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1. Overview

1. Jakobek moved a motion at the July 20, 1999 P&F meeting that was relied on by MFP, Liczyk, and others who testified at the Inquiry to justify the switch from 3 to 5 year lease terms (the “Jakobek Amendment”). The evidence given concerning the intent of the Jakobek Amendment was contradictory:

- a. Jakobek stated that he did not intend for all computer equipment to be put on a 5 year lease with MFP or even that the decision be made up front;
- b. Liczyk and Brittain understood that the Jakobek Amendment was an extraordinary delegation of power to the CFO to put some portion of the equipment on lease for 5 years right from the start.

2. Liczyk described a conversation with Jakobek following the meeting to clarify Jakobek’s intent in bringing the motion. Liczyk claimed that Jakobek made it clear to her that he wanted the decision as to what equipment to lease for longer than 3 years to be made up front, not at the end of 3 years. Jakobek claimed he was never that precise.

3. If Jakobek had intended to ensure only that the City consider extending the use of the assets beyond 3 years at some future date, this was already contemplated in the P&F Report. Rabadi’s analysis included a comparison of the cost of leasing the equipment for 3 years only with the cost of leasing for 3 years and then either buying the computers from MFP at that time, or extending the leases for an additional 2 years. The results of this analysis led him to conclude that such a decision should be made at the end of the 3 years, when usage patterns and other useful information would be known.¹ The P&F Report thus specifically contemplated the very future analysis Jakobek claimed was the

¹ COT003924 at COT03927, 46:1:3.

purpose of his motion. This significantly undermines Jakobek's evidence, and supports the conclusion that Jakobek fully intended to open the door to City staff to extend the lease terms with MFP beyond the 3 year term which formed the basis of the RFQ, MFP's response to the RFQ, and the P&F Report.

4. Liczyk relied on the Jakobek Amendment not only to justify extending the lease terms to 5 years but also to try to shift any blame for the decision to lease the technology for 5 years from herself to Brittain. Liczyk claimed to have clearly delegated to Brittain the task of determining the applicability of the motion in July 1999, as well as the task of conducting a financial analysis to assess a proposal made by MFP to the City on September 21, 1999 involving 5 year lease terms. She insisted that it was Brittain who recommended and thus effectively decided that equipment should be put on lease with MFP for a 5 year term.

5. Liczyk's attempt to shift blame to Brittain for the change in lease term from 3 to 5 years was completely self-serving and should be rejected for the following reasons:

- a. Brittain denied that Liczyk requested him to "carry the ball" on implementing the Jakobek Amendment;
- b. in order to do anything meaningful, Brittain would have needed to obtain detailed information from both I&T and MFP;
- c. Brittain took no steps to do any follow-up with I&T or MFP to obtain any such information, which was completely inconsistent with his customary diligence;
- d. Liczyk was more directly involved in the 3 to 5 decision than she would have needed to be if she had delegated the responsibility to Brittain in the manner she described. Her continued involvement stands in marked contrast to her lack of involvement

in the fleet leasing project, which was a Finance sponsored project, not an I&T sponsored project.

- e. the proposal MFP presented on September 21, 1999, was nothing more than a high-level concept, part of an interactive presentation, which contained none of the detailed information that was necessary to conduct any meaningful analysis;
- f. to the extent Brittain did even a cursory analysis of the MFP proposal, his conclusion was that the concept did not make sense for the City, leading him to abandon any further consideration of it;
- g. it is inconceivable that Brittain would have recommended a move from 3 to 5 year leases after rejecting MFP's proposal and without having conducted a thorough analysis based on detailed information about expected asset life, MFP's 5 year lease rates, and competitive market information;
- h. Liczyk conceded that she would not have expected Brittain to put a substantial amount of equipment on a 5 year lease, given his usual diligence in following approved City procurement policies; and
- i. it is also inconceivable that Liczyk would accept such a 'recommendation' from Brittain without knowing or asking for any details or supporting analysis.

