

EXHIBIT 2

APPENDIX F

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAJOR MARGARET WITT,)	
)	
Plaintiff,)	
)	
v.)	No. C06-5195 RBL
)	
UNITED STATES DEPARTMENT OF THE)	
AIR FORCE, et al,)	
)	
Defendants.)	

DEPOSITION UPON ORAL EXAMINATION OF
COLONEL JANETTE MOORE-HARBERT

TAKEN AT
Carney Badley Spellman
701 Fifth Avenue, Suite 3600
Seattle, WA 98104

FEBRUARY 25, 2010

THURSDAY, 9:00 A.M.

Reported by:

MARIE WHITE, CSR # WH-IT-EM-*29906

1 Q. Okay. I don't know whether you said -- I know you said
2 there was gossip, but did you perceive there to be any
3 kind of morale problem caused by a perception of an
4 improper relationship between the two of them?

5 A. It is a difficult question again, because I was not
6 over there for those -- for two years essentially. I
7 think any time that there is an appearance of perhaps
8 favoritism or an appearance that there is an issue that
9 would be going on that could create a situation of
10 inappropriateness, it could create a morale problem and
11 I would be concerned about that.

12 Again, not being over in that building on a
13 day-to-day basis during that period of time to even try
14 to validate it. But that is an issue when you kind of
15 take a look at from a standpoint of a morale issue of
16 appearances of favoritism. But I can't validate it, I
17 was not over there.

18 Q. Colonel Walker told us that a group of officers, and I
19 think her phrase was went across the street and made
20 complaints about what they perceived to be an improper
21 relationship.

22 Were you familiar with who made those complaints?

23 MR. PHIPPS: Objection, form.

24 A. I had heard -- I don't know who they were. I had heard
25 the same thing.

- 1 directly and discussed things. So --
- 2 A. If it was an issue that we disagreed on, for example, a
3 proficiency issue or something. But that would be my
4 job as a person to go back and say, okay, the
5 regulatory guidance says we need to take a look at
6 doing it this way.
- 7 Q. Okay, but now, not asking about whether you talked to
8 her directly about some issue. But did you ever
9 complain in any way about anything involving Colonel
10 Carneal to any other person?
- 11 A. Yes, I did.
- 12 Q. Who?
- 13 A. I spoke briefly to the Operations Group Commander, who
14 was my boss, while I was over in OG that there was a
15 concern regarding possibility of an appearance of
16 favoritism.
- 17 Q. So who was that person you spoke to?
- 18 A. His name was Colonel Spencer.
- 19 Q. Okay. And you told --
- 20 A. I also had no validation.
- 21 Q. What was the concern?
- 22 A. A concern of appearances of that I had heard, again,
23 through different rumor mill, and there was a concern
24 of appearance of favoritism.
- 25 Q. Toward Major Windsor?

1 A. Toward Major Windsor. And I had no further
2 conversations.

3 Q. What did Colonel Spencer say to you?

4 A. Really nothing that I can remember.

5 Q. Did he seem to indicate he was going to look into it?

6 A. Basically I don't -- I honestly don't remember what he
7 said.

8 Q. Do you remember whether he did anything?

9 A. I don't know.

10 Q. Do you remember whether he played any role in leading
11 to her having a -- taking a retirement?

12 A. I don't know. Again my function was as a Stan Eval
13 officer over in Operations Group, so I don't know.

14 Q. Did you complain, did you say to Colonel Spencer that
15 you thought that there might be a violation of the
16 fraternization policy?

17 A. No.

18 Q. No. You sound pretty certain about that.

19 A. Because I remember the issue was concern over the --
20 what was perceived as a favoritism. But to basically
21 say it was a fraternization unprofessional, I did not.
22 I remember that I did not. It was a concern over a
23 possibility of a favoritism.

24 Q. You don't know what he did as a result of your talking
25 to him?

1 A. No, not at the squadron.

2 Q. Not, pardon?

3 A. Not at the squadron, not from the squadron.

4 Q. Well, there wasn't a retirement party somewhere else
5 that you are aware of, was there?

6 A. Not that I am aware of.

7 Q. Okay.

8 A. I don't know.

9 Q. There was a 50th anniversary party for the squadron;
10 correct?

11 A. Correct.

12 Q. When was that?

13 A. I must say I don't remember the exact date. I am going
14 to say maybe two years ago, but I don't know the exact
15 date.

16 Q. Okay.

17 A. Bad memory.

18 Q. Was it in the summer?

19 A. It was in the summer.

20 Q. And you were the Commander at the time?

21 A. I was the Commander.

22 Q. You still are, right?

23 A. I am.

24 Q. Okay, and if I suggested that it was in the summer of
25 2009; does that sound about right?

1 A. 2009, 2008.

2 Q. One of those two?

3 A. Yes.

4 Q. Okay. Do you know where the party was actually held?

5 A. We actually had it up at a place that was on base, it
6 is -- I don't know what it is exactly, it's called
7 Overlook Hill, where we have a lot of our museum-type
8 aircraft. There is a pavilion that is there. And
9 that's essentially where we had it set up to have our
10 reunion.

11 Q. And this would be a reunion for anybody who had been in
12 the squadron ever; is that right?

13 A. Correct, for the past fifty years.

14 Q. And that sort of some people would have been in it when
15 it was called the 40th?

16 A. That's correct.

17 Q. Is there an invitation list that goes out as to who
18 gets invited to come? I'm talking about people who are
19 no longer with the 446th.

20 A. We sent out some invitations to some of the folks that
21 were a previous Commander, just kind of a courtesy to
22 ensure that they were aware that we had the ceremony
23 that was going on. And we had a lot of the information
24 was sent out via email.

25 There is a lot of emails that have accumulated

1 A. Authority?

2 Q. Well, if that -- did they do it?

3 A. They did it.

4 Q. Okay.

5 A. They did it. There was a word of mouth that went out.

6 Q. I'm assuming, you tell me if I'm wrong, that if you
7 invite someone who had been with the unit for a decade
8 or more and hadn't been with the unit for a while that
9 they were perfectly free to bring their spouse.

10 A. It wasn't an -- it was an open invitation to previous
11 members to attend the 50th, because the 40th of 446th
12 was pretty much the first Air-Evac Reserve Squadron in
13 the Air Force Reserves.

