

Beach

room and then you will be excused for lunch, and return
and commence right at one o'clock.

11:49 A.M. - Adjourn for lunch until 1:00 P.M.

1:10 P.M.

WALTER BEACH: Sworn:

BY MR. COWLEY:

Q. State your name?

A. My name is Walter J. Beach.

Q. Are you employed in the capacity of a police officer
in Tioga County?

A. Yes, I am. I am employed by Lawrenceville Borough
Police Department.

Q. What is your position there?

A. I'm Chief of Police.

Q. How long have you been a police officer for the Borough
of Lawrenceville?

A. I have been a police officer for thirteen years. (since 1980)

Q. All with Lawrenceville?

A. All with Lawrenceville Borough.

Q. I assume you live in Lawrenceville?

A. Yes, I do.

Q. Directing your attention to March 9, the evening,
somewhere around 8:30, somewhere in that neighborhood,
were you on duty, of this year, were you on duty that

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evening?

A. Yes, I was.

Q. Did you have occasion to receive a call from either Chief Shutt or Officer Young on that evening?

A. Yes, I did.

Q. Where were you when you received the call?

A. I was on Main Street in Lawrenceville Borough.

Q. Were you in uniform?

A. Yes, I was.

Q. And were you in a vehicle?

A. Yes. I was in a marked police vehicle owned by Lawrenceville Borough. It has red and blue lights and/or details indicating police vehicle.

Q. In response to the information received from Officer Young, what did you do?

A. Officer Young radioed to my unit that he was in pursuit of a vehicle who refused to stop, on Route 15, north near the Buckwheat Hollow Road. I proceeded south on Main Street to the Gannon Insurance Agency, parking lot, which is just south of the Quick Fill in the borough of Lawrenceville. And proceeded to set up on the east side of Route 15, facing south at an angle so that my red and blue lights and headlights, and all of the flashing lights would be visible to the vehicle coming

north, that entered the borough, if he got that far.

Q. Did there come a time when the vehicle was approaching you and was being followed by a police vehicle?

A. Yes, there was. It was a pickup truck, just in front of car 2620, Officer Young and Chief Shutt were in. They had their overhead lights, red and blue lights, also their alternating headlights, which is called wig wag, were activated, and the grill lights activated. And my vehicle had the same lights activated. The overhead, red and blue, which are quartz aligen bulbs, visible for long distances. The headlights were flashing, the grill lights were on, I had my spot light on. And as the vehicle approached from the south, there is a slight corner there. That I took my spotlight and I followed the vehicle and tried to observe the driver as he passed in front of me. I was at the edge of the roadway. Approximately eight feet. The pickup truck passed by. And as he come by, I was following, trying to see what the driver of the vehicle, or the passenger of the vehicle may have looked like or what they were doing.

Q. What did you observe?

A. The driver was intent. He had his hands on...I could see one hand but I...they were tight on the wheel. He was just kind of looking straight ahead. I don't

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recall him looking at my vehicle at all, which would have been in this position on the side of the road. He was just intent on going up the road. He had, like I say, an intense look on his face. He went by me and I was kind of tracking him with my spotlight, until he was passed and I couldn't see him any more.

Q. Did the vehicle get stopped?

A. As he went by me, Officer Shutt, or Kirby, I'm not sure which, had a conversation on the radio, I said you get in front of him, I'll get behind him. Meaning the pickup truck with the suspect in it. They did pass in front of the pickup truck, and I pulled out behind him. And they started slowing down in a fashion to stop the vehicle. I was directly behind the vehicle.

Q. And where was the vehicle finally stopped? Do you recall in relation to the Quick Fill or wherever?

A. It was north of the Quick Fill and south of what we call the Valley Outlet Store. Which is a couple hundred feet in between those two. Somewhere in that area. It was in the northbound lane of Route 15.

Q. What did you do when the vehicle, the truck, the defendant's vehicle, came to a stop? What did you do?

A. I immediately exited my vehicle with my flashlight. I approached the suspect vehicle from the driver's

side rear. I opened, reached up and opened the door and at the same time, pulled my weapon. And demanded the driver shut the vehicle off and exit the vehicle on the driver's side.

q. What did you see when you looked in the truck?