2. The Jakobek Amendment led staff to change the terms of the deal upon which MFP had based its bid

6. The P&F Report was considered by P&F at an *in camera* session at its meeting of July 20, 1999. After asking staff questions about the life of the assets to be put on lease, Jakobek moved to adopt the P&F Report, with one amendment:

[T]hat the Chief Financial Officer and Treasurer be requested to ensure that the terms and conditions of the lease be flexible enough to ensure that the life span of the computer equipment is extended beyond three years.²

7. Jakobek testified that what 'caught his eye' in reviewing the P&F Report was the reference to the 3 year lease term. His concern was to avoid having staff come back in 3 years asking for another \$43 million. He claimed that what he intended with his motion was to give staff "the flexibility to ensure that they did whatever they thought was the best decision financially that we didn't hand the stuff back after three (3) years".³

8. Jakobek told the Inquiry that there were a number of ways in which this objective could be achieved. One option was to extend the term of the lease from 3 to 5 years. Another option was to either purchase the equipment at the end of the 3 year lease, or renew the leases for a further term. Jakobek testified that he did not specifically intend to extend the lease term from 3 to 5 years.⁴

9. Whether or not Jakobek specifically intended to extend the term of all of the leases from 3 to 5 years, the effect of the Jakobek Amendment was to open the door to change the deal with MFP from the terms which formed the basis of MFP's response to the RFQ. By purportedly authorizing a change in lease term

² COT006001 at COT006001, 48:1:25.

³ Jakobek 05/14/2003 at 164.

⁴ Jakobek 05/14/2003 at 163.

as one of the possible options to achieve the 'flexibility' Jakobek was looking for, the Jakobek Amendment led City staff to accept lease terms of longer than 3 years from MFP.

10. In any event, Jakobek's insistence that the change from 3 to 5 years was only one of a number of options is not credible. The other options he identified, either purchasing or re-leasing the equipment at the end of the 3 years, were already contemplated in the P&F Report, and needed no amendment to implement. The only option which required an amendment was the change in lease term from 3 to 5 years. The Commissioner should find that Jakobek read the P&F Report. He would not have moved an amendment without having done so. Having read the report, he would have known that it provided a mechanism to ensure the equipment was not necessarily given back at the end of the 3 year lease term recommended by staff.

11. Liczyk attended the July 20, 1999 P&F meeting. She attended a briefing with Jakobek prior to the meeting, and he did not raise any concerns about the P&F Report at that time. She was therefore surprised when Jakobek held the P&F Report, and moved his motion.⁵

12. Liczyk's description of the meeting conflicts with Jakobek's in a number of respects. She did, however, form the impression from the meeting that Jakobek did not like the notion of leasing for only 3 years where the useful life of the equipment would outlast the lease, and that he did not seem to believe that computer assets should be replaced every 3 years. This evidence is consistent with Jakobek's description of his concern that 3 years was too short a time after which to replace computer equipment. Liczyk also testified that Jakobek expressed concern about the budget impact of a 3 year lease term, as the

⁵ Liczyk 11/05/2003 at 129, 135-136.

shorter the term the higher the annual lease costs (although the overall cost of financing would increase with the lease term).⁶

13. After the meeting, Liczyk spoke with Jakobek to clarify his intent in moving the Jakobek Amendment. She understood from this discussion that staff were empowered to increase the term of the lease to match the useful life of the equipment.⁷ Jakobek did not remember this conversation.⁸ Although Liczyk testified that Brittain was part of this conversation with Jakobek, Brittain had no recollection of such a conversation. He admitted it was possible, but recalled only a brief discussion with Liczyk concerning the vagueness of the motion.⁹

14. Liczyk insisted that Jakobek never said that he envisioned staff exercising discretion to choose from a number of options to achieve his objective of extending the City's use of the equipment. If he had done so, she would have pointed out that the P&F Report already provided a mechanism to do just that, without the need for a change in the lease term.¹⁰ Liczyk's clear understanding following the P&F meeting was that staff was empowered to change the length of the lease terms.¹¹ She understood that Jakobek had moved up the timing of staff's review and decision about extending the leases from the end of the 3 year term contemplated in the P&F Report to the present – he wanted the decision made at the commencement of the leases with MFP.¹²

15. Liczyk testified that it was unusual for Council to give staff “delegated responsibility ... [T]hey didn't like to say, go away and do this. Go do it, but come back and report back on what you did”. She therefore checked with him after the motion had been passed by the P&F Committee to make sure she understood

⁶ Liczyk Affidavit, para. 170, 11/03/2003 at 67-68.

⁷ Liczyk Affidavit, para. 172, 11/03/2003 at 68-69; Liczyk 11/17/2003 at 169-171.

⁸ Jakobek 05/21/2003 at 176.

⁹ Brittain 07/31/2003 at 90; Brittain Affidavit, para. 41, 07/09/2003 at 155.

