

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Edgar W. Dickson, Circuit Court Judge

Case No. 2011-CP-32-2798

Ronald J. Sheppard, #320057

Petitioner,

v.

State of South Carolina,

Respondent.

APPENDIX

O. Grady Query
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STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

COURT OF STATE GRAND JURY
2005-GS-47-20

STATE OF SOUTH CAROLINA)
VS.)
RONALD SHEPPARD)
DEFENDANT)

TRANSCRIPT OF RECORD

VOLUME I

JANUARY 16, 2007
LEXINGTON, SOUTH CAROLINA

B E F O R E:

HONORABLE JAMES W. JOHNSON, JR., JUDGE

A P P E A R A N C E S:

JENNIFER EVANS, ASSISTANT ATTORNEY GENERAL
SUSAN PORTER, ASSISTANT ATTORNEY GENERAL
JASON PEAVY, ASSISTANT ATTORNEY GENERAL
W. ALLEN MYRICK, ASSISTANT ATTORNEY GENERAL
ATTORNEYS FOR THE STATE

JAMES GRIFFIN, ESQ.
ATTORNEY FOR THE DEFENDANT

JOY E. HOLSTON
OFFICIAL COURT REPORTER

1 THE COURT: MS. EVANS, IF YOU WILL CALL YOUR CASE FOR
2 TRIAL AND THEN I WILL GIVE THE JURY SOME INFORMATION ABOUT
3 THE CASE.

4 MS. EVANS: YES, YOUR HONOR. THE STATE OF SOUTH
5 CAROLINA VERSUS RONALD J. SHEPPARD. THIS IS CASE NUMBER
6 2005-GS-47-20.

7 THE COURT: HAVE YOU GOT THE INDICTMENT, CAN YOU HAND
8 IT UP. THE INDICTMENT THAT HAS BEEN HANDED UP AND LET ME
9 EXPLAIN TO YOU, YOU MAY OF HEARD THE WORD, INDICTMENT,
10 BEFORE. AN INDICTMENT IS THIS PIECE OF PAPER, THIS
11 DOCUMENT I AM HOLDING IN MY HAND. IT IS A FORMAL DOCUMENT
12 THAT HAS PROCESSED THIS CASE THROUGH THE COURT SYSTEM. IT
13 CONTAINS THE CHARGES OR THE ALLEGATIONS THAT ARE MADE
14 AGAINST A DEFENDANT. IT IS NOT EVIDENCE AND CANNOT BE
15 CONSIDERED BY THE JURY AS EVIDENCE OF THE CHARGE OR THE
16 CHARGES THAT IT CONTAINS. THIS DOCUMENT HAS BEEN SERVED
17 ON THE DEFENDANT AND THE DEFENDANT'S ATTORNEY AT SOME TIME
18 PRIOR TO THE CASE BEING CALLED FOR TRIAL SO THAT THE
19 DEFENDANT AND ATTORNEY WILL KNOW WHAT CHARGES WILL BE
20 BROUGHT WHEN THE CASE IS CALLED FOR TRIAL. THIS IS
21 INDICTMENT 2005-GS-47-20, ENTITLED THE STATE OF SOUTH
22 CAROLINA VERSUS RONALD J. SHEPPARD. MR. SHEPPARD IS
23 PRESENT, HE IS REPRESENTED BY MR. GRIFFIN. MR. GRIFFIN,
24 IF YOU WILL INTRODUCE YOURSELF AND YOUR CLIENT TO THE JURY
25 PANEL, PLEASE.

1 MR. GRIFFIN: THANK YOU, YOUR HONOR. MY NAME IS JIM
2 GRIFFIN, I AM A LAWYER IN COLUMBIA AND THIS IS RONNIE
3 SHEPPARD.

4 THE COURT: ALL RIGHT, THANK YOU, SIR. THE STATE IN
5 THIS CASE IS REPRESENTED BY THE ATTORNEY GENERALS OFFICE.
6 I MAY LEAVE OUT ONE OR TWO OF THE ATTORNEYS. BUT, MS.
7 EVANS IS LEAD ATTORNEY AND IF YOU WILL INTRODUCE YOURSELF
8 AND COCOUNSEL TO THE JURY PANEL, PLEASE.

9 MS. EVANS: MY NAME IS JENNIFER EVANS WITH THE
10 ATTORNEY GENERALS OFFICE. WITH ME IS SUSAN PORTER, SHE IS
11 ALSO AN ASSISTANT ATTORNEY GENERAL. ALSO WITH ME IS MR.
12 ALLEN MYRICK, HE IS ALSO AN ASSISTANT ATTORNEY GENERAL AS
13 IS MR. JASON PEAVY AND HE IS ALSO AN ASSISTANT ATTORNEY
14 GENERAL. WE ARE ALL FROM THE ATTORNEY GENERALS OFFICE IN
15 COLUMBIA, SOUTH CAROLINA.

16 THE COURT: THE CHARGES THAT ARE MADE IN THE
17 INDICTMENT GENERALLY ARE CHARGES OF SECURITY FRAUD AND
18 CONSPIRACY. IT IS ALLEGED THAT THESE OCCURRED OVER A
19 PERIOD OF TIME. MS. EVANS, THE PERIOD OF TIME BEING FROM
20 WHAT, 2001 UNTIL 2005.

21 MR. GRIFFIN: 2000, YOUR HONOR.

22 THE COURT: 2000 TO 2005. THERE ARE A NUMBER OF
23 POTENTIAL WITNESSES WHO MAY BE CALLED AS WITNESSES IN THIS
24 CASE. I AM GOING TO READ THIS LIST TO YOU. SOME OF THESE
25 WITNESSES MAY BE PRESENT, I AM SURE THAT MANY OF THEM ARE

1 NOT PRESENT SO YOU NEED TO PAY ATTENTION TO THE NAMES
2 BECAUSE ONCE I HAVE GONE OVER THESE NAMES WITH YOU THEN I
3 AM GOING TO BE ASKING YOU QUESTIONS WHETHER YOU KNOW OR
4 ARE FAMILIAR WITH OR HAVE ANY KIND OF RELATIONSHIP WITH
5 ANY OF THESE INDIVIDUALS. SO, PLEASE GIVE ME YOUR
6 ATTENTION. IF ANY OF THE WITNESSES ARE PRESENT, AS I GO
7 OVER THEIR NAMES, I AM GOING TO ASK THEM TO STAND BRIEFLY
8 AND TO FACE YOU AND THEN WE WILL BE ASKING THOSE
9 QUESTIONS. POTENTIAL WITNESSES IN THE CASE ALLISON SMITH,
10 LOUIE WATSON, SHELBY WILLIAMS, TONYA BRAZELL, RONALD
11 BURKETT, JOHN F. FREEMAN, DAVID BOWERMAN, LELA DIANE
12 PHILLIPS, CHARLES LEE, BJ BRAZELL, VICKI JAYNE, WILLIAM
13 BAILEY, WALLACE JONES, WILLIAM MCDAVID, ZINDA BOLTON, NICK
14 NICHOLS, MICHAEL SHEAD, VAL FORNEY, DANA SHEPPARD, ALLISON
15 SIMON, BILLY WATSON, BILLY TABOR, BOB CATHEY, ALLEN WISE,
16 ROBERT CAPPS, MARGARET ANTHONY, CHARLES TURNER, JAMES
17 HOWARD, MAX PICKELSIMER, ROB TURNLEY, ROBERT WILSON, SUE
18 SPEARMAN, TOMMY NORRIS, PAULA LESLIE, BOBBY NIXON,
19 ROSAMOND SHERIFF, GEORGE MCCUE, CHARLES MURPHY, DALE
20 DYCHES, RICHARD AIKEN, TANYA ABERCROMBIE, PAUL BANNINGER,
21 CHADWICK C. BARRETT, DENISSIUA BOYETTE BELTON, CHRISTOPHER
22 BENNETT-BEY, CATHERINE BERNARD, DOUGLAS BEVERLY, MARK
23 BISHOP, DON COOK BOBO, KELLY BRADFORD, DAVID BEREZIN,
24 THOMAS BRADY, WALTER BRASHER, DOUGLASS BRANSON, ERIC BUDDY
25 BRISTOW, SASCHA TONIETTE BROOKS, BARBARA BROWN, KIM

1 BULLARD, CY EDWARD WELLINGTON BURGESS, WAYNE BYRD, DENNIS
2 WARREN CANNUP, BRENDAN RAY CARPENTER, MARK CASEY, OPHELIA
3 CASEY, MERIDETH GIDDENS CASTEEN, SUSANNE CAUGHMAN,
4 JENNIFER CHAMPAGNE, KENNA LUNN CHAPMAN, TOBE CHILDERS,
5 ROLLAND CORNING, JOHN CURRY, BARBARA JEAN DODSON, RICK
6 DRIVER, NANCY MARIE WATKINS, CHARLES DUKE, JOSEPH ROBERT
7 EADES, DELIA DALTON EVETT, PATRICIA EVETT, JACKIE FURR,
8 DAVID GAFFNEY, KEITH GIDDENS, KRISTA CLINBEARD GOOD,
9 EDWARD GORA, LARRY GOSNELL, ERIC GRABEN, JENNINGS SONNY
10 GRAVES, JOHN HAGINS, CARY HALL, LEE THORNTON HAMMACK,
11 NORMAN HANCOCK, TOMMIE SUE BROWN, RICK GLEISSNER, DONALD
12 CAPPS, HAL HAYGOOD, GENE GREGORY, TAMMY ANN HARRISON, JOHN
13 HEVER, DAVID HIOTT, KAREN HOFFMAN, TECUMSEH HOOPER, ROBERT
14 HOWARD, RHONDA JOHNSON, STEVE KENDLE JONES, BRENT KING,
15 WILLIAM KEHL, BEN KELLY, ROBERT KERR, TERESA LANDERS, BILL
16 LETTEW, ROBERT LING, TAMMY LITTLEJOHN, CURTIS LONG,
17 WILLIAM BILL LONG, JR., PETE LOGAN, JOHN MARKEL, KEVIN
18 MARTIN, KEVIN JOHN MAST, SONIA MCABEE, GAIL MCALISTER,
19 LISA WRIGHT MCCALL, CLAUDE MCDONALD, TRACY MEDLIN, REBECCA
20 ANNE MELTON, SHERRY AMICK MELTON, KAREN MILLER, LAIRD
21 MINOR, JAMES LEONARD MITCHELL, TODD MITCHELL, STEVE
22 MORGAN, EARLE E. MORRIS, JR, TRACY MYERS, AMY CHAPPELL
23 MYERS, SYDNEY NASH, BETTY NEALY, MARK STEPHEN NISWONGER,
24 LORI NORTON, SUSAN NUTTING, ANNE OWEN, LARRY OWEN, TONY
25 LEWIS PARK, DANNY PARKER, JUDY ELAINE PARKS, MARSHA

1 JEANETTE PATTERSON, ALICE ANN MERRILL PEACE, ELIZABETH
2 PEDRICK, ERIC PANTSARI, KIM PHILLIPS, GREG MORGAN, MARTHA
3 MURPHREE, WALLACE JONES, ROBERT PHILPOTT, ROBERT PIERCE,
4 TRISH POWELL, WILLIAM QUIST, GARRY RANK, ERIC RAYBURN,
5 RICHARD RAYBURN, JR., DANNY RAY SHARPE, VIRGINIA GINGER
6 ANN SHELTON, CHARLES SIDES, JAN SIROTA, KEVIN SMITH,
7 ROBERT SMITH, SHANE SMITH, KIMBERLY JOY STANCELL, JOHN
8 STERLING, CASSANDRA STUARD, CARLA SUMMERS, ARTHUR RUSSELL
9 TOMKINS, CHRISTINA TURNAGE, KAREN VENTRELL, GRETCHEN
10 VEERDUGO, SANDRA WALKER, BURNEY WARREN, TERESA WATKINS,
11 HENRY WEBSTER, PATTI LOU GRAHAM WHITLOCK, KAREN WILLIAMS,
12 PHIL WILSON, STEPEHN WILSON, JOHN WINFORD, C. THOMAS
13 WYCHE. THOSE ARE POTENTIAL WITNESSES IN THE CASE.
14 COUNSEL, ARE THERE ANY OTHER NAMES THAT NEED TO BE ADDED
15 AT THIS TIME?

16 MS. EVANS: NO, YOUR HONOR.

17 MR. GRIFFIN: ONE OTHER POTENTIAL WITNESS, YOUR
18 HONOR, NEAL ARNOLD.

19 MS. EVANS: YOUR HONOR, LINDA BOLTON IS ZINDA BOLTON.

20 THE COURT: I MISPRONOUNCED A NAME, I CALLED OUT
21 LINDA BOLTON, IT IS ZINDA BOLTON. BEFORE I START ASKING
22 QUESTIONS ABOUT THE CASE, YOU FOLKS HAVE SUBMITTED THE
23 QUESTIONNAIRES THAT HAD, I THINK WAS ABOUT TEN PAGES LONG.
24 IF THERE IS ANYONE ON THE JURY PANEL WHO NEEDS TO MAKE ANY
25 CHANGES, AGAIN KEEPING IN MIND THAT THAT INFORMATION IS

1 CONSIDERED TO HAVE BEEN SUBMITTED UNDER OATH. IF YOU NEED
2 TO AMEND, ADD TO, DELETE FROM THE ANSWERS THAT ARE
3 PROVIDED ON THE QUESTIONNAIRE WILL YOU PLEASE STAND AND
4 THEN I WILL ASK YOU WHAT CHANGES YOU NEED TO MAKE. YOUR
5 NAME AND NUMBER, PLEASE, SIR.

6 JUROR: JUROR 92, WENDELL FURTICK.

7 THE COURT: ALL RIGHT, SIR, WHAT DO YOU NEED TO
8 CHANGE, WHAT TYPE OF AMENDMENT DO YOU NEED TO MAKE.

9 JUROR: I HAVE A FAMILY MEMBER THAT IS EMPLOYED WITH
10 THE COMPANY IN QUESTION.

11 THE COURT: ALL RIGHT, HOLD ON ONE SECOND. CAN YOU
12 TELL ME, WHAT FAMILY MEMBER IT WAS.

13 JUROR: SISTER-IN-LAW.

14 THE COURT: WAS EMPLOYED BY WHAT COMPANY.

15 JUROR: HOMEGOLD.

16 THE COURT: HOMEGOLD. AND WOULD THE FACT THAT THAT
17 FAMILY MEMBER WAS EMPLOYED THERE, WOULD THAT AFFECT YOUR
18 ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

19 JUROR: NO.

20 THE COURT: YOU MAY HAVE A SEAT, THAT IS MR. FURTICK,
21 NUMBER 92. YOUR NAME, PLEASE, MA'AM.

22 JUROR: PATRICIA RICHARD, I AM 205.

23 THE COURT: ALL RIGHT.

24 JUROR: I HAD MENTIONED THAT KNOWING MY FAMILY HAD
25 BEEN IN A COURT CASE, MY HUSBAND REPRESENTED HIS COMPANY

1 AND HE WAS, YOU KNOW, IN COURT.

2 THE COURT: NOTHING RELATED TO THIS BUT IN, JUST IN
3 THAT GENERAL DISCUSSION.

4 JUROR: YES.

5 THE COURT: WOULD THAT CHANGE ON YOUR FORM IN ANY WAY
6 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

7 JUROR: NO.

8 THE COURT: THANK YOU, YOU MAY HAVE A SEAT. YOUR
9 NAME, PLEASE, SIR.

10 JUROR: 37, WARREN CAROTHERS.

11 THE COURT: ALL RIGHT.

12 JUROR: I ONCE WORKED FOR ONE OF THE WITNESSES.

13 THE COURT: YOU PERSONALLY DID?

14 JUROR: YES.

15 THE COURT: ALL RIGHT. AND I COULDN'T UNDERSTAND
16 YOU. YOU ONCE WORKED WITH?

17 JUROR: FOR THE BROTHER OF ONE OF THE WITNESSES.

18 THE COURT: AND WOULD THAT RELATIONSHIP IN ANY WAY
19 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

20 JUROR: NO, IT WOULD NOT.

21 THE COURT: YOU MAY HAVE A SEAT. THAT IS MR.
22 CAROTHERS, NUMBER 37. YOUR NAME, PLEASE.

23 JUROR: 211, ANGELA RITTER.

24 THE COURT: ALL RIGHT, MS. RITTER, IF YOU CAN TELL ME
25 WHAT CHANGE YOU NEED TO MAKE ON THAT FORM, PLEASE.

1 JUROR: JOY STANCELL, ONE OF THE WITNESSES, HER MOM
2 IS MY BOSS.

3 THE COURT: WOULD THAT RELATIONSHIP AFFECT YOUR
4 ABILITY IN THIS CASE TO BE FAIR AND IMPARTIAL?

5 JUROR: NO.

6 THE COURT: YOU MAY HAVE A SEAT, THAT IS NUMBER 211.
7 YOUR NAME, PLEASE.

8 JUROR: NUMBER 38, NANCY CARTER.

9 THE COURT: IF YOU CAN TELL ME WHAT CHANGE YOU NEED
10 TO MAKE ON THAT FORM, PLEASE.

11 JUROR: I JUST KNOW ONE OF THE EXPERT WITNESSES.

12 THE COURT: DON'T SAY ANYTHING, ALL I AM ASKING RIGHT
13 NOW IF YOU NEED TO MAKE ANY CHANGES TO THE INFORMATION
14 THAT YOU PROVIDED ON THE FORM THAT WAS SUBMITTED. I AM
15 GOING TO BE ASKING YOU ABOUT RELATIONSHIPS AND WHETHER YOU
16 ARE RELATED TO ANYONE AND THINGS OF THAT NATURE. RIGHT
17 NOW ALL I WANT TO KNOW IS WHETHER YOU NEED TO MAKE ANY
18 CHANGES ON THE QUESTIONNAIRE THAT IS SUBMITTED TO THE
19 COURT. YOUR NAME, PLEASE, MA'AM.

20 JUROR: VICKI FREEMAN, NUMBER 87.

21 THE COURT: ALL RIGHT, MS. FREEMAN.

22 JUROR: AT THE TIME I FILLED OUT THE QUESTIONNAIRE, I
23 DID NOT HAVE ANY KNOWLEDGE OF MR. SHEPPARD. BUT I HAVE
24 BEEN TOLD THAT--

25 THE COURT: COME UP HERE AND LET ME TALK WITH YOU. I

1 CAN'T HEAR, I AM SORRY. IT IS NOT YOUR FAULT, IT IS MINE.

2 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH A JUROR
3 IN THE PRESENCE OF THE JURY PANEL BUT OUT OF THE
4 HEARING OF THE JURY PANEL.)

5 THE COURT: DOES ANYONE ELSE NEED TO MAKE ANY CHANGES
6 TO THE QUESTIONNAIRE THAT IS SUBMITTED TO THE COURT.

7 (NO RESPONSE.)

8 THE COURT: IF ANYONE ON THE JURY PANEL IS RELATED BY
9 BLOOD OR CONNECTED BY MARRIAGE EITHER TO THE DEFENDANT,
10 MR. SHEPPARD, WHO HAS BEEN INTRODUCED TO YOU OR TO ANY OF
11 THE POTENTIAL WITNESSES I NEED TO ASK YOU TO PLEASE STAND.
12 IF YOU ARE CONNECTED BY BLOOD OR RELATED BY MARRIAGE TO
13 ANY OF THESE INDIVIDUALS WOULD YOU PLEASE STAND. YOUR
14 NAME IS MR. WILSON, IS THAT RIGHT?

15 JUROR: YES, SIR.

16 THE COURT: COUNSEL, YA'LL STEP UP FOR JUST A MINUTE.
17 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
18 PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING OF
19 THE JURY PANEL.)

20 THE COURT: MR. WILSON, COUNSEL HAS ALREADY INDICATED
21 TO ME OF A RELATIONSHIP AND YOU WILL BE EXCUSED FROM THE
22 TRIAL OF THIS CASE, YOU CAN GO AHEAD AND LEAVE. THANK YOU
23 VERY MUCH, WHAT IS YOUR NUMBER.

24 JUROR: 289.

25 THE COURT: 289. THANK YOU, SIR. ANYONE ELSE.

1 JUROR: I HAVE A QUESTION. ON THE WITNESS LIST YOU
2 MENTIONED A JOHNNY SHARPE.

3 THE COURT: YES, SIR.

4 JUROR: IS HE THE CITY MANAGER.

5 THE COURT: I THINK THAT IS ANOTHER SHARPE, IS THAT
6 GENTLEMAN THE CITY MANAGER OF THE CITY OF CAYCE.

7 MS. EVANS: ON OUR LIST WE HAVE A DANNY SHARPE.

8 THE COURT: IT IS DANNY SHARPE, ALL RIGHT. YOU MAY
9 OF MISUNDERSTOOD ME. OKAY. NOW, LADIES AND GENTLEMEN,
10 THIS QUESTION, IF YOU HAVE ANY KIND OF BUSINESS OR
11 PERSONAL OR SOCIAL RELATIONSHIP WITH THE DEFENDANT, MR.
12 SHEPPARD OR ANY POTENTIAL WITNESS IN THE CASE I AM GOING
13 TO ASK YOU TO STAND UP IN JUST A MINUTE. BUT BEFORE YOU
14 STAND SOMETIMES I AM ASKED WHAT DO YOU MEAN BY PERSONAL,
15 SOCIAL RELATIONSHIP. AND IT WOULD INCLUDE IF NOT LIMITED
16 TO THESE THINGS BUT IT WOULD INCLUDE IF YOU TRANSACT
17 BUSINESS WITH ANY OF THESE INDIVIDUALS, IF YOU BELONG TO
18 THE SAME CIVIC ORGANIZATIONS, IF YOU GO TO THE SAME CHURCH
19 OR BELONG TO THE SAME CHURCH OR ANY TYPE OF CLUB OR
20 ANYTHING LIKE THAT. IN OTHER WORDS, I WANT YOU TO KEEP IN
21 MIND IS WHAT WE ARE SEEKING IS WE GO THROUGH THIS PROCESS
22 FOR TWELVE INDIVIDUALS WHO DON'T HAVE ANY CONNECTION WITH
23 ANYBODY INVOLVED IN THE CASE, EITHER THE DEFENDANT OR ANY
24 POTENTIAL WITNESS OR ANYONE ELSE. TWELVE INDIVIDUALS WHO
25 ARE GOING TO BE ABLE TO SIT IN THE JURY BOX AND LISTEN TO

1 THE EVIDENCE AND MAKE A DECISION IN THIS CASE BASED SOLELY
2 ON THE EVIDENCE, UNINFLUENCED BY ANYTHING THAT YOU MAY OF
3 READ OR HEARD OUTSIDE THE COURTROOM, UNINFLUENCED BY ANY
4 RELATIONSHIP YOU MAY HAVE WITH ANYONE. AGAIN, PEOPLE WHO
5 WILL MAKE THE DECISION BASED ONLY ON THE EVIDENCE THAT IS
6 PRESENTED HERE IN THE COURTROOM. SO, AGAIN, THAT IS THE
7 REASON FOR THE QUESTIONS THAT I AM GOING TO GO OVER WITH
8 YOU IS TO FIND OUT WHAT TYPES OF RELATIONSHIPS YOU MAY
9 HAVE WITH ANY OF THESE INDIVIDUALS. SO, AGAIN, IF YOU
10 HAVE ANY TYPE OF BUSINESS, PERSONAL OR SOCIAL RELATIONSHIP
11 WITH THE DEFENDANT OR ANY POTENTIAL WITNESS IN THE CASE
12 WOULD YOU PLEASE STAND. YOUR NAME, PLEASE, MA'AM.

13 JUROR: NUMBER 12. BEATTA BIRDSONG.

14 THE COURT: MR. BIRDSONG, IN GENERAL TERMS THE
15 INDIVIDUAL THAT YOU HAVE THE RELATIONSHIP, IN GENERAL
16 TERMS THE NATURE OF THAT RELATIONSHIP.

17 JUROR: YOU WANT THEIR NAME?

18 THE COURT: YES, MA'AM.

19 JUROR: RICK DRIVER. BUSINESS, SUNSET LANDSCAPES, WE
20 HAVE DONE WORK FOR HIM. AND ALSO AS AN ACQUAINTANCE, WE
21 HAVE GONE TO DINNER WITH HIM AND HIS WIFE.

22 THE COURT: SO THAT IS A POTENTIAL WITNESS IN THE
23 CASE, IS THAT CORRECT, THAT INDIVIDUAL?

24 JUROR: YES.

25 THE COURT: WHAT I NEED TO KNOW IS WHETHER THAT

1 RELATIONSHIP WILL AFFECT IN ANY WAY YOUR ABILITY TO BE
2 FAIR AND IMPARTIAL IN THIS CASE?

3 JUROR: WELL, I DON'T BELIEVE--

4 THE COURT: MA'AM, LISTEN TO ME NOW.

5 JUROR: OKAY.

6 THE COURT: I NEED A YES OR A NO.

7 JUROR: OKAY, THEN NO.

8 THE COURT: THAT IS FINE. YOU MAY HAVE A SEAT. THE
9 REASON I DO THAT IS THIS. SOMETIMES I WILL HAVE POTENTIAL
10 JURORS WHO WILL STAND UP AND START TELLING ME ALL SORTS OF
11 THINGS THAT THE REST OF THE JURORS DON'T NEED TO BE
12 EXPOSED TO. SO, THAT IS WHY I AM ASKING, I NEED A YES OR
13 A NO. AND YOU SAY THAT YOU CAN BE FAIR AND IMPARTIAL IN
14 SPITE OF THAT RELATIONSHIP, IS THAT RIGHT?

15 JUROR: FROM THAT QUESTION, YES.

16 THE COURT: YOU CAN HAVE A SEAT. YES, SIR.

17 JUROR: NUMBER 215. CARLTON ROBINSON.

18 THE COURT: YES, SIR.

19 JUROR: I HEARD THE NAME, ALLEN WISE.

20 THE COURT: WOULD THAT RELATIONSHIP IN ANY WAY AFFECT
21 YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

22 JUROR: NO.

23 THE COURT: YOU MAY HAVE A SEAT. THANK YOU, SIR.
24 YES, SIR.

25 JUROR: NUMBER 62, GLENN CURTISS.

1 THE COURT: YES SIR, MR. CURTISS.

2 JUROR: I AM CLOSE AND PERSONAL FRIENDS WITH RONNIE
3 AND DANA SHEPPARD FOR ABOUT 30 YEARS AND I AM ALSO MUTUAL
4 FRIENDS WITH ABOUT EIGHT WITNESSES.

5 THE COURT: WHEN YOU SAY CLOSE, PERSONAL FRIENDS. I
6 ALMOST ASSUME THAT WOULD PREVENT YOU FROM BEING FAIR AND
7 IMPARTIAL. WOULD IT?

8 JUROR: YES, SIR.

9 THE COURT: YOU ARE EXCUSED BASED ON THAT. THANK
10 YOU, THAT IS JUROR NUMBER 62. YOUR NAME, PLEASE.

11 JUROR: SUSAN JOHNSON, NUMBER 133.

12 THE COURT: THIS IS NUMBER 133, MS. JOHNSON.

13 JUROR: I KNOW AN ALLEN WISE.

14 THE COURT: AND WOULD THAT RELATIONSHIP, WOULD THAT
15 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

16 JUROR: YES, IT WOULD.

17 THE COURT: YOU FEEL THAT IT WOULD.

18 JUROR: YES.

19 THE COURT: BASED ON THAT RESPONSE THEN I WOULD
20 EXCUSE YOU FROM THE TRIAL OF THE CASE. THAT IS JUROR
21 NUMBER 133. YES, MA'AM.

22 JUROR: NUMBER 84, ANDREA FISHER.

23 THE COURT: IF YOU WILL TELL ME WHO AND THE
24 RELATIONSHIP, PLEASE.

25 JUROR: I DIDN'T KNOW THE NAME, MY MANAGER'S BEST

1 FRIEND IS AT HOMEGOLD.

2 THE COURT: WOULD THAT RELATIONSHIP PREVENT YOU FROM
3 BEING FAIR AND IMPARTIAL?

4 JUROR: YES.

5 THE COURT: COME UP AND LET ME TALK TO YOU FOR JUST A
6 MOMENT, PLEASE.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH A JUROR
8 IN THE PRESENCE OF THE JURY PANEL BUT OUT OF THE
9 HEARING OF THE JURY PANEL.)

10 THE COURT: 84 WILL BE EXCUSED. YES, SIR.

11 JUROR: I NEED TO SEE YOU IN PRIVATE.

12 THE COURT: COME ON UP, COUNSEL, YOU MAY STEP UP.

13 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH A JUROR
14 THE PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING
15 OF THE JURY PANEL.)

16 THE COURT: 186 IS EXCUSED. MA'AM, YOUR NAME,
17 PLEASE.

18 JUROR: NANCY CARTER, NUMBER 38.

19 THE COURT: MS. CARTER.

20 JUROR: RICK GLEISSNER, HE IS A FRIEND OF MINE.

21 THE COURT: AND THAT IS ONE OF THE POTENTIAL
22 WITNESSES WHOSE NAME WAS READ, IS THAT CORRECT?

23 JUROR: YES.

24 THE COURT: IF THAT PERSON IS CALLED TO TESTIFY, IS
25 THAT RELATIONSHIP GOING TO AFFECT YOUR ABILITY TO BE FAIR

1 AND IMPARTIAL?

2 JUROR: YES.

3 THE COURT: YOU THINK THAT IT WOULD?

4 JUROR: YES.

5 THE COURT: BASED ON THAT YOU ARE EXCUSED FROM THIS
6 CASE, MS. CARTER. THANK YOU VERY MUCH FOR BEING HERE.
7 YES, MA'AM.

8 JUROR: I AM NUMBER 61, SARAH CROUCH.

9 THE COURT: YES, MA'AM.

10 JUROR: I HAD A RELATIONSHIP YEARS AGO WITH EARLE
11 MORRIS.

12 THE COURT: IS THAT RELATIONSHIP GOING TO AFFECT YOUR
13 ABILITY TO BE FAIR AND IMPARTIAL?

14 JUROR: NO, NOT AT ALL.

15 THE COURT: YOU CAN HAVE A SEAT. THAT IS JUROR
16 NUMBER 61. LET ME GO ALL THE WAY TO THE BACK. YES, SIR.

17 JUROR: 294, MARTY WOOTEN.

18 THE COURT: YES, SIR.

19 JUROR: MY WIFE USED TO WORK FOR BOB CATHEY.

20 THE COURT: AND HOW LONG AGO HAS THAT BEEN.

21 JUROR: SEVERAL YEARS, I GUESS.

22 THE COURT: IS THAT RELATIONSHIP GOING TO AFFECT YOUR
23 ABILITY TO BE FAIR AND IMPARTIAL AS A JUROR IN THIS CASE?

24 JUROR: NO, SIR.

25 THE COURT: THANK YOU, MR. WOOTEN, YOU CAN HAVE A

1 SEAT, THAT IS NUMBER 294. YOUR NAME, PLEASE.

2 JUROR: 282, DIANE WILLIAMS.

3 THE COURT: YES, MA'AM.

4 JUROR: DANA SHEPPARD WAS A VOLUNTEER AT A SCHOOL
5 THAT I WORK AT.

6 THE COURT: IS THAT GOING TO AFFECT YOUR ABILITY TO
7 BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

8 JUROR: YES SIR, I THINK IT IS.

9 THE COURT: THAT IS NUMBER 282, YOU ARE EXCUSED, MS.
10 WILLIAMS. YOUR NAME, PLEASE.

11 JUROR: NUMBER 238, MAROLYN SMITH.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH A JUROR
13 IN THE PRESENCE OF THE JURY PANEL BUT OUT OF THE
14 HEARING OF THE JURY PANEL.)

15 THE COURT: 238 WILL BE EXCUSED. YOUR NAME, PLEASE,
16 SIR.

17 JUROR: WARREN CAROTHERS. I HAD MENTIONED THAT I HAD
18 WORKED WITH A BROTHER OF ONE OF THE WITNESSES.

19 THE COURT: COME ON UP AND LET ME TALK TO YOU.

20 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH A JUROR
21 IN THE PRESENCE OF THE JURY PANEL BUT OUT OF THE
22 HEARING OF THE JURY PANEL.)

23 THE COURT: COUNSEL, LET ME SPEAK WITH YA'LL FOR JUST
24 A MINUTE.
25

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
2 PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING OF
3 THE JURY PANEL.)

4 THE COURT: I TOLD YOU THAT I WOULD PROBABLY BREAK
5 FOR LUNCH AND THEN WE WILL CONTINUE THE QUESTIONING AFTER
6 LUNCH, THAT IS WHERE WE ARE. I THINK IN DOING THAT IT
7 WILL PROBABLY MAKE THINGS GO A LITTLE QUICKER THAN THEY
8 WOULD OTHERWISE GO. WE WILL GET TO THE JURY SELECTION
9 PROCESS BEFORE TODAY IS ENDED. I WILL EXCUSE YOU FOLKS
10 FOR LUNCH BUT I DO NEED TO GO AHEAD TO ORDER YOU AND YOU
11 NEED TO UNDERSTAND, THIS IS A COURT ORDER NOT TO DISCUSS
12 THIS CASE AMONG YOURSELVES OR WITH FAMILY OR FRIENDS OR
13 ANYONE ELSE. YOU CANNOT DISCUSS THIS CASE WITH ANYONE AT
14 THIS POINT, YOU CANNOT READ ANYTHING ABOUT THIS CASE, YOU
15 CANNOT WATCH ON TELEVISION OR LISTEN TO ANYTHING ON THE
16 RADIO OR ANY OTHER SOURCE ANYTHING ABOUT THIS CASE. NOW,
17 WE WILL BREAK FOR LUNCH, THE ATTORNEYS, WE WILL MEET WITH
18 THEM AS WE GO THROUGH THE SELECTION PROCESS. I NEED TO
19 GIVE THE ATTORNEYS TIME TO GRAB A BITE ALSO. YOU NEED TO
20 BE BACK AT YOUR SEAT AT 2:30, THAT IS AN HOUR AND FIFTY
21 MINUTES, AND WE WILL CONTINUE WITH THE QUESTIONING. IT
22 WILL NOT BE AS LONG WHEN WE GET BACK AS IT HAS BEEN THIS
23 MORNING. HAVE A GOOD LUNCH AND BE BACK IN THIS COURTROOM
24 AT 2:30. YOU ARE EXCUSED AND EVERYONE ELSE STAY SEATED,
25 PLEASE.

1 (WHEREUPON, THE JURY PANEL WAS EXCUSED FOR A LUNCH
2 BREAK.)

3 THE COURT: WE WILL BREAK UNTIL 2:30. WHEN YOU GET
4 READY WE CAN MEET IN CHAMBERS AND ANYTHING THAT YOU HAVE
5 AGREED ON AND WE WILL CONTINUE WITH THE QUESTIONING AFTER
6 LUNCH. I WILL SEE YOU FOLKS AT 2:15, 2:30.

7 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

8 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE WILL
9 CONTINUE WITH THE QUESTIONS THAT I WAS ASKING YOU EARLIER
10 TODAY. BEFORE I DO THAT I DO NEED TO PUT ON THE RECORD
11 THAT I HAVE FOUND THAT THOSE OF YOU STILL HERE ARE
12 QUALIFIED TO SERVE AS JURORS. NOW, THAT DOESN'T
13 NECESSARILY MEAN THAT YOU ARE QUALIFIED TO SERVE IN THIS
14 PARTICULAR CASE, I DID FAIL TO MAKE THAT FINDING ON THE
15 RECORD. AND I FIND THAT YOU ARE QUALIFIED FOR JURY
16 SERVICE AFTER ASKING THE APPROPRIATE QUESTIONS. LET ME
17 PICK BACK UP WITH SOME OF THE QUESTIONS ABOUT THIS
18 PARTICULAR CASE. IN MANY INSTANCES, WHEN I COME INTO A
19 COUNTY I COME INTO IT COLD AND DON'T KNOW ANYTHING ABOUT
20 THE CASE OR CASES THAT MAY BE TRIED THAT WEEK. THIS CASE
21 HAS BEEN SCHEDULED FOR TRIAL FOR SOME EXTENDED PERIOD OF
22 TIME. I DON'T KNOW WHAT CASES GENERALLY SPEAKING GENERATE
23 ANY KIND OF PUBLICITY OR NOT. BUT IN THIS PARTICULAR CASE
24 I AM AWARE THAT THERE HAS BEEN EXTENSIVE PUBLICITY ABOUT
25 THIS CASE, IT HAS BEEN COVERED IN PRETTY MUCH ALL FORMS OF

1 MEDIA, TELEVISION, NEWSPAPER, RADIO. AND I HAVE GOT SOME
2 QUESTIONS ABOUT THE MEDIA COVERAGE TO ASK YOU. AND,
3 AGAIN, YOU ARE UNDER OATH AND WHAT WE ARE SEEKING ARE
4 FOLKS WHO CAN MAKE A DECISION BASED ON THE EVIDENCE THAT
5 IS PRESENTED HERE IN THE COURTROOM. SO, I AM GOING TO
6 START BY ASKING THE QUESTION OF WHETHER ANY MEMBER OF THE
7 JURY PANEL HAS WATCHED ANYTHING ABOUT THIS CASE ON
8 TELEVISION, HEARD ANYTHING ABOUT THIS CASE ON THE RADIO,
9 READ ABOUT THIS CASE IN THE NEWSPAPER OR DISCUSSED THE
10 CASE WITH ANYONE OR HAS HAD ANYONE DISCUSS THE CASE WITH
11 YOU. AND BASED ON THOSE WHO MIGHT RESPOND TO THIS
12 QUESTION, I WILL HAVE SOME FOLLOW-UP QUESTIONS. BUT IF
13 YOU HAVE IN ANY WAY BEEN EXPOSED TO ANY MEDIA COVERAGE OF
14 THIS CASE I AM GOING TO ASK YOU TO STAND. THAT IS SORT OF
15 WHAT I EXPECTED. YOUR NAME, YOUR NUMBER WOULD REALLY HELP
16 ME.

17 JUROR: 112.

18 THE COURT: GABRIEL HIPPS. CAN YOU TELL ME THE
19 SOURCE OF THE INFORMATION AS FAR AS WHAT YOU HAVE READ,
20 SEEN OR HEARD.

21 JUROR: STATE NEWSPAPER, THE NIGHTLY NEWS AND THE
22 INTERNET.

23 THE COURT: WAS THAT RECENTLY OR IN THE PAST OR BOTH.

24 JUROR: BOTH.

25 THE COURT: THE ARTICLES THAT YOU HAVE READ, QUITE

1 FRANKLY EVEN OVER THE WEEKEND I SAW SOME ARTICLES IN THE
2 MEDIA ABOUT THE CASE. BASED ON WHAT YOU HAVE READ OR BEEN
3 EXPOSED TO HAVE YOU FORMED ANY OPINION AS TO THE GUILT OR
4 THE INNOCENCE OF THE DEFENDANT IN THIS CASE?

5 JUROR: NO.

6 THE COURT: DO YOU FEEL LIKE THAT YOU COULD SET ASIDE
7 ANYTHING THAT YOU HAVE READ OR HEARD OR BEEN EXPOSED TO
8 AND MAKE A DECISION BASED SOLELY ON THE EVIDENCE PRESENTED
9 HERE IN THIS COURTROOM?

10 JUROR: YES.

11 THE COURT: BASED ON THAT RESPONSE YOU MAY HAVE A
12 SEAT, THAT IS NUMBER 112. YES, SIR.

13 JUROR: 15, WILLIAM BONNETTE.

14 THE COURT: IF YOU CAN TELL ME THE SOURCE OF ANY
15 INFORMATION.

16 JUROR: NIGHTLY NEWS AND THE STATE NEWSPAPER.

17 THE COURT: HAS THAT BEEN IN THE PAST OR RECENTLY OR
18 BOTH?

19 JUROR: RECENTLY.

20 THE COURT: BASED ON WHAT YOU HAVE BEEN EXPOSED TO
21 HAVE YOU FORMED OR EXPRESSED ANY OPINION IN THIS CASE?

22 JUROR: NO.

23 THE COURT: DO YOU FEEL LIKE YOU CAN SET WHATEVER YOU
24 HAVE BEEN EXPOSED TO ASIDE AND MAKE A DECISION BASED
25 SOLELY ON THE EVIDENCE THAT IS PRESENTED HERE IN THE

1 COURTROOM?

2 JUROR: YES.

3 THE COURT: BASED ON THAT RESPONSE YOU CAN HAVE A
4 SEAT. THAT IS NUMBER 15, MR. BONNETTE. YES, SIR.

5 JUROR: 119, JEFFERSON HOWELL.

6 THE COURT: AND, MR. HOWELL, SAME QUESTION. THE
7 SOURCE OF THE INFORMATION, PLEASE.

8 JUROR: THE STATE NEWSPAPER.

9 THE COURT: AND IN THE PAST OR RECENTLY OR BOTH.

10 JUROR: BOTH.

11 THE COURT: BASED ON THE INFORMATION THAT YOU HAVE
12 BEEN EXPOSED TO HAVE YOU FORMED OR EXPRESSED AN OPINION IN
13 THIS CASE?

14 JUROR: NO, SIR.

15 THE COURT: DO YOU FEEL LIKE YOU COULD DISREGARD
16 WHATEVER YOU HAVE BEEN EXPOSED TO AND MAKE A DECISION
17 BASED SOLELY ON THE EVIDENCE HERE IN THE COURTROOM?

18 JUROR: YES, SIR.

19 THE COURT: ALL RIGHT, BASED ON THAT YOU CAN HAVE A
20 SEAT. YOUR NAME, PLEASE.

21 JUROR: NUMBER 8. CONNIE BECK.

22 THE COURT: MS. BECK, THE SAME QUESTION, THE SOURCE
23 OF YOUR INFORMATION, PLEASE.

24 JUROR: THE NEWSPAPER, BOTH.

25 THE COURT: RECENTLY AND IN THE PAST ALSO?

1 JUROR: YES.

2 THE COURT: WOULD THAT EXPERIENCE OF BEING EXPOSED TO
3 WHATEVER YOU HAVE READ IN THE NEWSPAPER, BASED ON THAT
4 HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE ISSUES
5 IN THIS CASE?

6 JUROR: NO, SIR.

7 THE COURT: DO YOU FEEL LIKE YOU COULD SET ASIDE
8 WHATEVER IT IS YOU HAVE BEEN EXPOSED TO AND MAKE A
9 DECISION BASED ONLY ON THE EVIDENCE HERE IN THE COURTROOM?

10 JUROR: YES, SIR.

11 THE COURT: YOU MAY HAVE A SEAT, MS. BECK, NUMBER 8.
12 YES, SIR.

13 JUROR: 129. GREGORY JENNINGS, NEWSPAPER AND NIGHTLY
14 NEWS.

15 THE COURT: AND HAS THAT BEEN RECENTLY OR IN THE PAST
16 OR BOTH?

17 JUROR: BOTH.

18 THE COURT: BASED ON WHAT YOU HAVE BEEN EXPOSED TO,
19 DO YOU FEEL LIKE YOU HAVE FORMED OR EXPRESSED ANY OPINION
20 AS TO THE ISSUES IN THIS CASE?

21 JUROR: NO, SIR.

22 THE COURT: DO YOU FEEL LIKE YOU COULD BE FAIR AND
23 UNBIASED TO BOTH THE STATE AND TO THE DEFENDANT IN THIS
24 CASE IF YOU ARE SELECTED?

25 JUROR: YES.

1 THE COURT: BASED ON THAT RESPONSE YOU MAY HAVE A
2 SEAT. YOUR NAME.

3 JUROR: ANGELA RITTER, 211.

4 THE COURT: MS. RITTER, THE SOURCE OF YOUR
5 INFORMATION?

6 JUROR: NEWSPAPER AND INTERNET AND NIGHTLY NEWS.

7 THE COURT: BASED ON WHAT YOU HAVE READ AND SEEN AND
8 HEARD, DO YOU FEEL LIKE YOU HAVE FORMED OR EXPRESSED AN
9 OPINION AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT
10 IN THIS CASE?

11 JUROR: NO, I DO NOT.

12 THE COURT: DO YOU FEEL LIKE YOU CAN IGNORE AND TO
13 SET ASIDE ANYTHING THAT YOU HAVE BEEN EXPOSED TO AND MAKE
14 A DECISION BASED ONLY ON THE EVIDENCE PRESENTED HERE IN
15 THE COURTROOM?

16 JUROR: YES, SIR.

17 THE COURT: YOU MAY HAVE A SEAT. YES, SIR.

18 JUROR: 55.

19 THE COURT: JOHN CONRAD.

20 JUROR: YES.

21 THE COURT: THE SOURCE OF YOUR INFORMATION?

22 JUROR: STATE NEWSPAPER, RECENTLY.

23 THE COURT: ALL RIGHT. RECENTLY YOU SAY?

24 JUROR: YES, SIR.

25 THE COURT: BASED ON WHAT YOU HAVE BEEN EXPOSED TO DO

1 YOU FEEL LIKE YOU HAVE FORMED OR EXPRESSED ANY OPINION AS
2 TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT?

3 JUROR: NO, SIR.

4 THE COURT: DO YOU FEEL LIKE YOU CAN SET ASIDE THAT
5 EXPOSURE AND MAKE A DECISION BASED SOLELY ON THE EVIDENCE
6 HERE IN THE COURTROOM?

7 JUROR: YES, SIR.

8 THE COURT: YOU MAY HAVE A SEAT, MR. CONRAD. YOUR
9 NAME, PLEASE, SIR.

10 JUROR: ERNEST FROST, NUMBER 90.

11 THE COURT: AND THE SAME QUESTION, THE SOURCE OF YOUR
12 INFORMATION.

13 JUROR: THE NEWSPAPER AND THE NIGHTLY NEWS.

14 THE COURT: AND HAS THAT BEEN RECENTLY OR IN THE PAST
15 OR BOTH.

16 JUROR: IN THE PAST.

17 THE COURT: IN THE PAST?

18 JUROR: RIGHT.

19 THE COURT: HAS THAT EXPOSURE IN ANY WAY CAUSED YOU
20 TO FORM OR EXPRESS AN OPINION AS TO THE DEFENDANT'S GUILT
21 OR INNOCENCE IN THIS CASE?

22 JUROR: YES, I HAVE AN OPINION.

23 THE COURT: ALL RIGHT, SIR. THEN BASED ON THAT I
24 WILL ASK YOU TO HAVE A SEAT, WE WILL EXCUSE YOU FROM THE
25 TRIAL OF THIS CASE. YOU ARE EXCUSED, YOU CAN GO AHEAD AND

1 STEP OUT. THANK YOU. YOUR NAME, PLEASE, SIR.

2 JUROR: 265, LEE UMBARGER.

3 THE COURT: MR. UMBARGER, CAN YOU TELL ME THE SOURCE
4 OF YOUR INFORMATION ALSO, PLEASE, SIR.

5 JUROR: THE SUNDAY PAPER.

6 THE COURT: MR. UMBARGER, BASED ON ONE OF THE
7 RESPONSES ON THE QUESTIONNAIRE THAT YOU MAILED BACK, IN
8 DISCUSSING THAT WITH THE ATTORNEYS I AM GOING TO EXCUSE
9 YOU FROM THE TRIAL OF THIS CASE. THAT IS NUMBER 265.
10 YOUR NAME, PLEASE, SIR.

11 JUROR: 237, JAMES SMITH.

12 THE COURT: MR. SMITH, THE SOURCE OF YOUR
13 INFORMATION, PLEASE.

14 JUROR: THE STATE NEWSPAPER, PAST AND PRESENT.

15 THE COURT: PAST AND PRESENT. HAVE YOU FORMED OR
16 EXPRESSED ANY OPINION AS TO THE DEFENDANT'S GUILT OR
17 INNOCENCE BASED ON THAT.

18 JUROR: YES, I SURE HAVE.

19 THE COURT: DO YOU FEEL LIKE THAT WOULD AFFECT YOUR
20 ABILITY TO BE FAIR AND IMPARTIAL?

21 JUROR: YES, SIR.

22 THE COURT: ALL RIGHT, I WILL EXCUSE YOU FROM THE
23 TRIAL OF THIS CASE. YOU CAN GO AHEAD AND LEAVE, NUMBER
24 237. YOUR NAME.

25 JUROR: 278, MARLENE WEST.

1 THE COURT: MS. WEST, THE SOURCE OF YOUR INFORMATION.

2 JUROR: THE STATE PAPER.

3 THE COURT: IN THE PAST OR PRESENT OR IN THE RECENT
4 PAST?

5 JUROR: THE PAST.

6 THE COURT: THE PAST. HAS THAT CAUSED YOU TO FORM OR
7 EXPRESS ANY OPINION AS TO THE GUILT OR THE INNOCENCE OF
8 THE DEFENDANT?

9 JUROR: NO, SIR.

10 THE COURT: DO YOU FEEL LIKE YOU CAN SET ASIDE AND
11 IGNORE WHATEVER EXPOSURE YOU HAD TO THAT MEDIA COVERAGE
12 AND MAKE A DECISION BASED ONLY ON THE EVIDENCE IN THIS
13 CASE?

14 JUROR: YES, SIR.

15 THE COURT: HAVE A SEAT, NUMBER 278. YOUR NAME,
16 PLEASE.

17 JUROR: 182, HAROLD NUTTALL.

18 THE COURT: MR. NUTTALL, THE SAME QUESTION. THE
19 SOURCE OF YOUR INFORMATION?

20 JUROR: THE STATE PAPER.

21 THE COURT: BASED ON WHATEVER YOU HAVE BEEN EXPOSED
22 TO HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE GUILT
23 OR THE INNOCENCE IN THIS CASE FOR THE DEFENDANT?

24 JUROR: NO, SIR.

25 THE COURT: YOU FEEL LIKE YOU CAN IGNORE WHAT YOU

1 HAVE READ OR SEEN OR HEARD AND MAKE A DECISION BASED
2 SOLELY ON THE EVIDENCE IN THIS CASE?

3 JUROR: YES, SIR.

4 THE COURT: YOU MAY HAVE A SEAT, NUMBER 182. YOUR
5 NAME, PLEASE.

6 JUROR: 183, PAMELA NYKAMP.

7 THE COURT: THE SAME QUESTION, THE SOURCE?

8 JUROR: THE STATE NEWSPAPER AND THE INTERNET.

9 THE COURT: AND BASED ON WHAT YOU HAVE READ OR SEEN
10 OR HEARD HAVE YOU FORMED OR EXPRESSED ANY OPINIONS AS TO
11 THE GUILT OR THE INNOCENCE OF THE DEFENDANT?

12 JUROR: YES, I HAVE.

13 THE COURT: DO YOU HAVE, DO YOU FEEL LIKE THAT WOULD
14 INFLUENCE YOUR DECISION?

15 JUROR: YES, I DO.

16 THE COURT: BASED ON THAT YOU ARE EXCUSED FROM THE
17 CASE, YOU CAN GO AHEAD AND LEAVE. YOUR NAME, PLEASE.

18 JUROR: 44, EVELYN CHANDLER.

19 THE COURT: MS. CHANDLER, THE SAME QUESTION, THE
20 SOURCE OF YOUR INFORMATION?

21 JUROR: THE NEWSPAPER A LONG TIME AGO AND AFTER I
22 RECEIVED THE QUESTIONNAIRE I CHOSE NOT TO READ ANYTHING IN
23 THE PAPER ABOUT THE CASE.

24 THE COURT: DO YOU FEEL THAT BASED ON WHAT YOU READ A
25 LONG TIME AGO THAT THAT HAS INFLUENCED OR HAVE YOU FORMED

1 OR EXPRESSED ANY OPINION AS TO THE GUILT OR THE INNOCENCE
2 OF THE DEFENDANT IN THE CASE?

3 JUROR: NO, SIR.

4 THE COURT: DO YOU FEEL LIKE YOU CAN IGNORE WHATEVER
5 YOU HAVE BEEN EXPOSED TO AND MAKE THE DECISION BASED ONLY
6 ON THE EVIDENCE PRESENTED HERE IN THE COURTROOM?

7 JUROR: YES, SIR.

8 THE COURT: YOU MAY HAVE A SEAT, NUMBER 44. YOUR
9 NAME, PLEASE.

10 JUROR: 51, HELEN COFFMAN.

11 THE COURT: MS. COFFMAN, IF YOU CAN TELL ME THE
12 SOURCE OF THE INFORMATION, PLEASE.

13 JUROR: THE NEWSPAPER IN THE PAST.

14 THE COURT: AND NOTHING RECENTLY?

15 JUROR: NO, SIR.

16 THE COURT: BASED ON WHAT YOU HAVE BEEN EXPOSED TO IN
17 THE PAST HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO
18 THE GUILT OR THE INNOCENCE OF THE DEFENDANT IN THIS CASE?

19 JUROR: NO, SIR.

20 THE COURT: DO YOU FEEL LIKE YOU CAN IGNORE WHAT YOU
21 HAVE BEEN EXPOSED TO AND BASE A DECISION ONLY ON THE
22 EVIDENCE PRESENTED HERE IN THE COURTROOM?

23 JUROR: YES, SIR.

24 THE COURT: HAVE A SEAT, PLEASE, THAT IS MS. COFFMAN,
25 NUMBER 51. YOUR NAME, PLEASE.

1 JUROR: 196, JANNIE PHILLIPS.

2 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE.

3 JUROR: NEWSPAPER.

4 THE COURT: IS THAT IN THE PAST OR RECENTLY OR BOTH.

5 JUROR: RECENTLY.

6 THE COURT: RECENTLY. AND BASED ON WHAT YOU HAVE
7 BEEN EXPOSED TO HAVE YOU FORMED OR EXPRESSED ANY OPINION
8 AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT IN THIS
9 CASE?

10 JUROR: NO, SIR.

11 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE WHAT
12 YOU HAVE BEEN EXPOSED TO AND BASE A DECISION SOLELY ON THE
13 EVIDENCE PRESENTED HERE IN THE COURTROOM?

14 JUROR: YES, SIR.

15 THE COURT: THAT IS JUROR NUMBER 196, HAVE A SEAT.
16 YOUR NAME, PLEASE.

17 JUROR: NUMBER 3, SANDRA ASHLEY.

18 THE COURT: AND, MS. ASHLEY, THE SOURCE OF YOUR
19 INFORMATION, PLEASE.

20 JUROR: MEDIA, PRESS AND CONVERSATIONS IN THE PAST
21 AND THE PRESENT.

22 THE COURT: NOW, BASED ON ALL OF THAT DISCUSSION,
23 READING, HEARING ABOUT THE CASE HAVE YOU FORMED OR
24 EXPRESSED ANY OPINION AS TO THE GUILT OR THE INNOCENCE OF
25 THE DEFENDANT IN THIS CASE?

1 JUROR: YES SIR, I HAVE.

2 THE COURT: DO YOU FEEL LIKE THAT EXPOSURE THEN WOULD
3 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

4 JUROR: YES.

5 THE COURT: YOU WILL BE EXCUSED, MS. ASHLEY, NUMBER
6 3. YOUR NAME, PLEASE.

7 JUROR: 258, DAVID TEACHEY.

8 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE.

9 JUROR: STATE NEWSPAPER, RECENTLY.

10 THE COURT: RECENTLY?

11 JUROR: YES, SIR.

12 THE COURT: SUCH AS OVER THE WEEKEND?

13 JUROR: YES, SIR.

14 THE COURT: BASED ON WHAT YOU HAVE READ IN THE
15 NEWSPAPER HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO
16 THE GUILT OR THE INNOCENCE OF THE DEFENDANT?

17 JUROR: NO, SIR.

18 THE COURT: DO YOU FEEL LIKE YOU CAN IGNORE THE
19 EXPOSURE TO THAT MEDIA AND MAKE A DECISION BASED ONLY ON
20 THE EVIDENCE PRESENTED HERE IN THE COURTROOM?

