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AGENDA 5-19 Sandy Committee

Documents:

AGENDA 5-19 Sandy Committee.pdf

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SUPERSTORM SANDY REVIEW COMMITTEE 5-28-19

Documents:

SUPERSTORM SANDY REVIEW COMMITTEE, 05-28-19.pdf

Theodore Roosevelt Executive and Legislative Building
1550 Franklin Avenue, Mineola, New York 11501

SUPERSTORM SANDY REVIEW COMMITTEE

Nassau County Legislature



Committee Membership

Denise Ford – Chair
Steve Rhoads – Vice Chair
Howard Kopel
James Kennedy

Delia DeRiggi-Whitton -Ranking
Joshua Lafazan
Debra Mule’

AGENDA

May 28, 2019

2:00 PM

1.	Financial Crimes Bureau Chief Diane Peress Office of the Nassau County District Attorney
2.	Gregory May Commissioner of Nassau County Consumer Affairs
3.	PUBLIC COMMENT

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NASSAU COUNTY LEGISLATURE

RICHARD NICOLELLO

PRESIDING OFFICER

SUPERSTORM SANDY REVIEW COMMITTEE

LEGISLATOR DENISE FORD

CHAIR

Theodore Roosevelt Building

1550 Franklin Avenue

Mineola, New York

May 28, 2019

2:12 P.M.

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2 A P P E A R A N C E S:

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4 LEGISLATOR DENISE FORD

5 Chair

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7 LEGISLATOR STEVEN RHOADS

8 Vice Chair

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10 LEGISLATOR HOWARD KOPEL

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12 LEGISLATOR JAMES KENNEDY

13

14 LEGISLATOR DELIA DERIGGI-WHITTON

15 Ranking member

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17 LEGISLATOR JOSHUA LAFAZAN

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19 LEGISLATOR DEBRA MULE

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2 LEGISLATOR FORD: We will be
3 commencing with this superstorm Sandy hearing
4 and I would ask everybody to please rise so we
5 can say the Pledge of Allegiance.

6 Good afternoon everyone and thank
7 you very much for taking the time out to
8 attend this hearing. Something I think is
9 probably very well long overdue. So, we are
10 going to not follow the normal course of when
11 we have committee hearings as we have
12 representatives from the DA Madeline Singas'
13 office and we are very anxious to start our
14 dialogue with you in regard to contractor
15 fraud. And that is the subject of today's
16 committee hearing.

17 Before I go forward, I know we
18 don't need to have a quorum, but if the clerk
19 could please have each of the legislators
20 basically sign in so we know that you are
21 here.

22 MR. PULITZER: Thank you
23 Chairwoman. Superstorm Sandy Review Committee
24 roll call. Legislator Debra Mule.

25 LEGISLATOR MULE: Here.

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2 MR. PULITZER: Legislator Joshua
3 Lafazan.

4 LEGISLATOR LAFAZAN: Here.

5 MR. PULITZER: Legislator James
6 Kennedy.

7 LEGISLATOR KENNEDY: Here.

8 MR. PULITZER: Deputy Presiding
9 Officer Howard Kopel.

10 LEGISLATOR KOPEL: Here.

11 MR. PULITZER: Vice Chairman
12 Steven Rhoads. Let it be known that he will
13 be here. Chairwoman Denise Ford.

14 LEGISLATOR FORD: Thank you.
15 Please put on the record that the ranking
16 member, Legislator Delia DeRiggi-Whitton, is
17 here.

18 MR. PULITZER: I'm sorry.
19 Ranking member Delia DeRiggi-Whitton. Please
20 excuse me.

21 LEGISLATOR DERIGGI-WHITTON:
22 Here.

23 LEGISLATOR FORD: Thank you.
24 What we will do is first hear from the DA's
25 office. And I just want to note that our

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2 state Assemblywoman Missy Miller is here. She
3 represents the South Shore and lives in
4 Atlantic Beach and she herself was impacted by
5 Sandy and represents many of the people that I
6 represent and all of us represent that have
7 been hurt by Sandy and hurt even worse by
8 contractor fraud.

9 So, during the course -- after
10 Sandy hit we all went through rebuilding,
11 cleaning out our homes, assessing the damage.
12 Everything that has happened to our homes and
13 to our community. As people started to
14 rebuild they hired their contractors and the
15 people who I guess maybe started right away,
16 didn't seem to have as much bad luck as it is
17 that the people who were starting to follow
18 found that when they were hiring their
19 contractors that not everybody is of the same
20 caliber and of the same honest endeavor in the
21 type of work they do.

22 I know from my office, and I know
23 Missy would probably say the same as well as
24 my fellow legislators, the calls that we have
25 gotten from so many people that have been out

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2 of their homes for maybe five years, six
3 years, four years when they're trying to
4 rebuild and they found that the contractor had
5 taken the money that they had received from
6 New York Rising, in many cases it could be
7 \$100,000 \$60,000, \$130,000, and either didn't
8 start the work or started the work and never
9 finished.

10 The contractor then they found out
11 went from not only they thought they were the
12 only victim and they found the contractor
13 started working on another block and he had
14 another customer and he was working on
15 somebody else's house. It's almost like a
16 Ponzi scheme. That the contractor would get
17 money from someone, not do the work, go on to
18 the next home, take their money, go on to the
19 next home, to the tune of like I think in some
20 cases contractors may have taken hundreds of
21 thousands of dollars and maybe a total with
22 all the contractors more than a million
23 dollars of our New York Rising money. Which
24 is basically money set aside to help
25 residents. And it's been very baffling to all

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2 of us and very heartwrenching for the people
3 who have been bilked and cheated by these
4 people to find out like why has it taken so
5 long? What is being done to help them to move
6 this process along a little bit faster.

7 This is why I appreciate the DA's
8 office being here because I think that you're
9 very key, as is Consumer Affairs, because
10 you're the ones that will help explain as to
11 why contractors were allowed to take the money
12 as much as they did. Why they were allowed to
13 continue bilking people. Homeowners. Some of
14 these contractors had maybe 20 or 30 residents
15 that they had taken money from.

16 So I hope, if you don't mind, I
17 really would appreciate if you could just give
18 a synopsis as to what the DA's office is doing
19 about this, what have they done and what do
20 you expect or what do you hope that we should
21 all work together to do to try to keep this
22 from happening again in the future. Can you
23 introduce yourselves.

24 MS. PERESS: I am Diane Peress.
25 I'm the bureau chief of the Financial Crimes

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2 Bureau.

3 MR. MANCUSO: My name is Peter
4 Mancuso. I'm one of the deputy chiefs in that
5 same bureau.

6 LEGISLATOR FORD: I guess you
7 have been aware where you have been fielding a
8 lot of these calls that the residents have
9 called in in regard to the contractors that
10 they have used and they found they have taken
11 the money that they were given by New York
12 Rising to do the work necessary to move back
13 in to their homes. Can you just explain to us
14 and what is the process when you receive a
15 phone call from a resident in this type of
16 situation and what steps are taken by the DA's
17 office or by your office.

18 MR. PERESS: First of all, we're
19 not just talking about fielding phone calls.
20 We're talking about devoting substantial
21 resources of the district attorney's office,
22 to interviewing each and every single person
23 who brings us a complaint. Whether it comes
24 in through our complaint bureau or whether it
25 comes directly to the Financial Crimes Bureau,

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2 which is attached to the Complaint Bureau.

3 Each and every single complaint,
4 especially the ones that have to do with
5 superstorm Sandy, has resulted in an attorney
6 and investigator interviews, analysis of
7 documents, voluminous documents, both from the
8 contractor side and both from the complainant
9 side to see if there is any evidence that will
10 support any kind of criminal charges.

11 LEGISLATOR FORD: So, I think
12 that one of the issues that I have found, and
13 any of you can probably ask the same thing, is
14 what constitutes criminal activity? Because
15 if you have somebody who has given like
16 \$100,000 and the contractor may have done
17 maybe about \$40,000 worth of work, the \$60,000
18 is missing, and how, like, why is it that --
19 they feel like why isn't this person in jail I
20 guess? You can understand their frustration.
21 I'm echoing what residents have said to me.
22 Because they are the ones that are out of
23 their homes. They are the ones that have been
24 defrauded. I guess they just want to know
25 what does it take?

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2 MR. MANCUSO: First of all, we
3 are very aware of it because we are in contact
4 with it every day. The legal framework, the
5 evidence that's required, is set forth under
6 the state penal law. And it's not a matter of
7 us interpreting. It's very clear in the
8 language. It's under Section 15505
9 Subdivision 2D of the penal law. It defines
10 the kind of larceny called larceny by false
11 promise. And this is what it says.

12 A person obtains property by false
13 promise when pursuant to a scheme to defraud
14 he -- language of the statute -- he obtains
15 property of another by means of a
16 representation expressed or implied that he or
17 a third person will in the future engage in
18 particular conduct. Let me just repeat that.
19 Will in the future engage in particular
20 conduct. And when he does not intend to
21 engage in such conduct. Or as the case may
22 be, does not believe that the third person
23 intends to engage in such conduct.

24 In any prosecution for larceny
25 based upon a false promise the defendant's

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2 intention or belief that the promise would not
3 be performed may not be established by or
4 inferred from the fact alone that such promise
5 was not performed. Such a finding may be
6 based only upon evidence establishing that the
7 facts and circumstances of the case are wholly
8 consistent with guilty intent or belief and
9 wholly inconsistent with innocent intent or
10 belief and excluding to moral certainty every
11 hypothesis except that of the defendant's
12 intention or belief that the promise would not
13 be performed.

14 The commentaries for the statute
15 suggest some of the reasons that the state
16 legislature adopted this approach. Reading
17 from the commentaries by Judge William Dinino
18 in drafting the definition of the crime the
19 authors were concerned that an unqualified
20 larceny by false promise statute, quote, might
21 result in an avalanche of criminal
22 prosecutions based upon conduct essentially
23 civil in character and constituting little
24 more than breach of contract, unquote.

25 What that all means is that the

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2 legislature has chosen to establish a very
3 high standard for prosecution of cases based
4 on a promise to conduct activities in the
5 future. Essentially the legislature has made
6 a determination going back many years that
7 criminalizing breach of contract is, as a
8 general proposition, not the direction to go
9 with regard to breach of contract. That it
10 discourages commercial activity and places
11 those who enter into contracts into a position
12 potentially of fearing criminal prosecution
13 and jail as a result of failing to be able to
14 perform that contract. So that's the
15 context. That's the legal context.

16 You asked about evidence. The
17 evidence is this. If we have a case in which
18 a contract is entered into and promises are
19 made and we are able only to show that the
20 contract was not performed, that, by
21 definition, does not suffice to establish
22 guilt under the statute to show that the
23 intent at the time of formation of the
24 contract was to not perform the contract. So
25 we look for other things.

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2 We look for admissions. We seldom
3 if ever see those on the part of the
4 contractor as to what the contractor's intent
5 was. We look for a course of conduct. We
6 devote a lot of energy and resources, as Diane
7 said, to assigning attorneys, investigators,
8 accountants to where we have multiple
9 instances of failure to perform a contract to
10 analyze that to see whether we are prepared to
11 say that based on a course of conduct it was
12 never the intention of the contractor to
13 perform the promises that were made at the
14 time the contract was entered into.

15 So, we will interview the
16 homeowners, we will subpoena records, we will
17 look at bank records to see how much money was
18 disposed of. We will do everything to see
19 whether we can establish a pattern to prove
20 beyond a reasonable doubt to a moral certainty
21 that the contractor never intended to perform
22 the promise. And that generally is the
23 framework within which we work.

24 MS. PERESS: The example also
25 that you gave where I think it was \$40,000

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2 worth of work was done and 60,000 wasn't done
3 or vice versa brings up another problem that
4 we have where there is substantial
5 performance. There's not going to be a viable
6 criminal prosecution because there's no
7 showing of intent by the contractor that he
8 never intended to finish the job. We have
9 cases where there has been substantial
10 performance. We have cases where there has
11 been poor performance.

12 For example, the person whose house
13 was supposed to be raised 18 inches or 16
14 inches and the contractor only raised it 12
15 inches, which puts them in a problem with
16 insurance, flood insurance, where they don't
17 meet the requirements of flood insurance
18 because it hasn't been raised enough. That's
19 not a crime. That's poor performance of a
20 contract. But it's not something where we can
21 lock up a contractor and send them to jail or
22 basically slap them with a criminal
23 prosecution that will basically end their
24 ability to function in the contracting
25 community.

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2 MR. MANCUSO: The other thing I
3 wanted to mention is that the other vehicle
4 that's available to us is that the county does
5 have an unlicensed home improvement contractor
6 statute. That's a misdemeanor. We prosecute
7 many such cases. We place many such cases in
8 the system every year. But that's dependent
9 upon on whether the party has a license. When
10 the party does not have a license, the
11 contractor does not have a license, it can be
12 a useful vehicle to seek criminal penalties
13 and to seek restitution, which is an
14 appropriate part of a disposition of a
15 criminal matter.

16 LEGISLATOR FORD: So I understand
17 that. Where it's very hard when you have a
18 contractor and he's in a dispute with a
19 homeowner and like you really can't say that
20 he never intended to truly finish the work he
21 started. That I understand. But I think
22 what's hard to them, like when you think about
23 it like that is that the contractors who have
24 taken on numerous jobs and even after like
25 maybe there have been complaints against them

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2 with Consumers Affairs still have found ways
3 to take on more customers.

4 So maybe for me, as a homeowner,
5 and somebody's whose been immersed with this
6 with so many of the residents who are in this
7 type of situation, I think it's very hard to
8 comprehend how is it that I think
9 Assemblywoman Missy Miller once said they're
10 like serial scammers. When you look at this,
11 where you know in our mind they intentionally
12 went out to all of these homes, got all of
13 this money from all of these people.

14 So if you look at it on an
15 individual basis, and I can understand not
16 being able to -- like it may be hard because
17 of state law that to prove that they committed
18 fraud and they committed a crime. But when
19 does it all of a sudden when they do it
20 constantly like then they have taken on 20 or
21 30 or 40 customers and never finish any of
22 them, why isn't that a crime? Why is it then
23 does the state law keep you from then putting
24 them all together, like all the jobs together,
25 or do they still have to continue taking them

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2 on an individual basis?

3 LEGISLATOR RHOADS: Why doesn't
4 that rise to the level of a pattern of conduct
5 that you mentioned before.

6 MR. MANCUSO: That's who we
7 investigate, to see whether we're satisfied
8 that we can prove to a moral certainty that
9 when they took on those jobs they didn't
10 intend to finish them. Obviously the more
11 extreme the situation is the more likely we
12 would be to reach that conclusion.

13 You're speaking in terms of
14 finishing the jobs. A more powerful set of
15 argument would attach the situations in which
16 they take the money, don't ever start the jobs
17 and keep moving on and spend the money on
18 themselves personally. We're looking at
19 everything in these cases. But it is a very
20 high standard and we treat it from the point
21 of view of what will happen when a judge
22 charges a jury that they must be satisfied to
23 a moral certainty that there was never an
24 intention to finish these jobs. That it was a
25 course of conduct that was in the nature of a

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2 scheme to defraud. We evaluate it from
3 whether we can prove it criminally.

4 LEGISLATOR FORD: I'm going to
5 hand it over to the Legislator
6 DeRiggi-Whitton. But how many of these
7 contractors have you brought, have you charged
8 with a crime or have gone to trial with them?

9 MR. MANCUSO: As I said earlier,
10 we charge many contractors through the vehicle
11 of unlicensed home improvements. Those may be
12 Sandy, those may be not. I believe 18 last
13 year on licensed home improvement
14 contractors. One so far this year. Four that
15 are ready to go. Something along those
16 lines. We are very active and we have been
17 for many years so far as unlicensed home
18 improvement contractors. As far as the
19 specific question regarding Sandy-related
20 contractors, there are very few that we have
21 charged criminally, one that comes to mind,
22 because of the burden of proof involved.

23 LEGISLATOR FORD: Was that the
24 one who went to Texas?

25 MS. PERESS: No, that's not the

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2 one that went to Texas. We've charged a local
3 contractor with defrauding people because we
4 were able to show misrepresentations and false
5 promises. There are one or two other cases.
6 But we are also finding difficulties with
7 proving the cases beyond a reasonable doubt.
8 Because, as the counsel is aware, a person has
9 a right to defend themselves and when the
10 contractor comes forward with some of their
11 proof we find that some of the victims have
12 not been completely forthcoming.

13 So in the one prosecution that we
14 did do and we did do successfully we have 12
15 complainants. Of those 12 complainants we
16 were only able to recover money on behalf of
17 five because the other seven had not given us
18 a full picture and when the contractor,
19 through his attorney, gave us the full picture
20 it didn't rise to the level of criminal
21 activity.

22 These are very, very complex
23 cases. I know it looks like -- and the word
24 fraud doesn't -- fraud, fraud. First of all,
25 there's something called civil fraud. But

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2 putting the name fraud on it isn't going to
3 make it rise to the level that we have to
4 prove beyond reasonable doubt in court.

5 MR. MANCUSO: Let me also say you
6 asked how many we charged. How many do we
7 investigate is a different question. The
8 answer is we investigate each and every one
9 that is referred to us by consumer affairs
10 that is unresolved.

11 LEGISLATOR DERIGGI-WHITTON: Does
12 the statute address in any way like a time
13 frame for which the work should be completed?

14 MR. MANCUSO: Are you
15 referring to the-- the penal law statute
16 doesn't speak about home improvements. Just
17 speaking to false promises. There's nothing
18 in the penal law statute that speaks to it.
19 Don't quote me. I don't believe the
20 unlicensed home improvement statute speaks in
21 terms of a time frame. But I would have to
22 check that to give you a definitive answer.

23 LEGISLATOR KOPEL: Good
24 afternoon. Some of the stories that I have
25 heard, and this is just admittedly anecdotal,

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2 is that people would hire a contractor, find
3 out that the contractor did not have the
4 resources to go ahead and do it. Either
5 contractor didn't have experience or, more
6 importantly, did not have personnel, did not
7 have equipment. And I would assume that that
8 would be pretty powerful proof of intent to
9 not complete the job. Is that something that
10 you're seeing? Is that something that you
11 look at carefully, those types of factors?

12 MR. MANCUSO: I have not
13 personally seen cases in which those kinds of
14 misrepresentations are made but let's just
15 take moment --

16 LEGISLATOR KOPEL: Do you check
17 for that? In other words, routinely when you
18 get a case in would you check to see if the
19 contractor actually had the resources to go
20 ahead and do the work that the contractor
21 promised to do?

22 MR. MANCUSO: What we would
23 routinely check for is this, and let me put it
24 into context as to why we check for it, I
25 mentioned the concept of larceny by false

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2 promise. There are actually seven or eight
3 different kinds of larceny in that same
4 statute. Another one is larceny by false
5 pretenses. Larceny by false pretenses is
6 committed when one makes misrepresentations
7 not about promises in the future but about
8 past or existing facts and in reliance on
9 those representations a victim gives that
10 person money.

11 If we had a situation in which we
12 were unable to prove a larceny by false
13 promise but in which misrepresentations were
14 made by a contractor to a homeowner as to past
15 or existing facts like their capacity, their
16 equipment, their licensing and so on and there
17 was reliance on those representations that
18 would be a basis on which we would take a look
19 at a different kind of larceny prosecution.
20 So yes.

21 LEGISLATOR KOPEL: I'm not even
22 going that far. What I'm saying is if a case
23 were referred to you and we do not then check
24 to see if the contractor went ahead and bought
25 materials, had equipment, hired people, would

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2 that, the nonexistence of all of those
3 factors, not lead you to infer a clear lack of
4 intent to go ahead and complete the job?
5 Would that not be a good pathway for you to
6 follow so that you could go ahead and actually
7 prosecute under this statute? The one that
8 you read?

9 MR. MANCUSO: Unfortunately, in
10 the language of the statute as I read it
11 earlier, the mere failure to perform the
12 promise is by definition not sufficient proof
13 to make out a case.

14 LEGISLATOR KOPEL: That wasn't
15 what I asked. Thank you. I'm talking about
16 the investigation, not the failure to go ahead
17 and do it. But if someone takes in four or
18 five jobs and never hires any workers and
19 doesn't have any equipment or doesn't buy
20 materials that would be pretty powerful
21 evidence I would think. Would you not what
22 want to go ahead with that? Because I would
23 think that might open up the universe of
24 people that you could prosecute. Going a
25 little further, even if you lose a few cases

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2 prosecuting a few people that's a pretty
3 powerful deterrent.

4 MR. MANCUSO: To respond, we do
5 look into all of these things to the extent
6 that we can. They figure into our
7 calculation. We do not bring cases unless we
8 feel we can prove them.

9 LEGISLATOR KOPEL: What are the
10 penalties?

11 MR. MANCUSO: In a successful
12 larceny prosecution it depends on the amount
13 of money involved. If the amount is in excess
14 of \$50,000 that would be grand larceny in the
15 second degree. That would be subject to a
16 penalty of as much as 15 years in jail is the
17 maximum minimum sentence. Lesser amounts of
18 jail time. Lesser amounts of other kinds of
19 punishment if the amount of money involved is
20 less.

21 LEGISLATOR KOPEL: What about the
22 county --

23 MR. MANCUSO: It's an
24 unclassified misdemeanor. Subject up to one
25 year in jail. Plus restitution in all of

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2 these cases.

3 LEGISLATOR KOPEL: You had some
4 successes with the county one?

5 MR. MANCUSO: Yes. We have
6 routinely prosecuted under the unlicensed home
7 improvement statute for many, many years.

8 LEGISLATOR KOPEL: What have been
9 the penalties imposed?

10 MR. MANCUSO: Depends on the
11 amount of money. Typically the penalties are
12 first of all restitution to the extent
13 possible. And then depending on the amount of
14 money involved, depending on whether the
15 restitution situation how it works itself out
16 there may be jail time.

17 LEGISLATOR KOPEL: Has there been
18 jail time? Have people gone to jail?

19 MR. MANCUSO: Under the
20 unlicensed home improvement statute the answer
21 is yes but I would have to pull specific
22 information for you.

23 LEGISLATOR KOPEL: Would you
24 please provide that to the committee.

25 MR. MANCUSO: Sure.

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2 LEGISLATOR KOPEL: Finally, do
3 you have any recommendations for this body as
4 to what we might be able to do to improve the
5 situation? Do you have any suggestions as to
6 our strengthening our laws?

7 MR. MANCUSO: I don't have
8 recommendations. We don't have
9 recommendations but we certainly can make some
10 suggestions to you as to things that could be
11 done if one wanted to take a more aggressive
12 approach to it. We would be happy to share
13 that.