¹⁰ Liczyk 11/05/2003 at 165-166.

¹¹ Liczyk 11/05/2003 at 168-169, 175.

¹² Liczyk 11/05/2003 at 154-155, 159.

his intent to authorize an extension of the lease term at her discretion without the need for further approval. She found his motion surprising and unusual.¹³

16. Brittain also believed that Liczyk had been given the discretion to extend the lease term with MFP beyond 3 years.¹⁴ He explained that there were only two ways that he could see to interpret the Jakobek Amendment, and that the P&F Report already addressed the use of a 3 year lease term with a review of the purchase or re-lease options at the end. That left an extension of the term as the only logical interpretation of the Jakobek Amendment.¹⁵ Indeed, Brittain thought this latter option made some sense, in that it matched the useful life of the underlying assets to the lease term while at the same time reducing the annual lease costs to the budget.¹⁶

17. Altman's evidence confirmed that Brittain discussed the Jakobek Amendment with him following the P&F meeting, and was advised that the effect of the amendment was to increase the lease term for some of the equipment to 5 years.¹⁷ Similarly, Power learned of the Jakobek Amendment shortly after it was passed, likely from Viinamae. Power understood that the Jakobek Amendment permitted lease terms of more than 3 years where appropriate.¹⁸

18. In short, staff had a shared understanding of the Jakobek Amendment: they were entitled to change the length of the leases even though MFP had based its winning bid on a 3 year lease term. According to Liczyk, this authority did not extend to placing all \$43 million of assets on a 5 year lease.¹⁹

¹³ Liczyk 11/05/2003 at 178; Liczyk 11/17/2003 at 172.

¹⁴ Brittain 07/31/2003 at 95.

¹⁵ Brittain 07/31/2003 at 93.

¹⁶ Brittain 07/31/2003 at 95.

¹⁷ Altman 07/07/2003 at 61-62; Altman 07/09/2003 at 54.

¹⁸ Power 03/24/2003 at 133.

¹⁹ Liczyk 11/17/2003 at 173-174.

3. **Liczyk did not expressly delegate the discretion given to her by the Jakobek Amendment to Brittain**

a) ***The evidence does not support Liczyk's claim that she asked Brittain to carry the ball on implementing the Jakobek Amendment following the P&F meeting***

i) ***Liczyk's evidence was equivocal***

19. In her affidavit, Liczyk stated that immediately following the P&F meeting of July 20, 1999, even before its adoption by Council on July 27, 1999, she specifically delegated to Brittain the task of following up on the Jakobek Amendment.²⁰ The evidence does not support this claim.

20. In her Affidavit and over the course of Liczyk's nine days of testimony, her description of her expectations of Brittain following the P&F meeting changed:

- a. In her affidavit, she gave a precise description of a specific request of Brittain to assess whether the Jakobek Amendment was of any benefit to the City, and to work with Viinamae to determine how many assets would be affected by its implementation;²¹
- b. At the end of her first day of testimony she described it as a much more limited task. She expected Brittain to do "a simple thing", to "ask a few questions" to determine the quantum of assets with a life longer than 3 years, and whether the Jakobek Amendment "made any sense with respect to the nature of the assets".²²
- c. Later, she limited Brittain's role to a mere conversation, and used the past tense: "[M]y expectation **would have been**, as I said,

²⁰ Liczyk Affidavit, para. 173, 11/03/2003 at 69; Liczyk 11/17/2003 at 177.

²¹ Liczyk Affidavit, para. 173, 11/03/2003 at 69.

²² Liczyk 11/03/2003 at 270-271.

Len having a conversation with either Lana or Jim around whether there was any potential to apply the clause.”²³

- d. At another juncture, she was equivocal as to whether there had even been a conversation:

I **think** I recall that after the Policy and Finance Committee meeting of July 20th that Len and I had a conversation about how we would look at the applicability of the motion that had been moved by Councillor Jakobek at the committee. And I asked him to ensure that he had a discussion with IT....²⁴

21. On balance, Liczyk’s evidence on this issue was at best inconsistent, equivocal and vague: she was much less certain on the stand about what she in fact expected of Brittain than her affidavit evidence suggested. Her viva voce testimony was inconsistent with the position suggested by her counsel in his cross-examination of Brittain that he had been directed to “carry the ball” on implementing the Jakobek Amendment.²⁵

22. All of this stands in marked contrast to her frequent refrain that “[she] knew with certainty” that various events occurred as she described them. Liczyk also claimed that she did not give much priority to the computer leasing project in the summer of 1999, and as a result did not turn her mind to nor explain to Brittain that she expected him to do anything of significance with respect to the Jakobek Amendment.²⁶

²³ Liczyk 11/04/2003 at 84 [emphasis added].