A. The driver was still sitting in the same position.

Kind of hunched forward. He wasn't sitting back like sitting when you drive. He was leaning forward slightly and I could see his left hand and back of his head and I could not see his right hand. He never looked around at me. He continued to stare straight ahead. And I presumed holding the wheel, but I was not sure what he was doing with his right hand actually.

Q. You would have been over on his left shoulder, is that what you're saying?

A. That's correct.

Q. What did you say to him when you saw him in this position?

A. I told him to shut the vehicle off and exit from the driver's side. I said that twice real loud. I'm sure he heard me.

Q. Okay. How far physically were you from the driver when you said this?

A. From his body, I was a matter of a foot or two. I

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was right at the rear of the door. The door missed me when it swung open. But I was immediately behind him. I could have touched him if I held out my hand.

Q. Now, did you say it loud?

A. I said it loud.

Q. What reaction, if any, was there from the driver?

A. He continued to stare out and look straight ahead.

He made no movement with his body or his head.

Q. Did he say anything?

A. I didn't hear him say anything. It was no other voice around.

Q. What did you do?

A. When he, the second time he failed to comply, I reached in with my left hand and grabbed some material right here on his coat. His left shoulder. To remove him from the vehicle. And as I tried to do that, he wasn't going anywhere. As it turned out, Officer Young reached in and unfastened the seat belt, that was keeping him in the vehicle. The vehicle was fastened, the shoulder harness and the seat belt. Once that was removed from him, and I physically removed him from the vehicle, and told him to stand with his hands on the side of the vehicle, and he had a cap on, to put his hands on the top of the vehicle and leave them there, which he did.

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- Q. Were you able to be in close proximity to his face?
- A. Yes, I was.
- Q. Were you able to detect any odor of alcohol?
- A. Yes. I did smell a moderate to strong smell of alcohol.
- Q. Now was that in the truck or on his person or both or...?
- A. I didn't stick my head in the first time, in the vehicle, so I really don't know if it was in the vehicle at that time. But as I pulled him from the vehicle, I was relatively close and I had him put his hands up on the cap, and I did smell it, it would have been his breath. It smelled like beer.
- Q. What did you do after you got him out of the vehicle?
- A. Stood him up against the truck. Told him to leave his hands on the side of the truck. I reholstered my weapon and patted him down for weapons and then handcuffed him.
- Q. Then what happened?
- A. Officer Young took the defendant and turned towards his vehicle. From that point on, I went back to the pickup truck, and did not see where the defendant went from there.
- Q. Was the pickup truck door opened at that time?
- A. Yes.

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Q. Did you look in the pickup truck?

A. Yes, I did.

Q. What did you see, if anything?

A. On the seat was a bag with a bottle neck similar to what would be on a bottle of beer or beverage of some sort. On the passenger side seat, next to the driver, there was two seats, a bucket seat type truck with a console in the middle. And just on the other side of the console was a bag with something sticking out of the end of it. I picked that up and it was a bottle of Budweiser beer. A big bottle. Like a quart or forty ounce bottle.

Q. That was on the seat?

A. That was right next to the, like in this position, as I was sitting in the truck. Where I could easily grab it.

Q. Did you see anything else in the front?

A. Yes, I did. From the same position I looked down at the floor board and it's common in DUI's to see beer cans littering the truck, and there were two empty beer cans on the front passenger side floor.