14 LEGISLATOR KOPEL: That I guess
15 that's the main reason we are here. Lots of
16 people behind you they need help and we would
17 like to help them and we are looking for
18 ways. Anyone who has a good idea we'd love to
19 hear it and you're certainly in a good
20 position to offer some ideas I would think.

21 MR. MANCUSO: Some of the things
22 that you might consider you could choose to
23 criminalize this particular breach of
24 contract. When I say you I think it would
25 probably have to be at the state level.

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2 LEGISLATOR KOPEL: That's not us,
3 right.

4 MR. MANCUSO: Another one that
5 would also be at the state level because you
6 don't have the power to create felonies would
7 be if you wanted to create a second offender
8 status for unlicensed home improvement
9 contractors. But again, that also would be at
10 the state level.

11 LEGISLATOR KOPEL: All that
12 really this body in your view might be capable
13 of doing is lobbying the state at this point?
14 Are there any other things that we directly
15 can do, do you think?

16 MR. MANCUSO: You could take a
17 look at the entire regulatory framework out of
18 Consumer Affairs. You could take a look at
19 the size of the restitution fund which is
20 limited to \$10,000 out of Consumer Affairs.
21 You could mandate that Consumer Affairs have
22 more stringent requirements for granting home
23 improvement licenses. You could probably get
24 into issues like whether in addition to a
25 certificate of insurance that one is required

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2 to get for home improvement license whether
3 issues like bonding should be involved.

4 I think there are things that you
5 could do in a regulatory way to make it more
6 stringent to make the licensing requirements
7 more stringent and hopefully produce a higher
8 caliber of home improvement contractor. I
9 think those are primarily the ways that you
10 could directly interact.

11 LEGISLATOR KOPEL: On the other
12 hand, that might discourage some people from
13 seeking licenses and they may try to go naked
14 so to speak and that might be
15 counterproductive. I guess it's a balancing
16 question. Okay. Thank you.

17 LEGISLATOR FORD: Thank you. Can
18 you just stay? We have some speakers. They
19 may have questions for you.

20 LEGISLATOR RHOADS: Just a few
21 follow-up questions and I apologize. My
22 understanding is that the only two sections
23 where there could potentially be criminal
24 prosecution is with respect to the county's
25 unlicensed contractor law and Section 15505 of

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2 the penal law; is that correct?

3 MS. PERESS: Also the scheme to
4 defraud statute penal law Section 190-65.

5 MR. MANCUSO: Can I just say one
6 other thing? You could have collateral penal
7 law violations. Where there are documents
8 filed you can have things like offering a
9 false instrument for filing. You could have
10 possession of a forged instrument. You could
11 have falsifying business records. But that
12 would be very case specific.

13 LEGISLATOR RHOADS: I think that,
14 and Legislator Kopel certainly broached upon
15 the topic, I think we see the same names,
16 seemingly the same names in every complaint
17 that we receive to our office. There seems to
18 be a pattern. I know that you read the
19 particular section of 15505, which kind of has
20 the sort of typical Albany gobbly gook in it.
21 In any prosecution for larceny based upon a
22 false promise the defendant's intention or
23 belief that the promise would not be performed
24 may not be established by or inferred from the
25 fact alone that such promise was not

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2 performed. Such a finding may be based only
3 upon evidence establishing that the facts and
4 circumstances of the case are wholly
5 consistent with guilty intent or belief and
6 wholly inconsistent with innocent intent or
7 belief and excluding to a moral certainty
8 every hypothesis except that of the
9 defendant's intention or belief that the
10 promise would not be performed.

11 It does leave, the excluding to a
12 moral certainty, does leave some room for
13 interpretation on the part of prosecutors.
14 How exactly does the office of the district
15 attorney evaluate whether you are able to
16 exclude to a moral certainty every hypothesis
17 except that of defendant's intention or belief
18 that the promise would not be performed?
19 What's the standard within your office?

20 MR. MANCUSO: As I said before,
21 we look for two things. First of all, whether
22 the contractor has made admissions as to what
23 his or her state of mind was at the time the
24 promise was entered into.

25 LEGISLATOR RHOADS: As you said

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2 that never happens.

3 MR. MANCUSO: I can't recall the
4 last time that happened. The way we look at
5 it typically is to exam all of the activity on
6 the part of the contractor. Both the
7 contracts that were performed and the
8 contracts that weren't performed and the
9 extent to which they were performed to see if
10 we are prepared to say that based on a course
11 of conduct we are able to exclude that, the
12 possibility that the party had the intention
13 to perform the contracts at the time they were
14 entered into. It's really looking at the
15 course of conduct, which is, as Diane said,
16 becomes a very laborious process depending on
17 the amount of activity of the contract.

18 MS. PERESS: If I may. Going
19 back to Legislator Kopel's question. We do
20 look at who's working. We do look at
21 materials. For example, we recently brought a
22 prosecution, not a Sandy prosecution, but on
23 behalf of a local church where a substantial
24 amount of money was represented that materials
25 were purchased. Those materials were unique.

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2 They were never purchased. It resulted in a
3 pending criminal prosecution.

4 Yes, we do look into what materials
5 are being purchased, who's working there.
6 Unfortunately, in a lot of the Sandy cases
7 there's not a set payroll. There were day
8 laborers used and there were other people
9 used. So it's not so easy to get the payroll
10 from the company.

11 LEGISLATOR KOPEL: I was merely
12 suggesting that this might be a fruitful
13 avenue for you to pursue on a more routine
14 basis even in the absence of specific promises
15 to purchase a unique material. I'm just
16 talking about on a routine basis. If I were
17 to go and promise to build your home you sure
18 as heck would not want me to do it if you
19 wanted to live there afterwards anyway. You
20 want to find out that someone has experience.
21 If I had no experience and I had no workers
22 and I had no clue as to what kind of equipment
23 or materials I needed that alone is something
24 that I think you might find to be the case in
25 some of these complaints.

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2 MS. PERESS: I agree where you
3 are able to actually obtain that information.
4 You are not always able to obtain the
5 information.

6 LEGISLATOR KOPEL: You have to
7 look for it in order to get it.

8 MS. PERESS: We know we need to
9 look for it. You can't always find it. If
10 you're finding it on the internet by postings
11 that's not evidence. It's not something that
12 we can use as evidence. But we do look into
13 the factors that you are mentioning.

14 LEGISLATOR KOPEL: I interrupted
15 Legislator Rhoads.

16 LEGISLATOR RHOADS: While the
17 specific statute does not impose time frames,
18 the circumstances where you're talking about
19 Sandy victims do impose certain time frames.
20 In other words, the state has established,
21 even those deadlines partially as result of
22 many of us lobbying to have those deadlines
23 extended, New York Rising has imposed
24 deadlines, benchmarks by which certain things
25 have to be accomplish.

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2 Isn't one of the things that the
3 district attorney's office looks at the fact
4 that if you have a contractor and we have a
5 deadline that says by January 1st every home
6 has to be off the ground or we have to have by
7 January 1st every home has to be put back on
8 the ground. Looking at contractors who have
9 signed up such a large volume of homes that
10 they could not possibly have completed the
11 work by the time the state-imposed deadline
12 was approaching, isn't that one of the factors
13 that the DA's office would typically look at?
14 Wouldn't that suggest an intent to defraud?

15 MR. MANCUSO: It's taken into
16 consideration, yes.

17 LEGISLATOR RHOADS: Has it been
18 taken into consideration in any particular
19 case?

20 MR. MANCUSO: Yes.

21 LEGISLATOR RHOADS: Incidentally
22 you mentioned one quote. Is the fact that the
23 deadlines have been moved is that one of the
24 reasons why prosecutions have not been
25 pursued?

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2 MR. MANCUSO: No.

3 MS. PERESS: No. In fact, we
4 have encouraged people to file hardship
5 applications with New York Rising. We have
6 communicated with New York Rising. They call
7 to us to verify whether the person has filed a
8 complaint with us. We've sent to every single
9 person who is a superstorm Sandy complainant,
10 we have sent letters months ago telling them,
11 reminding them that they can file for this
12 hardship application and we are cooperating
13 with New York Rising to verify that they are
14 in fact people who have complained. And it's
15 our understanding that the deadlines will be
16 extended for those people who have filed
17 hardship applications.

18 LEGISLATOR RHOADS: Understood.
19 And I appreciate the fact that you're doing
20 that. We should all be joining and I know
21 many of us do in that effort to inform people
22 of the fact that they do have to file the
23 hardship application to get the deadline
24 extension. But the deadline itself and the
25 establishment of the deadline itself that is

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2 used as a criteria by the district attorney's
3 office in terms of evaluating a particular
4 contractor's ability to perform under the
5 contract?

6 MR. MANCUSO: No.

7 LEGISLATOR RHOADS: In other
8 words, if you have a contractor, my role as a
9 contractor is I lift homes. And there's a
10 deadline that says I have to have a home off
11 the ground by June 30th of 2018. I'm signing
12 up a new client in January of 2018 and I have
13 50 homes that are waiting to be lifted. And
14 it takes to lift a house it takes two weeks
15 per house to be able to lift a house. This
16 new client that I'm signing up there is no way
17 by June 30th, I don't have enough manpower, I
18 don't have enough equipment, I don't have
19 enough people to be able to do the job. Not
20 necessarily in Howard's case where they never
21 had the ability to do it but simply by
22 operation of the amount of time that's left
23 for them to be able to perform the work,
24 there's no way at the time they signed that
25 contract that they would be able to actually

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2 perform in compliance with the deadline as it
3 existed from New York Rising, is that a
4 standard that can be used.

5 MR. MANCUSO: I misunderstood
6 your question originally. I thought you were
7 asking us whether the existence, the
8 guidelines changes the way in which we go
9 about conducting our investigation. The kind
10 of scenario you describe, if there is an
11 impossibility of performance that's certainly
12 would be something we would take into
13 consideration in conducting our investigation.

14 LEGISLATOR RHOADS: But in your
15 investigations thus far with the exception of
16 the one successful criminal prosecution that
17 there's been, that circumstance has not
18 existed in the evaluation of the district
19 attorney's investigators?

20 MR. MANCUSO: We have not had any
21 situation in which we were prepared to say
22 that there was an impossibility of
23 performance. Keep in mind that contractors
24 can always subcontract out work.

25 LEGISLATOR RHOADS: True. That

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2 certainly can be done. Let's say that that
3 were the case. Under what circumstances then
4 would the information be relevant? In other
5 words, if a contractor came into you and said
6 yeah, we were going to hire somebody to do
7 that, that would take that offer the table?

8 MR. MANCUSO: We would consider
9 it but that would be an important factor, that
10 kind of representation would be an important
11 factor to consider or the possibility that
12 such a representation would be made would be
13 an important factor to consider. The burdens
14 are entirely on us.

15 LEGISLATOR RHOADS: Understood.
16 Is it essentially the case and certainly what
17 I seem to be getting in feedback from your
18 testimony is that state law makes it
19 impossible to be able to successfully
20 prosecute these cases under these
21 circumstances?

22 MR. MANCUSO: You have to
23 demonstrate a course of conduct that gives you
24 a comfort level to say that at the time the
25 contract was entered into there was never an

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2 intention to perform it. That is a high
3 burden to a moral certainty.

4 LEGISLATOR RHOADS: It's
5 virtually impossible to a moral certainty as
6 far as what you're saying.

7 What was incidentally the one
8 successful criminal prosecution.

9 MR. MANCUSO: That involved a
10 defendant named Lee Moser. I think Diane
11 alluded to it earlier. That was a case in
12 which I think we received 12 complainants.
13 Five of them I believe no work at all was done
14 in five of the complaints. And the other
15 seven complaints some work was done. We did
16 not feel we could go forward with regard to
17 the other seven. We did go forward with the
18 five based on the pattern of activity.

19 LEGISLATOR RHOADS: Essentially,
20 the one successful prosecution has been a
21 circumstance where no work at all was
22 performed?

23 MR. MANCUSO: Repeatedly yes.

24 LEGISLATOR RHOADS: Essentially
25 as long as there's a shovel in the ground or

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2 some equipment is brought to the site.

3 MR. MANCUSO: We evaluate each
4 matter on a case by case basis. There's no
5 blue line we use to do this.

6 MS. PERESS: First of all, you're
7 mentioning the one successful prosecution.
8 There are other pending prosecutions. I would
9 like to point out that contractor fraud is not
10 impossible. Over the years the district
11 attorney office's has brought contractor fraud
12 cases on behalf of senior citizens who have
13 been defrauded. There are active
14 misrepresentations in those case and we have
15 successfully prosecuted contractor fraud on
16 behalf of many victims. The Sandy cases are
17 different. Labor intensive. It's not as
18 clear cut in the Sandy cases that there is
19 provable criminal fraud.

20 LEGISLATOR RHOADS: My questions
21 are obviously in regard to Sandy
22 prosecutions. I didn't mean to imply that the
23 contractor statute was inapplicable, the fraud
24 statute was inapplicable to all fraud cases.

25 To what extent does the district

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2 attorney's office work in conjunction with
3 because obviously it's federal funds being
4 administered through New York Rising, to what
5 extent does our DA's office work with the
6 state attorney general or US attorney general
7 in terms of some of these prosecution? Is
8 there a sharing of information?

9 MS. PERESS: The New York State
10 Attorney General's Office has referred a lot
11 of the complainants to the district attorney's
12 office. I don't know what the federal
13 government is doing. We have received people
14 who tried to complain to the federal
15 government and they have been sent to us. And
16 we are the people who are looking into well
17 over 100 complainants.

18 LEGISLATOR RHOADS: Between
19 Consumer Affairs and the district attorney's
20 office how is information shared?

21 MR. MANCUSO: Typically what
22 happens is that complaints are made either to
23 the Department of Consumer Affairs or to the
24 complaint unit in our office. In the ordinary
25 course, the complaint unit forwards those

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2 complaints to the Consumer Affairs Department
3 so that they are all in one place for an
4 initial investigation in an attempt to resolve
5 the matters.

6 Once Consumer Affairs has gone
7 through its process, which involve
8 investigation and multiple hearings, if the
9 matter is not resolved then they are forwarded
10 to the district attorney's office. Sometimes
11 when we see situations in which there is a
12 bulk of complaints that suggests to us that
13 they will not be resolved at Consumer Affairs
14 we will be in the process to begin with. We
15 do not want to be in a position of conducting
16 a parallel investigation to the Consumer
17 Affairs. So we want one to take the lead and
18 see if it can be resolved. And if not, then
19 the matter goes forward with a criminal
20 investigation.

21 LEGISLATOR RHOADS: Obviously I
22 think I know the answer to this question for a
23 very specific role. I'm assuming that the
24 district attorney office's once there's a
25 determination that no criminal prosecution is

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2 able to be pursued, however there may very
3 well be a civil litigation an individual
4 homeowner can pursue, are any steps taken by
5 the district attorney's office to assist
6 homeowners in finding someone who would be
7 able to assist them in pursuing civil
8 litigation against the contractor?

9 MR. MANCUSO: In every case, not
10 just home improvement cases, we advise
11 complainants that they have civil remedies as
12 well and that they should not view the
13 involvement of the district attorney's office
14 as a red light to not to pursue their civil
15 remedies.

16 Once the case reaches a point where
17 we determine it will not provide a basis for
18 filing criminal charges, we will provide
19 information, to the extent that the victim
20 does not already have legal representation, we
21 certainly will provide them with information.
22 And the information, the most reliable source
23 of information is the send them off to the
24 county bar association to the lawyer referral
25 information service to consult with an

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2 attorney. By that point most have obtained
3 legal counsel or have consulted with legal
4 counsel on their own thinking along those
5 lines.

6 MS. PERESS: To follow-up on what
7 Peter said, we tell every single complainant,
8 Peter and I have been doing this work for well
9 over a decade, we tell people in the very
10 beginning, the minute they bring the complaint
11 to our office, that they should not hesitate
12 to consult with an attorney. They should not
13 hesitate pursuing any and all administrative
14 and civil remedies that they may have.

15 Because at the end of a criminal
16 prosecution somebody might get some jail
17 time. That's not going to put money back in
18 the pocket of the person whose has been
19 defrauded. It's not going to help them pay
20 for their bills. So we never ever discourage
21 a person from seeking whatever civil remedies
22 that they can seek. Because the result of the
23 criminal prosecution may not make them whole.

24 MR. MANCUSO: We also advise them
25 that civil remedies are subject to statute of

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2 limitations and that they should consult with
3 an attorney to make sure they are not shut out
4 from seeking civil resolution of the matter in
5 the event that the criminal disposition is not
6 to their liking.

7 LEGISLATOR RHOADS: Last
8 question. I said that twice already. I
9 apologize Madam Chairwoman.

10 Because we are talking about money
11 obviously that's in the hands of a homeowner
12 and paid to a contractor, but ultimately it's
13 money that came through the state and came
14 through New York Rising, to your knowledge,
15 does the state attorney general's office,
16 which has the ability since it's the state's
17 money ultimately at issue here, does the state
18 attorney general take any steps civilly to
19 pursue return of those funds from the
20 contractors? In other words, or is it solely
21 the homeowner's responsibility?

22 MS. PERESS: Myself, having
23 worked at the New York State Attorney
24 General's Office, there are proceedings that
25 the attorney general can bring where they are

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2 appropriate. Speak there are civil
3 proceedings, there are special proceedings
4 under 6312, fraudulent business practices.
5 There are various steps that an attorney
6 general's office can take. But we don't know
7 whether the evidence rises to that level and
8 we wouldn't speak on behalf of the New York
9 State Attorney General's Office.

10 LEGISLATOR RHOADS: That would be
11 civil not criminal?

12 MS. PERESS: Those would be
13 special proceedings under executive law are
14 civil proceedings. They're not criminal
15 proceedings.

16 LEGISLATOR RHOADS: I appreciate
17 that. Thank you.

18 LEGISLATOR FORD: I just want to
19 also want to echo what Legislator Rhoads
20 said. These hearings and the questions that
21 we are directing towards you in regard to
22 contractor fraud, we are solely focusing on
23 superstorm Sandy. So any comments that we
24 make has nothing towards Madeline Singas'
25 office in regard to any other type of

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2 prosecutions that she's following. We know
3 that she is doing her job in that sense. But
4 we are frustrated I guess and concerned about
5 contractor fraud with the Sandy people. I
6 just wanted you to realize this is just
7 superstorm Sandy.

8 Just to follow-up, I know Josh has
9 a question too, but when you talked about that
10 these contractors can hire subcontractors,
11 when you look at patterns that they have,
12 whether or not they are promising to do work
13 that they're not going to follow through or
14 misrepresenting themselves, I know that you
15 had said that you can't always -- like they
16 don't always have payroll records. Like they
17 hire day laborers to do a lot of this work on
18 these homes and stuff like that.

19 But then do you also when you are
20 looking to see if they are committing fraud
21 about the subcontractors that they have hired
22 and maybe not have paid, because we're finding
23 that on top of everything else not having the
24 work done, the homeowners being out of this
25 funding that they have, they can't get back

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2 home, they've also had liens put on their
3 homes by subcontractors who were hired by the
4 contractors that were never paid. So the
5 contractor has taken money with the intent of
6 paying, that was supposed to pay the
7 subcontractor, either the electrician or the
8 plumber, they never did. So what happens now
9 is the homeowner is stuck with a lien on their
10 house because these people they want their
11 money and they are going to get it one way or
12 another. They can't get it from the
13 contractor. Do you look at this if there are
14 instances with a contractor when you are
15 looking at fraud and people are complaining to
16 see whether or not they've hired these
17 subcontractors and that they have not paid
18 them and now there is a pattern also with
19 liens being placed on the homes.

20 MR. MANCUSO: In that situation
21 the subcontractor has resource against the
22 contractor. We seldom if ever get complaints
23 from subcontractors.

24 LEGISLATOR FORD: When residents
25 come to you and say that this guy is not doing

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2 this work and they hired this person and if a
3 resident complains now there is a lien on
4 their house as a result of this contractor, do
5 you take that into consideration when you are
6 trying to determine whether or not any type of
7 fraud has been committed?

8 MR. MANCUSO: Again we come back
9 to the question of whether and to what extent
10 failure to perform the promises engaged in the
11 contract is sufficient to make out proof of
12 the crime. That's another factor you would
13 take into consideration. I think in the
14 hypothetical scenario you just gave it's
15 probably a valid lien and the homeowner is
16 stuck with the situation because the
17 contractor hasn't done what he was supposed to
18 do vis-a-vis paying the subcontractor.

19 LEGISLATOR FORD: My last thing.
20 I know somebody had spoken to me about I guess
21 we may have a law in Nassau County -- correct
22 me if I'm wrong -- that there's like a trust
23 that they're supposed to set up. Like if you
24 have a contractor that is going to be doing
25 work that there is a trust fund that is

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2 supposedly to be set up and that money that
3 like say I hire somebody and give them
4 \$120,000 and they're going to do this work and
5 technically they're supposed to set up this
6 trust fund. And from that money or reserve
7 fund, whatever you want to call it, from that
8 money is supposed to stay there and that money
9 is supposed to be placed into an account so
10 that they can pay the subcontractors and
11 anybody else that is working underneath them.
12 Are you aware of this? And if so, do we
13 enforce it?

14 MR. MANCUSO: We are aware that
15 under the state lien law certain kinds of
16 trusts are created involving home improvement
17 contracts and those laws have seldom, if ever,
18 been enforced and they are confusing to
19 enforce actually. And they are subject to a
20 case in our judicial department that says that
21 you are still subject to the same intent that
22 you would need to prove in a larceny case
23 anyway. So we're back to larceny again.

24 LEGISLATOR FORD: Is that
25 something, that type of legislation, can we

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2 set it here in Nassau County or is that
3 something else --

4 MR. MANCUSO: Lien law is state
5 law. It's not a Nassau County law. I don't
6 know what the limits of your jurisdiction are
7 to create liens or enforce mechanisms with
8 regard to liens.

9 LEGISLATOR FORD: Thank you. We
10 will find out.

11 LEGISLATOR LAFAZAN: Thank you
12 very much Chairwoman Ford. Good afternoon.
13 First off, Diane and Peter thank you very much
14 for being here. It doesn't need to be stated
15 this is personal for all of us given the
16 ramifications for folks in our district who
17 aren't back in their homes seven years later.
18 Please take our inquiries and our urgency not
19 as contempt but as genuine concern for those
20 we represent.

