**Did Mr. Mandoli perjure his sworn testimony**

**at PERC and during the Wahba Hearings ?**

Let’s analyze Mr. Mandoli’s testimony, under oath, at PERC:

"**Following a Township Committee meeting, *I was directed by the Township Committee* to look into why Officer Timothy Wahba has not written any motor vehicle summonses for the past two months"**. (top of page # 4 of 15 of the PERC ruling).

But was Mr. Mandoli actually “directed” by the township committee to look into Officer Wahba ? In the adopted minutes of the public session of March 8, 2007 of the Franklin Township Committee, there appears the following sentence.

“"**Mr. Remaly asked Ken if an officer could have one-third of the department warnings and 0% department summonses. Ken will address this**." (bottom of page # 3 of 03/08/07 adopted public minutes):

As demonstrated by the comment found on the bottom of page # 3 of the adopted public minutes of the FT Committee of March 8, 2007, one could argue that Mr. Mandoli was never "directed by the township committee" to do anything. Mr. Mandoli, in conflict with his PERC testimony, took action against Wahba as a reaction to a question posed by Mr. Remaly, one member of the Township Committee. One question posed by a single member of the TC does not represent formal action. You will also note that in the minutes, the name of Wahba is not even mentioned, yet both Mandoli and Remaly knew who the target was (you know, the ole "wink and a nod" scenario). Further, any investigation of a police officer solely on the writing, or lack of writing, of tickets is in violation of  NJSA 40A:14-181.1.

That Mr. Mandoli’s testimony is in further conflict with the adopted minutes of the Township Committee is further demonstrated by the fact that Wahba was NEVER rice noticed to attend any meeting in 2007 where his "actions or behavior" were to be discussed.

The PERC ruling continues:

**"On May 22, 2007 Director Mandoli issued a 'Final Disposition Report for Franklin Township Police Department Internal Affairs'. It cited January 12, 2007; March 20, 2007; and April 22, 2007 as dated of violations by Officer Wahba of General Order FT\_28-06, and also of Rule 8, Pg. 58 of the Franklin Township Police Department Rules and Regulations. *They were sustained by the Township Committee."*** (Bottom of page # 4 of 15 of the PERC ruling).

**"It was signed by Kenneth J. Mandoli, Director of Public Safety. *The action was approved by the Township Committee, according to Director Mandoli*, and according to him, he was asked by the Township Committee members why he didn't give five days suspension**." ( bottom of page # 6 of 15 of the PERC ruling).

There are no adopted public or executive session minutes that demonstrate that any formal action was taken by the Township Committee to either sustain the charges against Wahba or approve the discipline recommended by Mr. Mandoli against Wahba between March 8, 2007 and May 24, 2007.

In the executive session adopted minutes of May 24, 2007 of the Franklin Township Committee , there appears the following paragraph.

" **Ken Mandoli updated the Township Committee on the internal affairs investigation of Ptl. Tim Wahba: failure to complete reports, failure to obey a direct order. Received 1 day suspension with 6 month probationary period. Ptl. Wahba wants a verbal reprimand only or threatens to go public. Ken Mandoli is also working on general orders with warnings incorporated".**

May 24, 2007 was two (2) days AFTER Mr. Mandoli presented the “Final Disposition Report” to Wahba on May 22, 2007.

One could argue by the adopted executive session minutes of the Franklin Township Committee of May 24, 2007 (two days AFTER Mandoli issued his "Final Disposition report..."), The township Committee did not approve the action taken by Mr. Mandoli against Ptl Wahba. As demonstrated by the minutes, Mr. Mandoli "updated" ( or informed) the Township Committee of action already taken.) Quite similar to Ken firing Marie without any authority to do so. Old habits die hard.

There are no adopted public or executive session minutes that demonstrate that any formal action was taken by the Township Committee to either sustain the charges against Wahba or approve the discipline recommended by Mr. Mandoli against Wahba.

So, did Mr. Mandoli gave false testimony under oath at PERC ? Did Mr. Mandoli commit perjury at PERC ?

Now let’s review Mr. Mandoli’s sworn testimony at the “The Wahba Hearings”.

Mr. Mandoli testified to the following on November 16, 2009.

Officer Wahba was charged by the town on August 14, 2009 for 11 violations of the rules and regulations of the Franklin Township Police Department. 7 of the 11chagres were based on Wahba giving false testimony to the Prosecutor’s office.

**MR. O'REILLY: Judge, I don't know whether we marked these before, I think we may have. Let's mark it as FT-29, and I will continue looking for it.**

**(Exhibit FT-29, consisting of the Notice of Charges and Hearing, marked for identification.)**

**BY MR. O'REILLY:**

**Q. I will show you what is marked as FT-29. Is that a copy of the charges?**

**A. Yes, it is.**

**Q. And what was the date of those?**

**A. August 14, 2009.**

**Q. Are you familiar with the section of the Internal Affairs rules and regulations of this police department that says that the department is supposed to not go forward in an administrative investigation until advised to do so by the Prosecutor's Office?**

**A. Yes, I am.**

**Q. And that is the protocol that you practice in this police department?**

**A. Yes, sir.**

(see Mandoli testimony, pages 4 & 57)

It is the town's position that the "File" from the Prosecutor's office was not received until July 6, 2009, when Mr. Mandoli retrieved it from the Prosecutor's office. According to the town, this would mean that the "45 day clock" started to tick on July 6, 2009, and would “stop” on August 20, 2009.

**Q. When was it that the Prosecutor's Office turned their file over to you?**

**A. I received notification on July 2, 2008 that I could come down and secure the package from them. It was late in the afternoon on the 2nd. I didn't get a4 chance to go down there and retrieve the packet until July 6th, because the 3rd was a holiday, a County holiday and they were closed. Then we had the weekend, so it wasn't until the following Monday, the 6th, that I picked it up.**

**Q. Prior to the 6th when you picked it up, had you started any internal investigation?**

**A. No, sir.**

**Q. To your knowledge, had any internal investigation been done by Franklin Township?**

**A. No, sir.**

(see Mandoli testimony, page 7)

Yet, invoices from Weiner Lesniak ( Mr. Tarshis's former law firm), demonstrate that as early as April 9, 2009, attorneys for Weiner Lesniak were already conducting legal research on "discipline for lying police officer", and "police officer discipline". It is a fact that on April 14, 2009, Weiner Lesniak opened a file on Wahba, labeled as "Hatem Wahba - Disciplinary Charges". They charged the town $ 928.00 for these "Disciplinary Charges", and the town paid the bill on May 28, 2009 via check # 7321.

April 9, 2009 is 88 days BEFORE July 6, 2009. August 14, 2009 is 127 days AFTER April 9, 2009.

So, how does one separate fact from fiction ?

During his testimony, Mr. Mandoli is asked more questions:

**Q. Let me take you back to September 17, 2008. Do you recall having any discussion with Officer Zeveney on that date?**

**A. Yes, I do.**

**Q. What was the nature of that discussion?**

**A. He came into my office -- actually, it started on September 12th where he came into my office and he actually notified me that he had gotten money and permission from the Township Committee to seek an attorney on his own to actually defend him, because he was being removed from the PBA. So on the 12th of September he went down and met -- he was telling me he was going down to meet with an attorney by the name of Don Morrow, and it was on the 17th that he came back to me as a result of that meeting on the 12th.**

According to the adopted executive session minutes of September 11, 2008 of the Franklin Township Committee, Mr. Mandoli was present at this executive session meeting. According to former Mayor Robert Shockley, at this meeting Dominick Zeveney asked for, and the town agreed to provide, the funding to pay for Donald Morrow, Zeveney's attorney to defend him against the PBA. So why did he testify that he did not learn of Zeveney’s attorney until September 12th ?

**Q. So on the 17th when he came to you, what was the nature of that conversation?**

**A. He advised me that Mr. Morrow had advised him to secure certain documents to help him with his case, and at the time of securing those documents, he came**

**across some information that he wanted to make me aware of**.

Was the “securing of certain documents” by Zeveney an unauthorized IA investigation against Wahba  ? As Police Director, why did Mr. Mandoli permit this to happen ?

**Q. What was the nature of that information?**

**A. He advised me that he came across an incident where Officer Wahba was involved with another officer, and there was an issue with some summonses that were missing from the court, or had never been delivered to the court, and that is what he wanted to make me aware of.**

**Q. Had he indicated he had met with anybody prior to that on the 17th, prior to talking to you?**

**A. No, other than Mr. Morrow, that was it.**

**Q . But Officer Zeveney came to you and explained to you and said he had to go look for records on the advice of counsel, correct?**

**A. Right.**

**Q. And did he tell you what those documents he was looking for were?**

**A. No, he didn't.**

**Q. He wasn't just going to go look for those documents, these tickets regarding Mr. Mascaro, was he?**

**A. He didn't tell me what he was going to go look for, he just said for his case, he needed to obtain certain documents.**

**Q. Did he tell you what documents?**

**A. No, he didn't.**

**Q. As the Police Director in this township, you didn't ask? You are going to go search for records that involve a union matter, and you don't care which police documents he turned over to the union or private counsel?**

**A. Yes, I did care, and my advice to him was that he fill out an OPRA request and that he pay for whatever copies he was making.**

**Q. So he told you he was being charged by the PBA, I need to look for records, and you didn't ask him any further questions about what type of records he needed?**

**A. No, it was after his conversation with Mr. Morrow that he was told he had to secure certain documents.**

**Q. So an outside attorney told a police officer of this department to go gather records of this police department and turn them over to him, and you asked no questions about what it was about?**

**A. If they went through the proper procedure like any other civilian, no, I did not.**

**Q. But he is not any other civilian, is he? He is the officer in charge of this police department, right?**

**A. Well, he is, but not when he was acting on that behalf.**

**Q. Does the Town normally pay for lawyers for individual civilians out in the street when they come in with their OPRA requests?**

**A. No, sir.**

**Q. So the Town was paying in his capacity as a police officer, officer in charge of this department, they were paying for his defense against the PBA, right?**

**A. They were paying for his defense, that is correct.**

**Q. Do you know the only records he went to look for were, with regard to those union charges were the documents involving these tickets that are at issue here?**

**A. No, sir.**

**Q. Do you know that the union disciplinary charges had nothing to do with these tickets that are at issue in this case?**

**A. The what?**

**Q. The union disciplinary charges that were being brought against Officer Zeveney, that had nothing to do with these tickets that are at issue in this case?**

**A. I was told that it had to do with prior Internal Affairs investigations, nothing to do with this case.**

**Q. So these tickets that Officer Zeveney came across while investigating or gathering evidence to defend himself had nothing to do with the actual defense of the PBA charges?**

**A. Yes, it did have something to do with it.**

**Q. It did have something to do with it?**

**A. Well, according to him, he was supposed to obtain documents that would help him with his case against the PBA. If he was seeking out these tickets, he must have felt it had something to do with it.**

**Q. If I told you, sir, that Officer Zeveney testified that it had nothing to do with it, would you disagree or agree with that statement?**

**A. I don't know, because I didn't speak to Officer Zeveney about this. All I know is he was going out to get documents, and I instructed him to make sure he had an OPRA request for whatever he was receiving.**

(see Mandoli testimony, pages 10 ~12, and 48~51)

According to Mr. Mandoli's testimony, Morrow told Zeveney to "secure certain documents". Zeveney obliged, and while in the act of “securing certain documents”, Zeveney came across information that he wanted Mandoli to be aware of.

**Q. Well, you have known Officer Wahba for a while, right?**

**A. Yes, sir.**

**Q. Would you agree that Officer Wahba is intelligent enough to understand the policies of this police department?**

**A. Yes, no doubt.**

**Q. Therefore, it is fair to say that Officer Wahba knows what the process is for voiding summonses, correct?**

**A. That is correct.**

**Q. And there are three separate documents for one ticket, right?**

**A. I don't know how many copies there are here, sir.**

**Q. You never looked at the summons book?**

**A. No.**

**Q. As you sit here today, the summonses that went missing with regard to this matter, you have no idea what happened to them, do you?**

**A. No.**

**Q. In fact, the day in question, do you know if Officer Zeveney was on duty, April 27, 2005?**

**A. He was on duty.**

**Q. And as the on-duty officer, it was his responsibility to bring those tickets to court, wasn't it?**

**A. No.**

**Q. It was not his responsibility?**

**A. No.**

**Q. Officer Zeveney told me it was his responsibility when he testified.**

Zeveney testified that it was his responsibility to take the tickets in question to the court on April 27, 2005, but he cannot remember if he took them or not. Three years later, Zeveney, upon the instructions of his town hired PBA attorney, goes to one file and one file only, to determine that 7 tickets written to a “friend” of Tim Wahba were never delivered to the court.

So, the guy who is supposed to deliver the tickets to court that day can’t remember if he brought the tickets to court that day, but three years later, finds that the tickets never made it to the court, and blames somebody else for destroying the tickets. Does anyone else have a problem with this ?

One thing is absolutely clear. A police officer, a man "of color", is accused of lying by the town and fired.

The inconsistencies in the testimony of Police Director Mandoli, when compared to adopted minutes of the Franklin Township Committee, have been brought to the attention of our elected officials. Regretfully, their reaction is to threaten us with expulsion from public meetings. So, our Police Director, a Caucasian, is protected by our elected officials ?

It is the hope of many that other State Law Enforcement agencies will not turn a blind eye to this issue, and anyone suspected of false testimony will be brought to justice.