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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING AND PUBLIC MEETING
BEFORE COUNCIL COMMITTEE ON LABOR & CIVIL SERVICE

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, April 25, 2000
5:16 p.m.

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9 BILL 000108 - Enacting a new Chapter 9-2300 of the
Philadelphia Code, entitled "Protection of
10 Displaced Contract Workers," and amending Section
19-2602, entitled "Licenses," to require that all
11 contractors awarded contracts for the performance
of food and beverage, hotel service, health care,
12 janitorial, or building maintenance services
within the City of Philadelphia retain certain
13 non-supervisory employees of the previous
contractor for a 90-day transition employment
14 period during which period retained employees may
not be terminated, except for cause, and to
15 require that said employees be provided with
various other job security protections, providing
16 penalties for noncompliance including, but not
limited to, revocation of the business privilege
17 license of violators, and granting remedies to
aggrieved parties, all under certain terms and
18 conditions.

19 PRESENT: COUNCILMAN DARRELL L. CLARKE, Chair
COUNCILMAN ANGEL L. ORTIZ, Vice Chair
20 COUNCILMAN DAVID COHEN
COUNCILMAN W. WILSON GOODE, JR.
21 COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN FRANK RIZZO

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I N D E X

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Juan Ramos, Director 6
Fair Labor Standards Unit, City of Philadelphia

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Joseph Rauscher, President 12
Philadelphia Council of AFL-CIO

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Pat Coughlan, President and Business Manager 15
Local 274

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P R O C E E D I N G S

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COUNCILMAN CLARKE: Good evening, we're going to start.

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First I'd like to thank everyone for coming this evening. Hopefully, we will be able to do this relatively quickly. It's my understanding that we have another stadium town meeting tonight -- I'm sure all of you would like to stay and hear that.

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First of all, I'd like to thank the members of the unions and all of the participants and the heads of the unions for working with us on this particular bill in the prior hearing. Councilman Ortiz gives you all a hand.

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This is a hearing that was recessed until today. First I'd like to make note that Councilwoman Blondell Reynolds Brown is available, Councilman Ortiz, Councilman Cohen, and Councilman Wilson Goode. I thank you all.

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Today, we will have opening remarks on this bill, Bill No. 000108, but before we do that, I would like to ask Councilman Ortiz, would he like to make some opening remarks?

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COUNCILMAN ORTIZ: I'll just make one

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 short statement, Mr. Chairman.

3 If anything had proven the necessity
4 for this bill -- and sometimes things occur in
5 very different ways that faith sort of dictates
6 certain things, but on the day that were having
7 the first hearing on this bill, the building at
8 Fifth and Chestnut was getting transferred in
9 terms of contract. And the first thing the
10 contractor did, when he took over the Lafayette
11 Building at Fifth and Chestnut, is that he fired
12 his whole janitorial workforce that same day,
13 leaving, I think, over 70 or close to 85
14 individuals out of work.

15 And so if we needed any proof -- not --
16 forget Los Angeles and their agreement that they
17 achieved just this week in terms of this same sort
18 of issue, if anything, proved that this bill is
19 necessary, that action at the Lafayette Building
20 did. And I think it's necessary, I think it's
21 about time, and I think it's something that -- we
22 have stood up for developers in this Council and
23 we have stood up for the other individuals, so
24 it's about time that we stood up for the
25 working-class people of this city.

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 Thank you, Mr. Chairman.

3 (Applause.)

4 COUNCILMAN CLARKE: Thank you,
5 Councilman.

6 Let the record reflect that Councilman
7 Fran Rizzo has now joined the committee hearing.

8 Will the clerk will please read the
9 title of the bill.

10 THE CLERK: Bill No. 000108, enacting a
11 new Chapter 9-2300 of the Philadelphia Code,
12 entitled "Protection of Displaced Contract
13 Workers," and amending Section 19-2602, entitled
14 "Licenses," to require that all contractors
15 awarded contracts for the performance of food and
16 beverage, hotel service, health care, janitorial,
17 or building maintenance services within the City
18 of Philadelphia retain certain non-supervisory
19 employees of the previous contractor for a 90-day
20 transition employment period during which period
21 retained employees may not be terminated, except
22 for cause, and to require that said employees be
23 provided with various other job security
24 protections, providing penalties for noncompliance
25 including, but not limited to, revocation of the

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108
2 business privilege license of violators, and
3 granting remedies to aggrieved parties, all under
4 certain terms and conditions.