14 Q. Okay.

15 A. And so that was pretty much an open invitation.

16 Q. Is it not just an open invitation to them, but an open
17 invitation to their family and friends?

18 A. Yes, they were allowed to bring their family and
19 friends.

20 Q. Okay. Do you know if Major Witt was invited?

21 A. I don't know if she was specifically invited.

22 Q. Do you know if she attended the 50th party?

23 A. I honestly don't remember. I was so busy with
24 everything, I don't remember.

25 Q. Okay. Would there be anything inappropriate with her

- 1 attending the 50th anniversary party?
- 2 A. She was a previous member of our squadron.
- 3 Q. So the answer is "no"?
- 4 A. No.
- 5 Q. So it would be perfectly appropriate for her to attend?
- 6 A. She was a previous member of our squadron.
- 7 Q. Okay. Were you concerned that if she attended, there
- 8 might be a morale problem caused by her attendance?
- 9 A. I wasn't focusing on, because of not knowing
- 10 necessarily who was going to be there, who was not
- 11 going to be there, the focus of the 50th was pretty
- 12 much to recognize the squadron itself and the members.
- 13 So even an aspect of thinking of morale problems or
- 14 such, that was not my focus by any means. It was to
- 15 recognize the squadron.
- 16 Q. Okay. Well, you don't recall, do you? You don't
- 17 recall being concerned when you attended the party
- 18 about a morale problem caused by her being there; do
- 19 you?
- 20 A. I don't recall.
- 21 Q. You didn't recall making any effort to have anyone tell
- 22 her to leave that party?
- 23 A. I don't remember her being there, so that would be --
- 24 Q. Okay.
- 25 A. But again, nobody came directly to me. I do not

1 remember.

2 MR. LOBSENZ: We are at an hour point,
3 anybody want a break, do you want to keep going?

4 THE WITNESS: Actually if I could take a
5 break, that would be great.

6 (Off the record)

7 Q. I guess this goes without saying, but since you don't
8 even -- you don't remember whether Major Witt was at
9 the 50th anniversary ceremony, you certainly don't
10 recall anyone mentioning to you that they were upset to
11 see her there; right?

12 A. I didn't.

13 Q. Okay. Did you have any official duties to perform
14 during the 50th anniversary ceremony; did you give a
15 speech?

16 A. I did. I gave -- we had some awards that the Reserve
17 Command had recognized about a year prior to the 50th
18 party that I wanted to be able to recognize those
19 folks. And Major General Moen from Command was there
20 and to give the awards. And so I basically introduced
21 him. And we also had the very first Commander of the
22 40th, who was there. And then we had a nurse that had
23 been there for a long time. So, and I did give a brief
24 overview, I'll still say it's a speech, to kind of
25 bring the group together.

1 are not actively flying.

2 Q. So you would have had occasion to work with her
3 preparing to send other people on a mission; is that
4 it?

5 A. That's correct.

6 Q. And in getting those people back from that mission?

7 A. That's correct.

8 Q. Did Ryals ever acknowledge to you that she was a
9 lesbian?

10 A. I don't know.

11 Q. You don't know or --

12 A. No, I don't remember her saying anything to me.

13 Q. Does that mean that you think it is possible that she
14 did, and you just don't recall it?

15 A. She never said anything to me.

16 Q. Okay. Did anyone ever tell you that she was a lesbian?

17 A. No.

18 Q. Did anyone ever tell you that they suspected that she
19 was a lesbian?

20 A. Define suspect.

21 Q. Thought it might be possible.

22 A. I don't remember.

23 Q. Did you ever suspect that she was?

24 A. Define suspect.

25 Q. Well, how would you define suspect?

1 A. Well, I define suspect based off of when I look at
2 criteria that we -- from the military side of the
3 house, the policy side of the house, that indicates a
4 suspicion of either they themselves are saying that
5 they are gay, long-term propensity to continue to
6 engage, I mean I think of that as suspect.

7 Q. Okay, that is not the sense in which I am using the
8 term.

9 A. Then I would say no.

10 Q. Okay, I want to know solely whether or not it crossed
11 your mind that, you know, I think her sexual
12 orientation is probably lesbian.

13 A. No.

14 Q. That never crossed your mind?

15 A. No.

16 Q. Are you acquainted with a former member named Toni
17 Wilson?

18 A. Yes.

19 Q. And how were you acquainted with her?

20 A. She was a medical technician in our squadron.

21 Q. How long have you known her?

22 A. I knew her from being a medical technician in the
23 squadron, we are not close personal friends. Some of
24 these folks I know because of being a full-time person
25 that was there.

- 1 Q. Mm-hmm.
- 2 A. And periodically flying with them, but not necessarily
3 socializing with them on a more personal level.
- 4 Q. What was her rank?
- 5 A. I don't remember.
- 6 Q. You don't recall.
- 7 A. No.
- 8 Q. Did she ever acknowledge to you that she was a lesbian?
- 9 A. No.
- 10 Q. Did anyone ever tell you that she was a lesbian?
- 11 A. No.
- 12 Q. Did anyone ever tell you that they suspected that she
13 was a lesbian, using the word suspect the way I defined
14 it as it crossed their mind that she probably was?
- 15 A. To me? No.
- 16 Q. No one ever told you that?
- 17 A. No.
- 18 Q. Did you ever suspect that Wilson was a lesbian?
- 19 A. No.
- 20 Q. Did you ever suspect that Wilson was in a relationship
21 with another woman in the Air Force?
- 22 A. No.
- 23 Q. Did you ever suspect that Wilson lived with another
24 woman?
- 25 A. No.

1 Q. Did you attend -- maybe you already said this, Did you
2 attend Sergeant Shafer's retirement party?

3 A. I did.

4 Q. When was that?

5 A. I am going to say it was I believe it was 2006, I don't
6 exactly remember. I was the Commander then.

7 Q. Would October of 2006 sound about the right time frame?

8 A. I don't remember what sounded about right.

9 Q. Do you remember --

10 A. I don't remember the exact date.

11 Q. Do you remember where that ceremony was held?

12 A. It was held in our building.

13 Q. On base?

14 A. On base.

15 Q. In what building?

16 A. It would be Building 1210.

17 Q. How many people do you think roughly were present at
18 that ceremony?

19 A. I really don't know. It could be somewhere between
20 fifty to one hundred, I don't know.

21 Q. Fifty to one hundred?

22 A. It could be, I don't remember.

23 Q. Did Major Witt attend that party?

24 A. Yes, she did.

25 Q. Did you know in advance that she was going to attend

- 1 that party?
- 2 A. I know that Sergeant Shafer wanted her at the
3 retirement party.
- 4 Q. So, yes, then you knew --
- 5 A. Yes.
- 6 Q. -- you knew that she was going to come?
- 7 A. Yes, I did.
- 8 Q. Were you concerned that that was a bad idea?
- 9 A. I know that Sergeant Shafer was good friends with
10 Major Witt. And my concern was for Sergeant Shafer to
11 be able to have a retirement ceremony that was
12 significant to him. And I wanted to ensure that
13 everything was in place for him to be able to make
14 something memorable for him and his family, so that was
15 really my concern.
- 16 Q. So did you have any concern that it would be a bad idea
17 for Major Witt to attend the party?
- 18 A. No.
- 19 Q. So you didn't make any effort to prevent her from
20 attending; did you?
- 21 A. No, I didn't.
- 22 Q. You were not concerned that it would cause a problem;
23 were you?
- 24 A. No, I didn't.
- 25 Q. Do you recall what happened at his party?