²⁴ Liczyk 11/04/2003 at 73 [emphasis added].

²⁵ Brittain 07/31/2003 at 106.

²⁶ Liczyk 11/03/2003 at 177-178, 270-271.

23. In any event, the evidence is clear that Liczyk never delegated the responsibility for the Jakobek Amendment to Brittain in writing and never communicated with him in writing about it.²⁷

ii) Brittain denied having been so directed by Liczyk

24. For his part, Brittain, denied knowledge of any expectation by Liczyk that he was to make inquiries and determine how much equipment could reasonably go on lease for longer than 3 years.²⁸ He denied having been asked to do any such thing.²⁹ If Liczyk did have such expectations of Brittain, they were never clearly communicated to him.

iii) Brittain would have needed information which he did not seek out

25. Liczyk agreed that in order to do what she claims to have asked Brittain to do, he would have needed considerable information from others. From I&T, he would have required a list of the equipment acquired, together with a breakdown of each asset's expected lifespan. From MFP, he would have needed the four and 5 year lease rates for each category of equipment with a life longer than 3 years.³⁰ Brittain did not take any steps to obtain any of this detailed information from either I&T or MFP. If, in fact, Liczyk had assigned Brittain this responsibility, such a complete abdication of that responsibility would have been completely out of character.

iv) Liczyk's ongoing involvement was inconsistent with her claim to have delegated responsibility to Brittain

26. In preparation for a meeting with MFP on September 21, 1999 to discuss alternative ways to implement the Jakobek Amendment, Liczyk asked Wilkinson to send her some information in advance, so that "staff [could] take a look at it

²⁷ Liczyk 11/17/2003 at 179.

²⁸ Brittain 07/31/2003 at 104-105.

²⁹ Brittain Affidavit, para. 36, 07/09/2003 at 153.

³⁰ Liczyk 11/17/2003 at 179-180.

before . . . head[ing] into the meeting”.³¹ Wilkinson responded by sending Liczyk a note with two charts attached setting out two scenarios, one of which used a 3 year and one a 5 year lease term.³² If, as Liczyk claimed, Brittain was her point person on implementing the Jakobek Amendment, she would have sent Wilkinson’s information to Brittain in advance of this meeting. She agreed it would have been wise and helpful to do so. Nevertheless, she did not recall sending the information to Brittain, and could not explain why she would not have done so.³³ This is telling: it significantly undermines her evidence that she asked Brittain to carry the ball.

27. Moreover, rather than advising Wilkinson to deal directly with Brittain, Liczyk liaised with him concerning the meeting, and attended it herself.³⁴ She had intended to stay for the entire duration of the meeting, and only excused herself when it got bogged down in detail that she felt she could leave to Brittain to sort out.³⁵ Liczyk’s involvement in this meeting differed markedly from her approach to the fleet leasing RFP: in that case she left it to Brittain to meet with MFP, followed by a report back to her.³⁶ Interestingly, although I&T needed to be involved in any analysis of MFP’s proposal, Liczyk did not invite anyone from I&T to attend.³⁷

28. Liczyk’s conduct is not consistent with having delegated authority to a subordinate to “receive the ball and run with it,” in the words of Liczyk’s counsel. Nor is it consistent with any real intent to ensure that a complete and detailed analysis of MFP’s September 21, 1999 proposal in particular, or 5 year lease terms in general, was carried out. Rather, Liczyk’s conduct during September 1999 suggests that she continued to remain directly involved with MFP and with the issues raised by the Jakobek Amendment. Moreover, her conduct would

³¹ Liczyk 11/17/2003 at 184.

³² COT036589, 63:8:52a; COT036590, 63:8:52a; COT036591, 63:8:5a; COT036592, 63:8:52a.

³³ Liczyk 11/17/2003 at 184-185.

³⁴ Liczyk 11/17/2003 at 185-186.

³⁵ Liczyk 11/17/2003 at 196-197.

³⁶ Liczyk 11/17/2003 at 186.

³⁷ Liczyk 11/17/2003 at 194.

reasonably have led Brittain to understand that she was and intended to remain involved. In the absence of clear instructions or delegation from her, he could not have appreciated that he was to play a significant role in any decision to extend the leases.

v) Brittain's conduct was inconsistent with having been delegated responsibility as Liczyk claimed

29. Brittain's evidence was quite different from Liczyk's. In his affidavit, he stated that he had only a brief discussion with Liczyk following the P&F meeting, and that they discussed only the vagueness of the wording of the Jakobek Amendment.³⁸ His actions thereafter are consistent with this version of events. Liczyk agreed that in order to do what she claims to have directed Brittain to do, he would have had to speak with I&T, and with MFP. He was not at the August 3, 1999 breakfast meeting held to discuss ways to "make the leases more flexible"³⁹, and attended by Wilkinson, Domi, Andrew and Bulko. He was not involved in the negotiations with MFP.⁴⁰ It was not until September 21, 1999 that he even met Wilkinson, and that was at Liczyk's invitation.⁴¹

30. Liczyk confirmed that Brittain was an excellent and diligent Director upon whom she had come to depend and rely.⁴² If Liczyk did indeed charge Brittain with the responsibility to implement the Jakobek Amendment, his lack of attention to, and complete non-involvement in, the leasing program after July 20, 1999 would have been a complete abdication of that responsibility. Such was not Brittain's character. His evidence should be accepted over Liczyk's on these issues.

³⁸ Brittain Affidavit, para. 41, 07/09/2003 at 155.

³⁹ Bulko 08/11/2003 at 60-61.

⁴⁰ Brittain Affidavit, para. 37, 07/09/2003 at 153.

⁴¹ Wilkinson Affidavit, para. 71, 09/16/2003 at 67-69.

⁴² Liczyk 11/04/2003 at 98.

b) Liczyk did not direct Brittain to conduct a financial analysis of MFP's proposal for a 5 year lease term

31. Liczyk said she left the September 21, 1999 meeting with MFP after fifteen minutes, after directing Brittain to do a financial analysis of MFP's proposals for dealing with the Jakobek Amendment. She stated further that she expected Brittain to report back to her as to the appropriateness of the MFP proposal.⁴³

i) Brittain cannot be faulted for having done only a cursory review of MFP's concept proposal, before rejecting it out of hand

32. The MFP proposal introduced something very different from either Liczyk or Brittain's understanding of the intent of the Jakobek Amendment.⁴⁴ It did not match lease term to asset life, as each scenario contemplated a 3 year refresh.⁴⁵ Nor did it contemplate putting only a small amount of equipment on a 5 year lease.⁴⁶ It was also far outside the scope of MFP's bid response, and what had been approved by Council.⁴⁷ It raised concerns about how the City might extricate itself at the end of the 5 year deal with MFP,⁴⁸ and it would have required significant follow-up to seriously assess, given the variable and vague information used in the interactive MFP model presented on September 21, 1999.⁴⁹ In all of these circumstances, where the MFP concepts were so far outside Brittain's understanding of the Jakobek Amendment, even Liczyk could not fault Brittain for doing only a cursory analysis, before rejecting it out of hand.⁵⁰

33. Moreover, in order to do a proper analysis of either MFP's proposal or the Jakobek Amendment, Brittain would have needed considerable information from I&T and MFP which he did not have, and did not obtain. At a minimum he would have needed to liaise with I&T, to get price information from MFP, and to have

⁴³ Liczyk 11/17/2003 at 185-186.

⁴⁴ Liczyk 11/17/2003 at 192, 198.

⁴⁵ Liczyk 11/17/2003 at 189.

⁴⁶ Liczyk 11/17/2003 at 191.

⁴⁷ Liczyk 11/17/2003 at 198-199.

⁴⁸ Liczyk 11/17/2003 at 203.

⁴⁹ Liczyk 11/17/2003 at 204-205.

done considerable analytical work.⁵¹ Instead, he spent a lunch hour attempting a simple analysis using hypothetical information to try to ascertain for himself whether MFP's ideas had merit. He was able to conclude from this brief review that it was obvious that they did not, and that nothing further was required. He could not recall whether he discussed this with Liczyk.⁵²

34. At one point in her evidence Liczyk described her expectation of Brittain as follows:

I very much left it as something that, the meeting was continuing and that it would be Mr. Brittain who would be reporting back to me with respect to what his views were on those [MFP's] concepts.⁵³

35. This is hardly a description of a clear request to Brittain that her perform a full-scale financial analysis of MFP's proposal. In any event, Brittain was clear that his view was that the MFP concept made no sense, and need not be considered any further by the City.

ii) Brittain did not recommend to put equipment on lease for 5 years

36. Liczyk further testified that it was Brittain who actually recommended to her in late September 1999 that at least some of the leases be put on a 5 year term.⁵⁴ Brittain flatly and unequivocally denied this.⁵⁵ Again, Liczyk's evidence is inconsistent with her acknowledgement that Brittain was careful, conservative, and diligent.

37. Despite the fact that MFP never quoted 5 year lease rates,⁵⁶ Brittain never requested or obtained from I&T a list of assets and their useful life, and Brittain

⁵⁰ Liczyk 11/17/2003 at 206-208.

⁵¹ Liczyk 11/17/2003 at 206-207.

⁵² Brittain 07/09/2003 at 233-234.

⁵³ Liczyk 11/17/2003 at 211.

⁵⁴ Liczyk Affidavit, para. 184, 11/03/2003 at 72-73; Liczyk 11/04/2003 at 74-75.

⁵⁵ Brittain Affidavit, para. 41, 07/09/2003 at 155.

⁵⁶ Liczyk 11/17/2003 at 212-213.

never conducted any real financial analysis, Liczyk swore in her affidavit that Brittain briefed her on “the status of his review” sometime after the September 21, 1999 meeting.⁵⁷ Even if this were so, it could only have been to report that from a brief review that the MFP “concept” made no sense.

38. Liczyk went further, stating that Brittain advised her that “they were going forward with extending some of the asset lease terms to five years”, and that this was consistent with the Jakobek Amendment.⁵⁸ Given Brittain’s risk averse nature, which Liczyk referenced in the same paragraph, it is simply not plausible that Brittain would have made such a recommendation without having undertaken a careful review and analysis and after quickly rejecting MFP’s proposals.

39. Liczyk herself acknowledged that she could not imagine that Brittain would have given direction to anyone to write a 5 year, \$20 million lease, without anything other than conceptual models.⁵⁹ The MFP proposal was so complex, so far offside the Council authority that had been given by the Jakobek Amendment, and so conceptual and lacking in real numbers, that it would have been reckless and irresponsible for Brittain to have come to such a conclusion and to have made such a recommendation. Liczyk agreed that Brittain was neither reckless nor irresponsible; rather he was careful and diligent.⁶⁰

40. Moreover, Liczyk testified that she would not have expected Brittain to place significant amounts of equipment on a lease term longer than 3 years without a re-tender. She said:

I know that Len being as diligent as he was, that he would have been aware of our procurement policies and would have been aware of the need that if there was a substantial amount of assets that were going to

⁵⁷ Liczyk Affidavit, para. 184, 11/03/2003 at 72-73.

⁵⁸ Liczyk Affidavit, para. 184, 11/03/2003 at 72-73.

⁵⁹ Liczyk 11/17/2003 at 216, 219-221.

⁶⁰ Liczyk 11/17/2003 at 220-221.

be considered for five (5) years that he would have advised me that there needs to be more work done, or whatever.⁶¹

41. Liczyk conceded that she never asked Brittain how much was going to be put on a 5 year lease.⁶² Neither did she confirm with Brittain that his recommendation was supported by a detailed analysis.⁶³ Thus, if her evidence that Brittain “recommended” that some of the equipment go on a 5 year lease is true, she apparently accepted a recommendation that an unknown quantity of assets should be put on a 5 year lease, without any confirmation from him as to how much, or why. This is entirely implausible; it is contrary to both Liczyk’s hands-on approach⁶⁴ and Brittain’s careful, conservative nature.⁶⁵

42. Liczyk’s evidence that she assigned responsibility to Brittain to assess the Jakobek Amendment, conduct an analysis of the MFP proposal, and recommend what portion of the computer equipment should be put on a 5 year lease, is not credible. Her attempt to dissociate herself from the highly controversial decision to lease the equipment for 5 years is nothing more than an after-the-fact attempt to deflect criticism. Her evidence on this issue should be wholly rejected.

⁶¹ Liczyk 11/04/2003 at 105-106.

⁶² Liczyk Affidavit, para. 184, 11/03/2003 at 72-73; Liczyk 11/04/2003 at 102.

⁶³ Liczyk 11/04/2003 at 75.

⁶⁴ Liczyk 11/04/2003 at 185; Brittain 07/31/2003 at 127-128.

⁶⁵ Liczyk 11/17/2003 at 215.