Q. What kind of beer cans?

A. I believe they were Piel's.

Q. What did you do then?

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- A. I went around the other side and retrieved those to see if there was anything else like under the seat or, something could have been chucked back under the seat. A lot of times individuals try and hide it. Also I leaned the back of the seat forward and did not see any other beer or alcohol in the vehicle.
- Q. Did you see the defendant over with Officer Young or Chief Shutt at this time?
- A. No, I was concentrating on the pickup truck. I really didn't pay any attention to them at the time.
- Q. What did you do after you got those items out of the vehicle?
- A. I handed those items to, I think it was Officer Shutt, Chief Shutt was who I gave the three beer containers to. And then he called the wrecked and I was just basically directing traffic after that. The traffic was starting to build up, because we had Route 15 virtually blocked. I needed to start taking control of traffic. Because the defendant was out of the way by then.
- Q. Did you have a chance to observe the defendant's face?
- A. At that point I didn't actually observe his face. It was later on.
- Q. Later on? Where was that? Over to the...?
- A. At the police department. I asked the township police

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if they wanted to use my police department to process him and they said they did. And so we went down to the Lawrenceville Police Department, which was at the municipal building.

Q. Did you again detect any odor of alcohol at all when you were over there?

A. Yes, I did. I had occasion to be close to the defendant and also take his picture. And I could smell the alcohol the whole time. It smelled like it was on his breath versus being on his person.

Q. Did you see his eyes?

A. His eyes were somewhat bloodshot, yes. They were watery and bloodshot.

Q. Now, this person we're talking about, is he present in court today?

A. Yes, he is.

Q. Would you identify the person who you removed from the truck?

A. He's seated next to Attorney Banik, at that table. Joseph Waikenis.

Q. You were involved in the field sobriety test?

A. No, I was not involved in the field sobriety test.

Q. Not your arrest, I take it?

A. Right. Not my arrest.

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Q. You were then directing traffic when they took him over to the department?

A. No. We waited for a tow truck to come. The tow truck from Weaver's Mobil was called to remove the vehicle from the roadway. And we waited until the vehicle had been removed and then we all went to the P.D. at once.

BY MR. BANIK TO WALTER BEACH:

Q. The beer cans you found, where were they specifically?

A. On the floor on the passenger side.

Q. Was there....?

A. Specifically where on the floor, I don't recall. They were laying on the floor, in plain view from the outside when I was looking in. I seen two beer cans here, and what looked to be a beer bottle, it could have been a pop bottle. When I looked at it out of the package, it turned out to be Budweiser.

Q. Cold or warm?

A. I was cool. I can't say it was ice cold. But then the air temperature wasn't that warm. It was a relevant type temperature. It was cold but not....

Q. Was it wet like after it come out of the refrigerator or anything like that? Condensation on it?

A. I don't recall if there was moisture on it.

Q. The bag it was in, was it a new bag or rumped bag?

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A. I believe it was just a typical brown paper bag that groceries would be put in, only smaller. For that size bottle.

Q. And the cans you found, were they neatly tossed or under something?

A. No. There was a bunch of litter there and the beer cans were with them. By litter, I mean papers and other things. The beer cans just laid there.

Q. Were they wet on the inside or did you not observe that?

A. I didn't observe that.

Q. So you don't know whether they had been there a while or whether they were recently consumed?

A. They didn't look like they had been there a while, but...

Q. They did?

A. No. I said they didn't look like they had been there. But then I didn't, as you say, shake them around.

Q. Were there any other empty beer cans in the entire vehicle? Other than just these two?

A. I didn't see any more.

Q. This vehicle had a lot of clutter in it?

A. Papers and what not. I don't know as you call it clutter. Papers and things laying on the floor

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besides the beer cans, yes.

Q. Does this look like the interior of the vehicle?

A. Definitely not.

Q. Not the same vehicle?

A. No. I mean all of the garbage that's thrown around there, was not in there that night.

Q. No?

A. No. Some other time a bunch of garbage was thrown in there. But none of this was in there when I looked in there. When I talk about litter, it's papers. Small papers. Laid down, and the beer cans laid on top of them. But not this big bag of garbage. That's not the vehicle I stopped.

Q. Whose idea was it to impound the vehicle?

A. I don't know. It was not mine.

Q. You stated that you saw an intense look on the face of the driver as he went by. Have you ever seen this driver before?