21 First and foremost so I can make
22 this comprehensible for the average resident
23 and I can take this back to my constituents,
24 can you briefly describe just a typical
25 complaint and what contractor practices have

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2 given rise to a majority of the complaints?
3 My fear is the potential that many residents
4 may not realize that their frustrations with
5 contractors may actually resemble contractor
6 fraud. I'd love to do a better job of a
7 public awareness campaign about potential
8 contractor fraud, and I think we should
9 include that in our ultimate report.

10 But for now, again, so I can make
11 this comprehensible for those I represent, can
12 you briefly describe the typical complaint and
13 what contractor practices have given rise to
14 the most complaints.

15 MS. PERESS: There are different
16 levels of complaints. For example, there's
17 the complaint where absolutely no work has
18 been done. There is the complaint where some
19 work has been done. There is a complaint
20 where a substantial amount of work has been
21 done. And then there is the one where all of
22 the work is done and it's not acceptable. For
23 example, the example that I gave before, and I
24 apologize if I don't know the number of
25 inches, and these are heartbreaking. I think

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2 Peter and I and our attorneys and
3 investigators, our paralegals we have sat in
4 listening for hours, listening to all of these
5 complainants and people have been out of their
6 houses for years. What people are facing we
7 don't take lightly.

8 But the one that stands out in my
9 mind is the one where their house was raised
10 12 inches instead the 16 inches. They're
11 getting hurt by it because they can't get the
12 \$300 flood insurance. They have to buy the
13 \$3,000 flood insurance. But it's not
14 criminal. It's not criminal. It's a job
15 poorly done. And there's nothing that we can
16 do to use the penal law to prosecute a case
17 like that.

18 MR. MANCUSO: Most of the
19 complaints we receive are poor or partially
20 done work. Poor and/or partially done work.

21 LEGISLATOR LAFAZAN: I appreciate
22 that. It's helpful because so much of what we
23 do is abstract here but something that is so
24 tantamount to somebody's personal life I think
25 we need to do a better job of that public

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2 aware campaign. That's for another day.

3 But the second question I have here
4 because I want to make sure we have enough
5 time, we are going to question Consumer
6 Affairs also, is I'm a North Shore
7 legislator. But of course I have concern for
8 all of Nassau County's 1.3 million residents.
9 But we've heard such a dense concentration of
10 contractor fraud on the South Shore. Has
11 contractor fraud been concentrated in South
12 Shore communities or has there been instances
13 across Nassau County specifically related to
14 Hurricane Sandy incidents?

15 MR. MANCUSO: Contractor fraud
16 exists across Nassau County.

17 LEGISLATOR LAFAZAN: I understand
18 but regarding Hurricane Sandy specifically
19 have we seen a concentration or a trend or
20 something that's concerning of a trend?

21 MR. MANCUSO: The trend of course
22 with Hurricane Sandy is on the South Shore
23 where the storm impacted the most severely.

24 LEGISLATOR LAFAZAN: I'm aware of
25 the lifeline into Bayville for one of the

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2 largest areas in my district, five years to
3 fix West Shore Road. So we felt it on the
4 North Shore as well. Just concerning whether
5 we saw a trend or not?

6 MR. MANCUSO: It tends to be more
7 on the South Shore and the areas of greatest
8 impact, yes.

9 LEGISLATOR LAFAZAN: That's all.

10 LEGISLATOR FORD: I'm going to go
11 through the public comments, and I would like
12 to ask Assemblywoman Melissa Miller to come
13 up.

14 MS. MILLER: I'm sorry I'm
15 addressing your backs. Thank you. Good
16 afternoon. My name is Assemblywoman Missy
17 Miller. As Denise Ford said, I represent an
18 area. I live in Atlantic Beach. I represent
19 Long Beach, Island Park, the barrier island,
20 Lido, many, many of these constituents that
21 have been significantly affected. Many who
22 are still not in their homes. Many whose
23 homes are still in the air. So again, please
24 don't think this is attacking you. It's just
25 that it is very personal for us.

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2 I think -- I'm sure that the DA
3 has -- the office has driven through the area
4 I'm sure and seen the devastation and
5 continues to see almost seven years later the
6 devastation that continues in our area.
7 There's not a single block that is fully
8 complete without somebody's house unfinished
9 or in the air. So this continues.

10 So many of us that have been
11 affected by this contractor fraud it's just
12 very hard to digest this information that
13 there was not an identifiable pattern that was
14 seen. I understand the vagueness of the penal
15 law. And if that's on a state level it's
16 certainly something that I would fight
17 passionately to try and change.

18 But this vagueness of the promise
19 or the intention just can't -- we can't fathom
20 that. You can't tell us that a contractor
21 isn't savvy enough to do the required amount
22 of work, the minimum amount required to stay
23 above the radar and to get done just what he
24 needs to get done so that he's not going to
25 get himself in trouble and split and go on to

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2 the next job.

3 Even cross county. We have had
4 some very savvy contractors and there are more
5 than one or two or three people affected by
6 the same contractors. How does that not raise
7 your antenna. So it's just very, very hard to
8 digest that information.

9 The same thing with the lien law.
10 If somebody's taking your money and they're
11 supposed to be the fiduciary and then they're
12 gone and that money is gone, they stole that
13 money, they should be held accountable for
14 that theft. For that larceny. So there are
15 two laws that seem to be protecting these
16 consumers. These clients. Yet they have
17 fallen through cracks. And we just can't
18 understand it.

19 If the DA can't prosecute these as
20 crimes and Consumer Affairs can't do anything
21 more than what they've done, which they've
22 found enough evidence to pass it off to the
23 DA, then what's the consumer to do? You said
24 maybe get yourself a lawyer and follow through
25 with a civil case. Do you understand some of

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2 these homeowners they don't have any pennies
3 left to their name. Some of them are using
4 their life savings to pay rent and their
5 mortgage in a home that they're not even
6 living in because other programs have expired
7 and they have run out of all the extra
8 assistance programs that they have been
9 entitled to.

10 FEMA has ended many of their other
11 programs. Even with hardship they are ending
12 their programs. There are deadlines that are
13 coming and passing and they are being shut out
14 of program after program and nothing is being
15 offered to them except for something that they
16 probably cannot afford.

17 As far as this evidence, we
18 understand and I more than respect your
19 position that you need evidence based. These
20 people have -- I've seen them in my office.
21 Stacks and stacks of evidence. I am awed by
22 the amount of documents that they have kept on
23 their homes and the remodeling. I myself
24 would not have been so responsible I can tell
25 you right now. I'm way to scattered. You

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2 should see some of the files that these people
3 have with all of their documentation.

4 It's so clearly a documentation of
5 fraud, and we just can't understand how the
6 DA, our protector, is just letting this happen
7 and letting these people fall. They can't get
8 back in their homes. They can't finish their
9 homes and there's no recourse.

10 From my position, I have been
11 working with Legislator Ford, I've been
12 working with some of these constituents, I
13 want to know what can I do on a state level?
14 What can the DA's office tell me as a state
15 legislator what I need to do. Do I need to go
16 back to Albany and say we need to do something
17 about this penal law so that it's easier to
18 prosecute these criminals? Because that's
19 what they are. That's what they've done to
20 these people. How do we punish them? How do
21 we get these people their money back? Do we
22 need a bigger restitution fund moving
23 forward? Build money into the budget? Take
24 money out of FEMA funds so in the future this
25 can't happen again?

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2 But for now, what can we do to help
3 these people move forward and get back their
4 lives and their homes. That's what I would
5 like to know and how I can help and what the
6 DA's office can offer me?

7 LEGISLATOR FORD: We were just
8 commenting on your comments Missy.

9 LEGISLATOR DERIGGI-WHITTON: We
10 saw a lot after Sandy. Not only with
11 homeowners but also with -- it sounds minor
12 compared to what you all are going through but
13 some tree contractors took advantage of the
14 situation. There were like 141 trees cut down
15 in my district in a preserve three weeks after
16 Sandy. Unfortunately when there's so much
17 money flooding into the county right after a
18 disaster, most people are good and we saw such
19 good activities from so many neighbors and
20 contractors most are good. But some people
21 are going to take advantage of that
22 situation.

23 To answer your question Josh, the
24 South Shore got hit more with these types of
25 situations because there was more money thrown

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2 into the South Shore. As there should have
3 been.

4 Is there something you think we can
5 do going forward as far as if there is a FEMA
6 situation where we are going to be getting hit
7 with all this money that even on the county
8 level we can maybe raise the standards for
9 that specific instance to protect these
10 people? They did everything right. Going on
11 the faith of good people, good contractors,
12 but in those case where there are people who
13 do take advantage, I feel we have nothing in
14 place to protect our resident in that
15 situation. Almost like we were just
16 discussing a temporary clause when FEMA money
17 is involved as far as the standard in the
18 contracting that can be imposed?

19 MS. PERESS: Look, you could put
20 more requirements in place. For example, just
21 going into a totally different area. DA
22 Singas at one point said that any contractors,
23 for example that the county hires, that there
24 should be tremendous vetting of those
25 contractors. That she felt strongly about

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2 it.

3 You could put measures in place to
4 vet contractors more thoroughly before they
5 can take on a job. But after a disaster it
6 doesn't always work because people are --
7 because it is a disaster and people are
8 rushing and they're trying to regroup and
9 trying to get back on their feet again.

10 You're right, that's where the scammers come
11 in. There's always going to be people who
12 take advantage of a disaster. But it's the
13 rush to get the work done that basically
14 throws aside any kind of vetting process that
15 would go on. Because people word of mouth,
16 people coming from out of state. That's why
17 it's called a disaster.

18 In response to the comments that we
19 just heard, yes our antennae is raised. When
20 person after person comes in on a particular
21 contractor and yes, completely our antennae is
22 raised and that's why we open investigations
23 and that's why we sit down and that's why we
24 subpoena records and that's why we look at all
25 of it. It doesn't mean because we open an

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2 investigation that we're going to get to the
3 finish line. That we are going to meet the
4 standards of the criminal law.

5 But absolutely our antenna is
6 raised. It's not just subpoenaing. It's not
7 just meeting with complainants. We've
8 actually hit the streets. I'm happy to say
9 that Atlantic Beach is in much better
10 condition. But we have actually gone up and
11 down the streets of Long Beach. The actual
12 attorneys handling the investigations have had
13 to visit houses that are the subjects of the
14 investigations that they are handling. In
15 fact, I made them take pictures and show me
16 the pictures. But we all hit the streets of
17 Long Beach to see the destruction firsthand.
18 This isn't we're sitting in our offices
19 listening to stories.

20 It doesn't mean though that at the
21 end of the day we are going to be able to
22 prosecute somebody criminally. But we
23 certainly take a look at it when there seems
24 to be a pattern and when it seems to be the
25 same name coming up over and over again.

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2 LEGISLATOR FORD: Thank you. I'm
3 going to ask Beth Waters to come up. As she's
4 coming up for us I guess my feeling is that
5 had we, like when you say that so many people,
6 like now the scammers come in, all this money,
7 like Delia was saying, all this money came
8 into our communities and it was just ripe for
9 people taking. Talking about billions of
10 dollars. And people saw opportunities to be
11 able to all of a sudden become a contractor,
12 say that we're going to raise your house and
13 rebuild you. In my mind, there was no
14 intention to completely finish all of these
15 jobs. Because there no way that they could
16 have finished all these jobs.

17 I know that the penal law clearly
18 states that there's a high level that you have
19 to prove in order to say there is a criminal
20 intent. But I think in a case like this there
21 should have been some avenue, some way that we
22 could have maybe had made it easier, maybe had
23 reached out to New York State at that time in
24 the beginning to say we're not going to be
25 able to prosecute people that are engaging in

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2 criminal activity knowing that they are
3 defrauding all these residents of hundreds of
4 thousands of dollars.

5 I think maybe if we could have
6 prosecuted some of these scammers early on it
7 would have sent a chill down to everyone else
8 who decided that they thought they were going
9 to come in and sign up 30, 40 residents that
10 they make sure that they can complete the work
11 rather than just taking their money and
12 leaving without any fear of going to jail.

13 MR. MANCUSO: The parties with
14 whom we contact in New York State regarding
15 this matter are under no misimpression as to
16 how difficult, from us, as to how difficult it
17 is to prosecute these cases.

18 LEGISLATOR FORD: It's
19 heartwrenching only because you've seen it,
20 you said you have been in area. We lived
21 through it. I saw these houses destroyed.
22 People come to your homes. They talk to you
23 on the phone. They come sit on your porch.
24 Lamenting over what are they going to do.
25 They have nothing left. I guess our feeling

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2 is our frustration is what can we offer them?

3 And that's the sad fact. Beth.

4 MS. WATTERS: Good afternoon.

5 I'm going to piggyback on Denise and Missy

6 mentioning the New York State lien law, and

7 you spoke about how ultimately it becomes

8 difficult because it goes back to intent. I'm

9 just wondering why that is the case. Because

10 the way the New York State lien or lien trust

11 law is set up, once the money is recognized as

12 an asset and treated as trust funds where the

13 GC and/or the owner of the construction

14 company are the trustee, they are to ensure

15 the payments go to the subs and the suppliers

16 and the laborers.

17 So, when those funds, let's say I

18 give 30 grand over to my contractor and that's

19 to handle let's say electrical and plumbing

20 work, if those funds aren't received by the

21 electrician and the plumber than why is that a

22 case of intent? If the subs are not receiving

23 those funds why does that not go right to a

24 purpose other than its intention with the New

25 York State Lien Law would be larceny? That's

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2 to you guys. Then I have a recommendation.

3 MR. MANCUSO: Do I want us to
4 respond or do you want to hear all the
5 comments first?

6 LEGISLATOR FORD: You can
7 respond.

8 MR. MANCUSO: I mentioned some of
9 this earlier. If we had a situation in which
10 a subcontractor, middleman or supplier came to
11 our office and made a complaint that monies
12 that were due to them that were to be held in
13 trust under the lien law and were not paid to
14 them and therefore they put a lien on the
15 property, we would take a look at that very
16 carefully, very differently than we would look
17 the kinds of scenarios we have been talking
18 about.

19 The bottom line is, I don't know
20 that we've ever had someone in that position
21 come to the office and say I want to make a
22 criminal complaint against the contractor
23 because of the money that they were supposed
24 to turn over to me and didn't. We have had
25 cases where we've reached out to see whether a

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2 party with a lien, who had placed a lien
3 legitimately on property would come and make a
4 complaint to us so we can use that as a
5 vehicle to go after a contractor who we didn't
6 have access to as a result of the direct
7 relationship with the homeowner. That would
8 be something we would certainly take into
9 consideration if we received such a complaint.

10 LEGISLATOR RHOADS: Why can't the
11 homeowner be the complainant.

12 MR. MANCUSO: The money isn't
13 owed to the homeowner.

14 LEGISLATOR RHOADS: But the
15 homeowner is the one that's got a lien on
16 their property. They're an aggrieved party
17 here.

18 MR. MANCUSO: That's not where
19 the larceny arises from. The larceny with
20 regard to the material man or the
21 subcontractor is the larceny I'm talking about
22 now.

23 LEGISLATOR RHOADS: But the
24 homeowner is the one that paid the money to
25 the contractor that is supposed to be placed

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2 in this business escrow account.

3 MR. MANCUSO: That's correct.

4 LEGISLATOR RHOADS: As a result
5 of that money being misappropriated or going
6 for some purpose other than the subcontractor
7 that it was supposed to go to, the homeowner
8 is now the one aggrieved. They have a lien on
9 their house. If they sell their house they
10 have to pay that money a second time based
11 upon the existence of the lien.

12 MR. MANCUSO: But they're not the
13 victim of that larceny.

14 LEGISLATOR RHOADS: They sure
15 sound like it. If you're the one financially
16 responsible you sure sound like a victim,
17 right?

18 MR. MANCUSO: That's where we are
19 on the subject.

20 LEGISLATOR RHOADS: But why I
21 guess is the question?

22 MS. WATTERS: I have another
23 question that you brought up. You mentioned a
24 case where the home wasn't lifted to the full
25 18 inches. It was 12 inches and you said you

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2 can't treat that as a crime. If the contract
3 says that the contractor needs to complete the
4 work to code that means that's not to code.
5 So right there that's a breach. Why can't
6 that be pursued from that angle? As with any
7 other item that could be in that -- any other
8 work that's not to code would be breaching the
9 contract.

10 MR. MANCUSO: The issue here is
11 not whether a contract was breached and
12 whether there is civil remedies for breach of
13 contract. The issue is whether the larceny
14 statute provision have been met. The issue is
15 not whether there is a breach of contract and
16 whether a civil action would be forthcoming
17 for breach of contract. It's whether a theft
18 has taken place that's recognizable under the
19 larceny statute under the penal law. Because
20 something that's a breach of contract doesn't
21 put it into the category of theft under the
22 penal law.

23 MS. WATTERS: That's something
24 that would stay at the Consumer Affairs level
25 I imagine.

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2 MS. PERESS: The law in New York
3 State, I would think that the law in most
4 states, are not going to have breaches of
5 contract turned into crimes. Poor performance
6 is not a crime. It is a breach. It is a
7 civil wrong. It is a breach of contract. I
8 don't think that any legislature is going to
9 start passing laws that make breaches of
10 contract prosecutable as crimes. So it's not
11 a crime. As much as it is egregious and
12 harmful to the homeowner, a breach of contract
13 any breach of contract, the legislature in
14 New York State has not made it a crime to
15 breach a contract.

16 You can't pick it out that this
17 would go for home contracting. It would go
18 for all breaches of contract. Where would it
19 stop?

20 MS. WATTERS: This goes to
21 reestablishing what is a crime. And if I was
22 let's say in a southern state such as
23 Louisiana and I gave my contractor let's say
24 60 grand to do work on my home and it wasn't
25 completed. According to the statutes there, I

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2 could go into my local police department if I
3 can prove that the work was not completed as
4 per contract and they could issue an arrest
5 warrant based on a contractor fraud or
6 misapplication of payment.

7 So to the committee, this is the
8 type of statute I think should be investigated
9 whereby no person, contractor, subcontractor
10 agent of a contractor who has received money
11 on account of a contract or erection or repair
12 of a building, repair or other improvement
13 shall knowingly fail to apply the money
14 received as necessary to settle claims for
15 material and labor due for the construction
16 under the contract.

17 When the amount that has been
18 misapplied is \$1,000 or less whoever violates
19 the provisions of this section shall be fined
20 not less than \$100 or more than \$500 or
21 imprisoned for not less than 90 days and no
22 more than six months or both. And when the
23 amount misapplied is greater than \$1,000
24 whoever violates this section shall be fined
25 session not less than \$100 or more than \$500

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2 imprisoned with or without hard labor for not
3 less than 90 days or more than six months or
4 both for each \$1,000 in misapplied funds
5 provided that the aggregate imprisonment shall
6 not exceed five years.

7 The last portion of the statute
8 would mean that any person or contractor,
9 subcontractor or agent of a contractor or
10 subcontractor who knowingly fails to apply
11 construction contract payments as required in
12 the subsection A shall pay to the court and
13 the court shall transfer to the person whose
14 construction contract payments were misapplied
15 an amount equal to the sum of payments not
16 properly applied and any additional legal cost
17 resulting from the misapplication of these
18 construction fund payments, including a fee
19 charge by the clerk of court for handling the
20 payments.

21 To me, this is an option to be
22 investigated. Because we 40 clients of one
23 contractor who happened to take off out of
24 state and they are all waiting for a year and
25 a half and all of their cases are with you.

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2 Had there been a law like this in place, just
3 one complaint or police report would
4 constitute arrest.

5 LEGISLATOR DERIGGI-WHITTON: Do
6 you have like a citation?

7 MR. MANCUSO: I would be happy to
8 give it to you.

9 LEGISLATOR DERIGGI-WHITTON: It's
10 from Louisiana, right?

11 MR. MANCUSO: I'd be happy to
12 give it to you. She was reading from revised
13 statutes title 14 section 202 of the 2011
14 Louisiana laws. In addition, 202.1 lists a
15 half dozen, more than a half dozen affirmative
16 defenses to that involving such things as the
17 work could not be performed because of
18 excessive inclement weather conditions failure
19 to receive necessary materials, medical
20 reasons, inability to access the job site and
21 so on.

22 You could certainly, at the state
23 level anyway, certainly criminalize particular
24 kinds of breach of contract and set criteria
25 and parameters for that exercise. Again, that

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2 I think would be a state function. I suppose
3 you have legal counsel can tell you whether if
4 you set misdemeanor penalties you can do that
5 at a county level. But that's what you're
6 talking about is a situation where in
7 Louisiana they have broken out a particular
8 type of breach of contract and identified
9 situations in which they are prepared to
10 impose criminal penalties on breach of
11 contract and to create a set of affirmative
12 defenses to prevent criminal penalties from
13 attaching in different situations.

14 LEGISLATOR DERIGGI-WHITTON: Not
15 speaking for all of us, but I think it's
16 something that we should look into.
17 Especially in a situation where FEMA money is
18 included and dealing with people's homes.

19 LEGISLATOR FORD: I agree. And I
20 think that when we were talking about when
21 you're saying the criminal activity you know
22 if people don't like they didn't raise the
23 house 16 inches, they only raised it 12 inches
24 and poor performance on the jobs that they do,
25 the work that they do when they're building

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2 these homes. But I guess it's very hard to
3 prove criminal intent.

4 What happens if these contractors
5 are rushing through these jobs and they really
6 aren't doing the quality work or the type of
7 work they should be doing? Down in Long Beach
8 our houses are close together. We can pretty
9 much lean over and hand a cup of coffee to our
10 neighbor. If you look at this type of work
11 and if they don't do it correctly and all of
12 sudden we had an instance where a house
13 started falling over because the person did
14 not put -- I'm not a contractor so I have no
15 idea what the terminology would be -- but the
16 braces to hold the building from going this
17 way and thankfully the house fell over before
18 all the work was completed and fell onto the
19 house next door to it.

20 Say if that happened, that the
21 person did not follow it through, there were a
22 lot of complaints against this contractor, he
23 didn't do the work right, rushing through
24 everything and all of a sudden the house does
25 tip over or leans into the other house, causes

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2 as fire and somebody dies in the house next
3 door. Does that become criminal or is that
4 still something that would not be touched by
5 the DA?

6 MR. MANCUSO: I would be
7 reluctant to give you an analysis of
8 situations that can lend themselves to
9 reckless and negligent assaults and homicides
10 since my work for the past 40 years has been
11 in the financial crimes area.

