

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiffs, )  
 )  
 STATE OF NEW YORK, STATE OF NEW )  
 JERSEY, STATE OF CONNECTICUT, )  
 HOOSIER ENVIRONMENTAL COUNCIL, )  
 and OHIO ENVIRONMENTAL COUNCIL, )  
 ) Civil Action No. 1:99-cv-1693-LJM-JMS  
 Plaintiff-Intervenors, )  
 )  
 v. )  
 )  
 CINERGY CORP., PSI ENERGY, INC., and )  
 THE CINCINNATI GAS & ELECTRIC )  
 COMPANY, )  
 )  
 Defendants. )

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**DECLARATION OF ROBERT BATDORF**

Robert Batdorf, being of legal age and pursuant to 28 U.S.C. § 1746, deposes and says:

1. I retired July 1, 2005 and continue to be retired. I live in Owensville, Indiana.
2. Since my retirement from Cinergy, I have received pension payments and income from my stock options, both as a result of my employment with Cinergy.
3. When I was asked at trial if I was employed, my answer was honest and accurate. I still believe that I have not been employed by Cinergy or anyone else since my retirement in 2005, and I do not believe either the 2005 or 2008 consulting agreements made me “employed.” I understand the terms “retired” or “employed” to be mutually exclusive. I believe someone is

“employed” when they have a full-time job with daily responsibilities and obligations, and that you are either retired or employed, but cannot be both at the same time.

4. I never discussed either the question “Are you employed” or any similar question, or any response to that or any similar question, with anyone in connection with this case prior to or during the trial. I was asked this question at trial for the first time, and I responded honestly, as I consider myself retired and did not consider myself an employee.

5. I am not now, nor have I even been, aware of a plan to cause anyone to believe my employment status to be anything other than what it was at the time of trial: that of a retired Cinergy employee who had entered into a consulting agreement with his former employer. I have never been asked to conceal, misstate, or hide either the existence or the terms of either the 2005 or 2008 consulting agreements. I was also never asked to characterize or describe my employment status in any particular way. My only recollection of any discussion about the consulting agreement was to testify truthfully and fully about it if asked.

6. I spent much more time preparing for trial than was submitted on my invoices. As I stated in my prior affidavit, I did not ask to be paid for my preparation time, and I would have testified without payment for my time. If I submitted invoices for all of the time I spent, I would have received substantially more money than I actually received.

7. If I testify again regarding these issues, my testimony about my conduct, decision-making as an employee, and all other facts related to this case will not change. I have testified truthfully and consistently about these issues every time I have been asked to do so. My testimony at the May 2008 trial did not change as a result of the consulting agreement. My testimony would have been the same, regardless of whether I was compensated and regardless of whether or not I was asked about my consulting arrangement with Cinergy. Should I be required

to testify again, my testimony will continue to be the same because I believed then, and believe now, that everything I testified to was true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

  
Robert Batdorf

Dated: January 9, 2009