A. When he went by, I did not recognize who it was. I was trying to see either, a couple things. One, whether there was anybody else in the vehicle, and two, to see what the operator was doing. Was he trying to hide something, was he trying to pull a weapon, or did he have a weapon. The things that you look for because

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there is a reason why a driver doesn't want to stop. Normally a vehicle will not try and elude or flee or get away if he doesn't have a reason, so, I was looking for the things that would be a danger to my person or the other officers. I wasn't intent on exactly who it was, as much as what he was going to do. So I did not recognize this defendant until after he already in the township police car, after the whole thing happened.

Q. But you did notice an intense look on his face?

A. He looked like he was just, if you have a vehicle behind you, with red and blue lights and siren on, and another vehicle over here with red and blue lights and flashing lights all over, you would think somebody would look and acknowledge them. He just looked like I'm going down the road and that's all there is to it. So that's why it was disturbing to me that somebody could just ignore that much activity around him.

Q. How can you look at someone's face and see an intense look and not see the face?

A. I wasn't trying to identify. I was only trying to see what he was doing.

Q. Have you ever seen that truck before?

A. There's a lot of trucks like that around. Yeh, I have seen that truck. To specifically answer your question.

Beoch

But there's a lot of pickup trucks like that around. It doesn't really mean much that it was a red and white pickup truck.

Q. Have you ever been to Mr. Waikenis's house?

A. Yes, I have.

Q. On how many occasions?

A. Several. . . *ambulance - only one request*

Q. Do you know where he lives?

A. Well, where he lived when he was in Lawrenceville, yes.

Q. Right. You know where the Lawrenceville residence is?

A. That's correct. 48 Main Street.

Q. And how far was the stop made from that point?

A. A few hundred feet. To be exact, I really can't say. It's several hundred feet, less the quarter of a mile.

Q. Were you present throughout the entire investigation?
The question and answer period?

A. Where at? When you say present?

Q. Well, from the time that the stop was made, and you were obviously instrumental in helping him exit the vehicle. You were out of the picture long enough to obtain the containers?

A. I did help him exit the vehicle. And then after he was handcuffed, he was turned over to Officer Young. And

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from that point after the evidence was retrieved until we got to the police department, for processing, I had no contact. I didn't know where he was. Back in their car or what. I had no contact with him.

Q. Was there any conversation that you did overheard while on the roadway?

A. None whatsoever.

Q. So you don't know when the officers would have discussed submitting for a blood test?

A. After we got to the police department, he was requested several times to submit to a blood test. I had given him a form supplied by the Department of Transportation for the implied consent law under section 1547 of the Motor Vehicle Code, that tells him his rights, miranda rights, and also his implied rights under the DUI law. And that was read to him. He was allowed to read it. Again he was asked for a blood test. This went on back and forth. He kept turning the whole scenario around and kept refusing at the same time.

Q. Who requested him to sign it?

A. Officer Young.

Q. Who read it to him?

A. Officer Young.

Q. On two occasions?

Beach

A. At least two occasions. If not more.

Q. Have you discussed Mr. Waikenis with the officers on any prior occasions?

A. Since the arrest?

Q. Before, after....?

A. Yes. Since the arrest we have talked about it.

Q. How about before?

A. I don't believe so. I had no reason to.

Q. You were at his residence before the arrest?

A. I had been called there on several complaints. Mostly

involving disorderly conduct type complaints where the

subject, him and/or several other people, had been drinking and causing a ruckus and I had been called.

Complaints about him and from him, both.

Q. Do you know the residence?

A. Yes. The old John DeWolf place.

Q. And you know John DeWolf?

A. Yes, I did.

Q. And you know his girlfriend?

A. Whose girlfriend?

Q. Pauline Stanley?

A. No.

(untrue statement per Mayorkueger book in 7/21/93)

Q. You don't know her at all?

A. I don't believe so.

untrue

called only once

Beach

Q. Not at all?

A. You're talking about Joe's girlfriend?

Q. John DeWolf?

A. No. I have no idea who he was seeing or with.

Q. You don't know Mrs. Stanley at all?

A. Not to my knowledge. The name doesn't ring a bell.
Maybe the face would.

Q. How about the Hopper boys?

A. The Hopper boys?

Q. Yes.

Q. Which ones?

Q. Roger, Rodney?

A. Okay.

Q. And that would be their mother?

A. She uses Harper. It's not Stanley. She doesn't use Stanley. If she does, that's not the name I get from her when I talk to her. It's Kathryn Harper. Yes.
I know that woman. If we're talking about the same one.