12 LEGISLATOR FORD: Thank you. But
13 we are looking at these types of scenarios and
14 this is what we are facing. You can hear the
15 level of frustration we have and we will have
16 other speakers get up. It's just that so many
17 people are out of their homes. They have
18 nothing. When I tell you they have nothing
19 they have nothing. And you're going to hear
20 from some people who are going to tell you
21 that their loved ones did leave the home that
22 they grew up in and unfortunately, because
23 it's been taken them so long to move back
24 home, one of their family members has ended up
25 dying during this whole time.

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2 So these are heart wrenching
3 stories that we get. It's very hard you know
4 because to me and I understand the law and we
5 do understand these laws and I guess we're
6 going to have to start taking a look at them
7 and start pressing to see what we can do here
8 in the county level, but also to work with our
9 partners in New York State. There are changes
10 that have to be made.

11 I wish that we had known more about
12 this beforehand because I really would have
13 thought it would have been good to do this a
14 couple of years ago. Because I really think
15 that like if you just send somebody to jail it
16 would send a message to all of these other
17 people that you better not do what you're
18 doing and you better start falling, you know,
19 doing the right thing and to take care of our
20 people.

21 MR. MANCUSO: I would like to add
22 one other thing to what I just said. Please
23 be assured that in this and everything we do
24 in our office, if we see a situation
25 regardless of what we're investigating that

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2 suggests to us there is any danger to the
3 public or any health danger we immediately
4 refer that to the appropriate agency or take
5 appropriate action and that comes first. That
6 comes ahead of any investigation.

7 LEGISLATOR FORD: Thank you very
8 much. I really appreciate knowing that Brian
9 Baer.

10 MR. BAER: It's Baer. B-A-E-R.
11 We've only met a couple of times. Mr. Rhoads
12 how are you?

13 LEGISLATOR RHOADS: Doing well.
14 How are you?

15 MR. BAER: I'm excellent. Thank
16 you. For those of who don't know me, my name
17 is Brian Baer. I'm the executive director and
18 founder of the Elevated Studio. We're a
19 nonprofit architecture case management
20 organization helping individuals recover from
21 a disaster.

22 I could go into a long laundry list
23 of recommendations but I don't want to take up
24 the committee's time. I will save that for a
25 different time. But a couple of things that

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2 have come to mind is larger and better
3 coordination between Consumer Affairs, the
4 district attorney and the state. From our
5 perspective, what we have hear from our
6 clients, direct clients and others who come to
7 us, seems to be that there isn't a whole heck
8 of a lot of coordination between the agencies
9 involved with fraud. Or breach of contractor
10 neglect.

11 Now, I hear this anecdotally. I
12 don't know what happens behind closed doors
13 within your agencies, so you guys can address
14 that as you see fit.

15 The biggest thing that I have a
16 challenge with with our cliental is the lien
17 laws. I think that if there's going to be one
18 takeaway from today's conversation is that the
19 lien laws need to be adjusted to protect the
20 consumers. The money that gets handed off by
21 the recovery program to the homeowners is
22 between the program and the homeowners. The
23 homeowner then enters into an agreement with
24 the contractor. They hand the money over and
25 then the contractor for one reason or another

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2 doesn't pay the subcontractor and the
3 subcontractor there in turn puts a lien on the
4 homeowner.

5 That's a problem. It's a major
6 league problem. We're not talking about a
7 couple of hundred of dollars here. We're
8 talking about tens of thousands if not
9 hundreds of thousands of dollars on a per
10 client basis. That adds up to a lot of agita
11 for any client who has already gone through
12 one trauma in their life, being the storm, and
13 now they have to go through another trauma of
14 potential contractor fraud. Breach of
15 contract, neglect, however you want to label
16 it. There are different values to that.
17 There are different definitions to that.

18 I respect what you guys are trying
19 to do and help the consumer, but at the end of
20 the day the consumer feels at the end of the
21 day they feel they are left behind again.
22 Again and again and again. It's a challenge.

23 So the point of neglect versus
24 breach of contract you used the example of a
25 home not being elevated to the proper code

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2 that's neglect. That's not breach of
3 contract. Someone does something wrong in the
4 construction world or the design world that's
5 neglect. And that's what errors and omissions
6 is for.

7 Breach of contract is something
8 completely different. They do something.
9 They stop for months, months, months. That
10 would be a breach. What we're trying to do is
11 educate our clients and just the general
12 population to make sure they understand what
13 their protections are with the contracts that
14 they have to sign with the particular
15 contractor.

16 Mr. Rhoads and Ms. Ford have
17 attended a couple of dozens of our educational
18 events we held in concert with Nassau County.
19 I would certainly encourage more of them if we
20 feel as though they are warranted.

21 But again, I would really focus on
22 the lien law. And I know that you guys are
23 just one county. We have seen this in
24 Suffolk. We have seen this in Schoharie where
25 we are also working. We have seen this in

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2 Delaware where we are working. These are
3 counties not the states. It's a challenge.
4 It's a real challenge.

5 So, with that, I will leave that to
6 you.

7 LEGISLATOR RHOADS: Thank you
8 Mr. Baer. And I would ask if you do have
9 specific recommendations separate and apart
10 from the ones obviously you've given us now,
11 which sound wonderful, if you could submit
12 those in writing to the committee we will
13 incorporate them as part of our findings.

14 Mr. Mancuso, just in response to
15 that, one, is there any kind of gross
16 negligence standard in terms of performance
17 under a contract?

18 MR. MANCUSO: Only civilly.

19 LEGISLATOR RHOADS: If there is
20 gross negligence it doesn't rise to the level
21 of criminal act?

22 MR. MANCUSO: There are certain
23 provisions in the penal law that speak to
24 negligence but they're not in the nature of
25 financial or larceny related matters.

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2 MS. PERESS: If there were gross
3 negligence, for example, something were
4 constructed in such a way that deviation of
5 the standards, there might be another section
6 of the office that might look into that. We
7 have had such prosecutions in the office in
8 the past where gross deviation from the
9 standard of care has occurred. It might not
10 be a financial case. It might be a case where
11 someone has been injured or there is a
12 potential injury. So I'm not going to
13 discount the fact that there would be some
14 kind of criminal prosecution. But it might
15 not be a financial prosecution but it could be
16 prosecution.

17 MR. BAER: The financial aspect
18 of the negligence falls back to the homeowner,
19 or the property owner I should say, where they
20 paid out a certain amount of money, the
21 contractor has performed the work
22 inappropriately and the restitution then
23 becomes a civil lawsuit between the homeowner
24 and the contractor.

25 When using federal dollars,

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2 especially for homeowners who may be
3 vulnerable for one reason or another, they're
4 elderly, on a fixed income, it's their only
5 opportunity to remediate or mitigate their
6 home from a disaster. This is their only
7 shot. And the issue of putting the problem in
8 the bubble of a solely financial bucket I
9 think needs to be looked at a little bit
10 harder. Because you're relying on a
11 government program that is granting money to
12 individuals who have never really managed more
13 than maybe a bathroom remodel. This goes to
14 the recommendations that we've made to the
15 state and will certainly continue to make them
16 to this committee. But it's a larger picture
17 that I'm not entirely sure can be put into the
18 bucket of finances and finances in law.

19 MS. PERESS: If I may. It's not
20 just placed into the financial area but it may
21 not get the homeowner the relief they need.
22 For example, just in the general area, we have
23 had cases for example with architects. I
24 don't purport to know that much about
25 architecture, but there are licensed

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2 professionals who have allowed their stamps or
3 their names to be placed on documents that
4 they have not approved. They just sort of
5 sell their stamp. Whether it be a CPA or an
6 architect. Especially an architect. You're
7 talking about plans of a house.

8 The end of that prosecution is
9 going to be the person losing their license or
10 being punished for improperly using their
11 license or encouraging unlicensed practice of
12 a profession under the education law. That's
13 not going to get the homeowner what they
14 need.

15 We're talking about helping the
16 homeowners here. I think Peter mentioned
17 earlier that there is falsifying business
18 records. There's offering a false instrument
19 for filing. There's a whole panoply of crimes
20 that apply but they are not necessarily geared
21 to the financial, which we are talking about,
22 because we are trying to see what can be done
23 for the homeowner.

24 LEGISLATOR RHOADS: However,
25 those criminal prosecutions and the ultimate

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2 outcome of those criminal prosecutions,
3 successful criminal prosecution can be used as
4 evidence in the homeowner's civil case. They
5 are still relevant on the financial end as
6 well.

7 MR. MANCUSO: Also successful
8 criminal prosecutions will always result in
9 recommendations of restitution. Whether the
10 funds are there to make restitution or not is
11 a different matter of course.

12 MR. BAER: I think the challenge
13 with design professional misappropriation of
14 their stamps or however you want to label it,
15 yes, the state -- I get licensed by SUNY.
16 They're the governing body for architects and
17 a whole host of other professions. The county
18 last, or as I understand, last I checked, they
19 are the ones who license the contractors.

20 The contractor -- the moment there
21 is a potential breach of contract or
22 contractor fraud or there's some
23 conglomeration of numerous counts against one
24 particular contractor, that particular
25 contractor is still allowed to operate. There

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2 should be, one of my recommendations, there
3 should be a moratorium that the person should
4 not be allowed to work. Period.

5 If I, as a design professional,
6 have to go through school, have to take an
7 exam, have to do all the things that I have to
8 do to maintain my licensure, which I have to
9 do 36 hours of continuing education units
10 every three years, 12 hours per year, why
11 would not a contractor, who has to uphold the
12 building code just like I do, not go through a
13 similar set of criteria? And further, if
14 there is a case against an architect, they're
15 put on a pause until it's investigated. Why
16 wouldn't a contractor go through the same
17 process? I'm asking I'm not telling.

18 LEGISLATOR FORD: Mr. Baer, I
19 believe, I'm not going to speak for the DA,
20 but I believe that that might be something
21 under the Consumer Affairs. That they would
22 be the ones. What we will do is move this
23 along. Thank you very much because you
24 brought some interesting things. We're going
25 to go on to the next speaker, but I'm going to

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2 jump in and say that I think that would be
3 best answered by Consumer Affairs. Am I
4 correct?

5 MR. MANCUSO: We very much
6 agree. Meta Mereday please.

7 MS. MEREDAY: Meta Mereday,
8 Baldwin resident. My concern with this aspect
9 of it has to do largely with the contract
10 process itself and the role of the county.
11 You talked about the lien law. I didn't
12 really hear much about General Business Law
13 36A with regard to the home improvement
14 segments. I don't see where many homeowners
15 have ever received that home improvement fact
16 sheet from the attorney general. And you are
17 putting circumstances on people who are
18 already traumatized by the storm itself. So
19 I'm really not buying we received this whole
20 bucket of money and didn't know what to do
21 with it. That just smacks of irresponsibility
22 when you run for office and say that you're
23 going to the fiscal management manager of a
24 \$3.1 billion budget. So I'm not buying that.

25 The county does have some

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2 responsibilities with regard to that but let's
3 face facts. In 2012 the contracting process
4 in Nassau County was basically one of the
5 worst in the country. So let's try to revisit
6 that type of history if we are going to fix it
7 as we are going into hurricane season again.

8 Many of these residents are still
9 living outside of their homes. Many of them
10 are dealing with contracts and contractors
11 that pretty much came knocking on their door
12 based upon recommendations, be they real or
13 imagined, from New York Rising as far as being
14 are authorized contractors.

15 What is the plan moving forward
16 from this hearing? Because as many of you
17 know, many of you know me, many of those
18 sitting behind me don't know that I'm the one
19 that's here on a regular basis. I was the one
20 that was here in 2012. I was the one that
21 knew about a \$12 million contract that was
22 given to a company that was two weeks old that
23 addressed recovery in Sandy. Yes, it was two
24 weeks old and got a \$12 million contract.

25 So, let's just get to the brass

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2 tacks as far as what you're going to do to
3 make these homeowners whole. What is the
4 responsibility of the elected officials when
5 you want to show up and stand before their
6 house and call on certain agencies. Well
7 right now, as I said, the 3.07 budget for
8 Nassau County it starts here as far as the
9 responsibility for that. County law can
10 provide some safeguards when you're dealing
11 with the abandonment process that many of
12 these homeowners have experienced. The county
13 can deal with false promises and acts of
14 fraud.

15 The district attorney's office
16 needs to step up its efforts. It needs to be
17 more hands-on, because folks, we're not out
18 there taking picture in 2013, 2014, 2015,
19 2016, 2017. So it's nice to know that you're
20 out there now.

21 Another question with regard to the
22 New York State Senate Bill 2017, State Senator
23 Kennedy's bill, S-583 that was supposed to
24 increase some of the sanctions and increase
25 the fines against some of these contractors to

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2 safeguard Sandy victims. Where is the county
3 with regard to that? Can anyone answer that
4 question for me?

5 LEGISLATOR FORD: That law is New
6 York State and that's something that we are
7 going to look at. As we stated with this
8 hearing, we are finding our way through
9 everything to understand the role of the DA
10 with contractor fraud. And we will reach out
11 to Senator Kennedy to find out why it hasn't
12 been passed. Whether or not there is an
13 assembly bill that goes with this. I'm sure
14 that we would definitely support it if we had
15 to write a home rule message to be able to say
16 that we need it.

17 We are looking, because just like
18 you, we are very angry over the fact that a
19 lot of our residents have been left high and
20 dry. There were promises made by elected
21 officials that they would be made whole.
22 We've asked for -- the DA's office did say
23 that one of the solutions we may have for our
24 residents is in the restitution fund that
25 maybe Consumer Affairs could manage should be

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2 increased. There's no reason why we only --
3 and I understand the law is like \$10,000 or
4 whatever. But we have called upon New York
5 State and the governor to increase that
6 restitution fund, to make it maybe five or ten
7 or \$25 million. So that when people have a
8 problem with their contractor and we have to
9 determine whether or not it's going to be
10 criminal or civil they're stuck in apartments,
11 stuck in other people's homes, they're stuck
12 in hotels that they are paying for and they're
13 losing all their money.

14 MS. MEREDAY: Some of them are
15 living in their cars.

16 LEGISLATOR FORD: Exactly. So
17 when you look at it, my feeling is if we know
18 we are going to set up something and that they
19 have to go for restitution or whether or not
20 any type of complaint can be made, you know
21 they have liens against them, my feeling is if
22 New York Rising, let's be fair, none of us
23 really knew in the beginning that when they
24 signed on with New York Rising that they were
25 going to be responsible for the money. So

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2 that when these contractors were defrauding
3 them everybody thought that New York Rising
4 was going to help go after the money. That's
5 not case. New York Rising only deals with the
6 homeowners. Then it's the homeowners who has
7 to deal with trying to rebuild. Try to figure
8 out like how do they go to the DA's office?
9 Is it going to be criminal? Is it going to be
10 civil? If it's civil how do I get -- now I
11 have to like, while I'm trying to rebuild, now
12 I have to find a lawyer to help me like
13 prosecute these people to go after in the
14 hopes that I'm going to get this money back.

15 So while they're doing this, we're
16 talking not even days or months we're talking
17 about years. We're talking about three, five,
18 six years that people are waiting in order to
19 get justice. Justice for themselves because
20 they didn't create Sandy but they were surely
21 victimized by this storm. And by the
22 governments who are supposed to be here to
23 protect them. But that's not the case.

24 So what the thing is that I feel if
25 we can have more money in a restitution fund

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2 in cases like this moving forward that if
3 somebody had \$130,000, their contractor walked
4 away with that \$130,000, that that resident,
5 based on an investigation, get the original
6 \$130,000 back, let them then go to the next
7 contractor, get themselves back in and let's
8 go after the people after the fact not during
9 the fact and that's how I feel.

10 MS. MEREDAY: But what is Nassau
11 County doing with regard to the contractor
12 situation moving forward? Because we are now
13 going into the hurricane season and our Office
14 of Emergency Management has not made much
15 improvement from 2012. And the contracting
16 process for Nassau County has not made much
17 improvement to make sure that this does not
18 happen again. Because people can literally
19 drive up to someone's home and make it look
20 like they can help them. If the person is
21 desperate they are going to continue to use
22 that resource.

23 And the fact that this room is not
24 filled speaks to the fact that again this
25 hearing was held at a bad time. So residents

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2 were not fully advised of this and given the
3 opportunity to decide what's the best time for
4 them to be here. They are already working two
5 and three jobs. Elder care, young people.
6 The situation again is disrespectful and
7 disingenuous to the residents who are
8 struggling to survive in this county.
9 Including our most vulnerable. Which are our
10 veterans and seniors.

11 So when are we going to get it
12 right first of all and do right by the
13 residents who are impacted here? That is my
14 continued question. And as you well know, you
15 will see me again. You will see me at
16 budget. And I'm hoping that other residents
17 step up and speak up to the situation or
18 they're going to continue to be left under the
19 bus. And it's a very expensive bus since we
20 pay the second highest taxes in the country
21 for the type of services that we don't
22 receive. Thank you.

23 LEGISLATOR FORD: Thank you.

24 MS. PERESS: If I may. In
25 addition to increasing the restitution fund,

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2 it might be difficult to get it passed, but
3 there are provisions in the tax law that allow
4 for victims to claim some kind of credit. For
5 example, a person who suffered a casualty loss
6 or a victim of theft can claim a credit under
7 the IRS rules. Perhaps a suggestion that
8 where there is a provable claim of loss that a
9 person who has suffered a loss such as this
10 could get some kind of tax relief from the
11 state.

12 LEGISLATOR FORD: Perfect. Thank
13 you very much. Constance Pardo.

14 MS. PARDO: Good afternoon. My
15 name is Constance Pardo. I'm a Freeport
16 resident, and I have been impacted by
17 superstorm Sandy. I have been out of my house
18 for 13 months. Probably not as long as some
19 other people I know half. But I have been
20 fighting with my contractor, which now we have
21 terminated services with him. Because it has
22 taken him anywhere from a month to six weeks
23 between each process that he has done, and I
24 have had to fight with him every step of the
25 way to move forward. Now I have a new

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2 contractor who is hopefully going to give me a
3 day by day account of what he's doing.

4 But he's taken money from me and
5 good faith I thought that he was going to
6 perform the services that he was going to do.
7 Now I am out of money. My house is still in
8 the air and it should have been down and
9 pretty much finished because in the contract
10 it said approximately seven months from the
11 start of the work you would be ready to go
12 into a live in home. I'm not there yet. I'm
13 in a rental of a another New York Sandy home
14 of a friend. But I'm at odds with them
15 because they want us out of there to move in
16 relatives there. So I am in the midst of
17 everything.

18 And I called the DA's office and I
19 was told to go to Consumer Affairs. Nothing
20 else. I wasn't told hey get a lawyer, go
21 this, go that way, go where ever. Nothing.
22 Just go to Consumer Affairs. Well, I have
23 done Consumer Affairs. I have demonstrable
24 hardship. I want to know what's going to
25 happen with IMA? Is it going to continue?

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2 Because I can't pay a mortgage and rent too.

3 I am a senior citizen. I was forced to

4 retire. My husband has a job. We're both up

5 there in age. And half of the work I did

6 myself to get the house moving.

7 So what's going to happen? How am

8 I going to recoup money that they took from me

9 to get back and to move forward? Is IMA going

10 to continue or are they still on the June 30th

11 deadline or what is going to happen with IMA?

12 LEGISLATOR FORD: I did speak

13 with New York Rising and unfortunately they

14 did not send a representative here to today's

15 hearing. But I did ask them in regard to the

16 homes that people who have been victimized by

17 contractor fraud or for any other reasons,

18 because I know June 1st is the deadline for

19 the final inspection and all paperwork must be

20 finalized by December 31st of this year. So

21 there's clearly no way that many, many

22 homeowners that have been built by these

23 fraudulent contractors that you're going to

24 meet these deadlines.

25 So New York Rising had said they

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2 will take a look at each case but every
3 resident who is in this situation, such as
4 yourself, aside from filing a complaint with
5 the Department of Consumer Affairs, they ask
6 that you also then make sure you have filed a
7 hardship claim with New York Rising as well.
8 We will hold them to this because it's not
9 your fault that you're missing the deadline.
10 It happens to be just the laws of New York
11 State. Which is ridiculous.

12 So let us know. I have your slip.
13 Keep in contact with us as well. She must be
14 your resident. Steve Rhoads. So let us
15 know. We will make sure.

16 Unfortunately, this business with
17 contractor fraud, I don't know, I feel like
18 we're up a stream without an oar or whatever.
19 Thank you. Dr. Margaret Castillo.

20 DR. CASTILLO: Hello. My name is
21 Margaret Castillo and I am a Sandy victim.
22 And I have to say thank you to Legislator
23 Kopel for really pressing the DA's office
24 because there is a disconnect between
25 Mr. Mancuso and Ms. Peress in what actually

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2 happens if you go to the DA's office.

3 I went there with a complaint that
4 took me two hours to fill out. I went and I
5 waited. Took time off from work. Met a very
6 nice gentleman. He said sorry, can't help
7 you. Go to the Consumer Affairs. There was
8 no investigation. There was really very
9 limited discussion. So there is a disconnect
10 between the information you are sharing and
11 what actually happens to us.

12 MR. MANCUSO: Just to make that
13 clear, I thought we did make it clear, but
14 when we get a complaint at the complaint unit
15 in the nature of a home improvement matter, we
16 refer it immediately to Consumer Affairs for
17 the investigation to take place there
18 initially.

19 MS. CASTILLO: I wrote down
20 what you said. You said there was an
21 interview of every single complaint. You said
22 an attorney and an investigator was assigned.
23 There was an examination of documents and
24 there was a decision made. That didn't happen
25 and that hasn't happened with any of the

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2 people, I belong to a group of Sandy people
3 and that has not happened for any of us.

4 MR. MANCUSO: What I was
5 referring to was once the matter comes back
6 from Consumer Affairs and we open an
7 investigation in our bureau then those steps
8 are taken. If I didn't say that I'm sorry.

9 MS. CASTILLO: So I will also
10 say, that when agreements are not made and an
11 example I had a complaint against Alexander
12 Almarez a decision was made without me even
13 knowing about the meeting and the case was
14 closed. Never referred anywhere. And never
15 referred to anybody. I actually received an
16 email when I did a FOIL saying this is a
17 closed case and it was my case that I didn't
18 even know it was closed.

19 MR. MANCUSO: I don't really want
20 to get into the specifics but I could
21 individually do that.

22 LEGISLATOR FORD: Who closed the
23 case?

24 MS. CASTILLO: I have no idea. I
25 put a FOIL in for all cases against Alexander

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2 Almarez and I received one back and the email
3 heading said this is a closed Almarez case.
4 And when I opened the email it was my case.

5 MR. MANCUSO: What was your name
6 again please?

7 MS. CASTILLO: My name is Dr.
8 Margaret Castillo but with Consumer Affairs
9 it's Margaret Blid because that's what my home
10 is under. I have been married since then. It
11 was closed and I never had a say.

12 I want to move on to what Mr. Baer,
13 the architect that was here said, that there
14 should be a coordination between Consumer
15 Affairs and the district attorney. It also
16 needs to include the Department of Buildings.
17 I had a case where Consumer Affairs heard a
18 complaint against Layenez Home Improvement.

19 Layenez Home Improvement was
20 introduced to me as associate of Alexander
21 Almarez. I hired the gentleman. He frauded
22 me and did very terrible things. But the
23 thing is that Consumer Affairs knew about him
24 working out of the scope of his license. And
25 the Department of Buildings gave him 14

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2 permits, 14 permits to lift houses and he was
3 only allowed to do interior carpentry. It's
4 just insane. I'm now facing a \$1.6 million
5 lawsuit from Layenez suing me because of
6 breach of contract. It's just absurd. I feel
7 like it could have been stopped. It could
8 have been halted if somebody had seen that
9 Layenez had 14 permits out for homes that he
10 was not allowed or authorized to do.

11 LEGISLATOR FORD: That is
12 something we are go to look at with the
13 building department because we find that --
14 and we also notice and I know that one of the
15 complaints couple of years ago is that even
16 New York Rising on their website started
17 listing contractors that were not vetted by
18 Consumer Affairs. It turns out that a lot of
19 the contractors that people actually hired
20 thinking that they were vetted and everything
21 turned out to be some of the ones that
22 committed these crimes of fraud against all of
23 you taking your money and stuff like that. So
24 we were able to tell them they can't list them
25 until they check with Consumer Affairs to make

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2 sure they have the proper licenses to be able
3 to operate here in Nassau County.

4 I think going back and with her
5 case, so you're saying that you wait until
6 Consumer Affairs, like if a resident calls
7 you, she called your office and said Almarez
8 is whatever. Gave him all this money and he
9 didn't finish my work. So that you would then
10 send the case over to Consumer Affairs and you
11 would have to then wait for Consumer Affairs
12 to say that this person Almarez did not do the
13 work or did not fulfill what they were
14 supposed to and send it back to you for
15 further investigation and at that point you
16 would reach out to the resident?

17 MR. MANCUSO: With regard to
18 Mr. Almarez in particular, there were a couple
19 of matters that we sent over to Consumer
20 Affairs but I don't think this was one of
21 them. I'd like to speak to her at some point
22 if that's possible. I know there were other
23 matters that went directly to Consumer
24 Affairs. I know you have Consumer Affairs
25 representatives here. I anticipate that we

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2 are going to get something back from them.

3 The answer to your question is yes
4 in the first instance. Unless it's part of a
5 larger investigation that's already underway,
6 we send complaints involving home improvement
7 contractors to Consumer Affairs. They conduct
8 the investigation. They determine whether
9 they can resolve the matter. There can be as
10 many as two hearings that they conduct. They
11 issue notices of violation. Then they send it
12 back to us. And to the extent that further
13 investigation is called for we conduct it at
14 that point.

15 And when we have complaints
16 involving a large number of matters on a
17 particular contractor, then, as I said before,
18 we assign investigators, we assign an
19 attorney, we interview everybody involved, we
20 subpoena records and so on to see whether
21 there's more there than an unlicensed home
22 improvement case for example.

23 That's done for a number of
24 reasons. We don't want parallel
25 investigations to be going on at Consumer

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2 Affairs and at the district attorney's office
3 at the same time. We don't want to take
4 matters further if they can be resolved
5 without criminal penalization in Consumer
6 Affairs to the satisfaction of the consumer.

7 MS. CASTILLO: Can I just add
8 in? If you would listen to the consumers at
9 this point. We want arrests and we want jail
10 time. I don't think I am ever going to recoup
11 the money but these people need to go to
12 jail. Like Madam Ford said, it will send a
13 strong message don't continue this. So the
14 perpetrators of Nassau County are now moved to
15 Florida and they're victimizing people there
16 and it's because they got away with it here.

17 You know what? even one of the
18 legislators from Nassau County, Michael Raab,
19 he vouched for Alexander Almarez and he's now
20 working with him in Florida. There is a big
21 issue here that needs to be stopped. You have
22 to stop it and we can't. We have tried. We
23 have groups. We meet. We do almost
24 everything we can. But definitely something
25 needs to be done and you are, as the other

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2 lady, I don't know your name said, you are
3 supposed to be working for us. You're
4 supposed to be protecting us. We are being
5 victimized over and over and over again and
6 it's nonstop.

7 I was actually almost shunned at
8 Consumer Affairs because I have three
9 complaints there. Why do you have three
10 complaints? I said because I work three
11 jobs. I have a special needs child. I have
12 been displaced for six years. My mother
13 passed away through this. As you're saying
14 people didn't get home. I'm trying to live
15 life every day and manage a full time project
16 that I am getting just bamboozled by people
17 because I'm putting my trust in them because I
18 have a terrible, terrible issue trusting
19 people. So if someone comes and say they are
20 going to do something for me I trust them.
21 Then you know what? I get penalized for it.
22 It's happened over and over again.

23 So the contractor fraud that I went
24 to your office for was a contractor who lost
25 his license to some other fraud for someone

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2 else, came to my house, pretended he had a
3 license, did the work, substandardly. My
4 little girl fell, banged her head, had a
5 seizure. I had to call an ambulance. Was in
6 a coma for two days. I had to transfer her
7 from one hospital to another. The little girl
8 was identified as being epileptic and it turns
9 out it was all because of shoddy work. So how
10 is that not criminal?

11 MR. MANCUSO: We are aware of two
12 complaints involving Mr. Almarez that we
13 referred to Consumer Affairs. We are aware of
14 two others that Consumer Affairs has. We are
15 waiting for them to come back to us. I don't
16 know whether this is one of them or not but I
17 would very much be interested in speaking to
18 this woman.

19 MS. CASTILLO: This is not
20 Alexander Almarez. This is a different one.

21 MR. MANCUSO: It's not Alexander
22 Almarez?

23 MS. CASTILLO: Not the situation
24 where my daughter was in a coma, no.

25 LEGISLATOR FORD: We will move on

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2 but I would suggest that you speak with him
3 privately and hopefully he will be able to
4 help you with this. We're sorry to hear about
5 that.

6 MS. PERESS: To follow-up on what
7 Peter said, it's very important when we get
8 somebody coming into our complaint unit to
9 send it to Consumer Affairs. First of all, to
10 Consumer Affairs' credit, they resolve a
11 tremendous amount of complaints without them
12 going to criminal. So Consumer Affairs is not
13 just sitting there stamping things, sending
14 them back and forth. Consumer Affairs is
15 actually able to call in a contractor and
16 sometimes resolve the matter and it doesn't
17 have to go criminal.

18 Also, Consumer Affairs has a
19 tremendous amount, it's a good repository of
20 knowledge. So when they send it back to us
21 they can also give us a tremendous amount of
22 background on that contractor that we are
23 going to need for any kind of investigation
24 that we do.

25 Our procedure of coming into our

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2 complaint bureau, sending it over to Consumer
3 Affairs and then waiting for Consumer Affairs
4 to send it back has a purpose and is a very
5 valuable procedure. And in this case that we
6 are mentioning now, we are waiting for several
7 complaints to come back from Consumer Affairs
8 in a package where they can give us a bigger
9 picture of what is going on.

10 MS. CASTILLO: I really don't
11 want to say that much of Consumer Affairs
12 because I know they are coming. But it is not
13 a main streamline process. We are asked to
14 hand things in over and over again and
15 extending these cases for months maybe even
16 years. I FOIL'ed a case that was there for
17 three years with the contractor that built the
18 stairs that caused my daughter to be in a
19 coma. It's just insane how their process -- I
20 don't know who's the watch keeper over them
21 there but it's just not fair. And we are
22 really -- as the people we are not treated
23 with respect in Consumer Affairs. And that
24 should change too. We are treated with the
25 utmost disrespect. Almost like we're the

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2 criminals.

3 LEGISLATOR FORD: We will hear
4 from Consumer Affairs but thank you. Susan
5 Goldstone.

6 MS. GOLDSTONE: Thanks Denise and
7 Steven Rhoads for the few meetings that you've
8 had in the past. Many of you know, this is my
9 mother. I'm speaking on behalf of her because
10 I'm her caregiver now. My father passed away
11 three years ago in the house we lived in since
12 1956. They have not been home since Sandy.
13 This is the second consumer fraud that we
14 had. We have a case pending with Consumers.
15 Actually it was supposed to be last week after
16 waiting eight months for the hearing and they
17 adjourned it because the other party wanted to
18 adjourn it.

19 I'm just going to make a few
20 comments because I know everybody is on short
21 time. First of all, I would like to say they
22 just brought up Michael Raab. Michael Raab
23 called me regarding our first contractor fraud
24 and said he was authorized by Consumer Affairs
25 to bring us to the table and that was with

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2 Sicaro. And I immediately called Consumer
3 Affairs and they acknowledged he was not
4 supposed to call on their behalf and he had
5 nothing to do with it. So that was settled
6 and we moved on.

7 Contractor two is not any of the
8 ones that all these girls seem to have that
9 ten people were screwed by a contractor. We
10 had an individual. He was licensed and
11 insured and in business for many years. I
12 don't why it's not fraud when someone comes to
13 your house, they sign a contract. Yet they
14 decide to and I'm just going to read a few
15 things. They did not follow our architect's
16 approved plans. Did not follow signed
17 contracts. Did not follow town codes. Did
18 not follow specified materials and supply
19 warranties. They substituted work. They did
20 changes without architect and/or homeowner
21 written approval. Used unlicensed subs, which
22 was confirmed by consumers and the other
23 people that he used. I could not get
24 information because they left by the time I
25 showed up at the house that day and I was told

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2 by the contractor it's none of my business.

3 In addition to that, with deviating
4 from the plans. They did not know code. Town
5 of Hempstead, after making a pest of myself,
6 the Town of Hempstead, for like a year, I
7 finally got back, this is a plumbing report
8 only, my homeowner's report that they didn't
9 want to give us, in five months I had the
10 plumbing inspector come to our house five
11 times and no work done to code. And not
12 because oh, what does she know because she's
13 not a contractor, there's 25 items here in
14 plumbing. Which means that every bit of
15 plumbing that was done needs to be taken out,
16 redone to code, and I will have to pay double
17 now for a new plumber to come in, remove
18 everything that's wrong and redo it.

19 In regard to you say fraud, I don't
20 know, this is probably not with civil because
21 you want everybody to get attorneys, and
22 again, it is on us. Money, money, money. I
23 don't know where you think the money is coming
24 from. She's 88 years old. Is she going to
25 get a job? I can't get a job because I'm the

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2 caregiver. If I go to work we have to get a
3 caregiver. It's just costing us money.

4 But it says fraud on part of a GC
5 includes performing substandard repairs or
6 offering services that deliberately cheat the
7 other party.

8 Well, Consumers also has our report
9 that not only did he bill us for stuff not on
10 our contract because he said he doesn't go by
11 contracts we were billed two and three times
12 for stuff because he didn't know codes or just
13 decided to keep changing things.

14 Then just a few notes on things
15 that you were just talking about. The
16 restitution fund, which I think Denise in New
17 York City it's \$25,000. I do think it's
18 \$25,000 in New York City.

19 Then of course with New York Rising
20 and our hardship application, which I can tell
21 you, I can give you the name of the gentleman
22 for demonstrable hardship in New York City and
23 I was told it was -- we were denied of course
24 hardship. She has no income. I have no
25 income. We file tax returns just because we

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2 have to report papers to New York Rising. We
3 don't even pay taxes. I was told by the
4 demonstrative hardship manager or whatever he
5 is in New York Rising in New York City that it
6 was my fault because I continued to pay the
7 contractor. If you don't continue to pay him
8 they're never going to come back. And he
9 decided -- and I will tell you this
10 contractor, his name was Form contracting,
11 he's from the North Shore, and I don't care if
12 they have one complaint or ten complaints it's
13 still fraud.

14 He started in August of 2016. We
15 were supposed to be home -- she was begging
16 Thanksgiving. He said Christmas or New Year's
17 you'll be home. Okay 2016. In May of 2017 he
18 sent me a text on a Sunday night. Get to the
19 house early the next morning. When he got
20 there at 10:20, after she comes back from the
21 cardiologist, his trucks were loaded up and he
22 was there five minutes and left, disappeared,
23 won't tell me what the problem was and drove
24 directly to Town of Hempstead because I went
25 and got copies of his name being removed from

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2 our permit and it was dated and stamped the
3 day he left our house. So he's not driving to
4 Northport and coming back with typed papers.

5 The problem is we only paid him
6 \$150,000. But the quotes that I've gotten now
7 because two years have lapsed and he dealt
8 with the house that was totally cleaned out to
9 studs and joists and everything was gone, so
10 he didn't have to do any of that.

11 Now people have to come in, they
12 have to remove the walls that are all wrong.
13 The wiring, the electric on an on. And not
14 the quotes are double that. \$298,000. How
15 are we going to get home?

16 I'm going to say something and
17 she's probably going to get upset. But one
18 more thing before I say. I've said this for
19 four or five years. I've gone to Todd
20 Kaminsky, Schumer, Gillibrand's office about
21 vetting these contractors. One of my
22 concerns, it's sort of a no-brainer, what
23 about they have to show a New York State
24 license, a tax return and social security.
25 This way when they leave everybody and file

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2 for bankruptcy and not come back or open a new
3 company under their girlfriend, their aunt,
4 their cousin, a fictitious name, you can
5 actually go after these people.

6 And yes as this woman over here, I
7 don't remember her name, when they disappear
8 we don't care because we're not going to get
9 the money because they don't have the money.
10 They used it for their \$150,000 car, their
11 house in the Hamptons, their trip to Paris,
12 whatever. We want them in jail. Because
13 unless these contractors know that there are
14 going to be penalties to pay it runs rampant.

15 You know what? I just met two guys
16 yesterday in my neighborhood having a problem
17 I will say with Sicaro and they live down the
18 block from me and I asked them why their
19 houses weren't put down and the usual
20 stories. And these people, I hear more
21 stories now than when we did because
22 unfortunately at the time, four and five years
23 ago with the first contractor that we had
24 there was the problem, we were one of just a
25 few people that had contractor fraud. Now I

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2 wouldn't even venture to guess how many there
3 are on Long Island. It's really ridiculous.

4 My father died three years ago.

5 He's never getting home. She's 88. She had
6 no health issues until the contractor left.
7 No health issues at all. No pills. Nothing.
8 You know what she usually says now, this is
9 some way to end my life.

10 Yes, it's horrible. And you know
11 something? Contractor fraud. I'm just going
12 to speak for myself and my own opinion. The
13 fraud is worse than the actual Sandy storm.
14 And we stayed there as we did for the last 56,
15 well, it was 56 years then because I was born
16 there, 63 years now, and we stayed in the
17 house and I swam them out in the middle of the
18 storm because the doors blew over, the oil
19 tank blew up and it went in a split level
20 house to six out of tens steps. But again,
21 New York Rising, no demonstrable hardship.

22 You know my story Denise.

23 LEGISLATOR FORD: Thank you
24 Susan. I'm all too aware. Bonnie Salsone.

25 MS. SALSONE: Hello. Good

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2 afternoon. I'd like to thank the committee
3 for being here and having this forum.

4 My situation is that I'm a victim
5 of contractor fraud also. Or I should say
6 noncontractor fraud because he was
7 unlicensed. I had a contractor in 2013, Emil
8 Construction, who came into my home and I had
9 just recently lost my husband. He told me
10 that he could do everything. That I needed to
11 sign my insurance check over to him. Which I
12 did. He came in. He did a little bit of
13 work. He left some work unfinished in the
14 doorway. My mother tripped with her walker.
15 She fell and she died. I never did any
16 wrongful death or anything like that because
17 I'm in the middle of raising triplets who had
18 just lost their dad. Then we had the storm
19 and I lost my mom.

20 After this contractor didn't finish
21 the work, I was just absolutely mortified.
22 And I didn't know anything about CA or DA or
23 anything. I had submitted some documentation
24 to Michael Raab in 2014 that he told me he was
25 submitting to Consumer Affairs. Which I don't

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2 know whatever happened with that. I
3 resubmitted into Consumer Affairs this past
4 September. I had filed a demonstrative
5 hardship over a year ago and when I went to
6 the DA in September they told me to go to CA.
7 When I went to CA they took some documentation
8 but not all of it.

9 Then it bounced back to me.

10 Alexander Almarez was the contractor. I was
11 told that they were investigating. This went
12 on for months and months and months.
13 Subsequently he was called in for a hearing
14 about a month and a half ago and Consumer
15 Affairs alerted me that they denied my case.
16 That I wasn't entitled to get my money back
17 from him because he wasn't in any violation.
18 He is an unlicensed contractor that I gave
19 almost \$22,000 to to be my design
20 professional. He came in and posed as a
21 contractor. I'm a real estate agent. I'm a
22 licensed agent. If I do one piece of paper
23 wrong in the state I can lose my license or I
24 can get fined.

25 This guy came in. He posed as a

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2 license contractor. He asked me to find him a
3 place to rent so he could get a Nassau County
4 address because he was a licensed Nassau
5 County contractor and he had to have a place
6 to receive mail. I don't know anything about
7 breaching contracts. I'm not an attorney.
8 I'm a mother. I'm a single parent. I'm
9 trying to raise children. I'm living in my
10 house which is not up at all. I don't even
11 have my permits finished from the building
12 department.

13 Now I understand that Alexander
14 Almarez, not only does he have five disaster
15 recovery groups in other states in the
16 country, Consumer Affairs has denied my case.
17 Went back to the district attorney. The
18 district attorney told me we can't do anything
19 until we get the information from Consumer
20 Affairs.

21 I went back to Consumer Affairs.
22 They said your case is closed. We're done. I
23 went back to district attorney and they said
24 well, I'll take it to my boss and ask him what
25 to do. That's two weeks ago. I haven't heard

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2 anything.

3 I believe Alexander Almarez is
4 gone. I understand he is in Florida working
5 with Michael Raab again. Raab is in Consumer
6 Affairs. It's just been such a mishmash of
7 personalities and problems. And like people
8 have said, we're the victims and we just
9 continue to get revictimized. Now I'm
10 nowhere. Still on the ground. Alexander has
11 \$20,000 something worth of money. He did
12 nothing except submit one document for me.
13 Which he didn't even submit. He submitted it
14 under an architect. It's unbelievable to me.
15 I can't believe that you guys are not helping
16 us.

17 LEGISLATOR FORD: Bonnie, you
18 know what we'll do, sorry to cut you short, I
19 know you have to leave but also we want to
20 hear from Consumer Affairs, but I think that
21 you bought up one thing and I'm hoping that we
22 can open up a dialogue especially for your
23 case with DA and Consumer Affairs. Because in
24 your opening remarks you said if a contractor
25 was unlicensed and worked in Nassau County

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2 that is a crime. So, I'm curious then to find
3 out why, if this person did not have a
4 license, why no action was taken against him
5 if he was unlicensed.

6 MR. MANCUSO: I think this is
7 probably one of the matters that hasn't come
8 back to us from Consumer Affairs yet. But
9 based on the initial referral, there may be an
10 issue as to whether this person was a
11 contractor or a project manager or exactly
12 what he was. That's probably something that
13 Consumer Affairs can shed some further light
14 on so we can make a determination whether or
15 how we should proceed.

16 LEGISLATOR FORD: When you say
17 like so that if somebody is licensed, if I'm a
18 licensed electrician, and I say I'm going to
19 do plumbing work, that means I'm not a
20 licensed plumber. Would that be a criminal
21 act that you would investigate or go after?

22 MR. MANCUSO: The licensing for
23 those trades is done out of the towns and
24 cities not by the county. It would not
25 something that our office would be involved

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2 in. As a matter of an unlicensed -- charging
3 somebody with operating without a license.

4 LEGISLATOR FORD: You would only
5 deal with people who --

6 MR. MANCUSO: Unlicensed home
7 improvements. Not unlicensed plumbers. Not
8 unlicensed electricians. Home improvement
9 contractors.

10 LEGISLATOR FORD: Bonnie, we will
11 keep in touch because I'd like to hear from
12 Consumer Affairs to see what they have to
13 say.

14 MS. SALSONE: I asked Consumer
15 Affairs to notify the federal government
16 because it's misappropriation of funds. This
17 guy has millions of dollars from people.
18 Millions. We did like a rough estimate. And
19 he's moved on. He's going to hit other storm
20 victims. He's the serial storm victim
21 person. He's a serial storm chaser. He goes
22 after every storm. He's done this before.
23 He's got five offices in five states for
24 disaster recovery. This guy has to be
25 stopped. There should be some kind of

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2 national data.

3 LEGISLATOR FORD: We can ask the
4 attorney general of New York State because I'm
5 sure that they talk with other attorneys.

6 MS. SALSONE: I have complained
7 to the attorney general numerous times. Thank
8 you.

9 LEGISLATOR FORD: Leslie Tepper.

10 MR. TEPPER: My name is Leslie
11 Tepper and I really thank you for having the
12 time to you know the district attorney and the
13 county to be here. I'm also a victim from
14 Long Beach. And I know Missy and Denise. We
15 have spoken several times. I feel for
16 everybody here. I have gone through the same
17 thing. This is going to go with my third
18 contractor that I'm going through. But I
19 would like to add another layers because this
20 relates to -- and I really feel sorry that you
21 are toolless Peter and Diane. I feel like
22 personally you have no tools. I don't know
23 what tools you are going to come up with but
24 it is terrible. You can't imagine.

25 You talk to these people in the

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2 face and they are criminals and they know they
3 can get away. To the point that I'm and
4 that's why I'm here right now. I went to a
5 lawyer because I went through my first
6 contractor, hardship, good money. Went to
7 second contractor. The guy I pay 80 percent
8 of the work. The work was shoddy work. You
9 can't imagine.

10 Then he say well, I going to need
11 the last part of the payment. I say no, you
12 haven't finished. The architect has reports
13 that columns that were sustaining the house.
14 Where the real columns that they should be
15 there. He is demanding that. So I reach out
16 to New York Rising. They just told me pay the
17 contractor. That's what you have to do. So I
18 couldn't count with New York Rising. It's not
19 holding.

20 What did I do? I went to a
21 lawyer. Reasonable, no? That's the thanks
22 you get. Right now I'm fighting with the
23 lawyer. He took \$5,000 a month. They just
24 bill me for one month. I don't have the
25 money. I did it just because I was so upset.

