

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.)

DECLARATION OF JOHN D. PAPAGEORGE

John D. Papageorge, being of legal age and pursuant to 28 U.S.C. § 1746, states that:

1. I am a partner in the Indianapolis, Indiana office of Taft Stettinius & Hollister LLP (“Taft”), previously known as Sommer Barnard PC. In the spring of 2004, Taft was hired to serve as local counsel in this litigation. I was initially assigned to participate in plant inspections conducted by the Plaintiffs at the six Cinergy facilities at issue. I was also involved with preparing witnesses and other discovery related activities. I did not take any depositions myself, but I helped prepare and defend Cinergy employees for depositions. I was not involved with liability phase document production to Plaintiffs.

2. I helped prepare Robert Batdorf for his Rule 30(b)(6) depositions during June 2005. I primarily worked with Batdorf on issues concerning the Cayuga facility. I remember discussing Mr. Batdorf's plans to retire with him and I knew that it would coincide with his Rule 30(b)(6) depositions; however, the issues of post-retirement compensation, a consulting relationship or a consulting agreement for Mr. Batdorf were not raised or discussed in my presence during deposition preparation.

3. During the weeks leading up to and during the liability trial, I did not attend or personally participate in trial witness preparation sessions for Mr. Batdorf or any other trial witness. I was not involved in developing trial strategy. I was not present during Mr. Batdorf's trial testimony and did not attempt to influence his testimony. I attended the closing arguments on my own time just to observe. Closing arguments were the first time I had seen Mr. Batdorf since 2005.

4. I did not know about either the 2005 or the 2008 Agreements between Mr. Batdorf and Cinergy until after the liability trial ended. Specifically, the first time I learned of Mr. Batdorf's consulting relationship was on September 10, 2008 when I was copied on an email from Katie Thomson of Sidley & Austin to Plaintiffs that was sent to all counsel of record. I believe that I learned of the existence of the 2008 Agreement shortly thereafter; and I received a copy of that Agreement on October 2, 2008, again by virtue of being copied on an email to Plaintiffs from Ms. Thomson. I first became aware of the existence of, and first saw, the 2005 Agreement when that Agreement and references to it appeared in connection with the briefing on Plaintiffs' new trial motion.

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

Executed on January 8, 2009.



JOHN D. PAPAGEORGE