Q. Did you know Mr. DeWolf at all?

A. When you say know, what do you mean? I arrested him.
Put it that way.

Q. You arrested John DeWolf?

A. That's correct.

Q. Mr. Waikenis's grandfather?

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A. John DeWolf that lived in the house before Mr. Waikenis, I arrested him, that's correct. I know him in that sense, but, to know him as a friend or personal relationship, I didn't have that kind of relationship with him.

Q. Did anyone live with him there?

A. John DeWolf? I have no idea.

Q. On occasion subsequent to the arrest, did you have an opportunity to cite Mr. Waikenis for an abandoned vehicle?

A. Yes, I did.

Q. What was the purpose of that?

A. It was an abandoned vehicle. I believe there were nine citations issued by me to the borough residents for violations of the Borough Code. I believe it's section 5108. 5408. Something like that.

Q. Which vehicle was supposedly abandoned?

A. The pickup truck that sat right in front of the barn. It was unregistered, uninspected, and through that criteria would have been uninsured. I filed a citation on behalf of the Borough.

Q. Was this the same vehicle that was stopped?

A. No. It was a different color. — *untrue*

Q. What color was that vehicle?

perjury

Beach

BY MR. COWLEY: Judge, I'd ask for the relevancy. And I'd object that the question is irrelevant and ask....

BY THE COURT: I will ask counsel to approach.

SIDE BAR CONFERENCE AS FOLLOWS:

BY THE COURT: I will give Mr. Banik an opportunity to determine this.

BY MR. BANIK: I will try and establish a course of conduct to find anything and everything to arrest Mr. Waikenis. This is the vehicle that was parked when he was cited. There is an additional matter of having him cited for rubbish in the neighbor's back yard.

BY THE COURT: 1 What does this have to do with the DUI charge?

BY MR. BANIK: Well, nothing at all. I think the Court is...

BY THE COURT: Then it's not relevant, and I'll sustain the objection.

END OF SIDE BAR CONFERENCE:

BY THE COURT: I'll sustain the objection and strike the last question from the record and direct the jury to disregard it.

BY MR. BANIK TO WALTER BEACH:

Q. Do you know how long the interrogation of Mr. Waikenis lasted?

A. Not paying attention, like I said, it wasn't my

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arrest. I took a couple notes and a couple photographs. But Officer Young and Shutt both did the processing and I really wasn't doing much there.

Q. You were there the entire time however?

A. I was there the entire time.

Q. Was that, for what purpose did you remain around?

There were two officers processing....a township arrest....?

A. It's my police department.

Q. You didn't trust them?

A. Oh I'm not saying I didn't trust them. But I would just stick around if they need me. If they needed my camera to take a picture, or they needed my forms.

1547. I supplied them with a few things, but, as far as actually being at the, in the interrogation, and the miranda reading, or the other processing, I didn't become active. - ~~active~~

Q. Did Joe ever admit to having anything to drink from what you overheard?

A. That night?

Q. Yeh.

A. I don't recall I heard him say he had anything to drink.

Q. Which officer determined that this was a possible DUI?

A. I don't know.

- Beck
- Q. You didn't comment on your observations by way of smell?
- A. I may have said something to the effect this guy has been drinking. Because I smelled beer and I saw the bloodshot eyes. He was a little unsure of himself. But as far as who determined they was going to arrest him, I don't know.
- Q. Did you observe the sobriety tests that were administered by Officer Young?
- A. No, I didn't.
- Q. Didn't watch them at all?
- A. I didn't pay attention. I was busy making some notes of my own. Just the incident that happened prior to that. There were two officers present. And I didn't really feel I was needed to observe something that's redundant.
- Q. How many times did you hear Officer Young or Officer Shutt request that blood tests be consented to?
- A. Several times. Like I say, he would request it and read the form and then Joe would turn around and take the form and read it and tell them he wasn't going to. He kept trying to turn things around. The defendant did. So, as far as what was being asked and what he was being requested to do or what was actually said on the

Boach

form. Something to the effect he was giving up his rights to an attorney, period. Not just for the investigation of the blood alcohol test. He was requested several times over a period of quite a few minutes to take the blood alcohol. He was given more than ample opportunity to read the form and did. I ^{untrue} assume he did. He stood there staring at it. So if he could read the English language, he was reading it and he just refused every time.