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2 I cannot believe this is happening. So the
3 guy send me \$5,000 for bill for legal services
4 and we are not even there. Nothing happened
5 with the mediation. The way that the
6 contractor is billed, you know, mediation,
7 arbitration here and there. So they get away
8 with everything. They know what to do. They
9 know they get there, they put a nail, they
10 turn around and they are done.

11 It's not a district attorney
12 thing. It's a Consumer Affairs. You call
13 Consumer Affairs one lady called me the other
14 day. You know, I'm doing a favor to somebody
15 else. Why you having filed this with this and
16 that? There is no communication. She was
17 doing me a favor. It was just a terrible
18 mess. I don't know what to do next. Now how
19 I get justice for one. How I deal with the
20 lawyers. That's what I'm here for.

21 LEGISLATOR FORD: Your first
22 contractor you got your retribution for that.
23 The second contractor New York Rising told you
24 to pay them fully?

25 MR. TEPPER: So he could finish

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2 but the work was terrible.

3 LEGISLATOR FORD: For the second
4 one you filed a complaint with Consumer
5 Affairs?

6 MR. TEPPER: No because it went
7 to the lawyer because New York Rising is not
8 going to give me the hardship again. So I
9 went with the lawyer. I said well, I going to
10 chase him with the lawyer just because the guy
11 is a criminal. And then now I'm fighting the
12 lawyer because the lawyer wants to fleece me
13 \$5,000 a month on fees. So I don't know what
14 to do just now.

15 LEGISLATOR FORD: First of all,
16 we can't give you legal advice, but I would
17 advice that you call the Nassau County Bar
18 Association. And it seems his issue is with
19 the lawyer now.

20 MR. TEPPER: More than anything I
21 just want to expose the layers of this because
22 they know that the contractor they can get
23 away. Now the lawyers can get away.

24 LEGISLATOR KOPEL: You may want
25 to consult with another lawyer.

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2 MR. TEPPER: I going to do that.

3 The reason I'm here is to let you know where
4 this is finished. When it going to stop. It
5 has to stop. I understand you have no tools.
6 I understand they bring you scapegoats. They
7 hand you there. But there is something else.
8 Cannot be an exercise in futility. This is a
9 show of futility. Everybody is not fooling
10 here. Everybody knows that this is going to
11 go nowhere.

12 LEGISLATOR FORD: We need to make
13 changes so it doesn't happen again. I think
14 that honestly, if we took everybody's story
15 and put it in a book future generations would
16 not believe what went on. You now with the
17 lawyer. I would urge you also with your
18 second contractor to make sure that you file a
19 complaint with Consumer Affairs as well. If
20 that person is not completed, and I would
21 normally say I would suggest that you call the
22 Nassau County Bar Association and ask them
23 what they would recommend. Because they are
24 the ones that could tell him. Am I right?

25 MR. MANCUSO: I want to mention a

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2 few things about that. First of all, I should
3 mention in passing that since 2012, since the
4 storm, we have had on a very regular basis
5 mortgage foreclosure consultation clinics at
6 the Nassau County Bar Association. I say we
7 because I'm a past president of the Nassau
8 County Bar Association. We also have a
9 grievance committee. You can certainly
10 contact the bar association regarding a
11 grievance. You can contact the grievance
12 committee for the Tenth Judicial District to
13 make a formal grievance application against an
14 attorney. There are a lot of remedies
15 available to you.

16 And certainly in my office, in my
17 bureau, we prosecute attorneys who steal funds
18 from clients. We do not prosecute for
19 disputes over, for fee disputes. We prosecute
20 for people who steal. So there are a lot of
21 remedies that are available to somebody who is
22 dissatisfied with the services that their
23 attorney is providing.

24 MR. TEPPER: The only thing I'm
25 saying is I'm just trying, like everybody

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2 here, follow whatever tools we have but
3 they're not as you know. You very well know.
4 Thank you for being here.

5 LEGISLATOR FORD: Thank you.
6 Heidi Litman.

7 MS. LITMAN: Hi. My name is
8 Heidi Litman and my house is in Merrick. One
9 of the things that you said in terms of maybe
10 building a case if there are a number of
11 people who have complained about the same
12 contractor. So, I am also a victim of
13 Alexander Almarez and I'm wondering how many
14 people here are victims of Alexander Almarez.
15 That's quite a few people.

16 I'm not sure and also you said you
17 investigate based on receiving information
18 from the Department of Consumer Affairs.
19 However, some of these people said because
20 they closed the cases against Almarez you
21 never received them. That is that true?

22 MR. MANCUSO: No. We have
23 requested the complaints that have been
24 investigated by Consumer Affairs and we are
25 expecting to receive them. And certainly we

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2 have Consumer Affairs here today. If there
3 are any complaints in addition to the ones
4 that are viewed as having merit we will also
5 ask that copies of those be made available to
6 us.

7 LEGISLATOR KOPEL: Would you
8 based on the information that you're just
9 getting from this lady now and those other
10 people that raised their hands, would you
11 please take a look at this specific contractor
12 with a view towards seeing if there is
13 something to do there?

14 MR. MANCUSO: Yes. And we were
15 planning to. On receipt of the -- we are
16 aware of four complaints in Consumer Affairs,
17 two of which we sent to them, we requested
18 them and on receipt of that we had every
19 intention of doing that and we will.

20 LEGISLATOR KOPEL: Would you
21 advise the Chair lady of the committee of the
22 results of your investigation to the extent
23 you're allowed obviously.

24 MS. PERESS: I want to make it
25 clear we requested that the complaints be sent

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2 to us several weeks ago. It's not as a result
3 of what we're hearing today. We have been
4 waiting for several weeks.

5 LEGISLATOR KOPEL: But it's being
6 done now. You are here now and getting the
7 results that I think you wanted. So at least
8 to that extent hopefully we are going where we
9 need to go.

10 MS. LITMAN: I do understand also
11 that when I've spoken to the Department of
12 Consumer Affairs that Mr. Almarez also
13 represented to me that he was a licensed
14 contractor. And in his contract with me it
15 clearly says contractor. And I was referred
16 to him again by Michael Raab, who was the
17 Nassau County liaison for storm recovery at
18 the time and there's a reason why I didn't
19 further investigate as to whether or not he
20 was a licensed contractor. And the first
21 question Consumer Affairs asked me was well,
22 why didn't you call to check to see if he was
23 a licensed contractor? He's been out on our
24 radar since 2016 regarding violations against
25 him for representing that he was a contractor

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2 and he was not.

3 The next thing is that Alexander
4 Almarez clearly knows the law better than I do
5 regarding the intent that you need to find.
6 Because for the past two years whenever I have
7 asked him why nothing is being done on my
8 house, I have hundreds of text messages from
9 him telling me I intend to do the work. I
10 spoke to so and so. We'll be there next
11 week. Next week has never come. My house has
12 now been on cribbing for over a year. And
13 since March the Department of Buildings has a
14 Chapter 90 notice against me and my house is
15 being threatened with demolition. Mr. Almarez
16 knows that. He met with the Department of
17 Buildings at my request back in March.
18 Promised them that he was going to take care
19 of what needed to be done so I wouldn't be
20 threatened with demolition and has done
21 nothing up until that point.

22 LEGISLATOR FORD: Heidi, we are
23 going to have them look at your contractor and
24 we will be in touch with you. John Joseph
25 Budnick please.

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2 MR. BUDNICK: I'm just going to
3 make a few quick points. There is obviously a
4 total lack of communication going on between
5 town and village building and city building
6 departments with Consumer Affairs, with the
7 district attorney's office and with the
8 various other agencies of the county and
9 agencies of the town and state agencies that
10 are trying to assist in the recovery effort
11 here.

12 It is obvious that there is central
13 database need that everyone all across the
14 line can check in with, maintained perhaps by
15 Consumer Affairs, the district attorney's
16 office, the police department. I don't know
17 who. But that needs to be created as quickly
18 as humanly possible. And all of the towns,
19 all of villages, all of the cities brought up
20 to speed. So that when somebody files a
21 building application as a, quote unquote,
22 contractor it can be checked immediately
23 within Consumer Affairs as to whether that
24 person or company had the license or not. So,
25 an immediate upfront reaction can be generated

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2 rather than letting it go and go until it
3 become redeemable.

4 I think that state legislation is
5 also required so that individual fact of how a
6 contractor is interreacting with the client
7 can utilize to show that there is indeed a
8 malum intendum, an illegal intent to defraud
9 based upon the acts of the contractor over a
10 period of time, not just abonishio whether the
11 contractor thought he could try and do
12 whatever the contract said.

13 These are the critical things.
14 There needs to be a joint task force set up
15 with Consumer Affairs, the county legislature,
16 the district attorney's office, the state
17 attorney general's office, state consumer
18 affairs to try and put together a joint
19 approach legislatively and also in terms of
20 the creation of rules and regulations both in
21 the state and county law, so that individual
22 contractors who continue to violate orders of
23 Consumer Affairs can at least be prosecuted
24 for misdemeanors for failing to follow the
25 orders of Consumer Affairs.

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2 I don't believe that is currently
3 in the county law, and forgive me for saying
4 this, that's absurd. So please let's have a
5 joint task force look at this. Let's have a
6 joint database created for all this stuff so
7 everybody can look at it and jointly figure
8 out hey, this guy is doing this and somebody
9 is doing nothing.

10 I want to thank you very much for
11 your time and trouble. These people are being
12 abused. What stresses me most is that none of
13 them seem to be able to get any assistance
14 from crime victims assistance and that needs
15 to be change too but that needs to be taken
16 care of at the state level. Thank you very
17 much.

18 LEGISLATOR FORD: Mary
19 Bartholomew.

20 MS. BARTHOLOMEW: Hi. I live in
21 Long Beach. My name is Mary Bartholomew. I'm
22 also a victim of contractor fraud. I'm a
23 single parent. Been a single parent all my
24 life. Raised my two girls from 17 months old
25 to almost six. I have accomplished many, many

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2 things in my life and this is one of the
3 hardest I have not conquered yet. I'm hoping
4 to eventually. I'm a senior citizen. I'm on
5 a fixed income and I have been a victim of PDF
6 Improvements.

7 He came to my house. We signed a
8 contract in January of 2018. He took forever
9 to do work. There's been a lot of text
10 messages back and forth. A lot of emails back
11 and forth. He's done some work. He front
12 ended the job. By that I mean he took quite a
13 bit of money up front. He has gotten from me
14 \$280,000 and out of that, through other
15 contractors that have can come back and given
16 me estimates, he's only really done about
17 \$130,000 worth of work. That's \$150,000 of
18 the government money that he stole. That was
19 just on hearsay of other contractors coming
20 back and interviewing me and what work was
21 done and what work was not done.

22 Also my architect had submitted a
23 statement also with the work he saw was
24 completed, how much it should have cost and
25 what was left and how much that should cost.

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2 And the figures are still the same. About
3 \$150,000 that he took.

4 I am now in the process of
5 liquidating everything that I have ever saved
6 my life as a single mom and deprived a lot to
7 my kids growing up so that I could have some
8 money for myself when I grow old. Well, here
9 I am and now I have nothing. I don't even
10 know if I'm going to have enough money of what
11 I liquidated to get back in my house. That's
12 almost another \$200,000.

13 After Sandy first happened, I had a
14 daughter that lived in the Florida that was
15 getting married and I had to get out to
16 Florida. I couldn't get out to Florida when I
17 was supposed to get out. I was delayed. I
18 happened to make the wedding. I'm the mother
19 of the bride.

20 When I got back after Sandy hit the
21 first time, I got back from the wedding, it
22 was Saturday after Sandy, I noticed I went to
23 my house and I was robbed. I went to the
24 police department. They said there's nothing
25 we can do. You have no proof. Well, I had no

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2 proof. I knew sort of kind of who did it but
3 I had no proof.

4 Same thing here. I'm trying to get
5 all the proof and all the liquidation that I
6 can get together. I submitted it to Consumer
7 Affairs. Submitted it to the DA. The DA sent
8 me a letter stating it's in Consumer Affairs
9 hands. I don't understand that.

10 But I just wanted to express my
11 situation and what I've been through and I
12 think it's horrible. I think it's terrible.
13 And I think that there should be some kind of
14 jail time for these people. Thank you.

15 LEGISLATOR FORD: Thank you very
16 much. We will be in touch with you. Forgive
17 me if I say this name wrong. K. Silverson.

18 MS. SALVERSON: My name is Karen
19 Salverson. My house is in East Rockaway. For
20 the past two and a half years I have lived in
21 a trailer rented by Alex Almarez. Talk about
22 a slumlord. I've had no running water in over
23 two years. Which means no showers in the
24 bathtub. I have to take my car and run around
25 to try to take a shower. I am so far from

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2 where I live that doing every day tasks are
3 almost impossible in Old Bethpage. I live in
4 East Rockaway. You do the math. I'm taking
5 the Southern State. Put an hour on that.

6 Besides what everybody else has had
7 with Alex Almarez, I too had asked Michael
8 Raab, one of his fares in Long Beach, should I
9 trust Alex Almarez? Is he good guy? No
10 problem.

11 I have my brother, who is in
12 contracting, help me set up a schedule to do a
13 contract. We had agreed on \$159,000 because
14 that's what New York Rising gave me. His
15 contract was for \$165,000. He has received
16 from me in various things \$129,000 of that.
17 \$10,000 less than what New York Rising gave
18 me. But I had paid for other things in
19 conjunction with that. So all the monies are
20 accounted for.

21 Early on in the discussion with me
22 my brother and Alex Almarez, he had said don't
23 worry, the program covers everything but
24 there's just a little gap. So at the end of
25 what was supposed to be a six month contract,

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2 six month lapse, which he never gave me in
3 writing of course because he was never go to
4 do that, there was a difference in money.
5 Alex said he would do it. My brother said he
6 would do it. They both didn't do it.

7 So last September they both came
8 both came, both boat Alex and my brother, sat
9 down to discuss what had been paid for, what
10 that covered and how much is in dispute. It
11 has taken from September to May of this year
12 to get all the lien releases, things paid for,
13 so I'm up to current and date.

14 As of April he was supposed to do
15 my house. I have text messages that are to
16 me, Alex Almarez, myself and Michael Raab as
17 to what is going on with my project since I
18 myself could not move this forward.

19 I was under the impression that the
20 due date of all the New York Rising was June
21 1st. Since I'm a mandatory lift, I
22 inadvertently, by Googling, found out that
23 this, for me, is September 1st. I am living
24 an impossible life in an impossible
25 situation. I'm like little house on the

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2 prairie without the goddamn house literally
3 and figuratively speaking.

4 I have a box, which Alex Almarez I
5 can say during the cold winter months didn't
6 adequately heat. I have two space heaters.
7 Sorry to jump back and forth. I have two
8 space heaters and a can of propane. Air
9 conditioning doesn't work. The trailer
10 leaks. So I no longer use the bedroom. I
11 haven't done that in a couple of years because
12 everything leaks. There's no help. And even
13 I were to get water in my trailer those pipes
14 leaks also.

15 I have started, I temporarily put
16 in something to Consumer Affairs and the
17 district attorney's office but I have noticed
18 that other people who have done things it has
19 gone nowhere. And intent and high moral
20 standard as the law is written are almost
21 impossible standards to put up with. And the
22 peel that are breaking them have neither high
23 moral standard nor they have the intent to
24 finish the project.

25 As the lady that was reciting code

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2 and statute from the state of Louisiana
3 something has to be a little more concrete
4 that if you make an agreement with someone,
5 whether in construction or anything else, that
6 those standards are adhered too and not that
7 you have to go to civil court for people who
8 quite frankly don't have the money to go to
9 court.

10 LEGISLATOR FORD: I'm sorry to
11 cut you off. We have to watch the time. We
12 are well over our time. What I'm going to do
13 is I'm going to give your slip to my
14 assistant. Go meet with her and she'll take
15 your telephone number and I will call you. I
16 will follow-up in regard to Almarez. Sorry
17 about that. The last one and then we will let
18 the DA's office be able to leave. I promise.

19 Leslie Castro.

20 MS. CASTRO: I'm a resident of
21 Freeport and I am, God, I'm so nervous. I
22 came here today because a year ago I opted to
23 go into the program for the third time after
24 they lost my paperwork. I contracted with PDF
25 Improvements. They decided that they were

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2 going to do the job as of last May I believe
3 it was. We signed the contract. The only
4 thing that's been done to my house is it was
5 lifted. He has since left with the money.
6 Luckily I'm not as bad as some of these people
7 who have put hundreds of thousands of dollars
8 in. I still most of my money from the funding
9 in the bank. But he did leave with \$28,000 of
10 my funding.

11 I and three other homeowners that I
12 have since met are going under the same
13 situation. I'm a single mom. I've put all my
14 money into my home as an investment and I'm on
15 the verge of losing it. I'm paying two
16 mortgages. I pay for my home and I pay for my
17 apartment. I can't afford to do it anymore.
18 I don't know what to do. We need help.
19 That's all we're asking for. We need help.
20 We don't want to sit and hear go to this
21 person or go to that person. Something needs
22 to be done. You telling us to find an
23 attorney, I can't afford an attorney anymore.
24 I can't even afford the two homes that I
25 have. What am I supposed to do? I'm at a

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2 loss for words.

3 I started the whole process of
4 demonstrable hardship. I reached out to your
5 offices. I reached out to Consumer Affairs.
6 I reached out to the attorney general's
7 office. I just received a letter from the
8 attorney general's office saying that they
9 were going to look into the whole process of
10 what's going on.

11 I'm at the point of no return right
12 now. I take care of my dad who just widowed.
13 Every day it just gets worst for me. I don't
14 know where I stand. I can't afford to pay the
15 program back any money. I'm getting told day
16 after day that I have to pay back the money
17 that was funded to me because I'm not going to
18 meet the deadlines. Where do I stand? I need
19 help.

20 LEGISLATOR FORD: Have you filed
21 with New York Rising?

22 MS. CASTRO: I've filed with
23 everyone.

24 LEGISLATOR FORD: So New York
25 Rising is aware of your situation, correct?

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2 MS. CASTRO: Correct.

3 LEGISLATOR FORD: You filed with
4 the DA. You filed with Consumer Affairs. We
5 will reach out to New York Rising for you to
6 make sure that they are aware of your hardship
7 and that they take into consideration that you
8 will not be making the June 1st or the
9 December 31st deadline. Because it's not your
10 fault. Some people did delay. They were
11 their own worst enemies. But that's none of
12 you. They were the ones that just never
13 really followed anything. They didn't have
14 any problems with contractors. But everybody
15 here who has been victimized by these
16 contractors and left you high and dry, not
17 living in your homes, despite all the problems
18 that you're having with the traumas that are
19 happening in your families. You try to get on
20 with your life and you seem to be hitting one
21 wall after another. I want you to know
22 because I keep hearing PDF and I think I had
23 gotten phone calls.

24 MS. CASTRO: At least seven of
25 us.

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2 LEGISLATOR FORD: So I think
3 there might even be more. I think we will
4 meet with the DA's office. I think we need to
5 discuss some of these people.

6 MR. MANCUSO: May I say
7 something? There are nine complaints I
8 understand from Consumer Affairs about PDF.
9 We met with Consumer Affairs several weeks
10 ago. We agreed to expedite that process
11 somewhat by having a referral to our office
12 after the first hearing and violations are
13 issued. Not waiting for a second hearing,
14 which is their process now. And they can
15 comment further about it. But we are well
16 aware of PDF and trying to move the process
17 along.

18 Again, unfortunately, I have to
19 stress nothing we do is going to cause
20 contractors who don't have money to suddenly
21 have money. So that there are larger problems
22 here than the appropriate criminal punishment
23 for people who need money to go forward in
24 life.

25 LEGISLATOR KOPEL: You may, with

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2 all due respect, first of all, I think that
3 we've already heard two of them now, there
4 must be other contractors that have multiple
5 complaints. If the DA's office does go after
6 some of these people hard and get the
7 appropriate publicity that might encourage
8 some other people who are bad people to maybe
9 rethink their ways.

10 MR. MANCUSO: That's absolutely
11 correct. Particularly in what we do in the
12 financial area where crimes are of a
13 premeditated nature we believe that there is a
14 signify deterrent affect in many of our
15 cases. So we completely agree with that.

16 LEGISLATOR KOPEL: You will go
17 back and look at your cases and look for
18 multiple offenders?

19 MR. MANCUSO: That's correct.

20 LEGISLATOR FORD: Thank you very
21 much for your being here. I know that we went
22 well over the time that we said would be
23 allotted. You've given us good information
24 and guiding us as to where we need to move
25 forward to. But I also hope that I think that

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2 maybe if we can go after these two cases maybe
3 that could also give us the groundwork to
4 compel and hopefully New York State government
5 will realize the fraud that was committed
6 against these homeowners and these residents
7 and maybe they will see fit to put money into
8 a restitution fund so that they don't have to
9 wait.

10 Because we know if a contractor is
11 in jail he's not going to necessarily pay what
12 he owes these people. But maybe if we can lay
13 a case to say to New York State this was money
14 that they stole and it was New York State
15 federal money, maybe they can come up with
16 some sort of funding to help augment it so
17 these people can get their money back so they
18 can get the money, hire a decent contractor,
19 rebuild and get home finally safe and sound.

20 But I thank you very much. Will be
21 in touch with you. Really appreciate all the
22 help that you gave us. Then next up, just
23 bear with us, we are going to ask
24 representatives of Consumer Affairs to come up
25 now. Thank you very much.

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2 LEGISLATOR FORD: Did you have
3 any closing remarks? I didn't want to rush
4 you out of here.

5 MR. MANCUSO: To the extent that
6 you construct different changes in the law or
7 different changes in process that you would
8 like to consult with our office on we would be
9 most anxious to do so. And certainly to the
10 extent we have any suggestions as to changes
11 that might be useful we will forward them.

12 Earlier I avoided using the word
13 recommendations because we were not authorized
14 to make any recommendations. We were
15 authorized to discuss different possible
16 options. Some of which are at the county
17 level, some of which are at the state level
18 that came up in some of the comments later
19 on. We are ready, willing and able to be part
20 of a constructive process to create better
21 redress for these people than the current laws
22 permit.

23 LEGISLATOR FORD: I know that you
24 asked to us speak to our own counsel. So we
25 will bring our counsel in and hopefully bring

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2 New York State in as well and maybe together
3 we can come up with solutions moving forward.
4 Thank you.

5 Consumer Affairs. Commissioner
6 Greg May. We are well over the time. Thank
7 you very much for your patience.

8 MR. MAY: Good afternoon
9 legislators. Commissioner Greg May,
10 Department of Consumer Affairs. To my left is
11 acting deputy Ken Heino. To my right is Ms.
12 Kristy Kunzig, assigned counsel from the
13 county attorney's office to the Department of
14 Consumer Affairs.

15 My opening remarks will be brief.
16 I'm sure you have a number of questions you'd
17 like to ask. I'll just say at the start here
18 my department has received, since 2013 was
19 when the first superstorm Sandy-related
20 complaints came into our office. 330
21 complaints. My department has issued over 560
22 violations or about 560 violations. And we
23 understand that about baker's dozen or 13
24 contractors are responsible for about
25 two-thirds of the complaints received in our

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2 office.

3 With that said, I would be happy to
4 take any questions. I can certainly keep
5 talking but I know everyone has been waiting
6 very patiently and certainly I don't want to
7 hear myself talk.

8 LEGISLATOR FORD: I thank you
9 very much. I know that with your office you
10 pretty much a lot of times the first stop for
11 many of the residents when they call up and we
12 do guide them into reaching out to your
13 office. Especially with contractors. I know
14 you've only been at the helm three years now.

15 MR. MAY: I think only about a
16 year and a half. Prior to that I was the Taxi
17 and Limousine commissioner for the county and
18 of course was the director for legislative
19 affairs.

20 LEGISLATOR FORD: Your baptism
21 into this was when we had the hearing in Long
22 Beach when we first realized how pervasive
23 contractor fraud was and still is through
24 Nassau County. I think you and a lot of the
25 residents that were there didn't realize how

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2 many other people had the same person and how
3 pervasive this problem is.

4 But you heard many of the residents
5 talk about filing complaints with Consumer
6 Affairs and they feel that it could be
7 received as a lack of communication between
8 Consumer Affairs and the DA's office and maybe
9 New York Rising.

10 Can you just briefly step us
11 through the process? If I came in to you and
12 I said I have a problem with Steve Rhoads as a
13 contractor. What action then do you take?

14 MR. MAY: Typically I'd Greg May
15 construction so that nobody gets offended.
16 You know what I'm talking about.

17 In any event, if you were going to
18 come to the department and wanted to file a
19 consumer complaint you would do so either by
20 paper or we have the complaint form available
21 online. It's in a fillable PDF format. You
22 can fill it out online, save it and directly
23 email to us. It's first received by a senior
24 investigator who reviews the case and assigns
25 it to an investigator for review. Then the

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2 actual investigation into the consumer
3 complaint begins.

4 We need typically copies of
5 contracts if they exist. We need any kind of
6 supporting documentation that may exist. Once
7 that's reviewed, we will be in touch with the
8 contractor to see if there's any issues or
9 rebuttal evidence that they want to provide.
10 And then typically will issue any violations
11 that we feel are we appropriate based on our
12 investigation.

13 Then from there we would have a
14 prehearing settlement conference, so that if
15 the vendor wanted to come in and settle our
16 violations we would do that. We would do that
17 in concert with consideration for whatever
18 work or relief they are willing to provide to
19 the consumer who filed the complaint in the
20 first place.

21 If they are interested in the
22 settlement conference, we would go forward to
23 our administrative hearing. This is a more
24 adversarial venue than the prehearing
25 settlement conference. It's not quite trial

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2 here but anyone who's been involved in
3 administrative hearings it's not, I don't want
4 to be glib here, but it's certainly not fun.
5 At that point we are seeking typically the
6 full amount of our violations, whatever that
7 amount might be.

8 Typically for our unfair trade
9 practices, for example, the maximum fine is
10 \$5,000. For a vendor the opportunity to not
11 have the department seek the full amount would
12 be at the presettlement hearing conference.
13 If we are going to the administrative hearing
14 we are seeking the full amounts of our
15 violations much.

16 From there, the administrative
17 hearing officer will render a decision. We
18 were looking at the stats in preparation for
19 this hearing, out of our consumer complaints
20 we've had 34 consumers complaints so far go to
21 administrative hearing. The orders on behalf
22 of the consumers topped out at over \$2
23 million. The caveat there being in order to
24 have that order enforced the consumer would
25 have to sue the vendor in civil court and

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2 present our hearing as evidence. It's not a
3 slam dunk having our hearing decision in hand.

4 LEGISLATOR FORD: Even if the
5 administrative sided with the resident it
6 wouldn't necessarily mean that they would the
7 money?

8 MR. MAY: It's not necessarily a
9 slam dunk. You would still have to sue the
10 vendor if they don't voluntarily comply at
11 that point with the administrative hearing
12 order. The consumer would take the hearing
13 order and would present -- they would have to
14 sue and they would use that as evidence that
15 we have already done our investigation and
16 found in favor of the consumer and the amounts
17 we have determined to be appropriate.

18 LEGISLATOR FORD: To be paid.
19 How long traditionally would you say that it
20 takes once a consumer calls and files a
21 complaint with Consumer Affairs to maybe
22 having it resolved with the contractor or with
23 the administrative hearing?

24 MR. MAY: That's difficult to
25 say. It's sort of a rolling average. When I

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2 took over the office there was a backlog of
3 consumer complaints I think the consumer
4 complaint backlog was three months. Just to
5 have an investigator receive the complaint
6 once it was filed in the office it took three
7 months. Never mind what it would take to
8 actually do the investigation.

9 One of the recent complaints we've
10 received in the office, and I do not believe
11 it was superstorm Sandy related, from start to
12 finish I think the complaint was filed in
13 December of last year and the hearing decision
14 I believe was made by February or March of
15 this year. So we've gotten it down to about
16 four months depending on what the actual issue
17 is at hand. Unfortunately, as everyone here
18 knows, none of this is simple when it's
19 related to superstorm Sandy. So the
20 investigations necessarily do take more time
21 than I would expect for certain other consumer
22 complaints.

23 LEGISLATOR FORD: Then what about
24 like when we talk about like now PDF and
25 Almarez where you have multiple people. We

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2 had Mosers and all those. Just let's focus on
3 Almarez. Now the DA's office said that
4 they're waiting for you to send information,
5 Consumer Affairs to send information over to
6 them so that they can move forward with their
7 investigation. Do you take, when all of a
8 sudden you may have like one contractor, you
9 said non-superstorm Sandy related you were
10 able to process the whole thing in a certain
11 amount of months.

12 But now we are looking at these
13 contractors that are like serial scammers.
14 With something like this, do you place a
15 priority on where all of a sudden you get
16 repeat, like the same person keeps coming up.
17 You have five, six, seven complaints. Do you
18 have to investigate each one thoroughly or if
19 you've already sent it -- like, say you've had
20 and sent three people over for this one
21 contractor, Almarez, you've sent it over to
22 the DA for investigation.

23 Now all of a sudden you have six
24 more people are calling up saying, you know
25 what, listen, this guy defrauded me. Do you

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2 then have to do an investigation or can you
3 short circuit it and send it right over to the
4 DA? Because he said you don't do
5 investigations at the same time. It's either
6 you do the investigation or they do the
7 investigation.

8 MR. MAY: I think whether or not
9 there's a parallel path in terms of the
10 investigation that's not really determined by
11 my department. We're going to do our
12 investigation anyway. If the district
13 attorney's office doesn't want to do, for
14 whatever reason, a parallel investigation, as
15 I believe Mr. Mancuso was saying before,
16 that's essentially their call. We are going
17 to do our investigation.

18 They indicated they are waiting for
19 information from me. If they would like to
20 send to me whom exactly they would like sent
21 over to them I would happy to do it right
22 away.

23 In terms of short-circuiting the
24 process, I want to say that -- be careful how
25 I say this. Everyone's complaint is

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2 important, right? Like, in particular the
3 individuals sitting behind me to the people
4 who aren't here, who can't be here.
5 Particularly those who have been out of their
6 house for in many cases years. We don't want
7 to short-circuit their process by jumping
8 somebody ahead. It wouldn't necessarily be
9 fair if consumer A has had this process going
10 on for so long with contractor B and because,
11 whatever, we're talking to them, they only
12 have the one complaint it's taking a long time
13 and say hold on consumer A, consumer C has
14 walked in and vendor D has got 20 complaints
15 so we're going to take care of them first. We
16 try to take care of everyone for better or
17 worse in the order it comes in.

18 LEGISLATOR FORD: I think I said
19 the wrong word. What I meant was not expedite
20 but say if I called up about ABC Construction
21 and that was the only complaint you had you're
22 going to investigate. But if I was the tenth
23 person calling about Almarez and you've
24 already sent complaints over to the DA's
25 office to investigate Almarez, I would like to

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2 know would you normally then take the
3 subsequent complaints against him from other
4 consumers, would you take the time to
5 investigate them or would you realize this
6 could be part of a bigger problem where he's
7 bilking out maybe ten or maybe 20 consumers?
8 So rather than delaying the DA's investigation
9 to just send the information that you've
10 received on Almarez over to the DA so that
11 they can move forward with maybe hopefully
12 prosecuting this guy.

13 MR. MAY: Again, I would report
14 back to the district attorney any information
15 that they asked for from my office. If they
16 had a particular case in mind we would
17 certainly share with them whatever information
18 we have. It is certainly my preference to
19 conduct the investigations that are brought to
20 my office and not do it in a piecemeal
21 fashion. I don't know that there's any great
22 value in having, for example, let's use
23 contractor A, right, because for some of these
24 guys they are still under investigation in my
25 office and I don't want to prejudice the

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2 investigation that is ongoing.

3 But to say in contractor A comes in
4 it might be beneficial to do a global
5 settlement or a global hearing for all of the
6 complaints that we have and sort of have
7 everything lined up so we can take care of
8 everything and everyone at the same time
9 instead of doing it piecemeal.

10 You bought up PDF. They're under
11 investigation now certainly. But to your
12 point, what appears to have happened with some
13 of these vendors is that where's there, for
14 lack of a better term or saying, where there's
15 smoke there's fire. We received a complaint
16 against PDF. The investigator in my office
17 was notified that they might be filing for
18 bankruptcy. And I believe it was the same
19 day, if it wasn't the same day it was
20 certainly shortly thereafter, we received a
21 consumer complaint referral from the district
22 attorney's office for PDF. I had a feeling we
23 were going to be seeing a lot more of those
24 and sure enough ten or so popped up and we met
25 with the DA's office again shortly therefore.

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2 I think Mr. Mancuso referenced that here as
3 well.

4 When we see these now, I don't want
5 to say there's a pattern in terms of a
6 criminal sense, but in terms of the vendors
7 that are popping up, I think we have a better
8 idea of what we're looking for now then maybe
9 what I had in mind when I took the job a year
10 and a half ago.

11 LEGISLATOR FORD: Do you have any
12 questions?

13 LEGISLATOR MULE: Thank you. I
14 have a couple of questions. The topic of
15 communications has come up a number of times
16 from people. I represent a large part of
17 Freeport and I live in a neighborhood where
18 homes are still up on cribbings I still get in
19 my office new calls. It's just amazing to me
20 we're so many years into this and we are still
21 dealing. My heart breaks for everybody.

22 But my question is this. Again,
23 the question of communication. So, is there
24 any communication with the towns or villages?
25 Because, of course, the building departments

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2 are in the towns and villages. Is there any
3 type of mechanism for that?

4 MR. MAY: The answer is there's
5 as much communication as anybody wants. We
6 actually deal with the village of Freeport
7 fairly often. I don't know if I'm necessarily
8 on a first name basis with some of the
9 individuals from the building department in
10 Freeport, but certainly we speak to them on a
11 fairly regular basis. There's no requirement
12 that I'm aware of that the local building
13 departments reach out to the Department of
14 Consumer Affairs prior to issuing a building
15 permit.

16 I do know that our vendor portal,
17 which has recently been updated, is online
18 now, shows a lot of information on the
19 vendors. The principal owner -- the
20 contractor. I'm sorry. I flip flop between
21 vendor and contractor interchangeably.
22 Although I understand they're two different
23 things. It's part of my time here as the
24 legislative affairs guy I got vendor stuck in
25 my head.

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2 There is more information on the
3 contractor available, the principal owner, the
4 business address that we have on file, their
5 contact information. What they are licensed
6 to do. The license is based on their home
7 improvement license. The scope of their work
8 is based on their insurance. These are all
9 things we have been updating in the office in
10 terms of our back-end support over the last
11 year and a half. We have a new case
12 management system that the Department of
13 Information Technology developed for us that
14 we designed in-house that launched in
15 February. So this is all new. The department
16 was basically doing everything by hand, by
17 paper, until February of this year. We are
18 transitioning to be I think a little more
19 nimble and more robust in how we were able to
20 handle all the volume of the office.

21 LEGISLATOR MULE: Perhaps as part
22 of our recommendations we could try to figure
23 out some kind of mechanism to get better
24 communication or encourage that for people to
25 yeah, yeah, absolutely.

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2 So with regard to damages. When a
3 contractor has been found to be guilty of a
4 violation, does your office typically make a
5 finding of the amount of damages owed to the
6 complaint? How does that work?

7 MR. MAY: The damages have to be
8 substantiated by the consumer. Typically we
9 will accept either receipts for work that is
10 already done to repair whatever damage was
11 caused or estimates to repair the damage. I
12 do want to add the caveat that the work or the
13 estimate and/or the estimates have to be
14 provided by a Nassau County licensed
15 contractor. We are not going to substantiate
16 damages based on the work or estimates of an
17 unlicensed contractor. But it would be based
18 on the information provided to the office.

19 LEGISLATOR MULE: Do you ever do
20 anything in terms of punitive damages?

21 MR. MAY: No.

22 LEGISLATOR MULE: Asking an
23 opinion, do you think that the law should be
24 amended to empower the county attorney to go
25 to court to enforce payments of those

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2 amounts?

3 MR. MAY: We are in the
4 Department of Consumer Affairs working to
5 strengthen our orders. I don't want to say,
6 sort of spitballing here with everyone, what
7 the county attorney's office should or should
8 not do. Certainly we would love to be part of
9 a collaborative conversation as to what can be
10 done or should be done. But in particular, I
11 don't want to be committing the county
12 attorney's office to something maybe they know
13 that they can't do. Or can do and we just
14 need to do it in the correct way.

15 LEGISLATOR MULE: As with in
16 discussing with the DA, would your office be
17 willing to submit some recommendations to us
18 in general with this issue?

19 MR. MAY: Of course.

20 LEGISLATOR MULE: Thank you.

21 LEGISLATOR FORD: Legislator
22 Rhoads.

23 LEGISLATOR RHOADS: Thank you
24 very much Madam Chair. How are you
25 Commissioner? I know that your office shares

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2 some of the same frustrations obviously that
3 we share going through this process. It's
4 been incredibly frustrating. We are out there
5 in our communities and we see the devastating
6 effects of what has happened with bureaucracy
7 gone wild. You have a federal program that's
8 being administered through the state. The
9 county itself has very little control over the
10 process and we find out everyday how little
11 control we actually have.

12 You're dealing with folks who have
13 heart wrenching situations. We've been at
14 press conferences fighting for extensions of
15 6100 deadlines. IMA deadlines. Optional
16 elevation deadlines. And it always seems it's
17 difficult to actually get somebody on the
18 phone to get somebody who can actually make a
19 decision. Even when you speak to the folks at
20 the federal -- elected representatives at the
21 federal and state level it seems as though
22 they really seem so have no greater control
23 than we have over anything that seems to be
24 happening.

25 So in doing these hearings,

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2 obviously we want to know about what's wrong
3 and we want to make changes and
4 recommendations both at the federal level and
5 the state level for things that are within
6 their purview, of things that they can do
7 better. And obviously we are looking at
8 things we can do better also as to how we can
9 make our operations better. We had our
10 hearings with OEM obviously.

11 Now looking at the prosecutions to
12 the district attorney's office and how
13 Consumer Affairs is aiding with licensing
14 contractors and aiding in doing the
15 investigations of what appears to be rampant
16 contractor fraud.

17 One question that I do have is with
18 respect to the relationship between the DA's
19 office and Consumer Affairs. In that it
20 almost sounded as though during the DA's
21 testimony that Consumer Affairs itself,
22 perhaps it was just the way it was said, that
23 Consumer Affairs itself is making the
24 determination as to whether it passes the
25 threshold that there should be further

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2 criminal investigation. Whereas, I don't know
3 that Consumer Affairs should really be doing
4 that.

5 For example, when you're having
6 your settlement conferences to see if you can
7 work out some sort of amicable disposition
8 between the contractor and the homeowner, that
9 might be fine to try and take care of the
10 civil remedy. But if there's a crime there's
11 a crime and that should be prosecuted.

12 So how exactly, from Consumer
13 Affairs' perspective, does that process work
14 with the district attorney's office. I know
15 ADA Mancuso that he didn't want to have
16 parallel investigations. But at what point in
17 time does Consumer Affairs take a look at a
18 situation, particular a situation where you
19 have a repeat offender and say look, whether
20 we can reach out some sort of arrangement
21 between the contractor and the consumers or
22 not, somebody at DA's side really needs to
23 take a look at this because something fishy is
24 going on?

25 MR. MAY: Staff has been

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2 instructed during their investigations if they
3 find anything that they believe is criminal in
4 nature to bring it to the attention of our
5 counsel. And in consultation with counsel,
6 they will decide if the alleged behavior does
7 appear to indicate illegal activity. On the
8 basis of that consultation, we would forward
9 something to the district attorney's office
10 saying hey, our investigator flagged this as
11 being potentially illegal. We sat down with
12 legal counsel essentially and there is the
13 possibility that this is the case and we want
14 you guys to take a look at it.

15 LEGISLATOR RHOADS: Based on your
16 seeking legal counsel, it's obviously Consumer
17 Affairs counsel that you are speaking to as to
18 whether or not there is potential criminality
19 not an ADA?

20 MR. MAY: That's correct.

21 LEGISLATOR RHOADS: Is Consumer
22 Affairs counsel aware -- what's their level of
23 knowledge as far as state penal codes, what is
24 or isn't -- it almost sounds as though that's
25 a decision that the DA's office should be

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2 making in and of itself. It's not something
3 that Consumer Affairs should be making.

4 MR. MAY: We are not make the
5 actual determination as to whether or not it
6 is illegal. Although I will say that my
7 counsel sitting to my right is certainly well
8 versed in everything that you are bringing to
9 her attention. It's not necessarily that we
10 are determining what the threshold is for
11 criminal activity. If something is being
12 flagged by an investigator as being criminal,
13 they are not, they could be but they are not
14 lawyers in my office. So something that may
15 appear to them to be illegal may not be.
16 Certainly that is the order of analysis that's
17 being done. Then we sit down with counsel and
18 say hey, do we think this does rise to the
19 level of criminality? And then we would refer
20 it to the district attorney's office.

21 LEGISLATOR RHOADS: Not
22 everything that comes into Consumer Affairs is
23 obviously referred to the district attorney's
24 office.

25 MR. MAY: That is correct.

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2 LEGISLATOR RHOADS: So it's
3 essentially it's up to the opinion of whoever
4 is reviewing it in Consumer Affairs whether or
5 not the DA's office is ever going to be
6 notified?

7 MR. MAY: Essentially that is
8 correct.

9 LEGISLATOR RHOADS: But if the
10 folks in the Office of Consumer Affairs
11 aren't -- I mean you do have counsel who is
12 I'm sure eminently qualified, but if the
13 individual investigators are making that
14 determination in consultation with counsel but
15 there's is no one looking at it from the
16 district attorney's perspective with respect
17 to Penal Law Section 15505 and larceny and
18 whether there are other potential statutes
19 that prosecutions could fall under, how are we
20 avoiding potential criminal cases sort of
21 falling through the cracks? I understand you
22 don't want to duplicate efforts. But why
23 aren't there parallel investigations with
24 Consumer Affairs and the district attorney's
25 office?

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2 MR. MAY: That is not a question
3 I can answer. That's a question the district
4 attorney would have to answer. My office is
5 doing the investigation. Whether or not they
6 elect to do a parallel investigation is their
7 call.

8 LEGISLATOR RHOADS: Apparently
9 it's not. I guess my question is, shouldn't
10 the information that you gather as a result of
11 your investigation be shared with the district
12 attorney's office whether or not you believe
13 there's criminality involved? Because
14 ultimately it's the district attorney's that
15 have prosecutorial responsibility and would be
16 in the best position to make a determination
17 whether separate and apart from issuing a
18 violation and whatever civil or quasi criminal
19 relief you may be able to -- relief is the
20 wrong word -- penalty you may be able to
21 impose, whether there's a separate criminal
22 charge to be brought.

23 MR. MAY: It has never been the
24 practice of the office, as far as I'm aware,
25 to routinely send consumer complaints to the

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2 district attorney's office review.

3 LEGISLATOR RHOADS: Specifically
4 Sandy-related consumer complaints.

5 MR. MAY: Same answer.

6 LEGISLATOR FORD: When people
7 call in complaints, so you have a number of
8 investigators. So, would it traditionally be
9 the same investigator? Like if it was ABC
10 Contracting. You get your third call or
11 second call. Would you then have one
12 investigator work on all the complaints for
13 ABC or can it be that six different
14 investigators are working on complaints made
15 against ABC?

16 MR. MAY: To the extent
17 practicable, I like to have all of the
18 consumer complaints that are either filed by a
19 consumer or against a vendor or contractor to
20 be handled by the same investigator. So on
21 the consumer side they would only have to call
22 one individual as opposed to three or four.
23 And then on the investigatory side we have
24 person sort of looking at everything. So it's
25 not like investigator A finds something but

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2 doesn't tell investigator B who found
3 something that investigator C doesn't see and
4 then never the triangle shall meet. To answer
5 the question, I try to keep it as practicable
6 as possible to one investigator.

7 LEGISLATOR FORD: With that in
8 mind, if they see that it's like five or six
9 complaints from different consumers about the
10 one contractor, what generates then like
11 because it's the determination of the
12 investigator to say whether or not this could
13 border on criminal activity and or not. And
14 then it would be that determination -- they
15 would make that determination of whether or
16 not to send it to the DA or not. So, at what
17 point do you think the investigator may
18 realize that they have had numerous complaints
19 against this one person that they would send
20 it and also ask the DA to join in on the
21 investigation.

22 MR. MAY: They're not going to
23 send anything to the district attorney's
24 office without going through counsel first.
25 And I will say for my investigators I think

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2 they err on the side of criminality more that
3 they do on legal activity. So it's much more
4 often that they might bring something to us
5 that they believe is criminal and we have to
6 say no, this does not actually appear to be
7 criminal despite the effect it's having on
8 people.

9 LEGISLATOR RHOADS: When you make
10 a determination, and this goes to one of the
11 previous speakers had mentioned, I believe it
12 was Mr. Baer if I'm not mistaken, that when
13 you have multiple complaints involving a
14 particular contractor at what point in time do
15 we suspend their license? Is there a process
16 by which that takes place?

17 MR. MAY: A license suspension
18 would be recommended by the investigator who
19 is doing the investigation. Even if someone's
20 license is suspended we don't prevent them
21 from performing work on someone's house that
22 they've already begun work on. That might
23 sound counterintuitive. Let's say Greg May
24 Construction is doing good work on one
25 person's house and bad work on another

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2 person's house, if you suspend their license
3 and they can't do any work, now two people are
4 out as opposed to one person.

5 So the preference is to have people
6 who even have suspended licenses they may
7 still need to perform work on someone's home.
8 We don't want people to have a roof torn off
9 and then to come back and find out that the
10 Department of Consumer Affairs has suspended a
11 license and oop, you have no roof.

12 So for the people who are still --
13 for sold contracts they are expected to
14 maintain their work on the contract. They're
15 not to take our suspension as a
16 get-out-of-jail-free card. It sounds again
17 counterintuitive to have him do any work for
18 anyone else.

19 What we do not allow them to do
20 when their license is suspended is to sell any
21 new jobs. That they will not be able to do
22 any additional work. I think Legislator Ford
23 you described what was going on as a Ponzi
24 scheme. Without coming to any final
25 conclusions, I think that description is apt.

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2 We want to prevent them from adding people to
3 the scheme as opposed to using the suspension
4 as an excuse not to do any work for anyone at
5 any time and then further endangering
6 individuals.

7 LEGISLATOR RHOADS: What steps do
8 we take as Consumer Affairs to notify the
9 public that action has been taken? They
10 received a violation, their license has been
11 suspend, they are no longer permitted to
12 longer solicit new work.

13 MR. MAY: If you were going to go
14 onto the Consumer Affairs website do you could
15 do a vendor search. It will show if a vendor
16 is licensed or not licensed. I believe if you
17 look right now if somebody was not licensed it
18 will actually not show on a search report. We
19 are updating our search criteria. I believe
20 the goal is to have it updated for tomorrow.
21 So if somebody is unlicensed it will pop as
22 them being unlicensed as opposed to not
23 showing them at all.

24 But I think if you did a search of
25 contractor A and nothing pops up that that's

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2 sort of a read flag for you. Also indicates
3 the number of violations a contractor has
4 received in a given year and the number of
5 complaints filed against a contractor in a
6 given year.

7 LEGISLATOR RHOADS: Other than a
8 consumer going on the website and checking a
9 particular contractor, there's no other way
10 for a consumer to know? We don't do any kind
11 of newsletter? We don't do any press releases
12 indicating when someone's license is
13 suspended.

14 MR. MAY: The short answer is
15 no. And I don't know relying on a newsletter
16 that could be weekly or monthly would
17 necessarily be the best way to communicate to
18 individuals whether or not somebody has been
19 suspended or not. It could be that somebody
20 was suspended and by the time the newsletter
21 has gone out they have cured whatever the
22 defect was that led to the suspension. It
23 becomes more of an issues. We recommend
24 anyone who is looking to hire a home
25 improvement contractor to be checking our

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2 database which is live. So that if someone
3 was suspended today they would see the license
4 was suspended.

5 LEGISLATOR RHOADS: What are we
6 doing to get that information out to the
7 consumer?

8 MR. MAY: Certainly we can put
9 that information out in newsletters, social
10 media, your social media. But the vendor
11 search has been up for a number of years and
12 is pretty widely used.

13 LEGISLATOR FORD: We have one
14 speaker and I overlooked her. Liz Treston.
15 But as she's coming up, I think Legislator
16 Lafazan also talked about this, about
17 educating, and I know at one of the forums we
18 had you talked about with consumers that you
19 only give one-third upfront, one-third while
20 they're doing the job and one-third at the
21 end. Which a lot of people didn't do.

22 I think you're a wealth of
23 information that you can help so many people.
24 I know you send us like tips and everything
25 like that. Maybe what we need to do is work

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2 with you more effectively so that even we can
3 use our social media as well to start
4 educating the public when they're dealing with
5 contractors and anything with consumers. I
6 think that you have a great message.

7 MR. MAY: I absolutely agree with
8 you and Mr. Haino sitting to my left has been
9 doing the community speaking events for I want
10 to say 14 years. I might be dating you by
11 saying it's 14 years.

12 We are an open door to the county,
13 particularly to the county legislators. We
14 are happy to do any public events that you
15 have going on. We have done senior scam
16 seminars with both Legislator Bynoe and
17 Legislator Schaefer. Of course, Legislator
18 Ford, we have done the events down in your
19 district. We are here ready, willing and able
20 to do the road show and get the message out.

21 LEGISLATOR FORD: Thank you very
22 much.

23 Liz, I do apologize.

24 MS. TRESTON: Just a couple of
25 quick questions. First I want to thank

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2 everyone for coming and for Legislator Ford
3 for starting this steering committee, which is
4 very much needed. Our obvious frustration is
5 with the CA and DA not being able to
6 communicate effectively with each other.
7 Maybe someone from the DA needs to sit at the
8 CA office. Only on Sandy cases. It's
9 primarily what we are here for.

10 We're coming up on seven years and
11 we said four years we said we would start
12 something where we would communicate with each
13 other and we would start working on some of
14 these issues.

15 Have there been any plans yet for
16 the continuing education for licensing
17 contractors? I'll just run off my questions.
18 Can the law be amended to go after the
19 contractor's performance bond or their
20 insurance? Especially if they declare
21 bankruptcy or reincorporated as a new
22 business. Who oversees whether the escrow
23 account is established as per New York law?

24 One more thing. Regarding your new
25 vendor that's doing your website, Legislator

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2 Mule asked about building departments trying
3 to find out if a vendor is licensed or not.
4 For the last couple of weeks it's just been
5 not working well.

6 MR. MAY: I guess to the Chair,
7 the vendor search function was intentionally
8 taken down for a few weeks. As I said we
9 updated from an old essentially DOS-based
10 mainframe system to a much more modern case
11 management system.

12 While I could have left the DOS
13 system online it would no longer be any live
14 updates. There would have been no renewal
15 information. No violations. No nothing.

16 So I intentionally took that site
17 down and we have updated it so that the new
18 site is working that has all of the live
19 information.

20 So yes, for a period of about I
21 think it was three or four weeks that function
22 was unavailable but that was a necessity. If
23 we left up the old site the information would
24 not have been good.

25 MS. TRESTON: You can find it on a

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2 phone? Just asking for a friend.

3 MR. MAY: Yes. As far as I know
4 you can find it on the phone.

5 MS. TRESTON: Can you? Can someone
6 try?

7 MR. MAY: The answer to that
8 question is the county is updating its website
9 so that the functionality is much more iPhone
10 friendly. I don't think that that changeover
11 has happened.

12 MS. TRESTON: And the other
13 questions. Do you want me to repeat?

14 MR. MAY: Yes, I'm sorry. Slow
15 for me please.

16 MS. TRESTON: Plans for a
17 continuing education for licensing
18 contractors.

19 MR. MAY: If that was something
20 that we were going to do that is certainly not
21 going to be something that happens right
22 away. That's not going to be something that
23 happens in the next year or so.

24 MS. TRESTON: But you do have
25 plans?

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2 MR. MAY: There has been talk
3 about it. I cannot commit to any kind of time
4 frame for any kind of CLE for contractors.

5 MS. TRESTON: What about the law
6 being amended to go after the contractor's
7 performance bond.

8 MR. MAY: If they had posted a
9 performance bond with the county we believe we
10 are able to go after the bond based on a legal
11 case out of New York City.

12 MS. TRESTON: And who will
13 oversee the escrow account that was
14 established is per state law?

15 MR. MAY: Certainly that's
16 something we can look into. I believe we can
17 issue violations on that right now and we will
18 be looking into it.

19 MS. TRESTON: Thank you. Thank
20 you very much again.

21 LEGISLATOR FORD: Can you leave
22 those questions.

23 MS. TRESTON: I would love to but
24 I put my gum in the corner and my DNA is
25 there. I will text them to you.

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2 LEGISLATOR FORD: We would like
3 to have a copy of that so we can follow-up
4 with Consumer Affairs as well. And thank you
5 very much as well. Liz Treston is in charge
6 of our co-ed down in Long Beach and has been
7 an advocate for all of us and thank you.

8 LEGISLATOR RHOADS: I know
9 Commissioner that you had indicated there were
10 330 complaints that were made to the office
11 since 2013?

12 MR. MAY: Yes.

13 LEGISLATOR RHOADS: Are there any
14 statistics that are made in terms of how many
15 of those have resulted in a criminal
16 referral? How many have resulted in some sort
17 of civil disposition? How many suspensions?
18 How many revocations?

19 MR. MAY: There have been no
20 revocations. There have been a handful of
21 suspensions. There have been a number of
22 referrals to the district attorney's office.
23 I'm sorry, what were some of the other
24 criteria you were asking about.

25 LEGISLATOR RHOADS: How many

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2 resulted in some sort of disposition?

3 MR. MAY: At what level? In
4 other words, at the administrative hearing
5 level we've had 34 consumer complaints
6 adjudicated through our judicial hearing
7 officer. I think another 34 complaints that
8 were settled in the prehearing settlement
9 conference. I believe there's about 100 cases
10 we referred to the district attorney's office
11 this year. But as far as in terms of criminal
12 prosecutions, I believe the only one that's
13 occurred, I believe Mr. Mancuso had said Lee
14 Moser.

15 LEGISLATOR RHOADS: Incidentally,
16 can you just tell us what types of remedies is
17 the Office of Consumer Affairs able to
18 pursue?

19 MR. MAY: Damages. Actual
20 damages we can pursue.

21 LEGISLATOR RHOADS: But it's
22 actual damages on behalf of the -- how exactly
23 does that work? Actual damages on behalf of
24 the consumer? In other words, one of the
25 speakers before had indicated that she had a

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2 contractor walked away with \$28,000. Single
3 mom. The contractor walks away with \$28,000
4 of her money. Can you go after that 28,000?

5 MS. KUNZIG: Christie Kunzig,
6 deputy county attorney. There has to be a
7 willful violation. Once we have a willful
8 violation under a home improvement violation
9 then we can get after the actual damages.

10 If there is no violation, then we
11 cannot go forward to a hearing on a consumer
12 complaint. So, I believe in that specific
13 instance there wasn't a home improvement
14 violation. There wasn't anything we could do
15 to say they were unlicensed. We didn't have
16 anything to go forward there, so there was
17 nothing else we could do.

18 LEGISLATOR RHOADS: Obviously the
19 only hook that you have is if someone is a
20 licensed contractor and they somehow violate
21 the terms of their license you have the
22 ability to pursue some sort of remedy?

23 MR. MAY: I don't want to say the
24 only hook that the department has is that --
25 in terms of what the department is authorized

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2 to do on behalf of the consumer is actual
3 damages. However, if we issue violations or
4 multiple violations to a vendor based on their
5 actions, as I said, in the prehearing
6 settlement conference we would consider
7 reducing or dismissing certain of those
8 violations based on their willingness to
9 either refund the consumer or perform some
10 function or action requested by the consumer.

11 MS. KUNZIG: Just to clarify,
12 they don't have to be licensed. They have to
13 be doing some type of violation. So if
14 they're unlicensed that's a violation. If
15 they're not doing any type of home improvement
16 work --

17 LEGISLATOR RHOADS: It's either
18 licensed or should have been licensed?

19 MS. KUNZIG: Yes.

20 LEGISLATOR RHOADS: Just in terms
21 of how does the Office of Consumer Affairs
22 coordinate with the consumer in terms of
23 offering either assistance or services? If
24 there's something Consumer Affairs can't
25 handle, however, there are remedies that can

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2 be pursued by the homeowner individually.

3 What do we do in terms of assisting them in
4 that process?

5 MR. MAY: I'm sorry, in terms of
6 what? Obviously there are multiple avenues
7 that they can take. Are we talking about just
8 through the Department of Consumer Affairs?
9 Are we talking other legal remedies?

10 LEGISLATOR RHOADS: If there's a
11 situation where Consumer Affairs can't assist
12 or the assistance that Consumer Affairs can
13 offer does not fully and adequately compensate
14 the homeowner, what steps do we take, if any,
15 to assist in finding the people that can help
16 them? Be of help to them.

17 MR. MAY: Specifically related to
18 superstorm Sandy we had held, in partnership
19 with Legislator Ford, a superstorm Sandy
20 forum. I believe it was in August of last
21 year. We had brought on individuals from
22 the -- it was one of the -- Touro Legal
23 Center. I forget the name of the clinic that
24 was working on the superstorm Sandy
25 individuals. We have been in touch with the

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2 Nassau County Bar Association. If there was
3 anyone that needed legal assistance who they
4 could not pay we referred them to the Bar
5 Association. We try to be as comprehensive as
6 we can to help people.

7 LEGISLATOR RHOADS: Do we
8 provide, if they do seek legal assistance,
9 obviously separate and apart from Consumer
10 Affairs, do we wind up providing their counsel
11 with any of information that's been gleaned as
12 a result of Consumer Affairs' investigation or
13 do that under subpoena?

14 MR. MAY: We tend to respond by
15 FOIL. Certainly if someone is going to
16 subpoena us we would comply with the subpoena
17 as appropriate. But typically the requests
18 come through the FOIL process and we provide
19 whatever we are able to through that process.

20 LEGISLATOR RHOADS: In terms of
21 your own review, and I'm told this is the last
22 question.

23 MR. MAY: I don't know
24 legislator, I have heard that before.

25 LEGISLATOR RHOADS: Is there

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2 anything that as a legislature we can be
3 doing, either changes in law or changes in
4 policy that would assist you in being able to
5 better to perform the functions to protect
6 residents?

7 MR. MAY: I probably have a wish
8 list but I don't know that what I would want
9 this legislature could provide. We had talked
10 about some ideas before coming here in the
11 office. Again, I don't want to say anything
12 on the record that's half baked. I would
13 certainly like to have the opportunity to
14 speak both with my counsel and the counsel
15 from the county attorney's office and then
16 speak with you all that might make the most
17 sense instead of spitballing it here on the
18 record.

19 LEGISLATOR RHOADS: That's what
20 makes this fun.

21 MR. MAY: I'm having a good time.

22 LEGISLATOR RHOADS: What I will
23 do is ask for you to have those conversations
24 and please get back to us within the next few
25 weeks. If you do have specific

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2 recommendations we are always open to them
3 because obviously the goal is to provide the
4 best services we can to our residents.

5 MR. MAY: Of course.

6 LEGISLATOR FORD: I thank you
7 very much. I know we have to wrap up it and
8 Dr. Castillo we will entertain you and that's
9 it.

10 MS. CASTILLO: Dr. Margaret
11 Castillo. I have three cases at Consumer
12 Affairs and I have done many, many FOILS.
13 Sometimes I get information. Sometimes I
14 don't. A lot of times things are redacted. I
15 had to pay \$150 and I think 60 pages were
16 redacted. I don't think that was fair
17 treatment.

18 I do have to say that I feel that
19 I, and I know many other people, are not being
20 treated fairly with Consumer Affairs. I was
21 never informed of one of my cases that they
22 were having never mind a prehearing, a
23 settlement and I was only informed by the
24 settlement. And Madam Ford you asked who sent
25 me the information. So that would have been

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2 the attorney and she sent me an email on April
3 26th that said case closed. Here it is.

4 That's all I received. No fair hearing. No
5 sharing. Never getting my voice. I think
6 that's wrong. I really think that's wrong.

7 I asked to meet with Gregory May
8 once. I was making an appointment. He came
9 out with the same people that are here and
10 said "I'm Gregory May. I'm the
11 commissioner." I said can we go sit
12 somewhere? I had already been there for 45
13 minutes. My back was killing me that day. He
14 said "No, we do things over the counter."
15 That is just disrespect. I don't think people
16 should be treated that way when they're going
17 through such a horrible situation.

18 Then I'm berated by the people who
19 are helping me because I have too many
20 complaints in. And they don't streamline it
21 for you, so I have three different case
22 workers that I have to have with three very
23 different personalities. One of them is not
24 polite and not respectful. One is them seems
25 to be disorganized and one super efficient. I

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2 don't think it's fair I should have to be
3 treated this way and I should have make all
4 these phone calls and I should have to do all
5 these follow-ups and I should have to submit
6 documents again and again and again.

7 I was asked to submit pictures. I
8 submitted pictures. I got an email back can't
9 open your pictures. You have to bring them
10 in. I bring the pictures in. Why are there
11 not statements on these pictures? I can't
12 accept pictures without statements. But it
13 could have been simple the first time. It
14 didn't have to be all this back and forth and
15 trips here and trips there. I just feel like
16 we as consumers need to be treated with better
17 respect. We need to be more informed and we
18 need to be included in this process, not
19 shunned and actually almost made like we are
20 the bad guys.

21 LEGISLATOR FORD: Thank you very
22 much.

23 MR. MAY: To the Chair, just to
24 address some of the comments. Certainly I
25 appreciate everything that Dr. Blid has been

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2 saying and some of the concerns and critiques
3 that she's had about the department.

4 I actually do remember the incident
5 that she's referring to where she and I had
6 interacted. I would have been happy to have
7 met with her if she had scheduled an
8 appointment. With no appointment I'm not
9 going -- again, when we were talking about
10 short circuiting the process -- take her in
11 the office and not have anybody else have the
12 same opportunity to just walk up and walk in
13 the office and go over the consumer's
14 complaint.

15 I'm happy to meet with her now.
16 I'll be happy to meet with her whenever. But
17 if it's just a walk-in, the conversation is
18 going to happen at the counter. If we have an
19 appointment we can certainly have the
20 appointment in my office.

21 As far as having to handle or
22 having to deal with three separate
23 investigators, as I said before, I try to keep
24 it as practical as possible to one
25 investigator so that people do not have to

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2 deal with multiple investigators. I believe
3 that I had asked my investigators to
4 reassigned all of Dr. Blid's cases to one
5 investigator. I will look into that and make
6 sure that is done.

7 I don't want to get into this on
8 the record but I have had personnel actions
9 regarding staff and their treatment towards
10 certain consumers. So I certainly understand
11 what Dr. Blid is saying and I do take it very
12 seriously that when you are contacting my
13 office you are treated with respect. That
14 nobody is making you to feel that you,
15 Legislator Ford, that you the consumer to feel
16 that you are the problem. It is certainly
17 something that I'm aware of dealing with
18 realistically with all of the tools that I
19 have at my disposal.

20 LEGISLATOR FORD: Thank you very
21 much. I know that you're experience is unlike
22 many other people. And I have to say that
23 dealing with Greg May as head of Consumer
24 Affairs for me has been rather positive
25 because of the people I have sent over to him

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2 and asked him to sometimes take a look at
3 something, put his eyes onto it to follow this
4 through to help people. I feel bad if people
5 have had other experiences and I think, I know
6 for a fact that he probably takes it quite
7 personally if people are not -- with the
8 complaints that you have.

9 I do, like I said, he had just
10 taken over when we had our meeting in the city
11 of Long Beach and the library was jammed
12 packed with people who had consumer fraud,
13 contractor fraud, and we were taken back. And
14 then when we had another one in Island Park we
15 thought it would be an easy night. Who knew
16 that 70 people that we never saw before. And
17 he has been responsive and we are working on
18 legislation to try to help in future events.
19 That I can say for him.

20 But I do hope then at this point
21 maybe Dr. Castillo can reach out to you and
22 sit down and maybe go over the three cases she
23 has and then to explain why her complaint I
24 guess with Almarez was closed out before it
25 got to the DA's office. I really would

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2 appreciate it if we can get this looked at and
3 resolved.

4 And I want to thank you very much
5 for taking the time -- we're already on six
6 o'clock -- staying here so that we can at
7 least get some information from you, insight,
8 and we will be looking forward to working with
9 you on recommendations and on legislation that
10 will be necessary for future events.

11 MR. MAY: I certainly appreciate
12 that Legislator Ford and I appreciate the
13 opportunity to address this body as well as
14 our constituents sitting behind me right now.

15 I will say that whether or not
16 somebody is upset when they're calling the
17 office it is certainly not something that I am
18 taking personally. I have been living in my
19 home for the last seven years as I've told
20 people at our public forums. I understand
21 only in an academic sense what everyone behind
22 me is going through. I have a home that I'm
23 going home to that is not a construction zone
24 and in some cases almost looks like a war
25 zone. I know the district attorney's office

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2 indicated that they had visited homes. Ken
3 and myself have done site visits. I have
4 taken phone calls from constituents at 8:30 at
5 night on a Friday on my work cell not on my
6 personal cell. We are here for the residents
7 of Nassau County.

8 To the extent that the experience
9 with my office has not been as positive as
10 some would like, certainly I share that
11 frustration and am working to adjust the
12 culture in the office so that it is more
13 friendly at the very least.

14 Unfortunately, in some cases there
15 might not be anything we can do at the end of
16 the investigation. But certainly nobody
17 calling my office should feel they are being
18 made to answer for something that they didn't
19 do or that for whatever reason they are the
20 bad guy and clearly they are not. They are
21 the ones being taken advantage of.

22 LEGISLATOR FORD: I know you're
23 commitment to this job. I don't want to spill
24 the beans but I have reached out to him on his
25 personal cell phone on behalf of many of our

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2 residents. I think the one time I called you
3 it was the birth of your son and you
4 responded. I have to say that. I know for a
5 fact that it's very important to you that
6 everybody does the right thing because you are
7 involved with all of us that have been
8 suffering because of Sandy.

9 I thank all three of you for being
10 here and we will be working together and all
11 of you for staying here for the four hours.
12 This is like we keep working and I think we
13 probably should have had this much sooner,
14 years sooner this type of hearing. We are
15 going to keep on pushing and working our way
16 until we can get justice for everyone. Thank
17 you all for being here.

18 (TIME NOTED: 6:00 P.M.)

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1
2 CERTIFICATION
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5

6 I, FRANK GRAY, a Notary
7 Public in and for the State of New
8 York, do hereby certify:

9 THAT the foregoing is a true and
10 accurate transcript of my stenographic
11 notes.

12 IN WITNESS WHEREOF, I have
13 hereunto set my hand this 2nd day of
14 June 2019
15
16

17 -----
18 FRANK GRAY
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