.

5 Q. On the night of -- do you recall there being --
6 you testified this in your declaration, but the
7 December 7, 2017, board meeting?

8 A. Yes.

9 Q. There was a board meeting that night. I'll
10 have you turn to Joint Exhibit 4, same binder which you
11 currently have before you.

12 A. Uh-huh.

13 Q. Joint Exhibit 4, are you familiar with -- can
14 you describe what that is, knowing that you are familiar
15 with it?

16 A. So this is an executive summary of -- prepared
17 by District staff. This accompanies our agenda items.
18 items.

19 Q. If you turn to -- go past that cover sheet --
20 first, what's the subject of this particular matter?

21 A. This pertains to agenda item 8.4, which is the
22 approval of the AB 1200 disclosure, the cost and
23 approval of Tentative Agreement with the bargaining unit
24 SCTA.

25 Q. And then as you go beyond that first page,

1 there's a document titled, Executive Summary?

2 A. Correct.

3 Q. If you turn to page 4 -- there's a page 4 of
4 that executive summary that says, Compensation?

5 A. Uh-huh.

6 Q. And those first two bullet points there under
7 Compensation, if you were to review those, does that
8 comport with your understanding of the salary component
9 of the Tentative Agreement that was before the board
10 that night?

11 A. It did. So specifically, the 2.5 salary
12 increase for 2016/'17, the 2.5 salary increase for
13 2017/'18, the 2.5 salary increase for 2018/'19. And
14 then the agreement that within 45 days of the Tentative
15 Agreement's approval, the parties would agree to
16 finalize a mutually acceptable adjustment of the salary
17 schedule not to exceed a total expenditure of 3.5. And
18 that item of mutually acceptable adjustment was very
19 important for us.

20 Q. Also in this agenda item, if you turn a few
21 pages forward, is a document entitled Public Disclosure
22 of Collective Bargaining Agreement.

23 THE ARBITRATOR: One more time.

24 MR. SIMMONS: A few pages forward in that same
25 Joint Exhibit, there is the AB 1200 discloser form.

1 THE ARBITRATOR: Thank you.

2 THE WITNESS: Yes.

3 BY MR. SIMMONS:

4 Q. And so Board President Ryan, are you familiar
5 with that document?

6 A. Yes.

7 Q. Do you recall having reviewed that document
8 before or at the board meeting of the night of
9 December 7th?

10 A. Yes, this was required by law.

11 Q. Do you know if anyone presented to the
12 District's governing board the night the December 7th on
13 the AB 1200 disclosure?

14 A. Yes.

15 Q. Who was that?

16 A. So we had presentations on the AB 1200
17 disclosure by the District staff. Cancy McArn led the
18 presentation. We also had portions of the disclosure
19 delivered by, I would say, supporting staff, so Gerardo
20 Castillo, Ted Appel and Cindy Nguyen.

21 Q. Did any non-District staff also present to the
22 board that night on this matter?

23 A. Yes, Superintendent Dave Gordon from the County
24 Office of Education.

25 Q. As you look at page 1 there, which you

1 testified to having reviewed, been obligated to do so
2 that night. And we go to the first set of cells up here
3 in No. 1 on the first page of the AB 1200 disclosure.

4 A. I just want to make sure that I'm looking at
5 the same piece now.

6 Q. Right. So if you go to the first page --

7 A. Of the public disclosure. Yeah.

8 Q. So go to that first set of cells that relate to
9 salary schedule.

10 A. Uh-huh.

11 Q. There's a -- there's percentages there. What
12 was the -- before you -- that night, what was the
13 percentage value of the salary structure component of
14 the Tentative Agreement?

15 A. So the total percentage value of the salary
16 structure of the Tentative Agreement was 11 percent.

17 Q. You understood that night the cost of the
18 Tentative Agreement was going to be 11 percent, correct?

19 A. Correct.

20 Q. And did you understand the cost for this
21 Tentative Agreement to be 11 percent only through
22 '18/'19 or going forward?

23 A. We always believed it was going forward.

24 Q. What did the County Superintendent present to
25 the board on the evening -- do you recall what the

1 County Superintendent presented to the board that night?

2 A. I do quite vividly. County Superintendent Dave
3 Gordon was concerned about our ability to sustain our
4 commitment to the contract that we had negotiated and
5 said quite unequivocally that what we were proposing and
6 adopting in a Tentative Agreement came to him with some
7 great concerns around sustainability. And that his
8 understanding of this 3.5 maximum expenditure also was
9 cause for concern.

10 Q. You did from the agenda items that night,
11 correct?

12 A. We did.

13 Q. The Tentative Agreement?

14 A. We did.

15 Q. Had Superintendent -- County Superintendent
16 Gordon believed that the cost going forward was even
17 higher and given a more dire warning, do you think --
18 can you say for certain that you would have approved the
19 agreement?

20 A. County Superintendent Gordon did not indicate
21 that the cost was higher than the 3.5 maximum
22 expenditure that we understood, in addition to the 2.5
23 for 3 years, right. Had he said that there was a
24 concern that there would be an expense greater than that
25 maximum expenditure, absolutely it would have altered

1 the outcome of the board vote.

2 Q. Apart from what you just testified to in terms
3 of the understanding of the value of what was before you
4 at the board that night, would you testify that that --
5 the understanding of what you communicated was one which
6 was shared by your fellow board members?

7 A. My understanding of --

8 MR. RUKEYSER: Objection; calls for
9 speculation.

10 THE ARBITRATOR: Sustained.

11 BY MR. SIMMONS:

12 Q. What was the most important goal in your mind
13 of the salary -- what was the most important goal, as
14 you understood it, for the salary structure changes that
15 were embodied by the Tentative Agreement?

16 A. So I will speak to my --

17 MR. RUKEYSER: Objection; vague.

18 MR. SIMMONS: I agree with counsel. That was a
19 vague question.

20 BY MR. SIMMONS:

21 Q. So Board President Ryan, what were -- what did
22 you see as the -- where was there a need for an
23 adjustment in the District salary schedule in your role
24 as a board member?

25 A. So I can speak to that quite clearly. I was

1 concerned that the least competitive salary columns
2 ensure that they have an increase so we could be more
3 competitive with neighboring districts. And so from my
4 understanding and the conversations that we had around
5 the Tentative Agreement, we would be addressing that in
6 equity for those least competitive salary columns with
7 the maximum expenditure of a 3.5 additional increase.

8 MR. SIMMONS: No further questions at this
9 time.

10 THE ARBITRATOR: Do you need a moment or are
11 you ready to cross?

12 MR. RUKEYSER: I'm ready.

13

14 CROSS-EXAMINATION

15

16 BY MR. RUKEYSER:

17 Q. Good afternoon, Board President Ryan. My name
18 is Jacob Rukeyser. I'm representing the Sacramento City
19 Teachers Association in this arbitration. I'll try to
20 make this brief. I know you have plenty on your plate.
21 I represent the Union in this matter. Hopefully, not
22 too many questions.

23 This declaration that you have been asked
24 questions about, you did not actually write it; did you?

25 A. No. I did, however, review it several times

1 and I asked for modifications to the declaration based
2 on ensuring --

3 Q. Thank you. You answered my question.

4 A. -- based on my understanding.

5 Q. It's true, isn't it President Ryan, that in
6 October of 2017, this is before the Framework Agreement
7 was agreed to?

8 A. Uh-huh.

9 Q. When the fact-finding report is yet to be
10 issued, that you and the Superintendent, Mr. Aguilar,
11 reached out to Sacramento Mayor Darrell Steinberg to see
12 whether he could help perhaps broker a deal and avert a
13 strike?

14 A. I would say that it's true that Mayor Steinberg
15 was very interested in helping to broker a deal to avoid
16 a strike.

17 Q. You didn't quite answer the question. Is it
18 true that you and the Superintendent initiated the
19 communications with Mayor Steinberg about the
20 possibility of brokering some sort of a deal avoiding a
21 strike?

22 A. I don't think that would be a fair
23 characterization because Mayor Steinberg insisted quite
24 consistently throughout that process that he wanted to
25 be helpful, to the extent he could, in bringing the

1 parties together to avoid a strike.

2 THE ARBITRATOR: Why don't -- you seem to have
3 some knowledge on this subject. Why don't you go
4 through it and tell us what was going on? There was
5 always a lot of things going on.

6 THE WITNESS: Yes.

7 THE ARBITRATOR: So when did Mayor Steinberg
8 become involved in that process and pursuant to when did
9 he become involved? Did he contact you, did you contact
10 him? How did it happen?

11 THE WITNESS: I mean, during the fact-finding
12 process, when the fact-finding agreement -- or when the
13 fact-finding report came back and there was such a gap
14 between what was being asked for by SCTA and what the
15 District felt they could afford, we were very concerned
16 that we were likely to find ourselves in a position of a
17 strike.

18 I think it would inaccurate to characterize one
19 or the other party as reaching out because I think that,
20 you know, we both had a conversation around how do we do
21 everything we can to give the maximum amount to our
22 teachers to avoid a strike within the framework that we
23 can afford. And I think that it would be disingenuous
24 if I said that I recall Superintendent Aguilar reaching
25 out or the Mayor reaching out.

1 BY MR. RUKEYSER:

2 Q. Let me ask you this, President Ryan. When is
3 the first time that you spoke to Mayor Steinberg about
4 the parties' bargain and the fact that they were very
5 far apart?

6 A. That I can't recall. I mean, I think that
7 there was a conversation in November, but I cannot
8 recall a date as to the first time we spoke.

9 Q. Okay. You do have in your mind a memory of the
10 first time that you spoke with Mayor Steinberg?

11 A. I do.

12 Q. Was that in-person or telephonic?

13 A. That was over the phone.

14 Q. Who initiated that phone call?

15 A. That I cannot recall.

16 Q. At some point, were you involved in a
17 conversation with Mayor Steinberg in which it was
18 discussed the possibility of Mayor Steinberg bringing
19 the parties together to try to hammer out a deal?

20 A. Yes, I think that that is a very fair
21 statement.

22 Q. Was that telephonic or was that in-person?

23 A. That was, I believe, on the phone.

24 Q. Do you recall who initiated that telephone
25 conversation?

1 A. I do not recall.

2 Q. In that conversation, is it true that you
3 broached the idea of having Mayor Steinberg invite the
4 parties together to try to negotiate a deal?

5 A. Mayor Steinberg offered to invite the parties
6 together.

7 Q. Is it your testimony as you sit here today,
8 President Ryan, that Mayor Steinberg offered -- made
9 that offer unasked?

10 MR. SIMMONS: Asked and answered.

11 THE ARBITRATOR: Well, it's not clear.

12 MR. RUKEYSER: It's not clear at all.

13 THE ARBITRATOR: It's not really clear. I
14 don't know that we need get into that kind of detail.
15 It's very possible that Mayor Steinberg was concerned
16 about the situation. Obviously, if someone reaches out
17 to him and wants to get him involved and then he gets
18 involved at that person's request, there's always
19 concern. I would certainly be concerned that somehow I
20 was being used by one side, rather than just being
21 something that the Mayor thought was appropriate. I
22 would think it would be much more acceptable to the
23 parties if it was something that was initiated by the
24 Mayor. It's very understandable that these things go
25 on. I don't want to get too deeply involved. You did

1 get involved.

2 MR. RUKEYSER: Absolutely, Mr. Arbitrator. And
3 in the normal course of things, I would not belabor
4 this. But given that there's been testimony earlier
5 about the circumstances of which this meeting arose, I
6 think it does bear on the issues that are going to be
7 addressed in our post hearing briefs with respect to
8 witness' credibility.

9 THE ARBITRATOR: There is lot of opportunity
10 for creditability argument in this case.

11 MR. RUKEYSER: Absolutely.

12 THE ARBITRATOR: I don't think it's necessary.

13 MR. RUKEYSER: I will move on.

14 THE ARBITRATOR: Did the Mayor bring the
15 parties together to his home and what happened? That's
16 what we're focused on. I don't want to get involved
17 in --

18 MR. RUKEYSER: Very good.

19 THE ARBITRATOR: -- how they occurred.

20 MR. RUKEYSER: I can move on, Mr. Arbitrator.
21 Thank you.

22 BY MR. RUKEYSER:

23 Q. President Ryan, you were not at the Mayor's
24 house to be clear, correct?

25 A. I was not at the Mayor's house.

1 Q. You were not party to negotiations that
2 resulted in the Framework Agreement?

3 A. I was not.

4 Q. Okay. So in your declaration, let's take a
5 look at your declaration. It should be in front of you.
6 Let's look at paragraph 3. You say in that first
7 sentence starting about halfway through line 13. "It
8 was my understanding that the parties had reached an
9 agreement on several outstanding items related to
10 successor contract negotiations, including the issue of
11 compensation for specific employees."

12 Your understanding was based on what
13 Superintendent Aguilar told you, correct?

14 A. Yes.

15 Q. Okay. It was based only on what he told you
16 about what transpired?

17 A. And Mayor Steinberg.

18 Q. You had a conversation with Mayor Steinberg
19 about this?

20 A. Correct.

21 Q. And what did Mayor Steinberg tell you?

22 A. Mayor Steinberg just walked through the
23 provisions of the negotiated Tentative Agreement.

24 Q. When was this conversation that you had with
25 the Mayor?

1 A. This was immediately following the meeting with
2 Mayor Steinberg.

3 Q. In person?

4 A. No.

5 Q. And that's what you can recall about your
6 conversation with Mayor Steinberg?

7 A. That's correct.

8 Q. Back up a little bit. There was a meeting
9 between Superintendent Aguilar and the Mayor and SCTA on
10 Saturday the 4th, as well, correct?

11 A. On Saturday the 4th, yes, that was the weekend
12 that the negotiations occurred.

13 Q. You had not known that Mr. Aguilar, the
14 Superintendent, went to that meeting that he was, in
15 fact, meeting with SCTA and the Mayor at the Mayor's
16 house that day?

17 A. The following day after the meeting occurred,
18 that's when I received the report back.

19 Q. I'm talking about Saturday the 4th, the first
20 day of the two meetings. You did not have advance
21 knowledge that Superintendent Aguilar was going to be
22 meeting at the Mayor's house with SCTA, correct?

23 A. I knew that they were going to be meeting that
24 weekend. I did not have any details beyond that.

25 Q. You knew that the purpose of this meeting was

1 to try to, if possible, avert a strike by striking some
2 sort of a deal -- reaching a deal?

3 A. Correct.

4 Q. Did you know that Superintendent Aguilar was
5 going to be attending that meeting by himself on behalf
6 of the District?

7 A. That I did not know.

8 Q. That was not discussed with him, who was going
9 to be in attendance?

10 A. I did not know who was going to be attending.

11 Q. You said you found out Mr. Aguilar was there by
12 himself, correct?

13 A. I did in the immediate report back that I
14 discussed following the agreement.

15 Q. And it didn't concern you that Mr. Aguilar, who
16 has no collective bargaining experience was representing
17 the District in the 11th hour of negotiations by
18 himself?

19 A. I would not speculate on concern related to his
20 collective bargaining experience. I think, as a board,
21 we've been very confident in his ability, given the fact
22 that he has a juris doctorate and experience in
23 negotiations.

24 Q. I don't want you to speculate about anything,
25 just to be clear. I just want your testimony.

1 A. No, I was not concerned.

2 Q. Did you know at that time that he had no
3 collective bargaining experience?

4 A. No.

5 Q. Are you surprised now to find out he has no
6 bargaining experience?

7 A. No.

8 Q. It's your testimony that you remember vividly
9 -- I think that was your term, vividly -- a presentation
10 made by County Superintendent Gordon at the December 7th
11 board meeting. Do you remember vividly Superintendent
12 Gordon talking about the 3.5 percent expenditure for
13 salary structure?

14 A. I remember him vividly talking about his
15 concern about our ability to sustain our commitment.

16 Q. And notwithstanding Superintendent Gordon's
17 concern, you voted to approve the contract, correct?

18 A. We voted to approve the contract.

19 Q. Even though Superintendent Gordon had expressed
20 concerns about the District's ability to allocate the
21 budget in future years with this Collective Bargaining
22 Agreement?

23 A. We voted to approve the contract.

24 Q. And you had heard at the time you voted to
25 approve the contract, Superintendent Gordon expressed

1 those very concerns, correct?

2 A. Yes, which is one of the reasons --

3 THE ARBITRATOR: Finish your answer.

4 THE WITNESS: Which is one of the reasons I
5 felt compelled that evening to speak to ensuring that
6 the 3.5 maximum expenditure would be just that and that
7 it would go to the least competitive salary columns.

8 BY MR. RUKEYSER:

9 Q. May I ask you, President Ryan, to turn to a
10 document in a smaller white binder in front of you.
11 It's Association Exhibits.