21 JUROR: YES, SIR.

22 THE COURT: HAVE A SEAT. MR. WILSON, IS THAT RIGHT?

23 JUROR: JUROR NUMBER 288.

24 THE COURT: AND THE SOURCE OF YOUR INFORMATION,
25 PLEASE?

1 JUROR: NEWSPAPER, INTERNET, TV.

2 THE COURT: AND HAVE YOU FORMED OR EXPRESSED AN
3 OPINION BASED ON THE EXPOSURE TO THAT MEDIA?

4 JUROR: YES, I HAVE.

5 THE COURT: AND THAT WOULD AFFECT YOUR ABILITY TO BE
6 FAIR AND IMPARTIAL?

7 JUROR: YES, SIR.

8 THE COURT: THEN YOU ARE EXCUSED FROM THE TRIAL OF
9 THIS CASE. YOUR NAME, PLEASE.

10 JUROR: 235, CAROL SMITH.

11 THE COURT: AND THE SOURCE OF YOUR INFORMATION,
12 PLEASE.

13 JUROR: TELEVISION, NEWSPAPER, CONVERSATIONS.

14 THE COURT: AND HAS THAT BEEN IN THE PAST, RECENTLY
15 OR BOTH?

16 JUROR: BOTH.

17 THE COURT: WOULD THE EXPOSURE TO THAT INFORMATION,
18 BASED ON THAT HAVE YOU FORMED OR EXPRESSED ANY OPINION AS
19 TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT IN THE
20 CASE?

21 JUROR: NO, SIR.

22 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE WHAT
23 YOU READ OR SEEN AND HEARD AND TALKED ABOUT AND MAKE A
24 DECISION BASED ON WHAT IS PRESENTED HERE IN THIS
25 COURTROOM?

1 JUROR: YES, SIR.

2 THE COURT: BASED ON THAT IF YOU WILL HAVE A SEAT,
3 MS. SMITH, NUMBER 235. YES, YOUR NAME, PLEASE.

4 JUROR: 279, ANN WESTBROOK.

5 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE.

6 JUROR: TV, NEWSPAPER AND CONTACT WITH A FRIEND OF
7 MINE WHO HAD BUSINESS WITH CAROLINA INVESTORS.

8 THE COURT: AND THE EXPOSURE THAT YOU HAVE HAD, THOSE
9 CONVERSATIONS THAT YOU HAVE HAD, AS A RESULT OF THOSE HAVE
10 YOU FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OR THE
11 INNOCENCE OF THE DEFENDANT?

12 JUROR: YES, SIR.

13 THE COURT: DO YOU FEEL LIKE THAT WOULD AFFECT YOUR
14 ABILITY TO BE FAIR AND IMPARTIAL JUROR?

15 JUROR: YES.

16 THE COURT: YOU WILL BE EXCUSED, THANK YOU FOR BEING
17 HERE, NUMBER 279. YOU CAN LEAVE, MS. WESTBROOK. YOUR
18 NAME, PLEASE.

19 JUROR: 18, MARIANNA BOYCE.

20 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE.

21 JUROR: WHAT EVERYONE HAS TOLD ME.

22 THE COURT: BASED ON WHAT YOU HAVE HEARD AND BEEN
23 EXPOSED TO, HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO
24 THE GUILT OR THE INNOCENCE OF THE ACCUSED IN THIS CASE?

25 JUROR: NO, SIR.

1 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE AND SET
2 ASIDE WHAT YOU HAVE BEEN EXPOSED TO AND MAKE A DECISION
3 BASED SOLELY ON THE EVIDENCE PRESENTED IN THE COURTROOM?

4 JUROR: YES, SIR.

5 THE COURT: YOU MAY HAVE A SEAT, NUMBER 18, MS.
6 BOYCE. YOUR NAME, PLEASE.

7 JUROR: 219, LONZO ROUNTREE.

8 THE COURT: MR. ROUNTREE, THE SOURCE OF YOUR
9 INFORMATION?

10 JUROR: NEWSPAPER IN THE PAST.

11 THE COURT: READ ANYTHING ABOUT IT RECENTLY IN THE
12 PAPER?

13 JUROR: NO, SIR.

14 THE COURT: BASED ON WHAT YOU HAVE READ IN THE PAST
15 HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE
16 DEFENDANT'S GUILT OR INNOCENCE IN THE CASE?

17 JUROR: NO, SIR.

18 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE WHAT
19 YOU HAVE READ AND MAKE A DECISION BASED ONLY ON THE
20 EVIDENCE PRESENTED HERE IN THE COURTROOM?

21 JUROR: YES, SIR.

22 THE COURT: HAVE A SEAT, PLEASE, NUMBER 219, MR.
23 ROUNTREE. YOUR NAME, PLEASE.

24 JUROR: 214, ROBERT RIVERS.

25 THE COURT: MR. RIVERS, THE SOURCE OF YOUR

1 INFORMATION, PLEASE?

2 JUROR: THE NEWSPAPER IN THE PAST.

3 THE COURT: IN THE PAST?

4 JUROR: YES, SIR.

5 THE COURT: BASED ON WHAT YOU READ IN THAT ARTICLE OR
6 THOSE ARTICLES HAVE YOU FORMED OR EXPRESSED AN OPINION AS
7 TO THE INNOCENCE OR GUILT OF THE DEFENDANT IN THIS CASE?

8 JUROR: NO, I HAVE NOT.

9 THE COURT: YOU FEEL LIKE YOU COULD IGNORE THAT
10 INFORMATION AND MAKE A DECISION BASED ONLY WHAT IS
11 PRESENTED HERE IN THIS COURTROOM?

12 JUROR: YES, SIR.

13 THE COURT: MR. RIVERS, HAVE A SEAT, PLEASE, NUMBER
14 214. YOUR NAME.

15 JUROR: 126, STACY JAMES.

16 THE COURT: THE SOURCE OF YOUR INFORMATION?

17 JUROR: NIGHTLY NEWS.

18 THE COURT: AND IN THE PAST?

19 JUROR: SEVERAL MONTHS AGO.

20 THE COURT: SEVERAL MONTHS AGO. BASED ON WHAT YOU
21 HEARD OR SAW ON TELEVISION HAVE YOU FORMED OR EXPRESSED AN
22 OPINION AS TO THE INNOCENCE OR THE GUILT OF THE ACCUSED IN
23 THIS CASE?

24 JUROR: NO, SIR.

25 THE COURT: YOU FEEL LIKE YOU COULD IGNORE THAT

1 INFORMATION AND MAKE A DECISION BASED ON THE EVIDENCE
2 PRESENTED IN COURT?

3 JUROR: YES, SIR.

4 THE COURT: HAVE A SEAT, NUMBER 126. YOUR NAME,
5 PLEASE.

6 JUROR: 263, MARILA TURBYFILL.

7 THE COURT: AND, MS. TURBYFILL, THE SOURCE OF YOUR
8 INFORMATION?

9 JUROR: NEWSPAPER, RADIO, CONVERSATIONS.

10 THE COURT: BASED ON THOSE SOURCES OF INFORMATION,
11 HAVE YOU FORMED OR EXPRESSED AN OPINION IN THIS CASE?

12 JUROR: YES, SIR.

13 THE COURT: DO YOU FEEL LIKE THAT WOULD AFFECT YOUR
14 ABILITY TO BE FAIR AND IMPARTIAL, THEN?

15 JUROR: YES.

16 THE COURT: YOU ARE EXCUSED, NUMBER 263, THANK YOU
17 FOR BEING HERE. YOUR NAME, PLEASE.

18 JUROR: MARLA SLIGH, 233.

19 THE COURT: THE SOURCE OF YOUR INFORMATION?

20 JUROR: THE STATE NEWSPAPER, RECENT AND IN THE PAST.

21 THE COURT: HAVE THE ARTICLES THAT YOU HAVE READ
22 CAUSED YOU TO FORM ANY OPINION, HAVE YOU FORMED OR
23 EXPRESSED ANY OPINION AS TO THE DEFENDANT'S GUILT OR
24 INNOCENCE IN THIS CASE?

25 JUROR: NO, SIR.

1 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE AND
2 FORGET ABOUT WHATEVER YOU HAVE BEEN EXPOSED TO AND MAKE A
3 DECISION BASED SOLELY ON THE EVIDENCE PRESENTED IN THE
4 COURTROOM?

5 JUROR: YES, SIR.

6 THE COURT: HAVE A SEAT, NUMBER 233. YOUR NAME,
7 PLEASE.

8 JUROR: 100, JAMES GROSSMAN.

9 THE COURT: THE SOURCE OF YOUR INFORMATION, MR.
10 GROSSMAN.

11 JUROR: STATE NEWSPAPER RECENTLY.

12 THE COURT: BASED ON WHAT YOU READ HAVE YOU FORMED OR
13 EXPRESSED ANY OPINION AS TO THE ACCUSED OF THE GUILT OR
14 THE INNOCENCE IN THIS CASE?

15 JUROR: NO, YOUR HONOR.

16 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE THAT
17 INFORMATION AND BASE THE DECISION ONLY ON THE EVIDENCE
18 PRESENTED IN THE COURTROOM?

19 MR. MYRICK: YES, YOUR HONOR.

20 THE COURT: HAVE A SEAT, PLEASE, MR. GROSSMAN, NUMBER
21 100. YOUR NAME, PLEASE.

22 JUROR: JOYE MANN, 155.

23 THE COURT: AND THE SOURCE OF YOUR INFORMATION,
24 PLEASE.

25 JUROR: THE NEWSPAPER AND NIGHTLY NEWS.

1 THE COURT: BASED ON WHAT YOU HAVE BEEN EXPOSED TO
2 HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE ACCUSED
3 GUILT OR INNOCENCE IN THIS CASE?

4 JUROR: NO, SIR.

5 THE COURT: YOU FEEL LIKE YOU COULD IGNORE AND SET
6 ASIDE WHATEVER YOU HAVE BEEN EXPOSED TO AND MAKE A
7 DECISION BASED ON THE EVIDENCE IN THIS CASE?

8 JUROR: YES, SIR.

9 THE COURT: HAVE A SEAT, NUMBER 155. YOUR NAME,
10 PLEASE.

11 JUROR: BEATTA BIRDSONG, NUMBER 12.

12 THE COURT: MS. BIRDSONG, I WAS GOING TO TALK TO YOU
13 LATER ON IN A PROCESS THAT WE WILL BE GOING THROUGH. BUT
14 SINCE YOU HAVE ALREADY RESPONDED I AM GOING TO GO AHEAD
15 AND EXCUSE YOU FROM THIS CASE. THANK YOU VERY MUCH, YOU
16 ARE EXCUSED. THANK YOU. YOUR NAME, PLEASE.

17 JUROR: 277, WANDA WELCH.

18 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE.

19 JUROR: NEWSPAPER, TV AND CONVERSATIONS.

20 THE COURT: AND BASED ON THE EXPOSURE TO THOSE
21 CONVERSATIONS AND WHAT YOU HAVE SEEN AND READ ABOUT THE
22 CASE HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE
23 ACCUSED GUILT OR INNOCENCE IN THIS CASE?

24 JUROR: YES, SIR.

25 THE COURT: YOU FEEL LIKE THAT WOULD INFLUENCE AND

1 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

2 JUROR: YES, SIR.

3 THE COURT: YOU ARE EXCUSED, THANK YOU FOR BEING
4 HERE, 277. YOUR NAME, PLEASE.

5 JUROR: 122, SILAS INABINET.

6 THE COURT: THE SOURCE OF YOUR INFORMATION.

7 JUROR: NEWSPAPER, RECENTLY AND THE PAST.

8 THE COURT: AND IN THE PAST?

9 JUROR: YES, SIR.

10 THE COURT: AND BASED ON THE EXPOSURE TO THOSE
11 CONVERSATIONS AND WHAT YOU HAVE READ HAVE YOU FORMED OR
12 EXPRESSED ANY OPINION AS TO THE ACCUSED GUILT OR INNOCENCE
13 IN THIS CASE?

14 JUROR: NO, SIR.

15 THE COURT: DO YOU FEEL LIKE YOU CAN SET ASIDE AND
16 IGNORE WHATEVER YOU HAVE BEEN EXPOSED TO AND BASE THE
17 DECISION ONLY ON THE EVIDENCE PRESENTED HERE IN THIS
18 COURTROOM?

19 JUROR: YES, SIR.

20 THE COURT: NUMBER 122, HAVE A SEAT. YOUR NAME,
21 PLEASE.

22 JUROR: 56, HOWARD COOK.

23 THE COURT: MR. COOK, THE SOURCE OF YOUR INFORMATION,
24 PLEASE?

25 JUROR: NEWSPAPER, RECENTLY.

1 THE COURT: BASED ON WHAT YOU HAVE READ IN THE
2 NEWSPAPER RECENTLY HAVE YOU FORMED OR EXPRESSED AN OPINION
3 AS TO THE DEFENDANT'S GUILT OR INNOCENCE IN THIS CASE?

4 JUROR: I HAVE.

5 THE COURT: DO YOU FEEL LIKE THAT WOULD AFFECT YOUR
6 ABILITY TO BE FAIR AND IMPARTIAL?

7 JUROR: YES, SIR.

8 THE COURT: YOU ARE EXCUSED, NUMBER 56. YOUR NAME,
9 PLEASE.

10 JUROR: 280, JAMES WIETERS.

11 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE?

12 JUROR: NEWSPAPER, BOTH.

13 THE COURT: IN THE PAST AND RECENTLY?

14 JUROR: YES.

15 THE COURT: BASED ON WHAT YOU HAVE READ ABOUT THE
16 CASE HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO THE
17 ACCUSED GUILT OR INNOCENCE IN THIS CASE?

18 JUROR: NO.

19 THE COURT: YOU FEEL LIKE YOU COULD IGNORE AND SET
20 ASIDE WHATEVER YOU HAVE READ AND BEEN EXPOSED TO AND MAKE
21 A DECISION BASED ONLY ON THE EVIDENCE PRESENTED HERE?

22 JUROR: YES, SIR.

23 THE COURT: YOU CAN HAVE A SEAT, NUMBER 280, MR.
24 WIETERS. YOUR NAME, PLEASE.

25 JUROR: 92, WENDELL FURTICK.

1 THE COURT: MR. FURTICK, WHEN I FINISH ALL OF THESE
2 QUESTIONS, THERE WERE SOME BASED ON RESPONSES IN THE
3 QUESTIONNAIRE THAT I WAS GOING TO TALK TO YOU FURTHER.
4 BASED ON THOSE RESPONSES I AM GOING TO GO AHEAD AND EXCUSE
5 YOU. THANK YOU FOR BEING HERE, THAT IS NUMBER 92, MR.
6 FURTICK. YOUR NAME, PLEASE.

7 JUROR: 137, JAMES JUDY.

8 THE COURT: THE SOURCE OF YOUR INFORMATION, MR. JUDY?

9 JUROR: PAPER.

10 THE COURT: HAVE YOU FORMED OR EXPRESSED AN OPINION
11 BASED ON THAT EXPOSURE AS TO THE GUILT OR THE INNOCENCE OF
12 THE ACCUSED?

13 JUROR: YES, SIR.

14 THE COURT: DO YOU FEEL LIKE THAT EXPOSURE THEN WOULD
15 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

16 JUROR: YES, SIR.

17 THE COURT: YOU ARE EXCUSED, MR. JUDY, THAT IS 137.
18 YOUR NAME, PLEASE.

19 JUROR: 61, SARAH CROUCH.

20 THE COURT: THE SOURCE OF YOUR INFORMATION?

21 JUROR: I HAVE NOT READ ANYTHING RECENTLY.

22 THE COURT: WHAT ABOUT IN THE PAST?

23 JUROR: A LONG TIME AGO.

24 THE COURT: BASED ON WHAT YOU DID READ AT THAT TIME
25 IN THE PAST HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO

1 THE ACCUSED GUILT OR INNOCENCE?

2 JUROR: NO, SIR.

3 THE COURT: DO YOU FEEL LIKE YOU COULD SET THAT ASIDE
4 AND MAKE A DECISION BASED ONLY ON THE EVIDENCE PRESENTED
5 HERE?

6 JUROR: CERTAINLY.

7 THE COURT: THAT IS MS. CROUCH, NUMBER 61. YOUR
8 NAME, PLEASE.

9 JUROR: NUMBER 16, GEORGES BOURRET.

10 THE COURT: AND THE SOURCE OF YOUR INFORMATION,
11 PLEASE.

12 JUROR: NEWSPAPER, PAST AND PRESENT.

13 THE COURT: AND HAVE YOU FORMED OR EXPRESSED AN
14 OPINION BASED ON THAT EXPOSURE TO THE ACCUSED OF THE GUILT
15 OR INNOCENCE?

16 JUROR: NO, SIR.

17 THE COURT: YOU FEEL LIKE YOU COULD IGNORE AND SET
18 THAT INFORMATION ASIDE AND MAKE A DECISION BASED ONLY ON
19 THE EVIDENCE PRESENTED HERE?

20 JUROR: YES, SIR.

21 THE COURT: HAVE A SEAT, NUMBER 16. YOUR NAME,
22 PLEASE.

23 JUROR: 232, FRANKLIN SKINNER.

24 THE COURT: THE SOURCE OF YOUR INFORMATION.

25 JUROR: NEWSPAPER HEADLINES, I DID NOT READ THE

1 ARTICLE.

2 THE COURT: BASED ON WHATEVER EXPOSURE THAT DID BRING
3 TO YOU, DID YOU FORM OR EXPRESS AN OPINION AS TO THE
4 ACCUSED GUILT OR INNOCENCE?

5 JUROR: NO, SIR.

6 THE COURT: YOU FEEL LIKE YOU CAN SET ANY EXPOSURE
7 ASIDE AND MAKE A DECISION BASED ONLY ON THE EVIDENCE
8 PRESENTED HERE IN THIS COURTROOM?

9 JUROR: YES, SIR.

10 THE COURT: THAT IS 232, MR. SKINNER. YOUR NAME.

11 JUROR: 26, RICHARD BULLARD.

12 THE COURT: MR. BULLARD, THE SOURCE OF YOUR
13 INFORMATION, PLEASE.

14 JUROR: PAST AND PRESENT ON THE NEWSPAPER.

15 THE COURT: AND BASED ON WHAT YOU READ IN THE PAPER
16 DID YOU FORM OR EXPRESS AN OPINION OF THE ACCUSED, GUILT
17 OR INNOCENCE?

18 JUROR: NO, YOUR HONOR.

19 THE COURT: YOU FEEL LIKE YOU COULD IGNORE AND SET
20 THAT ASIDE AND MAKE A DECISION BASED ON THE EVIDENCE IN
21 THIS CASE?

22 JUROR: THAT'S CORRECT, YOUR HONOR.

23 THE COURT: HAVE A SEAT, THAT IS NUMBER 26. YOUR
24 NAME, PLEASE.

25 JUROR: NUMBER 10, MARION BENENHALEY.

1 THE COURT: AND THE SOURCE OF YOUR INFORMATION,
2 PLEASE.

3 JUROR: NEWSPAPER.

4 THE COURT: HAVE YOU FORMED OR EXPRESSED AN OPINION
5 AS TO THE GUILT OR THE INNOCENCE OF THE DEFENDANT?

6 JUROR: NO, SIR.

7 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE THAT
8 INFORMATION, SET IT ASIDE AND MAKE A DECISION BASED ONLY
9 ON THE EVIDENCE HERE IN THE COURTROOM?

10 JUROR: YES, SIR.

11 THE COURT: YOU MAY HAVE A SEAT, THAT IS NUMBER 10.
12 YOUR NAME, PLEASE.

13 JUROR: 138, ANN KAMKE.

14 THE COURT: THE SOURCE OF YOUR INFORMATION?

15 JUROR: NEWSPAPER.

16 THE COURT: RECENTLY, IN THE PAST OR BOTH?

17 JUROR: IN THE PAST.

18 THE COURT: AND BASED ON WHAT YOU HAVE BEEN EXPOSED
19 TO HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE
20 DEFENDANT'S GUILT OR INNOCENCE OF THE CASE?

21 JUROR: YES, I HAVE.

22 THE COURT: DO YOU FEEL LIKE THAT WOULD THEN AFFECT
23 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

24 JUROR: YES, I DO.

25 THE COURT: YOU ARE EXCUSED, THANK YOU FOR BEING

1 HERE, THAT IS NUMBER 138. YOUR NAME, PLEASE.

2 JUROR: 272, CRYSTAL WALLACE.

3 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE.

4 JUROR: THE STATE NEWSPAPER AND CONVERSATIONS.

5 THE COURT: AND BASED ON THOSE CONVERSATIONS AND WHAT
6 YOU HAVE READ HAVE YOU FORMED OR EXPRESSED AN OPINION IN
7 THIS CASE?

8 JUROR: UNFORTUNATELY I HAVE.

9 THE COURT: AND YOU FEEL LIKE THAT WOULD INTERFERE
10 WITH YOUR ABILITY TO BE FAIR AND IMPARTIAL?

11 JUROR: YES, I DO.

12 THE COURT: YOU ARE EXCUSED, THAT IS 272, THANK YOU.
13 YOUR NAME, PLEASE.

14 JUROR: CARLTON ROBINSON, NUMBER 215.

15 THE COURT: THE SOURCE OF YOUR INFORMATION?

16 JUROR: PAPER, TV AND HEARD CONVERSATIONS AT WORK AT
17 A SOCIAL SETTING IN THE PAST.

18 THE COURT: BASED ON THOSE CONVERSATIONS, WHAT YOU
19 HAVE READ AND SEEN IN THE NEWSPAPER AND ON TELEVISION,
20 HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE
21 DEFENDANT'S INNOCENCE OR GUILT IN THIS CASE?

22 JUROR: NO.

23 THE COURT: DO YOU FEEL LIKE YOU COULD IGNORE AND SET
24 WHATEVER EXPOSURE YOU HAVE HAD ASIDE AND MAKE A DECISION
25 BASED ONLY ON THE EVIDENCE PRESENTED HERE IN THE

1 COURTROOM?

2 JUROR: YES.

3 THE COURT: YOU MAY HAVE A SEAT, THAT IS 215, MR.
4 ROBINSON. YOUR NAME, PLEASE.

5 JUROR: JAMES CARLISLE, 36.

6 THE COURT: THE SOURCE OF YOUR INFORMATION, MR.
7 CARLISLE.

8 JUROR: TELEVISION AND NEWSPAPER.

9 THE COURT: BASED ON ALL OF THAT HAVE YOU FORMED OR
10 EXPRESSED AN OPINION AS TO THE DEFENDANT'S INNOCENCE OR
11 GUILT IN THE CASE?

12 JUROR: YES SIR, I HAVE.

13 THE COURT: DO YOU FEEL LIKE THAT WOULD INTERFERE
14 WITH YOUR ABILITY TO BE FAIR AND IMPARTIAL?

15 JUROR: YES, SIR.

16 THE COURT: ALL RIGHT, YOU ARE EXCUSED FROM THE TRIAL
17 OF THIS CASE, MR. CARLISLE, YOU MAY LEAVE, 36. NEXT,
18 PLEASE, SIR.

19 JUROR: NUMBER 300, DOMINIC ZIANE.

20 THE COURT: YOU ARE THE LAST PERSON ON MY LIST. THE
21 SOURCE OF YOUR INFORMATION, PLEASE, SIR.

22 JUROR: PAPER, TELEVISION AND CONVERSATIONS FROM THE
23 PAST AND PRESENT.

24 THE COURT: BASED ON WHAT YOU HAVE BEEN EXPOSED TO
25 HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE ACCUSED

1 GUILT OR INNOCENCE IN THIS CASE?

2 JUROR: YES SIR, I HAVE.

3 THE COURT: AND YOU FEEL THAT THAT EXPOSURE WOULD
4 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

5 JUROR: YES SIR, I DO.

6 THE COURT: YOU ARE EXCUSED FROM THIS TRIAL, THANK
7 YOU FOR BEING HERE, 300. YOUR NAME, PLEASE, SIR.

8 JUROR: 292, JASON WISE.

9 THE COURT: YOUR SOURCE OF INFORMATION, PLEASE.

10 JUROR: TELEVISION, CONVERSATIONS, NEWSPAPER.

11 THE COURT: HAVE YOU FORMED OR EXPRESSED AN OPINION
12 AS TO THE ACCUSED GUILT OR INNOCENCE BASED ON THAT
13 EXPOSURE?

14 JUROR: YES, SIR.

15 THE COURT: YOU FEEL LIKE THEN THAT WOULD AFFECT YOUR
16 ABILITY TO BE FAIR AND IMPARTIAL?

17 JUROR: YES, SIR.

18 THE COURT: YOU ARE EXCUSED, MR. WISE, NUMBER 292.
19 NEXT, PLEASE, MA'AM.

20 JUROR: 33, DONNA CAMPBELL.

21 THE COURT: THE SOURCE OF YOUR INFORMATION, PLEASE.

22 JUROR: NEWSPAPER, CONVERSATIONS.

23 THE COURT: AND WOULD THE EXPOSURE TO THE NEWSPAPER
24 AND THOSE CONVERSATIONS, BASED ON THAT HAVE YOU FORMED OR
25 EXPRESSED AN OPINION OF THE DEFENDANT'S GUILT OR INNOCENCE

1 IN THIS CASE?

2 JUROR: YES, SIR.

3 THE COURT: AND YOU FEEL LIKE THAT WOULD AFFECT YOUR
4 ABILITY TO BE FAIR AND IMPARTIAL?

5 JUROR: YES, SIR.

6 THE COURT: YOU ARE EXCUSED, NUMBER 33. WE HAVE GOT
7 ONE MAN STANDING, YOUR NAME AND NUMBER, PLEASE.

8 JUROR: 271, TIMOTHY WALKER.

9 THE COURT: YOUR SOURCE OF INFORMATION.

10 JUROR: CONVERSATIONS WITH PEOPLE.

11 THE COURT: [#]AS A RESULT OF THOSE CONVERSATIONS HAVE
12 YOU FORMED OR EXPRESSED AN OPINION AS THE ACCUSED GUILT OR
13 INNOCENCE?

14 JUROR: YES, SIR.

15 THE COURT: SO THOSE CONVERSATIONS WOULD AFFECT YOUR
16 ABILITY TO BE FAIR AND IMPARTIAL?

17 JUROR: YES.

18 THE COURT: YOU ARE EXCUSED FROM THE TRIAL OF THIS
19 CASE, MR. WALKER. AS YOU FOLKS HAVE ALREADY SEEN, BASED
20 ON SOME QUESTIONS THAT HAVE ALREADY BEEN ASKED, THERE HAVE
21 BEEN SOME INDIVIDUALS WHO HAVE BEEN EXCUSED FROM JURY
22 SERVICE. IS THERE ANY MEMBER OF THE JURY PANEL WHO IS
23 STILL HERE WHO IS SENSITIVE TO OR AWARE OF ANY BIASED OR
24 PREJUDICED THAT YOU MIGHT HAVE THAT WOULD PREVENT YOU FROM
25 BEING A FAIR AND IMPARTIAL JUROR. IF SO, WOULD YOU PLEASE

1 STAND. COME UP AND LET ME TALK WITH YOU PRIVATELY.
2 COUNSEL, YA'LL MAY STEP UP ALSO.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH A JUROR
4 IN THE PRESENCE OF THE JURY PANEL BUT OUT OF THE
5 HEARING OF THE JURY PANEL.)

6 THE COURT: JUROR 205 WILL BE EXCUSED FROM THE TRIAL
7 OF THIS CASE. DID ANYONE ELSE RESPOND TO THAT QUESTION.

8 (NO RESPONSE.)

9 THE COURT: EARLIER TODAY I READ YOU A LONG LIST OF
10 POTENTIAL WITNESSES IN THE CASE AND I ASKED YOU ABOUT
11 RELATIONSHIPS WITH THOSE INDIVIDUALS. IF ANYONE ON THE
12 JURY PANEL IS RELATED BY BLOOD OR CONNECTED BY MARRIAGE TO
13 ANY OF THE ATTORNEYS INVOLVED IN THE CASE OR IF YOU ARE
14 CURRENTLY OR IN THE PAST BEEN REPRESENTED BY ANY OF THE
15 ATTORNEYS INVOLVED IN THE CASE OR IF YOU HAVE ANY KIND OF
16 OTHER BUSINESS, PERSONAL OR SOCIAL RELATIONSHIP WITH ANY
17 OF THE ATTORNEYS IN THE CASE WOULD YOU PLEASE STAND.

18 (NO RESPONSE.)

19 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
20 RECOGNIZES ANY OTHER MEMBER OF THE JURY PANEL WOULD YOU
21 STAND FOR ME, PLEASE. I ASKED THAT ONE TIME BECAUSE I HAD
22 A HUSBAND AND WIFE ON THE SAME JURY PANEL AND I NEED TO
23 FIND OUT. WHO IS IT, PLEASE, SIR. WHAT IS YOUR NAME AND
24 NUMBER.

25 JUROR: 249, JAMES STILES.

1 THE COURT: ALL RIGHT, SIR. AND CAN YOU TELL ME WHO
2 IT IS YOU RECOGNIZE ON THE PANEL.

3 JUROR: I RECOGNIZE FRANK SKINNER, I WORK WITH HIS
4 WIFE.

5 THE COURT: KNOWING THOSE PEOPLE, IS THAT IN ANY WAY
6 GOING TO AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

7 JUROR: NO, SIR.

8 THE COURT: YOU MAY HAVE A SEAT, THANK YOU. YOUR
9 NAME AND NUMBER, PLEASE.

10 JUROR: I AM NUMBER 240, ROSLYN SMITH.

11 THE COURT: "IF YOU WILL TELL, MS. SMITH, WHO IT IS.

12 JUROR: I RECOGNIZE FRANK SKINNER AND JAMES CHANDLER.

13 THE COURT: ALL RIGHT, AND RECOGNIZING THEM, WOULD
14 THAT IN ANY WAY AFFECT YOUR ABILITY TO BE A FAIR AND
15 IMPARTIAL JUROR?

16 JUROR: NO, SIR.

17 THE COURT: THANK YOU. THAT IS NUMBER 240. YOUR
18 NAME.

19 JUROR: 35, GAYLE CANNON.

20 THE COURT: AND, MS. CANNON, CAN YOU TELL ME WHO.

21 JUROR: CAROL ANDERSON, SHE TAUGHT MY DAUGHTER.

22 THE COURT: AND KNOWING THAT PERSON, IS THAT IN ANY
23 WAY GOING TO AFFECT YOUR ABILITY TO BE A FAIR AND
24 IMPARTIAL JUROR?

25 JUROR: NO, SIR.

1 THE COURT: THANK YOU, MS. CANNON, YOU MAY HAVE A
2 SEAT. YOUR NAME, PLEASE.

3 JUROR: 113, SHEILA HOFFMAN. I RECOGNIZE FRANK
4 SKINNER.

5 THE COURT: AND RECOGNIZING HIM, IF YOU HAPPEN TO BE
6 ON THE SAME JURY WOULD THAT IN ANY WAY AFFECT YOUR ABILITY
7 TO BE FAIR AND IMPARTIAL?

8 JUROR: NO, SIR.

9 THE COURT: YOU ARE MR. SKINNER, IS THAT RIGHT. ANY
10 OF THOSE WHO SAY THEY RECOGNIZE YOU, MR. SKINNER, ANYONE
11 ELSE THAT YOU RECOGNIZE?

12 JUROR: DAVID DAVIS.

13 THE COURT: AND RECOGNIZING HIM, WOULD THAT AFFECT
14 YOUR ABILITY TO BE FAIR AND IMPARTIAL?

15 JUROR: NO, SIR.

16 THE COURT: YES, MA'AM.

17 JUROR: NUMBER 2, CAROL ANDERSON. I RECOGNIZE HER, I
18 TAUGHT HER DAUGHTER.

19 THE COURT: YA'LL RECOGNIZE EACH OTHER. WOULD THAT
20 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

21 JUROR: NO, SIR.

22 THE COURT: THANK YOU, YOU MAY HAVE A SEAT. YES,
23 MA'AM.

24 JUROR: EVELYN CHANDLER, 44. ROSALYN SMITH.

25 THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR

1 AND IMPARTIAL IN THIS CASE?

2 JUROR: NO, SIR.

3 THE COURT: YOUR NAME.

4 JUROR: NUMBER 96, DANA GOODWIN. FRANK SKINNER.

5 THE COURT: DOES THAT AFFECT YOUR ABILITY TO BE FAIR
6 AND IMPARTIAL?

7 JUROR: NO, SIR.

8 THE COURT: NEXT, PLEASE.

9 JUROR: 18, MARIANNA BOYCE. I RECOGNIZE HER.

10 THE COURT: YOU RECOGNIZE THE LADY SITTING BESIDE
11 YOU?

12 JUROR: YES, I HAVE DISCOVERED A RELATIVE.

13 THE COURT: IS THAT GOING TO AFFECT YOUR ABILITY TO
14 BE A FAIR AND IMPARTIAL JUROR?

15 JUROR: NO, SIR.

16 THE COURT: MR. INABINET, IS THAT RIGHT?

17 JUROR: YES, SIR. I RECOGNIZE FRANK SKINNER, SHEILA
18 HOFFMAN.

19 THE COURT: AND KNOWING THOSE PEOPLE, WOULD THAT IN
20 ANY WAY AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

21 JUROR: NO, SIR.

22 THE COURT: YOUR NAME, PLEASE, SIR.

23 JUROR: 294, MARTY WOOTEN.

24 THE COURT: YES, SIR.

25 JUROR: I RECOGNIZE ROSLYN SMITH BUT SHE DIDN'T

1 RECOGNIZE ME.

2 THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR
3 AND IMPARTIAL?

4 JUROR: NO, SIR.

5 THE COURT: YOUR NAME.

6 JUROR: NUMBER 40, JENNIFER CAUGHMAN.

7 THE COURT: AND WHO IS IT THAT YOU RECOGNIZE?

8 JUROR: MS. ANDERSON IS A FORMER TEACHER.

9 THE COURT: DOES THAT AFFECT YOUR ABILITY TO BE FAIR
10 AND IMPARTIAL?

11 JUROR: NO, SIR.

12 THE COURT: THANK YOU, YOU MAY HAVE A SEAT. THE NEXT
13 QUESTION, IF ANYONE DOES NEED TO RESPOND TO IT I WOULD ASK
14 YOU TO COME FORWARD AND LET ME SPEAK TO YOU PRIVATELY
15 ABOUT THAT. IF YOU OR ANY MEMBER OF YOUR IMMEDIATE FAMILY
16 HAS EVER BEEN ACCUSED OF OR CHARGED WITH OR BEEN A VICTIM
17 OF OR A WITNESS IN A CRIMINAL CASE WOULD YOU PLEASE COME
18 FORWARD AND LET ME ASK YOU PRIVATELY ABOUT THAT. IF YOU
19 HAVE EVER BEEN ACCUSED OF OR CHARGE WITH OR BEEN A VICTIM
20 OF A CRIME OR IF YOU HAVE EVER BEEN A WITNESS IN A
21 CRIMINAL CASE. IF YOU WILL COME UP AND LET ME SPEAK WITH
22 YOU ABOUT THAT, PLEASE.

23 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH JURORS
24 IN THE PRESENCE OF THE JURY PANEL BUT OUT OF THE
25 HEARING OF THE JURY PANEL.)

1 THE COURT: IF THERE IS ANY MEMBER OF THE JURY PANEL
2 WHO BECAUSE OF ANY CONSCIENTIOUS OBJECTION, RELIGIOUS
3 BELIEF OR MENTAL RESERVATION WOULD NOT BE ABLE TO RENDER A
4 FAIR AND IMPARTIAL VERDICT IN THIS CASE, PLEASE STAND.

5 (NO RESPONSE.)

6 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
7 IS EITHER A MEMBER OF OR PRACTICES THE RELIGION THROUGH
8 THE JEHOVAH WITNESS, IF SO WOULD YOU PLEASE STAND.

9 (NO RESPONSE.)

10 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
11 KNOWS OF ANY REASON, WHETHER IT IS CONNECTED TO ANYTHING
12 THAT I HAVE ASKED YOU AT THIS POINT OR ANYTHING ELSE THAT
13 I HAVE NOT GONE OVER WITH YOU, IF YOU KNOW OF ANY REASON
14 THAT YOU COULD NOT GIVE THE STATE AND THE DEFENDANT A FAIR
15 AND IMPARTIAL TRIAL IN THIS CASE WOULD YOU PLEASE STAND.

16 (NO RESPONSE.)

17 THE COURT: NOW, WHAT WE ARE GOING TO DO, WE ARE
18 GOING TO TAKE A BREAK BUT THERE ARE SOME JURORS, BECAUSE
19 OF SOME QUESTIONS AND THE WAY THEY WERE RESPONDED TO ON
20 YOUR QUESTIONNAIRES, I AM GOING TO TALK TO INDIVIDUALLY IN
21 A ROOM RIGHT BACK HERE. SO, WE WILL TAKE A TEN MINUTE
22 BREAK. WE WILL SEND FOR THOSE PEOPLE ONE AT A TIME AND
23 THEN WE WILL BE ABLE TO SELECT THE JURY IN THIS CASE. BE
24 BACK IN YOUR SEATS IN TEN MINUTES.

25 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

1 (WHEREUPON, THE COURT HAS CONVERSATIONS WITH JURORS
2 IN-CHAMBERS WITH THE ATTORNEYS PRESENT.)

3 THE COURT: MS. CROUCH, IS THAT RIGHT?

4 JUROR: YES, SIR.

5 THE COURT: JUST HAVE A SEAT RIGHT THERE. THE
6 QUESTION THAT I NEED FOR YOU TO EXPLAIN FOR ME. THE
7 QUESTION WAS HAVE YOU HEARD ANYTHING ON THE RADIO OR SEEN
8 ANYTHING IN THE NEWSPAPER, TELEVISION OR THE INTERNET OR
9 HAD DISCUSSIONS WITH FAMILY, FRIENDS OR COWORKERS
10 CONCERNING RONNIE SHEPPARD, RONALD SHEPPARD OR THIS
11 CRIMINAL CASE. AND YOU HAVE CHECKED, YES. AND YOU SAID,
12 HE LEFT TO TAKE OVER HOMEGOLD. AND YOU CAN EXPAND ON
13 THAT, DO YOU REMEMBER ANYTHING ELSE OR IS THAT THE EXTENT
14 OF IT.

15 JUROR: THE ONLY THING THAT I REMEMBER WAS THE
16 INTEREST IN THE ORIGINAL CASE WITH EARLE MORRIS, AND SO I
17 KNEW THE SHEPPARD NAME WAS CONNECTED WITH THAT. I HAVE NO
18 KNOWLEDGE OF ANY OF THAT.

19 THE COURT: GO AHEAD MR. GRIFFIN.

20 MR. GRIFFIN: THERE IS A SUBPART OF THAT QUESTION.

21 THE COURT: BASED ON WHAT YOU HAVE READ, SEEN OR
22 HEARD, WHAT OPINIONS, IF ANY, HAVE YOU FORMED ABOUT THE
23 GUILT OR THE INNOCENCE OF RONALD SHEPPARD AND THE ANSWER
24 WAS WITH KNOWING, WITHOUT KNOWING MORE HE SOUNDS GUILTY OF
25 AT LEAST SOME OF THE CHARGES. ALL OF THE OTHERS INVOLVED

1 PLEAD GUILTY. AND YOU HAD RESPONDED WHEN I HAD ASKED ALL
2 THE QUESTIONS ABOUT THE PUBLICITY AND WHATNOT AND THAT IS
3 WHY I GOT YOU BACK HERE BECAUSE THAT HAD RAISED A RED FLAG
4 AND I WANTED TO BE SURE YOU UNDERSTAND. LET ME ASK YOU,
5 AT THIS POINT AND TIME, BASED ON WHAT YOU HAVE READ OR
6 SEEN OR HEARD ABOUT THE CASE EVEN GOING THROUGH THIS
7 PROCESS TODAY DO YOU HAVE ANY OPINIONS AS TO THE GUILT OR
8 THE INNOCENCE OF MR. SHEPPARD?

9 JUROR: NO, I KNOW I DON'T.

10 THE COURT: DO YOU FEEL LIKE YOU COULD BE FAIR AND
11 UNBIASED BOTH TO THE STATE AND THE DEFENDANT? CAN YOU
12 GIVE THE STATE AND THE DEFENSE A FAIR AND IMPARTIAL TRIAL?

13 JUROR: YES.

14 THE COURT: I WILL HAVE THE BAILIFF TAKE YOU BACK OUT
15 AND HAVE A SEAT IN THE AUDIENCE, PLEASE. THANK YOU FOR
16 COMING BACK HERE.

17 (WHEREUPON, THE JUROR WAS EXCUSED TO JOIN THE JURY
18 PANEL.)

19 THE COURT: BASED ON THAT RESPONSE I AM NOT GOING TO
20 DISQUALIFY HER. NUMBER 211, ANGELA RITTER, BEFORE YOU GET
21 HER. THAT IS 40 AND 50 IS WHAT YOU ARE CONCERNED ABOUT
22 HER, RIGHT?

23 MR. GRIFFIN: YES SIR, AND THE QUESTION 49, IS THERE
24 ANY REASON WHY YOU COULD NOT BE A FAIR AND IMPARTIAL JUROR
25 IN THIS CASE. AND SHE SAYS, HER ANSWER IS I AM NOT SURE.

1 SHE ANSWERED NOT SURE TO A LOT OF THINGS. AND THEN THE
2 FOLLOW-UP ON NUMBER 50, SHE EXPLAINS, I AM NOT SURE, I
3 DISLIKE LIERS AND THIEVES. AND SHE DIDN'T ANSWER 49, SHE
4 SAYS SHE IS NOT SURE AND SHE DIDN'T ANSWER 50.

5 MS. EVANS: I WOULD ASK THAT YOU JUST ASK HER IF SHE
6 CAN BE FAIR AND IMPARTIAL. I THINK EVERYBODY WOULD AGREE
7 THAT THEY DON'T LIKE LIERS AND THIEVES.

8 THE COURT: FOR SOME REASON HER RESPONSE IS NOT IN MY
9 MATERIAL.

10 MR. GRIFFIN: I HAVE GOT MINE.

11 THE COURT: IF YOU WILL BRING IN NUMBER 211.

12 (WHEREUPON, JUROR NUMBER 211 IS BROUGHT IN-CHAMBERS.)

13 THE COURT: HAVE A SEAT RIGHT THERE. YOU ARE
14 WONDERING WHY YOU ARE BACK HERE WITH THE JUDGE AND THESE
15 LAWYERS, RIGHT. SOME OF THE QUESTIONS THAT HAVE BEEN
16 RAISED, SOME ADDITIONAL QUESTION AND THAT IS WHY I BROUGHT
17 YOU BACK, WE ARE GOING TO TALK TO SEVERAL PEOPLE LIKE
18 THIS. TOWARD THE END OF THE QUESTIONNAIRE, THERE WAS A
19 QUESTION, IS THERE ANY REASON WHY YOU COULD NOT BE FAIR
20 AND IMPARTIAL AS A JUROR IN THIS CASE. AND YOUR ANSWER
21 WAS NOT SURE AND THEN NUMBER 50, ANY OPINIONS THAT YOU
22 HAVE FORMED AND BELIEVE THAT YOU COULD LISTEN TO ALL OF
23 THE EVIDENCE, FOLLOW THE INSTRUCTIONS BY THE LAW GIVEN BY
24 THE JUDGE AND RENDER A FAIR AND IMPARTIAL VERDICT IN A
25 CRIMINAL CASE INVOLVING RONALD SHEPPARD. AND YOU DID NOT

1 CHECK EITHER YES OR NO, YOU PUT NOT SURE, I DISLIKE LIERS
2 AND THIEVES AND WE PROBABLY ALL DISLIKE LIERS AND THIEVES.
3 WHAT I NEED TO ASK YOU AT THIS TIME, WE HAVE BEEN GOING
4 THROUGH THE PROCESS FOR SEVERAL HOURS NOW. IS THERE ANY
5 REASON AT ALL THAT YOU FEEL THAT YOU COULD NOT BE FAIR AND
6 IMPARTIAL IN THIS CASE?

7 JUROR: NO.

8 THE COURT: DO YOU FEEL THAT YOU COULD GIVE THE STATE
9 AND THE DEFENDANT A FAIR TRIAL?

10 JUROR: YES.

11 THE COURT: YOU CAN LISTEN TO THE EVIDENCE AND BASE
12 YOUR DECISION BASED ONLY ON THAT EVIDENCE?

13 JUROR: YES.

14 THE COURT: OKAY. THE CLERK IS GOING TO TAKE YOU
15 BACK OUT.

16 (WHEREUPON, THE JUROR WAS EXCUSED TO JOIN THE JURY
17 PANEL.)

18 MR. GRIFFIN: THE OTHER TWO, ONE WAS MR. ROBINSON.

19 THE COURT: HE WAS THE LAWYER WHO WAS PRACTICING WITH
20 MR. CALLAWAY, HE ACTUALLY FILED A BANKRUPTCY ACTION OR WAS
21 INVOLVED IN IT?

22 MR. GRIFFIN: HE REPRESENTED HOMEGOLD AND FILED AS
23 LOCAL COUNSEL FOR A LAWYER OUT OF CHARLOTTE.

24 THE COURT: NOW, ON MR. WOOTEN, YOU SAID HE
25 INDICATED.

1 MR. GRIFFIN: MR. WOOTEN DID INDICATE IN RESPONSE TO
2 THE QUESTIONS ABOUT WITNESSES, I THINK YOU ARE GOING
3 THROUGH IT, THE WITNESS WAS TEE HOOPER, BUT MR. WOOTEN
4 ALSO IN RESPONSE TO THE QUESTION SAID THAT HE INVESTED AND
5 LOST MONEY IN HOMEGOLD. AND THAT ALSO HIS WIFE WORKS WITH
6 SLED. HE SAID HE COULD BE FAIR, YOUR HONOR.

7 THE COURT: HE IS AN INVESTOR AT HOMEGOLD. I AM
8 GOING TO EXCUSE HIM. HE IS AN INVESTOR AT HOMEGOLD.

9 MS. EVANS: MY ONLY ARGUMENT AGAINST THAT, WHAT WE
10 ARE REALLY ALLEGING IS NOT, THE COURSE OF BUSINESS, YES IN
11 A ROUNDABOUT WAY AT HOMEGOLD. BUT HOMEGOLD WAS TRADED ON
12 A PUBLIC MARKET, OUR CASE AND I TOLD MR. GRIFFIN, IS THAT
13 MR. SHEPPARD'S COURSE IN CONDUCT AT HOMEGOLD, INDIRECTLY
14 AFFECTED THE CAROLINA INVESTORS WHO DIDN'T HAVE THE WHOLE
15 TRUTH. I THINK THERE IS A DISTINGUISH BETWEEN A HOMEGOLD
16 INVESTOR WHO CONCEDED THEIR STOCK FALLS FROM \$12 DOLLAR A
17 SHARE TO A COUPLE OF PENNIES A SHARE OVER A PERIOD OF TIME
18 AS OPPOSED TO PEOPLE WHO ARE BUYING NOTES AND DEBENTURES.

19 THE COURT: I CAN HAVE HIM COME BACK TO ASK HIM
20 QUESTIONS BUT IT WOULD TAKE SOME CONVINCING FOR ME TO
21 THINK HE COULD BE FAIR AND IMPARTIAL.

22 MR. GRIFFIN: IF I COULD ADD, IN EARLE MORRIS'
23 TESTIMONY. MR. OWEN TESTIFIED, THE ISSUE WAS, HOW MUCH
24 DID YOU KNOW ABOUT THE FINANCIAL CONDITION OF HOMEGOLD.
25 AND MR. MORRIS AS WELL AS MR. OWEN WERE SHAREHOLDERS AT

1 HOMEGOLD. HIS TESTIMONY, AS A SHAREHOLDER YOU HAVE A
2 PROXY STATEMENT AND IT CONTAINS ALL THE FINANCIAL
3 INFORMATION.

4 MS. EVANS: WE WILL CONCEDE TO IT.

5 THE COURT: 294 IS EXCUSED, SO I NEED TO TALK TO MR.
6 ROBINSON, 215.

7 (WHEREUPON, JUROR 215 IS BROUGHT IN-CHAMBERS.)

8 THE COURT: COME IN, MR. ROBINSON. WHAT I WANTED TO
9 ASK YOU, IT HAS COME TO MY ATTENTION THAT YOU PRACTICED
10 WITH BILL KEHL, IS THAT RIGHT?

11 JUROR: THAT IS RIGHT.

12 THE COURT: HE APPARENTLY WAS INVOLVED IN FILING
13 BANKRUPTCY OF HOMEGOLD AND I DON'T KNOW OF ANY OF THE
14 OTHER COMPANIES. WAS THAT DONE WHILE YOU WERE WORKING
15 WITH HIM?

16 JUROR: IT WAS.

17 THE COURT: WERE YOU INVOLVED WITH THAT AT ALL?

18 JUROR: I WASN'T INVOLVED MUCH IN THAT CASE.

19 THE COURT: WHEN YOU SAY MUCH, WERE YOU INVOLVED IN
20 MINOR POINTS?

21 JUROR: MINOR POINT, I MAY OF DONE SOME RESEARCH ON
22 SOME ISSUES.

23 THE COURT: OUT OF ABUNDANCE OF CAUTION, I AM GOING
24 TO EXCUSE YOU FROM THE TRIAL. THANK YOU, VERY MUCH. YOU
25 ARE FREE TO GO.

1 (WHEREUPON, THE JURY WAS EXCUSED FROM THE TRIAL OF
2 THE CASE.)

3 THE COURT: I NEED TO TELL MR. WOOTEN THAT HE IS
4 EXCUSED AND I NEED TO TELL MR. COOK THAT HE IS EXCUSED.
5 IS THERE ANYBODY ELSE THAT I HAVE NOT ADDRESSED. I NEED
6 TO TALK TO MR. BULLARD, NUMBER 26.

7 (WHEREUPON, JUROR NUMBER 26 WAS BROUGHT IN-CHAMBERS.)

8 THE COURT: HAVE A SEAT RIGHT HERE. I HAVE ONE
9 QUESTION FOR YOU. GIVEN THE NATURE OF THE QUESTION I
10 THINK YOU WILL UNDERSTAND WHY I BROUGHT YOU BACK HERE, NOT
11 TO INTIMIDATE YOU. I WAS GIVEN A RECORD OF A PERSON BY
12 THE NAME OF RICHARD BULLARD FOR FAILING TO STOP FOR A BLUE
13 LIGHT A LONG TIME AGO. WAS THAT YOU?

14 JUROR: YES, SIR.

15 THE COURT: HAVE YOU EVER BEEN PARDONED FOR THAT?

16 JUROR: NO, SIR.

17 THE COURT: I HATE TO SAY YOU ARE NOT QUALIFIED
18 BECAUSE OF THAT BUT I HAVE TO. IT HAS BEEN A LONG TIME,
19 THAT OFFENSE IS A THREE YEAR OFFENSE, BECAUSE OF THAT I
20 HAVE TO EXCUSE YOU AND SAY YOU ARE NOT QUALIFIED TO SERVE.

21 JUROR: I PAID THE FINE, I DIDN'T GO TO COURT, THEY
22 DIDN'T SAY ANYTHING ABOUT GOING TO JAIL.

23 THE COURT: IF YOU HAD OF PAID THE FINE IT MAY BE
24 THAT THAT THING WAS REDUCED IN SOME WAY. THE CLERK WILL
25 TAKE YOU BACK OUT AND YOU ARE EXCUSED. THANK YOU.

1 (WHEREUPON, THE JUROR WAS EXCUSED FROM THE TRIAL OF
2 THE CASE.)

3 THE COURT: WE WILL GO BACK IN.

4 (WHEREUPON, IN-CHAMBERS CONFERENCE COMPLETED.)

5 THE COURT: BEFORE WE, I NEED TO SEE MR. COOK AND
6 WHILE HE IS COMING UP, MR. WOOTEN, STAND RIGHT HERE AND I
7 WILL TALK TO YOU.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD WITH JURORS
9 IN THE PRESENCE OF THE JURY PANEL BUT OUT OF THE
10 HEARING OF THE JURY PANEL.)

11 THE COURT: JUROR 292 AND 56 ARE EXCUSED. NOW,
12 LADIES AND GENTLEMEN, WE ARE IN THE POSITION TO GO AHEAD
13 WITH JURY SELECTION. LET ME EXPLAIN TO YOU HOW WE ARE
14 GOING TO DO THAT. YOU ARE NOT GOING TO BE ASKED ANY MORE
15 QUESTIONS BY ANYBODY. YOUR NAMES ARE GOING TO BE SELECTED
16 RANDOMLY, THEY WILL BE DRAWN ONE AT A TIME. IF YOUR NAME
17 IS DRAWN, IF YOU WILL COME UP TO THE FRONT OF THE
18 COURTROOM AND TURN AND FACE THE ATTORNEYS. THE ATTORNEYS
19 STARTING WITH THE STATE ARE GOING TO BE ASKING WHETHER
20 THEY WOULD LIKE FOR YOU TO BE SEATED IN THIS CASE OR
21 WHETHER THEY WOULD LIKE TO EXCUSE YOU FROM THE TRIAL OF
22 THIS CASE. IF THE CASE INDICATES THAT THEY WOULD LIKE FOR
23 YOU TO BE SEATED OR SAY SOMETHING LIKE, SWEAR THE JUROR.
24 THEN THE DEFENSE IS ASKED THAT SAME QUESTION. THE FIRST
25 TWELVE PEOPLE WHO ARE AGREED UPON BY THE STATE AND THE

1 DEFENSE WILL MAKE UP THE JURY FOR THIS CASE, EACH SIDE HAS
2 A CERTAIN NUMBER OF STRIKES OR EXCUSES THAT THEY CAN USE
3 IN GOING THROUGH THIS PROCESS. YOU DON'T NEED TO BE
4 CONCERNED WITH THAT. IN ADDITION TO THE FIRST TWELVE
5 MEMBERS OF THE JURY WE WILL HAVE AT LEAST THREE ALTERNATES
6 AND POSSIBLY FOUR ALTERNATES WHO ARE SELECTED. THOSE
7 ALTERNATE JURORS ARE JUST AS IMPORTANT AS THE ORIGINAL
8 TWELVE MEMBERS OF THE JURY. THE REASON THAT WE SELECT
9 ALTERNATES IS THAT IF DURING THE COURSE OF THE TRIAL AN
10 EMERGENCY COMES UP WITH SOME JUROR AND HE OR SHE HAS TO BE
11 EXCUSED FROM THE TRIAL OF THE CASE, IF WE DON'T HAVE AN
12 ALTERNATE WHO HAS BEEN HERE IN THE COURTROOM AND HAS SEEN
13 AND HEARD EVERYTHING THAT THE OTHER JURORS HAVE SEEN AND
14 HEARD THEN WE WOULD HAVE A PROBLEM GOING FORTH. WE HAVE
15 AN ALTERNATE THAN THAT PERSON CAN TAKE THAT JUROR'S PLACE
16 AND WE WILL CONTINUE WITH THE TRIAL. AS YOUR NAMES ARE
17 CALLED IF YOU WILL BRING WHATEVER PERSONAL BELONGINGS YOU
18 BROUGHT WITH YOU TO THE FRONT OF THE COURTROOM. STATE
19 YOUR NAME AND WHERE YOU WORK, TURN AND FACE THE ATTORNEYS
20 AND THEN THE ATTORNEYS ARE GOING TO BE ASKED THE
21 QUESTIONS. THE STRIKES WILL BE FIVE AND FIVE. STRIKES ON
22 THE ALTERNATE WILL BE TWO AND ONE, ON EACH ONE. TWO FOR
23 THE DEFENSE AND ONE FOR THE STATE ON EACH ALTERNATE.

24 (WHEREUPON, THE JURY WAS IMPANELED AT APPROXIMATELY
25 4:45 P.M. LOCATED BEHIND INDEX.)