1 A. Is something specific? I'm not sure.

2 Q. Do you recall anything in particular happening with
3 regard to Major Witt?

4 A. No, don't remember.

5 Q. Do you recall there was a point when Sergeant Shafer
6 called Major Witt up to the stage where he was standing
7 to stand next to him?

8 A. I really don't remember.

9 Q. You don't.

10 A. No.

11 Q. Do you recall Major Witt being honored at that
12 ceremony?

13 A. I remember Major Witt making a speech or a comment. I
14 don't remember what it was about. I just know that
15 Sergeant Shafer had requested for her to be able to say
16 something.

17 Q. Okay.

18 A. And I don't remember what it entailed.

19 Q. Do you remember standing next to Sergeant Shafer on the
20 stage?

21 A. I would have been on the stage.

22 Q. Okay. Do you remember, I think he is a sergeant,
23 Theron Smith?

24 A. Sergeant Smith, he would have been --

25 Q. Do you remember him standing next to you on the stage?

- 1 A. I don't remember.
- 2 Q. Do you remember him being at the retirement ceremony
3 for Sergeant Shafer?
- 4 A. I don't remember.
- 5 Q. Do you remember anyone receiving a standing ovation at
6 that ceremony?
- 7 A. No, I don't remember.
- 8 Q. You don't remember the people present standing and
9 giving an ovation to Major Witt?
- 10 A. I honestly don't remember.
- 11 Q. Is there a reason why you would not remember that?
- 12 A. Because I don't -- because a lot of things were really
13 going on during that period of time. And from the
14 standpoint of do I have the best memory in the world?
15 I really don't. I do remember, I do remember Major
16 Witt giving a speech. Do I remember and can I say that
17 she got a standing ovation? I can't remember. I don't
18 have anything that is a visual that remembers that.
- 19 Q. Okay. So you remember that she spoke, but you don't
20 remember what she said?
- 21 A. That's correct.
- 22 Q. Do you remember that Sergeant Shafer spoke?
- 23 A. He would have spoken because he was the retiree. And
24 it would have been part of the ceremony.
- 25 Q. Does that mean --

1 A. What he said, I don't remember.

2 Q. You don't remember what he said. So you don't remember
3 whether he said anything about Major Witt?

4 A. Nope, I don't.

5 Q. You don't remember --

6 A. I honestly don't.

7 Q. You don't remember whether anyone else said anything
8 about Major Witt?

9 A. I honestly don't.

10 Q. Okay. You don't remember yourself applauding for
11 Major Witt?

12 A. I don't remember about of the ceremony.

13 Q. Do you remember Major Witt being presented with
14 anything?

15 A. No, I don't remember anything like that.

16 Q. Do you remember participating in getting any kind of
17 gift for Major Witt?

18 A. Nope.

19 Q. Do you remember preparing any kind of memento for
20 Major Witt?

21 A. No, no, don't remember that.

22 Q. Do you remember signing anything for Major Witt?

23 A. No, don't remember that at all.

24 Q. Okay. And you don't remember Sergeant Shafer
25 presenting her with a photograph?

1 A. I don't remember that at all, no.

2 Q. Is it customary for people to sometimes receive framed
3 photos of the unit or the planes or the bases at
4 ceremonies?

5 A. We have in our retirement ceremonies we have a picture
6 that has the picture of our C-17 and our C-141 that
7 anybody that is coming up for retirement, we will pull
8 that picture out and allow people to go ahead and make
9 comments or sign it.

10 Q. And you don't remember signing one of those for
11 Major Witt?

12 A. I sign a lot of pictures. I don't remember
13 specifically signing that one.

14 Q. And you say it is customary to give those at the
15 retirement ceremony to the retired person?

16 A. That's correct.

17 Q. But you don't remember, apparently, that at
18 Sergeant Shafer's retirement ceremony one of those
19 pictures was given to Major Witt?

20 A. I honestly don't.

21 MR. LOBSENZ: This is the only color one I
22 have. But if you want to look at the color one, I have
23 that one here. I just wasn't going to use that one.

24 (Exhibit No. 1 marked for identification)

25 Q. Do you recognize what has been marked as Exhibit No. 1?

1 A. Yes, it appears to be a copy of a picture of the 141
2 and the C-17.

3 Q. Okay, and is this the same picture that customarily is
4 given to people at their retirement ceremonies?

5 A. This would be the same type of picture that we would
6 give to them.

7 Q. Okay. Now do you remember signing one of these for
8 Major Witt?

9 A. I don't remember signing the picture.

10 Q. Okay. Do you see your signature, do you find your
11 signature on it?

12 A. Yes, it looks like it is the one on the right side. I
13 don't have -- maybe the color would show better, is it
14 this one?

15 MR. LOBSENZ: Tiny print.

16 Q. Rather than have you spend a lot of time, do you see
17 where my finger is?

18 A. Yes, that is it.

19 Q. Can you read that? It is small, but can you read what
20 you wrote?

21 A. It looks like best wishes to you, something, and then
22 my signature.

23 Q. Okay. So you now recall that this was given to
24 Major Witt at his retirement party?

25 A. I will be honest with you and tell you I don't remember

1 the aspects of the ceremony.

2 Q. Is this photo usually framed?

3 A. We usually have a, like a cardboard, it is not an
4 actual frame, but it has -- I don't know what you call
5 it, but it has a white border that will go with the
6 picture. That is generally how we have them for
7 signature purposes.

8 Q. And the one that is actually given is considerably
9 bigger than this?

10 A. That's correct.

11 MR. LOBSENZ: And just for the record so you
12 know, Counsel, we have now a same-size copy of this,
13 which you are free to inspect here, if you like.

14 MR. PHIPPS: All right.

15 MR. LOBSENZ: It is in my office. It is no
16 different except it is a lot bigger and a lot easier to
17 read the writing.

18 MR. PHIPPS: Thank you.

19 Q. (By Mr. Lobsenz) Do you recall anyone being presented
20 with flowers at this ceremony?

21 A. I don't.

22 Q. Do you know Major Carolyn Newhouse?

23 A. I do know her.

24 Q. Did she have any particular role to play at retirement
25 ceremonies of members of the unit?

1 A. Lieutenant Carol Newhouse would periodically help with
2 some of the retirement ceremonies because she knew the
3 protocol very well and worked a lot of times with --
4 she wasn't necessarily the Executive Officer, but she
5 would periodically help out by getting -- sometimes
6 getting the pictures or connecting with the retiree to
7 see what they would want. Especially if my Executive
8 Officer could not be around, she was kind of a backup
9 to help us on the ceremonies.

10 Q. Would you have occasion over the years to ever give
11 hugs to anyone who was also in the 446th; would that be
12 something you would ever do?

13 A. It depends on if I was possibly consoling them, saying
14 hello. Yes, it is possible that I would have given
15 them.

16 Q. It is possible.

17 A. Yes.

18 Q. At least in some social setting it wouldn't be out of
19 character for you to give a hug to another member of
20 the unit?

21 A. No, especially welcoming somebody back that has been
22 deployed, just something that is acknowledgement,
23 recognition.

24 Q. Okay. Would that be true of both men and women, you
25 might give a welcome-home hug to a man and you might

1 give a welcome-home hug to a woman as well?

2 A. Sometimes it would be less resistance on the male just
3 because from the standpoint of just to make sure. But
4 if there is an initiation of a welcome home, yes, I can
5 give them a hug and say thank you for your -- what
6 you've done and welcome back.

7 Q. So I'm clear, and it is possible?

8 A. It is possible.

9 Q. That you would also do that with a woman?

10 A. Yes, it is.

11 Q. Do you remember doing that with any woman ever?

12 A. When you say do you remember specifically, I don't
13 remember specifically. Again as a Commander I would
14 welcome home a lot of my troupes. So I can't give you a
15 specific example. I would just assume that it probably
16 did.

17 Q. Would you be personally reticent to give a hug to
18 someone that you believed was homosexual?

19 A. I think I would probably second think the way that I
20 would second think the way as far as giving a man, just
21 from the standpoint of making sure there was a comfort
22 level between the two.

23 Q. Mm-hmm.

24 A. The hug is more of a recognition essentially to say,
25 you know, thank you. Nothing that is more than that.

1 Q. Okay.

2 A. But again I think I would measure it the same.

3 Q. I want to disassociate two different concepts. One is
4 whether or not there is some sort of professional
5 military reason not to give a hug. And putting that
6 aside, I just want to ask about your personal comfort
7 level.

8 A. Mm-hmm.

9 Q. If you thought it was otherwise professionally okay and
10 appropriate, would you be personally reluctant to give
11 a hug to someone that you thought was gay or lesbian?

12 Do you know what I'm asking?

13 A. I know what -- if you can define it a little bit more
14 just as far as?

15 Q. I'm asking if you're uncomfortable hugging somebody
16 that you know to be homosexual.

17 A. No, I am not.

18 Q. Okay. So you wouldn't be uncomfortable giving a hug to
19 Major Witt if it was otherwise -- if it wasn't
20 professionally inappropriate?

21 A. I feel like it would be treating her the same way that
22 I would treat any other member of the squadron that was
23 being recognized.

24 Q. Okay. And do you remember giving a hug to Major Witt
25 at Sergeant Shafer's retirement party?

1 A. I don't. Just like I said I don't remember.

2 Q. But it doesn't strike you as something that would be
3 out of the ordinary?

4 A. More of the times that I do is in recognition of when
5 they come back from a mission. So again I really don't
6 know. I can't get a feel for that.

7 Q. Well, she wasn't coming back from a deployment.

8 A. Mm-hmm.

9 Q. She wasn't coming back from stationed at a different
10 base, but she was in a sense coming back to the unit
11 after having been suspended and not having been there
12 at the unit for just about two years.

13 A. I don't remember giving her a hug.

14 Q. Yeah. Who pays for those photos?

15 A. A lot of times we do within the squadron. We have a
16 collection of funds that we'll -- that either we have
17 done through like a morale type of a fund where we will
18 actually be able to -- trying to even think, whether it
19 will be a car wash or whether we have something, just
20 like how we fund like a holiday party or something.
21 There is a reservoir pot of money that we use to be
22 able to give flowers if we have a member that is in the
23 hospital or our retirement certificates or sometimes
24 we'll just get through donations. I have paid for a
25 lot of these pictures just from a donation just to

1 that recorded somewhere that this particular individual
2 put in this particular amount?

3 A. I don't believe the particular individual is, more than
4 just an aspect of just putting the amount in there.

5 Q. Okay.

6 A. The recorder that does it I don't believe tracks the
7 individual names.

8 Q. And the --

9 A. Because it is by donations.

10 Q. The person you say is the recorder who is responsible
11 for keeping the records on this account?

12 A. That's correct.

13 Q. Who is that person?

14 A. That would be Master Sergeant Patty Martin, she is
15 another one of my ARTs.

16 Q. And was she in that position of recorder managing this
17 account throughout, say, 2004, 2005, 2006?

18 A. No. That would have been Chief Oakes, who is another
19 ART, who is recently retired.

20 Q. So when did it switch from -- he retired and then
21 Martin took over?

22 A. Martin took over from Chief Oakes, that's correct.

23 Q. When?

24 A. That would have been in 2008 when Chief Oakes retired.

25 Q. So in the October of '06 and the summer of '06 it would

1 have been Oakes who was in charge of this account?

2 A. That's correct.

3 Q. So and how much money at any given time roughly is in
4 that account, are we talking thousands of dollars?

5 A. No.

6 Q. Hundreds of dollars or twenty, thirty dollars?

7 A. No. It could be from five hundred to a thousand
8 dollars. It's not a huge amount by any means.

9 Q. And when money is taken out of that account to buy a
10 gift, that is recorded?

11 A. It is recorded.

12 Q. So if money was taken out of that account to pay for
13 one of these photos for Major Witt, it would be
14 recorded?

15 A. Again, it would be recorded as five pictures. It may
16 not necessarily be for who, because what we do is we
17 order them in bulk. And then when we order them in
18 bulk, we just have them stacked, so we just have
19 retirement photos.

20 Q. Okay.

21 A. Because people will put their retirement paperwork in,
22 and then we just have photos that are ready or
23 available as soon as we know that they are putting
24 retirement in.

25 Q. Okay.

- 1 A. So they can --
- 2 Q. Okay. That wouldn't be true of flowers, right, you
3 don't keep, flowers would be -- if you're going to take
4 money out, that is going to be done --
- 5 A. As soon as --
- 6 Q. Within twenty-four hours or so --
- 7 A. That's correct.
- 8 Q. -- of buying the flowers.
- 9 A. That's correct.
- 10 Q. Would there be a record of that?
- 11 A. There should be a record of that; that's correct.
- 12 Q. Okay.
- 13 A. Unless it was an individual, because sometimes a lot of
14 folks will donate flowers themselves.
- 15 Q. Okay.
- 16 A. Or other aspects of the ceremony.
- 17 Q. So if a bouquet of roses was given to Major Witt at
18 Sergeant Shafer's retirement ceremony, and if it was
19 paid for out of that fund, there would be a record of
20 that withdrawal?
- 21 A. There would be a record of that withdrawal.
- 22 Q. And would Oakes be the person who would go out, say,
23 and buy the flowers or would he just withdraw the money
24 and maybe give it to somebody else to buy the flowers?
- 25 A. No, most of the times someone else would be buying the

1 flowers.

2 Q. Maybe someone else would buy the flowers and then ask
3 for reimbursement?

4 A. That could be.

5 Q. From the fund?

6 A. Major Newhouse was someone that bought a lot of the
7 flowers, and bought a lot of the flowers out of her own
8 donations.

9 Q. Now, roughly how long would the retirement ceremony for
10 Sergeant Shafer last? Is this more than an hour event,
11 is it?

12 A. Most retirement ceremonies can last maybe a half hour
13 to an hour depending on how long the speeches are.
14 Generally by protocol you allow an opportunity for the
15 member to speak, you allow the opportunity, the
16 Commander generally says a few things about the member,
17 about Sergeant Shafer's tenure in the squadron. And it
18 does depend a lot of times if someone else also wants
19 to be able to speak.

20 During that period of time we would allow squadron
21 members to make a comment if they wanted to. The
22 protocol doesn't necessarily call for it during the
23 formal ceremony. So the ceremony, again, can take
24 maybe a half hour to an hour, it just depends.

25 Q. Do you remember one way or the other whether Sergeant

1 Shafer's was any shorter or longer than average?

2 A. I don't remember that.

3 Q. Did I ask you this already? How many people do you
4 think attended Sergeant Shafer's; did I ask you?

5 A. I don't know the exact number, but maybe between fifty
6 to one hundred, it just depends.

7 Q. Okay. During the period of time that you were at
8 Shafer's retirement ceremony, did you have any personal
9 interaction with Major Witt that you can recall, at
10 all?

11 A. I don't remember.

12 Q. Did you see anyone else have any interaction with Major
13 Witt that you can recall?

14 A. I don't remember. I hate to keep saying that, but I
15 honestly don't remember.

16 Q. Did anyone ever come to you and report that they had
17 had a negative interaction with Major Witt at that
18 party?

19 A. I don't remember that.

20 Q. Did anyone ever come to you and say they were upset
21 that Major Witt was at that party?

22 A. I don't remember that.

23 Q. Did anyone ever indicate to you that they didn't want
24 to honor Major Witt at Shafer's party?

25 A. I don't remember that.

1 Q. Did anyone at the party appear to you not to want to
2 interact with Major Witt?

3 A. I don't remember that.

4 Q. You have no memory of any morale problem being caused
5 at that party by her presence; do you?

6 A. I have no memory of that.

7 Q. Okay. And just to be clear, by the time Sergeant
8 Shafer's ceremony occurred in October of 2006, by that
9 time you knew that Mayor Witt was a lesbian; right?

10 A. That's correct.

11 Q. Okay. Other than Major Witt have you had any
12 experience encountering any other person in the
13 military who was gay or lesbian?

14 A. In the military?

15 Q. Yes.

16 A. Not that I can remember.

17 Q. So '78, is that when you entered?

18 A. Yes.

19 Q. So we are talking thirty-two years, and as far as you
20 can remember, you have never encountered any other
21 person that you knew to be gay or lesbian in the Armed
22 Forces of the United States?

23 A. That had identified themselves as being --

24 Q. No.

25 A. I mean, again --

1 Q. I don't care whether they --

2 A. Again, when I look at from the standpoint of an
3 association, no, I do not remember anybody that I have
4 had as a connection with. It is again it is possible
5 that they were, I just -- it is not something that I'm
6 asking or recognizing.

7 Q. So first of all, no one ever came to you who was in the
8 military and said I am gay or lesbian; right?

9 A. That's correct.

10 Q. At any point in your career has anyone in the Air Force
11 or any other branch of the service come to you and say
12 that they suspect that a person is gay or lesbian?

13 A. I don't remember that happening.

14 Q. Really?

15 A. I don't remember that happening.

16 Q. You don't remember?

17 A. Someone coming to me to say that I believe that this
18 person is gay.

19 Q. In your thirty-two years do you remember having any
20 responsibilities that caused you to learn that somebody
21 was gay or lesbian other than Major Witt?

22 A. To learn that?

23 Q. Yes.

24 A. I don't remember of that happening.

25 Q. And using suspect the way I said it, that is that it

1 crosses your mind to think this person probably is of
2 this sexual orientation. In thirty-two years other
3 than Major Witt have you ever suspected any other
4 person in the Armed Forces to be gay or lesbian?

5 MR. PHIPPS: Objection, characterization and
6 form.

7 A. I don't know.

8 Q. You don't remember ever suspecting any such person?

9 MR. PHIPPS: Objection, vague.

10 A. My focus is I focus on the fact that I try to keep
11 myself professional. I am not interested in finding
12 out.

13 Q. I am not asking if you're interested.

14 A. And from the standpoint of I don't lead myself down
15 that line of trying to say I am going to suspect one
16 way or the other.

17 Q. So are you saying that you actively prevent yourself
18 from considering the possibility whenever you meet
19 anyone, you just don't want to consider it?

20 A. I don't think that is an important avenue unless it
21 brought to me specifically against that criteria that
22 we discussed with the military.

23 Q. Okay.

24 A. That there is a concern.

25 Q. How about outside the military?

1 A. He confirmed fraternization.

2 Q. That is not what I am asking.

3 A. I don't have the Police Report in front of me. He
4 confirmed fraternization.

5 Q. Okay. To you that means that he confirmed they lived
6 together in the same house?

7 A. He confirmed that an officer and an enlisted were
8 living together.

9 Q. Anything else he confirmed?

10 A. Not in the CDI.

11 Q. Did he confirm they had a domestic incident?

12 A. I don't have the report in front of me to be able to
13 refer to.

14 Q. Who did he interview?

15 MR. PHIPPS: Objection, foundation.

16 A. Again I don't have the report.

17 Q. You don't remember who he interviewed?

18 A. It more than likely would have been the parties
19 involved. But I don't have it in front of me.

20 Q. Okay. And after you got the report did you at that
21 point have any reason to suspect that either one of
22 these women was a lesbian?

23 A. Suspect based off of the criteria that we talked about
24 suspect?

25 Q. Suspect the way that I have consistently asked you the

1 question about suspect. Did it cross your mind?

2 A. And in this particular instance, I am using suspect
3 based off of the criteria.

4 Q. Okay, but I'm not. I'm asking you after you read this
5 report did it cross your mind?

6 A. I don't know.

7 Q. SM-C is still with the unit?

8 A. Yes, she is.

9 Q. Did this incident cause in your opinion any morale
10 problems in the unit?

11 A. I don't know that the information went out in the unit
12 regarding this. This is not something that we will
13 discuss --

14 Q. You think nobody else knows it?

15 A. I have no idea. I don't go out and tell the unit of
16 the incident?

17 Q. So you have no sense of whether anyone else in the unit
18 knows about it?

19 A. That's correct.

20 Q. When you gave the Letter of Admonishment to SM-C
21 was anyone else present?

22 A. There was. I can't remember who it was.

23 Q. Did you instruct whoever it was to keep it secret and
24 not tell anyone?

25 A. Well, it's an action that occurs between a Commander

1 Q. So are you saying that since anybody can be a
2 recruiter, that am I right then, that it is not that it
3 was particularly your job, it was just the job of
4 anyone in the unit to do that?

5 A. That's correct.

6 Q. That's correct. Do you remember having any contact
7 with Major Witt before she came to McChord in the 446th
8 while she was still at Scott?

9 A. I don't remember.

10 Q. All right, now I was going to ask you some questions
11 about your working with Major Witt at McChord. What
12 were your first impression of Major Witt?

13 A. I don't remember my first impressions.

14 Q. Okay. Did you have an opportunity to see how she
15 interacted with other members of the unit?

16 A. I did periodically as an Air Reserve Technician, yes.

17 Q. And how did those interactions go in your opinion?

18 A. They went fine.

19 Q. Was she a respected officer in your opinion?

20 A. Yes, she was.

21 Q. Was she respected as Chief of Stan Eval?

22 A. She was able to perform her engarrison function. And
23 she was able to do it well.

24 Q. That is not my question.

25 A. And the position was respected.

1 Q. In your opinion was she respected in her role as Chief
2 of Stan Eval?

3 A. Yes, I believe she was.

4 Q. Did you ever hear anyone say they didn't want to work
5 with her? Ever?

6 A. I don't remember hearing that at all.

7 Q. Did you ever hear anyone say that she caused a problem
8 for the unit?

9 A. I don't remember hearing that.

10 Q. Did you ever remember hearing anyone saying Mayor Witt
11 creates a morale problem?

12 A. I don't remember hearing that.

13 Q. Do you ever remember anyone saying or suggesting she
14 creates a discipline problem?

15 A. I don't remember hearing that.

16 Q. So from any source has anyone ever given you
17 information suggesting that she creates a problem for
18 unit morale or discipline?

19 A. From a source, no. I don't remember hearing that from
20 anybody.

21 Q. Okay. As I understand it, after she got to McChord,
22 there would have been occasions when you would have
23 flown missions with Major Witt, you just don't remember
24 them?

25 A. That's correct.

1 that you have ever talked to about Major Witt's case?

2 A. Not that I remember. I don't remember, no, not that I
3 remember.

4 Q. Okay. Would you take a look now at Exhibit No. 4.
5 First of all I take it you do recognize this as an
6 Officer Performance Report for Major Witt that you
7 participated in?

8 A. This looks like an OPR for Major Witt.

9 Q. Is it one that you participated in, is your signature
10 on the second page?

11 A. This looks like my signature.

12 Q. Well, is it your signature?

13 A. It is my signature.

14 Q. So you were the additional rater; is that correct?

15 A. That's correct.

16 Q. And the primary rater was Major Hansen; correct?

17 A. That's correct.

18 Q. Okay. I'm going to read you some of Major Hansen's
19 comments which are at the top of Page 2 in Roman
20 Numeral "IV. RATER OVERALL ASSESSMENT" box.

21 First of all one of the comments he made about
22 Major Witt, and I'm sorry, let me go back.

23 You're rating her for the period between April 13,
24 2004 and April 12th, 2005; correct?

25 A. That's correct.

1 Q. And so that actually includes a period of about five
2 months when she's actually in suspension; right?

3 A. It would be during that rating period.

4 Q. So really you had about a seven-month period of that
5 one calendar or one 365-day period she was actually
6 only there for about seven months of it?

7 A. That would be correct.

8 Q. Major Hansen said in Roman Numeral VI among other
9 things that Major Witt was a dynamic nursing leader.
10 Do you agree with that comment?

11 A. She is a good nurse.

12 Q. Do you agree with that comment?

13 A. I believe that she is a good nurse.

14 Q. That is not my question. Would you answer my question?
15 Did you agree with that comment?

16 A. I agreed with the fact, with that issue.

17 Q. Okay. He also said that she was recognized by her
18 peers for strong character, leadership skills and
19 knowledge base. Did you agree with that comment?

20 A. I would agree with that.

21 Q. What is your understanding of who her -- when you said,
22 when you indicated agreement with that, what did you
23 understand her peers to be, who were they?

24 A. Her peers would be other flyers or other squadron
25 members.

- 1 Q. Other squadron members.
- 2 A. Within the squadron.
- 3 Q. At this point in time you are signing this OER in April
4 of 2005; correct?
- 5 A. Actually that is now incorrect.
- 6 Q. Actually, no, you're not, you are signing it in July.
- 7 A. That's correct.
- 8 Q. Why is that?
- 9 A. What happened with that is there was a notification
10 that she had an OPR that was due because she was still
11 assigned to the squadron. And that was a notification
12 after the fact.
- 13 Q. So then --
- 14 A. So then OPR still needed to be generated.
- 15 Q. So in July of 2006 she has been separated for more than
16 a year and a half, but you get some word that we still
17 need an OER for her?
- 18 A. For her rating period.
- 19 Q. For her rating period?
- 20 A. Correct.
- 21 Q. Of '03/'04?
- 22 A. That's correct, '04/'05.
- 23 Q. So by this time, it is July 11th was when you sign it;
24 is that right?
- 25 A. That's correct.

1 Q. By that time you knew that she was lesbian; right?

2 A. By 11 July 2006 I did.

3 Q. All right, you knew all about the lawsuit by that time?

4 A. That's correct.

5 Q. It had been on TV by that time?

6 A. That's correct.

7 Q. So in July of 2006 you agreed with Major Hansen that
8 she was recognized by her peers for strong character
9 and leadership skills even though it was well known at
10 that point in time that she was a lesbian; right?

11 A. It was based off the rating period of April 2004 to
12 April 2005.

13 Q. Okay, and by April 2005 people knew; right?

14 A. I don't know who all knew, but people did know;
15 correct.

16 Q. Major Hansen made this next comment: Committed to
17 continuing squadron cohesion and morale.

18 And you agreed with his comment about that; right?

19 A. With that comment, correct.

20 Q. What made you think she was committed to continuing
21 good squadron cohesion and morale?

22 A. Well, the rest of that was first in line to promote BBQ
23 luncheons and softball games. And I was agreeing to
24 that from the standpoint of that she did extra areas to
25 try to help benefit members of the squadron.

1 Q. Okay, what is the relevance of her commitment to good
2 squadron cohesion and morale?

3 A. The relevance.

4 Q. Yes. Why is that relevant to evaluating an officer?

5 A. It will keep the mission going, to keep the unit
6 members going.

7 Q. Okay. Major Hansen said in that same box that she was
8 an excellent role model of professional military
9 officership. And you agreed with that comment;
10 correct?

11 A. I did.

12 Q. What kind of behavior in your opinion makes an officer
13 a good role model of professional military officership?

14 A. She did her job. She was a good flight nurse.

15 Q. That's it?

16 A. And that she was able to do her job on her missions.

17 Q. Mm-hmm.

18 A. She was a good Medical Crew Director. She was a good
19 Flight Examiner.

20 Q. Okay. She was a good Chief of Stan Eval?

21 A. She did engarrison functions of the Chief of Stan Eval
22 very well.

23 Q. Major Hansen said she sets the standard for
24 professional conduct for junior officers and fellow
25 peers to emulate for career success.

1 And you agreed with that as well; correct?

2 A. Again, she was a good flight nurse.

3 Q. You agreed that she set the standard for her peers for
4 emulation?

5 A. She was a good flight nurse.

6 Q. Okay, that's not what I'm asking. That is not what
7 Major Hansen wrote right there.

8 A. Mm-hmm.

9 Q. He wrote: She sets the standard for professional
10 conduct for junior officers and fellow peers to emulate
11 for career success.

12 And I am asking you agreed with that?

13 A. And yes, she did a good job.

14 Q. I didn't ask if she did a good job. I am asking if you
15 agreed with his comment that she sets the standard for
16 professional conduct for junior officers and fellow
17 peers to emulate?

18 A. Yes, she did at that time.

19 Q. Okay. And at the time that you agreed with that, you
20 knew she was a lesbian?

21 A. That's correct.

22 Q. Major Hansen said that she is recognized by her peers
23 for her expertise in flight evaluations, and you agreed
24 with that?

25 A. That's correct.

1 A. Yes.

2 Q. What is your reason for saying that?

3 A. My reason really is not based so much on an engarrison
4 function. My reason is based more on a deployment
5 function. What I look at with our unit is there is a
6 couple of things. To give you a broad scale again, my
7 unit does not deploy out as a unit. It deploys in bits
8 and pieces. It deploys as a crew, it deploys as an
9 element, and it deploys anywhere.

10 And the feasibility of it deploying in a hard
11 billet all the time is not rendered. We don't know
12 where the members are going to go into a tent city type
13 of location, an extended barracks type of a location
14 with communal showers.

15 And the concern that really is there is concerning
16 Major Witt deploying is if there are personnel that are
17 uncomfortable with the aspect of Major Witt. And if
18 they would be uncomfortable deploying in that type of a
19 setting.

20 Again it is the aspect of not only a deployment
21 and to be able to support the mission, because what
22 happens with that it ends up being also a distraction.
23 If they're concerned about who they are billeted with,
24 then that can be a distraction. And the main mission
25 is for them to get out and be able to take care of live

1 patients.

2 And that is where a concern over the morale issue
3 would be is if that happens, it may hinder a member
4 from either volunteering to go ahead and go out because
5 of feeling distracted, that they can not focus on the
6 mission.

7 Q. You say now if that happens, it would be a problem?
8 What evidence do you have that it would happen
9 specifically with regard to Major Witt?

10 A. The only thing that I can get at is from the standpoint
11 of looking at the deployments and looking at where
12 members are deployed to different locations that are
13 put into tent cities.

14 Q. What if --

15 A. And the other side of that too is they are not only
16 deployed with members of our squadron, they are
17 deployed with joint. It can be Army, it could Navy, it
18 could be other elements that then may be put into a
19 position of are you willing to be billeted in this type
20 of facility.

21 The other thing that I get concerned about, and we
22 go back to the morale is, let's say that we do send out
23 Major Witt that is a known gay, how do we billet? Is
24 it perceived that they billet with either a male or
25 female or how do you billet that it doesn't look like

1 favoritism, that you have to do something different.

2 That again makes that an issue of taking a look at
3 morale of the troupes. Because then they are not
4 focused on what they need to be focused on, which is
5 their mission. So yes, I believe that that would be a
6 concern.

7 MR. LOBSENZ: Move to strike as
8 nonresponsive.

9 Q. Now, I didn't ask you whether it would be a concern.
10 You told me it would be a concern. I asked you: What
11 evidence do you have that Major Witt specifically would
12 cause that reaction?

13 A. I have no evidence.

14 Q. Okay. If you have no evidence that she would cause
15 that concern, could you explain to me why this answer
16 was given to Interrogatory No. 39?

17 Interrogatory No. 39 was: Identify every person
18 who holds the opinion that reinstatement of Major Witt
19 within the 446th would likely have a negative impact on
20 unit morale, cohesion or discipline of the 446th.

21 And the Answer given said that they identified
22 you.

23 So if you have no evidence that she would cause
24 those kinds of concerns, why would you answer that you
25 have an opinion that she likely would cause a negative

1 impact on the unit morale of 446th?

2 MR. PHIPPS: Objection, completeness.

3 A. Because we have been deploying our people for a lot of
4 years, and I believe putting somebody in a situation
5 that they are uncomfortable in is going to create a
6 distraction.

7 Q. What evidence did you have that anyone in the 446th
8 would be uncomfortable with her presence?

9 A. Again, I don't remember anybody specifically coming up
10 to say that. The reality is is that I would take a
11 look at how it would impact the mission.

12 If I put up volunteer sheets, and Major Witt would
13 be on that sheet, and members did not sign up because
14 they were uncomfortable with that, that could be an
15 indication that I'm not able to support my mission.

16 I mean it's -- the issue is is feasibly could it
17 impair my mission. And that is what I'm concerned
18 about.

19 Q. You just answered it could impair your mission. And
20 you have answered you have no evidence of that. And
21 yet the Air Force has given an opinion, has answered
22 that you are the opinion that likely would have a
23 negative impact.

24 So I am asking you, other than maybe some gut
25 feeling that it might cause a concern, what evidence do

1 you have that she would likely have a negative impact
2 on the morale of the 446th?

3 A. I have no evidence except for the length of time that I
4 have been doing this job, working through the
5 deployments to take a look at what could be a
6 distraction that is going to take away from the
7 capability of the members to perform the mission.

8 Q. Okay. Maybe your answers to this will be the same, but
9 the Air Force has also identified you, I think, as a
10 person that is of the opinion that the suspension of
11 Major Witt had a positive impact on the morale of the
12 446th; is that correct?

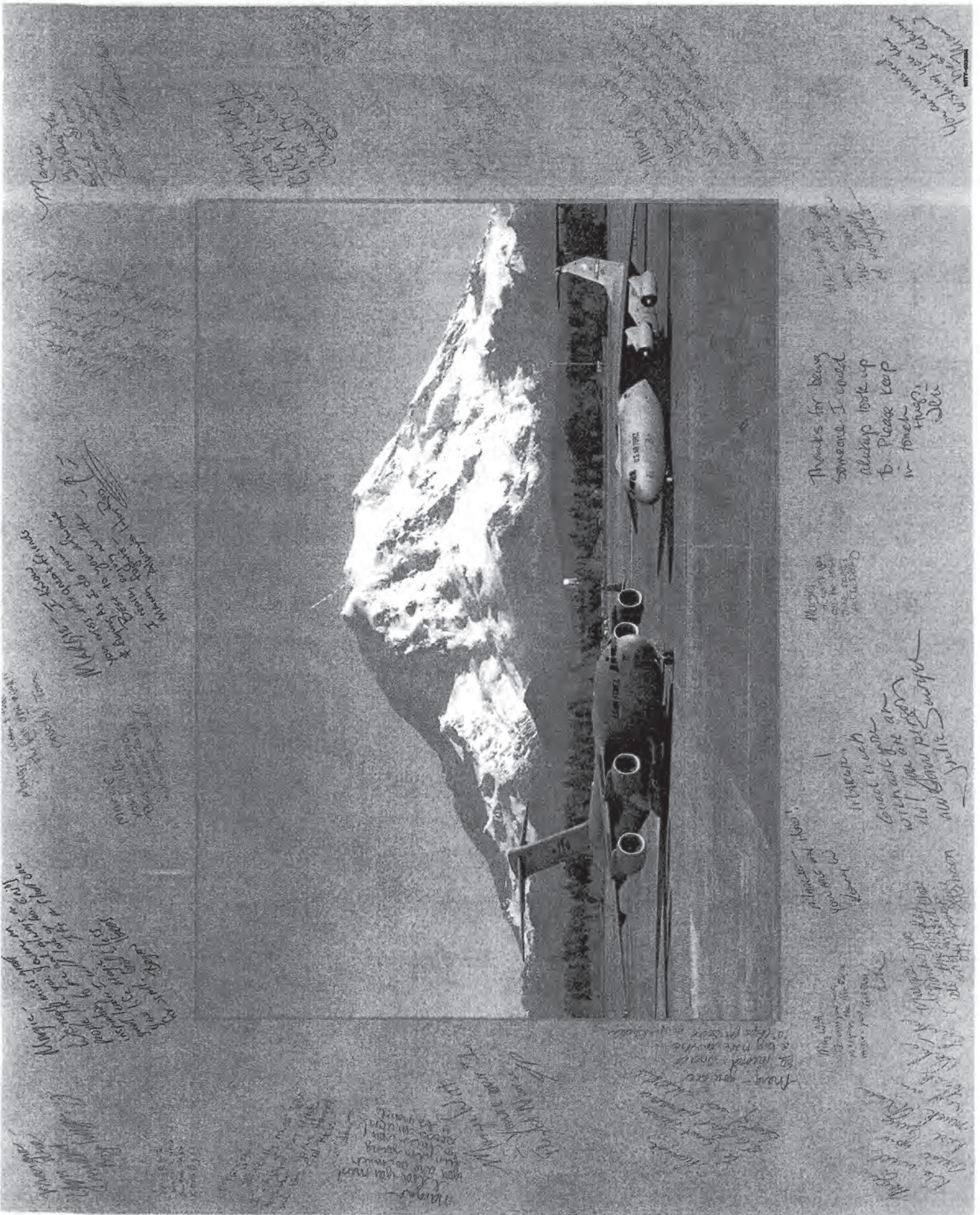
13 MR. PHIPPS: Objection, completeness.

14 A. Well, it gets back to the issue again of --

15 Q. Just is that correct? Are you, do you have that
16 opinion?

17 A. I'm trying to basically -- my, the thought process is
18 based off the fact of making sure that my members are
19 ready and comfortable and be able to go out to deploy.
20 And that is exactly what I am looking at. And if a
21 situation were a member is distracted and cannot, my
22 job is to eliminate or to try to help facilitate to
23 eliminate the feasibility of them being distracted and
24 not focusing on the mission.

25 And if that was an issue regarding that the



You are missed
Wishing you for
best always
M. Williams

With love
and
affection
from
your
family

Thanks for being
someone I could
always look up
to. Please keep
in touch
thru
DLC

Miss
you
and
the
crew

Good luck
with all you are
do. You are
our hero
Billie Swartz

Planned
you
and
love
you

Miss
you
and
the
crew

With
love
and
affection
from
your
family

With
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