5 COUNCILMAN CLARKE: Thank you.

6 I understand that we have three
7 individuals to testify today. I'd like to ask Mr.
8 Ramos to step to the table.

9 (Mr. Ramos comes forward.)

10 COUNCILMAN CLARKE: Please state your
11 name for the record, sir.

12 MR. RAMOS: Yes. My name is Juan
13 Ramos. The spelling of my last name is R-A-M-O-S,
14 And the spelling of my first name is J-U-A-N.

15 Mr. Chairperson, to my right is the
16 Deputy Director of the Office of Labor Standards,
17 Mr. Robert Glowry (ph.).

18 COUNCILMAN CLARKE: Thank you. Please
19 give testimony.

20 MR. RAMOS: Distinguished members of
21 City Council, my name is Juan Ramos, and I am the
22 Director of the Fair Labor Standards Unit for the
23 City of Philadelphia. I am here today to describe
24 and explain how the passage of this bill would
25 affect my department.

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 The Philadelphia Labor Standards Unit,
3 or the PLSU, was established in 1958 to enforce
4 the federal and municipal prevailing-wage laws, as
5 outlined in both the Davis-Bacon Act and in
6 Section 17-107 of the Philadelphia City Code.

7 Today, the PLSU consists of 10
8 employees, who are responsible for monitoring
9 approximately 500 ongoing projects throughout the
10 City. The PLSU is responsible for overseeing all
11 projects conducted by any City operating
12 department. The PLSU is also responsible for
13 overseeing projects conducted by the Philadelphia
14 Housing Authority, the Philadelphia Parking
15 Authority, the Office of Housing and Community
16 Development, and other similar agencies.

17 Specific duties include, but are not
18 limited to: involvement in a prebid meeting,
19 involvement in a pre-construction meeting, ongoing
20 site inspections, and weekly payroll monitoring.
21 In addition to monitoring projects throughout the
22 City, the Philadelphia Labor Standards Unit is
23 responsible for developing, issuing, and
24 maintaining the prevailing-wage rate schedule for
25 all City contracts and all service contracts.

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 While the PLSU faces a multitude of
3 important duties and obligations, the PLSU remains
4 a non-funded unit that operates out of the
5 Managing Director's Office. Funding for our unit
6 comes from a makeshift patchwork of organizations,
7 including, but not limited to, the Philadelphia
8 Housing Authority, the Philadelphia Water
9 Department, and the Office of Housing and
10 Community Development.

11 Under the proposed ordinance, in
12 addition to the duties and obligations stated
13 above, the Department will be responsible for the
14 enforcement of the bill. This would include:

15 Providing notice of the ordinance to
16 all persons currently engaged in the industries
17 covered by the bill;

18 Maintaining a current list of all
19 business privilege license-holders for the
20 industries covered by the bill;

21 Investigating all complaints against
22 any contractor, subcontractor, or awarding
23 authority;

24 Making written findings of all
25 complaints filed; sending those findings to the

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 complainant and the contractor and maintaining
3 those findings on file;

4 Upon request, providing any affected
5 contractor with a hearing;

6 Referring all complaints determined to
7 have merit to the Department of Licenses and
8 Inspections for revocation of the offending
9 person's business privilege licenses;

10 And monitoring the operations of
11 contractors to ensure compliance with the
12 ordinance.

13 The addition of these tasks will place
14 both a new financial burden and an increased
15 personal challenge upon the Philadelphia Labor
16 Standard Unit. A financial impact statement
17 prepared by the Department of Licenses and
18 Inspections, who was initially named as the
19 enforcing agency under the ordinance, projected
20 that approximately \$477,698 would be necessary to
21 meet the enforcement responsibilities as outlined
22 in the ordinance. L&I also estimated that seven
23 additional employees would need to be hired,
24 trained, and stationed in order to meet the duties
25 outlined in the ordinance. I expect that the PLSU

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108
2 would incur the same costs and personnel expense
3 as L&I in order to meet obligations of the bill.

4 As I have stated, the PLSU already
5 faces the challenge of being an unfunded unit.
6 These new duties would add an additional burden
7 upon our already fiscally challenged unit.
8 Additionally, these new responsibilities would
9 divert the PLSU from its original purpose and
10 mission -- to maintain and enforce the federal and
11 municipal prevailing-wage laws. I feel that it is
12 of particular importance to note that without
13 additional funding to support the new duties, the
14 PLSU will be forced to make severe reductions in
15 the amount of time it spends monitoring
16 prevailing-wage issues in this city.