12 A. This right here?

13 Q. Yes.

14 A. Thank you.

15 Q. Behind the tab No. 10, the first page of
16 Exhibit 10 is an e-mail. What follows are approximately
17 half of dozen pages of text and charts. Have you seen
18 this document before?

19 A. I have.

20 Q. When did you first see it?

21 A. I can't recall.

22 Q. Do you recall whether it was before or after
23 the board voted to adopt or approve the Collective
24 Bargaining Agreement in December of 2017?

25 A. I really cannot recall.

1 Q. Do you recall having reviewed this before you
2 voted to approve the contract?

3 A. I can't recall that.

4 Q. Okay. Do you recall finding out where this
5 document came from?

6 A. I can recall that. This was presented at some
7 point as the SCTA proposed salary structure.

8 Q. Who described it in those terms?

9 A. That I cannot recall. I do know of SCTA giving
10 us those documents at some point.

11 Q. Do you recall subsequently in August of 2018,
12 saying that you had received and reviewed this document?

13 A. In August of 2018, in a follow-up meeting, yes.
14 And at that point, I absolutely had.

15 Q. Do you recall representing in August of 2018
16 that you had, in fact, reviewed this document before you
17 voted on the contract in December of 2017?

18 A. I don't recall saying that.

19 Q. Prior to voting on the proposed Collective
20 Bargaining Agreement in December of 2017, did you review
21 the Framework Agreement, that actual handwritten
22 document?

23 A. Yes.

24 Q. You did?

25 A. I did.

1 Q. Why don't we take a look at this. It's in the
2 Joint Exhibit binder. It's a larger black binder there.

3 A. Joint Exhibit, this one?

4 Q. It's Exhibit No. 1. On the first page off to
5 the left in be the margin --

6 A. Uh-huh.

7 Q. -- it says, adjustment to salary schedule,
8 Union proposed structure.

9 A. Uh-huh.

10 Q. Prior to voting on the contract, had you asked
11 anyone any questions about what was meant by the term
12 Union proposed structure?

13 A. Yes. So I can speak to that because what was
14 so important to me right alongside with that, is the
15 maximum District expenditure of 3.5. John had explained
16 to board members and in general this compression idea.
17 And it was very difficult to articulate based on this
18 compression of the salary schedule, how you would cost
19 out anything, which is why I consistently said and then
20 publicly again on the record when we were voting to
21 approve the Tentative Agreement, that it had to be a
22 maximum expenditure of 3.5 and that my expectation is
23 that it would serve the least competitive salary
24 columns. So the adjustment to the salary schedule
25 proposal Union structure is alongside this expectation

1 that it would be a maximum expenditure to the District
2 of 3.5. And that gave me some confidence that that cap
3 would be in existence.

4 Q. I will move to strike as nonresponsive.

5 The question was: Did you ask anyone any
6 questions about what was meant in the Framework
7 Agreement by the term Union proposed structure? Did you
8 ask any questions?

9 A. I cannot speak to that because that would be a
10 closed session conversation.

11 Q. Apart from what may or may not have been said
12 in closed session, did you ask anyone, at any time
13 before you voted to approve the contract, what was meant
14 by the term Union proposed struck?

15 A. Outside of closed session, I did make a
16 statement about my expectation of the understanding of
17 what that 3.5 percent would mean.

18 Q. So the answer is, no, outside of closed
19 session, you did not ask questions about what was meant
20 by this term?

21 THE ARBITRATOR: Union's proposed structure.

22 THE WITNESS: Union's proposed structure. Yes,
23 that exact language.

24 BY MR. RUKEYSER:

25 Q. And the answer is, no, you did not outside the

1 closed session? I'm not going to pry in to what may
2 have happened in closed session. I want to be clear,
3 outside of closed session, you did not ask any questions
4 about the phrase Union's proposed structure?

5 A. Although I want to say --

6 Q. I would like an answer.

7 THE ARBITRATOR: Answer yes or no.

8 THE WITNESS: Yes. Sorry. Yes or no?

9 THE ARBITRATOR: Yes. You did or you did not
10 ask questions.

11 THE WITNESS: Outside of a closed-session
12 conversation and a closed-session update immediately
13 following the agreement being met, I did not ask that
14 question.

15 (Simultaneous discussion; reporter
16 interruption.)

17 THE ARBITRATOR: We are getting confused.

18 MR. SIMMONS: Don't worry. Per the
19 stipulation --

20 THE WITNESS: I'm just trying to be as precise
21 as possible.

22 THE ARBITRATOR: I appreciate that. Now, let
23 me ask the question. The question is outside of closed
24 session, did you ask anyone to clarify what is meant by
25 the written words in Joint Exhibit 1, quote, Union

1 proposed structure, closed quote?

2 THE WITNESS: Okay, no.

3 THE ARBITRATOR: Okay.

4 MR. RUKEYSER: Thank you.

5 BY MR. RUKEYSER:

6 Q. Just so we're clear, when you were talking
7 about closed session, you were not referring to the
8 update that Superintendent Aguilar provided you and
9 others on Sunday, the 5th of November, correct?

10 A. That's correct.

11 Q. Thank you. Let's take a look at District
12 Exhibit T in another black binder in front of you. This
13 is a letter from Sacramento County Superintendent School
14 District, David Gordon, on December 7th to
15 Superintendent Aguilar.

16 A. This is under what tab?

17 THE ARBITRATOR: It's in a different binder.
18 That is the one that says District. I will show it to
19 you.

20 THE WITNESS: No, City, teachers and
21 associations -- here we go. Found it.

22 MR. RUKEYSER: Thank you.

23 BY MR. RUKEYSER:

24 Q. I will have some questions about P, as in Paul,
25 at the very end.

1 A. Okay.

2 Q. Board President Ryan, you were a member of the
3 board in December of 2017. This is -- prior to the 7th
4 -- prior to the 7th, you were a member -- after the 7th,
5 I understand you became President?

6 A. Yes.

7 Q. Did you see this -- on or before December 7th,
8 did you see this document, the letter that the County
9 Superintendent wrote to your Superintendent,
10 Mr. Aguilar?

11 A. It is possible that I did, but I don't have a
12 recollection.

13 Q. Fair enough. On the second page in the third
14 paragraph, Superintendent Gordon says that if the board
15 approves the proposed Collective Bargaining Agreement as
16 split to our offer, we request the District provide the
17 detailed budget reduction plan for solving the
18 \$15.6 million shortfall and ongoing structural deficit
19 by December 15, 2017. The board -- the District did not
20 provide a detailed budget reduction plan by December 15,
21 2017; is that correct?

22 A. That's correct.

23 Q. Has the District ever prepared a detailed
24 budget reduction plan for solving the shortfall and the
25 structural deficit?

1 A. We have been working on that pretty diligently
2 over the last several months.

3 Q. My question is, have you ever provided one?

4 A. To Superintendent Gordon?

5 Q. That's correct.

6 A. I would say that we are in the process of doing
7 that right now, but we have not to date.

8 Q. Thank you. And just to be clear, I apologize
9 for asking a silly question, but I want the record to be
10 clear. If you didn't prepare a detailed budget
11 reduction plan by December 15th, it goes without saying,
12 doesn't it, that the board could not approve such a plan
13 by January 15, 2018, correct?

14 A. Correct.

15 MR. RUKEYSER: I think that I'm nearly done,
16 Mr. Arbitrator, if I can take a moment?

17 THE ARBITRATOR: Off the record.

18 (Whereupon a recess was taken.)

19 MR. RUKEYSER: I'm afraid I have just a few
20 more questions.

21 THE ARBITRATOR: All right. We're back on the
22 record.

23 BY MR. RUKEYSER:

24 Q. You testified that on Sunday, November 5th,
25 after the meeting at the Mayor's house, the

1 Superintendent briefed you. Where did that briefing
2 occur?

3 A. That briefing occurred at Member Hansen's home.
4 He was then the board President.

5 Q. Who was in attendance at that meeting?

6 A. We had Darrell Woo, the Vice-President in
7 attendance at that meeting.

8 Q. And yourself?

9 A. And myself. But I actually do want to ask my
10 Counsel Sloan because we had a call-in with our other
11 board members.

12 MR. SIMMONS: I have not objected, so answer
13 Mr. Rukeyser's questions.

14 THE WITNESS: Okay. And so that was the one
15 thing I was uncertain about in terms of the Brown Act
16 violation.

17 MR. SIMMONS: You can testify to who was.

18 MR. RUKEYSER: At this point, I'm just asking
19 who was in attendance.

20 BY MR. RUKEYSER:

21 Q. Let's start with people who were physically in
22 attendance in person.

23 A. Okay.

24 Q. I understand it was Hansen, Woo?

25 THE ARBITRATOR: Woo.

1 THE WITNESS: Darrell Woo.

2 BY MR. RUKEYSER:

3 Q. And yourself. Was anyone else there in person?

4 A. Superintendent Aguilar.

5 Q. There were some other member individuals who
6 were phoning in, appearing telephonically?

7 A. Yes.

8 Q. Who was on the phone?

9 A. To receive an update it was Ellen Cochran, Mai
10 Vang and Michael Minnick.

11 Q. Was there anyone else on the phone besides
12 Ellen Cochran, Mai Vang and Michael Minnick?

13 A. I do not recall anyone else on the phone at
14 that time.

15 Q. The purpose of the meeting was for
16 Superintendent Aguilar to brief you on what happened at
17 the earlier meeting, correct?

18 A. I'm sorry, I should clarify. The call was
19 actually the board members that I stated and Mayor
20 Steinberg, as well.

21 Q. How long did the meeting last?

22 A. That I cannot recall. I think that it might
23 have been an hour long.

24 Q. What is your testimony about what
25 Superintendent Aguilar told you about the Framework

1 Agreement salary provisions?

2 A. That we had -- well, so there were a few areas
3 that were very important to the board. The board felt
4 it was very important that we give a competitive salary
5 increase. We felt --

6 Q. Let me stop you there. I apologize. All I'm
7 asking in the question is what Superintendent Aguilar
8 told you. Your counsel can provide the context if he
9 thinks it's necessary on redirect.

10 A. Okay. So what Superintendent Aguilar told us
11 and Mayor Steinberg, as well as he was on the call.

12 THE ARBITRATOR: Wait. Steinberg was talking
13 about what occurred, as well?

14 THE WITNESS: Yes.

15 THE ARBITRATOR: Is that what you're saying?

16 THE WITNESS: That's correct.

17 THE ARBITRATOR: Well, now we've introduced a
18 little bit of confusion.

19 MR. RUKEYSER: We certainly have.

20 THE ARBITRATOR: Counsel's question was what
21 Superintendent Aguilar told you. And then once you told
22 us everything that Aguilar had to say in this telephonic
23 conference call, then I'm sure counsel may follow up
24 with an additional question. All right. So let's just
25 be specific.

1 BY MR. RUKEYSER:

2 Q. What did Superintendent Aguilar tell you about
3 the Framework Agreement salary provision?

4 A. That we reached a 3.5 percent agreement for --
5 intended to address these least competitive salary
6 columns with a maximum expenditure of 3.5.

7 Q. Okay. Your recollection, as you sit here
8 today, is just that? Nothing further was said with
9 respect to the salary issue?

10 A. I mean, he did say ongoing. He did not clarify
11 any language specifically to what you had me read.

12 Q. What about the Mayor, do you recall the Mayor
13 -- I understand the Mayor spoke. Did you recall the
14 Mayor saying anything about the salary provision of this
15 Framework Agreement?

16 A. Just reiterated each of the provisions and
17 asked if we had any questions.

18 Q. Were there any questions?

19 A. I think we did have questions around the total
20 expenditure.

21 Q. Let me stop you there. When you say you think,
22 I just want to be clear. What do you mean when you say
23 you think that there were questions about expenditure?

24 A. So we did have a question around the cost.

25 Q. Okay. The cost of the contract that looks like

1 it was taking shape as a result of this meeting at the
2 Mayor's house earlier in the day?

3 A. Yes.

4 Q. Thank you. Can you turn to the last page of
5 your declaration. Paragraph 18, the first sentence, you
6 say, "I am familiar with what SCTA presently states the
7 board approved on December 7, 2017."

8 How would you characterize what SCTA, as you
9 say, presently states the board approved on December 7,
10 2017? How would you describe that?

11 A. I would describe that as a 3.5 meant to ensure
12 that our least competitive salary columns were, in fact,
13 more competitive, but at a cost out of 7.1 --
14 7.1 percent.

15 Q. What do you mean cost out at 7.1 percent?

16 A. At an expenditure of 7.1 percent.

17 Q. Okay. Meaning that your understanding of
18 SCTA's position is that what the board approved in
19 December of 2017 would cost not 3.5 percent in '18/'19,
20 but more like 7 -- more than 7 percent in '18/'19?

21 A. I want to clarify on that because the language
22 here is "presently states." My understanding the night
23 that we passed the Tentative Agreement was that they
24 were in the same frame of reference that the 3.5 maximum
25 expenditure was that. The "presently state" piece is

1 that they presently are stating that it is a 7.1 percent
2 increase versus a 3.5.

3 Q. In '18/'19?

4 A. Not in '18/'19, but it was a 7.1 ongoing.

5 Q. What do you mean by 7.10 ongoing?

6 A. We never talked about anything beyond the idea
7 of a year. It was always expected to be an ongoing
8 expense.

9 Q. When you say we never talked, who is the we
10 that you were referring to?

11 A. I mean, I guess I should clarify. I never
12 understood it to be anything other than that from their
13 perspective.

14 Q. From whose perspective?

15 A. From SCTA's perspective, when they described
16 their cost out.

17 Q. When did they describe their cost out?

18 A. They described their cost out when we had the
19 August meeting -- follow-up meeting with Mayor
20 Steinberg.

21 Q. And when did you -- forgive me. My memory may
22 be slipping. Your testimony is that SCTA is taking the
23 position that the expenditure should not be 3.5 percent,
24 but should be what amount?

25 A. So I would not want to speak to the nuances of

1 what SCTA's expectations are.

2 Q. You say that you are familiar with what SCTA
3 presently states?

4 A. Yes.

5 Q. So I'm asking you if you are testifying under
6 oath that you are familiar with SCTA's position, I am
7 asking you to explain SCTA's position?

8 A. I'll explain.

9 THE ARBITRATOR: Let me just interject because
10 he'll get confused if you start to express what you may
11 have understood because I'm not sure where you got the
12 information upon which you're basing an understanding.
13 I think it could be clear -- the record would be clear
14 if you asked questions in terms of what was expressed by
15 SCTA and allow the fact that the Arbitrator is starting
16 to get confused about what conclusions I draw from those
17 expressions because, otherwise, I don't know where she's
18 getting the information, okay?

19 MR. RUKEYSER: Understood. Thank you,
20 Mr. Arbitrator. One moment, if I may?

21 (Off-the-record discussion.)

22 THE ARBITRATOR: Back on the record.

23 MR. RUKEYSER: I have no further questions.

24 THE ARBITRATOR: Thank you very much. Further
25 direct?

1 MR. SIMMONS: Just very brief.

2 THE ARBITRATOR: Very brief.

3

4 REDIRECT EXAMINATION

5

6 BY MR. SIMMONS:

7 Q. Ms. Ryan, opposing counsel asked about the
8 update received from the Superintendent on November 5th
9 about the salary terms that were negotiated on that
10 afternoon. You talked about the salary schedule portion
11 of 3.5. Did Mr. Aguilar also give you an update as to
12 other components of salary negotiated that afternoon?

13 A. Yes, he did.

14 Q. And opposing counsel -- I seem to be unclear as
15 we talked about this negotiation of 3.5 maximum
16 expenditure. Even I was a little confused, I admit. I
17 am rookie trying to go back and clear it up. But your
18 expectation on 3.5 maximum expenditure, give me an
19 example of what you thought the 3.5 would cost the
20 District in '19/'20?

21 A. So I thought that the 3.5 we were approving was
22 an ongoing expenditure.

23 Q. At that same level?

24 A. At that same level.

25 Q. In terms of paragraph 18 of your declaration,

1 do you now -- is it your understanding that -- is it
2 your present understanding that SCTA believes that that
3 3.5 remains an ongoing level cost after '18/'19?

4 A. No. It's my present understanding that there
5 have been things introduced like delayed implementation,
6 et cetera, that question that when I've only ever seen
7 that is an ongoing expenditure.

8 MR. SIMMONS: No further questions.

9 MR. RUKEYSER: Just a couple questions.

10

11 RE-CROSS-EXAMINATION

12

13 BY MR. RUKEYSER:

14 Q. You did not engage in Collective Bargaining
15 with SCTA, correct?

16 A. No, I didn't.

17 Q. You delegated the Collective Bargaining for the
18 District to the Superintendent and his designees,
19 correct?

20 A. Correct.

21 MR. RUKEYSER: Thank you. No further
22 questions.

23 THE ARBITRATOR: That's it.

24 MR. SIMMONS: I got to go back.

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REDIRECT EXAMINATION

BY MR. SIMMONS:

Q. Delegated Collective Bargaining, but the board has ultimate authority to approve contracts, correct, Ms. Ryan?

A. That's correct.

Q. And when you're approving a CBA, do you base that decision, at least in part, on the information in the AB 1200 disclosure?

A. Yes. And in the AB 1200 disclose, we felt very confident that the language protected us, an expenditure that would exceed 3.5 for that least competitive salary column.

MR. SIMMONS: No further.

RE CROSS-EXAMINATION

BY MR. RUKEYSER:

Q. In that AB 1200, President Ryan, that was prepared. Do you know who prepared that AB 1200 disclosure?

A. I believe that was prepared by our bargaining team, Cancy McArn and Gerardo Castillo.

MR. RUKEYSER: No further questions.

1 THE ARBITRATOR: All right. We are done.

2 MR. SIMMONS: Thank you, Ms. Ryan.

3 THE ARBITRATOR: Off the record.

4 (Whereupon a recess was taken.)

5 THE ARBITRATOR: We're back on the record.

6 Would you please state your name for the record?

7 THE WITNESS: Michelle Giacomini.

8 THE ARBITRATOR: And for our court reporter,
9 would you spell your last name, please?

10 THE WITNESS: G-I-A-C-O-M-I-N-I.

11 THE ARBITRATOR: Thank you. Michelle, please
12 raise your right hand. Do you swear to tell the truth,
13 the whole truth and nothing but the truth?

14 THE WITNESS: I do.

15 THE ARBITRATOR: Thank you.

16

17 DIRECT EXAMINATION

18

19 BY MS. HAMOR:

20 Q. Good afternoon, Ms. Giacomini. How are you?

21 A. I'm good. Thank you.

22 Q. Ms. Giacomini, did you submit a declaration in
23 advance of these proceedings today?

24 A. I did.

25 Q. Do you see that declaration in front of you?

1 A. I do.

2 Q. When did you sign that declaration?

3 A. I signed it on March 6th.

4 Q. Is everything inside that declaration true and
5 correct based on your personal knowledge?

6 A. Yes, it is.

7 Q. Having submitted that declaration, just so you
8 know, you will be subject to cross-examination by SCTA
9 counsel, Mr. Rukeyser today within the scope of the
10 declaration and any questions that I might pose today,
11 as well.

12 A. Yes.

13 Q. Can you tell us what your current position is?

14 A. I am the deputy executive officer of FCMAT, the
15 Fiscal Crisis and Management Team.

16 Q. How long have you worked with FCMAT?

17 A. I have worked there 17 years.

18 Q. Just briefly, for our knowledge, what is FCMAT?

19 A. FCMAT is a statewide and independent entity
20 that works with school districts, county offices,
21 community college and charter schools throughout the
22 state of California to help with their fiscal solvency.

23 Q. In your role of FCMAT, are you familiar with
24 the term fiscal health risk analysis?

25 A. Yes.

1 Q. What does that term mean to you?

2 A. Fiscal health risk analysis is a tool that
3 we've actually developed. We updated it late this
4 summer to assess a district's risk or how close they are
5 to fiscal insolvency.

6 Q. Why would a school undergo a fiscal health risk
7 analysis?

8 A. Well, up until July 1st of this year, a
9 district would go through a fiscal health risk analysis
10 because they either asked FCMAT to come in and perform
11 one or because they went to our website and used our
12 tool. We have a tool that we developed that we provided
13 statewide. As of July 1st this year, there was a new
14 provision in the budget that FCMAT would actually engage
15 with districts if they are a disapproved budget. Three
16 qualified certifications in a row, that's for interim
17 reports. A negative certification, a lack of growing
18 concern or if a County office actually changed their
19 certification of a district. So automatic engagement is
20 a new piece that began July 1st.

21 THE ARBITRATOR: I think you meant 2018.

22 THE WITNESS: I did. 2018.

23 MS. HAMOR: Thank you for the correction.

24 THE WITNESS: Thank you.

25 BY MS. HAMOR:

1 Q. To your knowledge, has FCMAT performed one of
2 those analyses of fiscal help risk analysis for the
3 Sacramento City Unified School District?

4 A. Yes.

5 Q. Who led FCMAT's efforts with the District?

6 MR. RUKEYSER: I'm going to object on relevance
7 grounds. The declaration indicates that the declarant
8 will be talking about a report that emerged as a result
9 of an engagement that began in September of 2018, long
10 after the contract was signed.

11 THE ARBITRATOR: I understand.

12 MS. HAMOR: Understood, if I may. This is
13 relevant. And it's, in some ways, similar to the County
14 Superintendent's testimony, although certainly not
15 exact. But this underpins -- although the report may
16 have been issued in September, there is certainly a
17 lookback period. This underpins the District's thinking
18 of whether it would or would not have entered into a
19 certain type of deal or a certain type of bargain, so to
20 speak, and kind of goes to the circumstances that
21 existed at that time.

22 THE ARBITRATOR: This gets into one of those
23 hair-splitting kinds of -- here it is. When the
24 contract was being negotiated, certainly all of those
25 things that were being said, all of those thoughts that

1 people had when they were entering into those
2 negotiation are relevant. This witness is testifying to
3 a study that occurred sometime after that and I
4 recognize that the study itself is after the fact. But
5 I think the study might have encompassed some of the
6 information which might have been available to the
7 principals when they were at the bargaining table.

8 So to that extent, if that information confirms
9 or refutes anything that the parties who were at the
10 table were thinking or expressed, then it becomes
11 relevant. It's almost, you might say, an area of
12 credibility. So I want to make it clear, the contract
13 was negotiated. I assume that the parties were at the
14 bargaining table. They were negotiating. What they
15 knew at that time and understood the situation to be,
16 was certainly information that is relevant.

17 The information that was produced by virtue of
18 a study months later is, per se, not -- it's not
19 relevant to determine what the parties' intent was
20 because it was after the fact. So I'm permitting it
21 from that limit.

22 MR. RUKEYSER: Thank you, Mr. Arbitrator.

23 MS. HAMOR: Thank you.

24 BY MS. HAMOR:

25 Q. So just to re-ask my last question, who led

1 FCMAT's efforts with the District?

2 A. That would be me.

3 Q. Thank you. When did you perform that analysis?

4 A. We were physically in the District October 15th
5 through 18th, 2018.

6 Q. So when you were there in 2018, can you just
7 very briefly describe the types of documents --
8 information that you were looking at, scope of that
9 information you used to compile your report?

10 A. The types of documents that we look at, that we
11 request of the District actually are everything from
12 budget reports, Collective Bargaining Agreements, SAC
13 forms, which are official reports submitted to the state
14 of California, the Department of Ed. Budget reports
15 from the financial system. We look at bond documents.
16 There are 20 areas of the fiscal health risk analysis,
17 over 140 questions -- or documents requested for pretty
18 much each of those questions.

19 Q. What time frame, just so we understand? Is
20 this prospectively? Retroactively?

21 A. For the majority of the questions, it is the
22 past two years, the current year and the subsequent two
23 years, depending on when you're actually doing the
24 fiscal health risk analysis.

25 Q. Following your analysis, did you prepare a

1 report of your findings?

2 A. We did. We prepared a report, yes. And it's
3 dated September 12th, 2018.

4 Q. In front of you, you will see a number of
5 different binders. If you can find the binder that says
6 District Exhibit Binder, Volume 1 of 1?

7 THE ARBITRATOR: This is actually my copy. You
8 should have a copy for the witness. Do you see it
9 there? There it is.

10 THE WITNESS: Yes.

11 BY MS. HAMOR:

12 Q. So if you open that, there is some tabs. You
13 can turn to District Exhibit A, please. Does this look
14 like the report you prepared?

15 A. It does.

16 Q. So in your report, did you issue an overall
17 summary of findings regarding the District's fiscal
18 health at the time based on the prior two years and the
19 years ahead that you testified you looked at?

20 A. Yes.

21 Q. What was your overall supplementary analysis?

22 A. That the District is at a high risk of fiscal
23 insolvency. It scored a 44.8 percent on this analysis.

24 Q. So when you say 4.8 percent --

25 A. Uh-huh.

1 Q. -- is that -- would that be the District's
2 overall fiscal health risk for, is that what that is?

3 A. Yes.

4 Q. So what does that mean to the layperson? What
5 does a 4.864 mean?

6 A. So scoring on this tool is -- the numbers are
7 developed by FCMAT based on our experience. And so a
8 District that receives 40 percent or above is considered
9 at high risk of insolvency. Every question on this tool
10 is developed to assess the District's risk. And so the
11 District -- in reviewing the documents, the District
12 actually had enough "no" answers, which are bad, to
13 score the 44.8 percent.

14 Q. Indicating the high risk of fiscal insolvency?

15 A. Indicating the high risk of insolvency.

16 Q. Did the scope of your analysis also cover the
17 District's Collective Bargaining Agreements?

18 A. Collective Bargaining is --

19 Q. Collective Bargain -- I apologize. In general?

20 A. Yes, it's one of the 20 areas.

21 Q. If you can turn to page 11 of this report,
22 starting at page 11. And looking at -- toward the
23 bottom of the page?

24 A. You're going to hate me for a minute. Can I go
25 get my glasses?

1 Q. Yes, can I get them for you?

2 A. They're in my bag. I apologize. Is that okay?
3 I wasn't thinking.

4 Q. No problem. I understand.

5 A. Okay. Better. I can see better.

6 Q. So briefly, it looks like there's a specific
7 Collective Bargaining Agreement referenced at the bottom
8 of the page here?

9 A. Yes.

10 Q. It looks -- can you tell us how the report
11 characterizes particular agreements referenced at the
12 bottom of the report, which agreements this related to?

13 A. Based on this specific report --

14 Q. Uh-huh.

15 A. -- it is based on the most current agreement
16 that the District had at that time.

17 Q. Okay.

18 A. So we were referencing an agreement that was
19 from December 2017.

20 Q. If you could just read the italicized just to
21 yourself -- the italicized paragraph starting on the
22 bottom of page 11. Then move to the first sentence or
23 two of the next page.

24 A. Okay.

25 Q. Based on that agreement that you understood the

1 District and SCTA agreed to, what was FCMAT's conclusion
2 about whether this was sustainable at that time or
3 whether they -- let me rephrase the question.

4 Did FCMAT find that the increase discussed in
5 this portion of the report was affordable as agreed to?

6 A. The agreement was affordable as agreed to
7 because the District needed to make budget cuts.

8 Q. Okay.

9 A. They were hand in hand.

10 Q. And without the budget cuts, would not be
11 affordable; is that correct?

12 A. Yes.

13 Q. So moving to the second bullet point on this
14 page, this talks about has the District settled total
15 cost of the Collective Bargaining Agreement. Do you see
16 that section?

17 A. I do.

18 Q. Looking at this section, can you tell us about,
19 there's some discussion here about the terms that the
20 District versus SCTA believe they agreed to. Can you
21 tell us what the report found about that, about the
22 differing terms?

23 A. So in reviewing the negotiated agreement, part
24 of that agreement was that a 3.5 percent adjustment
25 would occur on the salary schedule effective July 1st,

1 2018. At the time of our visit, which was in October,
2 this 3.5 percent had not yet been implemented on the
3 salary schedule. It had not yet occurred, but it would
4 actually affect -- it should have affected the salary
5 schedule as of July 1st.

6 Q. And reading up three lines from the bottom of
7 that italicized paragraph, can you just -- where it
8 starts with "If the additional 3.5 is implemented," do
9 you see that? Can you just read that out loud, please?

10 A. "If the additional 3-1/2 percent is implemented
11 on the date as SCTA interprets as correct, it would
12 result in a fiscal impact in 2018 close to 7 percent for
13 salary rescheduling rather than the 3-1/2 percent the
14 District agreed to."

15 Q. And I notice that as to this question, which
16 says, "The District settled the total cost of the
17 bargaining agreement at or under COLA, there's a "no"
18 answer there that is checked on your report; is that
19 correct?

20 A. Yes.

21 Q. Why did you -- why is there a "no" in that box?

22 A. Because when you take -- because every year we
23 are allocated a COLA from the State and the total of all
24 of the different agreements ended up being more than the
25 COLA was allocated for that specific year.

1 Q. So based on your findings, you mentioned -- or
2 testified a minute ago that the District had not
3 identified the resources without budget reductions to
4 cover the cost of the Bargaining -- or the Agreement.
5 It believed it agreed to the 3.5 percent. Based on your
6 analysis, would it have been able to cover the cost of a
7 7 percent increase without budget reductions?

8 A. No.

9 MS. HAMOR: Nothing further at this time.

10 THE ARBITRATOR: Cross-exam.

11 MR. RUKEYSER: Good afternoon.

12
13 CROSS-EXAMINATION

14
15 BY MR. RUKEYSER:

16 Q. My name is Jacob Rukeyser. I'm a lawyer with
17 the California Teachers Association. I have a couple
18 questions for you on cross-examination.

19 Are you here under subpoena?

20 A. I am.

21 Q. Prior to your arrival here today, had you had
22 any conversations with District counsel regarding your
23 testimony at this hearing?

24 A. We did have a phone conversation, yes.

25 Q. When was that?

1 A. The conversation was on Wednesday.

2 Q. Okay. What was discussed in that conversation?

3 A. During the conversation, we discussed what
4 today might look like. This is my first subpoena. So
5 just to kind of give me an idea how it would flow and we
6 -- we really talked about that. I had never done this
7 before.

8 Q. Was it on that -- in that phone conversation
9 that they -- counsel discussed with you the submission
10 of a declaration?

11 A. No, I'm sorry. There was actually e-mails
12 before that with the declaration.

13 Q. Okay. And am I right in thinking you did not
14 draft the declaration yourself?

15 A. I did not draft the initial declaration, but I
16 did make edits to what was drafted.

17 Q. Do you recall what you edited?

18 A. Offhand, no. Okay, I edited things like there
19 were -- it talks about that there were 18 fiscal health
20 risk analysis areas. There are really 20. Edited some
21 areas about myself. There were words in different
22 places that I edited, but I don't know specifically.

23 Q. Fair enough. In that telephone conversation
24 that you just testified about, did counsel tell you what
25 kind of questions they would ask you?

1 A. She gave me an idea of the types that she
2 might, that I would have to describe, you know,
3 basically what I did and different things, but there
4 weren't specific questions, no. It was more about the
5 flow and that I would be cross-examined probably.

6 Q. And I'm afraid on that, that counsel was right.
7 You will be cross-examined. I will try to make this
8 painless.

9 A. Okay.

10 Q. I understand that you have held your current
11 position at FCMAT as the Deputy Executive Officer II
12 since January 2018?

13 A. Yes.

14 Q. Before that -- immediately before that, were
15 you working as the FCMAT Chief Management Analyst and
16 the fiscal investigation specialist for the Kern County
17 Superintendent of Schools?

18 A. Yes.

19 Q. So you were down in Kern County?

20 A. I'm still -- actually my official employer is
21 still Kern County. FCMAT, our administrative agent is
22 Kern County. I've never worked in Kern County.

23 Q. When you were working for the Kern County
24 Superintendent of Schools, you were not -- am I right in
25 thinking that you were not reviewing the Sacramento City

1 Unified School District's fiscal health?

2 A. I don't know that -- so I just want to explain.
3 I still work for Kern County Superintendent of Schools.
4 I've always worked for FCMAT for the 17 years. And,
5 yes, I have been in a study here before, actually. So
6 this was not my first time at Sac City.

7 Q. Apart from the review -- the examination that
8 began in September of 2018 --

9 A. Okay.

10 Q. -- when else have you looked at the Sacramento
11 City Unified School District's fiscal position?

12 A. This specific position was on this study, yes.

13 Q. Your testimony was that you had previous to
14 that, you also had some other time or times looked at
15 Sacramento City Unified School District?

16 A. Years ago I did a study here in the business
17 department. It was about eight years ago. It wasn't
18 necessary on the fiscal position. I just wanted to
19 clarify.

20 MS. HAMOR: I apologize. I am going to object
21 to this line of questioning to the extent it's outside
22 the scope of the declaration and outside the scope of my
23 direct.

24 MR. RUKEYSER: The declaration exclusively
25 talks about experience, work at FCMAT, the kind of work

1 she does. I think it is directly within scope of the
2 declaration.

3 MS. HAMOR: It does, but I would -- I argue
4 that it does not discuss prior studies.

5 THE ARBITRATOR: Goes to experience. It
6 doesn't go to the numbers.

7 MR. RUKEYSER: I am not looking for that.

8 THE ARBITRATOR: Overrule the objection.

9 MR. RUKEYSER: Thank you.

10 BY MR. RUKEYSER:

11 Q. Were you the primary individual conducting the
12 study or the review of the District's fiscal health
13 commencing in September of 2018?

14 A. I was the lead, yes.

15 Q. You were the lead. Okay. So your declaration
16 on page 2, paragraph 7, you say that FCMAT assembled a
17 study team that visited the District on October 15th
18 through 18th, 2018, to conduct interviews, collect data
19 and review documents.

20 A. Yes.

21 Q. Just so it is clear to me, did you personally
22 conduct interviews or was that something that other
23 members of your team did?

24 A. The whole team -- the majority of the team
25 conducted interviews. I was one of them, yes.

1 Q. Who did you interview?

2 A. We interviewed for three-and-a-half days a lot
3 of people.

4 Q. Are you talking about District administrators?

5 A. And staff, not only administrative. We also
6 interviewed people from school sites, a lot of people.
7 We'd have to produce the list. It's a long time ago.
8 Not all administrators, no.

9 Q. Did you interview the Sacramento City Teachers
10 Association?

11 A. Yes.

12 Q. Do you remember who from the SCTA you
13 interviewed?

14 A. No.

15 Q. Fair enough. And you're certain you
16 interviewed people from the --

17 A. Now I'm doubting myself. I thought we did. It
18 was in September, yes. I thought we did. We'd have to
19 get the list.

20 Q. As you sit here today, you're not certain?

21 A. I was until I was just questioned. So, no.

22 Q. Sometimes it works that way.

23 A. No. I'll say, no.

24 Q. Let's see, in paragraph 13 --

25 A. Uh-huh.

1 Q. -- of your declaration, you stated, starting at
2 line 22, that the District and the SCTA disagree on the
3 implementation date of additional 3.5 percent. The
4 matter is being pursued in Superior court. You go on to
5 say if the additional 2.5 percent is implemented on the
6 date that SCTA interprets as correct, it would have the
7 following fiscal impact.

8 What is your understanding of the date that you
9 believe SCTA believes 3.5 percent should be implemented?

10 A. Our understanding, based on multiple interviews
11 of what we were told, was that the SCTA wanted a later
12 implementation date, approximately the first of the
13 year, approximately January, but I don't have an exact
14 date to tell you, but not July 1st, 2018, so later in
15 the year. Because July 1st, 2018 had already passed, so
16 it would be implemented later.

17 Q. The District believed it should be implemented
18 later?

19 MS. HAMOR: Objection; asked to testify as to
20 the District's belief.

21 THE ARBITRATOR: You conducted the interview.
22 Did you get information from the District that thought
23 it should be implemented earlier, correct?

24 BY MR. RUKEYSER:

25 Q. You testified in your declaration that the

1 District and SCTA disagree about the implementation
2 date. I believe you just testified that it is your
3 understanding that SCTA believes the implementation date
4 is around the first of the year.

5 My question for you is what is your
6 understanding of what the District believes that the
7 implementation date is?

8 A. July 1st, 2018, the date of the agreement.

9 Q. If the -- perhaps I'm missing something here.

10 A. Uh-huh.

11 Q. But if the 3.5 percent was implemented later
12 rather than earlier --

13 A. Uh-huh.

14 Q. -- would that result in a greater fiscal impact
15 or a lesser fiscal impact?

16 A. It would depend on the percent that was
17 implemented.

18 Q. Does that mean that your understanding is that
19 there's also a disagreement about the percent that would
20 be implemented?

21 A. Yes.

22 Q. Not just the date?

23 A. Yes, because it hadn't started July 1st, 2018.
24 So our understanding is that the Association -- again,
25 our understanding is that the Association wanted a

1 higher percent. Seven percent as I have in the report,
2 it would be closer to 7 percent.

3 Q. Perhaps then -- maybe I am missing something
4 here. Let's look at the last sentence of paragraph 13.

5 A. Uh-huh.

6 Q. Starting at line 23, if the additional
7 3.5 percent is limited on the date SCTA interprets it,"
8 correct?

9 A. Uh-huh.

10 Q. "It would result in a fiscal impact in 2018/'19
11 of close to 7 percent for salary rescheduling rather
12 than 3.5 percent the District agreed to."

13 A. Uh-huh.

14 Q. How does the implementation date, in your view,
15 result in a fiscal impact that is greater -- the
16 3.5 percent is going to be implemented no matter what,
17 right? Is it just a disagreement about the date of
18 implementation?

19 A. No, on the percent. If you notice, I have
20 3-1/2 percent and 7 percent. So because it wasn't
21 implemented July 1st, our understanding is that SCTA
22 wanted a higher percent on the salary schedule because
23 it didn't start on July 1st. So later in the year, not
24 3-1/2 percent, higher.

25 Q. I see. My apologies for --

1 A. That's okay.

2 Q. -- for missing this.

3 So it's your understanding based on your
4 interviews with District personnel, that SCTA believes
5 that there is a later implementation date with a higher
6 percentage?

7 A. Yes.

8 MS. HAMOR: Asked and answered.

9 THE ARBITRATOR: It's getting confusing. But
10 apparently you interviewed a lot of people at the
11 District, you indicated. And based upon those
12 interviews of some people, you gather that SCTA wished
13 this salary restructuring to occur on July 1st of 2018,
14 correct?

15 THE WITNESS: The agreement said it would start
16 on July 1st, 2018.

17 THE ARBITRATOR: You gathered the information?

18 THE WITNESS: That's from the agreement.
19 That's not from interviews. That's actually from the
20 agreement.

21 THE ADMINISTRATOR: Okay. So you took that
22 from the agreements?

23 THE WITNESS: Yes.

24 THE ARBITRATOR: So July 1, 2018. And so you
25 believed, based upon that information, that if that

1 restructuring was implemented on the date per the
2 agreement that you gathered --

3 THE WITNESS: Yes.

4 THE ARBITRATOR: -- that the actual cost would
5 be 7 percent? That's what you're reflecting in your
6 report?

7 THE WITNESS: No, that the cost of it had been
8 implemented on July 1st, 2018, it would have been 3-1/2
9 percent. The Association -- it did not start on
10 July 1st, 2018. We were in the District after that.
11 Our understanding is that the Association wanted a later
12 implementation, which it already was later and that it
13 wouldn't be at 3-1/2 percent when it started in 2018.
14 It would be a higher amount, around 7 percent.

15 THE ARBITRATOR: Okay.

16 BY MR. RUKEYSER:

17 Q. Would it surprise you if I told you that SCTA
18 does not believe that the additional District's
19 expenditure in the '18/'19 year occasioned by a revised
20 salary schedule, should exceed an additional
21 3.5 percent?

22 A. Would it surprise me?

23 Q. Would it surprise you if I were to tell you
24 that?

25 MS. HAMOR: Objection.

1 THE WITNESS: Sorry, I really don't understand
2 would it surprise me. Sorry, I'm not understanding.

3 BY MR. RUKEYSER:

4 Q. You were led to believe by the District that
5 the Union was asking for a revised salary schedule that
6 would cost something close to 7 percent in the '18/'19
7 year, correct?

8 A. Based on the implementation date, yes.

9 Q. My question for you is would it surprise you if
10 I told you that SCTA does not -- is not asking for
11 anything more than additional 3.5 percent on expenditure
12 based on a revised salary schedule in this current
13 '18/'19 year?

14 MS. HAMOR: My objection stands as
15 Ms. Giacomini's surprise is irrelevant.

16 THE ARBITRATOR: I think the surprise element
17 is not pertinent. If SCTA is asking for a different
18 implementation date than what you believed from the
19 information you gather --

20 THE WITNESS: Uh-huh.

21 THE ARBITRATOR: -- it was, would that affect
22 the total cost? So the 7 percent would not be a smaller
23 percent based on a later implementation?

24 THE WITNESS: If it were 3-1/2 percent, then I
25 would feel comfortable because that is the ongoing cost

1 of 3-1/2 percent.

2 BY MR. RUKEYSER:

3 Q. The fiscal health risk analysis report that
4 your office prepared, you found there had been little or
5 no budget in fiscal training for site and department
6 administrators in the District who are responsible for
7 budget management; didn't you?

8 A. Yes.

9 Q. And that the training in the District for
10 budget and fiscal issues is lacking, correct?

11 A. Yes.

12 Q. Training is done informally and as needed or
13 requested, rather than on a regular schedule?

14 A. Yes.

15 Q. And you found that when the District brings
16 policies to the board for revision or adoption, it has
17 no process for communicating the information to staff or
18 implementing the policies in detail, correct?

19 A. Yes.

20 Q. You also specifically found that after board
21 meetings, communications explaining what was decided at
22 the board meetings were haphazard, correct?

23 A. I don't believe I said haphazard.

24 Q. Sorry. Not that you used that word. I will
25 read this in.

1 MS. HAMOR: If I could object and ask that if
2 we are referring to certain portions of the report, that
3 we can be directed to the same as Ms. Giacomini, as
4 well, so she can accurately testify?

5 MR. RUKEYSER: Sure.

6 BY MR. RUKEYSER:

7 Q. Let's turn to page 20 of the report.

8 A. Thanks. I knew you were reading. I could hear
9 -- those were my words, but until then, you got me.

10 Q. Let's look at the second bullet point, second
11 sentence.

12 A. Uh-huh.

13 Q. You write, "Communication sent to staff after
14 each board meeting that summarizes the meeting. But for
15 staff to fully understand changes in board policies and
16 administrative relations, further detailed instructions
17 are needed."

18 That was your finding among others?

19 A. About board policies and administrative
20 regulations, yes.

21 Q. You also found that FCMAT was not able to
22 obtain evidence that the Superintendent Jorge Aguilar
23 has received any evaluations since he was hired?

24 A. At that specific time, absolutely, yes, all of
25 this is. Yes, that's true.

1 Q. I'm not asking about anything that happened
2 after this report. As of the date of the report, you
3 were not able to find any evidence that Superintendent
4 Aguilar had been evaluated?

5 A. Correct.

6 Q. And you also note in this report that
7 Superintendent Aguilar's contract states the board can
8 evaluate the Superintendent in each year of the
9 agreement?

10 A. Yes.

11 Q. And this is -- because I am not familiar with
12 your field of expertise, what is position control
13 referring to. What did that phrase mean?

14 A. Position control is a system that helps ensure
15 that the cost of salary and benefits are not only
16 correct in our budget, but that people are not hired or
17 put into positions before they're authorized.

18 Q. Okay.

19 A. So check and balance on salaries and people in
20 our District.

21 Q. Am I right in thinking that position control
22 among other things, ensure that payroll can be
23 accurately calculated?

24 A. Did you say the word ensure? It doesn't
25 ensure, it helps.

1 Q. Thank you. Yes, that's an important
2 clarification.

3 A. Yes.

4 Q. And adequate position control also facilitates
5 the creation of another accurate budget, correct?

6 A. Yes.

7 Q. And it also ensures that once the budget is
8 created, the entity can comply with the budget and not
9 exceed the budget?

10 MS. HAMOR: I am going to object, if I may, to
11 this continuing line of testimony. It really goes
12 outside the scope of the declaration, outside the scope
13 of direct. And I would note that the report speaks for
14 itself.

15 MR. RUKEYSER: The witness was examined at
16 length about this report. And I'm trying to probe other
17 aspects of the report.

18 THE ARBITRATOR: I am afraid we have to allow
19 the questions to continue, but we should probably speed
20 it up a bit.

21 MS. HAMOR: Thank you.

22 BY MR. RUKEYSER:

23 Q. You found in this study that the District's
24 current practice -- I am looking at page 21, the first
25 bullet point on the position control. In that first

1 paragraph, the District's current practice leads to the
2 lack of clarity about which position is being filled,
3 about the site to which each belongs. That was one of
4 your findings about poor position control within the
5 District, correct?

6 A. Yes.

7 Q. You also recommended that staff responsible for
8 human resources, payroll and budget meet more regularly,
9 correct?

10 A. Yes.

11 Q. They were not meeting as frequently as you
12 would recommend?

13 A. Yes.

14 Q. And that lack of regular meetings by human
15 resources, payroll and budget staff -- I guess the
16 question is why did you recommend they meet more
17 regularly?

18 A. Because we believe that the position control --
19 there's a better chance of communication and ensuring
20 that position control is kept up to date and accurate.

21 Q. One more question about the report. Pages 24
22 to 25, you list a number of significant risk factors.
23 The District significant factors includes and then there
24 follows a list.

25 The last of those significant risk factors as

1 you identified was leadership issues. What did you mean
2 by the phrase leadership issues that you identify as a
3 significant risk factor?

4 A. Leadership is one of the 20 risk factor areas,
5 so that is what we were referring to. If you go back to
6 the leadership area, you'll see they received a number
7 of nos in the section.

8 Q. I'm sorry, where?

9 A. So go to page 19.

10 Q. Thank you.

11 A. So that's what we're referring to. So you'll
12 there's over 140 questions on this. There's a number of
13 questions in the area and that's what we were referring
14 to.

15 Q. And it's true, isn't it, that FCMAT is -- has
16 frustrations with Sacramento City Unified School
17 District at this point right now?

18 MS. HAMOR: Objection.

19 MR. RUKEYSER: Is there a reason?

20 MS. HAMOR: I think that first of all, it's
21 irrelevant as to FCMAT's frustrations and outside the
22 scope.

23 THE ARBITRATOR: I think we are getting pretty
24 far in these areas.

25 MR. RUKEYSER: Okay, if I may, Mr. Arbitrator,

1 take three minutes.

2 THE ARBITRATOR: We're off the record.

3 (Whereupon a recess was taken.)

4 THE ARBITRATOR: Back on the record. Continue
5 cross.

6 MR. RUKEYSER: I have no further questions.
7 Thank you very much.

8 THE ARBITRATOR: Redirect?

9 MS. HAMOR: We have nothing further.

10 THE ARBITRATOR: That's it. Thank you,
11 Michelle, we appreciate it. We're off the record.

12 (Whereupon a recess was taken.)

13 THE ARBITRATOR: Back on the record. I had
14 some documents, they were the Messenger documents. Do
15 you want to mark those? Do you remember those?

16 MS. HAMOR: Yes, the ones we --

17 MR. SIMMONS: Sure. You remember those.

18 MR. RUKEYSER: I remember those.

19 MR. SIMMONS: Yeah, do you have copies with
20 you? I'm familiar with the order that they were
21 introduced.

22 THE ADMINISTRATOR: I just want to get this
23 done. Let's do this. We're at District S. All right.
24 So we have a Messenger.

25 MR. SIMMONS: That's the one without the

1 photos.

2 THE ARBITRATOR: This one doesn't have photos.
3 It was Bates stamped SCTA 00103100112. Call this next
4 in order. We are up to S or S, T. Then we have another
5 one. This is SCTA 001 -- maybe it's the same one.
6 Yeah, that's a duplicate. Then we've got the one with
7 the pictures, exhibit with pictures. This is -- I
8 forget my alphabet -- U.

9 THE ARBITRATOR: So that's U and we have an
10 e-mail exchange. This is the one that's SSDE 742. All
11 right? So I'm doing this as next V.

12 MR. SIMMONS: Right.

13 THE ARBITRATOR: And that's it.

14 MR. SIMMONS: And the declaration of
15 Ms. Giacomini we just did.

16 THE ARBITRATOR: Yep, we still have that. I
17 should have -- what was the other one, the declarations
18 of the board member. I will mark it X, Exhibit X. So
19 I'm receiving T, U, V and X into the record.

20 MR. SIMMONS: We put in President Ryan's
21 declaration.

22 THE ADMINISTRATOR: That's R.

23 MR. SIMMONS: Got it.

24 THE ADMINISTRATOR: All right. All right,
25 ladies and gentlemen, this is a wrap. We'll be back

1 here at 9:00 a.m. at the District, 9 o'clock on
2 Wednesday.

3 MR. SIMMONS: Thank you sir.

4 MR. RUKEYSER: Thank you.

5 (Concluded at 3:56 p.m.)

6
7 (Whereupon District's Exhibit Nos.

8 A, H, P, Q1-Q5, R, S and W were received.)

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1 REPORTER'S CERTIFICATE

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I, WENDY HARRITY, CSR NO. 11494, Certified
Shorthand Reporter, certify:

That the foregoing proceedings were taken before
me at the time and place therein set forth;

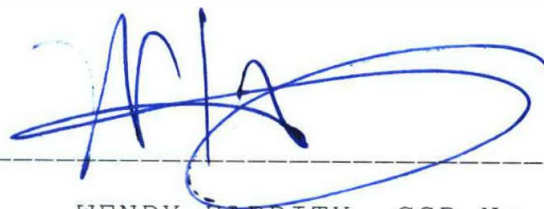
That the proceedings were recorded
stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct
transcript of my shorthand notes so taken.

I further certify that I am not a relative or
employee of any attorney of the parties, nor financially
interested in the action.

I declare under penalty of perjury under the laws
of California that the foregoing is true and correct.

Dated this 11th day of March, 2019.



WENDY HARRITY, CSR No. 11494

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