

In the Matter Of:
AUDIO STATEMENTS

C20-34-09

BRETT SCHEIDER

October 21, 2020



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TRANSCRIPT OF BRETT SCHNEIDER

IN RE: CASE No. : C20-34-09

DATE RECORDED: 10/21/2020

Job No. : J6232625

1 R E C O R D I N G

2 MS. NESMITH: All right. We are now recording. Would
3 you say your name for the record?

4 MR. SCHNEIDER: Sure. Brett, B-R-E-T-T, J middle
5 initial, Schneider, S-C-H-N-E-I-D-E-R.

6 MS. NESMITH: Okay, great. Now, Brett, I'm going to
7 swear you in. Raise your right hand.

8 Do you swear or affirm that the testimony you are about
9 to give is the truth and nothing but the truth?

10 MR. SCHNEIDER: I do.

11 MS. NESMITH: Very good. All right. Let's go back to
12 June of last year, I believe it was.

13 MR. SCHNEIDER: Okay.

14 MS. NESMITH: Can you tell me about the meetings you
15 had with Michael Joseph (ph) ahead of the July 16th meeting of
16 the North Miami Beach Commission?

17 MR. SCHNEIDER: Okay. So, I'm fuzzy on dates and
18 times, so -- but my recollection is the following. We had -- I
19 had a meeting with Michael Joseph. I don't know the exact date.
20 It was like at or around the lunch hour. We met at -- I forget
21 the name of the place -- an Italian restaurant on Federal -- on
22 Biscayne. There was like nobody there. It was -- I remember it
23 clearly because it was like a -- it was like today. It was a
24 fricking monsoon that day. And I remember because I live up on
25 Boca and I was meeting Michael Joseph and Dan Espino, and I was

1 driving from here and I was really late.

2 So like I was maybe 20, 30 minutes late to the
3 meeting. We were meeting -- you know, at the time we knew there
4 was -- you know, Sarah Johnston was the city attorney. We knew
5 Sarah wasn't -- she didn't really want to be there long-haul.
6 We knew that she had some dissenters on the commission. We were
7 sort of talking to commissioners about whether there was any
8 interest in potentially going outside and potentially going to
9 West Jordan (ph).

10 And I had done work for North Miami Beach in the past,
11 so I had some relationships there. And also, interestingly
12 enough, I had had a case against Michael Joseph. He's a lawyer
13 and he had sued the City of North Miami, and I represent North
14 Miami, so I didn't know him well but I had a case against him.

15 So I get to the meeting. Again, like 20, 30 minutes
16 late. Dan Espino and Michael are already speaking. We -- I
17 don't -- you know, my recollection -- I've talked to Dan about
18 this. I think he has a far better specific recollection than I
19 do. You know, we talked about a variety of different things,
20 but I think what you guys are interested in is at some point he
21 said -- you know, Michael said something like, "You know, I
22 would be willing to consider, you know, going outside and hiring
23 a firm and, you know, going with Wycerota if you guys were to
24 reconsider a legal opinion that you firm had given about the
25 current mayor's eligibility to run again."

1 And I kind of like, was like, did I really just hear
2 that, what I think I heard? You know, I was almost like taken
3 aback, but like I didn't -- you know, and I don't know. He's
4 kind of a -- Michael's sort of an interesting guy, and I wasn't
5 sure if that -- he was -- like if that was a serious comment, or
6 if it was a joke, but I'm like, huh. But I'm a very, like,
7 direct straight shooter, so -- and I was aware of the issue
8 because I had a good relationship with Sarah Johnston.

9 You know, she had used Robert Meyers in our office,
10 who you guys know, to give the opinion. And while it's not my
11 area of expertise, you know, after it was given I kind of looked
12 at Robert's work and was like this is really kind of a simple
13 issue. It's not complicated. I mean, it's not like -- you
14 know, it's not like a gray area issue. It's a pretty straight
15 forward issue. It's pretty clear the mayor has the ability to
16 run again.

17 So, when Michael said it, I recall saying something
18 like, "Mike -- " You know, like I kind of responded directly to
19 the issue. I was like, "I got to tell you, Michael, it's not
20 really -- this is like -- the issue is what it is." And, quite
21 frankly, not to be sort of self-serving, but, you know, I pride
22 myself and I think Wycerota, we pride ourselves, like we give --
23 I've been in a situation, this situation, many times. Where,
24 like, you know, we get -- there's like opinion shopping, or
25 council members in different factions want -- and I always say,

1 like, look.

2 I don't care if you're the mayor and you have a strong
3 majority or you're the one dissenter, you're going to get the
4 same answer. We're not -- I'm not jeopardizing my -- you know,
5 my reputation to give some political answer that that's
6 expedient at the time. So I said, you know, something like -- I
7 recall saying something like, "Yeah, I mean, it's a pretty
8 clear-cut issue, Michael. The mayor has the ability to run
9 again." And that was kind of it. Like I was never -- you know.
10 But, I just -- the whole meeting was sort of bizarre.

11 Michael's sort of a weird guy. Like he doesn't say
12 much. He's -- a lot of the meeting he's -- you know, he's kind
13 of sitting back. Like, arms folded. You know? I think he met
14 with us as a courtesy. I don't think he was like -- I don't
15 think he likes -- frankly, likes Wycerota. I don't -- I mean, I
16 just -- my personal feeling, I don't think he was all that
17 excited about us. I think he met with us as a courtesy.

18 And we had a lunch and it was okay, and, you know, and
19 that was it. But that was -- it was like the one thing I was
20 just like -- you know, afterward I remember talking to Dan and
21 saying like, "That -- that really happened?" Like that was just
22 -- "Did he really ask that, and is that serious?" But I mean --
23 but it was like -- it wasn't even like -- like I said, it was
24 like such an obvious -- the legal issue was so, in my view, such
25 a straight-forward obvious issue. There was -- it was like not

1 even anything to really respond to or react to.

2 MS. NESMITH: Okay.

3 MR. SCHNEIDER: And, again, I've talked to Dan about
4 this. Like, you know, Dan -- and Dan's a buddy of mine. I
5 mean, Dan has, I think, a much more clear-cut recollection of
6 more specifics of details that I do, and -- and maybe it's also
7 because, like I said, I got there late. I was kind of harried.
8 Like, I was like -- you know, it was pouring, I'm -- like -- I'm
9 like kind of all over the place, and I -- you know, they had
10 already been sitting, so I think Dan was kind of more like in
11 the moment than I was, but like -- yeah.

12 That definitely happened. That conversation. After I
13 got there, I do recall that part. And that was really the gist.
14 I mean, I never really heard anything more about it directly. I
15 mean, I think I had heard after that meeting, like indirectly,
16 maybe through Sarah or others, that Michael was continuing to
17 question the issue and continuing to try to exert pressure. But
18 not on -- not on me. I never talked to him again about it. I
19 never heard anything more about it.

20 MS. NESMITH: Okay. And after that meeting y'all had
21 the meeting that -- well, I won't say the meeting, but you went
22 -- you attended a meeting at North Miami Beach where they
23 considered the issue of bringing you on as an interim while they
24 were putting out the RFP? I think that -- the first one went up
25 until after midnight?

1 MR. SCHNEIDER: I went to -- I was at more North Miami
2 Beach Council meetings than I would like to remember. I mean,
3 there -- and there were several, and they were all extremely
4 long. I mean, they were like, you know -- again, I live in
5 Boca. I remember like being there until like 12:00, 12:30,
6 1:00, 1:30 in the morning. But, yeah.

7 There was -- again, I don't remember the date. There
8 was a meeting where there was going to be discussion about
9 appointing us as the interim. And it almost didn't even happen
10 at all, because it got too late and some of the council members
11 had enough, and then there was some discussion, and ultimately
12 they decided to, I think, you know, before they do anything go
13 through like a full process. Which is ultimately what happened.

14 MS. NESMITH: Okay. So you were never appointed as
15 the interim? You just went through the RFP process?

16 MR. SCHNEIDER: Correct.

17 MS. NESMITH: Okay. And I can ask Sarah this as well,
18 but she was supposed to leave October 1st, but she didn't. She
19 stayed a little while longer. Do you know how that happened?

20 MR. SCHNEIDER: I don't -- when you say she was
21 supposed to leave October 1st, I don't know that -- I mean --

22 MR. MURAWSKI: I think he contract was up.

23 BY MS. NESMITH:

24 MS. NESMITH: Yeah. In that first meeting, when the
25 discussion of the interim, what they said was her contract was

1 up.

2 MR. SCHNEIDER: Right. Well, so -- and it's
3 interesting that you bring that up, because I had this exact
4 issue also. I mean, there's -- I've issued a memo on this in
5 another city. There is -- when cities have charter provisions
6 that basically say a city attorney or city manager can only be
7 removed by -- and I don't remember what North Miami Beach's
8 says, but I think it's something like this.

9 You know, you need a majority vote of the city
10 commission to remove. The fact that you have an employment
11 agreement that expires on a certain date, in and of itself that
12 does not -- you know, if the employment agreement expires, the
13 city attorney -- unless and until they are removed -- is still
14 the city attorney. I mean, you can have -- there's no legal
15 requirement that a city attorney or city manager has to have an
16 employment contract. I mean, it could be an at-will
17 arrangement. It could be terminable at will.

18 So, I think I actually commented on that with her
19 also. So I think there may have been this misconception that
20 like, "Well, her contract expired so she's supposed to leave."
21 But, you know, I knew -- listen, I knew -- Sarah's a friend. I
22 like Sarah very much. We've known each other for years. I --
23 you know, I knew for some time she didn't really -- I don't
24 think she enjoyed the political aspects of that job.

25 I think she's a really good lawyer, and she's smart,

1 and she -- you know? But I don't think she liked -- you know,
2 like, and I -- I don't know how much of the background you know.
3 I mean, they made a -- there was an attempt to fire her at the
4 very first meeting after the -- what was it? The 2018 election.
5 And I -- that's actually when I first started doing work for
6 them. I got brought in to handle like procedural legal
7 questions about the process, you know?

8 And ultimately that didn't go anywhere, but I think
9 that left a really bad taste in her mouth and I don't think -- I
10 think she just didn't want to be in a position where, you know,
11 her paycheck was -- you know, could -- you know, at any point in
12 time she could get fired without any notice, and I don't think
13 she liked that position.

14 So I don't think she -- she didn't really want to be
15 there. I think she was -- it was an opportunity; she learned a
16 lot. But I think she was looking for an exit strategy for a
17 long time. So, in terms of when you say -- when you're
18 questioning about October, you know, I don't know. Other than
19 the contract expiring, I don't -- I'm not aware of there being
20 any specific plan as to when she was going to go. I think she
21 was weighing options and determining what she wanted to do.

22 MS. NESMITH: Okay. That helps me, actually, figure
23 that out.

24 MR. SCHNEIDER: Yeah.

25 MS. NESMITH: Because she just -- I'm looking at the

1 agendas after October and she's still there, and she's still
2 there, and she's still there.

3 MR. SCHNEIDER: Right.

4 MS. NESMITH: And then you guys are there.

5 MR. SCHNEIDER: Right.

6 MS. NESMITH: Okay. Did you have any subsequent
7 meetings with Michael Joseph before the RFP?

8 MR. SCHNEIDER: Oh, that. I had one Facetime. I may
9 have spoken to him on a -- I may have talked to him on a phone
10 call once or twice afterward, briefly. I know -- well, I recall
11 specifically having a phone conversation with him at some point
12 afterward. Because I -- and I wish I could remember. I
13 remember because I was actually in -- I was having coffee
14 somewhere in North Miami or North Miami Beach, and there was a
15 meeting that night and he called me.

16 And I really can't for the life of me remember what he
17 was calling about. There may have -- look, there were a lot of
18 issues going on, and I was doing -- in addition to the whole
19 political stuff I was doing labor and employment work for the
20 city at the time, and there were issues relating to -- I don't -
21 - you know, there has just been a lot of turnover there.

22 So like I can't remember specifically what he called
23 about. Whatever it was, it didn't really like -- I don't really
24 recall there being anything that really is memorable about the
25 call. But I do remember speaking to him one additional time at

1 some point prior to a meeting, but I don't remember what the
2 issue was.

3 MS. NESMITH: Okay. So you -- he has not come to you
4 again with this? Or did not come to you again with this?

5 MR. SCHNEIDER: No. Uh-uh. Not to me directly, no.

6 MS. NESMITH: Okay. The issue's kind of moot now,
7 because the mayor ran and he was elected.

8 MR. SCHNEIDER: As far as I know.

9 MS. NESMITH: Okay.

10 MR. SCHNEIDER: Yeah. As far as I know. Yeah.

11 MS. NESMITH: Oh, okay.

12 MR. SCHNEIDER: Well, I'm not sure. It said the mayor
13 -- I think the mayor is -- I think the election is on Super
14 Tuesday. I mean, I think it's coming up, but he's on the
15 ballot. So. But I don't think the election's taken place yet.

16 MS. NESMITH: Well, I didn't realize -- I thought he
17 would have been elected in August. But, okay.

18 MR. SCHNEIDER: I don't -- again, maybe I'm not -- I'm
19 somewhat removed, so I maybe -- I -- but -- the only reason I
20 even said it is I think I saw -- you know, I'm on Facebook and I
21 think I saw something on Facebook who was in --

22 MS. NESMITH: Signs? Yeah.

23 MR. SCHNEIDER: Campaign signs. (Inaudible).

24 MS. NESMITH: Oh, okay. All-righty. Is there
25 anything else about this that I'm not asking you that I ought

1 to? Anything else we need to know?

2 MR. SCHNEIDER: When you say about this, I mean, about
3 specifically Michael Joseph asking like for an opinion that
4 would, like, make the mayor not be able to run again?

5 MS. NESMITH: Yes, about that.

6 MR. SCHNEIDER: I mean, other than what I told you,
7 no. Anything else -- I mean, I've heard other things but it's
8 all been like third, fourth, fifth hand. I mean, so -- but I
9 think Dan, Sarah, you know, they might have more information.
10 Otherwise, I mean, it's just one of those things, you know how
11 like there's just, you know, chatter.

12 MS. NESMITH: Uh-huh.

13 MR. SCHNEIDER: So, but not -- nothing more than what
14 I've heard specifically about it.

15 MS. NESMITH: Okay. Has he asked you for any other
16 things that sounded kind of quid pro quo like?

17 MR. SCHNEIDER: Uh-uh.

18 MS. NESMITH: Okay.

19 MS. NESMITH: Mike, you got anything?

20 MR. MURAWSKI: Well, yeah. I mean, I don't have a
21 specific question, but I have met Mr. Joseph a couple of times.
22 And I agree with you, he does have like an unusual demeanor
23 sometimes when he sits down to talk to you.

24 MR. MURAWSKI: When he said this stuff about, "Well,
25 you know, if you guys gave me a better opinion about that," I

1 mean, did it seem to you at all like he was maybe just kind of
2 not 100 percent serious? Or was -- did it sound like a real --
3 you know, you do this for me, I'll do this for you.

4 MR. SCHNEIDER: You know, for the reasons that you
5 just said it's hard for me to -- I don't know him well, on a
6 personal level. So like I don't know -- and he's a little bit -
7 - you know. If you've talked to him, if you've observed him at
8 a commission meeting, I mean, he's just a little bit different,
9 or odd. So it's -- I -- you know, I certainly didn't perceive
10 it as a joke, but, you know -- and, again, I mean, I -- the
11 other part of me also feels like he's not -- I mean, he's a
12 lawyer.

13 He's not -- you know, he's not an idiot. I mean, he's
14 -- you know, he's educated in that -- again, I don't -- it's --
15 election law is not my area of expertise, but I remember what --
16 you know, when I first became aware of the issue, and I was just
17 curious if there was even any ambiguity, and I took a quick look
18 at this and it just seemed like -- based on the way the -- I
19 guess the -- I forget it was in a code or charter. But where it
20 was written it seemed like such an obvious thing.

21 So, like, it was just -- I was just like sort of
22 struck by, like, he knows the answer to this question. Like, I
23 mean, he really things that somebody's going to opine that he
24 has the -- that the mayor can't run again? I mean, it seemed
25 like such an obvious thing. So. And like I said before, I

1 mean, you know, the way I practice and the way that most of the
2 people that I work with here practice, it's like we -- you know,
3 I'm not -- we're going to play it straight.

4 I mean, we're going to play it straight on every
5 issue, and I -- you know, if I lose a client because they don't
6 like a legal opinion, so be it. You know? My reputation, my
7 credibility is way more important. So like I didn't even --
8 it's like I didn't even like -- it was like funny, because I
9 said, my only response was just to respond to it head-on to --
10 like, to say, "Oh, Michael, it's a really straight-forward like
11 issue." You know?

12 I didn't even really like respond to the -- you know,
13 to the underlying quid pro quos. It's like, you know, that --
14 you should take a look at it. It's like -- you know, like I'm
15 not even -- it's not even my area. I looked at it. It's --
16 there's not even really any gray area here. So.

17 MR. MURAWSKI: Okay.

18 MS. NESMITH: Okay. I think that's all we have.

19 MR. SCHNEIDER: Okay.

20 MS. NESMITH: You good, Mike?

21 MR. MURAWSKI: Yeah.

22 MS. NESMITH: Okay.

23 MR. MURAWSKI: (Inaudible). What time do you have to
24 pick them up today?

25 MR. SCHNEIDER: Oh, they're back at my ex-wife's, so I

1 don't have any pickup obligation today. I get Monday's and
2 Tuesdays. I -- oh, I had to bring them this morning at 6:15.
3 Which was -- it's -- you know, I don't mind being up early, but,
4 you know, trying to herd cats out of my house at that time is
5 not fun, but --

6 MS. NESMITH: Yeah. Especially -- I mean, it's dark
7 at that hour, right?

8 MR. SCHNEIDER: Dark and it's -- like I don't -- you
9 know, I assume it's like this where you guys are. I mean,
10 literally it was a fricking monsoon. It's funny, my actual --
11 I'm in the office today and we had like water like seeping into
12 the windows. I mean, I guess --

13 MS. NESMITH: Wow.

14 MR. SCHNEIDER: -- (inaudible) out, so. Yeah.

15 MS. NESMITH: Yeah. No, it's bad down here in Miami,
16 too, and --

17 MR. SCHNEIDER: (Overlapping conversation) I mean,
18 it's been a crazy -- I mean, it's -- I don't even keep track
19 anymore. It seems like there's another tropical system every
20 three days, and it seems like every day is a -- every other day
21 is a monsoon, so.

22 MS. NESMITH: Well, I don't know how the king tides
23 are up there, but it's pretty bad down here.

24 MR. SCHNEIDER: Not as -- you guys have it way worse
25 where you are.

1 MS. NESMITH: It's a mess. It's a mess. But.

2 MR. SCHNEIDER: Yeah. Well, good luck.

3 MS. NESMITH: All-righty. Listen, thank you very much
4 for doing this.

5 MR. SCHNEIDER: Absolutely.

6 MS. NESMITH: We really appreciate it.

7 MR. SCHNEIDER: No problem, take care. Bye.

8 MS. NESMITH: All right. Bye-bye.

9 (Recording ends.)

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C E R T I F I C A T I O N

Esquire Deposition Solutions, does hereby certify that through an independent contractor we have transcribed the audio, and that the foregoing is a true and complete transcription of the audio transcribed.

Inaudible or indiscernible passages of sound are denoted.

IN WITNESS WHEREOF, I do hereunto set my hand on this 1st day of December, 2020.



Esquire Depositions Solutions

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