

Peter Hammer's vote had not taken place yet, had it?
I don't know.

Trust me. February 20th was the vote.

Okay.

So this would have applied then to tenure decisions made after its adoption, I take it?

At the time that this document was issued, there was a discussion in the academic program group, which is basically the deans of the provost, and I certainly could not have, on February 7th, promulgated a set of rules for multi-layered review that applied to tenure cases that were then almost complete or in process. So I actually think the application of this to cases in that year could not have been expected to be complete.

(Deposition Exhibit 4 marked)

Let me show you one additional document before we -- before we wrap up this topic. You have before you what's marked Deposition Exhibit Number 4. Do you recognize this document?

I do.

And you received this document from Peter Hammer?

I did.

You felt no obligation to acknowledge receipt of it?

No.

You felt no obligation to respond to it in any fashion?

No, I did not.

By the time you received this document, had you concluded the provost review?

I don't know. That was the time of year in which those reviews would have been taking place. So they take place through March and April, and this could have before, it could have been after.

Do you recall having a discussion with Jeff Lehman on May 4th in which you told him that the provost's office was going to accept the recommendation of the law school to deny tenure to Peter Hammer?

I don't recall specifically, but that seems entirely plausible.

And you knew that Peter Hammer was aware there was a provost review going on; correct?

MR. SERYAK: I'm going to object to the form of the question. It calls for speculation.

MR. GREEN: Cross-examination.

You can answer.

I don't know what Professor Hammer believed to be true. This document is quite ambiguous, if you will.

Well, didn't Jeff Lehman tell you that Peter Hammer was aware of this, the fact that your office was conducting a review of his tenure case?

I don't recall.

Q Don't you think it reasonable for Peter Hammer to assume that your office was conducting a review of the denial of tenure, since that was the policy of the university to do so?

MR. SERYAK: Same objection for lack of foundation.

Q You can answer.

MR. SERYAK: You're asking him to speculate on what Peter Hammer thinks.

Q You can answer.

A He certainly could have reached that conclusion reasonably, but I don't know what conclusions he reached.

Q Did you have any idea why he was writing you this letter?

A I had lots of ideas why he might be writing me this letter.

Q What did you think was the reason that he was writing you this letter?

A One has to read the whole first several paragraphs of the letter to try to reduce -- there is no single reason. He has a long paragraph saying, "Why then, and for what purpose, write such a letter at all?"

Q Right.

A Part of the answer is the fact that the very act of drafting this letter itself provides an opportunity to help process difficult life disrupting information. That sounded right to me. That sounded like a good reason to

write such a letter.

Q Well, in that same paragraph, about two-thirds of the way down he says:

"Part of the answer lies in a belief that the Provost Office has a special obligation to assess and weigh the contributions that a candidate makes to the broader University community that might not effectively be considered or balanced in a single department or a school"; correct?

A He says that, yes.

Q And you have no idea why he's writing you this letter? There is no impression?

A He says later in the letter:

"I'm asking you only for the simple, human opportunity to speak, and further ask nothing more from you -- nothing more from you than that you engage in a patient and authentic act of listening."

I read this letter very carefully.

Q Well, did you think he just wanted to talk to you about it, just to -- as a catharsis?

A Oh, I have no doubt that he wanted the decision to be reversed.

Q Okay. And you have no reason to believe that he was unaware of the fact that the provost's office conducts tenure reviews, do you?