17 This is significant not only for the
18 prevailing-wage products that the PLSU's already
19 oversees, but also for the prevailing-wage
20 projects that the Philadelphia Labor Standard Unit
21 may be responsible for overseeing in the future.
22 For example, at the present time, the PLSU is
23 currently exploring the feasibility of monitoring
24 and enforcing prevailing-wage issues within the
25 Philadelphia School District. Such expansion

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 name for the record.

3 MR. RAUSCHER: Mr. Chairman, I'm Joseph
4 Rauscher, R-A-U-S-C-H-E-R, President of the
5 Philadelphia Council of AFL-CIO. And I believe
6 that our testimony today is very, very important
7 because this might affect the City Councilpeople
8 that are being displaced out of their chairs.

9 (Laughter.)

10 MR. RAUSCHER: But I thank you for this
11 time, and I will be very, very brief, 'cause all I
12 came here to say today, after all of the testimony
13 that you've heard at the last one, two or three
14 meetings that you had on this is that this is a
15 very, very important thing.

16 Councilman Ortiz touched on it, that it
17 always seems like it's the poorest of our workers,
18 the lowest paid of our workers, who do nothing but
19 get up in the morning, go to work, raise their
20 families on the meager salaries that they get that
21 they have to fight for, have a little bit of
22 health and welfare coverage because they're union
23 members. And, hopefully, if they live and survive
24 long enough, they'll have a pension when they
25 retire and be able to enjoy the rest of their

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 life.

3 There are people out there in
4 management that -- and it's nothing new, it's no
5 surprise to anybody that it's strictly the bottom
6 line, everything is dollars and cents to these
7 people. Take the building at Fifth and Chestnut,
8 some of those people worked there between 10 and
9 30 years, I believe. Now, again, these are people
10 that just went to work; I mean, they didn't ask
11 for anything, they probably never set foot in this
12 body, coming down here demanding things from you
13 people. They belong to their union because they
14 believed in it, they believed in the brotherhood
15 and sisterhood of being together, and they felt
16 that they were protected.

17 And what happens? The building's sold,
18 and within a matter of almost hours, they're told
19 to go clean out their lockers, that they're no
20 longer necessary. Now, if these people made \$10
21 an hour, they were making a lot of money.

22 Now, it's something in this day and
23 age, with that happening, is just not right. And
24 I urge you -- I know every one of you sitting up
25 there and your brothers and sisters of Council

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 that are not here today, that this is something
3 that is good for everybody, it's something that
4 you're going to get that good feeling in your
5 heart. And you newer members of City Council,
6 this is what it's all about. I mean, you've got a
7 chance now to do something for people that really
8 can't help themselves, that need you, need us to
9 do it.

10 So, again, I'm not going to give a long
11 speech. I just urge you, and I know you will do
12 the right thing. And this should be coming out of
13 this body when it's done unanimously, and we
14 should be a model for the whole country of doing
15 something like this.

16 So I thank you for your time. Anything
17 I can do to assist, I'll be very, very happy to do
18 it. Thank you very much.

19 COUNCILMAN CLARKE: Thank you,
20 Mr. Rauscher.

21 (Applause.)

22 COUNCILMAN CLARKE: Any questions of
23 this witness?

24 (No questions.)

25 COUNCILMAN CLARKE: Mr. Coughlan?

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 MR. COUGHLAN: Thank you, Mr. Chairman.

3 My name is Pat Coughlan, through C-O-U-G-H-L-A-N,
4 and I'm the President and Business Manager of
5 Local 274, the hotel employees, restaurant
6 employees.

7 Mr. Chairman and Members of Council, I
8 too will be brief, we've had quite a few
9 conversations in the last couple of weeks ago on
10 this bill.

11 I think back to the campaign, the
12 mayoral campaign a few months ago that we just
13 came through, and we listened to our current mayor
14 talk about the little people in Philadelphia. And
15 if any bill epitomizes protecting the little
16 people in Philadelphia, this is certainly that
17 bill.

18 Service workers take pride in their
19 jobs. They're not the highest paid members or
20 citizens of Philadelphia, but they are some of the
21 proudest workers we have in Philadelphia. And
22 most service workers live in the City, unlike some
23 of the higher-paid workers that we have who live
24 in the suburbs.

25 We have protections in this city for

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 higher-paid workers. Teachers have tenure,
3 construction workers have prevailing-wage
4 protections, developers get tax breaks, developers
5 are given free land to build. But yet, the little
6 people, the service workers, don't have don't have
7 those protections.

8 I could tell story after story after
9 story in my 15 years as a business agent with
10 Local 274 of cafeterias, even hotels, restaurants
11 under new management, where someone would come in,
12 and all of the workers are escorted out of the
13 building, and they don't have a job. One that
14 really sticks in my mind happened a little more
15 than a year ago. There was a rally and, of all
16 days, Martin Luther King's birthday, at Community
17 College. That's almost a 100 percent union-
18 organized university in Philadelphia when it comes
19 to the Community College-employed staff. But the
20 contract workers were food workers, and they were
21 employed by a Philadelphia contractor Aramark,
22 who, by the way, if Aramark takes over a service
23 contract, it is usually their policy to rehire the
24 workers. That's a Philadelphia-based company.
25 They normally do not displace the workers.

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 However, there was an organizing drive,
3 and those workers proudly stood up and voted to
4 unionize. Aramark began to negotiate with Local
5 274, but a company from outside of Philadelphia
6 won the contract from the Community College Board
7 of Directors, came in, and did not hire one of
8 those cafeteria workers.

9 Members of the Council, there is
10 nothing that anyone can say that will convince me
11 that the only reason those workers were not hired
12 was because they were union members. There was no
13 call for that. Those were poorly paid workers to
14 begin with, they had to pay for their own health
15 care, so most of them didn't have it because they
16 couldn't afford it, and none of them had a
17 pension. Those were items that we were
18 negotiating, and the new company was afraid of
19 that, so they immediately terminated all of those
20 workers. One day they came in and they found out
21 they had no jobs.

22 This is a bill that protects those
23 workers' jobs for at least a short period of
24 time. This bill doesn't guarantee that they would
25 have pensions, this bill doesn't guarantee health

2 and welfare benefits, this bill doesn't even
3 guarantee wages. It just guarantee their jobs,
4 and that's a protection that the little people of
5 Philadelphia deserve.

7 COUNCILMAN CLARKE: Thank you,
8 Mr. Coughlan.

10 COUNCILMAN CLARKE: Any questions from
11 members of the committee?

13 COUNCILMAN CLARKE: Gentlemen, thank
14 you very much.

17 MR. RAUSCHER: Thank you, Mr. Chairman.

18 COUNCILMAN CLARKE: Anyone else to
19 testify?

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22 COUNCILMAN CLARKE: That being so, we
23 will move from the public hearing into a public
24 meeting. Can I move for a motion?

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 some amendments to the original bill. On May
3 17th, if you can follow me, I circulated a memo in
4 which all of the amendments are integrated, and I
5 have the pink sheet.

6 And on Page 2 -- Page 2, where it says
7 "Service Contract, No. 5," after "nonprofessional
8 health-care services," we are adding, "including
9 any services to be performed by registered
10 nurses."

11 On Section 9-2302, "transition
12 employment," we're eliminating the heading of that
13 where it says "All Service Contracts" and
14 replacing it with the following: "All service
15 contractors and awarding authorities who enter
16 into service contracts to be performed within the
17 City of Philadelphia should be subject to the
18 following obligations." The rest of the bill
19 remains the same.

20 On Page 3, number 4, going down to the
21 third paragraph, in which it says, "another
22 language in which the employee is literate," we
23 replace "literate" with the word in which the
24 employee is "fluent." That's just stylistic but
25 it says a whole lot, because literate means two

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 different things.

3 In the next paragraph under that, the
4 written offer required by this section shall be
5 substantially in the form -- and we add the new --
6 we eliminate "attached to this ordinance" and put
7 forward "set forth in Section 9-2304 in the
8 language in which each employee is fluent."

9 On Page 4 of the pink sheet and on Page
10 4 of the amended version, in Section 9-2303
11 labeled "Enforcement," the following words are
12 added: "An employee who has been discharged in
13 violation of this chapter by a successor
14 contractor" -- that is eliminated and to be
15 replaced by "An employee displaced or terminated
16 in violation of this chapter may bring an action
17 in a court of competent jurisdiction against the
18 awarding authority to terminate a contractor
19 and/or the successor contractor jointly or
20 severally for violations of any obligations
21 imposed under this chapter and may be
22 awarded. . ."

23 And going down to Page 5 of the amended
24 version, still on Page 4 of the pink, it says,
25 under Section 9-2303, it's still an enforcement in

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108
2 number 5. We add "instead of any contractor." It
3 says it will be changed to "any awarding authority
4 or contractor who knowingly violates this chapter
5 shall pay penalties for employee for a day of
6 violation of 450 to \$100."

7 Section 9-2304, "Notice to Displaced
8 Worker." This is a new addition, and you see it
9 and I'm not going to read it, but we're going to
10 just add it because there's a notice both in
11 English and Spanish that will be added to the
12 legislation, that will be sent to any displaced
13 worker or any worker who is going to be displaced,
14 and it's in both English and Spanish. And we will
15 add other languages as needed.

16 Page 5, we're adding a new section d.
17 In Section 2, Section 19-2602 of the Philadelphia
18 Code is amended to read as follows: "19-2602
19 Licenses," after 4, a new insert will read, "The
20 Department of Licenses and Inspections shall
21 refrain from issuing or shall revoke the business
22 privilege license of any person who, under color
23 of such license, intends to operate or is
24 operating in violation of the provisions of
25 subsection 1292602-(4)(b) or (4)(c) or (4)(d) or

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108
2 (4)(e) and shall take all steps necessary to
3 terminate the business operations of any business
4 establishment that has violated any subsection,
5 including, but not limited to the following. . . "
6 And then we add the following: "e. Refrain from
7 violating any provision of Chapter 9-230 of the
8 Philadelphia Code, entitled 'Protection of
9 Displaced Workers,' the Philadelphia Labor
10 Standards Unit" (and this is an added amendment)
11 "shall have the responsibility for the
12 enforcement of the provisions of this subsection
13 and in connection therewith shall:
14 "(1) cause a notice containing the
15 provisions of this ordinance to be sent to all
16 persons currently engaged in performing food and
17 beverage, hotel service, health care, janitorial
18 or building maintenance services within the City
19 of Philadelphia, as indicated on the obligation
20 for Philadelphia business tax account number filed
21 with the Revenue Department, and to all persons
22 who shall, in the, future indicate on their
23 application for Philadelphia business tax account
24 number filed with the Revenue Department that they
25 intend to engage in such businesses;

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 "(2) maintain a current list of all
3 business privilege license-holders for performing
4 food and beverage, hotel service, health care,
5 janitorial and building maintenance services
6 within the City of Philadelphia;

7 "(3) investigate all complaints
8 against any contractor, subcontractor, or awarding
9 authority in connection therewith or with respect
10 to any investigation shall have full power and
11 authority to subpoena any witnesses, books,
12 records, and other data of any person for the
13 purposes of obtaining information pertinent to
14 such investigation. The director of the
15 Philadelphia Labor Standards Unit shall make a
16 finding in writing with respect to each complaint
17 filed and shall send a copy thereof to the
18 complainant, and the contractor shall maintain it
19 on file. Upon request, the Unit shall provide any
20 affected contractor or subcontractor with a
21 hearing;

22 "(4) refer all complaints determined
23 to have merit to the Department of Licenses and
24 Inspections for revocation of the offending
25 person's business privilege license, pursuant to

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 this subsection (d)(1);

3 "(5) monitor the operations of the
4 contractors and awarding authorities to ensure
5 compliance with Chapter 9-2300 of the Philadelphia
6 Code."

7 And those are the amendments, Mr.
8 Chairman. The rest stands as is.

9 COUNCILMAN CLARKE: Thank you,
10 Councilman.

11 Any witnesses on the amendments?

12 (No response.)

13 COUNCILMAN CLARKE: There being none,
14 I'll ask for motion on the amendments.

15 COUNCILMAN ORTIZ: I move for the
16 adoption of the amendments.

17 COUNCILMAN CLARKE: Do I hear a
18 second?

19 (Duly seconded.)

20 COUNCILWOMAN CLARK: All in favor?
21 Opposed?

22 The amendment is adopted.

23 I'd like to move for a motion on Bill
24 000108, as amended.

25 COUNCILMAN ORTIZ: I so move.

1 4/25/00 LABOR, CIVIL SERVICE - BILL 000108

2 (Duly seconded.)

3 COUNCILMAN CLARKE: All in favor?

4 All opposed?

5 The ayes have it, and Bill No. 000108

6 has been reported out of this committee with a

7 favorable recommendation.

8 (Applause.)

9 COUNCILMAN CLARKE: Thank you all very
10 much.

11 (Adjourned at 5:45 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Tuesday, April 25, 2000, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COUNCIL COMMITTEE ON LABOR AND CIVIL SERVICE
BILL NO. 000108

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter