

CITY COUNCIL INFLUENCE ON DEPARTMENT HEAD HIRING

As discussed elsewhere, the role of the city council is to act as a board of directors, to provide policy direction, and let the city manager run the city.¹

In the public sector when city managers and department heads/directors are hired, the Human Resource Director is expected to manage the recruitment process. A government executive search firm is typically hired to oversee the search process. Councilmembers then interview and select from a list of qualified applicants.

This table gives three examples of the impact on city operations when city councilmembers personally get involved department head hiring and firing. Extracts from sworn court testimony are provided as Exhibits 1, 2, and 3.

Compiled by Jerri Potras, January 2024

TASK	COUNCIL INVOLVEMENT
<p>CITY MANAGER APPOINTMENT POWERS</p>	<p>Prior to the adoption of Ordinance 2454, West Covina’s City Manager hired “department heads without prior approval or vetting of potential candidates by the City Council” following the process used in most cities.</p> <p>On March 19, 2019, the City Council majority passed Ordinance 2454 stating “the city manager shall not appoint or promote a person to serve as director of a department, unless a majority of the city council first voted in favor of the city manager’s proposed appointment or promotion” on permanent department head assignments.^{2, 3}</p> <p>In passing this ordinance, the council majority argued the change would “increase transparency”. The councilmember opposing the change argued the council was getting into operational areas the council should not get into. ⁴</p> <p>With the passage of this ordinance, city councilmembers have personally gotten involved in hiring and firing of employees, the City Manager’s job. Special interest influence (union and resident) on department hiring increased. City liability grew.</p> <p><i>See Exhibit 1</i></p>
<p>CITY MANAGER RECRUITMENT 2019</p>	<p>In sworn court testimony, Tony Wu acknowledged he personally interviewed and encouraged former City Manager David Carmany to apply for the job.</p> <p><i>See Exhibit 2</i></p>
<p>CITY MANAGER RECRUITMENT 2024</p>	<p>Former City Manager David Carmany resigned May 18, 2023. No announcement of a search firm hired to handle the process was made.</p> <p>In August and December 2023 a Public Records Request (PRR) was submitted asking:</p> <ol style="list-style-type: none"> 1. How many applicants applied for the position of City Manager? 2. How many applicants did not meet the entrance qualifications? 3. How many applicants has the city council interviewed to date? <p>The response to the PRR was 60 and 74 applicants, respectively. No response was received on the number of applicants failing to meet entrance qualifications or having been interviewed.⁵</p>
<p>DEPARTMENT HEAD HIRING</p>	<p>After the former fire chief was terminated, an interim fire chief was hired. The interim fire chief did not meet the position’s degree requirements.</p> <p><i>See Exhibit 3</i></p>

Notes

- 1 West Covina Neighbors. City Council Compensation: Are councilmembers volunteers or employees? www.WestCovinaNeighbors.org.
- 2 City of West Covina. (March 19, 2019) City Council Meeting. Staff Report. Agenda Item 9. Appointment Powers of the City Manager.
- 3 City of West Covina. (March 19, 2019) City Council Meeting. Meeting Minutes. Agenda Item 9. Appointment Powers of the City Manager. Vote: Yes: Dario Castellanos, Letty Lopez-Viado, Jessica C. Shewmaker, Mayor Pro Tem Tony Wu. No: Mayor Lloyd Johnson)
- 4 City of West Covina. (March 19, 2019) City Council Meeting. [Video]. YouTube. https://youtu.be/fc2XHGAH9Ww?si=_nGHLEVPHakj7oVU&t=7393 (Approximate Timestamp: 2:03:13).
- 5 For comparison: When former City Manager Chris Freeland was hired, the San Gabriel Valley Tribune reported the 2015 City Council hired Roberts Consulting Group to oversee the search process. About 30 people applied for the job. Eight were interviewed by the council. Chris Freeland was selected from the eight final candidates. (September 16, 2015).

Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS

CASE: LARRY WHITHORN VS. CITY OF WEST COVINA, ET AL.

In April 2023, the above referenced wrongful termination case was heard in L.A. Superior Court. (The plaintiff prevailed and was awarded \$4.1 million dollars.) This extract from sworn trial testimony discusses the appointment power of the city manager by former City Manager Chris Freeland and Councilmember Tony Wu. Testimony not applicable to the city manager appointment power is redacted.

	Court Testimony: Chris Freeland Former City Manager April 26, 2023	62
1	[REDACTED]	
2	● [REDACTED]	
3	● [REDACTED]	
4	● [REDACTED]	
5	● [REDACTED]	
6	● [REDACTED]	
7	● [REDACTED]	
8	[REDACTED]	
9	● [REDACTED]	
10	Q So Wu gets a majority. Is that via the	
11	election of two council members?	
12	A It is.	
13	Q And from your understanding was the majority	
14	that Tony Wu received in terms of the campaign, were	
15	they supported by the WCF, the firefighters union?	
16	A I believe they both were.	
17	Q And then after this was there -- do you recall	
18	a time period where one of those majority members -- I	
19	think it's Dario Castellanos. So he's the city council	
20	member?	
21	A He was at the time.	
22	Q Did he approach you about changing something	
23	with the municipal code?	
24	A He did.	
25	Q What did he ask you to change?	
26	A One of his priorities that he wanted to do was	
27	change the way the department heads are hired by the	
28	city. Under the -- when I was city manager there, I	

Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS

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1 had all rights to hire and fire any department heads.
2 And Council Member Castellanos wanted to change the
3 municipal code to let the city council have a say with
4 who the gets hired and fired as any department head
5 position.

6 Q Do you recall generally what time that was
7 when Council Member Castellanos approached you about
8 doing that?

9 A That was probably early 2019 before I left.
10 January, February maybe, 2019.

11 Q Okay. So on that issue -- so who worked with
12 you to look into the issue regarding changing the
13 municipal code?

14 A It would have been probably the assistant city
15 manager Nikole Bresciani as well as HR director Edwin
16 Macias.

17 Q What did you do in terms of looking to this
18 request by Dario Castellanos?

19 A Part of the staff report -- and a staff report
20 is a report we bring to city council for their
21 discussion and action. Prior to doing the staff
22 report, we did research by looking at there's a
23 professional association that all city managers -- I
24 shouldn't say all. But the majority of city managers
25 are a part of. It's the International City and County
26 Managers Association, or ICMA.

27 So we look to them for what are some of the
28 best practices as well as some of my other colleagues

Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS

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1 and peers who are city managers in other cities.

2 Q And what were your findings generally
3 speaking?

4 A Couple of things. Most cities stay away from
5 having the city council involved in any selection of
6 any city staff other than the city manager.

7 Q Why is that?

8 A Typically you don't want to involve council
9 that would bring politics or personal beliefs on what
10 should be a department head and leave it to the
11 professionals who are hired to do so which is the city
12 managers.

13 Q Did you report that to the city council?

14 A We did.

15 Q And then what was the response by anyone in
16 the city council to your report?

17 A So Council Member Castellanos, he was the one
18 who actually requested the item. He was very unhappy
19 that we provided a professional recommendation contrary
20 to what he wanted. He wanted the ability to say the
21 staff supports him on making this change. And we
22 shared with him that this is our professional
23 recommendation and doesn't make sense to do that. And
24 so he was very angry with us. He told us to change the
25 report. And we said no, we will not do so.

26 Q If I can mark for identification Exhibit 238.
27 If I can ask you, Mr. Freeland, to take a look at that.

28 A 238?

**Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS**

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1 Q 238, yes, sir.

2 A I have it.

3 Q Do you recognize this document?

4 A I do.

5 Q What is this document?

6 A It's an email to him as well as copying of the
7 city attorney regarding the staff report for the
8 March 5th meeting regarding this issue.

9 MR. NGUYEN: Plaintiff will move into evidence
10 Exhibit 238, Your Honor.

11 MR. O'CONNELL: Your Honor, we object.
12 Attorney-client privilege.

13 THE COURT: I'm not going to admit it during
14 this time pending further argument. Let's move on.

15 BY MR. NGUYEN:

16 Q You mentioned Mr. Castellanos was upset about
17 your finding and recommendation; correct?

18 A That's correct.

19 Q What did he want you to do exactly in terms of
20 your recommendation?

21 A He directed staff, which included myself and
22 again either HR director and city manager, to change
23 the report to do exactly what he asked us to do which
24 was to make it where the department heads can be
25 selected by the city council. I shouldn't say
26 selected. You be a party to making the decision who
27 the department heads are.

28 Q And do you know if eventually that request to

**Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS**

1 change the code was passed?

2 A I believe that was after I left.

3 Q So in other words, after you left now the city
4 council would have the ability to have a say in who is
5 hired as a department head?

6 A That is correct.

7 Q Whereas they did not have that ability before
8 Tony Wu's majority?

9 A Correct.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

**Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS**

Court Testimony: Tony Wu
City Councilmember
April 28, 2023

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[REDACTED]

Q. ORDINANCE 2454, IF YOU RECALL, WAS THE ORDINANCE THAT WOULD GIVE THE CITY COUNCIL THE POWER OVER BEING ABLE TO INFLUENCE HIRING OF DEPARTMENT HEADS.

DO YOU REMEMBER THAT?

A. I REMEMBER THAT, BUT THAT WOULD BE, I THINK, EARLIER DURING THE CHRIS FREELAND TIME. AND WE PASSED THAT. AND CONCURRENT TO CITY MANAGER HIRED THE DIRECTOR HEAD, WE NEED TO SEE THE RESUME AND APPROVE -- AT LEAST, WE HAVE A CHANCE TO SEE WHO HE HIRED AS A DIRECTOR HEAD.

AND THE REASON IS PREVIOUSLY, WE HAVE NO IDEA WHO HE HIRED. AND WE HAVE A LOT OF VALUE, OKAY, ON THE MANAGEMENT TEAM, AND COME AND GO. AND THAT IS THE REASON WE REQUEST JUST CONCUR, JUST SEE THE RESUME AND MAKE SURE IT'S NOT HIS FRIEND OR THE PERSON IS QUALIFIED.

Q. NOW, JUST SO WE CAN BREAK THIS DOWN A LITTLE BIT, THE ORDINANCE WASN'T PASSED UNTIL AFTER MR. FREELAND HAD LEFT THE CITY; CORRECT?

A. I DON'T REMEMBER. I THINK IT WAS DURING HIS TIME. MY RECOLLECTION IS THAT IS -- HE'S DOING AS CITY MANAGER.

Q. MR. FREELAND LEFT IN MARCH OF 2019; CORRECT?

A. YES. I THINK SO.

Q. OKAY.

A. WE TERMINATE HIM.

**Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS**

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1 Q. AND BEFORE HE LEFT, WHAT HAPPENED IMMEDIATELY
2 BEFORE HE LEFT, WAS HE WAS ASKED TO PROVIDE RESEARCH INTO
3 THE CITY COUNCIL'S REQUEST TO CHANGE THE MUNICIPAL CODE
4 SO THAT IT CAN HAVE A SAY IN THE HIRING OF DEPARTMENT
5 HEADS.

6 DO YOU RECALL THAT?

7 A. WE -- OKAY. THE ORDINANCE, WHAT WE REQUEST IS
8 TO CONCUR; OKAY? MEANING, THE CITY MANAGER WANT TO HIRE
9 A PERSON, AND THEN WE HAVE THE CHANCE TO MEET THE PERSON,
10 TO BE INTRODUCED TO US, AND THEN WE CONCUR THE CITY
11 MANAGER. IT'S NOT TRY TO REJECT HIS HIRING, BUT LET'S
12 SEE WHO HE HIRED.

13 Q. COUNCIL MEMBER WU, MY QUESTION WAS A LITTLE
14 DIFFERENT. WHAT I WAS JUST ASKING WAS THAT HE WAS ASKED
15 BY THE CITY COUNCIL TO PROVIDE RESEARCH INTO THE
16 POTENTIAL CHANGE OF THIS MUNICIPAL CODE; CORRECT?

17 A. WE REQUEST --

18 Q. IS THAT A YES?

19 THE COURT: I'M SORRY. YOU CANNOT TALK OVER
20 EACH OTHER. ONCE YOU ASK HIM A QUESTION, YOU HAVE TO LET
21 HIM ANSWER.

22 MR. NGUYEN: YES, YOUR HONOR.

23 THE COURT: GO AHEAD.

24 THE WITNESS: THE PROCEDURE IS YOU NEED TO HAVE
25 THE MOTHER MAY I. WE CANNOT JUST REQUEST. SO MOTHER MAY
26 I, WAS CITY MANAGER OR CITY MANAGEMENT TEAM OR CITY
27 ATTORNEY TO LOOK INTO THE ORDINANCE FOR THE CITY COUNCIL
28 TO CONCUR THE HIRING OF A DEPARTMENT HEAD, AND THAT IS

**Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 1 CITY MANAGER APPOINTMENT POWERS**

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1 "MOTHER, MAY I?"

2 "MOTHER, MAY I?" MEANING BEFORE WE DO ANYTHING,
3 WE CANNOT JUST REQUEST THE CITY MANAGER. WE NEED HAVE TO
4 HAVE "MOTHER, MAY I?" APPROVED BY FIVE CITY COUNCIL, AND
5 THEN THE CITY WOULD SPEND TIME TO REVIEW THAT ORDINANCE
6 AND BRING BACK TO CITY COUNCIL TO VOTE ON IT. SO YOU
7 NEED TWO PROCEDURES. IT CANNOT BE RIGHT AWAY.

8 BY MR. NGUYEN:

9 Q. AND MR. FREELAND RECOMMENDED AGAINST CHANGING
10 THE CODE; CORRECT?

11 A. THIS IS "MOTHER, MAY I?" BY MAJORITY CITY
12 COUNCIL 5-0 OR 4-1 TO REQUEST THE CITY, BUT I DON'T
13 REMEMBER IF HE REJECT. HE CANNOT REJECT ANYTHING. HE
14 WORKS FOR THE CITY COUNCIL FOR THE -- FOR THE COUNCIL
15 DECISION.

16 FOR EXAMPLE, WE DECIDE IT'S APPROVED, AND CITY
17 MANAGER HAD TO LOOK INTO OR CITY ATTORNEY HAD TO LOOK
18 INTO THE PROCEDURE TO MAKE SURE THIS IS ALL COMPLIED BY
19 MUNICIPAL CODE.

20 Q. WELL, AFTER HE PROVIDED HIS INPUT ABOUT THE
21 ISSUE, THAT WAS WHEN HE WAS SEPARATED FROM THE CITY
22 BEFORE THE ORDINANCE WAS EVER PASSED?

23 A. I DON'T REMEMBER.

24 MR. NGUYEN: PLAINTIFF WILL MARK FOR
25 IDENTIFICATION EXHIBIT 18.

26 (WHEREUPON EXHIBIT 18 WAS MARKED FOR
27 IDENTIFICATION.)

28 

**Attachment to Table: City Council Influence on Department Head Hiring
EXHIBIT 2 CITY MANAGER RECRUITMENT 2019**

CASE: LARRY WHITHORN VS. CITY OF WEST COVINA, ET AL.

In April 2023, the above referenced wrongful termination case was heard in L.A. Superior Court. (The plaintiff prevailed and was awarded \$4.1 million dollars.) This extract from sworn trial testimony discusses Councilmember Tony Wu's involvement in the 2019 City Manager recruitment process. Testimony not applicable to department head hiring is redacted.

**Court Testimony: Tony Wu
City Councilmember
April 28, 2023**

32

1 Q. AND THEY 3-2 VOTE IN TERMS OF THE 3 THAT MADE UP
2 THAT VOTE WAS YOURSELF, MR. CASTELLANOS, AND MS. LOPEZ?

3 A. CORRECT.

4 Q. AND, IN FACT, BEFORE MR. CARMANY WAS HIRED AS
5 CITY MANAGER, YOU SPOKE WITH HIM BEFORE HE APPLIED?

6 A. YES.

7 Q. AND YOU ACTUALLY ENCOURAGED HIM TO APPLY?

8 A. I INTERVIEWED HIM, AND THEN I CHECK HIS RESUME,
9 BUT, YES, I ENCOURAGED HIM TO APPLY.

10 Q. AND YOU SPOKE WITH HIM ABOUT THE PROBLEMS OR
11 ISSUES AT THE CITY THAT YOU WANTED HIM TO FIX; CORRECT?

12 A. CORRECT.

13 Q. AND WERE YOU AWARE THAT YOU WERE THE ONLY
14 COUNCIL MEMBER TO SPEAK WITH MR. CARMANY BEFORE HE EVER
15 APPLIED?

16 A. I DISAGREE. I THINK I PROVIDE THE CONTACT
17 INFORMATION FOR ALL OTHER CITY COUNCIL. HAVE THEY TALKED
18 TO HIM OR NOT, I DON'T KNOW, BUT I DID SPOKE TO HIM ONE
19 TIME.

20 Q. OKAY. AND HE WAS HIRED IN APRIL OF 2019; IS
21 THAT RIGHT?

22 A. APRIL 2019, CORRECT. I THINK SO.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

**Attachment to Table: City Council Department Head Hiring
EXHIBIT 3 DEPARTMENT HEAD HIRING**

CASE: LARRY WHITHORN VS. CITY OF WEST COVINA, ET AL.

In April 2023, the above referenced wrongful termination case was heard in L.A. Superior Court. (The plaintiff prevailed and was awarded \$4.1 million dollars.) This extract from sworn trial testimony discusses the appointment power of the city manager by Councilmember Tony Wu. Discussion not applicable to department head hiring is redacted.

**Court Testimony: Tony Wu
City Councilmember
April 28, 2023**

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See Exhibit 1

1 ORDINANCE WAS PASSED; CORRECT?
2 A. YES.
3 Q. AND DOES THIS REFRESH YOUR RECOLLECTION THAT THE
4 ORDINANCE WAS PASSED ON APRIL 2, 2019?
5 A. YES.
6 Q. OKAY. AND THAT WOULD BE AFTER MR. FREELAND HAD
7 LEFT THE CITY; CORRECT?
8 A. WHEN HE TERMINATE?
9 Q. IN MARCH OF 2019.
10 A. THEN, YES.
11 Q. AND THIS WAS ALSO THE SAME DAY THAT MR. CARMANY
12 WAS APPOINTED THE INTERIM CITY MANAGER; CORRECT?
13 A. I DON'T REMEMBER THE DATE.
14 Q. OKAY. AND THEN SHORTLY AFTER THIS, THERE WAS A
15 HIRING OF THE INTERIM FIRE CHIEF AFTER MISTER --
16 ACTUALLY, LET ME REPHRASE IT.
17 AFTER THE PASSING OF THIS ORDINANCE, MISTER --
18 OR CHIEF WHITHORN WAS FIRED ON APRIL 22, 2019.
19 DOES THAT SOUND ABOUT RIGHT?
20 A. I DON'T KNOW THE TIME.
21 Q. OKAY. AND THEN AFTER THAT, AN INTERIM FIRE
22 CHIEF WAS PUT INTO HIS PLACE; CORRECT?
23 A. CORRECT.
24 Q. ALL RIGHT. AND THAT WAS MIKE HAMBEL; CORRECT?
25 A. THAT IS THE CHOICE OF THE INTERIM CITY MANAGER;
26 CORRECT.
27 Q. ON OR ABOUT MAY 2, 2019; SOUND ABOUT RIGHT?
28 A. I'M NOT SURE.

**Attachment to Table: City Council Department Head Hiring
EXHIBIT 3 DEPARTMENT HEAD HIRING**

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1 Q. OKAY. NOW, CHIEF WHITHORN, TO YOUR KNOWLEDGE,
2 WAS NOT A MEMBER OF THE WORK -- THE WEST COVINA
3 FIREFIGHTERS ASSOCIATION; CORRECT?

4 A. I THINK ALL THE CHIEF DOES NOT BELONG TO THE
5 UNION.

6 Q. OKAY. BUT MIKE HAMBEL WAS A MEMBER OF THE
7 FIREFIGHTERS ASSOCIATION; CORRECT?

8 MR. O'CONNELL: OBJECTION. CALLS FOR
9 SPECULATION. LACKS FOUNDATION.

10 THE COURT: IF YOU KNOW.

11 THE WITNESS: I REALLY -- I REALLY DON'T KNOW.
12 BY MR. NGUYEN:

13 Q. OKAY. AND DO YOU RECALL THAT HE WAS ACTUALLY ON
14 THE EXECUTIVE BOARD OF THE UNION?

15 MR. O'CONNELL: OBJECTION. SAME OBJECTION.

16 THE COURT: IF YOU KNOW.

17 THE WITNESS: I REALLY DON'T KNOW.

18 BY MR. NGUYEN:

19 Q. AND DID YOU KNOW THAT HE WAS ONE OF THE
20 FIREFIGHTERS WHO HAD VOTED AGAINST CHIEF WHITHORN IN THAT
21 NO CONFIDENCE VOTE?

22 A. I HAVE NO IDEA.

23 Q. OKAY. AND YOU ARE AWARE THAT ULTIMATELY INTERIM
24 FIRE CHIEF HAMBEL WAS NOT EVEN QUALIFIED FOR THE FIRE
25 CHIEF POSITION?

26 A. I DON'T KNOW.

27 Q. OKAY. WELL, YOU WERE INFORMED THAT HE DID NOT
28 HAVE A COLLEGE DEGREE; CORRECT?

**Attachment to Table: City Council Department Head Hiring
EXHIBIT 3 DEPARTMENT HEAD HIRING**

1 A. BY OUR ASSISTANT CITY MANAGER AT THE TIME.

2 Q. NIKOLE BRESCIANI?

3 A. CORRECT.

4 Q. OKAY. AND SHE INFORMED YOU THAT BY THERE BEING
5 A REQUIREMENT FOR A COLLEGE DEGREE, MR. HAMBEL WAS STILL,
6 NONETHELESS, APPOINTED AS INTERIM FIRE CHIEF; CORRECT?

7 A. THAT WAS THE DECISION OF THE CITY MANAGER AT THE
8 TIME.

9 Q. OKAY. AND DID SHE ALSO INFORM YOU AS INTERIM
10 FIRE CHIEF, MR. HAMBEL WAS LOOKING INTO INVESTIGATION
11 FILES ASSOCIATED WITH THEN CHIEF WHITHORN?

12 MR. O'CONNELL: OBJECTION. HEARSAY.

13 THE COURT: SUSTAINED.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]