Q. Do you know whether or not the officer, the other officers, searched the vehicle at the Mobil station?

A. No, I do not. I have no knowledge of that.

Q. The only search you performed of the vehicle was that of....

A. During the immediate stop and the immediate cab or passenger part of the vehicle.

Q. Do you know what happened to the empty beer cans and the forty ounce bottle of Bud?

A. No. After I handed them to the department making the arrest, I don't know where they went.

Q. What speed was the vehicle traveling when it approached your vehicle on Route 15?

a. It wasn't going very fast. Having been certified for Vascar, for nine years, I would estimate his vehicle

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was proceeding somewhere in the vicinity of thirty miles per hour or less.

- Q. So he wasn't flying down the highway?
- A. No. Not by any means.
- Q. Did he say anything when you stopped him?
- A. Absolutely nothing. To me.
- Q. So he was essentially silent when he was on Route 15?
- A. Wait a minute. Are you talking about Joe?
- Q. Yes.
- A. Yeh.
- Q. Didn't say a word to anybody?
- A. From the time I opened the door until the time Officer Young took custody of him, I didn't hear him say a word.
- Q. On how many occasions and how was it that you were close enough to smell his breath?
- A. When I was at the door of the vehicle. Like I say. There was a smell of beer, alcohol, beer, whatever, coming from the cab. When he come out of the vehicle, it was still on his person. I was right up close to him. When I pinned him against the side of the truck, with his hands up, I was right there leaning over his shoulders. I was close enough I could smell his breath. Even though he didn't turn and face me. And then again

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at the Police Department, between shuffling papers and taking his photograph, and that, I had occasion there...I'd say three times I could smell beer.

Q. You described the process of placing the handcuffs on Mr. Waikenis and placing him in the rear of the township vehicle.

A. I didn't place him in the rear of the township vehicle. I did place handcuffs on him. I placed his hands, as I say, it was a small pickup truck with a cab, and I had him put his hands up like this. I spread his legs out in position, back as far as I figured he couldn't hold his balance if he turned and tried to strike at me or attack me or whatever the case may be. Strictly for Officer's safety, you run onto a lot of things out there at night. At that point I borrowed...I didn't borrow, I asked Officer Young for his handcuffs, and I took one arm down at a time and just brought them down in this position, placed one handcuff on, and then moved down in this position and put the other handcuff on.

Q. Was there any rough treatment involved during this or was it a rather peaceful cuffing?

A. There was no resistance, there was no excessive force by myself.

there was
unwarranted excessive
force - untrue

Beach

Q. Do you know what happened to a micro-cassette recorder that was in the cab of the vehicle?

A. Never saw one.

Q. When you received the call from the officer, as he was proceeding into the borough, do you recall any discussion concerning him crossing the line?

A. There was, I received a call prior to him entering the borough. I received a call when the officers were on Route 15 near the Buckwheat Hollow Road. What they indicated to me, and, no, they just indicated they were pursuing a vehicle that failed to yield and stop for them. They didn't go into detail as far as what he had done. They just said they were pursuing a vehicle that would not stop.

Q. Was Mr. Waikenis wearing the glasses that he has on now or was he not wearing glasses?

A. He was wearing glasses. However, if they are the same ones he's wearing now, I have no knowledge of that.

Q. How did he return home after this interrogation?

A. I have no idea.

Q. You weren't instrumental in that?

A. No, I was not.

CHIEF SCOTT SHUTT: Sworn:

BY MR. COWLEY: