

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JEFFREY KURTZMAN,)
)
 Plaintiff,)
)
 vs.) No. 4:96CV01089DJS
)
 WASHINGTON UNIVERSITY,)
)
 Defendant.)

Deposition of Witness
EDWARD MACIAS, Ph.D.
on Behalf of the Plaintiff

December 7th, 1996

Direct Examination by Mr. Bond.....Page 10
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Reported by:
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that perhaps the committee had them, but I can't answer that at this time.

Q. You don't know? And once again, what could you refer to that would refresh your memory, if anything?

MR. GIANOULAKIS: Well, I'm going to object to anything relating to certain materials that went to the Schaal committee that were generated by council, including any -- anything generated by outside council, Bryan, Cave.

We don't -- I'm going to instruct you not to discuss anything of that sort that may have gone to the committee, but with regard to the faculty council, you can indicate what you know went to the committee.

Subject to that, Terry, go ahead.

Q. All right. All right. The outside council, that was Holly Atwood, Phillip Green, is that who we're referring to, Dr. Macias?

A. Yes.

Q. Okay. And they were only involved with respect to what was submitted to the ad hoc committee, is that correct?

A. I think I've just been advised not to discuss their involvement.

now, John, is what of the documents -- which of the documents that I do have were submitted. I think you probably furnished me everything.

MR. GIANOULAKIS: Yeah.

MR. BOND: But, you know, which of those documents ultimately ended up in the hands of these respective committees?

MR. GIANOULAKIS: And just to shorten things, I'm not aware, nor is Lori Fox, of any list that exists of what was submitted to the committee, either one.

THE WITNESS: I haven't seen it. In fact, I'd be surprised if --

Q. Dr. Macias, are you the one that ultimately decides whether or not -- I'm going to use the term "guilty or not guilty," because that's a term we use in the law, but that Dr. Kurtzman is, let's say, guilty of the charges?

A. I think I am charged with, as provost and chief academic officer, I'm charged with --

MR. GIANOULAKIS: Just a minute. Can you repeat that question?

MR. BOND: Sure. Would you read that back, Julie.

(The following question read back by

written at sort of third person, so it's a little hard to say. All three names are mentioned.

Q. This one statement that says "He pointed out" -- I think the "he" refers to you, but you have to read this in the context of this paragraph.

A. Yes.

Q. "He pointed out that he offered to move Kurtzman's office out of the department of music."

A. Yes.

Q. Do you recall making that offer?

A. Yes.

Q. And this is on February 6 of '95?

A. Right.

Q. Has there been any type of complaint at this time against Dr. Kurtzman?

A. Well, you see, I talk to a lot of faculty. Sometimes they make complaints about the heating and the maintenance, and we call those sort of complaining, informal complaining.

Q. Right.

A. Other times we have formal complaints. What are you talking about?

Q. Well, I don't think we would be here

1 -- if you have this type of procedure that's
2 referred to where they -- this says "They were
3 reluctant to file formal charges with the FAAAC,"
4 citing a variety of reasons?

5 A. Yes. What is the question?

6 Q. Well, what would have happened if
7 that, you know, if that -- if they had filed
8 formal charges? What do the three As stand for?
9 Faculty Advisory or what?

10 A. No, I believe it's FAC- -- huh?

11 MR. GIANOULAKIS: Go ahead.

12 A. Faculty Administrative Affirmative
13 Action Committee.

14 Q. And what would have happened if they
15 would have filed formal charges?

16 A. Actually, I believe it's
17 administrative -- it's Affirmative Action
18 Committee, comma, Faculty Administration, but you
19 know, like in -- you go to a committee in France
20 and all the letters are turned around a little.
21 We do that in this country.

22 Q. All right. But what would have been
23 the procedure if they would have proceeded with
24 formal charges with the FAAAC committee?

25 A. What would have been the procedure?

Is that what you asked me?

Q. Right.

A. That the F- --

MR. GIANOULAKIS: I'll object to the form of the question. There are written procedures which we've turned over to you, and they're the best evidence of -- they're the best evidence and they speak for themselves.

But subject to that, you can answer.

A. Well, what I was going to say is if the case had been -- if whatever you said -- say it again so I say it right. You asked me --

Q. Right. If the women had proceeded forward with the filing of formal charges with the FAAAC --

A. Yes.

Q. -- what would the procedure have been?

A. Well, they would have followed a set of procedures that are well written out, and I'm not a member of that committee, but I would have informed myself of exactly how they operate.

Q. You don't know what the procedures are as you're sitting here?

A. No. It's just that I haven't, in my experience, dealt with that.

advice.

But at the other meetings with the Schaal committee, either Miss Fox or Miss Fox and Mr. Cannon, general counsel, were present and they were giving legal advice to Dr. Macias and the committee regarding the procedures to be followed by the committee, and we don't feel that there's any way he can discuss what happened at those committee meetings without getting into attorney-client privilege issues.

So go ahead, Terry, if you want to make a record.

MR. BOND: Yeah, maybe I can just make a record with respect to the ad hoc committee. That's the one that investigated the sexual harassment.

THE WITNESS: The Schaal.

MR. BOND: Robert Schaal, sexual harassment, and discrimination.

And it's my understanding, John, based upon what you just said, that you're not going to have Dr. Macias answer any questions concerning what he may have stated to the Robert Schaal committee, is that correct?

MR. GIANOULAKIS: And what he heard at