1 THE COURT: ARE THERE ANY MOTIONS, ANY MATTERS OF LAW
2 CONCERNING THE STRIKING OF THE JURY, ANYTHING FROM THE
3 STATE?

4 MS. EVANS: NOT FROM THE STATE, YOUR HONOR.

5 THE COURT: FROM THE DEFENSE?

6 MR. GRIFFIN: NO, YOUR HONOR.

7 THE COURT: LADIES AND GENTLEMEN, THOSE OF YOU WHO
8 HAVE NOT BEEN SELECTED IN THE CASE, BECAUSE THIS IS A
9 SPECIAL TERM OF COURT THAT WILL CONCLUDE YOUR JURY
10 SERVICE. I KNOW YOU ARE HAPPY, YOU ARE EXCUSED, THANK YOU
11 VERY MUCH. EVERYONE ELSE STAY SEATED, PLEASE.

12 (WHEREUPON, THE JURY PANEL WAS EXCUSED FROM OPEN
13 COURT.)

14 THE COURT: COUNSEL, WHILE THEY ARE LEAVING, LET ME
15 ASK YOU ALL A QUESTION, PLEASE. COME UP FOR JUST A
16 MINUTE.

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
18 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
19 JURY.)

20 THE COURT: LADIES AND GENTLEMEN, THOSE OF YOU WHO
21 HAVE BEEN SELECTED, YOU WILL BE THE JURY IN THIS CASE.
22 LET ME TALK TO YOU FOR A FEW MINUTES, WE WILL START THE
23 TRIAL TOMORROW. WE HAVE HAD A FULL DAY OF GETTING THE
24 JURY SELECTED AND WE MADE FAIRLY GOOD PROGRESS. I DO NEED
25 TO ADVISE YOU OF SEVERAL THINGS. NUMBER ONE, NOW THAT YOU

1 HAVE BEEN SELECTED AS JURORS IN THIS CASE YOU CANNOT READ
2 ANYTHING ABOUT THE CASE, YOU CANNOT WATCH ANYTHING ON
3 TELEVISION ABOUT THE CASE, YOU CANNOT LISTEN TO ANYTHING
4 ON THE RADIO ABOUT THIS CASE, YOU CANNOT READ ANYTHING ON
5 THE INTERNET ABOUT THE CASE. YOU CANNOT CONDUCT ANY KIND
6 OF RESEARCH ABOUT THE CASE OR ANY ISSUES IN THIS CASE.
7 YOU ARE THE ONLY INDIVIDUALS WHO ARE GOING TO BE MAKING A
8 DECISION IN THIS CASE AND AS I HAVE EXPLAINED THROUGHOUT
9 THE DAY, YOUR DECISION HAS GOT TO BE BASED SOLELY ON THE
10 EVIDENCE THAT IS PRESENTED HERE IN THE COURTROOM,
11 UNINFLUENCED BY ANY OUTSIDE CONTACTS. OF COURSE, INCLUDED
12 IN THESE INSTRUCTIONS YOU ARE ORDERED NOT TO DISCUSS THE
13 CASE WITH ANYONE AND I THINK MOST FOLKS WHO HAVE JURY
14 SERVICE UNDERSTAND THAT AND THAT IS FAIRLY COMMON
15 KNOWLEDGE, YOU CAN'T GO TALK TO SOMEBODY ON THE STREET
16 ABOUT A PARTICULAR CASE. BUT THOSE INSTRUCTIONS, THAT
17 ORDER ALSO APPLIES TO ANY DISCUSSIONS, EVEN WITH YOUR
18 FELLOW JURORS WHILE THIS CASE IS GOING ON. IT IS IMPROPER
19 TO TALK ABOUT THIS CASE EVEN WITH YOUR FELLOW JURORS
20 DURING THE COURSE OF THE TRIAL. THAT IS CALLED PREMATURE
21 DELIBERATIONS, IT IS SEVERE CONSEQUENCES SO YOU CAN'T
22 DISCUSS IT WITH ANYONE. NOW, I KNOW AS LONG AS YOU ARE UP
23 HERE AT THE COURT HOUSE AND I TELL YOU YOU CAN'T DISCUSS
24 THE CASE WITH ANYBODY, IT IS FAIRLY EASY TO COMPLY WITH MY
25 INSTRUCTIONS TO YOU. WHEN YOU GET HOME, THOSE OF YOU WHO

1 HAVE SPOUSES OR CHILDREN OR FRIENDS WHO KNOW THAT YOU HAVE
2 JURY SERVICE, I CAN GUARANTEE YOU THAT YOU ARE GOING TO BE
3 BOMBARDED WITH QUESTIONS. WELL, DID YOU GET PICKED ON THE
4 JURY, OR WHAT KIND OF CASE IS IT, WHO IS INVOLVED WITH IT.
5 YOU CAN'T ANSWER THOSE QUESTIONS, I WILL LET YOU TELL THEM
6 THAT, YES, I HAVE BEEN SELECTED ON A JURY. AND I WILL BE
7 THE BAD PERSON, YOU CAN BLAME IT ALL ON ME BUT YOU CANNOT
8 DISCUSS IT BEYOND THAT WITH ANYBODY AND THAT WOULD INCLUDE
9 FAMILY AND FRIENDS. AND YOU HAVE BEEN PLACED UNDER OATH
10 AND I WILL BE ASKING YOU THROUGHOUT THE COURSE OF THE
11 TRIAL IF ANYONE HAS INADVERTENTLY OR PURPOSEFULLY VIOLATED
12 THAT ORDER THAT I HAVE JUST GIVEN YOU. AND I ANTICIPATE
13 AND WOULD EXPECT YOU THAT IF YOU DO INADVERTENTLY OR
14 PURPOSEFULLY VIOLATE THE ORDER AND READ ANYTHING ABOUT THE
15 CASE OR SEE OR HEAR ANYTHING ABOUT THE CASE THAT YOU WILL
16 REPORT THAT TO THE BAILIFFS WHEN YOU GET TO THE COURT
17 HOUSE. I NEED TO KNOW ABOUT THAT AND I THINK YOU CAN
18 UNDERSTAND WHY. I AM GOING TO SEND YOU BACK TO THE JURY
19 ROOM SO YOU CAN SEE WHERE IT IS BECAUSE TOMORROW YOU WILL
20 GO DIRECTLY TO YOUR JURY ROOM. BUT NUMBER TWO, IN SOUTH
21 CAROLINA THERE ARE TWO DIFFERENT WAYS TO HAVE A JURY
22 FOREPERSON. ONE WAY IS JUST TO PICK ONE OF YOU AND
23 APPOINT THAT PERSON AS THE FOREPERSON OF THAT JURY. THE
24 OTHER IS FOR YOU TO DECIDE AMONG YOURSELVES WHO YOU WOULD
25 LIKE FOR THAT PERSON TO BE. AND WHAT I HAVE BEEN DOING

1 FOR ABOUT TWELVE YEARS NOW IS I WILL LET THE JURY DECIDE
2 WHO THEY WANT THEIR FOREPERSON TO BE. WHOEVER THAT PERSON
3 IS THEIR VOTE IS NO MORE IMPORTANT, IT DOES NOT COUNT ANY
4 MORE THAN ANY OTHER MEMBER OF THE JURY. BUT THAT PERSON
5 WILL PRESIDE IN THE JURY ROOM AND THAT PERSON WILL BE THE
6 SPOKESPERSON FOR THE JURY HERE IN THE COURTROOM. SO,
7 BEFORE YOU LEAVE TODAY I AM GOING TO SEND YOU BACK TO YOUR
8 JURY ROOM AND LET YOU TALK AMONG YOURSELVES WHO YOU WOULD
9 LIKE FOR YOUR FOREPERSON TO BE. WE HAVE FOUR ALTERNATES
10 IN THE CASE, I NEED FOR YOU TO KEEP THOSE SEATS THROUGHOUT
11 THE TRIAL. AND AFTER YOU HAVE SELECTED A FOREPERSON, IF
12 YOU WILL WRITE THAT NAME ON A SLIP OF PAPER AND HAND IT TO
13 THE BAILIFF, HE WILL GIVE ME THAT NAME AND THAT IS WHO I
14 WILL APPOINT TOMORROW MORNING WHEN YOU GET TO COURT. AND
15 THAT PERSON WILL TAKE THE FIRST SEAT IN THE FRONT ROW AND
16 KEEP THAT SEAT THROUGHOUT THE TRIAL. THE REST OF YOU CAN
17 SIT WHERE YOU WANT TO IN THE JURY BOX. WHEN YOU DO GET
18 HERE TOMORROW I WILL HAVE SOME BRIEF COMMENTS TO YOU AND
19 THEN YOU WILL HEAR OPENING STATEMENTS AND START THE
20 TESTIMONY. STEP BACK TO YOUR JURY ROOM AND I WILL SEE YOU
21 TOMORROW MORNING AT 9:00.

22 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
23 THE DAY.)

24 THE COURT: COUNSEL, LET ME SEE YOU ALL UP HERE AND
25 WE WILL BE ADJOURNED UNTIL 9:00 O'CLOCK IN THE MORNING.

1 (WHEREUPON, THE TRIAL WILL RESUME THE NEXT MORNING AT
2 9:00 A.M.)

3 THE COURT: WE WILL START WITH MOTIONS THIS MORNING.
4 I BELIEVE THE DEFENSE FILED FOUR OR FIVE MOTIONS.

5 MR. GRIFFIN: YES, YOUR HONOR. THEY ARE BASICALLY
6 JUST EVIDENTIARY ISSUES I WANTED TO ALERT THE COURT TO AS
7 WE GO FORWARD. AND I HAD ASKED FOR THE MOTIONS, THAT THE
8 STATE NOT GO INTO THOSE DISPUTED EVIDENTIARY ISSUES IN
9 OPENING STATEMENT. THAT WAS REALLY THE EXTENT OF MY
10 REQUEST AT THIS POINT AND TIME. BUT THE STATE ADVISES
11 THAT THEY DO WISH TO GO INTO THOSE ISSUES. AND I GUESS WE
12 MAY NEED TO DISCUSS IT A LITTLE FURTHER. THE FIRST MOTION
13 IS--

14 THE COURT: NOTICE OF WITNESSES. WE DISCUSSED THAT
15 AND WE WILL DEAL WITH IT AS BEST THAT WE CAN.

16 MR. GRIFFIN: THE NEXT MOTION IS DEFENDANT'S MOTION
17 IN LIMINE TO EXCLUDE EVIDENCE UNDER STATE V. LYLE, 404, OF
18 OTHER BAD ACTS. AND IN THE FIRST CATEGORY IN MY MOTION,
19 YOUR HONOR, ARE THE ALLEGATION UNDERLYING THE SEPARATE
20 COUNTS. AND I UNDERSTOOD FROM A BRIEF CONVERSATION
21 YESTERDAY THAT THE STATE AT THIS POINT INTENDS TO GO INTO
22 IT IN OPENING STATEMENTS. AND THAT IS REALLY, WE WOULD
23 NEED TO HAVE A MINI TRIAL ON THAT AT THIS POINT.

24 MS. EVANS: THERE IS ONE ISSUE THAT WE ARE GOING TO
25 SEEK CLARIFICATION FROM THE COURT REGARDING THAT, YOUR

1 HONOR.

2 THE COURT: LET'S GO AHEAD AND DEAL WITH IT.

3 MS. EVANS: THE CLARIFICATION FOR THE UNDERLYING
4 COUNT, WE CERTAINLY UNDERSTAND THE COURT'S RULING AND WE
5 WOULD NOT BE GOING INTO ANY OF THE BANK FRAUD, INSURANCE
6 FRAUD OR ANYTHING LIKE THAT. THE ONE ISSUE THAT WE WANTED
7 TO SEEK CLARIFICATION ABOUT WAS THE LEAPHART ROAD
8 PROPERTY. WE CERTAINLY HAVE NO INTENTION OF GOING INTO IT
9 FOR OBTAINING GOODS UNDER FALSE PRETENSES, YOUR HONOR.
10 HOWEVER, IT IS IN THE COURSE OF BUSINESS. AND, YOUR
11 HONOR, THE STATE HAS ALLEGED IN THE COURSE OF BUSINESS AS
12 CEO OF THE COMPANY MR. SHEPPARD HAD A FIDUCIARY DUTY TO
13 PUT THE COMPANY FIRST AND FOREMOST. IT IS CLEAR LAW OF
14 THE FIDUCIARY DUTY TO A CEO AND THAT IS NOT TO HAVE SELF
15 INTEREST FEELING. WE FEEL THAT THE LEAPHART ROAD PROPERTY
16 ONLY AND WE ARE NOT GOING TO BOOTSTRAP THAT INTO THE
17 OBTAINING GOODS UNDER FALSE PRETENSES BUT DISCUSS IT
18 CLEARLY JUST FOR THE COURSE OF BUSINESS, THAT MR. SHEPPARD
19 AS CEO, WHEN HE HAD A CLEAR LEGAL FIDUCIARY DUTY TO ACT IN
20 THE BEST INTEREST OF THE COMPANY AT THE TIME OF THE
21 COMPANY IT IS FINANCIALLY UNSOUND. WHAT HE DOES IS, HE
22 GOES TO THE BOARD OF DIRECTORS AND TELLS THEM THAT THE
23 FAIR MARKET VALUE OF A CERTAIN PIECE OF PROPERTY THAT IS
24 OWNED BY HOMEGOLD, NOT OWNED BY THE DEFENDANT, IT IS OWNED
25 BY THE COMPANY. AND ACTUALLY AT ONE POINT WAS SECURING

1 SOME OF THE DEBT TO CAROLINA INVESTORS, HE GOES TO THE
2 BOARD OF DIRECTORS AND TELLS THEM THAT BASED UPON AN
3 APPRAISAL THAT HE GETS FROM A FRIEND OF HIS WHO IS NOT
4 TOLD THAT IT IS NO LONGER HIS PROPERTY, JUST TO GIVE ME A
5 ROUGH INTEREST AS TO WHAT YOU THINK THIS PROPERTY IS WORTH
6 AND HE COMES UP WITH AN ESTIMATE OF \$308 THOUSAND DOLLARS.
7 HE ALREADY AT THAT POINT HAS A CONTRACT ON THAT PIECE OF
8 PROPERTY FOR \$438 THOUSAND DOLLARS SO HE CLEARLY KNOWS THE
9 PROPERTY, AT LEAST THERE IS A BUYER THAT WANTS TO BUY THE
10 PROPERTY FOR \$438 THOUSAND DOLLARS OVER \$100 THOUSAND
11 DOLLARS MORE THAN HE TELLS THE BOARD OF DIRECTORS OF WHOM
12 HE OWES A FIDUCIARY DUTY TO. AND THE BOARD OF DIRECTORS,
13 NOT HAVING THE FULL KNOWLEDGE, ALLOWS HIM TO SELL IT
14 BECAUSE THEY BELIEVE AS THEY SHOULD BE ABLE TO BELIEVE
15 THAT A CEO OF A CORPORATION, THAT HE IS ACTING IN THEIR
16 BEST INTEREST MEANING THE COMPANIES BEST INTEREST AND NOT
17 DOING IMPROPER SELF FEELINGS. SO, WE WOULD ONLY GO INTO
18 THAT FOR, WOULD BE TO FURTHER DEMONSTRATE THE COURSE OF
19 BUSINESS. AND AS YOUR HONOR IS AWARE WE HAVE FILED A
20 PRETRIAL MOTION IN LIMINE REGARDING RELIANCE ON OTHERS.
21 AND AS WE HAVE STATED IN THAT PRETRIAL MOTION THE FIRST
22 PROMPT THAT THE DEFENDANT HAS TO PROVE UPON RELIANCE OF
23 OTHERS IS FULL DISCLOSURE. I THINK THIS LEAPHART ROAD
24 PROPERTY, NUMBER ONE, IS CLEAR EVIDENCE OF HIS BREACH OF
25 FIDUCIARY DUTY AND HIS COURSE OF BUSINESS TO DEFRAUD

1 INVESTORS AND TO SHOW THAT HE CANNOT, NUMBER ONE I FEEL
2 LIKE IT COMES IN FOR THAT REASON. WE WOULD SEEK
3 CLARIFICATION OF THE COURT'S ORDER, IT WAS ALLEGED IN THE
4 COURSE OF BUSINESS. I THINK IT IS FURTHER EVIDENCE
5 BECAUSE IT SHOULD BE ABLE TO COME IN IF THERE IS ANY
6 DEFENSE OR ANY MENTION OF RELIANCE UPON OTHERS INCLUDING
7 THE BOARD OF DIRECTORS BECAUSE WHAT HE HAS TO PROVE IS
8 FULL DISCLOSURE. THIS IS JUST ONE OF MANY INSTANCES WHERE
9 RONNIE SHEPPARD WHO IS CEO OF HOMEGOLD AND A BOARD MEMBER
10 OF CAROLINA INVESTORS IS NOT GIVING FULL DISCLOSURE IN
11 LOOKING OUT FOR RONNIE SHEPPARD'S BEST INTEREST RATHER
12 THAN WHAT HE WAS SUPPOSE TO DO, HIS LEGAL DUTY IS LOOK OUT
13 FOR HOMEGOLD AND CAROLINA'S BEST INTEREST.

14 THE COURT: UNDER THE STATE'S THEORY THAT WOULD GO TO
15 WHICH COUNT?

16 MS. EVANS: JUST COUNT ONE, THE SCHEME TO DEFRAUD, WE
17 WOULD NOT BE ALLEGING IT IN OBTAINING GOODS UNDER FALL
18 PRETENSES. JUST COUNT ONE, THE SCHEME TO DEFRAUD, THAT IT
19 WAS PART AND PARCEL OF HIS ENTIRE SCHEME TO DEFRAUD. AND
20 WE WOULD THINK IT WOULD BE ADMISSIBLE FOR THAT PURPOSE.
21 AND ADDITIONALLY, UPON CLARIFICATION DOESN'T, IF THERE IS
22 A DEFENSE UPON RELIANCE OF OTHERS WE CLEARLY THINK IT
23 WOULD COME IN THEN TO BE ABLE TO SHOW AS HIS BURDEN OF
24 PROOF WOULD BE IS THAT FULL DISCLOSURE AND THAT WOULD BE
25 ONE OF MANY THAT HE DID NOT GIVE FULL DISCLOSURE TO THE

1 TUNE OF GETTING HIMSELF A BENEFIT OF OVER \$100 THOUSAND
2 DOLLARS AND THAT BENEFIT SHOULD OF GONE TO HOMEGOLD AND
3 ULTIMATELY CAROLINA INVESTORS. AND THAT WOULD BE THE
4 LIMITED PURPOSE THAT WE WOULD BE PUTTING IT IN FOR.

5 THE COURT: MR. GRIFFIN.

6 MR. GRIFFIN: YOUR HONOR, AS TO THE FULL DISCLOSURE
7 ISSUE. WHAT SHE IS SAYING IS, WE WANT TO PUT IT INTO
8 EVIDENCE SO THAT HE CAN'T SAY HE FULLY DISCLOSED IT. SO,
9 AS TO THE DISCLOSURE ISSUE, IT IS A NON ISSUE IF IT
10 DOESN'T COME INTO EVIDENCE. AND IT IS CLEARLY THE CRUX OF
11 COUNT EIGHT, OBTAINING GOODS UNDER FALSE PRETENSES WHICH
12 WAS SEVERED ABOUT THE LEAPHART ROAD PROPERTY. AND WE
13 ARGUED PREVIOUSLY, THAT PROPERTY AND THAT THEORY GOES TO
14 THE BREACH OF TRUST THEORY, THE LEAPHART ROAD THEORY. IT
15 IS THE USURPING OF A CORPORATE OPPORTUNITY AND THAT IS THE
16 BREAK OF FIDUCIARY DUTY WORLD, THAT IS WHAT THAT
17 ALLEGATION IS, USURPED AN OPPORTUNITY OF THE CORPORATION
18 AND THAT CORPORATION IS HOMEGOLD, HIS EMPLOYER FOR WHOM HE
19 WORKED. AND THAT IS, FALLS CLEARLY WITHIN STATE V. LYLES,
20 404(B). WHAT THEY WANT TO DO IS TO TAKE THAT EVIDENCE AND
21 SAY HE LIED TO THE BOARD SO THEREFORE HE LIED OR HE IS
22 CAPABLE OF LIEING TO THESE INVESTORS. AND THERE IS
23 NOTHING IN THE RECORD, THERE WILL NOT BE ANYTHING IN THE
24 RECORD THAT THE INVESTORS WERE GIVEN ANY INFORMATION ABOUT
25 THE LEAPHART ROAD PROPERTY. THAT ANYTHING ABOUT LEAPHART

1 ROAD AS PART OF ANY OF THESE PROSPECTUS' OR THAT ANY
2 OFFICER OF CAROLINA INVESTORS MADE ANY REPRESENTATIONS TO
3 ANYONE ABOUT LEAPHART ROAD OR ANYTHING. AND IT IS CLEARLY
4 A COLLATERAL MATTER, IT IS EXACTLY WHAT YOUR HONOR POINTED
5 OUT TO THE STATE THAT AS YOU GO INTO THIS CASE, IF ALL OF
6 THESE COUNTS ARE JOINED YOU RUN THE RISK OF NOT BEING ABLE
7 TO CLEAR THE EVIDENCE BECAUSE 404(B) AND I WOULD ALSO
8 UNDER 403, THE PROBATIVE VALUE OF THIS IS CLEARLY IS
9 OUTWEIGHED BY THE RISK OF UNFAIR PREJUDICE. AND SO THIS
10 IS EXACTLY THE TYPE OF ISSUE, WHILE THEY ARGUED FOR
11 SEVERANCE, THE REASON WE GOT A SEVERANCE AND IT IS THE
12 POISONING OF THE WELL APPROACH BY THE STATE. AND NOT
13 PUTTING UP THE EVIDENCE OF HOW THESE INVESTORS WHO PUT
14 MONEY IN CAROLINA INVESTORS WERE DEFRAUDED BY THIS
15 DEFENDANT. AND THAT IS WHAT THIS PROBLEM IS.

16 THE COURT: MS. EVANS.

17 MS. EVANS: MR. SHEPPARD WAS NOT AN EMPLOYEE OF
18 HOMEGOLD, HE WAS CEO. AND AS YOUR HONOR IS WELL AWARE, AS
19 CEO THAT CREATES A LEGAL DUTY. A LEGAL DUTY TO PUT THE
20 CORPORATION AND ITS SUBSIDIARIES BEFORE HIS PERSONAL
21 INTEREST. HE IS CHARGED WITH A COURSE OF BUSINESS, A
22 COURSE OF BUSINESS THAT OPERATED THE SCHEME TO DEFRAUD
23 HOMEGOLD FINANCIAL WHICH IN TURN DEFRAUDED CAROLINA
24 INVESTORS. HE IS CEO OF HOMEGOLD AND HE IS A BOARD MEMBER
25 OF CAROLINA INVESTORS. WE ARE JUST PUTTING IT IN FOR A

1 LIMITED PURPOSE OF CEO, BREACH OF FIDUCIARY DUTY AND PART
2 OF THE COURSE OF BUSINESS. WE ARE NOT GOING TO MENTION
3 THE BREACH OF TRUST OR ANYTHING LIKE THAT. AND MR.
4 GRIFFIN SAYS IT RIGHT, HE USURPED A CORPORATION'S ABILITY
5 TO HAVE MONEY THAT WOULD BELONG TO THEM, HE IS CEO. THAT
6 IS NOT PROPER TO DO, THAT IS NOT LEGAL TO DO AND THAT IS
7 PART AND PARCEL OF THE COURSE OF BUSINESS. HE IS NOT
8 INDICTED FOR DIRECT SECURITIES FRAUD. HE IS INDICTED FOR
9 COURSE OF BUSINESS AND HE DID THIS IN THE COURSE OF
10 BUSINESS AND THAT IS THE ONLY PURPOSE, JUST THE LEAPHART
11 ROAD PROPERTY REGARDING THE MISINFORMATION TO THE BOARD OF
12 DIRECTORS FOR THE PERSONAL BENEFIT OF RONNIE SHEPPARD WHEN
13 HE HAS A CLEAR FIDUCIARY DUTY NOT TO DO THAT. THAT IS THE
14 ONLY LIMITED PURPOSE THAT WE WOULD WANT TO DO AND WE ARE
15 JUST SEEKING CLARIFICATION SO WE KNOW THAT WE DON'T STEP
16 SOMEWHERE WHERE THE COURT DOES NOT WANT US TO STEP. WE
17 ARE NOT TRYING TO BRING IN ANY OTHER ONES THAT WERE
18 SEVERED BUT WE CLEARLY THINK THIS ONE TRANSACTION, BECAUSE
19 IT WAS PRESENTED TO THE BOARD OF DIRECTORS AND HE HAS A
20 LEGAL DUTY IS ADMISSIBLE FOR THAT VERY LIMITED PURPOSE AND
21 WE ARE NOT GOING ANY FURTHER THAN THAT WITH THAT, YOUR
22 HONOR.

23 THE COURT: ANYTHING FURTHER, MR. GRIFFIN.

24 MR. GRIFFIN: YOUR HONOR, SHE IS SAYING COURSE OF
25 BUSINESS BUT THERE IS A NEXT STEP TO THAT. A COURSE OF

1 BUSINESS THAT OPERATES AS A FRAUD OR TO DECEIVE TO SOMEONE
2 WHO BUYS SECURITIES. SO, JUST TO SAY COURSE OF BUSINESS
3 WITHOUT LEANING IT TO THE INVESTOR IS, WILL OPEN THE DOOR
4 TO ANY EVIDENCE TO COME IN THAT SOMEONE DID SOMETHING
5 IMPROPER IN THE COURE OF BUSINESS IN RUNNING ANY BUSINESS.
6 AND SO THERE IS NO LOGICAL LINK TO THAT COURSE OF BUSINESS
7 ALLEGATION TO HOW IT ACTED AS A FRAUD.

8 THE COURT: THE OBJECTION IS OVERRULED, THE COURT
9 WILL PERMIT THAT EVIDENCE ON THE LIMITED POINT RAISED BY
10 THE STATE.

11 MR. GRIFFIN: YOUR HONOR, AS TO THE OTHER STATE V.
12 LYLES MATTERS AND THESE ISSUES PRIMARILY RELATE TO, THERE
13 IS AN ALLEGATION THAT SURFACES IN SOME OF THE DOCUMENTS
14 AND INTERVIEWS THAT MR. SHEPPARD, PART OF THE TRANSACTION
15 WHERE HE AGREED TO MERGE HIS COMPANY, HOMESENSE WITH
16 HOMEGOLD IN THE SPRING OF 2000 AS PART OF THAT
17 TRANSACTION, IN ADDITION TO RECEIVING SHARES OF HOMEGOLD
18 STOCK MR. SHEPPARD RECEIVED, WHAT YOU WILL HEAR IS A
19 NONRECOURSE LOAN AND THAT LOAN WAS I THINK ON THE BOOKS, I
20 THINK IT IS \$5.7 MILLION DOLLARS, IS THE NONRECOURSE LOAN.
21 AND THAT LOAN AND BY ITS TERM, NONRECOURSE MEANS THAT THE
22 PERSON WHO BORROWED THE MONEY IS NOT PERSONALLY LIABLE TO
23 REPAY IT. IT DOESN'T MEAN THERE IS NO OBLIGATION, IT IS
24 THE SECURITY FOR THAT PAYMENT WAS SOLELY RESTED WITH STOCK
25 THAT MR. SHEPPARD RECEIVED AS PART OF THE TRANSACTION.

1 AND IN THIS INSTANCE IT WAS PREFERRED STOCK AND WE FULLY
2 EXPECT THEM TO GO INTO ALL OF THAT AND THAT IS FAIR. BUT
3 WHAT TAKES IT TO THE STATE V. LYLE IS THEY WILL THEN
4 ARGUE, I BELIEVE, THAT THIS WAS A SCHEME TO GET TAX FREE
5 INCOME, TO AVOID PAYING TAXES TO THE IRS. AND FRANKLY,
6 YOUR HONOR, AND THERE IS A WITNESS WHO HAS GIVEN A
7 STATEMENT, WORDS TO THE EFFECT, FRANKLY IT CANNOT BE
8 CORROBORATED, I TRIED TO CORROBORATE IT BUT THEN MR.
9 SHEPPARD HAD INSTRUCTED TO ANOTHER EMPLOYEE TO DO THE SAME
10 THING SOLELY FOR TAX BENEFIT PURPOSES AND THAT HE OFFERED
11 TO DO IT TO A THIRD EMPLOYEE. BUT IN ANY EVENT, IT IS THE
12 ALLEGATION THAT THESE TRANSACTIONS ARE TAX FRAUD
13 TRANSACTIONS ESSENTIALLY. WE DON'T MIND GOING INTO THE
14 TRANSACTIONS BUT IT IS THE CLAIM THAT HE IS TRYING TO
15 CHEAT THE IRS WHICH FALLS WITHIN OUR MOTION IN LIMINE AND
16 WE WOULD MOVE TO EXCLUDE THAT EVIDENCE, CLEARLY IT FALLS
17 WITHIN 404B, THE STATE V. LYLE AS WELL AS 403.

18 THE COURT: MS. EVANS.

19 MS. EVANS: YOUR HONOR, HE WAS GIVEN \$5.7 MILLION
20 DOLLAR NONRECOURSE LOAN. WE HAVE EVIDENCE FROM THE
21 LAWYERS THAT WERE NEGOTIATING THE TERM, THAT MR. SHEPPARD
22 WANTED IT TO BE THAT WAY. IT WAS ORIGINALLY GOING TO BE A
23 SALES PRICE FOR THE COMPANY FOR THE MERGER. WHAT HE
24 WANTED TO DO, OBVIOUSLY IF IT WAS A SALES PRICE FOR THE
25 MERGER THAT WOULD BE A ONE TIME REALIZATION WHICH WOULD

1 HAVE TAX CONSEQUENCES, HE WOULD HAVE TO PAY TAXES ON THAT
2 BECAUSE IT WAS A BENEFIT TO HIM. AS A NONRECOURSE LOAN
3 AND THERE IS HANDWRITTEN NOTES FROM SOME OF THE WYCHE
4 LAWYERS, THIS HAS TO MAKE IT LOOK BY THE LOAN FOR THE
5 PURPOSE OF IT NOT PAYING THE TAXES. I WAS GOING TO HAVE
6 OUR EXPERT THAT TESTIFIED TO EXPLAIN WHAT A NONRECOURSE
7 LOAN MEANS. THE COURT WANTED US TO LIMIT IT, AT THAT
8 POINT THAT THERE IS JUST NO RECOURSE AGAINST THE COMPANY,
9 THAT THEY CAN'T DO ANYTHING. IT DOES CERTAINLY HAVE A TAX
10 CONSEQUENCE, HE DID NOT HAVE TO PAY ANY TAXES ON THE \$5.7
11 MILLION DOLLARS WHICH HE WOULD OF HAD TO PAY IF IT WAS
12 STRUCTURED AS A NORMAL MERGER TRANSACTION. BUT IF THE
13 COURT WANTS US TO STOP WITH JUST WHAT DOES A NONRECOURSE
14 LOAN MEAN AND NOT ASK THE NEXT QUESTION OF WHAT ARE THE
15 TAX CONSEQUENCES ABOUT THAT, WE CERTAINLY WOULD UNDERSTAND
16 THE COURT'S RULING ABOUT THAT. HOWEVER, I WOULD RESERVE
17 THE RIGHT IF IT IS SOMEHOW ALLEDGED THAT THERE WAS
18 WRONGDOING ON BEHALF OF ANYONE THAT STRUCTURED THAT WAY TO
19 BE ABLE TO GO INTO THE EVIDENCE OF WHO AND WHY, HOW AND
20 WHY MR. SHEPPARD WANTED IT THAT WAY BECAUSE THERE WERE
21 CLEAR DISCUSSIONS WITH SOME OF THE WYCHE LAWYERS TO MAKE
22 IT LOOK LIKE THE LOAN. AND I THINK THERE ARE HANDWRITTEN
23 NOTES THAT WE NEED TO MAKE THIS LOOK LIKE A LOAN SO HE
24 WOULDN'T HAVE TO PAY TAXES ON IT. IF THERE IS ANY
25 ALLEGATION, THAT WAS SOME SCHEME HATCHED BY SOMEONE ELSE

1 WE WOULD THEN ASK TO BE ABLE TO GO INTO IT.

2 THE COURT: YOU FOLKS ARE ASKING ME TO MAKE
3 ANTICIPATORY RULINGS ON WHAT MAY OR MAY NOT BE PRESENTED
4 IN THE CASE AND I CAN'T DO THAT. AT THIS POINT AND TIME
5 THE STATE WOULD BE PROHIBITED FROM GOING INTO THE TAX
6 CONSEQUENCES. YOU CAN HAVE YOUR WITNESSES EXPLAIN WHAT A
7 NONRECOURSE LOAN IS. IF THE DOOR GETS OPENED IN OTHER
8 FASHIONS I CAN'T ANTICIPATE WHAT WOULD BE OR WOULD NOT BE
9 PROPER IN REPLY, REBUTTAL AND WE WILL HAVE TO CROSS THAT
10 BRIDGE WHEN WE GET TO IT.

11 MS. EVANS: WE WERE NOT GOING INTO ANY TAX
12 CONSEQUENCES.

13 THE COURT: AND YOU HAVE CONSENTED TO THAT SO YOU ARE
14 NOT WAIVING ANYTHING.

15 MS. EVANS: RIGHT.

16 MR. GRIFFIN: AND, YOUR HONOR, THERE IS GOING TO BE
17 TAX EVIDENCE ALL THROUGH THE CASE. MY CONCERN IS THEM
18 SAYING THAT IT WAS AN IMPROPER TRANSACTION.

19 THE COURT: RIGHT NOW THAT WILL NOT BE GONE INTO IT.

20 MR. GRIFFIN: THERE IS ANOTHER WITNESS, TONY PARK,
21 YOUR HONOR. HE WAS A FORMER HOMEGOLD EMPLOYEE AND IN AN
22 INTERVIEWS HE MAKES ALLEGATIONS AND FRANKLY IN READING IT
23 I DON'T SEE THAT, HE SAYS THAT MR. SHEPPARD ENGAGED IN
24 THIS ALTHOUGH, PERHAPS HE CONDONED IT BUT MR. PARK WAS IN
25 CHARGE OF THE LOAN PRODUCTION FOR HOMEGOLD OUT OF THE

1 GREENVILLE OFFICE. AND HE WAS FORMERLY WITH MR. SHEPPARD
2 AT HOMESENSE. AND IF YOUR HONOR WILL RECALL, MADE FIRST
3 AND SECOND MORTGAGES PRIMARILY IN THE SUBPRIME LENDING
4 BUSINESS. AND THE INTERVIEW THAT WE HAVE GOTTEN, MR.
5 PARKS ALLEGES THAT A NUMBER OF THESE LOANS WERE BASICALLY
6 FRAUDULENT ON ONE OR MORE WAYS. I AM TALKING ABOUT THE
7 PRODUCT THAT HOMEGOLD IS SELLING AND WHAT THEY DO, THEY
8 GET A CUSTOMER, THEY MAKE A LOAN AND THEN THEY TAKE THAT
9 PAPER AND THEY SELL THE LOAN TO A THIRD PARTY INVESTOR AND
10 THEY MAKE A PROFIT ON THAT. IT IS THE ORIGINAL LOAN TO
11 THE CUSTOMERS THAT THEY WERE DOING FORTY, FIFTY, SIXTY,
12 EIGHTY MILLION DOLLARS A MONTH'S WORTH. AND MR. PARKS
13 SAYS IN SOME OF THESE INTERVIEWS THAT THE EMPLOYEES OF
14 HOMEGOLD TALKS ABOUT CREDIT SCORES SO THAT THEY WOULD
15 QUALIFY THE BORROWER FOR THE LOAN. THAT IF, ON OCCASION A
16 BORROWER WILL DEFAULT ON THE FIRST PAYMENT AND WHEN THEY
17 DEFAULT ON THE FIRST PAYMENT IT MAKES IT VERY DIFFICULT TO
18 SELL THE PAPER OR THEIR OBLIGATION TO REVISE THE PAPER AND
19 THAT HOMEGOLD WOULD MAKE THE PAYMENT FOR THE CUSTOMER TO
20 KEEP THE PAPER GOOD, HE SAYS THAT. HE SAYS THAT, I THINK
21 THERE IS ONE ALLEGATION THAT HE AND OTHERS WERE INVOLVED
22 IN A FALSIFYING JOB HISTORY ON SOME APPLICATIONS. ALL OF
23 THOSE IN REGARDS TO DIRTY BUSINESS, IF YOU WILL, IN MAKING
24 THESE LOANS AND THEN SELLING THE PAPER, WE WOULD ASK THAT
25 THAT NOT BE GONE INTO IN OPENING OR IN THE CASE. AND THEN

1 THIS SAME WITNESS WAS INVOLVED IN, AFTER HOMEGOLD
2 BANKRUPTCY, AFTER THE EMMCO TRANSACTION THIS WITNESS, MR.
3 PARK, WAS WORKING IN SOME CAPACITY AT EMMCO. HE HAD LEFT
4 HOMEGOLD A YEAR BEFORE THEY SHUT DOWN AND STARTED HIS OWN
5 COMPANY. AFTER THE COMPANY WENT OUT OF BUSINESS HE HAD
6 RECORDS RELATING TO THAT COMPANY THAT WAS IN STORAGE THAT
7 HE ATTEMPTED TO DISPOSE OF. HE ATTEMPTED TO DISPOSE OF
8 THOSE RECORDS DURING THE CIVIL LITIGATION, WHERE AT THE
9 TIME I DON'T THINK HE WAS A PARTY TO THE CIVIL LITIGATION.
10 BUT HE WAS WORKING AT EMMCO, THERE WAS ALLEGATIONS IN THE
11 CIVIL LAWSUIT THAT THE ATTEMPTED DESTRUCTION OF THOSE
12 DOCUMENTS VIOLATED AN ORDER THAT DOCUMENTS BE PRESERVED
13 FOR PURPOSES OF THE LITIGATION. AND THERE WERE A LOT OF
14 HEARINGS HELD IN THE PUBLIC COURT IN THAT MATTER. THAT IS
15 PART OF OUR MOTION AS WELL TO PRECLUDE THE STATEMENT GOING
16 IN THAT MATTER IN OPENING AND IF SOMETHING ARISES HERE IN
17 THE TRIAL. THEN OBVIOUSLY THE COURT CAN SUPPRESS IT BUT
18 WE THINK THAT IS CLEARLY OUT OF BOUNDS AND ASK THE COURT
19 TO EXCLUDE THAT.

20 THE COURT: MS. EVANS.

21 MS. EVANS: YOUR HONOR, AS YOU ARE WELL AWARE, WHEN
22 WE SIT DOWN WITH INDIVIDUALS AND SLED AND INTERVIEWS, THAT
23 THEY ASKED FOR EVERYTHING THAT GOES ON. IF MR. PARKS WHO
24 WAS AN EMPLOYEE OF MR. SHEPPARD AT HOMESENSE AND WAS
25 EMPLOYED AT HOMEGOLD. MR. SHEPPARD GAVE HIM MONEY TO HELP

1 SET UP A MORTGAGE BUSINESS WHEN HE LEFT HOMEGOLD AND THEN
2 BE BECAME, AGAIN MR. SHEPPARD HIRED HIM BACK AT EMMCO.
3 MR. PARKS DOES TALK ABOUT SOME FRAUDULENT BEHAVIOR ABOUT
4 CREDIT SCORES, HE DOES TALK ABOUT PAYING OFF, PAYING THE
5 FIRST PAYMENTS AND THEN SELLING THE WAREHOUSE LINES OF
6 CREDIT, THEY WOULD LOOK IF THEY WERE GOOD AND THEY COULD
7 GET 104 PERCENT RATHER THAN 80 PERCENT. HE DOES GO INTO A
8 LOT OF THAT. THERE IS A LOT OF INFORMATION THAT PEOPLE GO
9 INTO THAT IS NOT A PART OF THE COURSE OF BUSINESS. WE HAD
10 NO INTENTION OF BRINGING THE FACT THAT HE WAS MANIPULATING
11 AND MAYBE DEFRAUDING OTHER PEOPLE THROUGH THE WAY HE IS
12 DOING HIS MORTGAGE BUSINESS AT HOMEGOLD, AT HOMESENSE AND
13 AT EMMCO. WE HAD NO PLANS ON GOING INTO THAT. AS FAR AS
14 BANKRUPTCY TRUSTEE TESTIMONY, I WOULD STIPULATE TO MR.
15 GRIFFIN, IF WE DON'T TALK ABOUT THAT AT ALL. THERE WAS
16 TWO HEARINGS, ONE ON APRIL 6TH OF 2004 AND ONE ON APRIL
17 27TH OF 2004 IN WHICH THAT ALLEGATION WAS RAISED WHERE
18 THEY BELIEVED THAT AT THE DIRECTION OF MR. SHEPPARD TONY
19 PARKS DESTROYED EVIDENCE. TONY PARKS TO THIS DAY DENIES
20 THAT MR. SHEPPARD HAD ANY KNOWLEDGE THAT HE WAS DESTROYING
21 RECORDS FROM A WAREHOUSE, HE WAS NOT PARTY TO THAT. BUT
22 AS LONG AS MR. GRIFFIN IS NOT PLANNING ON GOING INTO
23 ANYTHING ELSE THAT WAS TESTIFIED AT THAT BANKRUPTCY
24 HEARING WE WOULD HAVE THAT TO BE EXCUSED TOTALLY. IT WAS
25 TWO HEARINGS BEFORE ROSS ANDERSON. THE CRUX OF THE

1 HEARINGS WERE TO DETERMINE IF MR. SHEPPARD DIRECTED TONY
2 PARKS TO DO THAT, TONY PARKS SAID NO AT THAT HEARING AND
3 CONTINUES TO MAINTAIN TO THIS DAY THAT MR. SHEPPARD HAD NO
4 KNOWLEDGE OF IT SO WE CLEARLY WOULD NOT THINK THAT IS
5 RELEVANT OR ANYTHING ELSE THAT MIGHT OF BEEN MENTIONED AT
6 THAT BANKRUPTCY HEARING.

7 THE COURT: THE STATE DOES NOT INTEND TO GO INTO
8 THOSE MATTERS.

9 MR. GRIFFIN: THANK YOU, YOUR HONOR. AND THERE IS A
10 TRANSCRIPT OF THE SWORN TESTIMONY. OBVIOUSLY, IF HE
11 TESTIFIED AT TRIAL, SOMETHING THAT THEY CONTRADICTS, IT
12 GOES INTO EVIDENCE IN THIS CASE THAT HE CONTRADICTED
13 HIMSELF AND THAT IS SUBJECT TO IMPEACHMENT.

14 THE COURT: RIGHT NOW IT APPEARS THAT THIS IS NOT
15 GOING TO BE AN ISSUE IN THE CASE. AND IF ANYTHING CHANGES
16 PLEASE NOTIFY THE COURT AND LET ME GET IT HEARD OUTSIDE
17 THE PRESENCE OF THE JURY.

18 MR. GRIFFIN: YOUR HONOR, THE NEXT MOTION THAT I
19 LABELED IS MOTION IN LIMINE TO EXCLUDE EVIDENCE AND
20 MISCONDUCT BY OFFICERS AND EMPLOYEES OF CAROLINA
21 INVESTORS.

22 MS. EVANS: THERE WAS ONE PART OF THE MOTION THAT MR.
23 GRIFFIN SKIPPED OVER AND PERHAPS HE DOESN'T WANT TO RAISE
24 IT. BUT UNDER A SEVERANCE OF CHARGING HE TALKS ABOUT
25 LIMITING THE EXPENSE REIMBURSEMENT, PAYMENT FOR MOTOR

1 HOMES, LEASES OF PROPERTY AT LAKE MURRAY, SALARIES, LOANS
2 FROM COMPANIES AND PAYMENT OF PRIVATE AIRFARE FOR BUSINESS
3 OR PERSONAL TRAVEL. HE DIDN'T RAISE THAT BUT WE CERTAINLY
4 WILL PLAN ON GOING INTO THAT. THE SAME ARGUMENT FOR THE
5 LEAPHART ROAD PROPERTY. DURING THE COURSE OF TIME MR.
6 SHEPPARD IS MAKING PUBLIC STATEMENTS, THE PRESS RELEASES
7 MAKING STATEMENTS TO THE BOARD OF CAROLINA INVESTORS OF
8 WHICH HE IS A MEMBER, THAT HE IS DOING EVERYTHING TO CUT
9 EXPENSES, THAT HE IS DOING EVERYTHING TO TURN THIS COMPANY
10 AROUND. AT THE SAME TIME HE INCREASES HIS SALARY FROM
11 \$250 THOUSAND DOLLARS TO \$600 THOUSAND DOLLARS WHICH HAD
12 TO BE RETROACTIVELY APPROVED BY THE BOARD. AT THE SAME
13 TIME HE IS MAKING PUBLIC STATEMENTS THAT HE IS DOING
14 EVERYTHING TO CUT THE COST, CUT THE COST OF THE COMPANY
15 AND TURN IT AROUND. HE GIVES HIMSELF A RAISE THAT HAS TO
16 BE RETROACTIVELY APPROVED AND PAYS PERSONAL EXPENSES
17 INCLUDING PERSONAL TRAVEL ON JETS, TRAVELING AND
18 EXORBITANT EXPENSES. WE THINK THAT CERTAINLY WOULD GO TO
19 THE COURSE OF BUSINESS TO SHOW THE PUBLIC STATEMENTS THAT
20 RONNIE SHEPPARD IS MAKING THAT HE IS TRYING TO TURN THE
21 COMPANY AROUND, CUTTING EXPENSES, AT THE SAME TIME PAYING
22 FOR PERSONAL THINGS WITH HOMEGOLD MONEY, SOME WITHOUT ANY
23 PRIOR BOARD APPROVAL. CERTAINLY IT WAS RETROACTIVELY
24 APPROVED THAT THE RAISE THAT HE GAVE HIMSELF FROM \$250
25 THOUSAND DOLLARS UP TO \$600 THOUSAND DOLLARS BUT HE GAVE

1 IT TO HIMSELF. I THINK THAT THOSE EXPENSES GO TO THE
2 COURSE OF BUSINESS WHEN HE IS OUT THERE TELLING THE WORLD
3 THROUGH PRESS RELEASES AND THE CAROLINA INVESTORS BOARD
4 HOW HE IS CUTTING EXPENSES, TO BE ABLE TO DEMONSTRATE THAT
5 THOSE ARE NOT TRUE STATEMENTS, THAT HE IS NOT CUTTING
6 EXPENSES. IT WASN'T RAISED IN THAT AND WE CERTAINLY FEEL
7 THAT WE HAVE AN EXACT RIGHT TO GO INTO THAT BUT THAT IS A
8 COURSE OF BUSINESS THAT WOULD DEFRAUD INVESTORS, INVESTORS
9 BELIEVED THAT HE WAS TRULY TRYING TO CUT EXPENSES WHEN HE
10 IS OUT HERE HAVING ALL OF THESE PERSONAL EXPENSES, YOUR
11 HONOR.

12 THE COURT: MR. GRIFFIN.

13 MR. GRIFFIN: YOUR HONOR, I DIDN'T THINK I SKIPPED
14 OVER IT. AND, YOUR HONOR, THERE ARE TWO ISSUES HERE. ONE
15 IS, HOW MUCH MONEY DID MR. SHEPPARD RECEIVE FROM THE
16 COMPANY AND WHAT FORM AND FASHION DID HE RECEIVE THEM.
17 THAT IS ONE ISSUE AND RATHER THAT IS RELEVANT AND
18 ADMISSIBLE FOR WHAT REASON. AND THEN THE OTHER ISSUE DID
19 THEY RECEIVE THAT MONEY IMPROPERLY, DID HE STEAL THAT
20 MONEY, THERE IS WRONGFUL CONDUCT WITH HIM ACCEPTING THAT
21 MONEY. THERE ARE TWO LEVELS OF ANALYSIS AND THE FIRST
22 LEVEL OF ANALYSIS, IS THAT THERE SHOULD BE NO EVIDENCE
23 THAT HE GOT THAT MONEY IMPROPERLY OR THAT THESE EXPENSES
24 WERE PAID IMPROPERLY OR ANYTHING OF THAT NATURE. AND THE
25 ONLY THING THAT THEY HAVE RAISED IS THAT A RETROACTIVE

1 SALARY INCREASE, THAT WAS RATIFIED BY THE BOARD. AND SO
2 WITH, AND THEN THE QUESTION BECOMES, DID HE GO OUT AND
3 TELL PEOPLE THAT HE WAS CUTTING EXPENSES AND CONTINUING TO
4 RECEIVE HIS SALARY AND BENEFITS AND I DON'T THINK THERE IS
5 ANY EVIDENCE. WELL, THE FIRST ISSUE, DID HE GET IT
6 WRONGFULLY. AND WE THINK THAT SHOULD BE EXCLUDING ANY
7 ALLEGATION OR TESTIMONY THAT HE GOT IT WRONGFULLY. NOW,
8 WE ARE JUST RIGHT BACK INTO THE BREACH OF TRUST AND
9 OBTAINING GOODS UNDER FALSE PRETENSES COUNT BY SAYING HE
10 GOT IT WRONGFULLY. AND THEN SECONDLY, IS BY RECEIVING
11 SALARY AND BENEFITS, IS THAT A FRAUD. AND IT IS NOT AND
12 THAT, IT SORT OF TIES INTO ANOTHER MOTION OF LIMINE THAT
13 WE HAD FILED SEPARATELY. IT IS EXCLUDING EVIDENCE OF THE
14 GROSS SALARY AND BENEFITS THAT HE HAD RECEIVED BECAUSE IT
15 IS NOT RELEVANT. AND THE ONLY REASON IT GOES IN IS SO
16 THAT THE JURY CAN THINK THIS GUY GOT RICH WHILE THESE
17 OTHER PEOPLE LOST MONEY. THAT IS NOT THE QUESTION THAT
18 THIS JURY IS GOING TO BE REQUIRED TO ANSWER. THE QUESTION
19 IS GOING TO BE DID THIS GUY LIE, DID HE ENGAGE IN A
20 FRAUDULENT SCHEME TO DEPRIVE THESE PEOPLE OF MONEY, FALSE
21 INFORMATION PROVIDED TO THEM. AND IN THAT REGARD THE FACT
22 AND WHEN YOU GET TO THESE AMOUNTS, THEY ARE, THE DOLLAR
23 AMOUNTS ARE MINUSCULE COMPARED TO THE OVERALL EXPENSES OF
24 HOMEGOLD AND THE OVERALL REVENUES OF HOMEGOLD. I MEAN
25 THEY ARE NOT MINUSCULE FOR PURPOSES OF WRONG NUMBERS.

1 THIS JURY IS GOING TO HEAR MAGNIFICENT NUMBERS, \$400
2 MILLION DOLLARS WAS LOST BEFORE MR. SHEPPARD EVER GOT
3 THERE FROM 1996 TO 2000, \$400 MILLION DOLLARS EVAPORATED.
4 AND SO THE DOLLARS WE ARE TALKING ABOUT HERE ARE NOT
5 MATERIAL IN TERMS OF IS IT GOING TO TURN THE COMPANY
6 AROUND IF THEY STOP PAYING THE \$6 OR \$7 THOUSAND DOLLAR
7 RENT ON THE LAKE MURRAY HOUSE. AND THAT IS WHY IT IS NOT,
8 IT GOES TO THE 403 ARGUMENT AS WELL, IS THAT THE UNFAIR
9 PREJUDICE OUTWEIGHS THE PROBATIVE VALUE. CLEARLY FOR THEM
10 TO SAY IT IS WRONG THAT HE GOT IT IS 404(B) AND THE STATE
11 V. LYLE. AND THE SECOND ARGUMENT IS THE FACT THAT HE GOT
12 IT, IT DOESN'T PROVE ANYTHING IN THIS CASE. IT IS ONLY
13 BEING OFFERED PREJUDICED TO MR. SHEPPARD.

14 THE COURT: MS. EVANS.

15 MS. EVANS: YOUR HONOR, AS I STATED WHEN I BROUGHT IT
16 UP. HE GAVE HIMSELF THE RAISE, IT WAS RETROACTIVELY
17 APPROVED. WE ARE NOT SAYING HE STOLE MONEY BUT WHAT WE
18 ARE SAYING IT IS A COURSE OF BUSINESS TO DEFRAUD
19 INVESTORS. WHEN YOU ARE MAKING PUBLIC STATEMENTS THAT YOU
20 ARE TRYING TO TURN THIS COMPANY AROUND, YOU ARE CUTTING
21 EXPENSES EVERY WAY. AND ONE TRIP ALONE IT COST \$14
22 THOUSAND DOLLARS FOR YOU TO FLY ON A GOLF-STREAM JET BY
23 YOURSELF SOMETIMES, SOMETIMES WITH HIS FAMILY AND OTHER
24 PEOPLE, I THINK IT GOES TO THE COURSE OF BUSINESS TO
25 DEFRAUD INVESTORS. THE STATE WILL TIE IT IN, SECURITIES

1 FRAUD IS NOT ONLY WHAT YOU TELL BUT WHAT YOU DON'T TELL.
2 WHAT YOU DON'T TELL MEMBERS OF THE CAROLINA INVESTORS
3 BOARD OF WHICH HE IS A MEMBER. I THINK IT GOES PART AND
4 PARCEL, WE ARE NOT GOING TO ALLEGE THAT HE STOLE THIS
5 MONEY, THAT HE WENT INTO THE ACCOUNTING DEPARTMENT AND
6 THAT HE WROTE CHECKS FOR HIMSELF WITHOUT ANYBODY'S
7 KNOWLEDGE. WHAT WE ARE DOING IS TO SHOW PART AND PARCEL
8 OF THE COURSE OF BUSINESS AND I DON'T KNOW ABOUT MR.
9 GRIFFIN, BUT I DON'T THINK \$5.7 MILLION DOLLARS IN A
10 NONRECOURSE LOAN IS A MINUSCULE AMOUNT. I DON'T THINK
11 \$8.4 MILLION DOLLARS THAT HE WAS ABLE TO WALK OUT OF
12 CAROLINA INVESTORS IS A MINUSCULE AMOUNT. I DON'T THINK
13 THAT ANY CAROLINA INVESTOR WOULD THINK THAT THOSE AMOUNTS
14 WERE MINUSCULE AMOUNTS. I THINK THE TESTIMONY IS GOING TO
15 BE A LOT OF PEOPLE SAYING, IF WE HAD KNOWN THIS
16 INFORMATION WHILE HE IS UP HERE TELLING US HE IS TRYING TO
17 TURN THE COMPANY AROUND, THAT HE IS TAKING JETS, THAT THEY
18 ARE PAYING PERSONAL EXPENSES IN ADDITION TO THE SALARY, HE
19 IS ENTITLED TO A SALARY. WE ARE NOT ARGUING THAT HE IS
20 NOT ENTITLED TO A SALARY. BUT JUST TO SHOW PART AND
21 PARCEL OF THE COURSE OF BUSINESS, WHAT HE WAS GETTING
22 PAID, THAT HE GAVE HIMSELF A RAISE. WE ARE NOT SAYING
23 THAT HE STOLE THAT MONEY, IT WAS RETROACTIVELY APPROVED BY
24 THE BOARD. BUT THAT DEMONSTRATES THE STATEMENTS TO THE
25 PUBLIC AND THE REALITY OF WHAT MR. SHEPPARD IS DOING IS

1 EXACTLY WHAT A COURSE OF BUSINESS AND WHAT HE IS TELLING
2 MORE SPECIFICALLY TO THE CAROLINA INVESTORS BOARD WHICH
3 INCLUDES INVESTORS THAT WE ALLEGE ARE NOT PART OF THIS
4 SCHEME. WE THINK THAT GOES TO IT BUT WE ARE NOT ALLEGING
5 THAT HE GOT ANY OF THESE IMPROPERLY, THEY WERE ALL
6 APPROVED BY THE ACCOUNTING DEPARTMENT. I WILL RAISE ONE
7 ISSUE AND I DON'T THINK WE ARE GOING TO SAY THAT HE GOT IT
8 IMPROPERLY BUT WE ARE RAISING IT TO SHOW THAT IN MARCH OF
9 2002 WHICH IS A VERY SIGNIFICANT MONTH IN THIS TRIAL,
10 MARCH OF 2002 WHEN GOING CONCERN WAS DEFINITELY TOLD TO
11 THE DEFENDANT AND EVERYBODY AT HOMEGOLD, THAT GOING
12 CONCERN WHICH WAS A MAJOR PROBLEM IN THIS CASE WAS GOING
13 TO BE PUT IN THE PROSPECTUS. IT WAS TOLD TO THEM, THERE
14 WERE POWER POINTS EARLIER, EARLIER THAN THAT MEETING,
15 OCTOBER OF 2001 OF ELLIOTT DAVIS' CONCERN. AT THAT POINT
16 MR. SHEPPARD WOULD APPEAR, WHAT APPEARS TO, FROM THE PAPER
17 TRANSACTION BECOMES AN INVESTOR AT CAROLINA INVESTORS.
18 WHAT HE DOES IS INVEST \$200 THOUSAND DOLLARS OF WHAT
19 APPEARS TO BE HIS OWN MONEY INTO CAROLINA INVESTORS. ON
20 APRIL THE 1ST OF 2002 WHEN THAT PROSPECTUS COMES OUT
21 RONNIE J. SHEPPARD IS PERSONALLY LISTED AS THE SECOND
22 BIGGEST SHAREHOLDER IN CAROLINA INVESTORS. THE FIRST TIME
23 THAT HE IS LISTED EVER IN A PROSPECTUS. SUBSEQUENT TO HIM
24 BEING LISTED PERSONALLY IN A PROSPECTUS THAT HAS GOING
25 CONCERN HE THEN TURNS AROUND AND IT IS ALL APPROVED BY

1 HOMEGOLD. I AM NOT SAYING HE CUTS A CHECK TO HIMSELF, HE
2 GOES AND THEN GETS \$200 THOUSAND DOLLARS FROM HOMEGOLD.
3 SO, IN ESSENCE WHAT APPEARS TO THE PUBLIC AND CAROLINA
4 INVESTORS THAT RONNIE J. SHEPPARD INVESTED HIS MONEY IN
5 CAROLINA INVESTORS, THE REALITY IS IS THAT IT IS
6 HOMEGOLD'S MONEY WHICH IN REALITY IS REALLY CAROLINA
7 INVESTORS MONEY. SO, BY 2002 MR. SHEPPARD HAS INCREASED
8 THE DEBT ALMOST THAT ONE YEAR ALONE \$100 THOUSAND DOLLARS
9 WHILE HE IS CEO, \$100 MILLION, EXCUSE ME, \$100 MILLION
10 DOLLARS BETWEEN DECEMBER 31ST, 2000 AND DECEMBER 31ST OF
11 2002. SO, THAT, WE ARE NOT SAYING HE GOT IT IMPROPERLY,
12 ACCOUNTING APPROVED IT BUT THAT IS THE ONLY ONE I WOULD
13 SAY WOULD BE QUESTIONABLE ABOUT SAYING IMPROPERLY. WE
14 THINK IT IS IMPROPER, THE MOTIVE OF SHOWING THAT HE IS A
15 PERSONAL INVESTOR AT CAROLINA INVESTORS WHEN IN REALITY IT
16 IS NONE OF RONNIE J. SHEPPARD'S PERSONAL MONEY THAT THAT
17 RISK AT CAROLINA INVESTORS. BUT WE THINK THAT IS ALL PART
18 AND PARCEL OF THE SCHEME TO DEFRAUD TO MAKE IT LOOK AS HE
19 IS PUTTING HIS PERSONAL MONEY IN CAROLINA INVESTORS, A
20 PROSPECTUS THAT MAYBE, THAT THEY MAY OR MAY NOT HAVE SEEN.
21 BUT IT WAS CLEARLY BEHIND DON BOBO AS A SECOND IN THAT
22 PROSPECTUS, BIGGEST INVESTOR IN CAROLINA INVESTORS CLEARLY
23 IN THE FIRST TIME. SO, WE DO THINK THAT DOES GO TO THE
24 COURSE OF BUSINESS TO DEFRAUD INVESTORS.

25 THE COURT: MR. GRIFFIN.

1 MR. GRIFFIN: JUST BRIEFLY, YOUR HONOR. IN REGARD TO
2 THE, I TAKE IT I UNDERSTAND SHE IS NOT SAYING THAT THEY
3 ARE GOING TO ARGUE THAT HE IMPROPERLY RECEIVED ANY OF THIS
4 MONEY. AND SO THEN THE ONLY MONEY THAT THEY HAVE
5 IDENTIFIED THAT WAS IN ANY WAY RELATED TO OR REPRESENTED
6 TO THE INVESTORS OF CAROLINA INVESTORS IS THIS \$200
7 THOUSAND DOLLAR LOAN. AND AS TO THESE OTHER SALARIES AND
8 BENEFITS THAT, FOR WHAT PURPOSE IS IT BEING ADMITTED IS
9 THE QUESTION OTHER THAN JUST TO PREJUDICE THIS DEFENDANT.
10 HE GOT MONEY AND PEOPLE LOST MONEY. AS TO THE OTHER
11 POINT, YOUR HONOR, WE WOULD JUST ASK NOT GO INTO OPENING
12 AND SEE WHERE THE EVIDENCE PLAYS OUT IN THAT. I THINK
13 THAT THERE IS MORE TO IT THAN WHAT THEY HAVE OFFERED AT
14 THIS POINT.

15 THE COURT: THE COURT'S RULING ON THIS IS THE SAME AS
16 ON THE LEAPHART ROAD PROPERTY. THEY CAN GO INTO IT ON
17 THEIR OPENING AND IF, AGAIN, IT MAY BE SOME OF THESE
18 PRETRIAL RULINGS, I AM HAVING TO SORT OF GUESS AS TO WHAT
19 THE EVIDENCE MAY OR MAY NOT BE. IF THE EVIDENCE DOESN'T
20 ESTABLISH WHAT THE ARGUMENTS ARE THEN WE WILL CROSS THAT
21 BRIDGE WHEN WE GET TO IT.

22 MR. GRIFFIN: YES, SIR. MY UNDERSTANDING, MY
23 OBLIGATION TO PROTECT THE RECORD IS THAT THE MOTION IN
24 LIMINE I STILL HAVE TO MAKE--

25 THE COURT: YOU STILL HAVE TO MAKE IT AT THE TIME IT

1 IS OFFERED.

2 MR. GRIFFIN: YOUR HONOR, THE OTHER MOTIONS THAT I
3 HAVE FILED ARE RELATED TO, ONE I WAS GOING INTO IS OUR
4 MOTION TO EXCLUDE EVIDENCE OF MISCONDUCT BY OFFICERS AND
5 EMPLOYEES OF CAROLINA INVESTORS. AND I DON'T KNOW EXACTLY
6 THE SCOPE OF THEIR, THE STATE'S EVIDENCE ON THIS MATTER.
7 BUT I UNDERSTAND THAT THEY HAVE BEEN INTERVIEWING MR.
8 OWEN, BRINGING HIM OUT OF PRISON AND HE IS A CORROBORATING
9 WITNESS. AND I HAVE GOT SOME STATEMENTS, SOME OF THEM ARE
10 SOME TIME AGO. BUT I DO KNOW THAT AND IN MR. OWEN'S TRIAL
11 AS WELL AS MR. MORRIS' TRIAL THERE WAS A BIG ISSUE RAISED
12 ABOUT DISSEMINATION OF SOME SALES BROCHURE THAT WAS
13 PREPARED, IT IS CALLED THE PEARL OF THE UPSTATE IF YOUR
14 HONOR MAY RECALL THE NAME. AND IT WAS DONE PREDATING MR.
15 SHEPPARD'S ARRIVAL AT HOMEGOLD AND I THINK IT WAS PREPARED
16 IN 1998 PERHAPS. IT HAS GOT A PICTURE OF MR. HOLDER AND
17 OTHERS, MR. OWEN AND OTHERS, MR. GIDDENS. PEOPLE WHO ARE
18 NOT RELATED TO THE COMPANY ANY MORE. MR. GIDDENS WAS GONE
19 BY THIS TIME. AND APPARENTLY THAT BROCHURE WAS MADE
20 AVAILABLE TO CUSTOMERS WHO CAME INTO CAROLINA INVESTORS.
21 AND THEIR EXPERT TESTIFIED IN THE OTHER CASES THAT, THEY
22 SHOULDN'T HAVE DONE THAT, THAT HAD TO BE FILED WITH THE
23 SECURITIES COMMISSION. AND IT WASN'T. AND I DON'T KNOW
24 HOW FAR THEY WENT WITH IT BUT WITH THAT REGARD, YOUR
25 HONOR, AND LARRY OWEN HAD TESTIFIED IN EARLE MORRIS' TRIAL

1 THAT HE HAD BEEN LYING TO INVESTORS, LYING TO INVESTORS
2 SINCE 1998. AND SO AND THAT WOULD BE ANOTHER THING. BUT
3 WITH REGARD TO THE THINGS THAT LARRY OWEN DID OR DIDN'T DO
4 AND THINGS THAT HE SHOULDN'T HAVE DONE, THAT IS LARRY
5 OWEN'S ISSUE. AND FOR THAT TO COME INTO EVIDENCE AGAINST
6 MR. SHEPPARD, UNLESS THERE IS SOME LINK SHOWING THAT MR.
7 SHEPPARD AUTHORIZED IT, CONDONED IT, APPROVED IT,
8 PERMITTED IT THEN IT SHOULD BE EXCLUDED UNDER 403.

9 THE COURT: LET ME HEAR WHERE THE STATE INTENDS TO GO
10 WITH THAT. MS. PORTER.

11 MS. PORTER: THANK YOU, YOUR HONOR. WE DO INTEND TO,
12 THROUGH LARRY OWEN AND SOME OF OUR EXPERTS WILL TESTIFY
13 REGARDING THE PEARL OF THE UPSTATE. WHAT WE ARE TRYING TO
14 DO IS PROVE THE COURSE OF BUSINESS. AND WHAT YOU HAVE GOT
15 TO DO WHEN PROVING A COURSE OF BUSINESS IS TO ESTABLISH
16 WHAT THAT COURSE OF BUSINESS IS. THIS CASE IS ABOUT A
17 COURSE OF BUSINESS BETWEEN HOMEGOLD AND CAROLINA INVESTORS
18 THAT WE ARE NOT ALLEGING THE STATE CREATED, I AM SORRY, WE
19 ARE NOT ALLEGING THE DEFENDANT CREATED IT, OFFERED IT, IT
20 IS NOT IN HIS BRAIN TRACK. WHAT WE ARE ALLEGING IS THAT
21 IN MAY OF 2000 HE JOINED HIS COMPANY WITH HOMEGOLD AND
22 BECAME CEO OF HOMEGOLD AND ON THE BOARD OF CAROLINA
23 INVESTORS HE JOINED THIS COURSE OF BUSINESS AND BEGAN AT
24 THAT POINT TO BEHAVE IN CONCERT WITH IT AND FURTHER THIS
25 COURSE OF BUSINESS. LARRY OWEN IS GOING TO HELP ESTABLISH

1 WHAT THAT COURSE OF BUSINESS IS. WE BELIEVE THE PEARL OF
2 THE UPSTATE IS RELEVANT TO ESTABLISHING WHAT THAT COURSE
3 OF BUSINESS IS. IN ADDITION, IN COUNT THREE OF OUR
4 INDICTMENT WE HAVE ALLEGED CONSPIRACY. AND THAT WOULD BE
5 TO ACT OF A COCONSPIRATOR IN FURTHERANCE OF THE
6 CONSPIRACY, THE CONSPIRACY IN WHICH WE ALLEGE THE
7 DEFENDANT JOINED IN MAY OF 2000. I THINK IT IS WELL
8 ESTABLISHED IN CONSPIRACY LAW, THE ACTS OF COCONSPIRATOR.
9 IN FURTHERANCE OF THE CONSPIRACY ARE ADMISSIBLE, IN
10 ADDITION I WOULD POINT THE COURT TO STATE V. ADAMS, 319,
11 SC 509, 462, SE 2ND, 308. IT IS A COURT OF APPEALS CASE
12 IN 1995 WHICH STATES THAT ALL INCIDENTAL AND CONSEQUENTIAL
13 ACTS THAT ARE ARISING OUT OF THE GENERAL DESIGN OF
14 CONSPIRACY ARE ADMISSIBLE.

15 THE COURT: MR. GRIFFIN.

16 MR. GRIFFIN: YOUR HONOR, AS TO THE COURSE OF
17 BUSINESS ARGUMENT ISSUE, THEY HAVE TO PROVE SOME KNOWLEDGE
18 AND LENGTH TO THAT TO SAY THAT THIS IS SOME, YOUR HONOR,
19 WE ARE GOING TO GET INTO THAT ISSUE, WILL KEEP COMING UP
20 IN THIS TRIAL AS TO EVIDENTIARY RULINGS AND OTHERWISE.
21 AND UNDER THE DOCTRINE OF INTRA-CORPORATE IMMUNITY, IF YOU
22 WILL, AND THE RULE IS SIMPLY THIS. MEMBERS OF A
23 CORPORATION CANNOT CONSPIRE WITH EACH OTHER AS A MATTER OF
24 LAW TO DO THE COMPANIES BUSINESS. AND THAT IS WHAT THEY
25 ARE ALLEGING, THAT THIS IS THE COMPANIES BUSINESS, HE

1 JOINED THE BUSINESS AND AS A RESULT THERE IS A CONSPIRACY
2 FOR THAT. AND, YOUR HONOR, I WILL CITE A NUMBER OF CASES
3 OF THE FORTH CIRCUIT, THERE ARE NO SOUTH CAROLINA STATE
4 CASES. I DON'T THINK THE STATE HAS BEEN PRESENTED WITH
5 THIS. BUT UNDER THE DOCTRINE OF WHAT IS CALLED
6 INTRA-CORPORATE IMMUNITY, ACTS OF CORPORATE AGENTS OR ACTS
7 OR CORPORATION, CORPORATE EMPLOYEES CANNOT CONSPIRE WITH
8 EACH OTHER OVER A CORPORATION. AND THERE IS A COMPANY
9 CALLED EPLUS TECHNOLOGY VERSUS ABOUD, 313 F3RD, 166.
10 THERE IS A NUMBER OF OTHER CASES OF EPLUS, GREENVILLE
11 PUBLISHING COMPANY VERSUS DAILY REFLECTOR, INC., ANOTHER
12 FORTH CIRCUIT CASE OF 496, F2ND, 391. THERE IS AN
13 EXCEPTION TO THAT DOCTRINE AND IT IS CALLED THE PERSONAL
14 STAKE EXCEPTION AND IF SOMEONE IS CONSPIRING TO DO
15 SOMETHING AGAINST THE CORPORATE INTEREST THEN THAT IS
16 WHERE YOU CAN HAVE CONSPIRACY. HER ARGUMENT OF IT IS A
17 CONSPIRACY THEREFORE EVERYTHING THAT ANYBODY WAS INVOLVED
18 IN THIS CONSPIRACY DID IS COMING INTO EVIDENCE, STATEMENTS
19 MADE BY OTHERS IN FURTHERANCE OF THIS CONSPIRACY. YOU
20 DON'T GET TO THAT PART UNLESS THERE IS A CONSPIRACY THAT
21 FALLS OUTSIDE OF THIS INTRA-CORPORATE COMMUNITY DOCTRINE.
22 AND FOR THAT REASON, THAT IS MY POINT ON THIS CONSPIRACY
23 ARGUMENT. BUT, AGAIN, THE PEARL OF THE UPSTATE, MR. OWEN,
24 THERE WAS A TIME THAT MR. OWEN DID NOT GIVE OUT
25 PROSPECTUS'. THE GENERAL COUNSEL THAT MR. SHEPPARD

1 BROUGHT ON LEARNED OF THAT AND HE TOOK STEPS TO REMEDY
2 THAT. AND SO UNDER MR. SHEPPARD'S TUTELAGE, THEY CHANGED
3 THE BUSINESS TO CORRECT THAT. AND MR. OWEN AT SOME POINT
4 AND TIME IN AUGUST OR SEPTEMBER OF 2002 DRAFTED SOME
5 LETTER SORT OF EXPLAINING THE GOING CONCERN AND ATTACHED
6 THAT WHEN THAT WAS DISCOVERED, MR. OWEN WAS TOLD TO STOP
7 AND HE WAS REQUIRED TO COME DOWN TO THE SOUTH CAROLINA
8 SECURITIES COMMISSION AND GIVE THEM THE LETTER. AND SO
9 HIS ACTIONS OUTSIDE OF WHAT HE SHOULDN'T OF BEEN DOING,
10 SHOULD NOT BE ADMITTED IN THIS CASE AGAINST MR. SHEPPARD
11 UNDER 403 AND STATE V. LYLES.

12 THE COURT: MS. PORTER, ANYTHING IN RESPONSE.

13 MS. PORTER: OTHER THAN TO SAY, YOUR HONOR, I THINK
14 WE ARE ARGUING FACTS. I MEAN MR. GRIFFIN HAS JUST ALLEGED
15 SEVERAL THINGS WHICH WOULD BE A GREAT DEFENSE WHICH WE
16 HAVE REBUTTAL TO. FOR INSTANCE MR. OWEN RECEIVED, AFTER
17 GOING TO THE SEC AND GETTING A SLAP ON THE WRIST AND BEING
18 TOLD IT WAS OKAY TO DO WHAT HE DID, JUST NOT TO DO IT ANY
19 MORE, HE GETS A RAISE FROM THE DEFENDANT. I AM NOT QUITE
20 SURE WHERE TO GO FROM HERE EXCEPT TO SAY THAT WE BELIEVE
21 THAT THE ACTS OF ONE COCONSPIRATOR ARE ADMISSIBLE AGAINST
22 ANOTHER COCONSPIRATOR WHEN IT IS IN FURTHERANCE OF A
23 CONSPIRACY. WE ALSO BELIEVE TO PROVE SECURITIES FRAUD
24 UNDER A COURSE OF BUSINESS, UNDER 12-10-3, WE HAVE GOT TO
25 BE ABLE TO PROVE THE COURSE OF BUSINESS. AND I AM NOT

1 SURE HOW TO DO THAT OTHER THAN PUTTING UP OTHERS WHO ARE
2 INVOLVED IN THE COURSE OF BUSINESS TO TESTIFY ABOUT THEIR
3 CONDUCT.

4 THE COURT: AT THIS POINT AND TIME THE EVIDENCE THAT
5 HAS BEEN DESCRIBED WILL BE PERMITTED IN ORDER FOR THE
6 STATE TO PROVE COURSE OF BUSINESS. AS FAR AS WHEN THAT
7 BROCHURE WAS PREPARED AND WHO PREPARED IT AND THINGS OF
8 THAT NATURE, I MEAN I HAVE GOT TO HEAR THE EVIDENCE, AS
9 LONG AS IT IS NOT MISLEADING IT IS PROBABLY GOING TO COME
10 IN. SO, THAT MOTION AT THIS TIME IS DENIED.

11 MR. GRIFFIN: JUST THE LAST ISSUE, I JUST WANT TO
12 RAISE IT TO THE COURT AND AS WE GET INTO IT. IT IS MY
13 UNDERSTANDING THAT, IN THE INDICTMENT THE ONLY,
14 "INVESTORS", THAT ARE ALLEGED TO HAVE ANY ONE-ON-ONE
15 CONTACT WITH MR. SHEPPARD IS MR. BOBO AND MR. SHARPE WHO
16 WERE BOTH ON THE BOARD AND SERVED ON THE BOARD OF CAROLINA
17 INVESTORS ALONG WITH MR. SHEPPARD. AND THAT IN MY REVIEW
18 OF DISCOVERY, BUT THAT THERE WERE NO INVESTORS WHO SPOKE
19 TO MR. SHEPPARD AND HAD ANY DIRECT CONTACT WITH MR.
20 SHEPPARD. MY CONCERN IS THAT THE STATE WILL BRING IN A
21 PARADE OF VERY SYMPATHETIC INVESTORS WHO LOST LIFE SAVINGS
22 AT CAROLINA INVESTORS. AND THAT SOLELY FOR THE PURPOSE OF
23 GETTING THE SYMPATHY OF THE JURY AND ANYTHING THAT THEY
24 SAY OTHER THAN THEY LOST MONEY AND THE THRESHOLD HERE IS,
25 AND WE WILL STIPULATE TO THAT, THAT ANYTHING THEY SAID

1 BEYOND THAT IS TO SOLELY TO PREJUDICE THE JURY UNDER RULE
2 403, THERE IS NO PROBATIVE EFFECT WHATSOEVER. AND IT
3 WOULD, WE COULD BE HERE THREE MONTHS, YOUR HONOR,
4 DEPENDING ON HOW MANY INVESTORS THEY WANT TO CALL. YOUR
5 HONOR, I AM JUST CONCERNED THAT WE WILL SIT HERE FOR A
6 WEEK AND LISTEN TO INVESTOR AFTER INVESTOR AFTER INVESTOR
7 WHO HAVE NO CONTACT WITH MR. SHEPPARD. THANK YOU.

8 THE COURT: MS. EVANS.

9 MS. EVANS: WE DO HAVE A RIGHT TO PROVE LOSS.
10 SECURITIES FRAUD CAN BE DONE DIRECTLY OR INDIRECTLY. AND
11 I THINK IT IS VERY PERTINENT WHETHER MR. SHEPPARD SPOKE
12 DIRECTLY OR INFORMATION WAS RELAYED BECAUSE MR. SHEPPARD
13 WAS ON THE CAROLINA INVESTORS BOARD THAT WAS RELAYED TO
14 INDIVIDUALS FROM THE CAROLINA INVESTORS BOARD THAT MAY OR
15 MAY NOT HAVE BEEN TRUE, THAT WAS SUBSEQUENTLY RELAYED TO
16 DIRECT INVESTORS IS INDIRECT SECURITIES FRAUD IN THE
17 COURSE OF BUSINESS. BUT, YOUR HONOR, I KNOW A WITNESS
18 LIST WAS SUBMITTED, I WILL POINT OUT THAT THE DEFENSE LIST
19 WAS FAR LONGER THAN THE STATE'S WAS BUT WE DON'T HAVE ANY
20 INTENTION OF DOING PARADE AFTER PARADE OF WITNESSES.
21 THERE ARE A FEW WITNESSES, MR. GRIFFIN ACTUALLY KNOWS
22 ABOUT ONE PARTICULAR INVESTOR THAT HE ASKED, MEREDITH
23 CASTEEN ABOUT THAT IF SHE REMEMBERED A PARTICULAR INVESTOR
24 THAT CALLED MR. SHEPPARD FROM TIME TO TIME. AND SO MR.
25 GRIFFIN IS AWARE OF DIRECT TALKS WITH THAT. WE DO HAVE

1 ANOTHER INDIVIDUAL THAT DIRECTLY TALKED TO HIM. BUT ANY
2 OTHER INVESTORS THAT WE WOULD CALL AND WE ARE, YOUR HONOR,
3 FOR THE PURPOSES OF TIME GOING TO LIMIT THE NUMBER OF
4 INVESTORS IN THE HARDSHIP THAT IT WOULD CREATE DRIVING
5 FROM GREENVILLE. WE ARE DEALING WITH A BUNCH OF ELDERLY
6 PEOPLE THAT DON'T HAVE TRANSPORTATION BECAUSE THEY DID
7 LOSE A BUNCH OF THEIR LIFE SAVINGS. WE ARE REALLY GOING
8 TO LIMIT THE NUMBER OF INVESTORS. AND IF AND WHEN WE CALL
9 THOSE INVESTORS, THEY WOULD ONLY BE CALLED FOR THE SOLE
10 PURPOSE OF INFORMATION THAT RONNIE SHEPPARD DIRECTLY
11 RELAYED TO SOMEBODY AT CAROLINA INVESTORS AS A MEMBER OF
12 THE BOARD WHICH IS NEITHER NOT TOTALLY COMPLETE, HALF
13 TRUTH OR JUST GENERALLY MISLEADING WHICH IS THE STANDARD
14 WE HAVE FOR SECURITIES FRAUD. AND AT THAT INFORMATION,
15 THOSE PEOPLE BELIEVING IT IS TRUE BECAUSE IT CAME FROM THE
16 CEO OF HOMEGOLD AND A BOARD MEMBER OF CAROLINA INVESTORS
17 IS SUBSEQUENTLY RELAYED TO INVESTORS WHICH ENCOURAGES THEM
18 TO KEEP THEIR INVESTMENT IN. WE THINK THAT WOULD BE
19 RELEVANT BUT I WILL PUT THE COURT AT EASE THAT WE ARE NOT
20 PLANNING ON BRINGING A PARADE OF WITNESSES, WE CERTAINLY
21 UNDERSTAND THE TIME RESTRAINTS OF THIS AND WE ARE AND HAVE
22 PARED DOWN THE ONES THAT WE DID. BUT ANYONE THAT WE WOULD
23 BRING WOULD HAVE HEARD DIRECT INFORMATION THAT COMES OR
24 ALLEGING THAT COMES FROM THE DEFENDANT'S MOUTH GIVEN TO
25 THE MEMBERS OF THE BOARD A STATEMENT, THEY WERE MISLEAD, A

1 LIE OR WHATEVER.

2 THE COURT: MR. GRIFFIN, ANYTHING FURTHER?

3 MR. GRIFFIN: NO, YOUR HONOR.

4 THE COURT: THE STATE CAN CALL WHO THEY WANT TO CALL
5 AND I WILL MAKE A RULING AT THE APPROPRIATE TIME. IF THE
6 TESTIMONY BECOMES CUMULATIVE OR YOU GET INTO THE 403
7 ISSUES I WILL MAKE A DETERMINATION AT THAT POINT AND TIME.
8 BUT AT THIS TIME I DON'T WANT TO ESTABLISH ANY KIND OF
9 LIMIT ON THE WITNESSES WHO CAN BE CALLED. I BELIEVE THAT
10 IS ALL YOU HAVE?

11 MR. GRIFFIN: YES, YOUR HONOR.

12 THE COURT: ANYTHING FROM THE STATE AT THIS POINT AS
13 FAR AS PRETRIAL MOTION?

14 MS. EVANS: NO, YOUR HONOR.

15 THE COURT: LET'S TAKE A SHORT BREAK BEFORE WE START.
16 I NEED TO TALK TO COUNSEL IN-CHAMBERS, THERE IS ONE JUROR
17 ISSIE THAT I NEED TO TALK TO YOU ABOUT.

18 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

19 THE COURT: FOR THE RECORD, ONE OF THE JURORS, JUROR
20 NUMBER 142 HAS BEEN EXCUSED AND THE FIRST ORDER OF
21 BUSINESS IS TO SEAT ONE OF THE ALTERNATES. WHEN THE JURY
22 IS BROUGHT IN, ONCE WE COMPLETE THAT WE WILL PROCEED WITH
23 OPENING STATEMENTS. IS THE STATE READY?

24 MR. PEAVY: YES, YOUR HONOR.

25 THE COURT: IS THE DEFENSE READY?

1 MR. GRIFFIN: YES, YOUR HONOR.

2 THE COURT: LET'S GET THE JURY IN FIRST AND THEN WE
3 WILL SELECT AN ALTERNATE.

4 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
5 APPROXIMATELY 10:30 A.M.)

6 THE COURT: LADIES AND GENTLEMEN, ONE OF THE JURORS
7 HAS BEEN EXCUSED FOR SOME PERSONAL REASONS THAT I TALKED
8 TO HER ABOUT. FOR THAT REASON OUR FIRST ORDER OF BUSINESS
9 THIS MORNING IS TO SEAT ONE OF THE ALTERNATES AS A FULL
10 MEMBER OF THE JURY. AND THE WAY THAT WE DO THAT, WE DO
11 NOT SELECT YOU IN THE ORDER THAT YOU WERE SELECTED
12 YESTERDAY. WE WILL PUT THOSE FOUR NAMES IN A DRUM AND
13 DRAW ONE RANDOMLY. SO, MADAM CLERK, IF YOU WILL MIX THEM
14 UP AND DRAW ONE NAME, PLEASE.

15 CLERK OF COURT: IT IS 113, SHEILA HOFFMAN.

16 THE COURT: MS. HOFFMAN, IF YOU WILL MOVE DOWN HERE
17 WITH THE OTHER TWELVE. THE OTHERS WILL STAY WHERE THEY
18 ARE. I HAVE RECEIVED YESTERDAY THAT MS. NARANG HAS BEEN
19 SELECTED AS THE FORELADY AS THE JURY AND I WILL NOW
20 APPOINT YOU AS THE FORELADY OF THE JURY. AGAIN, YOUR VOTE
21 IS NO MORE IMPORTANT, DOES NOT COUNT ANYMORE THAN ANY
22 OTHER MEMBER OF THE JURY BUT YOU WILL BE THE SPOKESPERSON
23 FOR THE JURY HERE IN THE COURTROOM AND YOU WILL PRESIDE
24 BACK IN THE JURY ROOM. YOU ALL HAVE GOTTEN IN AND GOTTEN
25 COMFORTABLE, IF YOU WILL STAND AND RAISE YOUR RIGHT HAND,

1 THE CLERK IS GOING TO ADMINISTER YOUR OATH AS THE JURORS
2 IN THIS CASE.

3 (WHEREUPON, THE JURY WAS SWORN AT 10:35 A.M.)

4 THE COURT: LADIES AND GENTLEMEN, I HAVE GOT JUST A
5 FEW BRIEF REMARKS TO YOU TO SORT OF EXPLAIN TO YOU
6 PROCEDURALLY WHAT YOU CAN EXPECT DURING THE COURSE OF THE
7 TRIAL. ONCE I COMPLETE MY REMARKS I WILL RECOGNIZE THE
8 ATTORNEYS TO MAKE OPENING STATEMENTS AND THEN WE WILL
9 PROCEED WITH THE PRESENTATION OF EVIDENCE IN THE CASE.
10 WHAT I AM ABOUT TO TELL YOU IS INTENDED TO SERVE SIMPLY AS
11 AN INTRODUCTION TO THE TRIAL OF THE CASE, IT IS NOT A
12 SUBSTITUTE FOR THE DETAILED INSTRUCTIONS OF LAW THAT I
13 WILL GIVE YOU AT THE END OF THE CASE. AGAIN THIS IS A
14 CRIMINAL CASE COMMENCED BY THE STATE, I MAY REFER TO THE
15 STATE AS THE PROSECUTION OR THE ATTORNEY GENERAL AGAINST
16 RONALD SHEPPARD. THE CASE IS BASED ON AN INDICTMENT WHICH
17 WAS BRIEFLY EXPLAINED TO YOU YESTERDAY. THE INDICTMENT IS
18 THE WRITTEN DOCUMENT THAT IS PROCESSED THE CASE THROUGH
19 THE COURT SYSTEM, IT CONTAINS THE CHARGES IN THE CASE, IT
20 IS NOT EVIDENCE AND CANNOT BE CONSIDERED AS EVIDENCE OF
21 THE CHARGES THAT IT CONTAINS. THAT DOCUMENT HAS BEEN
22 SERVED ON THE DEFENDANT AND THE DEFENDANT'S ATTORNEY PRIOR
23 TO THE CASE BEING CALLED FOR TRIAL TO PUT THEM ON NOTICE
24 OF THE CHARGE AND THAT WOULD BE TRIED WHEN THE CASE IS
25 CALLED FOR TRIAL. I EXPLAINED TO YOU YESTERDAY, GENERALLY

1 THE CHARGES IN THE CASE ARE SECURITIES FRAUD AND
2 CONSPIRACY. THE DEFENDANT HAS PLEAD NOT GUILTY TO THESE
3 CHARGES AND THE STATE DOES THEREFORE HAVE THE BURDEN OF
4 PROVING EACH OF THE ESSENTIAL ELEMENTS OF THESE OFFENSES
5 BEYOND A REASONABLE DOUBT. THE PURPOSE OF THIS TRIAL IS
6 TO DETERMINE WHETHER THE STATE HAS MET THAT BURDEN. NOW,
7 YOUR PURPOSE AS JURORS, YOU HAVE NOW BECOME JUDGES, JUST
8 AS I AM A JUDGE. I AM THE JUDGE OF THE LAW, YOU ARE THE
9 JUDGE OF THE FACTS. YOU ARE THE ONLY PEOPLE WHO ARE GOING
10 TO MAKE THE DETERMINATION OF WHAT THE FACTS OF THIS CASE
11 ARE. YOU LISTEN TO THE EVIDENCE, YOU OBSERVE THE
12 WITNESSES, THE EXHIBITS THAT ARE ADMITTED INTO EVIDENCE
13 AND YOU MAKE A DETERMINATION OF WHAT THE FACTS ARE, YOU
14 ARE THE SOLE JUDGES OF THE FACTS. DURING THE COURSE OF
15 THIS TRIAL IF I SAY OR DO ANYTHING THAT YOU THINK IS A
16 REFLECTION OF WHAT I THINK ABOUT THE FACTS, YOU SHOULD
17 COMPLETELY DISREGARD THAT, UNDER THE LAW OF THIS STATE THE
18 TRIAL JUDGE IS NOT PERMITTED TO HAVE ANY OPINION AS TO
19 WHAT THE FACTS ARE. SO, I DON'T AND I WON'T. YOU ARE THE
20 SOLE JUDGES OF THE FACTS. THE SAME LAW THAT MAKES YOU THE
21 JUDGES OF THE FACTS MAKES ME THE JUDGE OF THE LAW. I AM
22 THE SOLE JUDGE OF THE LAW AND I WILL INSTRUCT YOU IN THE
23 LAW AT THE END OF THE CASE. AND AT THE END OF THE CASE
24 AND THE OATH THAT YOU HAVE TAKEN YOU AGREED TO ACCEPT AND
25 APPLY THE LAW AS I WILL INSTRUCT IT TO YOU. YOU MAKE YOUR

1 DETERMINATION BASED ON WHAT THE FACTS ARE BASED ON THE
2 TESTIMONY AND OTHER EVIDENCE THAT IS PRESENTED HERE IN THE
3 COURTROOM. YOU CANNOT CONSIDER ANYTHING THAT YOU MAY HAVE
4 HEARD OR READ ABOUT THE CASE OUTSIDE THE COURTROOM. AND,
5 AGAIN, AS I INSTRUCTED YOU YESTERDAY I WILL INSTRUCT YOU
6 CONTINUOUSLY THROUGHOUT THIS TRIAL, YOU ARE NOT PERMITTED
7 TO READ OR LISTEN OR WATCH OR DO ANY KIND OF RESEARCH
8 ABOUT THIS CASE. AND, AGAIN, YOU CANNOT DISCUSS IT WITH
9 ANYONE, NOT EVEN WITH YOUR FELLOW JURORS DURING THE COURSE
10 OF THE TRIAL. DURING THE COURSE OF THE TRIAL I AM SURE
11 THERE WILL, MAY BE OBJECTIONS TO CERTAIN QUESTIONS THAT
12 ARE ASKED OR TO CERTAIN EXHIBITS THAT ARE OFFERED INTO
13 EVIDENCE. IF A LAWYER MAKES AN OBJECTION DO NOT HOLD THAT
14 AGAINST THE LAWYER OR THE LAWYER'S CLIENT. IF A LAWYER
15 MAKES AN OBJECTION THAT IS HIS OR HER WAY OF BRINGING TO
16 THIS COURT'S ATTENTION THE FACT THAT A RULE OF EVIDENCE
17 HAS COME INTO PLAY. AND AT THAT TIME I AM GOING TO HAVE
18 TO MAKE A RULING. IF I SUSTAIN THE OBJECTION YOU ARE NOT
19 PERMITTED TO TRY TO GUESS AT WHAT THE ANSWER TO THAT
20 QUESTION MIGHT HAVE BEEN OR IF IT IS AN EXHIBIT THAT IS
21 OFFERED INTO EVIDENCE AND IT IS OBJECTED TO AND I SUSTAIN
22 THAT OBJECTION YOU ARE NOT PERMITTED TO TRY TO GUESS AT
23 WHAT THAT EXHIBIT MIGHT OF BEEN. YOU CAN ONLY RELY ON THE
24 TESTIMONY AND THE OTHER EVIDENCE THAT IS ADMITTED INTO THE
25 RECORD IN THE CASE. FROM TIME TO TIME WHEN EXHIBITS HAVE

1 BEEN ADMITTED INTO THE EVIDENCE THE ATTORNEYS MAY ASK
2 PERMISSION TO PUBLISH THOSE EXHIBITS TO THE JURY. THAT
3 SIMPLY MEANS TO TAKE THAT EXHIBIT, WHETHER IT IS A
4 PHOTOGRAPH OR SOME OTHER TANGIBLE OBJECT AND PASS IT
5 AROUND AMONG THE JURY WHILE THE TRIAL IS GOING ON. THERE
6 IS NOTHING WRONG WITH THAT AND NORMALLY THE COURT WILL
7 PERMIT THAT. I HAVE HAD JURORS TO EXPRESS CONCERN TO ME
8 THAT THEY DID NOT HAVE LONG ENOUGH AND COULD NOT LOOK AT
9 SOMETHING AS CLOSELY AS THEY WANTED TO WHILE IT WAS BEING
10 PASSED AROUND IN THE JURY BOX. LET ME TELL YOU, YOU WILL
11 HAVE ALL OF THE EXHIBITS THAT ARE ADMITTED INTO EVIDENCE
12 WITH YOU IN THE JURY ROOM WHILE YOU ARE DELIBERATING SO
13 YOU CAN LOOK AT THOSE EXHIBITS AS LONG AND AS CLOSELY AS
14 YOU WOULD LIKE TO AT THAT TIME. AS THE JUDGES OF THE
15 FACTS, AGAIN, YOU SIT AND YOU LISTEN AND YOU WATCH. AND
16 MY EXPERIENCE IS IS THAT IT IS DIFFICULT TO DO THAT MORE
17 THAN AN HOUR OR AN HOUR AND FIFTEEN MINUTES. WE WILL TAKE
18 A BREAK ABOUT THAT OFTEN, THAT GIVES YOU AN OPPORTUNITY TO
19 STRETCH YOUR LEGS AND USE THE RESTROOM AND I TRY TO KEEP
20 YOU FRESH AND ALERT. THAT IS ONE OF THE THINGS THAT I
21 WILL BE WATCHING YOU FOR TO BE SURE THAT YOU ARE PAYING
22 ATTENTION AND THAT EVERYONE IS STAYING AWAKE AND STAYING
23 ALERT. IF AT ANY TIME DURING THE TRIAL YOU GET TO THE
24 POINT YOU HAVE TO TAKE A BREAK RAISE YOUR HAND AND WE WILL
25 TAKE A BREAK. IF YOU ARE NOT ABLE TO HEAR DO THE SAME

1 THING, GET MY ATTENTION AND I WILL GET THEM TO SPEAK LOUD
2 ENOUGH FOR YOU TO HEAR THEM. IN JUST A MOMENT I WILL
3 RECOGNIZE THE ATTORNEYS TO MAKE THEIR OPENING STATEMENTS
4 TO YOU ABOUT THE CASE. THE ATTORNEYS IN MAKING THESE
5 STATEMENTS TO YOU ARE NOT TESTIFYING, WHAT THEY SAY IS NOT
6 TESTIMONY, THE TESTIMONY WILL COME FROM THE WITNESSES WHO
7 COME IN AND ARE ASKED QUESTIONS. THE ATTORNEYS, THE
8 PURPOSE FOR THEIR OPENING STATEMENTS IS TO OUTLINE THEIR
9 POSITION IN THIS CASE. I WILL RECOGNIZE THE STATE FIRST
10 BECAUSE THE STATE HAS THE BURDEN OF PROOF AND THEN THE
11 DEFENSE IS GIVEN THE SAME OPPORTUNITY TO MAKE THEIR
12 OPENING STATEMENTS. ONCE YOU HAVE HEARD THE OPENING
13 STATEMENTS THEN WE WILL CONTINUE WITH THE PRESENTATION OF
14 THE TESTIMONY AND THE OTHER EVIDENCE. WHEN ALL THE
15 EVIDENCE HAS BEEN PRESENTED TO YOU THE ATTORNEYS WILL MAKE
16 THEIR CLOSING ARGUMENTS AND THEN I WILL INSTRUCT YOU ON
17 THE LAW THAT APPLIES TO THIS CASE AND THEN YOU WILL BE
18 SENT BACK TO DELIBERATE AND TO REACH A VERDICT. IT USED
19 TO BE FAIRLY COMMON IN SOUTH CAROLINA THAT THE JURY WAS
20 NOT PERMITTED TO TAKE NOTES, MOST OF US TRIAL JUDGES HAVE
21 CHANGED THAT AND WE DO PERMIT JURORS TO TAKE NOTES AND WE
22 WILL BE HANDING OUT NOTE PADS AND SOMETHING TO WRITE WITH
23 TO YOU. YOU NEED TO UNDERSTAND THAT IF YOU DO TAKE NOTES,
24 YOU DON'T HAVE TO, IF YOU WANT TO YOU WILL HAVE THE
25 RESOURCES LATER ON. IF YOU DO TAKE NOTES, ON THE FRONT

1 PAGE OF YOUR NOTEPAD WRITE YOUR NAME AND THAT IS ALL I
2 WANT ON THE FRONT PAGE. TAKE YOUR NOTES ON THE FOLLOWING
3 PAGES, THESE NOTES ARE YOUR PERSONAL NOTES, THEY ARE NOT
4 TO BE SHARED WITH ANY OTHER MEMBER OF THE JURY. WHEN YOU
5 GO HOME AT NIGHT THEY STAY HERE AT THE COURT HOUSE AND AT
6 THE END OF THE TRIAL THEY WILL BE DESTROYED. I WILL ASK
7 YOU AT THIS TIME TO PLEASE GIVE ALL THE ATTORNEYS AND THE
8 WITNESSES YOUR FULL ATTENTION AS THEY MAKE THEIR
9 STATEMENTS. ALL RIGHT, MR. PEAVY.

10 MR. PEAVY: MAY IT PLEASE THE COURT, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 MR. PEAVY: GOOD MORNING, LADIES AND GENTLEMEN. WE
13 ARE HERE TODAY TO TALK TO YOU ABOUT ONE OF THE MOST
14 DEVASTATING EVENTS IN THE HISTORY OF THE STATE OF SOUTH
15 CAROLINA. WHILE WE MAY SIT HERE IN THE LEXINGTON COUNTY
16 COURT HOUSE MANY OF THE PEOPLE AFFECTED BY THIS TRAGEDY
17 LIVE IN PLACES LIKE PICKENS, ANDERSON AND OCONEE COUNTIES.
18 NONETHELESS, THE PEOPLE AFFECTED BELIEVE IN PRINCIPLES
19 SUCH AS TRUST. THE SACREDNESS OF A MAN'S WORD, THE CLEAR
20 DIFFERENCE BETWEEN RIGHT AND WRONG AND ACCOUNTABILITY.
21 LADIES AND GENTLEMEN, MY NAME IS JASON PEAVY, I WORK FOR
22 THE ATTORNEY GENERAL, I AM A PROSECUTOR. I ALONG WITH MS.
23 JENNIFER EVANS, MS. SUSAN PORTER AND MR. ALLEN MYRICK IN
24 THE GREEN TIE, WE ARE GOING TO BE REPRESENTING THE STATE
25 OF SOUTH CAROLINA IN THIS MATTER. THE STORY THAT YOU ARE

1 GOING TO HEAR IS ONE OF TWO COMPANIES. ONE COMPANY CALLED
2 HOMEGOLD, ONE COMPANY CALLED CAROLINA INVESTORS. HOMEGOLD
3 OWNED CAROLINA INVESTORS. MR. SHEPPARD, THE DEFENDANT,
4 SEATED OVER AT THAT TABLE OVER THERE WORKED WITH THESE TWO
5 COMPANIES. NOW, HE IS NOT ON TRIAL FOR MURDER, ALTHOUGH
6 LIVES HAVE BEEN RUINED. HE IS NOT ON TRIAL FOR BANK
7 ROBBERY ALTHOUGH MILLIONS OF DOLLARS ARE GONE. HE IS ON
8 TRIAL FOR HIS ACTIONS AND HIS ROLE AS THE CEO OF HOMEGOLD.
9 LET ME DIRECT YOUR ATTENTION, IF I CAN, LADIES AND
10 GENTLEMEN TO MARCH 21ST OF 2003. IT IS A DATE THAT MAY
11 NOT BE REMEMBERED BY MANY PEOPLE BUT IT IS THE DATE THEY
12 ARE AFFECTED BY THIS CASE AND THEY WILL NEVER FORGET.
13 BECAUSE ON MARCH 21ST OF 2003 THE DOORS TO CAROLINA
14 INVESTORS, A COMPANY THAT HAD BEEN IN BUSINESS FOR ALMOST
15 40 YEARS, THEY SLAMMED SHUT, THE DOORS CLOSED, LADIES AND
16 GENTLEMEN. NOW, AT THE END OF THIS TRIAL, I MAY FORGET
17 THAT DATE, YOU MAY FORGET THAT DATE BUT THE PEOPLE
18 AFFECTED, LADIES AND GENTLEMEN, THEY WILL NEVER FORGET
19 THAT DATE. BECAUSE WHAT WE ARE GOING TO SHOW IS THAT MR.
20 SHEPPARD'S ACTIONS COST THOUSANDS OF PEOPLE TO LOSE
21 MILLIONS OF DOLLARS. AND THE EVIDENCE WILL SHOW THAT WHAT
22 WAS GOING ON AT THESE COMPANIES WAS AN ALL OUT ATTACK, AN
23 ASSAULT ON THE TRUTH THAT HAD AT ANY AND ALL COST, THIS
24 TRUTH WAS BURIED, LADIES AND GENTLEMEN, BURIED INTO
25 HUNDREDS AND THOUSANDS OF DOCUMENTS AT THESE TWO

1 COMPANIES, AT HOMEGOLD AND CAROLINA INVESTORS. THAT TRUTH
2 IS HIDDEN NO LONGER, LADIES AND GENTLEMEN. AT THE END OF
3 THIS TRIAL THE STATE IS GOING TO PROVE THAT MR. SHEPPARD
4 PARTICIPATED AND PERPETRATED ONE OF THE WORST FRAUDS IN
5 THE HISTORY OF THE STATE OF SOUTH CAROLINA. NOW, I DON'T
6 KNOW HOW MANY OF YOU MAY WATCH TV SHOWS LIKE LAW AND
7 ORDER, PERRY MASON, SHOWS LIKE THAT, THOSE TV TRIAL SHOWS,
8 THEY ARE FUN, THEY ARE NEAT, THEY ARE NICE. THE EVIDENCE
9 AT TRIAL IS NOT LIKE THAT, LADIES AND GENTLEMEN, EVIDENCE
10 AT TRIAL COMES OUT PIECE BY PIECE, WITNESS BY WITNESS,
11 BRICK BY BRICK. ONE BRICK FROM THIS WITNESS, ONE BRICK
12 FROM THIS WITNESS, A LITTLE MORE FROM ANOTHER WITNESS TO
13 TIE IT ALL TOGETHER, LADIES AND GENTLEMEN. IT WILL NOT
14 FLOW LIKE A PERFECT STORY. YOU MAY NOT EVEN UNDERSTAND
15 THE FULL PURPOSE OF ONE WITNESS'S TESTIMONY UNTIL THE VERY
16 END OF THE TRIAL. BUT AT THE END, LADIES AND GENTLEMEN,
17 ALL OF THE PIECES WILL FIT. THAT IS WHY AS YOUR HONOR
18 SAID, HE ALLOWS US TO MAKE THESE OPENING STATEMENTS, HE
19 ALLOWS US TO PROVIDE YOU WITH A LITTLE BIT OF A ROAD MAP
20 AS TO WHERE WE ARE GOING TO BE TAKING YOU OVER THE NEXT
21 FEW DAYS AND ALLOWS US TO LAY OUT THE STORY THAT WE
22 BELIEVE THE EVIDENCE IS GOING TO SHOW. A FEW MINUTES AGO
23 I TOLD YOU THIS WASN'T A MURDER CASE OR A BANK ROBBERY
24 CASE OR ANYTHING LIKE THAT. THIS IS A SECURITIES FRAUD
25 CASE, WE HAVE BEEN WORKING ON THIS CASE FOR A WHILE. WHAT

1 IS A SECURITIES FRAUD CASE. I CAN TELL YOU ALL KINDS OF
2 TECHNICAL DEFINITIONS, LEGAL DEFINITIONS, LEGAL JARGON.
3 BUT, YOU KNOW, WHEN THIS CASE IS BOILED DOWN IT IS TRULY
4 ABOUT THE GOOD OLE FASHION CRIME OF STEALING BY LIEING AND
5 HIDING THE TRUTH. THERE ARE MANY DIFFERENT WAYS TO STEAL,
6 LADIES AND GENTLEMEN, TO ROB A BANK, TO ROB SOMEONE ON THE
7 STREET, STEAL THEIR IDENTITY, STEAL THEIR PURSE. WE ARE
8 NOT SAYING THAT MR. SHEPPARD WALKED INTO A BANK WITH A GUN
9 AND SAID, HEY, THIS IS A HOLDUP, GIVE ME ALL OF YOUR
10 MONEY. BUT HIS ACTIONS ROBBED THOUSANDS OF PEOPLE OF
11 MILLIONS OF DOLLARS. AND THESE PEOPLE WERE ROBBED IN
12 BROAD DAYLIGHT. NOW, THROUGHOUT THIS TRIAL YOU ARE GOING
13 TO HEAR VERY TECHNICAL INFORMATION. AND IT IS GOING TO BE
14 EASY FOR YOU TO GET BOGGED DOWN ON THOSE DETAILS AND YOU
15 ARE GOING TO NEED TO FOCUS ON THOSE DETAILS. BUT WHEN AND
16 IF YOU GET BOGGED DOWN, REMEMBER WHAT WE TALKED ABOUT AT
17 THIS MOMENT. REMEMBER THAT WE TALKED ABOUT THIS IS ABOUT
18 THE GOOD, OLE, FASHION CRIME OF STEALING, STEALING BY
19 LYING AND HIDING THE TRUTH.

20 I HAVE KNOWN FOR A WHILE THAT I WAS GOING TO HAVE THE
21 PRIVILEGE OF STANDING HERE AND TO START THIS TRIAL, I WAS
22 GOING TO HAVE THE PRIVILEGE OF INTRODUCING THIS CASE TO
23 YOU. AND I HAD THIS IMAGE FROM MY PAST THAT KEPT POPPING
24 INTO MY HEAD AND COULDN'T SHAKE IT. AND, LADIES AND
25 GENTLEMEN, WHERE I WENT TO COLLEGE, EVERY TIME YOU ENTERED

1 INTO THE DORMITORY THERE WAS A BRASS PLAQUE ON YOUR LEFT.
2 AND THAT BRASS PLAQUE SAID, YOU SHALL NOT LIE, CHEAT,
3 STEAL OR TOLERATE THOSE WHO DO. YOU SHALL NOT LIE, CHEAT,
4 STEAL OR TOLERATE THOSE WHO DO AND I COULDN'T SHAKE THAT
5 IMAGE. AND THEN WHEN I THOUGHT ABOUT THIS MOMENT THAT I
6 WAS GOING TO HAVE TO TALK TO YOU ABOUT THIS CASE IT
7 OCCURRED TO ME, THIS CASE IS GOING TO HAVE EVIDENCE AND
8 TESTIMONY OF PEOPLE WHO LIED, PEOPLE WHO CHEATED AND
9 PEOPLE WHO STOLE. AND VERY IMPORTANTLY PEOPLE WHO
10 TOLERATED THOSE WHO DID. BEFORE IT GETS INTO THAT LIEING,
11 CHEATING AND STEALING I WANT TO TALK TO YOU ABOUT THE
12 HISTORY OF THIS COMPANY. WE HAVE GOT TO TAKE A STEP BACK
13 IN TIME, OKAY. I AM GOING TO TAKE YOU BACK TO THE 1960'S
14 AND IN THE 1960'S A PICKENS BUSINESSMAN BY THE NAME OF
15 DWIGHT HOLDER, HE STARTED SELLING CEMETERY LOTS. AND I
16 DON'T KNOW HOW MANY OF YOU MAY BE FAMILIAR WITH PICKENS IN
17 THE 1960'S BUT IT WAS ESSENTIALLY A MILL VILLAGE, BLUE
18 COLLAR WORKERS WORKING FOR BLUE COLLAR WAGES. AND A LOT
19 OF THOSE PEOPLE COULDN'T AFFORD THE FULL PRICE OF A
20 CEMETERY PLOT SO THEY HAD TO PUT A DOWN PAYMENT AND
21 FINANCE THE REST. WELL, MR. HOLDER DECIDED THAT IT WOULD
22 BE A GOOD BUSINESS DECISION IF HE WAS ABLE TO PROVIDE
23 FINANCING FOR THESE PEOPLE. SO CAROLINA INVESTORS STARTED
24 SELLING CEMETERY PLOTS AND FINANCING CEMETERY PLOTS. AND
25 OUT OF THAT VERY SMALL IDEA, OUT OF THAT SMALL IDEA

1 THROUGH THIS COMPANY OF CAROLINA INVESTORS. NOW THE
2 PEOPLE OF CAROLINA INVESTORS WAS LENDING MONEY TO, THEY
3 WERE PEOPLE WHO FOR WHATEVER REASON, WETHER THEY DIDN'T
4 MAKE ENOUGH MONEY OR THEY HAD BAD CREDIT, THEY COULDN'T GO
5 DOWN TO THE LOCAL BANK TO GET THEIR FINANCING. AND YOU
6 ARE GOING TO HEAR TESTIMONY THAT THAT BUSINESS IS CALLED
7 SUBPRIME LENDING, OKAY, SUBPRIME LENDING. CAROLINA
8 INVESTORS STARTED MOVING INTO FINANCING THINGS SUCH AS
9 APPLIANCES AND THEY GOT INTO MORTGAGES AND THINGS LIKE
10 THAT. THE FOLKS WHO ARE BUYING THESE APPLIANCES AND
11 BUYING THESE MORTGAGES OR OBTAINING THESE MORTGAGES, THEY
12 ARE WILLING TO PAY THAT HIGHER INTEREST RATE BECAUSE THEY
13 CAN'T GO DOWN TO BANK OF AMERICA OR CAN'T GO DOWN TO
14 WACHOVIA TO GET THEIR FINANCING AND THESE FINANCE
15 COMPANIES GET TO CHARGE THIS HIGHER RATE BECAUSE THESE
16 PEOPLE ARE GREATER CREDIT RISKS. NOW, DURING THOSE DAYS,
17 LADIES AND GENTLEMEN, CAROLINA INVESTORS WAS A PRIVATE
18 COMPANY, IT WAS A PRIVATE COMPANY OWNED BY MR. HOLDER.
19 BUT, LADIES AND GENTLEMEN, HE DECIDED TO ALLOW PEOPLE TO
20 INVEST IN HIS COMPANY, HE INVITED THE PUBLIC TO COME AND
21 INVEST IN HIS COMPANY AND IN EXCHANGE FOR THAT INVESTMENT
22 HE WOULD PROVIDE THEM WITH THE RETURN OF THEIR INVESTMENT
23 ALONG WITH WHATEVER INTEREST OR PROFIT HE NEGOTIATED.
24 NOW, FOR MANY YEARS CAROLINA INVESTORS WAS IN THE BUSINESS
25 OF MAKING LOANS AND ALLOWING PEOPLE TO INVEST. NOW, IT IS

1 NOT AN INSURED INVESTMENT LIKE THE BANK. BUT YOU WILL
2 ALSO SEE THAT IT LOOKED LIKE A BANK, YOU ARE GOING TO SEE
3 THAT IT HAD TELLER STATIONS, YOU ARE GOING TO SEE THAT
4 THEY HAVE A PASS BOOK, LIKE IF YOU WENT OUT AND GOT A
5 SAVINGS ACCOUNT. AND THE INVESTORS AT CAROLINA INVESTORS
6 GOT A FORMAL DOCUMENT REPRESENTING THE AMOUNT OF YOUR
7 INTEREST, THE AMOUNT OF YOUR INVESTMENT AND THE AMOUNT OF
8 INTEREST THAT YOU WERE TO BE PAID, A VERY FORMAL DOCUMENT
9 REPRESENTING YOUR INVESTMENT. NOW, THROUGHOUT THE 60'S,
10 70'S, 80'S AND EVEN INTO THE 90'S THIS COMPANY REMAINED
11 ESSENTIALLY THE [#]SAME SMALL UPSTATE COMPANY OWNED BY MR.
12 HOLDER. BUT IN 1991 A GROUP OF GREENVILLE BUSINESSMEN
13 PURCHASED CAROLINA INVESTORS AND THEIR COMPANY WAS CALLED
14 EMERGENT. OKAY. EMERGENT OWNED CAROLINA INVESTORS. AND
15 EVEN AFTER THAT THINGS REMAINED ESSENTIALLY THE SAME AND
16 THAT WAS UNTIL ABOUT 1995, LADIES AND GENTLEMEN. IN 1995,
17 LADIES AND GENTLEMEN, EMERGENT DECIDED THAT IT WANTED TO
18 OPEN ITS OWN SUBPRIME MORTGAGE BUSINESS BUT THAT IS
19 ALREADY THE BUSINESS THAT CAROLINA INVESTORS WAS IN. SO,
20 YOU HAVE THIS FORMATION OF EMERGENT MORTGAGE CORPORATION,
21 HOW DO THEY GET THE START OF THE MONEY, HOW DO THEY GET TO
22 SEE MONEY. LADIES AND GENTLEMEN, WHAT YOU WILL SEE IS
23 THAT THEY TAKE AND BORROW \$15 MILLION DOLLARS, GIVE OR
24 TAKE, FROM CAROLINA INVESTORS IN 1995. AND THIS IS THE
25 BEGINNING OF SOMETHING THAT YOU ARE GOING TO HEAR ABOUT

1 THROUGHOUT THIS TRIAL, THIS IS THE BEGINNING OF THE
2 INTER-COMPANY DEBT. SO, SINCE EMERGENT CORPORATION WAS
3 ALREADY IN THE BUSINESS, SUBPRIME LENDING, DOING WHAT
4 CAROLINA INVESTORS WAS ALREADY DOING, THEY ESSENTIALLY
5 STOPPED LENDING MONEY. AND THEIR ONLY BUSINESS, LADIES
6 AND GENTLEMEN, WAS TO BRING MONEY IN, ALLOW PEOPLE TO
7 INVEST, THEY ALLOWED PEOPLE TO INVEST, THEY LENT THEIR
8 MONEY THROUGH THEIR PARENT COMPANY WITH THE EXPECTATION
9 THAT THAT MONEY WAS GOING TO BE PAID BACK TO THEM WITH
10 INTEREST. NOW, THIS BUSINESS PRACTICE CONTINUED FOR YEARS
11 BUT IN 1998 THERE WAS A DOWNTURN OR SLUMP IN THE SUBPRIME
12 LENDING INDUSTRY AND YOU ARE GOING TO HEAR ABOUT THIS,
13 LADIES AND GENTLEMEN. AND SO THE PEOPLE AT EMERGENT
14 DECIDED THAT WHAT THEY NEEDED TO DO WAS PUT A NEW FACE ON
15 THIS COMPANY SO THEY CHANGED THE NAME. THIS EMERGENT
16 GROUP RIGHT HERE BECOMES HOMEGOLD FINANCIAL, PARENT
17 COMPANY. EMERGENT MORTGAGE BECOMES HOMEGOLD INCORPORATED,
18 THE PARENT COMPANY, TWO SUBSIDIARY COMPANIES, THE PARENT
19 COMPANY, TWO SUBSIDIARY COMPANIES, THE SAME HERE, THE SAME
20 HERE, JUST THE NAMES CHANGE. WELL, SHORTLY AFTER THAT,
21 LADIES AND GENTLEMEN, THE PEOPLE AT EMERGENT DECIDED THAT
22 THEY NEEDED TO GET OUT OF THIS SLUMP THAT THEY WERE IN.
23 SO, WHAT THEY DID IS THEY WENT OUT AND LOOKED FOR
24 SOMETHING, A COMPANY THAT THEY COULD MERGE WITH TO REALLY
25 DRIVE THEIR LOAN PRODUCTION UP AND THAT IS HOW MR.

1 SHEPPARD ENTERS INTO THE PICTURE. YOU ARE GOING TO HEAR
2 THAT MR. SHEPPARD HAS BEEN IN THE MORTGAGE BUSINESS FOR
3 YEARS AND YEARS AND YEARS, THAT HE HAD HIS OWN MORTGAGE
4 COMPANY HERE IN LEXINGTON. BECAUSE IN MAY OF 2000 MR.
5 SHEPPARD MERGED HIS PRIVATE COMPANY WITH HOMEGOLD. AND AS
6 A RESULT HE BECAME THE CEO, CHIEF EXECUTIVE OFFICER, MAN
7 IN CHARGE OF HOMEGOLD, HE BECAME A MEMBER OF THE BOARD OF
8 DIRECTORS OF HOMEGOLD AND A MEMBER OF THE BOARD OF
9 DIRECTORS OF CAROLINA INVESTORS. HE WAS PAID MILLIONS OF
10 DOLLARS WHEN HE MERGED THIS COMPANY AND HE MADE MILLIONS
11 OF DOLLARS WHILE HE WAS AT THE HELM OR HE WAS AT THE
12 REINS. THE EVIDENCE IS GOING TO SHOW, LADIES AND
13 GENTLEMEN, THAT MR. SHEPPARD WILLINGLY TOOK ON THAT ROLE
14 OF CEO, A MAN IN CHARGE AND ALL THE RESPONSIBILITY THAT
15 CAME ALONG WITH IT. NOW, MR. SHEPPARD WAS IN CHARGE OF
16 THIS COMPANY FOR ABOUT TWO AND A HALF YEARS AND DURING
17 THAT TIME THAT COMPANY CONSISTENTLY AND WITHOUT FAIL
18 PERFORMED EXTREMELY POORLY FINANCIALLY. NOW, REMEMBER A
19 FEW MINUTES AGO WE TALKED ABOUT THE SUBPRIME LENDING
20 MARKET IN 1998. AS YOU MIGHT EXPECT IT BECAME HARDER FOR
21 BUSINESSES IN THAT INDUSTRY TO BE ABLE TO CONDUCT THEIR
22 BUSINESS, THEY WERE LOSING MONEY. WELL, FORTUNATELY FOR
23 HOMEGOLD THEY HAD THEIR LITTLE CASH ACCOUNT, THEY HAD
24 THEIR PIGGY BANK RIGHT HERE, THEY HAD CAROLINA INVESTORS.
25 SO, AS HOMEGOLD WAS LOSING ALL OF THIS MONEY THEY TOOK

1 MILLIONS AND MILLIONS AND MILLIONS OF DOLLARS FROM
2 CAROLINA INVESTORS TO OFFSET ALL OF THEIR LOSSES. YOU ARE
3 GOING TO HEAR THAT IN ONE YEAR ALONE THAT MR. SHEPPARD AND
4 OTHERS AT HOMEGOLD TOOK ABOUT \$100 MILLION DOLLARS FROM
5 THE PEOPLE AT CAROLINA INVESTORS. AND AS YOU CAN IMAGINE,
6 THIS INCREASES THAT INTER-COMPANY DEBT THAT WE ARE TALKING
7 ABOUT, IT INCREASED THAT INTER-COMPANY DEBT AND BECAME
8 MORE UNLIKELY THAT THEY WERE EVER GOING TO BE ABLE TO PAY
9 THAT MONEY BACK. WHY DOES THAT INTER-COMPANY DEBT MATTER,
10 WHY ARE YOU SITTING HERE TALKING ABOUT THAT. WELL, IT
11 MATTERS BECAUSE REMEMBER WHAT WE TALKED ABOUT, THAT THIS
12 IS THE ONLY BUSINESS THAT CAROLINA INVESTORS IS IN.
13 CAROLINA INVESTORS BRINGS THAT MONEY IN, GIVES IT TO ITS
14 PARENT COMPANY WITH THE EXPECTATION THAT IT IS GOING TO BE
15 PAID BACK ALONG WITH INTEREST AS THEIR PROFIT. BUT
16 HOMEGOLD COULDN'T PAY THE MONEY BACK, COULDN'T PAY THE
17 MONEY BACK BECAUSE THEY WERE LOSING MONEY, THEY NEVER MADE
18 ENOUGH MONEY TO PAY THEM BACK. AND, LADIES AND GENTLEMEN,
19 IF HOMEGOLD HADN'T HAD CAROLINA INVESTORS IT WOULD OF
20 CLOSED BEFORE MARCH OF 2003. YOU ARE ALSO GOING TO HEAR,
21 LADIES AND GENTLEMEN, THAT HOMEGOLD WAS A PUBLIC COMPANY.
22 PUBLIC COMPANIES HAVE CERTAIN REPORTING REQUIREMENTS, THEY
23 HAVE TO FILE THINGS, A REPORT CARD ON THEIR FINANCIAL
24 CONDITION, THREE TIMES DURING THE YEAR AND THEN ONCE AT
25 THE END OF THE YEAR. THEY FILED THAT WITH A WATCHDOG TYPE

1 AGENCY CALLED THE SECURITIES AND EXCHANGE COMMISSION, IT
2 IS CALLED THE SEC. WELL, IF HOMEGOLD'S FINANCIAL
3 INFORMATION IS PUBLIC, IT IS AVAILABLE FOR PUBLIC
4 CONSUMPTION THEN WHY WOULD THE PEOPLE, THE BOARD, THE
5 MANAGEMENT AT CAROLINA INVESTORS CONTINUE TO LEND MONEY TO
6 HOMEGOLD. WELL, THE EVIDENCE IS GOING TO SHOW, LADIES AND
7 GENTLEMEN, THAT THEY WERE LIED TO, THEY WEREN'T TOLD THE
8 WHOLE TRUTH, THEY WEREN'T TOLD THE WHOLE TRUTH ABOUT
9 HOMEGOLD'S ABILITY TO REPAY THAT DEBT. BECAUSE THEY
10 WEREN'T IT COST INVESTORS MILLIONS OF DOLLARS, LADIES AND
11 GENTLEMEN. THE EVIDENCE IS GOING TO SHOW THAT WHAT MR.
12 SHEPPARD AND OTHERS DID WAS THEY TOLD HALF TRUTHS AND
13 MISREPRESENTATIONS, THEY DIDN'T TELL THE WHOLE TRUTH.
14 ONLY A FEW PEOPLE AT THAT COMPANY NEW THE WHOLE TRUTH, MR.
15 SHEPPARD WAS ONE OF THOSE PEOPLE, HE KNEW WHAT THE
16 FINANCIAL CONDITION OF THAT COMPANY WAS AND HE KNEW THAT
17 HE HAD TO KEEP THAT MONEY COMING IN, KEEP THOSE DOORS OPEN
18 SO THAT HE COULD KEEP HOMEGOLD GOING AND WE WILL GO INTO
19 ALL OF THOSE REASONS DURING THE TRIAL.

20 LADIES AND GENTLEMEN, MR. SHEPPARD IS CHARGED WITH A
21 COUPLE OF SEPARATE CRIMES. THE FIRST HE IS CHARGED WITH
22 IS SECURITIES FRAUD. THE STATE HAS ALLEGED THAT MR.
23 SHEPPARD IS ENGAGED IN A COURSE OF BUSINESS TO DEFRAUD
24 INVESTORS, WE HAVE ALLEGED HE EITHER DIRECTLY OR
25 INDIRECTLY CAUSED THESE LIES, MISREPRESENTATIONS, FALSE

1 AND MISLEADING INFORMATION TO BE CONVEYED TO THE PEOPLE
2 WHO INVESTED IN THIS COMPANY. WE ARE NOT ALLEGING, WE ARE
3 NOT ALLEGING THAT MR. SHEPPARD SAT ON ONE SIDE OF THE DESK
4 AND AN INVESTORS SAT ON THE OTHER SIDE OF THE DESK AND
5 THAT MR. SHEPPARD LIED DIRECTLY, THAT IS NOT WHAT WE ARE
6 SAYING. WHAT WE ARE SAYING IS THAT THROUGH STATEMENTS
7 THAT MR. SHEPPARD MADE, THROUGH MANIPULATION OF THE TRUTH,
8 THESE HALF TRUTHS AND MISREPRESENTATIONS IS FALSE AND
9 MISLEADING INFORMATION GOT TO THE PEOPLE WHO ARE SITTING
10 ON THE OTHER SIDE OF THAT DESK. AND IN THIS COURSE OF
11 BUSINESS THAT WE HAVE ALLEGED THAT HE IS ENGAGING IN WAS
12 DESIGNED TO KEEP THE DOORS OF CAROLINA INVESTORS, DESIGNED
13 TO HIDE THE TRUTH FROM THEM, GOT TO KEEP THAT MONEY COMING
14 IN, GOT TO KEEP IT COMING IN. WE ARE GOING TO SHOW HOW HE
15 PLAYED WITH THE TRUTH, HOW HE SPUN THE TRUTH, HOW HE
16 DOWNPLAYED THE NEGATIVE AND FOCUSED ON THE POSITIVE. NOW,
17 HE IS ALSO CHARGED WITH SOMETHING CALLED OBTAINING GOODS
18 UNDER FALSE PRETENSES. WE TALKED A FEW MINUTES AGO ABOUT
19 HOW MR. SHEPPARD CAME INTO HOMEGOLD IN 2000 AND THE
20 EVIDENCE IS GOING TO SHOW THAT THAT COMPANY PERFORMED VERY
21 POORLY, THAT HE RAN THAT COMPANY INTO THE GROUND. AND,
22 LADIES AND GENTLEMEN, WHEN THAT COMPANY WAS IN SUCH DIRE
23 STRAITS MR. SHEPPARD CONVINCED THE BOARD MEMBERS AT
24 HOMEGOLD AND THE BOARD AT CAROLINA INVESTORS THAT THERE
25 WAS ONLY ONE SOLUTION, ONLY ONE SOLUTION TO PAY THAT MONEY

1 BACK TO CAROLINA INVESTORS. WHAT WAS THAT SOLUTION, GIVE
2 ME THE COMPANY, IF YOU GIVE ME A MAJORITY OF THE COMPANY
3 ALONG WITH ABOUT \$8 AND A HALF MILLION DOLLARS I PROMISE
4 TO PAY YOU BACK THAT MONEY, I WILL PAY YOU BACK A
5 PERCENTAGE OF THAT PROFITS SO THAT YOU CAN PAY THE PEOPLE
6 AT CAROLINA INVESTORS. THE PROBLEM IS THAT HE DIDN'T PAY
7 THE MONEY BACK. HE IS ALSO CHARGED WITH CONSPIRACY. THE
8 STATE IS ALLEGING THAT MR. SHEPPARD AND OTHERS ENGAGED IN
9 A CONSPIRACY TO COMMIT SECURITIES FRAUD. AT THE END OF
10 THIS TRIAL WE ARE GOING TO PROVE WHAT MR. SHEPPARD DID WAS
11 WRONG, BUT HOW. BUSINESSES FAIL EVERY DAY, RIGHT, IT
12 DOESN'T NECESSARILY MEAN ANYTHING IS CRIMINAL, SURE. BUT
13 WHAT WE ARE GOING TO DO IS SHOW YOU THAT MR. SHEPPARD KNEW
14 THE TRUE FINANCIAL CONDITION OF THE COMPANY, KNEW HOW
15 DANGEROUS THIS LOAN WAS, KNEW HOW PRECARIOUS THE
16 INVESTMENTS WERE BUT STILL ALLOWED THIS BAD INFORMATION,
17 THIS FALSE INFORMATION, THIS MISLEADING INFORMATION TO GET
18 TO THOSE PEOPLE.

19 WE ARE GOING TO FOCUS JUST FOR THE SAKE OF RIGHT NOW,
20 JUST ON A FEW SEPARATE EVENTS TO SHOW HIS KNOWLEDGE AND TO
21 SHOW YOU WHAT WE ARE GOING TO BE TAKING YOU THROUGH DURING
22 THIS TRIAL. LADIES AND GENTLEMEN, IN THE SUMMER OF 2000
23 JUST A FEW MONTHS AFTER MR. SHEPPARD JOINED THE COMPANY HE
24 GOES TO A MEETING IN NEW YORK CITY, TO A BANK. AND THERE
25 THE BANK TELLS THEM THAT WE ARE NOT GOING TO LEND HOMEGOLD

1 ANY MORE MONEY BECAUSE OF THE BAD FINANCIAL CONDITION OF
2 HOMEGOLD AND BECAUSE OF THE INVESTMENT TO THE LOAN AT
3 CAROLINA INVESTORS. AFTER THAT, LADIES AND GENTLEMEN, IN
4 THE FALL OF OCTOBER OF 2001 MR. SHEPPARD MAKES STATEMENTS
5 TO HIS EXTERNAL AUDITORS THAT HE KNOWS HE IS NOT GOING TO
6 BE ABLE TO PAY THAT MONEY BACK TO CAROLINA INVESTORS. WE
7 ARE ALSO GOING TO SHOW YOU HOW HE COMMUNICATED WITH THE
8 PUBLIC IN PRESS RELEASES, THAT HE TALKED TO PEOPLE, TALKED
9 TO BOARD MEMBERS, PEOPLE WHO ARE INVESTORS. AND EACH TIME
10 HE DID SO HE HAD THE OBLIGATION TO TELL THEM THE TRUTH.
11 WE ARE GOING TO SHOW HOW IN THE FALL OF 2002 MR. SHEPPARD
12 AND OTHERS AT HOMEGOLD, THEY MET WITH BANKRUPTCY OR
13 INSOLVENCY ATTORNEYS, THEY DID THAT ON BEHALF OF CAROLINA
14 INVESTORS EXCEPT THEY DIDN'T TELL ANYBODY AT CAROLINA
15 INVESTORS UNTIL A MONTH LATER. WE ARE GOING TO SHOW YOU
16 HOW IN THE SPRING OF 2002 MR. SHEPPARD AND OTHERS FROM
17 HOMEGOLD ATTENDED A MEETING AT A LAW FIRM IN GREENVILLE.
18 AND THERE THEY ARE TOLD BY THEIR AUDITORS, THEIR EXTERNAL
19 AUDITORS THAT WE HAVE A DOUBT AS TO HOMEGOLD'S ABILITY TO
20 CONTINUE IN BUSINESS FOR ANOTHER TWELVE MONTHS, WE DON'T
21 THINK YOU ARE GOING TO BE IN BUSINESS FOR ANOTHER YEAR.
22 THEY ARE ALSO TOLD THAT WE HAVE A DOUBT ABOUT YOUR ABILITY
23 TO REPAY THAT DEBT TO CAROLINA INVESTORS. AND THEN AFTER
24 HEARING ALL OF THIS BAD NEWS, LADIES AND GENTLEMEN, MR.
25 SHEPPARD CONTINUES TO GIVE HIMSELF LARGE BONUSES. AND

1 AFTER HEARING ALL OF THIS BAD NEWS, LADIES AND GENTLEMEN,
2 HE CONVINCES THE COMPANY TO BUY HIM A MILLION DOLLAR MOTOR
3 HOME. AFTER HEARING ALL OF THIS BAD NEWS, LADIES AND
4 GENTLEMEN, HE SUBMITTED INVOICES FOR REIMBURSEMENT, \$17
5 THOUSAND DOLLARS FOR WALLPAPER FOR HIS OFFICE, \$7 THOUSAND
6 DOLLARS FOR MILEAGE EXPENSES THAT HE INCURRED TWO YEARS
7 PRIOR DURING THE MERGER AND NEGOTIATIONS. HE KNEW WHAT HE
8 HAD TO GET, HE HAD TO GET WHILE THE GETTING WAS GOOD. WE
9 ARE GOING TO SHOW YOU THAT MR. SHEPPARD HAD SPECIAL DUTIES
10 THAT HE OWED TO THE CORPORATION ABOVE HIMSELF BUT HE CHOSE
11 TO FOCUS ON HIMSELF. FOR EXAMPLE, WE ARE GOING TO SHOW
12 YOU HOW AT ONE POINT HE APPROACHES THE BOARD OF DIRECTORS,
13 I WANT TO BUY A PIECE OF PROPERTY HERE IN LEXINGTON
14 COUNTY. THIS IS THE APPRAISAL THAT I GOT WORTH THIS, BUYS
15 THE PIECE OF PROPERTY ALL THE WHILE KNOWING THAT HE
16 ALREADY HAD A CONTRACT ON THAT PIECE OF PROPERTY FOR MUCH
17 MORE THAN HE WAS WILLING TO PAY AND WE WILL SHOW YOU HOW
18 HE MAKES \$10'S OF THOUSANDS OF DOLLARS ON THAT ONE
19 TRANSACTION ALONE. NOW, YOU ARE GOING TO HEAR FROM DOZENS
20 OF WITNESSES TO PRESENT OUR CASE AND OUR EVIDENCE. AND I
21 AM NOT GOING TO SIT HERE AND BORE YOU WITH EACH AND EVERY
22 ONE OF THEM. BUT I TOLD YOU THAT THIS WAS A STORY THAT
23 YOU WERE GOING TO HEAR ABOUT TWO COMPANIES, ONE CALLED
24 CAROLINA INVESTORS AND ONE CALLED HOMEGOLD. WE ARE GOING
25 TO TAKE YOU INSIDE OF THOSE DOORS AND TO DO THAT WE HAVE

1 GOT TO BRING INSIDERS, WE ARE GOING TO BRING IN PEOPLE
2 SUCH AS LARRY OWEN, ANN OWEN AND KAREN MILLER. THESE
3 PEOPLE ALL COMMITTED CRIMES AT HOMEGOLD AND CAROLINA
4 INVESTORS. THEY WORKED AT THESE COMPANIES, THEY ARE GOING
5 TO TELL YOU ABOUT IT BUT THEY ARE ALSO GOING TO TELL YOU
6 THAT THEY WERE EITHER PUT IN THEIR POSITIONS OR KEPT IN
7 THEIR POSITIONS BY MR. SHEPPARD. MR. SHEPPARD WAS THE
8 CHAIRMAN OF THE COMPANY AND THEY WERE OUT THERE DOING HIS
9 FRONT WORK AND THEY ARE GOING TO TESTIFY AT HIS TRIAL.
10 ONE OF THOSE PEOPLE THAT I JUST MENTIONED WAS LARRY OWEN,
11 HE WAS THE PRESIDENT OF CAROLINA INVESTORS AND HE IS GOING
12 TO TELL YOU THAT HE LIED DIRECTLY TO INVESTORS. HE IS
13 GOING TO TELL YOU THAT HE LIED TO FRIENDS, FAMILY,
14 COLLEAGUES, LIED TO THEM ABOUT THE SAFETY AND SECURITY OF
15 THEIR INVESTMENT, LIED TO THEM ABOUT THE FINANCIAL
16 CONDITION OF THE COMPANY. BUT WHAT HE IS ALSO GOING TO
17 TELL YOU, LADIES AND GENTLEMEN, THAT THE LIES THAT HE
18 TOLD, THE INFORMATION THAT HE GAVE THEM WAS
19 MISINFORMATION, CAME FROM HOMEGOLD. YOU ARE ALSO GOING TO
20 HEAR FROM KAREN MILLER, SHE IS GOING TO COME IN HERE AND
21 TELL YOU HOW SHE ESSENTIALLY STARTED OUT IN THE COMPUTER
22 DEPARTMENT. AND SHE ENDED UP BEING THE CFO, THE CHIEF
23 FINANCIAL OFFICER REPORTING DIRECTLY TO MR. SHEPPARD. SHE
24 IS GOING TO TELL YOU HOW SHE ENGAGED IN A CONSPIRACY TO
25 COMMIT SECURITIES FRAUD, HOW THEY WORKED TO HIDE THE TRUTH

1 AND TELL SOME OF THE TRUTH, PART OF THE TRUTH BUT NOT THE
2 WHOLE TRUTH. YOU ARE GOING TO HEAR FROM FINANCIAL EXPERTS
3 BUT YOU ARE ALSO GOING TO HEAR FROM INVESTORS. PEOPLE WHO
4 INVESTED IN THIS COMPANY, PEOPLE WHO HAD THEIR LIFE
5 SAVINGS INVESTED IN THIS COMPANY, THEY WERE LIED TO. MOST
6 OF THEM ARE GOING TO WALK IN HERE AND SAY, I DON'T KNOW
7 THAT MAN, DON'T KNOW MR. SHEPPARD, NEVER SEEN HIM BEFORE
8 IN MY LIFE, NEVER SAW HIM BEFORE I STEPPED INTO THIS
9 COURTROOM. I WAS LIED TO BY THE PEOPLE AT CAROLINA
10 INVESTORS, LARRY OWEN, ANN OWEN, EARLE MORRIS. BUT
11 REMEMBER, LADIES AND GENTLEMEN, WHERE IS THE INFORMATION
12 COMING FROM, WHO WAS HOLDING ALL OF THAT INFORMATION.
13 NOW, EACH TIME MR. SHEPPARD MADE A DECISION, MADE A
14 DECISION TO TELL A LIE, MADE A DECISION TO TELL THE HALF
15 TRUTH, HE DID SO WITH THE BENEFIT OF ALL OF THE
16 INFORMATION, HE GOT TO MAKE HIS OWN CHOICES BASED UPON
17 HAVING A COMPLETE AND FULL PICTURE. GOOD CHOICES THAT THE
18 PEOPLE AT CAROLINA INVESTORS DID GET TO MAKE, THEY HAD THE
19 RIGHT TO DEMAND THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT
20 THE TRUTH. BUT THEY WERE DENIED THAT OPPORTUNITY, PEOPLE
21 LIED TO THEM AND IT COST THEM DEARLY. NOW, THIS ISN'T A
22 SHORT STORY THAT I HAVE TO TELL YOU, LADIES AND GENTLEMEN,
23 BUT IT IS ONE I AM TELLING BECAUSE A LOT OF LIES HAVE BEEN
24 AFFECTED. MOST OF THE TIME YOU STAND IN FRONT OF A JURY,
25 YOU LIKE TO SAY, THIS IS A SIMPLE CASE AND I WILL BE ABLE

1 TO LAY IT OUT FOR YOU IN A DAY OR TWO. I CAN'T SAY THAT
2 HERE, YOU ARE GOING TO HEAR VERY TECHNICAL INFORMATION,
3 YOU ARE GOING TO NEED TO FOCUS ON THE DETAILS. BUT
4 REMEMBER WHAT WE TALKED ABOUT AT THE VERY BEGINNING, THAT
5 THIS IS THE CASE ABOUT STEALING, STEALING BY LIEING AND
6 HIDING THE TRUTH. AND WE LIVE IN A TIME WITH
7 ACCOUNTABILITY AND RESPONSIBILITY. YOU ARE GOING TO HEAR
8 FROM PEOPLE WHO DID DESPICABLE THINGS THAT COST PEOPLE
9 MILLIONS OF DOLLARS. BUT TODAY IN THIS COURTROOM AND THIS
10 TRIAL WE MUST HOLD MR. SHEPPARD ACCOUNTABLE, WE MUST HOLD
11 HIM ACCOUNTABLE BECAUSE WE CANNOT TOLERATE THOSE LIES,
12 CHEAT AND STEAL. WE, THE STATE, HAVE THE BURDEN OF PROOF
13 IN THIS CASE AND WE ARE GOING TO PROVE OUR CASE WITH THE
14 BODY OF EVIDENCE THAT WE BUILD. WE ARE GOING TO PROVE OUR
15 CASE WITH THE DEFENDANT'S OWN WORDS AND HIS ACTIONS
16 BECAUSE HIS ACTIONS SPEAK MUCH LOUDER THAN WORDS. AT THE
17 END OF THIS TRIAL, LADIES AND GENTLEMEN, YOU ARE GOING TO
18 BE ASKED TO DETERMINE WHETHER WE HAVE PROVEN HIS GUILT
19 BEYOND A REASONABLE DOUBT, WHETHER WE HAVE SHOWN YOU HE
20 KNEW THE TRUTH, HID THE TRUTH, SPUN THE TRUTH, MADE THESE
21 MISREPRESENTATIONS FALSE AND MISLEADING. AND WE ARE GOING
22 TO ASK YOU, LADIES AND GENTLEMEN, TO RESCUE THAT TRUTH,
23 RESCUE THE TRUTH FROM MR. SHEPPARD. THANK YOU.

24 THE COURT: MR. GRIFFIN.

25 MR. GRIFFIN: THANK YOU, YOUR HONOR. IF IT PLEASE

1 THE COURT.

2 THE COURT: ALL RIGHT.

3 MR. GRIFFIN: LADIES AND GENTLEMEN, GOOD MORNING.
4 YOU ARE GOING TO HEAR THAT RONNIE SHEPPARD IS AN AMBITIOUS
5 MAN, HE HAS GREAT AMBITION. YOU ARE GOING TO HEAR HE IS
6 DRIVEN TO SUCCEED AND THAT IS AMBITION AND DRIVE IS
7 EXTRAORDINARY. IT SETS HIM APART FROM HIS PEERS BUT IN A
8 LOT OF WAYS THAT AMBITION AND DRIVE MAKES HIM LIKE
9 EVERYBODY ELSE. YOU ARE ALSO GOING TO HEAR ABOUT A MAN
10 WHOSE WORK ETHICS, WHOSE AMBITION AND DRIVE MADE HIM A
11 VERY BIG SUCCESS. AND THAT THOSE QUALITIES ALLOW HIM AT
12 ONE POINT AND TIME TO LIVE THE AMERICAN DREAM. YOU ARE
13 GOING TO HEAR A RAGS TO RICHES STORY, YOU ARE GOING TO
14 HEAR ABOUT A MAN WHO GREW UP IN THE AVENUES OF CAYCE AND
15 HE MADE IT TO THE PINNACLE OF INDUSTRY WHO HAS NOW BEEN
16 BROUGHT DOWN AND WHO IS SITTING IN THIS COURTROOM. YOU
17 ARE GOING TO HEAR A MAN THAT WAS ON THE TOP OF HIS
18 FINANCIAL WORLD UNTIL HE MET A COMPANY CALLED HOMEGOLD.
19 YOU WILL HEAR A MAN WHO IN MARCH OF 2003, HIS FINANCIAL
20 WORLD COLLAPSED ALONG WITH A WHOLE LOT OF OTHER PEOPLE, A
21 WHOLE LOT OF PEOPLE. I WANT YOU TO MEET THAT MAN RIGHT
22 NOW, THIS IS RONNIE SHEPPARD, RONNIE STAND UP. THIS IS
23 WHAT THIS TRIAL IS ABOUT, THIS IS A MAN WHO IS ON TRIAL
24 FOR CRIMES, YOU WILL HEAR ALL ABOUT THAT HERE IN THE NEXT
25 FEW WEEKS. THIS IS A MAN WHO GREW UP IN YOUR COMMUNITY,

1 WHO MADE A SUCCESS FROM HARD WORK AND DETERMINATION AND
2 HERE IS A MAN WHO IS ASKING YOU FOR A FAIR TRIAL. I KNOW
3 HE WILL GET IT. THERE ARE SOME OTHER PEOPLE SITTING UP
4 HERE, THIS IS SANDY MOORE IN THE BROWN AND THEN SHANNON
5 CLARK, SANDY IS MY LEGAL ASSISTANT, SHE WILL BE IN AND OUT
6 DURING THE COURTROOM AND SHANNON IS A YOUNG LAWYER WHO
7 STARTED IN MY OFFICE. AND YOU SAW DURING JURY SELECTION
8 PERHAPS ANOTHER GENTLEMAN, A YOUNG COLLEGE GRADUATE AND
9 HIS NAME IS ROB FOY. AND IF YOU SEE ALL FOUR OF US IN THE
10 COURTROOM, THERE IS NO ONE BACK AT MY OFFICE, THAT IS THE
11 EXTENT OF IT. WE ARE PROUD TO BE HERE WITH RONNIE
12 SHEPPARD TO HELP HIM THROUGH THIS TRIAL AND TO HELP YOU
13 EVALUATE THE EVIDENCE. RONNIE GREW UP IN THE AVENUES, HE
14 DIDN'T GRADUATE FROM HIGH SCHOOL, HE DIDN'T HAVE A
15 BUSINESS DEGREE OTHER THAN WHAT HE LEARNED ON THE JOB. IN
16 THE LATE 80'S HE STRUCK OUT ON HIS OWN AND STARTED HIS OWN
17 COMPANY, HE STARTED THAT COMPANY IN THE BACK OF A LAW
18 FIRM, ONE ROOM OFFICE. AND HE WAS CLOSING MORTGAGES
19 DURING THE DAY AND MAKING TELEPHONE CALLS, MARKETING CALLS
20 AT NIGHT. AND OVER A PERIOD OF ABOUT TEN OR FIFTEEN YEARS
21 HE GREW THAT COMPANY AND BECAME A COMPANY CALLED
22 HOMESENSE. AND THAT COMPANY EMPLOYED ALMOST 200 PEOPLE,
23 THAT COMPANY DID BUSINESS IN A LOT OF STATES, I THINK 17,
24 HAD OFFICES AROUND THE COUNTRY. A MAN WHO STARTED WITH
25 NOTHING AND WORKED HIS WAY TO THE TOP. NOW, THAT KIND OF

1 SUCCESS IS CONTAGIOUS AND THAT KIND OF SUCCESS IS
2 ATTRACTIVE TO OTHERS. AND HE HAD PEOPLE CALLING HIM
3 WANTING HIM TO BRING A SECRET OF SUCCESS AND TO TURN THIS
4 COMPANY AROUND. AND ONE COMPANY THAT YOU HEARD AND YOU
5 WILL HEAR IS CALLED HOMEGOLD. UP UNTIL 2000, THE SPRING
6 OF 2000 MR. SHEPPARD HAD NO BUSINESS RELATIONSHIP WITH
7 HOMEGOLD, NO INVESTMENT INTEREST IN HOMEGOLD, DID NOT HAVE
8 ANY INVOLVEMENT WITH CAROLINA INVESTORS. WHAT HE DID, HE
9 HAD BEEN THREATENED THROUGH LAWYERS BY HOMEGOLD TO SUE HIS
10 COMPANY, THEY WERE ACCUSING HIS COMPANY OF VIOLATING SOME
11 TRADEMARKS. THAT WAS HIS RELATIONSHIP IN THE SPRING OF
12 2000 WITH THIS COMPANY CALLED HOMEGOLD. AND YOU ARE GOING
13 TO HEAR BY THE SPRING OF 2000 THE COMPANY CALLED HOMEGOLD
14 THAT WAS STARTED IN THE 40'S, THAT WAS PURCHASED BY SOME
15 BUSINESSMEN IN GREENVILLE IN 1991 THAT REORGANIZED ITSELF
16 IN 1995 AND IT CHANGED ITS NAME IN 1998, HAD GONE FROM A
17 FOUR YEAR PERIOD AND SPENT AND LOST ALMOST \$400 MILLION
18 DOLLARS, EXTRAVAGANT SUMS OF MONEY. AND THAT THIS
19 HOMEGOLD, THIS COMPANY WAS STRUGGLING TO SURVIVE AND THERE
20 WERE PLENTY OF INDICATORS SHOWING THAT. IN 1996 HOMEGOLD
21 WAS A PUBLIC COMPANY AND THIS STOCK WAS TRADING \$20
22 DOLLARS A SHARE. AND THAT IN 2000 WHEN HOMEGOLD CAME
23 CALLING FOR MR. SHEPPARD, THIS STOCK ON THE MARKET WAS
24 TRADING AT ABOUT 80 CENTS A SHARE. AND IN 1997 HOMEGOLD
25 LOST ABOUT A MILLION DOLLARS AND THROUGHOUT THE REST, IN

1 1998 THEY LOST \$100 MILLION DOLLARS. IN 1999 THEY LOST
2 \$35 MILLION DOLLARS AND YOU ARE GOING TO HEAR THAT THESE
3 ARE OPERATING LOSSES AND THAT HOMEGOLD THROUGH ACCOUNTANTS
4 WERE ABLE TO MAKE ACCOUNTING ENTRIES AND ADJUSTMENTS THAT
5 MASK SOME OF THESE LOSSES, DID NOT MAKE THEM APPEAR AS
6 GREAT ON THE BOTTOM LINE AS THEY ACTUALLY WERE. AND THAT
7 WHEN THE ACCOUNTANTS DID THAT THEY WERE FOLLOWING WHAT YOU
8 ARE GOING TO HEAR A LOT OF, GENERALLY ACCEPTING ACCOUNTING
9 PRINCIPLES. NOW, AND I THINK YOU HEARD IN OPENING
10 STATEMENTS THAT IN 1998 THERE WAS A DOWNTURN IN SUBPRIME
11 LENDING MARKET [#]FOR REASONS THAT YOU MAY HEAR ABOUT, PEOPLE
12 HAVE TOLD ME ABOUT AND TO THIS DAY I AM NOT COMPETENT TO
13 EXPLAIN TO ANYONE ELSE. BUT THE MARKET FELL OUT AND AT
14 HOMEGOLD THEY WERE ABLE TO SUSTAIN THIS STEADY DECLINE
15 BECAUSE THEY HAD SOURCES OF REVENUE TO KEEP IT AFLOAT. NO
16 QUESTION ABOUT IT, AND YOU ARE GOING TO HEAR THAT IN THE
17 MARKET THE SUBPRIME LENDING MARKET, THERE WAS A TREMENDOUS
18 WASH OUT. AND ALMOST EVERY COMPANY BUT HOMEGOLD, PRIOR TO
19 MEETING RONNIE SHEPPARD, EVERY BIG PLAYER IN THE INDUSTRY,
20 PUBLIC COMPANY WENT BANKRUPT EXCEPT FOR HOMEGOLD. AND
21 THIS WAS A BIG COMPANY, NATIONAL, THE MORTGAGE LENDING ARM
22 OF THIS COMPANY WAS IN EVERY STATE AND DOING BUSINESS AND
23 LOSING A LOT OF MONEY. NOW, DURING THIS SAME PERIOD OF
24 TIME WHEN THE SUBPRIME INDUSTRY MARKET WAS FALLING APART,
25 WHEN HOMEGOLD WAS LOSING HUNDREDS OF MILLIONS OF DOLLARS

1 MR. SHEPPARD IS OUT HERE IN LEXINGTON RUNNING A BUSINESS
2 WITH A LITTLE OVER 100 EMPLOYEES, NOW THAT IS A BIG
3 BUSINESS. HOMEGOLD HAD THOUSANDS OF EMPLOYEES, THOUSANDS
4 OF EMPLOYEES. MR. SHEPPARD IS RUNNING A COMPANY WITH A
5 FEW HUNDRED PEOPLE AND HE IS DOING WELL, IN A TOUGH
6 CLIMATE HE IS DOING WELL. AND YOU ARE GOING HEAR THAT
7 DURING THE SAME PERIOD OF TIME WHEN HOMEGOLD IS STEADILY
8 DECLINING, MR. SHEPPARD'S COMPANY, HOMESENSE, HAS A TRACK
9 RECORD OF SUCCESS. NOW, IN, TO BE FAIR WITH YOU LADIES
10 AND GENTLEMEN, THESE ARE OPERATING PROFITS AS WELL AND WE
11 WILL BE GETTING INTO THE FINANCIAL STATEMENTS. IN 1999
12 THERE WAS A OPERATING PROFIT OF ROUGHLY \$1.7 MILLION
13 DOLLARS. THERE WAS LEGAL ISSUE AS THE LAWSUIT SETTLED
14 THAT LAUNDERED THIS OPERATING PROFIT DOWN TO A NET PROFIT
15 AND WE WILL GET INTO THAT. BUT I JUST WANT TO ALERT YOU
16 SO THAT THOSE THAT CLAIM THAT I MISREPRESENTED YOU, THESE
17 ARE OPERATING PROFITS, THE SAME AS HOMEGOLD'S OPERATING
18 PROFITS. YOU ARE GOING TO HEAR A WHOLE LOT OF INFORMATION
19 ABOUT THE ACCOUNTING ENTRIES. SO, WHEN THESE COMPANIES,
20 ONE ON THE DOWN TREND AND ONE ON THE UP TREND MEET WE HAVE
21 A MERGER AND WE HAVE MR. SHEPPARD WHO IS RUNNING THE
22 BUSINESS IN LEXINGTON, SOUTH CAROLINA WHO HAS ALL THE
23 TRAPPINGS OF SUCCES WHO LIVES IN A NICE HOUSE, HE DRIVES A
24 BIG MOTOR HOME, HE FLIES TO MEETINGS IN CORPORATE JETS
25 WELL BEFORE HE HAS MET HOMEGOLD. THE MAN HAS GONE FROM

1 RAGS TO RICHES AND HOMEGOLD WHO IS AND YOU WILL HEAR THE
2 ACCOUNTANTS MEETING WITH HOMEGOLD BEFORE THEY EVER CALLED
3 RONNIE SHEPPARD. YOU ARE GOING TO HEAR THAT THE
4 ACCOUNTANTS ARE TELLING HOMEGOLD, WE ARE GOING TO HAVE TO
5 TAKE A HARD LOOK AND SEE IF YOU ARE GOING TO MAKE IT NEXT
6 YEAR. WE ARE GOING TO LOOK TO SEE IF WE NEED TO DO A
7 GOING CONCERN TO PUT IN YOUR FINANCIALS. AND YOU ARE
8 GOING TO HEAR THEIR REACTIONS, NO, DON'T DO THAT, WE HAVE
9 A PLAN, WE ARE GOING TO GO AND WE HAVE IDENTIFIED THIS GUY
10 DOWN IN LEXINGTON WHO IS A SUCCESS AND WE KNOW HE CAN COME
11 IN AND TURN OUR BUSINESS AROUND. SO, PLEASE, DON'T TELL
12 THE PUBLIC THAT WE ARE ON OUR LAST BREATH, GIVE US ONE
13 LAST CHANCE. AND YOU ARE GOING TO HEAR THAT IS THE THIRD
14 CHANCE THAT HOMEGOLD TRIED TO TURN THIS BEHEMOTH AROUND,
15 WHICH IT WAS. AND THERE ARE A LOT OF REASONS WHY HOMEGOLD
16 COULDN'T MAKE MONEY AND IT DIDN'T MAKE MONEY AND IT DIDN'T
17 MAKE MONEY WHEN MR. SHEPPARD GOT THERE. AND THERE ARE A
18 LOT OF REASONS IT DIDN'T MAKE IT AND IT FAILED AND I LIKE
19 TO CALL IT THE TALE OF TWOS, THE TALE OF TWO COMPANIES,
20 THE TALE OF TWO CULTURES AND THE TALE OF TWO CITIES.
21 FIRST THE TWO COMPANIES, YOU HAVE ONE, HOMESENSE WHICH IS
22 A SMALL COMPANY. IT IS OWNED BY BASICALLY ONE PERSON,
23 RONNIE SHEPPARD. NOW, YOU WILL HEAR OTHER PEOPLE HAVE AN
24 INTEREST IN THAT COMPANY. BUT IT IS PRETTY MUCH A ONE
25 OWNERSHIP. THE OTHER COMPANY, HOMEGOLD, IS A COMPANY THAT

1 HEARD THE DESCRIPTION OF THAT, HOMESENSE DIDN'T HAVE ANY
2 SUCH THING. HOMESENSE HAD RONNIE SHEPPARD TO MAKE IT OR
3 BREAK IT AND IF IT DIDN'T MAKE IT IT WAS BROKE. HOMEGOLD
4 HAD THIS ENTITY, CAROLINA INVESTORS. NOW, IT WAS ENGAGED
5 OF THE BUSINESS OF SELLING SECURITIES TOO IN A DIFFERENT
6 KIND OF WAY. AND IT WOULD SELL THESE NOTES THAT WERE NOT
7 GUARANTEED, THAT WERE NOT INSURED AND THAT GAVE A GREATER
8 RETURN THAN WHAT AN INVESTOR WOULD GET FOR A CD. AND
9 EVERY INVESTMENT HAS RISK, BUT THE RISK THAT ANYONE WHO
10 PLACES IN AN INVESTMENT IS A RISK THAT YOU WILL LOSE YOUR
11 MONEY, ALL OR SOME OF IT. THE EXCHANGE FOR TAKING THAT
12 RISK, AN INVESTOR GETS A RETURN IF SUCCESSFUL, THAT RETURN
13 IS CALLED INTEREST. SOMETIMES IT IS CALLED CAPITAL GAINS,
14 THAT IS THE RETURN THAT AN INVESTOR TAKES, RECEIVES FOR
15 TAKING A RISK WHEN THAT INVESTMENT IS SUCCESSFUL. AND 20,
16 30 YEARS THE INVESTORS AT CAROLINA INVESTORS WHO BOUGHT
17 THESE NOTES WERE GETTING A GREATER RETURN. BUT WHAT IS
18 IMPORTANT FOR YOU TO REMEMBER AS WE GO THROUGH THIS IS
19 THAT ALL OF INTENTS OR PURPOSES, FOR THE PEOPLE UP HERE
20 BEFORE 2000, WHEN THEY ARE SITTING DOWN THERE WITH THEIR
21 AUDITORS AND THE AUDITORS ARE SAYING, YOU HAVE GOT TO HAVE
22 A PLAN BECAUSE WE ARE NOT SURE WE ARE GOING TO MAKE IT, IS
23 WHAT WAS NOT WORKING WAS THE MORTGAGE OWNER, HOMEGOLD,
24 INC. THAT WAS THE COMPANY THAT WAS LOSING HUNDREDS OF
25 MILLIONS OF DOLLARS, THAT IS THE COMPANY OUT THERE THAT

1 IS OWNED BY THE PUBLIC. ITS STOCK, WHEN PEOPLE GO TO
2 INVEST IN STOCK THEY CAN BUY PUBLIC COMPANIES AND CAN BUY
3 THE PUBLIC STOCK OF HOMEGOLD. AND ITS STOCK AT DIFFERENT
4 TIMES WAS TRADED ON DIFFERENT EXCHANGES, NASDAQ, PINK
5 SHEETS, THINGS LIKE THAT. BUT A PERSON WHO WAS INTERESTED
6 TO GO AND BUY STOCK AT HOMEGOLD AND HOMEGOLD, BECAUSE THAT
7 IT WAS A PUBLIC COMPANY WAS UNDER TREMENDOUS REPERTORY
8 SCRUTINY. AND AS A PUBLIC COMPANY THEY ARE REQUIRED TO
9 HAVE AUDITORS AND THEY HAD AUDITORS AND THE AUDITOR THAT
10 THEY HAD WAS ELLIOTT DAVIS WHICH WAS THE BIGGEST
11 ACCOUNTING FIRM ^{IN} THE STATE. THEY ARE REQUIRED TO HAVE
12 LEGAL COUNSEL TO PROVE THEIR SECURITIES AND BONDS AND THEY
13 DID AND THEY HAD THE WYCHE LAW FIRM. YOU ARE GOING TO
14 HEAR THAT THE WYCHE LAW FIRM HAD PROBABLY MORE LAWYERS WHO
15 CLERKED FOR THE U.S. SUPREME COURT THAN ANY LAW FIRM IN
16 THE STATE. AND ELLIOTT DAVIS FIRM, WYCHE LAW FIRM, THEY
17 ARE UP IN GREENVILLE. BEFORE MR. SHEPPARD EVER GETS TO
18 HOMEGOLD, THEY HAVE BEEN DOING THE WORK FOR HOMEGOLD FOR
19 YEARS. THEY CONTINUE TO DO THE WORK FOR HOMEGOLD AND MR.
20 SHEPPARD. BUT YOU HAD ONE GUY COMING FROM A VERY SMALL,
21 THIS IS MY BUSINESS, TO A VERY PUBLIC, YOU HAVE TO ANSWER
22 TO A BOARD OF DIRECTORS WHICH IT HAD. YOU HAD TO ANSWER
23 YOUR OUTSIDE ACCOUNTANTS AND YOU HAD TO ANSWER TO YOUR
24 LAWYERS, YOU HAD TO ANSWER TO THE SEC. AND THEN HOMEGOLD
25 HAD THIS OTHER ENTITY OF CAROLINA INVESTORS. AND YOU

1 THEY ARE LOOKING TO FIND SOMEONE WHO CAN FIX, THAT IS THE
2 COMPANY THAT IS BROKE. YOU ARE GOING TO HEAR THAT THIS
3 COMPANY, CAROLINA INVESTORS, RUN BY LARRY OWEN FOR 30
4 YEARS, HAD THE SAME BOARD OF DIRECTORS WERE ALL FOR THE
5 PURPOSES OF EVERYTHING, THAT COMPANY IS WORKING. BUT WHEN
6 THE GREENVILLE BUSINESSMEN WENT OUT TO FIND THE WHITE
7 KNIGHT, THEY ARE NOT LOOKING FOR SOMEONE TO SAVE CAROLINA
8 INVESTORS, THEY ARE LOOKING FOR SOMEONE TO SAVE HOMEGOLD.
9 AND I WANT YOU TO EVALUATE THAT, MR. SHEPPARD'S HISTORY
10 AND HIS INTEREST AND HIS WORK AND HIS SUCCESS. IT IS NOT
11 DOING SOMETHING LIKE SELLING NOTES AND DEBENTURES, IT HAS
12 BEEN OPERATING A VERY SUCCESSFUL MORTGAGE BUSINESS. SO,
13 YOU HAVE TWO COMPANIES AND YOU HAVE DIFFERENT CULTURES.
14 AND YOU ARE GOING TO HEAR THAT WHEN MR. SHEPPARD CAME IN
15 TO HOMEGOLD IT WAS A VERY LAXED ATTITUDE. THEY WERE
16 PLAYING FRISBEE IN THE PARKING LOT, PEOPLE WEARING CASUAL
17 CLOTHES. AND HE CAME IN AND HE SAID, NONE OF THAT, YOU ARE
18 GOING TO WEAR A COAT AND TIE TO WORK, YOU ARE GOING TO
19 DRESS NICELY, AND THERE WAS SOME FRICTION. YOU HAD THE
20 TALE OF TWO CITIES, YOU HAD A SUCCESSFUL BUSINESSMAN FROM
21 LEXINGTON COMING UP TO GREENVILLE TO TRY TO RUN AND TURN
22 SOMETHING AROUND, A CULTURE FLASH. YOU ARE GOING TO HEAR
23 ABOUT WHAT KIND OF GUY MR. SHEPPARD WAS TO WORK FOR AND
24 YOU WILL HEAR HIS APPROACH, HE IS A HARD DRIVEN PERSON AND
25 HE EXPECTS OTHERS TO DRIVE HARD. AT THE END OF THE DAY

1 THE COMPANY FAILED AND THEY FAILED FOR A HOST OF REASONS.
2 AND AS WE GO THROUGH THIS TRIAL IF YOU WILL ASK YOURSELF,
3 COULD SOMEONE HAVE DONE BETTER, IF SOMEONE HAD DONE THINGS
4 DIFFERENTLY. YOU WILL HEAR ABOUT HOMEGOLD'S OPENING MORE
5 OFFICES TO TRY TO GET THE LOAN PRODUCTION UP. BECAUSE THE
6 ONLY WAY TO TURN THE CORNER WAS TO GENERATE ENOUGH MONEY
7 TO BE ABLE TO PAY BACK YOUR COST AND THIS INTEREST AND
8 DEBT THAT WAS ON THE BOOKS OF CAROLINA INVESTORS, THAT WAS
9 OWED TO CAROLINA INVESTORS. AND THAT THE MENTAL IMAGE,
10 WHERE THE VIKING, THE GENTLEMAN DRESSED LIKE THAT, CREDIT
11 CARD COMPANY, THEY ARE NOT CHARGING AS MUCH INTEREST. AND
12 IT IS THE FIGHT OF SOMEONE FINANCING WITH RATES THAT YOU
13 TRY TO MAKE MONTHLY PAYMENTS AND YOU NEVER KNOCK THE
14 PRINCIPLE DOWN AND IT BUILDS AND IT BUILDS AND IT BUILDS.
15 THAT IS THE MAGIC OF THE COMPOUND INTEREST THAT YOU WILL
16 HEAR. WELL, IF YOU ARE ON THE PAYING END OF THAT MAGIC OF
17 COMPOUND INTEREST IT IS VERY DIFFICULT TO PAY THAT DEBT
18 BACK, YOU HAVE GOT TO GROW AND YOU HAVE GOT TO GROW. AND
19 THAT WAS THE EFFORT THAT WAS UNDERTAKEN AT HOMEGOLD, TO DO
20 THAT. NOW, I WANT YOU ALSO AS YOU REVIEW THE EVIDENCE TO
21 UNDERSTAND THAT MR. SHEPPARD, HE RECEIVED MONEY BUT HE
22 ROLLED OVER THE COMPANY THAT HE SPENT 15 YEARS IN THE
23 MAKING, THAT PROVIDED HIM AND HIS FAMILY A VERY, VERY NICE
24 LIFESTYLE, THAT HE CREATED FROM THE GROUND UP. AND HE
25 SOLD THAT COMPANY TO HOMEGOLD, THEY BOUGHT THAT COMPANY,

1 THEY BOUGHT IT WITH HOMEGOLD STOCK, THEY BOUGHT IT WITH
2 MONEY. AND HE RECEIVED MONEY OVER TIME AS PART OF THIS
3 PURCHASE AGREEMENT, TO SELL THIS COMPANY. BUT WHEN HE
4 SOLD THIS COMPANY HE DIDN'T TAKE OUT THE GREENVILLE FOLKS,
5 START TAKING CONTROL OF THE COMPANY. HE DID NOT HAVE
6 VOTING CONTROL OF THE BOARD OF DIRECTORS, HE DID NOT HAVE
7 VOTING CONTROL OF THE STOCK. THEY BOUGHT HIS COMPANY AND
8 HE BECAME EMPLOYED AND YOU WILL HEAR AGAIN, EMPLOYMENT
9 AGREEMENT. AND HE WAS A BIG SHAREHOLDER OF HOMEGOLD,
10 EMERGENT HOMEGOLD, NAME CHANGE, HE WAS THE BIGGEST
11 SHAREHOLDER IN CAROLINA INVESTORS BECAUSE HOMEGOLD OWNED
12 CAROLINA INVESTORS. AND HE WAS THE BIGGEST SHAREHOLDER IN
13 HOMEGOLD, INC. HE HAD THE MOST TO LOSE IF THIS FAILED AND
14 THIS FAILED. IN A LOT OF WAYS YOU WILL COME TO UNDERSTAND
15 THAT HIS INTEREST AREN'T ALINED WITH THOSE WHO PUT THEIR
16 MONEY IN CAROLINA INVESTORS. SO, HE PUT HIS 15 YEAR
17 COMPANY AT CAROLINA INVESTORS. HE TOOK A RISK, HIS RISK
18 THAT HE WAS GETTING STOCK THAT WAS AT .80 CENTS A SHARE
19 AND HE GOT 6 MILLION SHARES THERE AND HIS HOPE WAS TO TURN
20 IT AROUND TO GET MONEY, TURN THAT STOCK FROM .80 CENTS TO
21 MAYBE \$10.00 DOLLARS. AND THAT IS \$60 MILLION DOLLARS,
22 THIS IS A MAN WITH AMBITION, THIS IS A MAN WHO DREAMS BIG,
23 WORKS BIG. BUT HIS RISK WAS THAT HE WOULD LOSE MONEY.
24 AND UNFORTUNATELY THOSE WHO INVESTED OR INVESTORS AT
25 CAROLINA INVESTORS, THEY LOST. AND IT WAS A TREMENDOUS

1 BANKRUPTCY, I THINK ABOUT 8,000 INVESTORS WHO LOST \$200
2 AND SOME ODD MILLION DOLLARS. A LOT OF PEOPLE WHO LOST A
3 LOT OF MONEY. AND WITH THAT PAIN AND HURT THERE IS ALWAYS
4 A TENDENCY TO, AND RIGHTFULLY SO, TO LOOK BACK AND FIND
5 OUT WHAT HAPPENED, WHO DID IT, WHO IS AT FAULT, WHO IS TO
6 BLAME, COULD SOMEONE HAVE DONE BETTER, COULD SOMEONE HAVE
7 DONE THINGS DIFFERENTLY. COULD I HAVE DONE THINGS BETTER
8 SO YOU LEARN FROM YOUR MISTAKES. AND THEN THERE IS ALWAYS
9 THIS ACCOUNTING AND SORTING OUT WHO IS RESPONSIBLE AND WHO
10 SHOULD PAY AND WHO SHOULDN'T PAY AND ALL OF THAT HAS A
11 PLACE. AND I WANT YOU TO REMEMBER, THIS IS NOT THE PLACE
12 FOR THAT AND THIS IS NOT THE TIME FOR THAT. WHAT WE ARE
13 HERE TODAY FOR AND WHAT WE ARE GOING TO BE HEARING OVER
14 THE NEXT FEW WEEKS IS THAT THAT MAN, DID THAT MAN
15 INTENTIONALLY STEAL MONEY FROM THESE PEOPLE, DID HE LIE
16 AND CHEAT AND STEAL, THESE ARE CRIMINAL CHARGES, THIS IS
17 NOT ADJUSTING THE BOOKS, SETTLING THE SCORE. THIS IS A
18 QUESTION OF DID HE COMMIT A CRIME.

19 I WANT TO TALK TO YOU BRIEFLY ABOUT YOUR ROLE AS
20 JURORS AS YOU REVIEW THE EVIDENCE IN THIS CASE. THE JUDGE
21 WILL EXPLAIN TO YOU THAT THE STATE HAS THE BURDEN OF PROOF
22 BEYOND A REASONABLE DOUBT AND YOU ARE THE FINDERS OF THE
23 FACTS. YOU HAVE TO TAKE THE LAW AS THE JUDGE GIVES YOU
24 AND APPLY IT TO THE EVIDENCE. AND ONE LAW THAT THE JUDGE
25 WILL INSTRUCT YOU ON IS THAT IN ANY CRIMINAL CASE, THE

1 DEFENDANT IS PRESUMED INNOCENT. NOW, THAT IS A LAW AND
2 YOU ARE REQUIRED TO UPHOLD IT. I AM TELLING YOU, THAT IS
3 AN UNNATURAL ACT, THAT IS AN UNNATURAL ACT FOR EACH OF THE
4 THIRTEEN JURORS IN ANY PLACE. IS THAT WHENEVER THERE IS A
5 CHARGE YOU READ THE NEWSPAPER AND YOU HEAR THE CRIME AND
6 THEN YOUR REACTION, THEY HAVE GOT THE GUY. BUT THE LAW
7 SAYS IN CRIMINAL CASES YOU HAVE TO BEGIN WITH THE REACTION
8 THAT THEY HAVE GOT THE WRONG GUY, THEY MADE A MISTAKE.
9 THAT IS THE CONSTITUTIONAL RIGHT, THAT IS THE GUARANTEE
10 THAT EVERY CITIZEN IN THIS COUNTRY HAS. AND WE ARE NOT AT
11 LIBERTY TO DISPENCE WITH THE CONSTITUTIONAL GUARANTEE.
12 LADIES AND GENTLEMEN OF THE JURY, YOU ARE REQUIRED, THERE
13 MAY BE SOME GUARANTEES THAT YOU LIKE MORE THAN OTHERS,
14 RIGHT TO VOTE, RIGHT TO PRIVACY, RIGHT TO BEAR AT ARMS,
15 BUT THE RIGHT TO BE PRESUMED INNOCENT, TO HAVE A JURY TO
16 REVIEW THE EVIDENCE AND THINK, THEY ARE WRONG. CHALLENGE
17 THAT EVIDENCE FROM THE PRESUMPTION THAT THEY HAVE GOT THE
18 WRONG MAN, THAT IS WHAT THE LAW REQUIRES FOR JURORS
19 SITTING IN A CRIMINAL CASE. AND THAT PRESUMPTION REST
20 WITH MR. SHEPPARD AS WITH ANYONE, GUARANTEED
21 CONSTITUTIONAL RIGHT IN ANY CASE. NOW, YOU ARE GOING TO
22 HEAR FROM A LOT OF WITNESSES AND I AM GOING TO ASK YOU TO
23 BE PATIENT BECAUSE MANY OF YOU MAY OF HAD EXPERIENCE WITH
24 LITIGATIONS, COURTS, LAWSUITS, MAY OF HEARD THE PHRASE
25 DEPOSITION. BUT IN A CRIMINAL CASE THERE ARE NO

1 DEPOSITIONS, THERE IS A CONSTITUTIONAL RIGHT THAT WE HAVE
2 IS TO CONFRONT THE WITNESSES. WHAT YOU ARE GOING TO HEAR
3 FROM THIS WITNESS STAND AND WHAT YOU ARE GOING TO SEE ME
4 DOING IS THE FIRST TIME SINCE THIS CASE BEGAN OR ANYTIME
5 PRIOR THAT MR. SHEPPARD HAS A CHANCE TO CONFRONT THESE
6 WITNESSES UNDER OATH AND IT MAY BE TEDIOUS AND I AM
7 BEGGING FOR YOUR PATIENCE, BECAUSE THAT IS HIS
8 CONSTITUTIONAL RIGHT TO CONFRONT THESE WITNESSES. AND I
9 CAN GET UP HERE TO TRY TO TIT FOR TAT THESE HIGHLIGHTS
10 THAT THE STATE PRESENTED ON WHAT THEIR WITNESSES ARE GOING
11 TO SAY. AND FRANKLY WE HAVEN'T HAD AN OPPORTUNITY TO
12 CONFRONT THE WITNESSES, TO CHALLENGE THOSE WITNESSES AND
13 THAT WILL BE WHAT WE ARE DOING. AND I WILL ASK YOU, AS WE
14 GO THROUGH THAT PROCESS, NOT ONLY TO BE PATIENT, YOU TOO
15 CHALLENGE AND WHERE I FALL SHORT, ASK YOURSELVES, PRESUME
16 HIM INNOCENT, GIVE HIM HIS CONSTITUTIONAL GUARANTEED
17 RIGHT. IF YOU DO THAT AT THE END OF THE DAY YOU WILL
18 RETURN A VERDICT OF NOT GUILTY. THANK YOU.

19 THE COURT: LET'S TAKE A BREAK AT THIS POINT, DON'T
20 DISCUSS THE CASE. WE WILL CONTINUE IN TEN MINUTES.
21 EVERYONE STAY SEATED WHILE THE JURY IS EXCUSED.

22 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
23 A BREAK.)

24 THE COURT: WE WILL TAKE TEN MINUTES.

25 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

1 THE COURT: IS THE STATE READY?

2 MS. EVANS: YES, YOUR HONOR.

3 THE COURT: THE DEFENSE, MR. GRIFFIN?

4 MR. GRIFFIN: YES, YOUR HONOR.

5 THE COURT: BRING THE JURY IN, PLEASE.

6 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
7 APPROXIMATELY 12:10 P.M.)

8 THE COURT: MS. EVANS, CALL YOUR FIRST WITNESS.

9 MS. EVANS: THE STATE CALLS RONALD BURKETT TO THE
10 STAND.

11 RONALD BURKETT, AFTER BEING DULY SWORN,
12 TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MS. EVANS:

15 Q MR. BURKETT, WHERE DO YOU LIVE?

16 A I LIVE IN WEST COLUMBIA, SOUTH CAROLINA.

17 Q AND WHAT IS YOUR OCCUPATION?

18 A I AM A CPA.

19 Q WOULD YOU PLEASE TELL US A LITTLE BIT ABOUT YOUR
20 EDUCATIONAL BACKGROUND?

21 A I GRADUATED FROM AIRPORT HIGH SCHOOL IN 1970, THEN I
22 WENT ON TO THE UNIVERSITY OF SOUTH CAROLINA AND GRADUATED
23 FROM THERE IN 1974 WITH A BS IN ACCOUNTING.

24 Q AND PLEASE GO OVER YOUR WORK EXPERIENCE WITH THE
25 JURY.

1 A WELL, I STARTED TO WORK IN ACCOUNTING AS SOON AS I
2 LEFT SCHOOL IN 1974. I WENT TO WORK FOR INTERNATIONAL
3 PAPER COMPANY AND WORKED FOR THEM FOR THREE YEARS AS AN
4 ACCOUNTANT WITH THEM. AND I CAME BACK TO WEST COLUMBIA
5 AND BECAME EMPLOYED WITH THE FIRM, BURKETT, CPA FIRM AND
6 THAT IS WHERE I HAVE WORKED SINCE THEN. SO, I HAVE
7 WORKED, WE ARE CELEBRATING OUR 30TH YEAR WITH THE FIRM.

8 Q AND WHAT IS THE NAME OF THE FIRM?

9 A THE NAME IS BURKETT, BURKETT AND BURKETT, CPA'S.

10 Q AND WHO ARE THE OTHER TWO BURKETT'S THAT ARE IN THE
11 COMPANY WITH YOU?

12 A I HAVE AN IDENTICAL TWIN BROTHER AND I ALSO HAD AN
13 OLDER BROTHER WHO WAS IN THE BUSINESS FOR ABOUT 17 YEARS.
14 AND NOW HE IS A PROFESSOR AT USC.

15 Q SO, ALL THREE BROTHERS ARE BURKETT, BURKETT AND
16 BURKETT?

17 A THAT'S RIGHT.

18 Q AND ARE YOU, DO YOU DO SOME PART-TIME TEACHING ALSO?

19 A YES, I TEACH, I TAUGHT PART-TIME AT COLUMBIA
20 COMMERCIAL COLLEGE A NUMBER OF YEARS AGO AND I ALSO DO
21 TEACHING THROUGHOUT THE STATE OF SOUTH CAROLINA. AND I
22 ALSO DO A LITTLE BIT OF TEACHING THROUGHOUT THE COUNTRY, I
23 HAVE TAUGHT AT EIGHT OR TEN DIFFERENT STATES HAVING TO DO
24 WITH ACCOUNTING.

25 Q AND JURORS ALWAYS HEARS CPA AND A CPA FIRM. WHY

1 DON'T YOU TELL THE JURY A LITTLE BIT ABOUT WHAT YOU DO,
2 MR. BURKETT.

3 A WELL, CPA'S STANDS FOR CERTIFIED PUBLIC ACCOUNTANT.
4 WHAT THAT MEANS, WHEN I BECAME A CERTIFIED PUBLIC
5 ACCOUNTANT I HAD COMPLETED A FOUR YEAR DEGREE AND I TOOK A
6 TEST, A CPA EXAM THAT I HAD TO PASS AND THEN I HAD TO WORK
7 TWO YEARS UNDERNEATH SOMEBODY. SO, I BECAME CERTIFIED
8 BECAUSE I HAD A COLLEGE DEGREE AND PAST THAT CPA EXAM AND
9 ALSO I HAD WORKED FOR SOMEBODY FOR TWO YEARS THAT WAS A
10 CPA. AND THAT IS REALLY HOW I BECAME A CPA.

11 Q AND WITH YOUR FIRM WHAT TYPE OF WORK DO YOU DO ON A
12 DAY-TO-DAY BASIS WITH YOUR FIRM?

13 A WELL, I DO A VARIETY OF THINGS, I PREPARE AND REVIEW
14 FINANCIAL STATEMENTS, I PREPARE DIFFERENT TYPES OF
15 FINANCIAL STATEMENTS AS COMPUTATIONS, REVIEWS AND AUDITED
16 FINANCIAL STATEMENTS. I PREPARE TAX RETURNS, INDIVIDUAL
17 RETURNS, CORPORATE RETURNS, PARTNERSHIP RETURNS, TRUST
18 RETURNS. I DO LITIGATION SUPPORT, I DO EXPERT WITNESS
19 TESTIMONY AND TESTIFY IN TRIALS ON A VARIETY OF THINGS
20 FROM CONTRACT DISPUTES, TAX MATTERS, BREAK OF CONTRACTS,
21 BUSINESS INTERRUPTIONS CLAIMS, BUSINESS VALUATIONS AND
22 THINGS LIKE THAT. THEN I ALSO DO WHAT IS CALLED BUSINESS
23 MANAGEMENT, I HELP PEOPLE WITH THEIR BUSINESS, HELP THEM
24 RUN THEIR BUSINESS AND MAKE MORE MONEY. AND AS I SAID, I
25 DO A FAIR AMOUNT OF SPEAKING, ENGAGEMENTS THROUGHOUT THE

1 STATE AND A FEW OTHER STATES.

2 Q YOU MENTIONED BUSINESS VALUATIONS, DO YOU PREPARE
3 BUSINESS VALUATIONS?

4 A YES, I DO.

5 Q AND IS THAT, EVALUATIONS OR VALUATIONS WITH A V?

6 A I SAY VALUATIONS, BUSINESS VALUATIONS, NOT
7 EVALUATIONS, VALUATIONS.

8 Q OKAY. AND ARE YOU A MEMBER OF ANY PROFESSIONAL
9 ASSOCIATIONS?

10 A YES, I AM. I AM A MEMBER OF THE AICPA, WHICH IS THE
11 AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS. IT IS
12 JUST A NATIONAL ORGANIZATION THAT GOVERNS CERTIFIED PUBLIC
13 ACCOUNTANTS. I AM ALSO A MEMBER OF THE SOUTH CAROLINA
14 ASSOCIATION OF CPA'S WHICH IS A STATE ORGANIZATION. I AM
15 ALSO NACVA, THAT IS THE NATIONAL ASSOCIATION OF CERTIFIED
16 VALUATIONS ANALYST. AND THAT IS WHERE I TOOK A SERIES OF
17 COURSES, I THINK IT WAS EIGHT COURSES AND WE HAD TESTING
18 ON THE ABILITY TO REALLY DO VALUATIONS AND ALSO TO, ALSO
19 LITIGATION. AND I GOT CERTIFIED DOING THAT.

20 Q AND, MR. BURKETT, WHAT IS A VALUATION AND HOW MANY
21 HAVE YOU PERFORMED?

22 A WELL, A VALUATION IN MANY RESPECTS ARE SIMILAR TO
23 THINGS THAT PEOPLE DEAL WITH, WHEN YOU GET READY TO SELL
24 YOUR HOUSE ONE OF THE THINGS THAT YOU HAVE TO DO, ONE OF
25 THE THINGS THAT A PURCHASER WANTS IS, AND WHAT HE

1 PARTICULARLY DOES IS HE DOES AN VALUATION ON WHAT THE
2 HOUSE IS WORTH. SO, BEFORE HE CAN BUY A HOUSE SOMEBODY
3 GOES OUT AND APPRAISES IT. SO, REALLY WHAT A VALUATOR
4 DOES IS HE APPRAISES A BUSINESS SO YOU LOOK AT ALL THE
5 FINANCIAL RECORDS OF A BUSINESS AND YOU LOOK AT THE
6 HISTORY OF THE BUSINESS, YOU LOOK AT THE ECONOMIC, WHAT IS
7 GOING ON IN THE ECONOMIC WITH THAT BUSINESS AND THEN YOU
8 VALUE THE BUSINESS AND DETERMINE WHAT YOU THINK THE
9 BUSINESS IS WORTH.

10 Q WILL WE BE GOING TO DISCUSS THAT LATER, VALUATIONS
11 AND THE DIFFERENT TYPES?

12 A WE WILL BE DISCUSSING VALUATIONS AND DIFFERENT TYPES
13 OF VALUATIONS.

14 Q HOW MANY VALUATIONS HAVE YOU PERFORMED?

15 A PROBABLY BETWEEN 400 AND 500, SOMETHING LIKE THAT.

16 Q AND HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT IN THE
17 FIELD OF ACCOUNTING AND FINANCIAL VALUATIONS?

18 A YES, I HAVE.

19 Q AND HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT IN THE
20 FIELD OF CORPORATE STRUCTURE?

21 A YES.

22 Q AND FINANCIAL REVIEW?

23 A YES.

24 Q AND WHAT AREAS HAVE YOU BEEN QUALIFIED?

25 A I HAVE BEEN QUALIFIED IN ALL TYPES OF DOMESTIC

1 LITIGATION, I HAVE BEEN QUALIFIED IN BUSINESS INTERRUPTION
2 CLAIMS AND SHAREHOLDER DISPUTES AND CONTRACT DISPUTES
3 ALSO.

4 Q AND APPROXIMATELY HOW MANY TIMES HAVE YOU TESTIFIED
5 AS AN EXPERT?

6 A 250, MAYBE, BETWEEN 250 AND 300 TIMES.

7 Q AND HOW MANY OF THOSE TIMES WERE HERE IN SOUTH
8 CAROLINA?

9 A ACTUALLY PROBABLY ALL BUT TEN WERE IN SOUTH CAROLINA.
10 IT REALLY GOES BACK TO 1979 WHEN I STARTED DOING THIS TYPE
11 OF WORK.

12 Q HOW MANY HERE FROM SOUTH CAROLINA?

13 A I DON'T KNOW.

14 MS. EVANS: YOUR HONOR, AT THIS POINT THE STATE WOULD
15 TENDER MR. BURKETT AS AN EXPERT IN THE AREAS OF ACCOUNTING
16 AND FINANCE, CORPORATE STRUCTURE, ACCOUNTING AND
17 VALUATIONS.

18 MR. GRIFFIN: YOUR HONOR, I CERTAINLY DON'T HAVE ANY
19 OBJECTION AND AGREE TO QUALIFY HIM AS A CPA, FINANCIAL
20 REVIEW AND ON VALUATIONS. I DIDN'T HEAR MUCH ABOUT
21 CORPORATE STRUCTURE. HE MAY VERY WELL BE, I CERTAINLY
22 DIDN'T HEAR ANYTHING ABOUT IT.

23 THE COURT: WHY DON'T YOU ASK ADDITIONAL QUESTIONS
24 AND THEN I WILL EXPLAIN BEFORE YOU CONTINUE. GO AHEAD
25 WITH YOUR FOUNDATION OF THAT PARTICULAR AREA.

1 MS. EVANS: CERTAINLY, YOUR HONOR.

2 Q MR. BURKETT, IN YOUR EXPERIENCE AS A CPA AND ALL OF
3 THOSE THINGS THAT YOU HAVE TALKED ABOUT, HAVE YOU REVIEWED
4 THE CORPORATE STRUCTURE OF COMPANIES?

5 A YES.

6 Q AND APPROXIMATELY HOW MANY TIMES AND IN WHAT WAYS?

7 A WELL, WE DO A LOT OF, NOT ONLY REVIEW OF CORPORATE
8 STRUCTURES BUT WE ALSO TALK ABOUT WHAT TYPE OF STRUCTURE
9 YOU SHOULD BE AND WHETHER YOU SHOULD BE A CORPORATION, A
10 PARTNERSHIP, AN LLC, A SOLE PROPRIETOR. SO, WE DISCUSS A
11 LOT OF THINGS OF WHAT NATURE OF BUSINESS TO TAKE, WE DO A
12 LOT OF THAT. HOW MANY TIMES HAVE I DONE THAT, I GUESS TEN
13 TIMES A YEAR, FIFTEEN TIMES A YEAR, SOMETHING LIKE THAT.
14 I DON'T KNOW.

15 Q AND YOU HAVE BEEN DOING THIS FOR APPROXIMATELY 30
16 YEARS?

17 A YES, MA'AM.

18 MR. GRIFFIN: THAT IS FINE, YOUR HONOR.

19 THE COURT: THEN I FIND THAT THE WITNESS IS QUALIFIED
20 IN THE FIELDS AS INDICATED. MADAM FORELADY AND LADIES AND
21 GENTLEMEN, LET ME TELL YOU THAT NORMALLY WITNESSES ARE NOT
22 PERMITTED TO VOICE THEIR OPINIONS. ONE EXCEPTION TO THAT
23 GENERAL RULE IS THAT IF A WITNESS IS QUALIFIED AS AN
24 EXPERT THAT GIVES THAT WITNESS THE RIGHT TO VOICE HIS OR
25 HER OPINION IN THAT PARTICULAR FIELD. THIS WITNESS HAS

1 BEEN QUALIFIED AS AN EXPERT IN THE FIELDS AS INDICATED.

2 YOU MAY CONTINUE, MS. EVANS.

3 MS. EVANS: THANK YOU, YOUR HONOR.

4 Q MR. BURKETT, IN GETTING READY FOR TESTIFYING AS TO
5 YOUR EXPERT OPINION, WAS THERE CERTAIN MATERIALS THAT YOU
6 REVIEWED?

7 A YES, IT WAS.

8 Q AND PLEASE TELL THE JURY WHAT THOSE MATERIALS WERE?

9 A WELL, WE LOOKED AT A LOT OF DIFFERENT MATERIALS AND
10 WE LOOKED AT ACCOUNTING RECORDS OF THE COMPANY, WE LOOKED
11 AT LEGAL DOCUMENTS ASSOCIATED WITH THE COMPANY, INTERVIEWS
12 THAT WERE DONE BY, DONE ON EMPLOYEES AND DIFFERENT PEOPLE
13 ASSOCIATED WITH THE COMPANIES. WE LOOKED AT DEPOSITIONS,
14 I HAVE READ DEPOSITIONS, I HAVE READ NEWSPAPER ARTICLES, I
15 LOOKED AT FINANCE REPRESENTATIONS THAT WERE MADE BY THE
16 COMPANY EMPLOYEES AND THE MANAGEMENT OF THE COMPANY. I
17 LOOKED AT DIFFERENT FINANCIAL HANDOUTS ABOUT DIFFERENT
18 MEETINGS THEY HAD, I LOOKED AT MINUTES FROM SHAREHOLDERS
19 MEETINGS AND BOARD OF DIRECTORS MEETINGS. I LOOKED AT THE
20 FINANCIAL STATEMENTS FROM THE COMPANY, I LOOKED AT THE
21 SECURITY EXCHANGE COMMISSION STATEMENTS, THE 10K'S, THE
22 8K'S AND THE 10Q'S, I LOOKED AT THOSE. I LOOKED AT THE
23 VALUATIONS, THERE WERE TWO VALUATIONS THAT WERE DONE ON
24 THE COMPANY, I LOOKED AT THOSE. I LOOKED AT
25 CORRESPONDENCE AND THEN THERE WAS A MERGER BETWEEN

1 HOMESENSE AND HOMEGOLD, I LOOKED AT THE MERGER DOCUMENTS.
2 AND I LOOKED AT THE DUE DILIGENCE DOCUMENTS THAT WAS
3 ASSOCIATED WITH THAT MERGER. AND THEN I LOOKED AT SOME
4 PROXY STATEMENTS HAVING TO DO WITH HOMEGOLD/HOMESENSE
5 MERGER. AND I LOOKED AT LOTS OF THINGS.

6 Q DID YOU ALSO REVIEW SOME MATERIAL REGARDING THE
7 LEAPHART ROAD PROPERTY?

8 A YES, I DID.

9 Q AND DID YOU, YOU TALKED ABOUT THOSE 10K'S, 8K'S AND
10 10Q'S, ARE THOSE COLLECTIVELY KNOWN AS SEC FILINGS?

11 A YES, THEY ARE SEC FILINGS.

12 Q OKAY. DID YOU ALSO LOOK AT THE EQUIVALENT OF
13 CAROLINA INVESTORS TYPE OF PUBLIC FILINGS?

14 A YES, THE PROSPECTUS FOR CAROLINA INVESTORS, I DID.

15 Q AND IS THAT BASICALLY THE SAME THING AS A SEC, IS IT
16 AN OUTLINE OF THE COMPANY?

17 A WELL, IT GIVES A LOT OF, IT GIVES SIMILAR INFORMATION
18 AS TO THE FILINGS BUT IT IS A LITTLE DIFFERENT. BUT IT
19 DOES GIVE SOME, IT GIVES FINANCIAL STATEMENTS AND THINGS
20 LIKE THAT ABOUT THE COMPANY.

21 Q LET'S START AND TALK ABOUT THE OVERVIEW OF THE
22 COMPANY. DID YOU LOOK AT THE OVERVIEW OF THE COMPANY,
23 THIS CAROLINA INVESTORS?

24 A I DID.

25 Q AND COULD YOU PLEASE JUST GIVE THE JURY SOME

1 BACKGROUND ABOUT THE COMPANY KNOWN AS CAROLINA INVESTORS?

2 A YES. CAROLINA INVESTORS STARTED IN ABOUT 1963 BY A
3 FOUNDER OF DWIGHT HOLDER AND IT WAS FOUNDED IN PICKENS,
4 SOUTH CAROLINA. AND THEIR MAIN PURPOSE WHEN THEY GOT
5 STARTED WAS LOANING MONEY TO PEOPLE FOR CEMETERY PLOTS.
6 AND THEY WENT FROM THAT TO WHAT THEY STARTED LOANING
7 PEOPLE FOR SECOND MORTGAGE ON THEIR HOMES. AND THAT WENT
8 ON UNTIL ABOUT 1991 AND THEN DWIGHT HOLDER AND A GROUP OF
9 PEOPLE FROM GREENVILLE PURCHASED A COMPANY. AND THEY
10 CONTINUED THE BUSINESS FOR BASICALLY THE SAME NATURE FOR A
11 FEW YEARS. AND THEN IN 1995 A NEW COMPANY WAS FORMED, IT
12 WAS CALLED EMERGENT MORTGAGE COMPANY AND THAT COMPANY WAS
13 FORMED IN ORDER TO DO, TO LOAN MONEY TO PEOPLE WHO WERE
14 BUYING HOMES. SO, THEY BECAME, THEY STARTED LOANING MONEY
15 TO PEOPLE FOR FIRST AND SECOND MORTGAGE MONIES IS WHAT
16 THEY STARTED LOANING. THAT STARTED IN 1995. AND THAT
17 COMPANY GOT STARTED FROM A LOAN FROM CAROLINA INVESTORS,
18 SO YOU HAVE THE COMPANY CAROLINA INVESTORS AND THEY LOANED
19 TO A NEW COMPANY \$15 MILLION DOLLARS TO START THAT
20 BUSINESS. THEY GO INTO THE HOME MORTGAGE BUSINESS.

21 Q IS THAT \$15 MILLION DOLLARS THAT WAS INITIALLY LOANED
22 FROM CAROLINA INVESTORS TO HOMEGOLD, IS THAT WHAT BECAME
23 KNOWN AS THE INTER-COMPANY DEBT?

24 A YES, IT DOES. BECAUSE IT IS A LOAN BETWEEN, CAROLINA
25 INVESTORS MADE LOANS TO HOMEGOLD. IN THIS CASE IT WAS

1 EMERGENT MORTGAGE BUT THE NAME GOT CHANGED AND I WILL GET
2 TO THAT FARTHER INTO THE HISTORY.

3 Q AND AT THAT POINT DID THE CORPORATE STRUCTURE TOTALLY
4 CHANGE, IN ESSENCE?

5 A A FEW YEARS THE CORPORATE STRUCTURE CHANGED
6 COMPLETELY IN THAT IT BECAME A PUBLIC COMPANY. AND IT
7 CHANGES ITS NAME FROM EMERGENT TO HOMEGOLD CORPORATION.
8 NOW, THROUGHOUT THE TRIAL WHEN I AM TALKING, I AM NOT
9 GOING TO REFER TO EMERGENT CORPORATION, I AM JUST GOING TO
10 REFER TO IT AS HOMEGOLD, BECAUSE IT IS ALL ONE THING. IT
11 IS IMPORTANT TO UNDERSTAND THOUGH THAT HOMEGOLD IS A
12 PUBLICLY TRADED COMPANY AND IT OWNS CAROLINA INVESTORS.
13 SO, CAROLINA INVESTORS IS NOT, IS A SEPARATE ENTITY BUT IT
14 IS A SUBSIDIARY OF HOMEGOLD.

15 Q SO IN FURTHERANCE OF THE TRIAL, EVEN IF YOU ARE
16 TALKING ABOUT MAYBE '97, '96, YOU MAY REFER TO IT AS
17 HOMEGOLD BUT IT WAS TECHNICALLY CALLED EMERGENT BUT IT
18 ULTIMATELY BECAME HOMEGOLD?

19 A THAT IS CORRECT.

20 Q LET'S GO TO 1998, THAT IS WHEN THEY CHANGED THE NAME
21 TO HOMEGOLD.

22 A YES, THEY CHANGED THE NAME TO HOMEGOLD IN 1998, IT
23 BECAME A PUBLICLY TRADED COMPANY AT THAT POINT AND TIME.

24 Q AND WHAT CAROLINA INVESTORS WAS DOING, WHAT YOU JUST
25 DESCRIBED FROM 1963, DID THAT CHANGE?

1 A DID THAT ACTUALLY CHANGE, BECAUSE AT THAT POINT THEY
2 STOPPED MAKING LOANS TO PEOPLE LIKE THEY WERE DOING. AND
3 HOMEGOLD BECAME THE COMPANY THAT STARTED MAKING THOSE
4 LOANS, AGAIN THEY STARTED MAKING HOME MORTGAGE LOANS. AND
5 WHAT CAROLINA INVESTORS ENDED UP DOING WAS THEY ENDED UP,
6 THEY GOT THEIR FUNDING THROUGH ISSUING BONDS. SO THEY
7 CONTINUED TO GET THE FUNDING THROUGH ISSUING BONDS AND THE
8 PRIMARY PURPOSE WAS TO LOAN MONEY TO HOMEGOLD.

9 Q SO, THE COMPANY BACK IN 1963 THAT IS LOANING MONEY
10 OUT IN AND AROUND THE PICKENS AREA, IN 1998 THEY ARE
11 LOANING MONEY TO THE PARENT COMPANY, HOMEGOLD?

12 A THAT'S CORRECT.

13 Q AND WHAT TYPE OF BUSINESS WAS HOMEGOLD IN?

14 A WELL, HOMEGOLD WAS IN THE MORTGAGE BUSINESS. THEY
15 WERE IN WHAT WAS CALLED THE SUBPRIME LENDING MARKET. AND
16 THEY WERE LOANING MONEY TO PEOPLE WHO WERE BUYING HOMES.

17 Q CAN YOU BRIEFLY EXPLAIN TO THE JURY WHAT SUBPRIME
18 LENDING IS?

19 A SUBPRIME LENDING, I THINK WE ALL UNDERSTAND, MOST OF
20 US HAVE BOUGHT HOMES BEFORE. WHEN YOU WANT TO BUY A
21 HOUSE, MOST PEOPLE DON'T HAVE ENOUGH CASH TO BUY THE
22 HOUSE. THEY HAVE TO GO SOME PLACE AND GET A MORTGAGE TO
23 BUY THAT HOUSE. AND SUBPRIME LENDING WAS REALLY LOANING
24 TO PEOPLE WHO WANTED TO BUY A HOUSE. BUT THE TERM,
25 SUBPRIME LENDING WAS GOING TO KIND OF REPRESENT, IF YOU

1 WERE SUBPRIME LENDER YOU WERE LENDING MONEY TO PEOPLE WHO
2 WERE A HIGHER CREDIT RISK THAN WHAT NORMAL PEOPLE WERE.
3 SO, YOU ARE LOANING MONEY TO PEOPLE FOR THEIR HOME
4 MORTGAGES AND THEIR HIGHER RISK THAN NORMAL.

5 Q AND BECAUSE THERE ARE HIGHER RISK, WHAT DOES THAT
6 MEAN FOR INTEREST RATES.

7 A WHAT THAT TYPICALLY MEANS IS THAT THE LENDER CAN
8 CHARGE A HIGHER INTEREST RATE BECAUSE THEY ARE TAKING A
9 HIGHER RISK. I AM LOANING MONEY TO THESE FOLKS BECAUSE
10 THEY ARE TAKING MORE OF A CREDIT RISK.

11 Q IN THE SUBPRIME LENDING MARKET, IS THAT THE TYPE OF
12 MARKET THAT IS CYCLICAL OR CHANGES DEPENDING UPON THE
13 FINANCIAL CONDITIONS OR OVERALL GLOBAL MARKET?

14 A I THINK A LOT OF THINGS AFFECT THE SUBPRIME LENDING
15 MARKET. I THINK ANYTHING TIED TO THE HOUSING MARKET IS
16 CYCLICAL IN NATURE. SO I THINK THAT HAS A PART OF IT
17 ALSO, IT HAS A PART IN THE FACT, YOU KNOW, I THINK WE ALL
18 KNOW THAT HOME BUILDING GOES UP AND DOWN AND IT IS VERY
19 CYCLICAL. ANYTHING TIED TO THAT IS CYCLICAL.

20 Q OKAY. AND YOU BRIEFLY SAID THAT HOMEGOLD WAS A
21 PUBLICLY TRADED COMPANY, WHAT DOES THAT MEAN BESIDES THE
22 SEC THAT YOU HAVE ALREADY TALKED ABOUT?

23 A WELL, LET ME SEE IF I CAN KIND OF EXPLAIN WHAT A
24 PUBLICLY TRADED COMPANY AND A PRIVATE COMPANY IS, IF I
25 CAN. IF I OWN A PRIVATE COMPANY AND I AM THE ONLY OWNER

1 IN THE PRIVATE COMPANY THEN I CAN KIND OF DO WITHOUT, DO
2 WITH IT AS I WISH. I CONTROL IT, I CAN DO KIND OF WHAT I
3 WANT TO DO WITH IT. OBVIOUSLY, WITHIN CERTAIN BOUNDARIES,
4 I HAVE GOT THE IRS LOOKING OVER MY SHOULDER AND THINGS
5 LIKE THAT SO I CAN'T BREAK TAX LAWS BUT I CAN DO WHAT I
6 WANT TO. IF I AM A PUBLICLY TRADED COMPANY, FIRST OF ALL
7 WHAT THAT MEANS IS THAT PUBLIC OWNS YOU. WHEN I SAY THE
8 PUBLIC OWNS YOU, IT MEANS THE PUBLIC OWNS THE STOCK. WHAT
9 YOU HAVE DONE IS YOU HAVE OFFERED YOUR STOCK TO THE
10 PUBLIC, WE HAVE ALL HEARD OF NASDAQ MAYBE AND NEW YORK
11 STOCK EXCHANGE. A LOT OF TIMES IT IS BEING TRADED ON ONE
12 OF THOSE TWO EXCHANGES OR DIFFERENT EXCHANGES. AND WHAT
13 HAPPENS SINCE YOU ARE PUBLICLY TRADED IS THAT YOU HAVE GOT
14 TO REPORT YOUR EARNINGS AND DIFFERENT INFORMATION ABOUT
15 YOUR COMPANY. AND YOU HAVE TO DO THAT THROUGH THE SEC.
16 AND WE HAVE MENTIONED ABOUT THE 10K'S AND 8K'S AND THINGS
17 AND THAT IS REALLY WHAT WE ARE TALKING ABOUT HERE. SO, A
18 PUBLIC COMPANY, IT IS DIFFERENT THAN A PRIVATE COMPANY.
19 THE DIFFERENCE TO ME IS, IF I AM A PRIVATE COMPANY AND I
20 OWN A HOUSE I KIND OF DO WHAT I WANT TO DO WITH THAT
21 HOUSE. IF I WANT TO REPAIR IT AND KEEP IT UP, I CAN DO
22 THAT. IF I DON'T WANT TO I CAN LET IT DO WHATEVER IT
23 WANTS TO. WHAT I CAN LET, I CAN LET IT DETERIORATE IF I
24 WANT TO. IF IT IS A PUBLIC COMPANY THEN I AM RESPONSIBLE
25 TO THE PUBLIC TO INVESTORS. I HAVE GOT TO TAKE CARE OF

1 THAT HOUSE AND MAKE SURE IT IS KEPT IN THE SHAPE IT NEEDS
2 TO BE KEPT IN. SO, I AM RESPONSIBLE TO THE PUBLIC AND
3 THAT THE PUBLIC IS THE INVESTORS OR THE SHAREHOLDERS,
4 STOCKHOLDERS. AND I HAVE TO REPORT TO THE PUBLIC AND I
5 REPORT TO THE PUBLIC THROUGH THE SECURITIES EXCHANGE
6 COMMISSION.

7 Q OKAY. AND LET ME ASK YOU, YOU HAVE TALKED ABOUT
8 10K'S, 10Q'S, 8K'S. FORTUNATELY I UNDERSTAND WHAT THOSE
9 ALL ARE BUT COULD YOU PLEASE EXPLAIN WHAT THOSE ARE JUST
10 IN GENERAL TERMS TO THE JURY.

11 A WELL, AS I STATED, YOU HAVE TO REPORT, A PUBLIC
12 COMPANY HAS TO REPORT TO THE SEC, THE SECURITIES EXCHANGE
13 COMMISSION, THEIR FINANCIAL STATEMENTS AND THEIR FINANCIAL
14 HISTORY AND DIFFERENT THINGS ABOUT THE COMPANY. THEY HAVE
15 TO REPORT ON AN ANNUAL BASIS TO THE SECURITIES EXCHANGE
16 COMMISSION. SO, WHAT THEY DO THEY HAVE TO FILE WHAT IS
17 CALLED A 10K AND THAT 10K HAS A FINANCIAL STATEMENT IN IT
18 AND THEIR AUDITED FINANCIAL STATEMENTS AND WE MAY TALK
19 ABOUT THAT LATER ON AS AN AUDIT FINANCIAL STATEMENT. AND
20 THEN IT ALSO TELLS DIFFERENT THINGS ABOUT THE COMPANY, SO
21 IT IS THE HISTORY AND THINGS LIKE THAT. AND THAT IS FILED
22 WITH THE SEC ANNUALLY. AND THEN YOU HAVE THE 10Q'S WHICH
23 ARE FINANCIAL STATEMENTS THAT ARE DONE, BASICALLY THE
24 SAME, THEY ARE VERY SIMILAR TO 10K'S BUT THEY ARE DONE
25 QUARTERLY. THEY ARE NOT DONE ANNUALLY, THEY ARE DONE

1 QUARTERLY. AND WHEN THOSE ARE ISSUED YOU DON'T HAVE TO
2 PUT AN AUDITED FINANCIAL STATEMENT, YOU JUST PUT A, IT IS
3 NOT TO BE AUDITED WITH THAT. THEN WE HAVE WHAT IS CALLED
4 8K'S WHICH HAS TO BE FILED WITH THE SECURITIES EXCHANGE
5 COMMISSION. AND WHAT THAT IS IS IF SOMETHING HAPPENS IN
6 THE COMPANY THAT IS SIGNIFICANT THEN YOU HAVE TO REPORT TO
7 THE SECURITIES EXCHANGE COMMISSION AND THEN THEY IN TURN
8 REPORT THAT TO THE PUBLIC. AND THOSE ARE THINGS LIKE, IF
9 IT WAS A MERGER, A MERGER, IF IT IS ONE OF YOUR CHIEF
10 EXECUTIVE OFFICERS LEAVE FOR SOME REASON, YOU HAVE GOT TO
11 REPORT THAT. ANYTHING THAT IS SIGNIFICANT IN A COMPANY
12 YOU HAVE GOT TO REPORT THAT ON AN ONGOING BASIS AND THAT
13 IS TYPICALLY DUE WITHIN FOUR OR FIVE DAYS AFTER THE EVENT
14 OCCURS.

15 Q SO, WHAT DOES IN LAYMAN TERMS, I DON'T KNOW WHERE
16 THEY GET THE 10 BUT Q STANDS FOR QUARTER?

17 A THAT IS WHAT IT STANDS FOR, RIGHT.

18 Q AGAIN, I DON'T GET THE 10 BUT THE K STANDS FOR YEAR?

19 A RIGHT.

20 Q AND THAT, THE 8K'S ARE JUST A DIFFERENT THING FILED
21 PERIODICALLY?

22 A PERIODICALLY, RIGHT, AS NEEDED.

23 Q WHAT HAPPENS AFTER EACH OF THOSE ARE PREPARED?

24 A WELL, AGAIN THIS IS A PUBLIC COMPANY, THIS IS PUBLIC
25 COMPANY INFORMATION AND THE THOUGHT IS THAT IF I AM

1 INVESTING IN THE COMPANY OR YOU ARE INVESTING IN THE
2 COMPANY WE NEED TO GET THIS INFORMATION KIND OF AT THE
3 SAME TIME. SO, WHAT HAPPENS TO IT IS IT IS FILED WITH THE
4 SEC AND THEN THE SEC PUBLISHED THAT. AND THEY PUBLISH IT
5 ON THEIR WEB SITE.

6 Q THESE 10K'S, 10Q'S AND 8K'S, WHO ARE THEY STATEMENTS,
7 ARE THEY BASICALLY STATEMENTS OF THE FINANCIAL CONDITION
8 AND OTHER THINGS OF THE COMPANY?

9 A RIGHT, AND THESE ARE, THE STATEMENTS, THE FINANCIAL
10 STATEMENTS AND ALL THE INFORMATION IN THESE DIFFERENT
11 REPORTS. WE ARE GOING TO GO BACK OVER THE TERMS OF THE
12 NAMES OF THEM AGAIN. BUT ALL OF THIS INFORMATION IS
13 REALLY MANagements ASSERTION AND MANagements CLAIMS ABOUT
14 WHAT THE STATE OF THE BUSINESS FROM A FINANCIAL
15 STANDPOINT, EVERYTHING IS REALLY MANagements ASSERTIONS.

16 Q OKAY. SO, 10K FILED ON BEHALF OF HOMEGOLD IS A
17 STATEMENT BY MANAGEMENT OF HOMEGOLD?

18 A RIGHT, AND IT IS SIGNED BY MANAGEMENT.

19 Q OKAY. AND ULTIMATELY WHERE DO THESE SEC FILINGS, WE
20 WILL CALL THEM, END UP?

21 A THEY END UP ON THE SEC WEB SITE SO THAT EVERYBODY CAN
22 HAVE EQUAL ACCESS TO THEM AND HAVE ACCESS AT THE SAME TIME
23 TO THEM.

24 Q SO IN ESSENCE, ARE THESE PUBLIC STATEMENTS OF THE
25 CORPORATION?

1 A THEY ARE PUBLIC STATEMENTS.

2 Q AND HAVE YOU EVER PREPARED ANY OF THESE?

3 A NO, MA'AM.

4 Q BUT HOW MANY, HAVE YOU REVIEWED SEVERAL OF THEM?

5 A I HAVE.

6 Q AND WHAT DO YOU RELY UPON IN FORMULATING YOUR OPINION
7 ABOUT THE, WHAT SHOULD BE IN AN 8K AND A 10K, WHO DO YOU
8 HAVE TO RELY ON TO RELAY THAT INFORMATION TO YOU?

9 A WELL, YOU HAVE TO RELY ON--

10 MR. GRIFFIN: YOUR HONOR, I AM GOING TO OBJECT, HE
11 SAYS HE HAS NEVER PREPARED ANY. AND NOW HE IS TESTIFYING
12 ABOUT WHO YOU RELIED UPON WHEN YOU PREPARED THEM.

13 Q EXCUSE ME, I AM SORRY.

14 THE COURT: REPHRASE YOUR QUESTION, SUSTAINED.

15 Q I AM SORRY, MR. BURKETT. WHOSE STATEMENTS DO YOU
16 HAVE TO RELY UPON WHEN REVIEWING THESE DOCUMENTS?

17 A I THINK IT IS FUNDAMENTAL IN THESE DOCUMENTS THAT
18 THEY ARE SIGNED BY MANAGEMENT AND THEY ARE MANAGEMENT'S
19 ASSERTIONS. SO, YOU ARE LOOKING TO MANAGEMENT FOR
20 WHATEVER IS IN THOSE STATEMENTS.

21 Q DID YOU ALSO REVIEW IN THIS CASE PROSPECTUS' THAT
22 WERE PREPARED ON BEHALF OF CAROLINA INVESTORS?

23 A I DID.

24 Q AND BRIEFLY JUST EXPLAIN TO THE GRAND JURORS, EXCUSE
25 ME, TO THE JURORS WHAT PROSPECTUS' ARE?

1 A WELL, THEY ARE SIMILAR TO THESE OTHER REPORTS THAT WE
2 TALKED ABOUT EXCEPT THEY ARE FILED WITH THE STATE SECURITY
3 EXCHANGE COMMISSION AND THEY HAVE INFORMATION ABOUT THE
4 COMPANY AND THEY HAVE FINANCIAL STATEMENTS JUST LIKE THE
5 OTHER STATEMENTS WE DISCUSSED. AND WHY THEY WERE
6 IMPORTANT, WAS CAROLINA INVESTORS WOULD HAVE TO PREPARE
7 PROSPECTUS' BECAUSE THEY WERE BORROWING MONEY THROUGH
8 BONDS FROM PEOPLE THROUGHOUT THE STATE.

9 Q AND WHERE ARE THEY FILED?

10 A WITH THE STATE SECURITIES COMMISSION.

11 MS. EVANS: YOUR HONOR, AT THIS TIME WE WOULD LIKE TO
12 MOVE INTO EVIDENCE HOMEGOLD'S FINANCIAL, EXCUSE ME, SEC
13 FILINGS. I THINK IT IS GOING TO TAKE SOME TIME TO MARK
14 THESE.

15 THE COURT: IS IT THAT STACK OF DOCUMENTS THERE?

16 MS. EVANS: IT IS THIS STACK OF DOCUMENTS AND I WILL
17 TELL YOU, THEY ARE FROM 1997 TO THE LAST ONE THAT THEY
18 FILED.

19 THE COURT: ARE THOSE OF THE SEC FILINGS OF HOMEGOLD?

20 MS. EVANS: STARTING WITH THE 10Q'S AND I WILL HAVE
21 THE 10K'S HERE AND THE 8K'S RIGHT HERE.

22 THE COURT: ANY OBJECTION TO THOSE, MR. GRIFFIN?

23 MR. GRIFFIN: I JUST WANT TO BE SURE THAT THEY HAVE
24 ALL THE ATTACHMENTS TO THEM. I DON'T HAVE AN OBJECTION TO
25 THEM.

1 MS. EVANS: WE HAVE NO PROBLEM WITH HIM REVIEWING
2 THESE.

3 THE COURT: THEY HAVE NOT BEEN NUMBERED, IS THAT
4 RIGHT?

5 MS. EVANS: THEY HAVE NOT, YOUR HONOR.

6 THE COURT: WHY DON'T WE DO THIS. MADAM FORELADY AND
7 LADIES AND GENTLEMEN, WE HAVE ORDERED LUNCH, IT SHOULD BE
8 HERE IN ABOUT TEN MINUTES. RATHER THAN YOU SITTING HERE
9 AND SORT OF LOOK AT EACH OTHER WHILE THESE THINGS ARE
10 BEING NUMBERED, WE WILL GO AHEAD AND TAKE LUNCH. WE WILL
11 PROVIDE LUNCH TO YOU. YOU CAN EITHER LEAVE YOUR NOTEBOOKS
12 HERE IN THE COURTROOM OR YOU CAN TAKE THEM WITH YOU. WE
13 WILL RESUME AT ABOUT TEN MINUTES UNTIL 2:00. DON'T
14 DISCUSS THE CASE, STEP BACK TO YOUR JURY ROOM. EVERYONE
15 ELSE STAY SEATED, PLEASE.

16 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
17 A LUNCH BREAK.)

18 THE COURT: MR. BURKETT, YOU CAN STEP DOWN FROM THE
19 WITNESS STAND. YOU CANNOT DISCUSS YOUR TESTIMONY DURING
20 THE BREAK. IF YOU FOLKS CAN GET THOSE NUMBERED AND IF
21 THERE IS AN OBJECTION WE WILL TAKE THAT UP WHEN WE COME
22 BACK AFTER LUNCH. IF NOT, GET THEM NUMBERED AND I WILL
23 MAKE ON THE RECORD A NOTATION THAT THEY HAVE BEEN ADMITTED
24 INTO EVIDENCE. WE WILL RECESS UNTIL 1:50.

25 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

1 THE COURT: HAVE WE GOT SOME, ARE THESE MARKED NOW?

2 MS. EVANS: YES, YOUR HONOR, WE HAVE ALL THE 10Q'S,
3 10K'S AND 8K'S MARKED WITH THE EXCEPTION OF THE YEAR 2000.
4 WE HAVE NOT GOT THEM, WHEN WE GET THEM I WILL MOVE THEM
5 ALL INTO EVIDENCE. WE HAVE A 10K THAT IS SIGNIFICANT FOR
6 THE NEXT EXHIBIT I WANT TO USE.

7 THE COURT: LET'S GO AHEAD AND GET ON THE RECORD AND
8 THESE YOU HAVE, MR. GRIFFIN, YOU HAVE EXAMINED THEM?

9 MR. GRIFFIN: YES SIR, YOUR HONOR. AND I DON'T HAVE
10 ANY OBJECTION TO THOSE GOING IN. I THINK, AS I WAS
11 LOOKING THROUGH THEM, SOME FILINGS DO NOT HAVE THE
12 EXHIBITS ATTACHED AND I JUST, I DON'T OBJECT TO WHAT IS
13 THERE. THERE MAY BE SOME ADDITIONAL INFORMATION THAT AT
14 SOME POINT AND TIME LATER WE CAN DO.

15 THE COURT: IF IT IS SOMETHING THAT IS RELATED TO
16 THESE THEN THERE WON'T BE A PROBLEM WITH THAT.

17 MS. PORTER: YES.

18 THE COURT: SOMEBODY GIVE ME THE NUMBERS SO I CAN
19 KEEP A RECORD OF IT, PLEASE.

20 MR. PEAVY: MAY I APPROACH?

21 THE COURT: YES.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

23 THE COURT: AT THIS TIME STATE'S EXHIBITS 1 THROUGH
24 53 WOULD BE, UNDERSTANDING THAT STATE'S 11, 12 AND 13 ARE
25 THE ONES THAT ARE ON THEIR WAY, THOSE EXHIBITS WILL BE

1 ADMITTED WITHOUT OBJECTION. IS THAT CORRECT?

2 MR. GRIFFIN: YES SIR, I WOULD JUST LIKE TO LOOK AT
3 THE OTHER ONES WHEN THEY GET HERE.

4 THE COURT: YOU CAN TAKE A LOOK AND IF THERE IS A
5 PROBLEM WITH THEM WE WILL DEAL WITH THAT AT THAT TIME.

6 (WHEREUPON, STATE'S EXHIBIT NOS. 1 THROUGH 53 WERE
7 ADMITTED INTO EVIDENCE.)

8 THE COURT: IS THE STATE READY TO PROCEED?

9 MS. EVANS: YES, YOUR HONOR.

10 THE COURT: IS THE DEFENSE READY?

11 MR. GRIFFIN: YES, YOUR HONOR.

12 THE COURT: IF THE WITNESS WILL COME BACK UP, PLEASE.
13 BRING THE JURY IN, PLEASE.

14 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
15 APPROXIMATELY 2:10 P.M.)

16 THE COURT: MS. EVANS, YOU CAN CONTINUE. I NEED TO
17 EXPLAIN TO THE JURY, THERE HAVE BEEN A NUMBER OF EXHIBITS,
18 1 THROUGH 53 HAVE BEEN ADMITTED INTO EVIDENCE. GO HEAD.

19 CONTINUE DIRECT EXAMINATION

20 BY MS. EVANS:

21 Q MR. BURKETT, THE EXHIBITS 1 THROUGH 53 THAT HAVE BEEN
22 PUT INTO EVIDENCE. AND I WILL JUST SHOW YOU ONE, THIS IS
23 MARCH 31ST OF 1997. CAN YOU PLEASE TELL THE JURY WHAT
24 THAT IS.

25 A THIS IS A 10Q FOR THAT TIME PERIOD THAT YOU JUST

1 MENTIONED.

2 Q AND APPROXIMATELY HOW MANY PAGES IS THAT?

3 A A LOT.

4 Q THAT IS SUFFICIENT. AND YOU REVIEWED, FROM 1997 THE
5 10Q'S UNTIL THE LAST ONE WHICH IS EXHIBIT NUMBER 19 WHICH
6 WAS FILED SEPTEMBER 30TH OF 2002?

7 A YES.

8 Q AND I AM ALSO GOING TO SHOW YOU WHAT IS EXHIBIT
9 NUMBER 20, TALKED ABOUT A 10K. CAN YOU PLEASE EXPLAIN TO
10 THE JURY WHAT THAT IS?

11 A WELL, THIS IS THE 10K FOR 1997, I BELIEVE.

12 Q AND YOU REVIEWED THE 10K'S FROM 1997 UNTIL 2002?

13 A YES, MA'AM.

14 Q I AM SORRY, TO 2001, THERE WAS NO 2002?

15 A YES, TO 2001, THAT IS CORRECT.

16 Q AND WE ALSO REFERRED TO 8K'S?

17 A YES, MA'AM.

18 Q AND I AM GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 36.
19 CAN YOU PLEASE TELL THE JURY IF THAT IS AN 8K?

20 A YES MA'AM, IT IS.

21 Q AND WITH SOME EXCEPTIONS WOULD IT BE FAIR TO SAY THAT
22 USUALLY 8K'S ARE A LOT LESS INFORMATION THAN CONTAINED IN

23 A 10Q AND A 10K?

24 A YES, MA'AM.

25 Q WITH SOME EXCEPTIONS?

1 A WITH SOME EXCEPTIONS, YES.

2 Q AND WHAT WE ALSO DID NOT TALK ABOUT AND I AM GOING TO
3 SHOW YOU STATE'S EXHIBIT 49, 50, 51, 52 AND 53. I THINK
4 YOU PREVIOUSLY TESTIFIED THAT CAROLINA INVESTORS WAS
5 REQUIRED TO FILE A PROSPECTUS. IS THAT WHAT THOSE ARE?

6 A YES, MA'AM.

7 Q AND I AM GOING TO DRAW YOUR ATTENTION TO STATE'S
8 EXHIBIT NUMBER 50 WHICH IS DATED APRIL 1ST OF 2002 AND
9 THAT IS THE PROSPECTUS OF CAROLINA INVESTORS. CAN YOU
10 PLEASE JUST EXPLAIN THIS TOP PARAGRAPH, WHAT THAT IS AND
11 WHAT IT EXPLAINS ABOUT CAROLINA INVESTORS?

12 A WELL, THE TOP PARAGRAPH JUST TELLS YOU SOMETHING
13 ABOUT THAT COMPANY, IT KIND OF GIVES YOU A DESCRIPTION OF
14 THE COMPANY AND WHAT IT DOES.

15 Q AND CAN YOU READ THAT ONE LITTLE PARAGRAPH TO THE
16 JURORS?

17 A IT SAYS CAROLINA INVESTORS, THE COMPANY OR C2 IS A
18 SOUTH CAROLINA CORPORATION ENGAGING IN BUSINESS OF
19 INVESTING IN FIRST AND SECOND LIEN RESIDENTIAL MORTGAGES,
20 INTEREST ONLY AND RESIDUAL CERTIFICATES. AND OTHER SOUTH
21 CAROLINA INVESTMENTS INCLUDING LOANS TO A FEW COMPANIES.
22 C2 HAS BEEN OPERATING, HAS BEEN IN OPERATION SINCE 1963
23 AND AS A WHOLLY OWNED SUBSIDIARY OF HOMEGOLD FINANCIAL, A
24 PUBLICLY TRADED SOUTH CAROLINA CORPORATION.

25 Q OKAY. AND THAT IS A BASIC DESCRIPTION OF WHAT

1 CAROLINA INVESTORS DOES?

2 A THAT'S CORRECT.

3 Q AND IN 2002, IS THAT A FULL AND ACCURATE DESCRIPTION
4 OF WHAT THEY DID IN 2002?

5 MR. GRIFFIN: OBJECTION, YOUR HONOR, THAT IS BEYOND
6 THE SCOPE OF THE QUALIFICATIONS.

7 MS. EVANS: YOUR HONOR, HE JUST TESTIFIED THE HISTORY
8 OF THE COMPANY AND HOW IT CHANGED AND WHAT THEY WERE
9 DOING.

10 THE COURT: REPEAT YOUR QUESTION.

11 Q IS THAT A FAIR AND ACCURATE DEPICTION OF WHAT
12 CAROLINA INVESTORS WAS DOING IN THE YEAR OF 2002.

13 MR. GRIFFIN: AND WHAT THAT QUESTION IS, YOUR HONOR,
14 IS FOR HIM TO TESTIFY OF HIS OPINION AS TO WHETHER WHAT IS
15 IN A PROSPECTUS IS A FALSE STATEMENT, A MISLEADING
16 STATEMENT AND THAT IS EXACTLY WHAT SHE IS ASKING THIS
17 WITNESS TO TESTIFY TO.

18 THE COURT: THE WAY THE QUESTION IS ASKED, BASED UPON
19 WHAT HE HAS REVIEWED, I OVERRULE THE OBJECTION. YOU MAY
20 ANSWER THE QUESTION.

21 A WELL, IT IS NOT NECESSARILY A FAIR AND ACCURATE
22 DESCRIPTION BECAUSE AT THAT POINT AND TIME YOU ARE ASKING
23 ABOUT 2002 I BELIEVE. THEY WERE NOT MAKING ANY
24 RESIDENTIAL MORTGAGES, MONEY OUT OF RESIDENTIAL MORTGAGES,
25 THAT IS WHAT THAT SAYS. THE MAIN PURPOSE WAS, THE MAIN

1 THING THEY WERE DOING WAS LOANING MONEY TO HOMEGOLD.

2 Q OKAY. AND LET ME JUST BRIEFLY, WE TALKED ABOUT
3 HOMEGOLD AND CAROLINA INVESTORS, CAN YOU JUST PLEASE
4 EXPLAIN IN GENERAL TERMS ABOUT A PARENT COMPANY AND ITS
5 SUBSIDIARIES?

6 A YES. TYPICALLY IN A COMPANY OR A CORPORATION THERE
7 IS INVESTORS THAT OWN THAT CORPORATION. AND IN THIS CASE,
8 HOMEGOLD, I HAVE ALREADY TOLD YOU IT IS A PUBLICLY TRADED
9 COMPANY. SO, IT WAS OWNED BY INVESTORS, THEY OWNED STOCK
10 IN THE COMPANY. AND HOMEGOLD OWNED CAROLINA INVESTORS,
11 THEY OWN THAT COMPANY. SO, FOR WHAT WE ARE TALKING ABOUT
12 HERE, HOMEGOLD IS THE PARENT COMPANY AND CAROLINA
13 INVESTORS IS THE SUBSIDIARY, THEIR STOCK IS OWNED BY
14 HOMEGOLD.

15 Q AND IN GENERAL TERMS WHO CONTROLS, WHO WAS PLACED
16 UPON THE BOARD OF DIRECTORS OF SUBSIDIARY COMPANIES?

17 A IN GENERAL TERMS THE BOARD, THE BOARD IS APPOINTED BY
18 THE PERSON WHO OWNS THE STOCK AND IN THAT CASE HOMEGOLD,
19 HOMEGOLD WOULD DETERMINE WHO IS ON THE BOARD OF CAROLINA
20 INVESTORS.

21 Q AND BASED UPON YOUR REVIEW OF ALL OF THE MATERIALS
22 AND EVERYTHING THAT YOU LOOKED AT IN THIS CASE, DID
23 CAROLINA INVESTORS HAVE CONTROL OVER HOMEGOLD?

24 A NO, NOT AT ALL.

25 Q AND BASED UPON YOUR REVIEW OF EVERYTHING OF THE

1 OFFICERS AND DIRECTORS OF BOTH HOMEGOLD AND CAROLINA
2 INVESTORS WERE THERE SOME INDIVIDUALS THAT WERE BOTH
3 MEMBERS OF THE HOMEGOLD BOARD AND SPECIFICALLY IN THE YEAR
4 OF 2001 AND 2002 THAT WERE BOTH MEMBERS OF THE HOMEGOLD
5 BOARD AND MEMBERS OF THE CAROLINA INVESTORS BOARD?

6 A YES.

7 Q AND WHO WERE THOSE TWO INDIVIDUALS?

8 A THEY WERE RONNIE SHEPPARD AND JACK STERLING.

9 Q AND DURING THE YEARS OF 2000, 2001, 2002 OR ANY TIME
10 UP TO 2003, DID YOU EVER, FROM YOUR REVIEW SEE ANY MEMBERS
11 OR OFFICERS OF CAROLINA INVESTORS ON THE BOARD OF
12 HOMEGOLD?

13 A YOU SAID THROUGH 2003, IS THAT WHAT YOU SAID?

14 Q WELL, LET'S START WITH 2002.

15 A NO, I DID NOT.

16 Q WHAT ABOUT 2003?

17 A LARRY OWEN BECAME A MEMBER OF THE BOARD OF HOMEGOLD
18 IN 2003.

19 Q BUT UP TO THAT POINT, FROM WHAT YOU REVIEWED THERE
20 WERE NO OFFICERS OR DIRECTORS OF CAROLINA INVESTORS ON THE
21 BOARD OF HOMEGOLD?

22 A NO, NOT THAT I SAW, NO MA'AM.

23 Q DID YOU ALSO REVIEW THE MINUTES OF HOMEGOLD AND
24 CAROLINA INVESTORS FOR YOUR TESTIMONY HERE TODAY?

25 A I DID.

1 Q WE WILL GET TO THAT LATER, IS THAT HOW YOU FOUND WHO
2 WAS ON THE BOARD OF DIRECTORS BY LOOKING AT THOSE?

3 A YES, I LOOKED AT THE MINUTES AND IT TELLS WHO THE
4 BOARD OF DIRECTORS WERE, WHO ATTENDED THE MEETINGS.

5 Q THANK YOU, MR. BURKETT. MR. BURKETT, LET'S TURN FROM
6 THE CORPORATE STRUCTURE TO THE FINANCIAL CONDITION OF THE
7 COMPANY. WHAT WAS THE STARTING POINT IN GENERAL TERMS FOR
8 YOUR FINANCIAL REVIEW OF THE COMPANY?

9 A I REALLY STARTED MY FINANCIAL REVIEW IN 1997.

10 Q AND WHY DID YOU START IN 1997?

11 A WELL, 1997 AS WE MENTIONED EARLIER, ABOUT THE
12 SUBPRIME LENDING MARKET, 1997 IS WHEN THE SUBPRIME LENDING
13 MARKET REALLY, 1997, 1998 IS WHEN IT STARTED. REALLY IN
14 1998 MORE THAN 1997. I STARTED IN 1997 TO KIND OF GET A
15 FEEL FOR WHAT THE COMPANY WAS AT THAT POINT AND TIME OR AT
16 THE BEGINNING, END OF 1997, THE BEGINNING OF 1998.

17 Q LET'S TURN OUR ATTENTION TO 1998. WAS THERE PROBLEMS
18 WITH HOMEGOLD IN 1998?

19 A YES, THERE WERE.

20 Q PLEASE EXPLAIN TO THE JURORS IN GENERAL TERMS WHAT
21 SOME OF THOSE WERE?

22 A WELL, HOMEGOLD WAS LOSING MONEY IN 1998 AND THEY, A
23 COUPLE OF THINGS. FIRST OF ALL, THEY LOST ONE OF THEIR
24 PRODUCERS, THE PERSON WHO WAS IN CHARGE OF THE COMPANY,
25 ACTUALLY PRODUCING THE LOANS FOR THAT COMPANY LEFT. AND

1 THEY STARTED HAVING TROUBLE, REVENUES WENT DOWN, THEY
2 STARTED LOSING MONEY AT THAT POINT AND TIME. AND ALSO THE
3 SUBPRIME LENDING MARKET WAS CHANGING TOO.

4 Q AND BRIEFLY JUST TELL THE JURORS ABOUT THAT IN 1998,
5 AND DON'T GO INTO ALL THE REASONS BEHIND IT. BUT WHAT
6 HAPPENED IN 1998 IN THE SUBPRIME LENDING MARKET?

7 A WELL, IN THE SUBPRIME LENDING MARKET, IT JUST, A
8 COUPLE OF THINGS. JUST TO TELL YOU, A LOT OF THINGS WERE
9 GOING ON. A LOT OF COMPANIES IN THE SUBPRIME LENDING
10 MARKET ENDED UP GOING BANKRUPT. A LOT OF PEOPLE WHO WERE
11 IN THAT BUSINESS CHOSE TO GET OUT, CHOSE NOT TO STAY IN
12 THE BUSINESS. AND IT WAS JUST, THE SUBPRIME LENDERS COULD
13 NOT MAKE ANY MONEY. THERE WAS LESS DEMAND, THERE WAS LESS
14 DEMAND FOR THOSE TYPES OF LOANS AND ALSO THEY COULDN'T
15 MAKE THE PROFITS THAT THEY HAD MADE IN THE PAST.

16 Q WAS THAT JUST THE PROBLEM AT HOMEGOLD OR WAS THAT AN
17 INDUSTRY WIDE PROBLEM?

18 A AT THAT POINT IT CERTAINLY WASN'T JUST HOMEGOLD, IT
19 WAS AN INDUSTRY WIDE PROBLEM.

20 Q AND DID SEVERAL COMPANIES GO INTO BANKRUPTCY AT THAT
21 TIME?

22 A THEY DID.

23 Q DID SEVERAL COMPANIES STAY IN EXISTENCE AT THAT TIME?

24 A YES, THEY DID.

25 Q AND WHEN HOMEGOLD IN 1998, BASED UPON WHAT YOU

1 REVIEWED, EXPERIENCED THESE FINANCIAL PROBLEMS, WHAT DID
2 THEY DO?

3 A WELL, THEY DID A COUPLE OF THINGS. FIRST OF ALL,
4 THEY STARTED CUTTING EXPENSES. THAT IS ONE OF THE THINGS
5 THAT YOU DO, A COUPLE OF WAYS TO MAKE MONEY IN THE
6 COMPANY, ONE IS TO INCREASE REVENUES AND ONE IS TO CUT
7 EXPENSES. THEY TRIED TO CUT EXPENSES AND THEN THEY
8 STARTED LOOKING FOR A MERGER PARTNER. AS I TOLD YOU, THEY
9 LOST A PRODUCTION PERSON, THEY STARTED LOOKING TO FIND
10 SOMEBODY ELSE THAT COULD PRODUCE LOANS.

11 Q BASED UPON YOUR REVIEW, WAS HOMESENSE THE FIRST
12 MERGER PARTNER THEY LOOKED FOR?

13 A NO, MA'AM.

14 Q YOU MIGHT NOT REMEMBER THE NAMES OF THE COMPANIES,
15 BUT DO YOU REMEMBER, WERE THERE OTHER COMPANIES THEY
16 THOUGHT ABOUT MERGING WITH?

17 A THERE WERE OTHER COMPANIES, YES.

18 Q OKAY. AT SOME POINT DID YOU LOOK AT THE DOCUMENTS
19 REGARDING THE HOMEGOLD/HOMESENSE MERGER?

20 A I DID.

21 Q LET'S TURN OUR ATTENTION TO THAT MERGER. I KNOW IT
22 IS A LITTLE SMALLER, MR. BURKETT, THE OTHER ONES ARE A BIT
23 BIGGER. LET'S GO OVER THE TERMS, WHAT DID YOU REVIEW FOR
24 THE HOMESENSE/HOMEGOLD MERGER?

25 A WELL, IN 2000 HOMESENSE WHICH WAS RONNIE SHEPPARD'S

1 COMPANY MERGED WITH HOMEGOLD, THEY MERGED. WHAT I DID, I
2 LOOKED AT A LOT OF DIFFERENT DOCUMENTS, I LOOKED AT THE
3 REORGANIZATION AGREEMENT WHICH IS REALLY JUST A DOCUMENT
4 THAT EXPLAINS, WELL, GIVES THE DETAILS OF THE MERGER. I
5 LOOKED AT THE DUE DILIGENCE THAT J.W. HUNT DID, AND J.W.
6 HUNT IS A CPA FIRM AND THEY WERE HIRED TO LOOK AT
7 EVERYTHING THAT WAS GOING IN THE COMPANIES AND DO A DUE
8 DILIGENCE. I LOOKED AT LETTERS OF INTENT, I LOOKED AT
9 REPRESENTATION LETTERS, I LOOKED AT FINANCIAL STATEMENTS
10 OF THE COMPANIES; BOTH COMPANIES.

11 Q BEFORE WE GO INTO THE ACTUAL TERMS OF THE MERGER I AM
12 GOING TO SHOW YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT
13 NUMBER 23, CAN YOU TELL THE JURORS WHAT THAT IS?

14 A THIS IS A 10K FOR 1999.

15 Q AND BASED UPON YOUR REVIEW WAS THAT THE FIRST TIME
16 THAT THE HOMEGOLD/HOMESENSE MERGER IS AT LEAST PUT OUT
17 THERE PUBLICLY?

18 A YES, IN THIS 10K, I BELIEVE I SAW WHERE THEY
19 MENTIONED THAT THERE WAS THE MERGER IN HERE.

20 Q OKAY. AND I DIDN'T GO OVER THIS WHEN WE WERE GOING
21 OVER THE 10K'S. IN ACCOUNTING TERMS, THIS IS YEAREND
22 1999, IS THIS DONE DECEMBER 31ST OF 1999?

23 A NO, MA'AM.

24 Q AND CAN YOU PLEASE EXPLAIN TO THE JURORS, SO THEY
25 DON'T GET CONFUSED ON DATES, IN GENERAL TERMS ACCOUNTING

1 AND AUDITED STATEMENTS, IS THERE A LAPSE BETWEEN THE
2 CLOSING OF THE BOOKS AND THE FILING OF THOSE?

3 A THERE IS A LAPSE. YOU HAVE TO ACTUALLY, THE COMPANY
4 KEEPS A RECORD. SO, THEY WRITE ALL THE CHECKS, THEY DO
5 THE GENERAL LEDGERS, THEY DO ALL OF THAT STUFF. AND THEY
6 HAVE TO CLOSE THEIR BOOKS, SO TO SPEAK AND THEN THE
7 AUDITORS COME IN AND AUDIT THAT. AND IT TAKES SOME PERIOD
8 OF TIME TO GET THAT DONE, YOU CAN'T DO THAT RIGHT AWAY.

9 Q SO, LATER ON WHEN WE ARE TALKING ABOUT THINGS, FOR
10 EXAMPLE, DECEMBER 31ST YEAREND, WHEN WOULD THOSE FILINGS
11 NORMALLY BE FILED?

12 A I THINK THEY ARE DUE WITHIN 60 DAYS OR 75 DAYS, A
13 RELATIVE SHORT PERIOD OF TIME.

14 Q SO, QUITE OFTEN WHEN WE ARE TALKING ABOUT YEAREND
15 2001 BUT WE WILL BE TALKING ABOUT EVENTS HAPPENING IN 2002
16 REVEALING THOSE, FOR EXAMPLE?

17 A YES.

18 Q I AM GOING TO SHOW YOU TWO DOCUMENTS. ARE THESE TWO
19 DOCUMENTS THAT YOU REVIEWED, CAN YOU BRIEFLY REVIEW THEM
20 AND LET ME KNOW IF THOSE WERE TWO DOCUMENTS THAT YOU
21 REVIEWED IN DEALING WITH THE HOMESENSE/HOMEGOLD MERGER?

22 A YES.

23 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
24 GET THESE MARKED FOR IDENTIFICATION PURPOSES ONLY.

25 THE COURT: IDENTIFICATION ONLY, THOSE DOCUMENTS WE

1 WILL BE MARKED AS STATE'S 54 AND 55.

2 (WHEREUPON, STATE'S EXHIBIT NOS. 54 AND 55 WERE
3 MARKED FOR IDENTIFICATION ONLY.)

4 MS. EVANS: AND FOR THE RECORD 54 IS A LETTER OF
5 INTENT AND 55 IS A REORGANIZATIONAL AGREEMENT, YOUR HONOR.

6 Q IN REVIEWING THOSE DOCUMENTS, I THINK YOU TALKED
7 EARLIER, YOU TALKED ABOUT J.W. HUNT AND DUE DILIGENCE.
8 CAN YOU PLEASE EXPLAIN TO THE JURY WHAT DUE DILIGENCE IS
9 IN VERY SIMPLE TERMS, PLEASE.

10 A WELL, ANY TIME THERE IS ANY TYPE OF SELL OF A COMPANY
11 OR MERGER, IN THIS CASE THE COMPANIES MERGED. TYPICALLY
12 WHAT YOU GO THROUGH IS A DUE DILIGENCE PERIOD. AND WHAT
13 THAT MEANS IS THAT DURING THE PROCESS OF DOING THIS PEOPLE
14 GO IN AND TAKES A LOOK AT THINGS, THEY DO DUE DILIGENCE.
15 THEY GO AND SEE WHETHER OR NOT WHAT PEOPLE HAVE BEEN TOLD,
16 WHAT ONE SIDE HAS TOLD THE OTHER SIDE, WHETHER THEY THINK
17 THAT IS CORRECT OR NOT. AND THEY GO AND LOOK AT THINGS
18 LIKE FINANCIAL STATEMENTS, ALL TYPES OF THINGS. THEY
19 WOULD LOOK AT THE TYPES OF THINGS IN FRONT, I THINK
20 SITTING ON THIS TABLE, MAYBE 10K'S, 10Q'S, PROSPECTUS' AND
21 THINGS LIKE THAT. WHAT THEY ARE REALLY OUT TO MAKE SURE
22 WHAT THEY THINK THEY ARE BUYING IS WHAT THEY ARE BUYING.
23 IN THIS CASE IS A MERGER, WHAT BOTH SIDES IS TRYING TO
24 DETERMINE, IF WE ARE GOING TO MERGE, THE TWO THINGS WE
25 THINK WE ARE MERGING. THAT IS WHAT DUE DILIGENCE IS, IS

1 TO TRY TO DETERMINE THAT.

2 Q AND BASED UPON THE REVIEW OF THE MERGER DOCUMENTS,
3 WHO WAS THE DEFENDANT'S, HOMESENSE DUE DILIGENCE TEAM?

4 A WELL, IT WOULD OF BEEN J.W. HUNT AND ALSO THE
5 MANAGEMENT TEAM FOR HOMESENSE.

6 Q WITHOUT GOING INTO WHAT IS IN THIS DOCUMENT, CAN YOU
7 PLEASE TELL THE JURORS WHAT THE DATE OF THIS LETTER OF
8 INTENT?

9 A THE LETTER OF INTENT IS SIGNED ON JANUARY THE 27TH OF
10 2000.

11 Q AND WHEN DID THE MERGER ACTUALLY TAKE PLACE?

12 A I THINK IT TOOK PLACE APPROXIMATELY, I THINK MAY OF
13 2000, I BELIEVE. I DON'T REMEMBER THE EXACT DATE.

14 Q SO, FIRST OFFICIAL MENTION IS THE YEAREND 2000,
15 EXCUSE ME YEAREND 1999 WHICH WAS PREPARED IN 2000, THE
16 LETTER OF INTENT IS IN JANUARY OF 2000. AND SO IS THE DUE
17 DILIGENCE GOING ON USUALLY BETWEEN THE TIME?

18 A THAT IS THE TIME THAT YOU DO, TYPICALLY FROM THE TIME
19 OF THE LETTER OF INTENT IS SIGNED UNTIL THE MERGER IS
20 COMPLETED OR THE SELL IS COMPLETED.

21 Q AND LET'S GO THROUGH THIS CHART AND GOES OVER SOME OF
22 THE TERMS OF THE MERGER. AND IF YOU WOULD LIKE TO COME,
23 WITH THE COURT'S PERMISSION, IF YOU WOULD LIKE TO COME
24 DOWN AND EXPLAIN TO THIS JURY.

25 THE COURT: BE SURE THE JURORS AND COUNSEL ARE ABLE

1 TO HEAR, PLEASE.

2 A THIS IS THE MERGER BETWEEN HOMESENSE AND HOMEGOLD
3 THAT TOOK PLACE IN 2000. AGAIN, THIS IS HOMESENSE WITH
4 RONNIE SHEPPARD'S COMPANY AND HOMEGOLD IS THE COMPANY THAT
5 I GAVE YOU THE HISTORY. AND AT THE POINT OF TIME THAT
6 THEY MERGED, WHAT HAPPENED WAS THAT RONNIE SHEPPARD WAS
7 GIVEN SOME ASSETS, HE WAS GIVEN \$4 MILLION DOLLARS IN
8 CASH, HE ALSO, AND ALSO HOMEGOLD ENDED UP ASSUMING \$1.7
9 MILLION DOLLARS IN HIS PERSONAL BUSINESS.

10 Q AND GO ON, WHAT WAS GIVEN TO MR. SHEPPARD IN TERMS OF
11 THE MERGER?

12 A ALSO MR. SHEPPARD RECEIVED COMMON STOCK, INTEREST IN
13 HOMEGOLD, HE RECEIVED 6,072,370 SHARES OF STOCK. HE ALSO
14 RECEIVED 10 MILLION SHARES OF PREFERRED STOCK. HE ALSO
15 RECEIVED SOME OPTIONS, OPTIONS, 25 THOUSAND SHARES OF
16 OPTIONS COMMON STOCK.

17 Q LET ME STOP YOU RIGHT THERE.

18 MS. EVANS: CAN MR. GRIFFIN AND I APPROACH.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
21 JURY.)

22 Q LET'S CONTINUE ON WITH HOMESENSE/HOMEGOLD MERGER.
23 WHAT DID MR. SHEPPARD GET?

24 A THIS IS WHAT MR. SHEPPARD SIGNED, THIS WAS AN
25 OBLIGATION, HE SIGNED AN OBLIGATION BACK TO HOMEGOLD. HE

1 SIGNED A \$5.7 MILLION DOLLAR NONRECOURSE DEBT BACK TO
2 HOMEGOLD.

3 Q AND THAT IS NOT AN ADDITIONAL \$5.7 MILLION DOLLARS,
4 THIS IS THE \$4 MILLION DOLLARS IN CASH AND THE \$1.7
5 MILLION DOLLARS OF PERSONAL DEBT THAT HOMEGOLD TOOK?

6 A THAT IS CORRECT.

7 Q AND THAT WAS TURNED INTO MR. SHEPPARD'S NONRECOURSE
8 LOAN?

9 A YES.

10 Q CAN YOU EXPLAIN WHAT A NONRECOURSE LOAN IS?

11 A WELL, THE BEST TO DESCRIBE IT IS TO KIND OF GIVE YOU
12 AN EXAMPLE. IF I GO AND BUY A HOUSE AND I GO TO A BANK TO
13 GO BUY A HOUSE AND BASED ON THEM TELLING ME THEY WANT THE
14 BANK, THEY WANT THE HOUSE AS COLLATERAL ON THE NOTE. IF I
15 SIGNED THAT NOTE TO THE BANK AND FOR SOME REASON I DEFAULT
16 ON THAT. WHAT HAPPENS IS THE BANK WILL COME IN AND TAKE
17 THE HOUSE FROM ME. AND THEY WILL SELL MY HOUSE, AND IF I
18 OWE THEM \$80 THOUSAND DOLLARS AND THEY ONLY SOLD THAT
19 HOUSE FOR \$75 THOUSAND DOLLARS THERE IS A \$5 THOUSAND
20 DOLLAR SHORTFALL. THEY WILL COME TO ME AND ASK ME FOR THE
21 DIFFERENCE. SO, THEY WILL TAKE THE ASSET OF THE HOUSE AND
22 THEN THEY WILL ALSO COME TO ME FOR ANY SHORTFALL.
23 NONRECOURSE DEBT, THE ONLY RECOURSE THE LENDER HAS IS TO
24 TAKE THE ASSET, IN THAT CASE IT WAS MY HOUSE, THE EXAMPLE
25 I GAVE YOU. THEY COULD JUST COME AND TAKE THE HOUSE BUT

1 THEY COULDN'T ASK ME FOR THE \$5 THOUSAND DOLLARS.

2 Q AND WHAT WERE SOME OTHER TERMS AND CONDITIONS?

3 A WELL, SOME OTHER TERMS AND CONDITIONS, THEY SIGNED A
4 MUTUAL INDEMNITY AGREEMENT ASSOCIATED WITH THE MERGER.

5 Q PLEASE EXPLAIN WHAT A MUTUAL INDEMNITY AGREEMENT IS?

6 A DURING A MERGER OR A SELL OF A COMPANY BOTH SIDES,
7 THEY MAKE WARRANTS AND REPRESENTATIONS TO EACH OTHER DOING
8 THAT PROCESS. AND THEY WILL SAY CERTAIN THINGS, THEY MAY
9 SAY FOR EXAMPLE, SOMETHING AS SIMPLE AS OUR BOARD OF
10 DIRECTORS NEVER APPROVED THIS MERGER OR THIS SELL. ONE
11 SIDE MAY SAY, LISTEN, I DON'T HAVE ANYTHING BURIED IN THE
12 BACKYARD, THE BACK OF MY BUILDING, I DON'T HAVE ANY
13 HAZARDOUS WASTE, THAT IS A WARRANTS AND REPRESENTATIONS,
14 MAKING THOSE BACK AND FORTH. AND THAT IS WHAT THIS MUTUAL
15 INDEMNITY AGREEMENT TALKS ABOUT. IT MAKES THOSE WARRANTS
16 AND REPRESENTATIONS TO SOMEBODY AND THEY TURN OUT, JUST
17 FOR EXAMPLE, THEY TURN OUT TO BE HAZARDOUS WASTE IN THE
18 BACKYARD AND YOU TOLD ME IT WASN'T THEN THEY, THE PERSON
19 WHO IS HARMED HAS THE RIGHT TO SEEK SOME KIND OF
20 RETRIBUTION BECAUSE THIS PERSON TOLD THEM THAT. IN THIS
21 PROCESS BOTH SIDES HAVE A RIGHT TO BELIEVE WHAT THE OTHER
22 PERSON SAYS AND THEY ALSO MAKE THESE WARRANTS AND
23 REPRESENTATIONS. THEY TOLD THINGS THAT YOU CAN ASSUME IS
24 TRUE.

25 Q OKAY. AND WE WILL GET BACK TO THAT LATER BUT LET ME

1 FINISH WITH THE CHART. WE WILL TALK ABOUT THAT NOW. WAS
2 THAT MUTUAL INDEMNIFICATION AGREEMENT CANCELED AT SOME
3 POINT?

4 A YES, IT WAS CANCELED IN JANUARY THE 20TH OF 2001.

5 Q AND PLEASE TELL THE JURY WHAT THAT MEANS?

6 A WELL, IN THIS WARRANTS AND REPRESENTATIONS THAT WERE
7 MADE, THEY IDENTIFIED WITH EACH OTHER BASED ON WHAT THEY
8 SAID. AND THEY JUST DIDN'T AT THAT POINT AND TIME, WE ARE
9 NOT GOING, WE ARE GOING TO CANCEL THAT AGREEMENT.

10 Q AND LET'S GO ON, WHAT ELSE WAS HE PROMISED FOR
11 SALARY?

12 A HE WAS PROMISED A SALARY OF \$250 THOUSAND DOLLARS AND
13 ALSO PROMISED AN ANNUAL BONUS OF TWO PERCENT WITH OF THE
14 NET INCOME BEFORE INCOME TAXES.

15 Q NOW, MR. BURKETT, I AM GOING TO SHOW YOU TWO THINGS
16 YOU JUST REFERRED TO FOR IDENTIFICATION PURPOSES ONLY.
17 ARE THOSE THE TWO AGREEMENTS THAT YOU JUST REFERRED TO?

18 A YES, THIS ONE IS A MUTUAL INDEMNITY AGREEMENT AND
19 THIS IS A CANCELLATION OF THE MUTUAL INDEMNITY AGREEMENT.

20 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE
21 THESE MARKED FOR IDENTIFICATION PURPOSES ONLY.

22 THE COURT: MARKED AS STATE'S 56 AND 57.

23 (WHEREUPON, STATE'S EXHIBIT NOS. 56 AND 57 WERE
24 MARKED FOR IDENTIFICATION ONLY.)

25 Q AS PART OF THE CHART YOU DID SAY THAT HE WAS PROMISED

1 A TWO PERCENT OF NET INCOME BEFORE TAXES, DID YOU ALSO SEE
2 SOMETHING REGARDING ANOTHER TYPE OF BONES STRUCTURE SYSTEM
3 THAT DEALT WITH THE PREFERRED STOCK?

4 A I DID.

5 Q AND DID YOU REVIEW TO SEE WHETHER THERE WAS EVER A
6 FORMAL AGREEMENT ABOUT HOW THAT WOULD BE CHANGED BECAUSE
7 HE WASN'T ABLE TO GET THE DIVIDENDS OFF OF THE PREFERRED
8 STOCK?

9 A I DON'T KNOW THAT I EVER SAW A FORMAL AGREEMENT, I
10 DON'T BELIEVE THAT I DID.

11 Q BUT YOU DID NOTICE THAT HE DID GIVE BONUSES THAT
12 SEEMED TO REPLACE THE DIVIDEND FROM THE PREFERRED STOCK?

13 A I DID.

14 Q AND THAT, TO MAKE SURE WE ARE BEING CLEAR, THAT WAS
15 NOT THIS BONUS THAT WE TALKED ABOUT, THE TWO PERCENT OF
16 THAT INCOME BEFORE TAXES?

17 A THAT IS RIGHT, IT IS NOT THE SAME BONUS.

18 Q FROM WHAT YOU REVIEWED WHAT DID THE DEFENDANT BRING
19 TO THE TERMS OF THE MERGER?

20 A WELL, ACCORDING TO THE MERGER DOCUMENTS HE WAS
21 SUPPOSE TO BRING \$3.3 MILLION DOLLARS IN NET WORTH, THAT
22 IS WHAT HE WAS SUPPOSE TO BRING.

23 Q BASED UPON YOUR REVIEW, ULTIMATELY, DID HE BRING THE
24 FULL AMOUNT?

25 A IT DIDN'T OCCUR TO ME THAT HE BROUGHT THE FULL

1 AMOUNT, AT THE END OF THE DAY HE DID NOT.

2 Q FROM WHAT YOU SAW DID YOU EVER REVIEW A PROXY THAT
3 WAS SENT TO THE SHAREHOLDERS OF HOMEGOLD REGARDING A
4 HOMEGOLD/HOMESENSE MERGER?

5 A I DID.

6 Q AND WAS THAT PROXY, IS THIS THE PROXY THAT YOU
7 REVIEWED?

8 A YES MA'AM, IT IS.

9 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
10 MARK IT FOR IDENTIFICATION PURPOSES ONLY, I THINK IT WOULD
11 BE STATE'S EXHIBIT 58.

12 THE COURT: FOR ID ONLY.

13 (WHEREUPON, STATE'S EXHIBIT NO. 58 WAS MARKED FOR
14 IDENTIFICATION ONLY.)

15 Q NOW, MR. BURKETT, YOU ORIGINALLY TALKED ABOUT THE
16 ORIGINAL TERMS OF THE DEAL WHERE THERE WAS A MUTUAL
17 INDEMNIFICATION AGREEMENT, THERE WAS SUPPOSE TO BE CERTAIN
18 MONETARY VALUE THAT THE DEFENDANT WAS SUPPOSE TO BRING AND
19 THERE WAS SUPPOSE TO BE DIVIDENDS. WAS THAT ALL PART OF
20 THE ORIGINAL PROXY THAT WAS SENT OUT?

21 A YES MA'AM, IT WAS.

22 Q AND THERE WAS SUBSEQUENT CHANGES THAT YOU TALKED
23 ABOUT, A CANCELLATION OF THE MUTUAL INDEMNITY AGREEMENT?

24 A YES.

25 Q THE CHANGE IN THE BONUS THAT YOU ARE NOT QUITE SURE

1 BUT YOU FEEL LIKE THERE WAS A CHANGE IN THE BONUS?

2 A YES.

3 Q AND THE CANCELLATION OF THE MUTUAL INDEMNITY
4 AGREEMENT?

5 A YES.

6 Q DID YOU EVER SEE WHERE ANY OF THAT WAS SENT OUT TO
7 THE SHAREHOLDERS FOR PROXY?

8 A I DIDN'T SEE WHERE THAT WAS EVER SENT TO THE
9 SHAREHOLDERS.

10 Q AND LET ME JUST STOP, HOW DO YOU EXPLAIN, WHAT IS A
11 PROXY?

12 A WELL, IN THIS CASE, THIS HAD TO DO WITH THE MERGER,
13 THIS PROXY HAD TO DO WITH THE MERGER. AND THIS IS WHEN
14 THEY ARE PUTTING IT, SENDING IT OUT TO THE SHAREHOLDERS
15 FOR A VOTE FOR THE MERGER. SO A PROXY JUST MEANS YOU SENT
16 IT OUT TO A VOTE.

17 Q COME BACK TO YOUR ORIGINAL OF WHAT YOU WERE SAYING,
18 PUBLICLY CREATED COMPANIES ARE REALLY RUN BY THE
19 SHAREHOLDERS, THEY ARE THE ONES THAT VOTE?

20 A THAT IS RIGHT, THEY ARE ULTIMATELY THE ONES WHO VOTE
21 AND THEY ARE RUN BY THE SHAREHOLDERS.

22 Q AND THEY DO THAT THROUGH WHAT IS CALLED A PROXY?

23 A A PROXY, RIGHT.

24 Q FROM YOUR REVIEW OF THE MERGER, WHAT TYPE OF BUSINESS
25 WAS HOMESENSE IN?

1 A WELL, HOMESENSE WAS IN THE SAME BUSINESS AS HOMEGOLD
2 AND THE SUBPRIME LENDING INDUSTRY.

3 Q AND YOU HAVE ALREADY EXPLAINED WHAT THE SUBPRIME
4 LENDING INDUSTRY AND YOU TALKED ABOUT THE FACT THAT THERE
5 ARE PEOPLE THAT CAN'T GO TO REGULAR BANKS. SO, IS THIS
6 SOMETHING WHEN YOU HAVE EXPERIENCE IN THIS FIELD DEALING
7 WITH CREDIT AND CREDIT WORTHINESS OF PEOPLE?

8 A I THINK WE HAVE ALL GONE TO A BANK AND TRIED TO APPLY
9 OR A MORTGAGE COMPANY AND TRIED TO APPLY FOR A LOAN. I
10 MEAN WHAT LENDERS DO IS THEY LOOK AND IF I WENT TO A BANK
11 AND APPLIED FOR A LOAN, THEY ARE GOING TO WANT CERTAIN
12 FINANCIAL DOCUMENTS, THEY ARE GOING TO WANT YOUR W-2, THEY
13 ARE GOING TO WANT A FINANCIAL STATEMENT ON YOU. THEY ARE
14 GOING TO KNOW WHAT YOU OWN, THEY ARE GOING TO KNOW WHAT
15 YOU OWE, THEY WILL LOOK AT ALL OF THOSE THINGS, TO SEE
16 WHETHER OR NOT THEY ARE GOING TO LEND YOU MONEY OR NOT.
17 AND THEY ARE ALSO GOING TO DO A CREDIT RATING ON YOU, DO
18 SOME TYPE OF CREDIT RATING, A CREDIT SCORE ON YOU TO
19 DETERMINE WHETHER OR NOT THEY THINK YOU ARE CREDIT WORTHY
20 OR NOT BEFORE THEY LOAN YOU ANY MONEY.

21 Q AND FROM YOUR REVIEW OF THE DUE DILIGENCE THAT WAS
22 PERFORMED WITH HOMEGOLD AND THE HOMESENSE MERGER WAS IT
23 PART OF THAT THAT CAROLINA INVESTORS WAS A SUBSIDIARY OF
24 HOMEGOLD?

25 A YES.

1 Q AND IS CAROLINA INVESTORS PART OF WHAT IS CALLED A
2 CONSOLIDATED FINANCIAL REPORT?

3 A IT IS.

4 Q AND WE WILL GET BACK TO WHAT THAT IS IN A SECOND.
5 CAN YOU PLEASE EXPLAIN TO THE JURY, YOU TALKED A LITTLE
6 BIT ABOUT CORPORATE STRUCTURE. WHAT WAS THE CORPORATE
7 STRUCTURE LIKE AFTER THE MERGER?

8 A WELL, WE TALKED ABOUT IN 2000, THERE WAS A MERGER
9 BETWEEN HOMEGOLD AND HOMESENSE. AND THEN THE COMPANY THAT
10 REMAINED WAS HOMEGOLD, THAT COMPANY REMAINED BUT RONNIE
11 SHEPPARD BECAME THE CEO OF HOMEGOLD AT THAT POINT AND
12 TIME.

13 Q AND WHAT IS A CEO?

14 A CHIEF EXECUTIVE OFFICER OF THE COMPANY, HE IS THE
15 BOSS.

16 MS. EVANS: I BEG THE COURT'S INDULGENCE.

17 Q I AM GOING TO SHOW YOU A PACKAGE OF STUFF THAT WE CAN
18 HAVE MARKED AS ID, IF YOU WILL LOOK THROUGH THE PACKAGE OF
19 THIS AND SEE IF THOSE ARE INFORMATION THAT YOU REVIEWED
20 REGARDING THE MERGER?

21 A YES.

22 MS. EVANS: AT THIS POINT I WOULD LIKE TO MOVE THIS
23 AS STATE'S EXHIBIT 59 FOR IDENTIFICATION PURPOSES ONLY.

24 THE COURT: MARKED FOR IDENTIFICATION AT THIS TIME,
25 STATE'S 59.

1 (WHEREUPON, STATE'S EXHIBIT NO. 59 WAS MARKED FOR
2 IDENTIFICATION ONLY.)

3 Q AND WITHOUT GOING INTO DETAILS, BASED UPON YOUR
4 REVIEW OF ALL OF THAT AS PART OF THE MERGER, WAS THE
5 DEFENDANT ALLOWED TO REPLACE SOME PEOPLE THAT WERE ON THE
6 HOMEGOLD BOARD AND PUT SOME OF HIS PEOPLE FROM HOMESENSE,
7 NOT FROM HOMESENSE, WHO HE WANTED TO PUT ON THE BOARD?

8 A YES, HE WAS.

9 Q AND AS THE BOARD OF DIRECTORS OF HOMEGOLD?

10 A YES.

11 Q SO, BASED UPON YOUR REVIEW OF THAT INFORMATION PEOPLE
12 THAT WERE PREVIOUSLY AT HOMEGOLD WERE REMOVED AND THE
13 DEFENDANT WAS ALLOWED TO PLACE PEOPLE THAT HE WANTED TO
14 PLACE ON THE BOARD?

15 A YES, MA'AM.

16 Q LET'S START TALKING ABOUT SOME FINANCIAL INDICATORS
17 AND WE ARE TALKING ABOUT THE PREMERGER.

18 A OKAY.

19 Q PLEASE EXPLAIN TO THE JURY WHAT YOU MEAN BY KEY
20 FINANCIAL INDICATORS?

21 A WHAT I CONSIDER KEY FINANCIAL INDICATOR IN ANY
22 BUSINESS, YOU TRY TO SEE HOW THE BUSINESS IS DOING, IS IT
23 MAKING MONEY, IS IT LOSING MONEY, WHAT ARE THINGS
24 ASSOCIATED WITH THAT BUSINESS, ARE IMPORTANT IN THAT
25 BUSINESS. IN THIS CASE I PICKED OUT SIX THINGS THAT I

1 THOUGHT WAS IMPORTANT ABOUT WHAT WAS GOING ON IN THIS
2 BUSINESS FROM 2000 TO MARCH OF 2003. AND THESE ARE WHAT I
3 CALL KEY FINANCIAL INDICATORS. WE USE THIS A LOT WHEN WE
4 ARE TALKING TO BUSINESS PEOPLE ABOUT THEIR OWN BUSINESS.
5 THESE ARE THINGS YOU LOOK FOR, THESE ARE THINGS THAT ARE
6 IMPORTANT. THIS TELLS YOU THE FINANCIAL HEALTH OF YOUR
7 COMPANY WHETHER IT IS GOOD OR BAD.

8 Q AND IN LAYMAN'S TERMS CAN YOU JUST GENERALLY SAY WHAT
9 THIS IS LIKE FOR AN INDIVIDUAL?

10 A FOR AN INDIVIDUAL, FROM A PERSONAL STANDPOINT THIS
11 MEANS WHETHER OR NOT YOU CAN, TO ME IT MEANS WHETHER NOT
12 YOU CAN PAY YOUR BILLS ON A MONTHLY BASIS. HOW ARE YOU
13 DOING FINANCIALLY, ARE YOU GETTING AHEAD, RETIREMENT AND
14 THOSE TYPES OF THINGS.

15 Q AS WE GO THROUGH EACH OF THEM, THE FIRST ONE YOU
16 TALKED ABOUT ARE FINANCIAL STATEMENTS?

17 A THAT'S CORRECT.

18 Q MR. BURKETT, CAN YOU PLEASE COME DOWN AGAIN.

19 A YES.

20 Q CAN YOU TRY TO EXPLAIN WHAT THIS IS AND THE
21 SIGNIFICANCE OF WHAT THIS IS TO THE JURY.

22 A THIS IS, YOU SEE ALL OF THESE REPORTS OVER THESE
23 10K'S AND THINGS. THIS IS A SUMMARY OF 10K'S AND 10Q'S,
24 JUST A SNAPSHOT, A SUMMARY OF WHAT YOU SEE IN THIS. AS I
25 MENTIONED THESE THINGS ARE KIND OF THICK, THE FINANCIAL

1 HISTORY OF THE COMPANY AND SEE WHAT WAS GOING ON IN THE
2 COMPANY, WHAT FINANCIAL SHAPE THE COMPANY WAS IN AT ANY
3 PARTICULAR POINT AND TIME.

4 Q OKAY. WELL, LET'S GO THROUGH THIS BALANCE SHEET AND
5 START TALKING ABOUT SOME THINGS THAT YOU SEE ARE
6 SIGNIFICANT. LET'S START WITH THE FIRST LINE OF TOTAL
7 ASSETS?

8 A WELL, THIS IS A BALANCE SHEET OF THE COMPANY, SO THIS
9 IS THE BALANCE SHEET. AND WHAT A BALANCE SHEET IS IS KIND
10 OF A SNAPSHOT OF THE COMPANY. IT IS WHAT A COMPANY OWED
11 AT ONE POINT AND TIME AND WHAT IT OWNS AND WHAT IT OWED AT
12 ANY POINT AND TIME. AND YOU CAN TAKE A LOOK AT HERE, WE
13 HAVE GOT ASSETS OF THINGS THAT ARE OWNED AND LIABILITIES
14 OF THINGS THAT THEY OWE. AND WE CAN KIND OF RELATE THAT
15 TO YOU AND I, WE ARE DOING A FINANCIAL STATEMENT FOR
16 OURSELF, WE DO A BALANCE SHEET. AS I MENTIONED BEFORE WE
17 TALKED ABOUT BORROWING MONEY FOR A HOUSE OR SOMETHING.
18 ONE OF THE THINGS THAT A BANK ASKED FOR IS A FINANCIAL
19 STATEMENT, THEY WANT A BALANCE SHEET, THEY WANT TO KNOW
20 WHERE YOU ARE. THEY ARE GOING TO ASK YOU WHAT YOU OWE AND
21 YOU ARE GOING TO LIST THOSE THINGS DOWN, I HAVE CASH IN
22 THE BACK, I HAVE A CAR AND I HAVE SOME OTHER PROPERTY.
23 THAT IS YOUR ASSETS, THESE ARE THINGS THAT YOU OWN. AND
24 THEN YOU ARE GOING TO YOUR LIABILITY, WHAT YOU OWE AT THAT
25 POINT AND TIME.

1 Q OKAY, AND THAT IS WHAT THE BALANCE SHEET IS, THIS TOP
2 PORTION?

3 A THAT IS THE TOP PORTION RIGHT THERE.

4 Q LET'S GO DOWN TO THE BOTTOM PORTION OF THE INCOME
5 STATEMENT, PLEASE EXPLAIN THAT TO THE JURY.

6 A WELL, THE INCOME STATEMENT, THE BALANCE SHEET IS KIND
7 OF A SNAPSHOT AT ANY POINT AND TIME OF WHAT YOU OWN AND
8 WHAT YOU OWE. THE INCOME STATEMENT IS MORE LIKE A MOTION
9 PICTURE OF THE YEAR OR SOME PERIOD OF TIME. FOR INSTANCE,
10 IF YOU TAKE THE YEAR OF 2000, WHAT IT SHOWS YOU IS WHAT
11 THEY HAVE IN REVENUE FOR THE YEAR, WHAT THEY HAVE FOR
12 SALES. SO, HOW MUCH WERE THE SALES IN THE YEAR AND WHAT
13 WAS YOUR OPERATING EXPENSES IN THE YEAR. THIS SHOWS YOU
14 EVERYTHING THAT HAPPENED IN THE YEAR. SO, WHAT DOES THE
15 COMPANY SELL IN THE YEAR AND WHAT WERE THE EXPENSES IN THE
16 YEAR AND IT TELLS YOU WHETHER THEY MADE MONEY OR LOST
17 MONEY DURING THE YEAR.

18 Q AND FOR THOSE THAT DON'T READ BALANCE SHEETS ON A
19 DAY-TO-DAY BASIS, WHAT IS THE DIFFERENCE BETWEEN THE BLACK
20 NUMBERS AND THE RED NUMBERS?

21 A WELL, THE BALANCE SHEET, THE DIFFERENCE IS, WHAT THIS
22 NUMBER SAYS, THE EXAMPLE I GAVE YOU. IF YOU HAD \$50
23 THOUSAND DOLLARS OF ASSETS AND YOU HAD \$40 THOUSAND
24 DOLLARS OF LIABILITIES AND YOU HAVE A \$10 THOUSAND DOLLAR,
25 SO YOU OWN STUFF WORTH \$50 THOUSAND DOLLARS AND YOU HAVE A

1 POSITIVE NET WORTH OF \$10 THOUSAND DOLLARS. THAT IS WHAT
2 THAT SHOWS RIGHT THERE. AND THE REVERSE OF THAT IS IF YOU
3 HAD ASSETS OF \$50 BUT YOU OWED \$60 THOUSAND DOLLARS THEN
4 WHAT YOU END UP WITH IS YOU WOULD HAVE A DEFICIT, YOU
5 ACTUALLY OWE MORE THAN YOU OWN, NONE OF YOU WANT THAT.

6 Q AND EXPLAIN THAT IN LAYMAN'S TERMS?

7 A WELL, AGAIN, IF WE LISTED ALL OF THE THINGS THAT WE
8 OWNED AND WE HAD CASH IN THE BANK AND MAYBE \$10 THOUSAND
9 DOLLARS AND WE HAD ALL THE BILLS WORTH \$5 THOUSAND DOLLARS
10 AND WE HAD A HOUSE⁴ WORTH \$35 THOUSAND DOLLARS, WE TOTAL
11 ALL OF THAT UP, THAT IS \$50 THOUSAND DOLLARS. IF YOU OWED
12 THE BANK \$25 THOUSAND DOLLARS ON THE LOAN, YOU OWED CREDIT
13 CARD COMPANIES \$5 THOUSAND DOLLARS AND YOU OWED \$30
14 THOUSAND DOLLARS TO COMPANIES THEN WHAT WE END UP WITH IS
15 WE OWN \$50 THOUSAND OF THIS STUFF AND WE OWE \$30 THOUSAND
16 TO SOMEBODY ELSE, SO OUR NET WORTH IS \$20 THOUSAND
17 DOLLARS. WE OWE \$20 THOUSAND DOLLARS.

18 Q AND THE OPPOSITE IS TRUE?

19 A IF YOU REVERSE THAT AND THE DEBT ENDS UP BEING \$60
20 THOUSAND DOLLARS AND WE ONLY HAVE \$20 ON THE ASSET THEN WE
21 HAVE WHAT IS CALLED A DEFICIT.

22 Q AND IS THE TERM WHEN YOU HEAR THE ACCOUNTANTS IN THE
23 BLACK AND THE RED?

24 A THAT IS EXACTLY RIGHT. IN THIS CHART THE BLACK IS A
25 GOOD THING AND THE RED IS A BAD THING.

1 Q LET'S GO DOWN TO THE INCOME STATEMENT. WE ALREADY
2 TALKED ABOUT THE YEAR OF 1998, PLEASE EXPLAIN THAT YEAR TO
3 THE JURY.

4 A WELL, IN 1998 YOU CAN SEE THEY HAD ASSETS OF \$257
5 MILLION DOLLARS. THOSE ARE THINGS THAT THEY OWNED AND
6 THEY HAD LIABILITIES OF \$251 MILLION DOLLARS SO THEY HAD A
7 NET WORTH OF RIGHT AT \$5.8 MILLION DOLLARS IN 1998. IN
8 1999 YOU SEE THEY HAD A NET WORTH OF ABOUT \$7.8 MILLION
9 DOLLARS.

10 Q LET'S GO DOWN TO THE INCOME STATEMENT OF 1998 AND
11 1999.

12 A WELL, SINCE WE TALKED ABOUT KEY FINANCIAL INDICATORS,
13 ONE OF THE THINGS THAT IS INTERESTING IS THIS LINE RIGHT
14 HERE, WHICH IS NET INCOME FROM OPERATIONS. YOU WANT TO
15 LOOK AT THIS LINE RIGHT HERE TO SEE HOW THE COMPANY IS
16 DOING, THIS TALKS ABOUT THE BUSINESS. IF YOU LOOK AT A
17 SHOE STORE, THIS TELLS YOU WHAT THEY HAD HAD IN SALES OF
18 SHOES AND WHAT IT COST TO SELL THOSE SHOES. IN THIS
19 INSTANCE THIS TELLS YOU WHAT, THIS IS WHAT THEY HAD IN
20 REVENUE, PROCESSING LOANS AND MAKING LOANS. AND THIS IS
21 WHAT IT COST THEM TO MAKE THOSE LOANS FROM OPERATIONS,
22 THAT IS WHAT THEY DO EVERY DAY. AND YOU CAN SEE THAT THEY
23 HAD \$91 MILLION DOLLARS IN REVENUE AND THEY HAD \$164
24 MILLION DOLLARS IN EXPENSES SO THEY LOST \$73 MILLION
25 DOLLARS.

1 Q AND I THINK WE HAVE ALREADY TALKED ABOUT THIS, WHAT
2 THE COMPANY DID IN 1998 WITH THE SUBPRIME LENDING MARKET
3 AND YOU SAID THEY LOST, LET'S COMPARE THAT TO THE NEXT
4 YEAR.

5 A WELL, YOU CAN SEE WHAT, THEY LOST THAT PRODUCTION
6 COMPANY, WHEN THEY LOST THAT PRODUCTION PERSON, WHAT
7 HAPPENED WAS THE REVENUE, THEY COULDN'T SEE AS MUCH AS
8 THEY DID BEFORE. AND ALSO AS PART OF WHAT IS GOING ON IN
9 THE SUBPRIME LENDING MARKET. BUT THEY ALSO CUT THE
10 EXPENSES TOO, SO THEY CUT EXPENSES FROM \$164 MILLION TO
11 ABOUT \$64 MILLION DOLLARS. THE REVENUE WENT DOWN
12 SUBSTANTIALLY BUT ALSO THEY CUT THE EXPENSES TOO.

13 Q SO, IN 1999, ALTHOUGH THEY STILL HAVE AN OPERATIONAL
14 LOSS IT IS LESS?

15 A RIGHT, IT IS ABOUT HALF OF WHAT IT WAS A YEAR BEFORE.

16 Q AND JUST BRIEFLY EXPLAIN THIS PART RIGHT HERE BECAUSE
17 AT THE END OF THE DAY THIS IS THE TOTAL NET INCOME LOSS,
18 THEY DO SHOW A POSITIVE BUT CAN YOU EXPLAIN WHY THEY SHOW
19 A POSITIVE?

20 A WELL, YOU SEE THESE TWO LINES DOWN HERE IS GAINS FROM
21 THE SELL OF BONDS PURCHASED AT \$29,500,000.00 DOLLARS.
22 WHAT HAPPENED WAS IN 1998 AND 1999, SOME OF THE OTHER
23 YEARS HOMEGOLD HAD BONDS THAT THEY HAD, PEOPLE INVESTED
24 MONEY IN HOMEGOLD. AND THEY, IF YOU INVEST A DOLLAR IN A
25 BOND AT HOMEGOLD AND WHAT HAPPENED WAS, SINCE BASICALLY

1 THE FINANCIAL PICTURE OF THE COMPANY, IF I INVESTED A
2 DOLLAR INTO HOMEGOLD, I LOOKED AT WHAT WAS GOING IN 1999,
3 I INVESTED A DOLLAR BUT I MAYBE FEEL LIKE I AM GOING TO
4 LOSE IT ALL. SO, HOMEGOLD PAID ME .45 CENTS ON THE
5 DOLLAR, .55 CENTS ON THE DOLLAR. SO, IF I HAD A THOUSAND
6 DOLLARS WORTH OF BONDS THEN WHAT I WAS WILLING TO TAKE IS
7 SOMEWHERE BETWEEN, \$450 DOLLARS AND \$500 DOLLARS WORTH OF
8 BONDS.

9 Q LET'S MOVE INTO THE YEAR OF 2000 AND LET'S TALK ABOUT
10 THIS AS YOU REFERRED TO THE CHECKBOOK. IS IT SIGNIFICANT
11 RIGHT HERE, THIS GOES INTO THE RED, THE CHECKBOOK?

12 A AS YOU CAN SEE, UP TO THIS POINT AND TIME INTO 2000
13 THE COMPANY HAD A POSITIVE NET WORTH WHICH WE CAN ALL SAY
14 IS A PRETTY GOOD THING. BUT AT THE END OF 2000 THE
15 COMPANY, IT REVERSED, THEY OWED \$10,822,000.00 MORE THAN
16 WHAT THEY OWNED AT THAT POINT AND TIME. AND THAT IS A
17 RESULT OF THESE LOSSES DOWN HERE AT THE PREVIOUS YEAR.

18 Q LET'S GO DOWN HERE INTO THE YEAR OF 2000?

19 A YOU CAN SEE IN 2000, THEY WERE ABLE TO RECOVER A
20 LITTLE BIT FROM A STANDPOINT OF REVENUE SO THE REVENUE
21 WENT FROM \$29 MILLION UP TO \$47 MILLION. THE EXPENSES
22 ALSO WENT UP THOUGH, THEY WENT UP BY MORE. SO THEY LOST
23 \$35 MILLION DOLLARS HERE SO THE REVENUE GOES UP BUT THE
24 EXPENSES GO UP MORE. SO, THEY LOST \$39 MILLION DOLLARS.
25 SO, IN 2000 IF THEY HAD A SELL FOR A DOLLAR IT ACTUALLY

1 COST THEM \$1.80 TO PRODUCE THAT SELL. SO, FOR EVERY
2 DOLLAR IN SELL THEY LOST, THEY SPENT THIS MUCH MONEY, THEY
3 SPENT ALMOST TWICE.

4 Q THE MORE BUSINESS THEY DO, BASED UPON THE WAY THEY
5 ARE SPENDING MONEY--

6 A WELL, WHAT HAPPENED WAS, THEY DID GO UP IN REVENUE,
7 THE REVENUE DID GO UP. BUT UNFORTUNATELY EXPENSES WENT UP
8 FAR GREATER THAN WHAT THE REVENUE WAS.

9 Q OKAY. AND THIS IS THE YEAR THAT THE DEFENDANT JOINED
10 THE COMPANY?

11 A RIGHT.

12 Q MAY OF THIS YEAR?

13 A MAY OF THAT YEAR.

14 Q BUT HE WAS LOOKING AT THIS, THE FIRST THING WAS
15 JANUARY OF THIS YEAR?

16 A THAT'S RIGHT.

17 Q LET'S GO TO THE YEAR OF 2000, THE YEAR OF 2000 WHO
18 WAS CEO OF THE COMPANY THE WHOLE ENTIRE YEAR?

19 A THIS YEAR RONNIE SHEPPARD IS THE CEO FOR THE ENTIRE
20 YEAR.

21 Q IS THERE ALSO CFO'S AND OTHER PEOPLE WITH THE
22 COMPANY?

23 A YES, THERE ARE CFO'S, CHIEF FINANCIAL OFFICERS AND
24 THERE ARE OTHER EMPLOYEES.

25 Q AND WE ARE GONG TO GET TO THAT LATER. LET'S TALK

1 ABOUT THE YEAR OF 2000, LET'S GO DOWN TO THE INCOME
2 STATEMENT HERE, YOU SAY THEY CUT EXPENSES IN THE YEAR OF
3 1999. BUT HERE SALES GO UP BUT EXPENSES GO UP, LET'S TALK
4 ABOUT YEAR OF 2000, WHAT HAPPENS THERE?

5 A WELL, THE YEAR OF 2000, YOU ARE TALKING ABOUT 2001.

6 Q 2001, YES.

7 A 2001, SO IN 2001 YOU CAN SEE THE REVENUE WENT UP A
8 LITTLE BIT. THE REVENUE WENT UP TO \$47,555,000.00 TO
9 \$48,264,000.00 WHICH IS NOT BAD. BUT LOOK AT WHAT HAPPENS
10 TO EXPENSES, THEY WENT FROM \$87,398,000.00 TO
11 \$100,001,457.00. SO FOR EVERY DOLLAR IN SALES THAT THEY
12 LOST, THEY LOST MORE, \$48 MILLION DOLLARS IN SALES, THEY
13 HAD \$53 MILLION DOLLARS IN LOSSES. AND WHAT THAT MEANS IS
14 IS FOR EVERY DOLLAR YOU GENERATE IT COST YOU MORE THAN TWO
15 DOLLARS TO GENERATE.

16 Q AND LET'S GO TO YEAR OF 2000.

17 A AND THIS IS NINE MONTHS, SEPTEMBER 30TH OF 2000.

18 Q AND JUST BRIEFLY EXPLAIN TO THE JURY WHY IT IS ONLY
19 NINE MONTHS?

20 A WELL, WE HAD A NINTH MONTH FINANCIAL STATEMENT WHEN
21 WE DID THIS. AND WHAT THAT SHOWS WAS, IT DID GET WORSE.
22 THE NET WORTH, AS YOU CAN SEE FROM 2000, ABOUT \$11 MILLION
23 DOLLARS NEGATIVE TO \$84 MILLION NEGATIVE, NOW IT IS \$113
24 MILLION DOLLARS NEGATIVE. AND THEN IT LOST, THE SAME
25 THINGS HAPPENED, THE SALES ARE NOT GOING UP THAT MUCH AND

1 EXPENSES HAVE GONE DOWN A LITTLE BIT BUT THEY STILL LOST
2 ABOUT \$29 MILLION DOLLARS.

3 Q AND THIS IS ONLY EXPENSES FOR NINE MONTHS?

4 A THAT IS RIGHT. YOU CAN'T REALLY COMPARE THIS TO
5 THIS, THIS IS REALLY, THAT IS WHAT THEY LOST.

6 Q AND YEAREND OF 2000 AS WE ALREADY PREVIOUSLY TALKED
7 ABOUT DOES NOT BALANCE BECAUSE THEY FILED BANKRUPTCY?

8 A RIGHT.

9 Q LET'S MOVE ON TO THE NEXT KEY FINANCIAL INDICATOR.
10 THIS IS A PUBLICLY TRADED COMPANY AND THEY HAVE STOCK AND
11 THAT IS ON THE OPEN MARKET. CAN YOU EXPLAIN TO THE JURY
12 WHAT THIS IS BRIEFLY?

13 A THIS CHART SHOWS WHAT HAPPENED TO THE STOCK PRICE OF
14 THE COMPANY FROM DECEMBER OF 1997 TO MARCH OF 2003. AND
15 THE REASON I CONSIDER THIS A KEY FINANCIAL INDICATOR IS,
16 THIS IS KIND OF THE VIEW OF WHAT THE OUTSIDE WORLD THINKS
17 OF THE COMPANY, IT IS GOING TO TELL YOU WHAT THE OUTSIDE
18 WORLD THINKS OF THE COMPANY. THIS IS THE AVERAGE PRICE OF
19 THE SHARE AT THE END OF, THE MONTH OF DECEMBER OF 1997, IT
20 WAS ABOUT \$15 DOLLARS PER SHARE. AND YOU CAN SEE IN 1997
21 AND 1998 UNTIL SEPTEMBER, ACTUALLY IN DECEMBER OF 1998 YOU
22 CAN SEE HOW IT DROPPED, IT DROPS SUBSTANTIALLY. IT
23 DROPPED FROM LESS THAN \$2 DOLLARS A SHARE. SO, FROM AN
24 OUTSIDE WORLD, THE STOCK WAS SELLING RIGHT AT \$15 DOLLARS
25 A SHARE AND LESS THAN TWO YEARS IT GOES DOWN LESS THAN \$2

1 DOLLARS A SHARE.

2 Q AND THAT IS 1998 THAT WE TALKED ABOUT, IN 1998, IT
3 REBOUNDS A LITTLE?

4 A REBOUNDS A LITTLE BIT.

5 Q AND WE WILL START IN MARCH OF 2000.

6 A THAT IS THE STOCK PRICE IN 2000, IT IS RIGHT AT \$2
7 DOLLARS A SHARE TOO AND THEN IT GOES DOWN AND UP A LITTLE
8 BIT.

9 Q THE NEXT ONE, WHAT IS THAT AGAIN, IS THAT SIMILAR TO
10 STOCK PRICES, WHAT IT TELLS THE OUTSIDE WORLD?

11 A IT IS REALLY A VIEW OF THE COMPANY FROM THE OUTSIDE
12 WORLD. WHEN HOMEGOLD ISSUED BONDS AND THOSE BONDS HAD
13 RATINGS ON THEM. AND WHAT THAT WAS IT, PEOPLE ON THE
14 OUTSIDE, CREDIT ANALYST WERE LOOKING AT HOMEGOLD
15 FINANCIALS TO SEE IF THIS COMPANY WAS IN GOOD FINANCIAL
16 CONDITION OR NOT. AND IF YOU LOOK AT THE BOND RATING, THE
17 TRIPLE A RATING MEANS IT IS A GOOD BOND, A GOOD
18 INVESTMENT. IF IT GOES DOWN, I GUESS THE POOR QUALITY OF
19 THE BOND IT GOES DOWN. SO, IT WENT FROM A TRIPLE A RATING
20 DOWN TO 1998, TO A TRIPLE C PLUS RATING. AND WHAT THAT
21 MEANT WAS, PEOPLE LOOKING AT THIS COMPANY AND LOOKING AT
22 THE FINANCIAL STATEMENTS, IS THE SAME THING YOU LOOK AT
23 HERE, THEY ARE SAYING THE COMPANY MAY DEFAULT ON THEIR
24 BONDS, THEY THINK IT IS A POSSIBILITY.

25 Q LET'S MOVE ON THE WAREHOUSE LINES OF CREDIT. EXPLAIN

1 JUST VERY BRIEFLY WHAT A WAREHOUSE LINE OF CREDIT IS.
2 A YOU AND I MAY HAVE A MORTGAGE ON A HOUSE BUT WE ALSO
3 HAVE A LINE OF CREDIT. AND THEY SAY WE CAN USE THAT MONEY
4 FOR WHATEVER WE WANT TO. SO, IF I HAVE A \$10 THOUSAND
5 DOLLAR LINE OF CREDIT ON MY HOUSE AND I HAVE GOT, THEY
6 GIVE ME A CHECK. IF I WANT TO GO OUT AND BUY A CAR WITH
7 THAT OR SOMETHING LIKE THAT, I EITHER WRITE A CHECK FOR
8 THAT, THAT IS A LINE OF CREDIT. SO, WE ARE TALKING ABOUT
9 THE LINES OF CREDIT. BUT IT IS NOT EXACTLY THE SAME
10 THING. IT IS SIMILAR TO THAT IS THE LINES OF CREDIT. BUT
11 THIS IS A WAREHOUSE LINE OF CREDIT. NOW, IF YOU WENT TO
12 HOMEGOLD AND BORROWED \$50 THOUSAND DOLLARS TO BUY A HOUSE
13 THEY HAD TO COME UP WITH THAT MONEY SOMEHOW TO GIVE YOU,
14 THEY HAD TO GET THE MONEY FROM SOME PLACE TO LOAN IT TO
15 YOU. AND WHAT THEY DID, THEY HAD THE WAREHOUSE LINE OF
16 CREDIT SO THEY HAD A LENDER THAT COULD LEND THEM THE MONEY
17 TO LOAN TO YOU. SO, IF THEY GAVE YOU A LOAN FOR \$2
18 THOUSAND DOLLARS THEN THEY GOT THE CASH, THEY DREW OUT
19 THAT CASH JUST LIKE YOU WERE GOING TO WRITE A CHECK FOR
20 YOUR CAR, THEY WOULD GO DOWN AND DRAW THAT CASH AND GIVE
21 YOU THAT MONEY, THEY WOULD GIVE YOU THAT MONEY FROM THE
22 WAREHOUSE LENDER.

23 Q I AM GOING TO DRAW YOUR ATTENTION RIGHT HERE TO THE
24 CIT WAREHOUSE LINE OF CREDIT. DID YOU REVIEW A STATEMENT
25 OF THE DEFENDANT OF ONE OF THE REASONS WHY CIT TOLD THEM

1 THAT THEY WERE GOING TO REDUCE THEIR WAREHOUSE LINES OF
2 CREDIT?

3 A I DID. CIT WAS ONE OF THEIR WAREHOUSE LENDERS.
4 THERE WAS A MEETING THAT TOOK PLACE AND THE DEFENDANT, HIS
5 TESTIMONY WAS THAT, IS THAT, LET ME SEE IF I CAN EXPLAIN
6 THIS, UNDERSTAND THAT HOMEGOLD, CAROLINA INVESTORS WAS
7 LOANING HOMEGOLD MONEY. AND CAROLINA INVESTORS WAS
8 BORROWING THAT MONEY FROM THE GENERAL PUBLIC, THEY WOULD
9 GO OUT AND THEY WOULD ISSUE BONDS AND THAT MONEY WOULD
10 COME INTO CAROLINA INVESTORS AND THEN CAROLINA INVESTORS
11 WOULD THEN TAKE THAT MONEY, THEY WOULD LOAN IT OUT TO
12 HOMEGOLD. AND WHAT CIT SAID IS--

13 MR. GRIFFIN: YOUR HONOR, I AM GOING TO OBJECT TO THE
14 HEARSAY, HE MAY OF READ IT SOMEWHERE AND CERTAINLY, I
15 DON'T KNOW WHAT OPINION HE IS FORMING BASED ON THAT AND
16 FRANKLY I DON'T KNOW THAT OTHER EXPERTS IN THE FIELD WOULD
17 RELY ON THAT KIND OF INFORMATION TO FORM WHATEVER KIND OF
18 OPINION HE IS PLANNING ON TO PERFORM. IT SEEMS OUTSIDE
19 THE SCOPE OF HIS TESTIMONY.

20 THE COURT: MS. EVANS.

21 Q I CAN LAY A FOUNDATION. MR. BURKETT, DID YOU READ A
22 SWORN STATEMENT GIVEN BY RONNIE SHEPPARD TO THE SOUTH
23 CAROLINA SECURITIES COMMISSION?

24 A YES, I DID.

25 Q AND DID RONNIE SHEPPARD SAY THE REASON, THAT

1 STATEMENT TO THE SECURITIES COMMISSION WHY HE WAS TOLD
2 THAT IT WAS DONE?

3 A YES.

4 Q AND WHAT DID RONNIE SHEPPARD SAY?

5 MR. GRIFFIN: YOUR HONOR, THAT DOESN'T GET TO THE
6 POINT OF HOW HE IS RELYING UPON THAT TO FORM SOME KIND OF
7 OPINION AND HOW OTHER EXPERTS TESTIFYING WOULD, IN THEIR
8 PRACTICE WOULD RELY ON SOMETHING, IT HAS TO BE TO SOME
9 KIND OF OPINION THAT HE IS BASING THE STATEMENT ON.

10 THE COURT: IS THIS INFORMATION SOMETHING THAT YOU
11 RELIED ON IN REACHING THE OPINIONS THAT YOU HAVE REACHED
12 IN THIS CASE?

13 A YES, SIR.

14 THE COURT: YOUR OBJECTION IS OVERRULED, YOU MAY
15 ANSWER THE QUESTION.

16 Q WHAT DID RONNIE SHEPPARD SAY WAS THE REASON CIT WAS
17 REDUCING THEIR WAREHOUSE LINES OF CREDIT?

18 A AGAIN, WHAT HE SAID WAS THAT THEY REALIZED, THE
19 WAREHOUSE LENDER REALIZED THAT THE MONEY BEING LOANED FROM
20 CAROLINA INVESTORS TO HOMEGOLD WAS COMING FROM THE LOW
21 END, CENTRAL PART OF THE STATE, THE UPPER PART OF THE
22 STATE. AND THEY DIDN'T WANT TO BE IN LINE WITH THESE
23 PEOPLE IF AND WHEN HOMEGOLD FAILED. I GUESS I AM
24 PARAPHRASING.

25 Q LET'S MOVE ON. SO, THIS IS A NEGATIVE?

1 A THE INTER-COMPANY DEBT IS \$67,567,000.00.

2 Q AND IT WENT DOWN THE YEAR BEFORE?

3 A IT DID.

4 Q HE JOINS THE COMPANY IN MAY?

5 A RIGHT.

6 Q OF 2000, AT YEAREND?

7 A RIGHT.

8 Q HOW MUCH IS THE INTER-COMPANY DEBT?

9 A IT IS \$100,449,000.00.

10 Q OKAY. YEAREND OF 2001 WHEN THE DEFENDANT IS CEO OF
11 HOMEGOLD HOW MUCH IS THE INTER-COMPANY DEBT OF THE
12 SUBSIDIARY CAROLINA INVESTORS?

13 A IT IS \$144,284,665.00.

14 Q YEAREND OF 2002, HOW MUCH DID THAT GO UP THAT ONE
15 YEAR?

16 A IT WENT UP ALMOST \$100 THOUSAND DOLLARS, \$100 MILLION
17 DOLLARS, EXCUSE ME.

18 Q \$100 MILLION DOLLARS?

19 A YES.

20 Q AND WHAT IS THE SIDE OF THE EQUATION?

21 A WELL, THIS IS THE DEBENTURE, THE NOTE-HOLDERS, THIS
22 IS THE CAROLINA INVESTORS. THIS IS THE MONEY THAT PEOPLE
23 ARE LENDING HOMEGOLD, ARE LENDING CAROLINA INVESTORS. THE
24 PEOPLE THAT ARE COMING IN TO INVEST MONEY TO LOAN MONEY TO
25 CAROLINA INVESTORS AND THAT MONEY IS BEING PUT INTO

1 CAROLINA INVESTORS ACCOUNT AND THEN LOANING BACK OUT TO
2 HOMEGOLD.

3 Q SO, IF YOU ARE LOOKING AT A SNAPSHOT, AND I THINK WE
4 TALKED ABOUT HOW CAROLINA INVESTORS IS DOING BEING THAT
5 THIS IS GOING UP, THE INTER-COMPANY DEBT WITH THIS PROMISE
6 TO PAY. LOOKING AT CAROLINA INVESTORS, THEY SEEM TO BE
7 DOING WELL AND STILL BE BRINGING MONEY IN?

8 A WELL, WHAT THEY HAVE, THEY HAVE AN ASSET ON THEIR
9 BOOKS. CAROLINA INVESTORS BOOKS, THEY HAVE AN ASSET ON
10 THEIR BOOKS THAT SHOW THAT THEY OWE THIS MUCH MONEY AT
11 THIS POINT AND TIME AND THIS MUCH MONEY AT THIS POINT AND
12 TIME.

13 Q SO, OF THE \$271 MILLION THAT THEY HAVE, AT THIS POINT
14 AND TIME HOW MUCH DOES, HOW MUCH IS HOMEGOLD REPAYING
15 THEM?

16 A WELL, AT THIS POINT \$243 MILLION WAS CONTINGENT ON
17 HOMEGOLD TO PAY.

18 Q AND WE ARE GOING TO GET TO THE EMMCO TRANSACTION IN A
19 MINUTE BUT AT THE END OF THE DAY WHEN, HOMEGOLD DECLARED
20 BANKRUPTCY, HOW MUCH DOES HOMEGOLD OWE TO CAROLINA
21 INVESTORS?

22 A THEY OWED A LITTLE BIT OVER \$215 MILLION DOLLARS.

23 Q AND ALL OF THIS TIME, THESE YEARS THAT ARE
24 INCREASING, 2000, 2001, 2002, PLEASE EXPLAIN THAT AND HOW
25 IT RELATES TO THE FINANCIAL CONDITION OF THE COMPANY?

1 A THEY WERE LOSING MONEY, THEY LOST MONEY HERE, THEY
2 LOST MONEY HERE, THEY LOST MONEY HERE. AND YOU CAN SEE
3 THEY ARE FUELING, WHAT IS KEEPING HOMEGOLD GOING IS THE
4 MONEY FROM CAROLINA INVESTORS. THE MONEY THAT CAROLINA
5 INVESTORS HAD LOANED TO HOMEGOLD IS THE FUEL THAT KEEPS
6 HOMEGOLD, KEEPS THEM MOVING FORWARD, THAT IS WHAT IT IS.
7 YOU CAN SEE THIS YEAR, IT WENT UP ABOUT \$100 MILLION
8 DOLLARS IN THIS YEAR ALONE.

9 Q AND SO GOING BACK TO THIS, THEIR DEBT RATING IS BAD?

10 A RIGHT.

11 Q WHICH MEANS THEY CAN'T GET MONEY SUCH AS SUBPRIME
12 LENDING?

13 A RIGHT.

14 Q WAREHOUSE LINES OF CREDIT, THEY CAN'T GET MONEY FROM
15 THERE?

16 A RIGHT; THEY ARE REDUCING THEIR LINES OF CREDIT.

17 Q WHEN ALL OF THAT BAD NEWS IS GOING WHERE ARE THEY
18 GETTING THEIR MONEY FROM?

19 A THEY ARE GETTING ALL OF THEIR MONEY FROM HERE.

20 Q YEAREND OF 1999, \$67 MILLION THAT IS OWED?

21 A THAT IS CORRECT.

22 Q AND IN WHICH YEARS DOES IT GO UP THE MOST?

23 A THE BIGGEST INCREASE IS FROM 2001 TO 2002. AND THE
24 NEXT BIGGEST INCREASE IS FROM 2000 TO 2001.

25 Q THERE IS INTEREST THAT IS COMPOUNDED IN THIS, THAT IS

1 THE PROMISE TO PAY BACK CAROLINA INVESTORS WAS INVOLVED,
2 CORRECT?

3 A THAT'S CORRECT.

4 Q GOING ON, I THINK THE LAST KEY FINANCIAL INDICATOR,
5 CASH FLOW FROM OPERATIONS VERSUS CASH FLOW FROM FINANCING?

6 A RIGHT.

7 Q CAN YOU EXPLAIN THIS CHART TO THE JURY?

8 A WE TALKED ABOUT NET INCOME FROM OPERATIONS. AND IN A
9 BUSINESS JUST LIKE IT IS IN LIFE WITH US, WE CAN GET MONEY
10 TWO DIFFERENT WAYS. WE CAN WORK FOR IT, WE CAN EARN IT
11 AND MAKE MONEY AND THEN WE HAVE CASH. IF WE CAN'T EARN IT
12 WHAT WE HAVE TO DO IS GO OUT AND FINANCE IT SO WE HAVE TO
13 GO OUT AND BORROW THE MONEY SOMEHOW. IN THIS CASE, WHAT
14 IS SHOWING HERE IS WHAT WAS HAPPENING TO THE COMPANY IN
15 2001 AND TO THE THIRD QUARTER OF 2002, WHAT WAS GOING ON
16 WITH THIS COMPANY, HOW WERE THEY STAYING AFLOAT. IT GOES
17 BACK AND TELLS YOU THE SAME THING THAT I WAS TELLING YOU.
18 THE CASH FLOW FROM OPERATIONS IN 2000, IT HAD A NEGATIVE
19 OF \$63 MILLION DOLLARS IN CASH FLOW FROM OPERATIONS. SO,
20 THEIR OPERATIONS NOT ONLY DIDN'T GENERATE ANY MONEY, IT
21 USED MONEY TO KEEP IT GOING. THAT GOES BACK TO THEY WERE
22 SPENDING MORE MONEY THAN THEY WERE TAKING IN. AND THEN IN
23 ALSO YOU LOOK AT THIS IN 2001, THE SAME THING. THERE WAS
24 \$37 MILLION DOLLARS DEFICIT CASH FLOW FROM OPERATIONS AND
25 THEN IN THE THIRD QUARTER OF 2002 IT WAS \$36 MILLION AND

1 \$104 MILLION DOLLARS. AND THEN WHAT THAT TELLS YOU IS
2 THAT THEY WERE NOT GENERATING MONEY, A BUSINESS CAN'T
3 SURVIVE WITHOUT CASH. AND THE ONLY WAY THEY WERE ABLE TO
4 SURVIVE, THE COMPANY ISSUED STOCK AND WE SAW THE STOCK
5 PRICE WAS GOING DOWN, THEY GOT MONEY THROUGH HERE, THROUGH
6 FINANCING. AND THAT IS WHAT THIS CHART SHOWS YOU. IN
7 2001, IN 2000 THEY HAD A NEGATIVE \$4 MILLION DOLLARS IN
8 CASH ON THE FINANCING. LOOK AT WHAT HAPPENS IN 2001, THE
9 THIRD QUARTER OF 2002, THEY HAD RIGHT AT \$60 MILLION
10 DOLLARS AND THEY GOT IN CASH FLOW IN FINANCING. AND THEY
11 GOT RIGHT AT \$37 MILLION DOLLARS FROM THREE QUARTERS
12 THROUGH FINANCING. AND THEY WERE FINANCING THAT MONEY
13 THROUGH CAROLINA INVESTORS.

14 Q DURING 1997 THEY HAD THE SAME THING THAT IS GOING
15 HERE, THAT THERE IS A NEGATIVE CASH FLOW FROM OPERATIONS
16 BUT LOOKING BACK AT THE CHART, ARE THEY FUNDING THAT?

17 A NO, PART OF IT COMES FROM CAROLINA INVESTORS.

18 Q PART OF IT COULD OF BEEN COMING FROM PREVIOUS
19 WAREHOUSE LINES OF CREDIT?

20 A IT COULD BE COMING FROM DIFFERENT THINGS, STOCK
21 SALES, ALSO THESE BONDS THAT WE ARE TALKING ABOUT.

22 Q OKAY. BUT IN 1998, THEY CONTINUED TO 1999 AND THEN
23 THIS IS WHEN IT STARTS GOING UP HERE?

24 A THAT'S RIGHT.

25 Q AND THIS IS 2000?

1 A THE NEED FOR FINANCING GOES UP TO CONTINUE.

2 Q AND WHAT THEY ARE GENERATING GOES DOWN?

3 A RIGHT.

4 MS. EVANS: YOUR HONOR, WE ARE GETTING READY TO GO
5 INTO THE NEXT--

6 THE COURT: IS IT A GOOD TIME TO TAKE A BREAK?

7 MS. EVANS: YES, SIR.

8 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
9 WE WILL TAKE ABOUT A TEN MINUTE RECESS. DON'T DISCUSS THE
10 CASE AND EVERYONE ELSE STAY SEATED, PLEASE, WHILE THE JURY
11 IS EXCUSED.

12 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
13 A BREAK.)

14 THE COURT: WE WILL TAKE TEN MINUTES. MR. BURKETT,
15 DON'T DISCUSS YOUR TESTIMONY DURING THE BREAK.

16 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

17 THE COURT: IS THE STATE READY?

18 MS. EVANS: YOUR HONOR, MR. GRIFFIN HAS REVIEWED 12
19 AND 13.

20 THE COURT: YOU HAVE REVIEWED THOSE?

21 MR. GRIFFIN: YES, YOUR HONOR.

22 THE COURT: 12 AND 13 ARE IN EVIDENCE.

23 (WHEREUPON, STATE'S EXHIBIT NOS. 12 AND 13 WERE
24 ADMITTED INTO EVIDENCE.)

25 THE COURT: THE DEFENSE READY?

1 MR. GRIFFIN: YES, YOUR HONOR.

2 THE COURT: BRING THE JURY IN, PLEASE.

3 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
4 APPROXIMATELY 3:40 P.M.)

5 THE COURT: MS. EVANS, YOU MAY CONTINUE.

6 CONTINUE DIRECT EXAMINATION

7 BY MS. EVANS:

8 Q MR. BURKETT, WE JUST WENT OVER YOUR KEY FINANCIAL
9 INDICATORS. WHAT ARE THEY TELLING US ABOUT THE FINANCIAL
10 HEALTH OF THE COMPANY SPECIFICALLY 2000 AND 2001?

11 A WELL, WHAT IT TELLS YOU ABOUT THE COMPANY IS IT IS
12 NOT IN VERY GOOD CONDITION, IT IS IN TERRIBLE FINANCIAL
13 CONDITION. THEY ARE LOSING LOTS OF MONEY, THE EXPENSES
14 ARE SOMETIMES IN SOME YEARS TWICE AS MUCH AS WHAT THEIR
15 SALES ARE, THEY HAVE GONE FROM A POSITIVE NET WORTH TO A
16 VERY NEGATIVE NET WORTH. THE ONLY WAY THEY ARE CONTINUING
17 TO OPERATE IS BY GETTING LOANS AND THOSE LOANS ARE COMING
18 FROM CAROLINA INVESTORS.

19 Q AND CAN YOU SUMMARIZE ALL OF THOSE FINANCIAL
20 INDICATORS AND EVERYTHING THAT YOU JUST WENT THROUGH, WHAT
21 IMPACT THAT HAD ON CAROLINA INVESTORS AND THE PEOPLE THAT
22 ARE INVESTING AT CAROLINA INVESTORS?

23 A IF YOU LOOK AT WHAT WE WENT THROUGH, THE PEOPLE AT
24 CAROLINA INVESTORS ARE EXACTLY THE SAME POSITION AS ALL
25 THE LENDERS, THEY ARE IN THE SAME POSITION AS THE

1 WAREHOUSE LENDERS AND EVERYTHING BECAUSE THEY ARE ACTUALLY
2 ON THE DEBT RATING STANDPOINT, THE SAME THING. THEY ARE
3 IN THE SAME POSITION, THEY ARE OWED MONEY BY HOMEGOLD AND
4 THEY ARE THE PRIMARY SOURCE OF LENDING MONEY TO HOMEGOLD.
5 AND IF HOMEGOLD DOESN'T SURVIVE THEN THEY DON'T SURVIVE.

6 Q LET'S MOVE ON TO OTHER FINANCIAL INFORMATION. MR.
7 BURKETT, I WILL PUT THIS UP AND WE ARE GETTING READY TO,
8 WHAT IS A DEFERRED TAX ASSET?

9 A LET ME TRY TO EXPLAIN THIS IN A WAY THAT I CAN
10 ACTUALLY UNDERSTAND IT. A DEFERRED TAX ASSET IS, FIRST OF
11 ALL IT IS AN ASSET, TYPICALLY WHAT THAT MEANS IS TAX
12 VALUE. BUT IF YOU AND I ARE FILING A TAX RETURN AND WE
13 FILE THAT TAX RETURN AND WE BOTH WERE PAID OUR TAXES FOR,
14 LET'S SAY, FOR 2002 WE FILED OUR TAXES, WE PAID IN \$2
15 THOUSAND DOLLARS TO THE IRS AND OUR TAX LIABILITIES ARE
16 ONLY \$1500 THEN THE IRS IS GOING TO PAY OUR \$500 DOLLARS
17 BACK. SO THERE IS GOING TO BE A REFUND OF \$500 DOLLARS.
18 LET'S SAY WE HAVEN'T PAID ANY MONEY IN AT ALL, INSTEAD OF
19 MAKING MONEY IN 2002 WE LOST MONEY, LET'S SAY WE LOST \$10
20 THOUSAND DOLLARS. WELL, WE ALL KNOW THAT THE IRS ISN'T
21 GOING TO PAY US BACK ANY MONEY BECAUSE WE HAVEN'T PAID ANY
22 IN, RIGHT. SO, WE ARE NOT GETTING MONEY BACK. BUT WHAT
23 HAPPENS IS THAT NEXT YEAR IN 2003 WHEN WE FILE THAT TAX
24 RETURN WE ARE ABLE TO TAKE THAT \$10 THOUSAND DOLLAR LOSS
25 AND IF WE MAKE MONEY NEXT YEAR THEN WHAT HAPPENS IS WE

1 REDUCE WHAT WE MAKE NEXT YEAR BY \$10 THOUSAND DOLLARS.
2 SO, IF NEXT YEAR WE MADE \$30 THOUSAND DOLLARS AND WE ARE
3 IN A 20 PERCENT TAX BRACKET AND WE WILL TAKE THE \$30
4 THOUSAND DOLLARS WE MADE, SUBTRACT FROM IT THE \$10
5 THOUSAND DOLLARS THAT THE LOSS THAT WE HAD BEFORE, IT
6 WOULD SAVE US \$2 THOUSAND DOLLARS. SO, EVEN THOUGH WE
7 DIDN'T GET THE MONEY BACK WHEN WE FILED THE 2002 RETURN WE
8 DID IN FACT SAVE MONEY IN 2003 WHEN WE FILED OUR TAX
9 RETURN. SO, THAT IN ESSENCE IS WHAT A DEFERRED TAX ASSET
10 IS. FOR THIS PURCHASE, THIS IS FOR A CORPORATION AND NOT
11 FOR AN INDIVIDUAL BUT THAT IS KIND OF AN EXAMPLE OF WHAT A
12 DEFERRED TAX ASSET IS.

13 Q AND IT ONLY APPLIES TO CORPORATIONS, INDIVIDUALS
14 CANNOT CLAIM A DEFERRED TAX ASSET?

15 A NO, YOU CAN'T CLAIM A DEFERRED TAX ASSET BUT THE
16 PRINCIPLE IS THE SAME THING, YOU CAN GET MONEY BACK, WHEN
17 YOU HAVE AN OPERATING LOSS FROM A YEAR AND GET FOR IT THE
18 NEXT YEAR.

19 Q IN REVIEWING THE FINANCIALS OF HOMEGOLD DID THEY
20 INCREASE THE DEFERRED TAX ASSET AT SOME POINT DURING 2001?

21 A THEY DID.

22 Q AND WHEN WAS THAT?

23 A 2000, YES.

24 Q AND PLEASE EXPLAIN TO THE JURY WHAT, HOW MUCH WAS THE
25 INCREASE?

1 A I FORGOT THE TOTAL AMOUNT BUT IT WAS MILLIONS OF
2 DOLLARS THEY INCREASED IT BY, I WANT TO SAY, MAYBE \$20
3 MILLION DOLLARS BUT I DON'T REMEMBER EXACTLY WHAT THAT
4 NUMBER WAS.

5 Q OKAY. DO YOU REMEMBER LOOKING SPECIFICALLY FOR THE
6 10Q THAT WAS FILED SEPTEMBER 30TH OF 2000, WHAT THE IMPACT
7 THAT THAT HAD ON THE PROFITS AND LOSS OF THAT 10Q WAS?

8 A I DON'T RECALL EXACTLY WHAT THE IMPACT WAS, NO MA'AM.

9 Q LET ME SEE IF I CAN GET THAT 10Q. WHILE I AM LOOKING
10 FOR THAT, DOES THAT HAVE A POSITIVE BALANCE OR A NEGATIVE
11 BALANCE WHEN THAT INCREASED?

12 A WELL, IF IT IS AN ASSET THAT MEANS IT GOES UP. IF IT
13 IS GOING UP THEN THERE IS A POSITIVE IMPACT ON THE BALANCE
14 SHEET. SO YOUR ASSETS GO UP AND YOUR LIABILITIES WERE THE
15 SAME AND ALSO IT IS A POSITIVE IMPACT ON YOUR INCOME
16 STATEMENT. IT SHOWS ON YOUR INCOME STATEMENT THAT IT IS
17 AN INCOME ITEM.

18 Q SO, IT WOULD MAKE THE BOTTOM LINE LOOK BETTER?

19 A IT WOULD MAKE THE BOTTOM LINE LOOK BETTER, THAT IS
20 RIGHT.

21 Q I DON'T KNOW IF YOU CAN QUICKLY FIND IT IN THERE, IF
22 NOT WE CAN MOVE ON.

23 A AND YOUR QUESTION WAS HOW MUCH THE DEFERRED TAX ASSET
24 INCREASED, IS THAT WHAT YOU SAID?

25 Q YES.

1 A IT INCREASED FROM \$12 MILLION DOLLARS TO \$22 MILLION
2 DOLLARS, SO IT INCREASED \$10 MILLION DOLLARS.

3 Q AND DO THEY SHOW A POSITIVE, A LOSS THAT QUARTER OR
4 DID THEY SHOW A GAIN THAT QUARTER?

5 A THAT QUARTER THEY SHOWED A NET INCOME.

6 Q OF APPROXIMATELY HOW MUCH?

7 A RIGHT AT \$2 MILLION DOLLARS.

8 Q OKAY. AND FROM YOUR MEMORY OF THE YEARS BEFORE, WERE
9 THEY SHOWING LOSSES?

10 A YES.

11 Q LET'S EXPLAIN THE ROLE OF INDEPENDENT AUDITORS.

12 A WELL, I AM A CERTIFIED PUBLIC ACCOUNTANT AND I PLAY A
13 ROLE IN MANY COMPANIES AS AN INDEPENDENT AUDITOR. THE KEY
14 THING THAT I WAS INDEPENDENT TO THEM, I DON'T WORK FOR
15 THEM. THE OTHER THING IS WHEN YOU THINK ABOUT INDEPENDENT
16 AUDITORS, WE DON'T DO THE BOOKKEEPING FOR THE COMPANY, WE
17 DON'T GO IN AND WRITE THE CHECKS, WE DON'T PAY THE BILLS,
18 WE DON'T DEPOSIT THE MONEY, WE DON'T KEEP ALL THE RECORDS
19 AND EVERYTHING LIKE THAT. WHAT WE DO, IN THIS CASE WE
20 REVIEW THE FINANCIAL RECORDS OF THAT COMPANY AND EXPRESS
21 AN OPINION ON IT.

22 Q AND IN ORDER TO INCREASE A DEFERRED TAX ASSET, DO YOU
23 HAVE TO LOOK AT PROJECTIONS OF THE COMPANY?

24 A YES.

25 Q AND WHO DO THOSE PROJECTIONS COME FROM IN GENERAL

1 TERMS?

2 A THEY COME FROM MANAGEMENT.

3 Q AND DO YOU PLAY THE ROLE AS AN INDEPENDENT AUDITOR?

4 A YES.

5 Q WHEN MANAGEMENT GIVES YOU PROJECTIONS WHAT DO YOU DO
6 WITH THEM?

7 A WELL, I ASSUME THAT THEY ARE CORRECT, THE FINANCIAL
8 STATEMENTS ARE THEIR REPRESENTATIONS ANYWAY. AND IF THEY
9 ARE GIVING PROJECTIONS, WHAT THEY ARE DOING IN THE FUTURE,
10 I ASSUME, THAT THEY KNOW WHAT THEY ARE GOING TO DO IN THE
11 FUTURE, THAT IS A FUNDAMENTAL THING THAT I HAVE SEEN.

12 Q AND INDEPENDENT AUDITORS DON'T DO THE BOOKS OF THE
13 COMPANY?

14 A WE DON'T DO THE BOOKS OF THE COMPANY.

15 Q AND BASED UPON YOUR REVIEW OF THE WAY THE ACCOUNTING
16 WAS DONE AT HOMEGOLD AND HOMEGOLD MANAGEMENT, HOW WOULD
17 YOU DESCRIBE THEIR ACCOUNTING METHODS?

18 A WELL, THE ACCOUNTING METHODS BECAME FAIRLY
19 AGGRESSIVE, IN 2001 THEY BECAME FAIRLY AGGRESSIVE. THEY
20 STARTED DOING SOME THINGS THAT WOULD ACTUALLY INCREASE THE
21 BOTTOM LINE, WE DO TWO THINGS THAT WOULD INCREASE THE
22 ASSETS SO TO SHOW THAT YOU WOULD HAVE MORE ASSETS. IT
23 ALSO AT THE SAME TIME WOULD SHOW THAT YOU HAVE MORE INCOME
24 TO CREATE THE FINANCIAL STATEMENTS TO APPEAR LIKE YOU HAD
25 MORE INCOME.

1 Q AND DID YOU REVIEW, IN FORMING YOUR TESTIMONY, AN
2 AUDIT REPORT THAT WAS PREPARED BY ELLIOT DAVIS THAT TALKED
3 ABOUT SOME OF THOSE AGGRESSIVE ACCOUNTS?

4 A YES.

5 Q AND WHAT DID ELLIOTT DAVIS POINT OUT AS SOME OF THE
6 ISSUES ABOUT THEIR AGGRESSIVE ACCOUNTING?

7 A IT WAS SOMETHING FROM ELLIOTT DAVIS, IT WAS A LETTER
8 OR SOMETHING. IT TALKED ABOUT IN FACT, WHAT THEY WERE
9 DOING WAS IMPROPER AND THEY ASKED, THERE WERE FOUR THINGS
10 THAT THEY WERE DOING THAT THEY TOLD THEM THAT WAS IMPROPER
11 THAT NEEDED TO BE CHANGED.

12 Q AND WAS THAT WELL AFTER THIS DEFERRED TAX ASSET THAT
13 YOU REVIEWED?

14 A THAT WAS IN 2001 WHEN I READ ELLIOTT DAVIS', WHAT
15 THEY WERE SAYING ABOUT 2001.

16 Q THIS IS A YEAR AFTER THE DEFERRED TAX ASSET WAS
17 INCREASED?

18 A NOT NECESSARILY A WHOLE YEAR BUT PART OF A YEAR, YES
19 MA'AM.

20 Q AND YOU WERE GIVING SOME EXAMPLES OF WHAT YOU SAID
21 WERE AGGRESSIVE ACCOUNTING?

22 A WELL, WHAT THEY WERE DOING AND WHAT ELLIOTT DAVIS
23 SAID THEY WERE DOING WAS THEY WERE CAPITALIZING SOME OF
24 THE LEADS DATA BASES. AND WHAT THAT MEANS IS WHEN YOU
25 CAPITALIZE SOMETHING, WHEN YOU PAY FOR SOMETHING IT

1 DOESN'T ACTUALLY MEAN IT IS AN EXPENSE. IF IT IS AN
2 EXPENSE IT MEANS THAT IT IS SOMETHING THAT YOU USE RIGHT
3 THEN. AND WHAT HOMEGOLD WAS DOING, IS THEY WERE TAKING
4 DATA BASES AND PAY FOR LEADS FOR A DATA BASE AND THEY
5 WOULD START CAPITALIZING THOSE LEADS. AND WHAT THAT DID
6 IS IT INCREASED THEIR ASSETS AND IT, IT SHOWS THAT THEY
7 HAD MORE ASSETS THAN WHAT THEY REALLY HAD. WHILE AT THE
8 SAME TOKEN WHEN THEY CAPITALIZED THAT ITEM, IT DOESN'T GO
9 TO THE EXPENSE SO IT INCREASES THE BOTTOM LINE, IT MAKES
10 IT LOOK BETTER FROM A NET INCOME STANDPOINT.

11 Q AND ALL THE AGGRESSIVE ACCOUNTING OR ACCOUNTING
12 ISSUES THAT WERE BEING DONE IN THE YEAR OF 2000, 2001, IN
13 PARTICULARLY 2001 AND 2002, WHAT IS THE NET AFFECT THAT
14 THEY HAVE ON THE BOTTOM LINE?

15 A WELL, THEY INCREASE THE BOTTOM LINE.

16 Q LOOKING BACK AT WHAT WE HAVE ALREADY GONE OVER IN THE
17 YEAREND FINANCIAL, YOU HAVE ALREADY SAID THAT THEY ARE
18 LOOKING BAD?

19 A RIGHT.

20 Q IN THE YEAR OF 2001 AND 2002?

21 A YES.

22 Q AT THE SAME TIME THEY ARE DOING THIS AGGRESSIVE
23 ACCOUNTING AS YOU SAID THAT WOULD MAKE, ALREADY LOOKED
24 BAD, MUCH BAD I GUESS?

25 A I GUESS THAT IS THE WAY TO PUT IT.

1 Q PLEASE EXPLAIN THAT TO THE JURY.

2 A WHAT I AM TALKING ABOUT, THOUGH, THESE ARE THINGS
3 THAT ELLIOTT DAVIS POINTED OUT, THEY WERE DOING THESE
4 THINGS ON A QUARTERLY, ON YOUR 10Q'S. AND ELLIOTT DAVIS
5 POINTED THESE THINGS OUT TO THEM BEFORE THE 2001 FINANCIAL
6 STATEMENT. SO, THE NUMBERS YOU SEE THERE, THOSE ARE
7 ANNUAL NUMBERS.

8 Q THOSE ARE ANNUAL NUMBERS?

9 A YES, THEY ARE NOT, IN THAT CHART THERE I AM NOT GOING
10 TO SAY THAT ELLIOTT DAVIS MADE THEM CHANGE THAT BEFORE,
11 THEY DID CHANGE THAT, MANAGEMENT CHANGED THAT BASED ON
12 WHAT THEY SUGGESTED BEFORE THOSE 10K'S.

13 Q AND LET'S GO TO THE THIRD QUARTER FILINGS FOR 2001,
14 DID YOU NOTICE SOMETHING ABOUT THE AGGRESSIVE ACCOUNTING
15 IN THAT THIRD QUARTER OF THE 2001 STATEMENT?

16 A WELL, IT WAS INTERESTING BECAUSE I LOOKED AT THE
17 SECOND QUARTER 2001, THE FIRST QUARTER OF 2001, THE SECOND
18 QUARTER OF 2001 AND THEN THE THIRD QUARTER OF 2001. AND
19 IN THE FIRST QUARTER OF 2001 THE COMPANY SHOWED ABOUT A
20 \$10 MILLION DOLLAR LOSS AND THE SECOND QUARTER OF 2001
21 THEY SHOWED ABOUT A \$7 MILLION DOLLAR LOSS. AND THEN THE
22 THIRD QUARTER OF 2001 THEY SHOWED A \$329 THOUSAND DOLLAR
23 PROFIT. AND THIS IS WHEN ELLIOTT DAVIS STARTED TALKING
24 ABOUT THINGS THEY WERE DOING WRONG. AND AT THE END OF THE
25 DAY FOR 2001 THEY ACTUALLY LOST RIGHT AT \$74 MILLION

1 DOLLARS. SO, WHAT WAS BEING DONE IN THOSE QUARTERS WAS
2 REVERSED BEFORE THE END OF THE YEAR.

3 Q REVERSED BY INDEPENDENT AUDITORS?

4 A WELL, IT WAS REVERSED AT THEIR SUGGESTION.

5 Q AT THEIR SUGGESTION?

6 A I WOULD SAY. SO, TO MY WAY OF THINKING IT GAVE THE
7 APPEARANCE THAT THEY WERE MAKING MONEY IN THE THIRD
8 QUARTER OF 2001. BUT IF YOU TOOK ALL OF THESE THINGS OUT
9 I DON'T THINK THAT WOULD BE THE CASE.

10 Q AND ALL OF THOSE THINGS WERE TAKEN OUT IN THE 10K
11 THAT WAS FILED?

12 A THAT'S RIGHT AND IN THE YEAREND REPORT IT WAS TAKEN
13 OUT AND IN THE FINANCIAL STATEMENT. AND THAT WAS PART OF
14 THE FINANCIAL STATEMENTS THAT WERE PART OF THE 10K.

15 Q PLEASE EXPLAIN IN GENERAL TERMS THE ROLE OF A CEO?

16 A CEO IS REALLY THE BOSS OF THE BUSINESS, HE RUNS THE
17 BUSINESS, HE IS IN CHARGE OF THE BUSINESS, I WOULD SAY HE
18 IS THE ULTIMATE DECISION MAKER IN MOST BUSINESSES.

19 Q WHO DOES THE CEO OWE HIS PRIMARY DUTY TO?

20 A THE CEO HAS A DUTY, ANY CORPORATE OFFICER HAS THE
21 DUTY OR LOYALTY AND THEY OWE THE DUTY OF LOYALTY TO THE
22 SHAREHOLDERS. AND IF THIS IS A PUBLIC COMPANY THEY OWE
23 THE DUTY AND LOYALTY TO THE SHAREHOLDERS.

24 MR. GRIFFIN: YOUR HONOR, I AM GOING TO OBJECT, THIS
25 IS WAY OUTSIDE OF THE SCOPE, HIS EXPERTISE, THAT IS A

1 LEGAL QUESTION, IT IS NOT ACCOUNTING STRUCTURE, CORPORATE
2 QUESTION.

3 THE COURT: MS. EVANS, YOU WANT TO BE HEARD ON THAT.

4 MS. EVANS: I WAS JUST TALKING IN GENERAL TERMS A
5 CORPORATE STRUCTURE, WHAT THE ROLE IS.

6 THE COURT: THE LAST QUESTION CALLS FOR A LEGAL
7 CONCLUSION, I SUSTAIN THE OBJECTION.

8 Q FROM YOUR REVIEW OF THE RECORD, IN CORPORATE
9 STRUCTURE, ARE THERE SOMETIMES ACTIVE AND LESS ACTIVE
10 CEO'S?

11 A YES.

12 Q FROM WHAT YOU REVIEWED WOULD YOU PLEASE DESCRIBE THE
13 ACTIVITY LEVEL ON A DAY-TO-DAY FUNCTIONING OF CAROLINA
14 INVESTORS OF THE DEFENDANT, RONNIE SHEPPARD?

15 A HE SEEMED TO BE ACTIVELY INVOLVED.

16 Q AND WAS HE ALSO ON THE BOARD OF DIRECTORS OF CAROLINA
17 INVESTORS?

18 A YES.

19 Q AND IN GOING THROUGH THE INFORMATION YOU WENT
20 THROUGH, DID YOU GO THROUGH CERTAIN INFORMATION REGARDING
21 A TRANSACTION HERE IN LEXINGTON COUNTY REGARDING LEAPHART
22 ROAD?

23 A I DID.

24 Q AND BASED UPON YOUR REVIEW OF THE DOCUMENTS WHO OWNED
25 LEAPHART ROAD AFTER THE HOMESENSE/HOMEGOLD MERGER?

1 A HOMEGOLD OWNED IT.

2 Q DID YOU REVIEW CONTRACTS IN WHICH THE DEFENDANT
3 AGREED TO SELL THAT PROPERTY.

4 MR. GRIFFIN: YOUR HONOR, I AM GOING TO OBJECT, THIS
5 IS NOT A QUESTION, BASED UPON THE EXPERT OPINION ARISING
6 OUT OF THAT, WE CAN BE HEARD ON IT.

7 MS. EVANS: I WAS GOING OVER THINGS THAT HE WAS
8 TALKING ABOUT CEO AND HE WAS TALKING ABOUT THEY OWED A
9 DUTY TO THE CORPORATION, GOING THROUGH DOCUMENTS THAT HE
10 REVIEWED. I REALY WASN'T GOING TO CALL FOR AN EXPERT
11 OPINION ON ANYTHING THAT WE GO INTO EXCEPT THE DOCUMENTS,
12 YOUR HONOR.

13 THE COURT: ARE THESE DOCUMENTS THAT ARE IN EVIDENCE
14 AT THIS POINT AND TIME?

15 MS. EVANS: I HAVE NOT MOVED THEM INTO EVIDENCE.

16 THE COURT: I SUSTAIN THE OBJECTION.

17 Q LET'S TALK ABOUT OTHER FINANCIAL SIGNALS OF THIS
18 COMPANY. DID YOU REVIEW NOTES, TYPED UP NOTES FROM
19 ELLIOTT DAVIS REGARDING A MEETING THAT WAS HELD ON MARCH
20 14TH?

21 A YES.

22 Q AND LET'S TALK ABOUT TWO ACCOUNTING ISSUES. WHAT IS
23 AN IMPAIRMENT OF A LOAN?

24 A AT THIS MEETING THERE WAS TWO THINGS BROUGHT UP AND
25 ONE OF THEM WAS THE IMPAIRMENT OF THE LOAN. AND I CAN

1 DESCRIBE THAT AS, IN A BUSINESS SETTING, JUST IN GENERAL,
2 WHEN YOU SELL SOMETHING TO SOMEBODY THERE IS AN ACCOUNTS
3 RECEIVABLE TYPICALLY, SO THAT IS WHEN A PERSON OWES YOU
4 MONEY. IF YOU DECIDE THAT YOU CAN'T COLLECT THAT THEN YOU
5 WOULD WRITE THAT DOWN AS A BAD DEBT. IF THE COMPANY OWES
6 YOU \$10 THOUSAND DOLLARS AND YOU DECIDE THAT THEY CAN'T
7 PAY THEN BEFORE THE END OF THE YEAR YOU WILL WRITE THAT
8 DEBT DOWN TO ZERO AND TREAT THAT AS A BAD DEBT. AN
9 IMPAIRMENT WOULD BE, IF YOU THOUGHT THAT COMPANY COULD PAY
10 YOU MAYBE \$6 THOUSAND DOLLARS OF THAT \$10 BUT COULDN'T PAY
11 YOU \$4 THEN YOU WOULD WRITE THAT DEBT, YOU WOULD WRITE
12 THAT RECEIVABLE FROM \$10 THOUSAND DOLLARS DOWN TO \$6
13 DOLLARS. SO, YOU WOULD IMPAIR IT, YOU WOULD JUST PUT AN
14 ALLOWANCE ON IT. AND WHAT WE ARE TALKING HERE IS AN
15 IMPAIRMENT OF THE LOAN. THIS HAS TO DO WITH CAROLINA
16 INVESTORS BOOKS, THE FACT THAT THEY FILED FINANCIAL
17 STATEMENTS FOR CAROLINA INVESTORS.

18 Q BEFORE WE TALK ABOUT THE MARCH 14TH MEETING, WAS THIS
19 THE FIRST TIME FROM EVERYTHING THAT YOU REVIEWED THAT
20 ELLIOTT DAVIS HAD DISCUSSIONS WITH HOMEGOLD ABOUT GOING
21 CONCERN. AND DID YOU SEE ANYTHING IN THE YEAR OF 2001
22 WHERE THEY TALKED TO HOMEGOLD MANAGEMENT ABOUT THE ISSUE
23 OF GOING CONCERN AND IMPAIRMENT.

24 A I BELIEVE I SAW SOME DISCUSSION ABOUT THAT. I THINK
25 ABOUT GOING CONCERN BUT I AM NOT SO SURE ABOUT IMPAIRMENT

1 SO I DON'T RECALL.

2 Q SO, GOING CONCERN WAS SOMETHING THAT ELLIOTT DAVIS
3 WAS BRINGING UP NEAR THE END OF 2001?

4 A YES, MA'AM.

5 Q LET'S GO TO THAT MARCH 14TH MEETING, YOU REVIEWED
6 NOTES REGARDING THAT?

7 A YES.

8 Q LET'S TALK ABOUT WHAT WAS DISCUSSED REGARDING
9 IMPAIRMENT OF THE LOANS AT THE MARCH 14TH MEETING.

10 A WHAT WAS DISCUSSED WAS--

11 MR. GRIFFIN: YOUR HONOR, I OBJECT, AGAIN, SHE IS
12 TRYING TO GET IN HEARSAY TESTIMONY, IT IS NOT TIED TO ANY
13 OPINION THAT I AM AWARE OF THAT HE WAS GIVEN OR INTENDS TO
14 GIVE. HE HAS REVIEWED NOTES AND HE IS GOING TO TESTIFY TO
15 WHAT THEY SAY AND THE LOANS WERE IMPAIRED, THE LOAN
16 CONCERN ISSUED, HE CAN TALK ABOUT THAT AND WHAT THAT
17 MEANS. BUT JUST READ NOTES AND INTERVIEW IS JUST
18 COMPLETELY OUTSIDE OF THE REALM OF, THE BASIS OF THE
19 EXPERT TO BE RELIED ON OPINION AS HEARSAY. UNDER 403 WE
20 WOULD ASK THAT THAT BE EXCLUDED.

21 THE COURT: MS. EVANS.

22 MS. EVANS: YOUR HONOR, IF I ASK HIM THE QUESTION,
23 DID HE RELY UPON THIS IN REVIEWING THESE NOTES IN FORMING
24 HIS OPINION, THEY ARE ALLOWED TO RELY ON HEARSAY EVIDENCE.

25 THE COURT: NO QUESTION ABOUT THAT, THAT DOESN'T MAKE

1 THAT HEARSAY ADMISSIBLE IN COURT. HE CAN RELY ON IT, IT
2 DOESN'T MEAN, UNLESS THERE IS SOME OTHER EXCEPTION THAT IT
3 FALLS UNDER.

4 MS. EVANS: I WILL MOVE ON TO THE ACTUAL ISSUE.

5 THE COURT: THAT IS FINE.

6 MS. EVANS: THE ONLY OTHER QUESTION I WAS GOING TO
7 ASK HIM IS IF HE KNEW THE DEFENDANT WAS IN ATTENDANCE AT
8 THAT MEETING.

9 THE COURT: THE OBJECTION RAISED BY COUNSEL IS
10 SUSTAINED AS TO THAT LAST QUESTION. GO AHEAD.

11 Q BASED UPON WHAT YOU REVIEWED, WAS THE DEFENDANT IN
12 ATTENDANCE AT THAT MEETING, THAT MARCH 14TH?

13 A YES, MA'AM.

14 Q LET'S TALK ABOUT THE ISSUES OF WHAT WAS PUT INTO THE
15 PUBLIC FILING AND THE PROSPECTUS, WAS THERE AN IMPAIRMENT
16 OF THE LOAN?

17 A IT WAS AN IMPAIRMENT OF THE LOAN.

18 Q OKAY. LET'S TALK ABOUT WHAT AN IMPAIRMENT, JUST GO
19 BACK OVER WHAT IMPAIRMENT OF THE LOAN MEANS.

20 A WELL THE EXAMPLE I GAVE, IF SOMEBODY OWES A COMPANY
21 MONEY AND IN THIS CASE IT WAS THE MONEY, THIS WAS CAROLINA
22 INVESTORS ACCOUNTING OR FINANCIAL STATEMENTS. THEY WERE
23 OWED MONEY BY HOMEGOLD AND WHEN YOU LOOK AT WHAT WE LOOKED
24 AT YOU CAN TELL THAT POTENTIALLY HOMEGOLD, THE FINANCIAL
25 STATEMENTS AND ALL OF THAT, HOMEGOLD POTENTIALLY COULD NOT

1 PAY THAT DEBT BACK. SO, FROM A FINANCIAL STANDPOINT YOU
2 HAVE GOT TO IMPAIR THAT DEBT. SO, WE SAID AND I CAN'T SEE
3 THE NUMBERS THERE. BUT THE DEBT WAS, THE FACE AMOUNT OF
4 THE DEBT AT THE END OF 2001 WAS \$144,284,665.00 I GUESS IF
5 I CAN READ IT.

6 Q AND THE MEETING WAS HELD?

7 A SOMETIME AFTER THAT, MARCH AFTER THAT.

8 Q WAS THERE ANOTHER ISSUE THAT WAS PUT INTO THE
9 PROSPECTUS AND PUT IN TO THE PUBLIC FILINGS REGARDING
10 HOMEGOLD THAT WAS BROUGHT UP AT THAT MEETING. DON'T SAY
11 WHAT WAS SAID AT THAT MEETING.

12 A YES, IT WAS.

13 Q AND WHAT WAS THAT?

14 A IT WAS GOING CONCERN.

15 Q OKAY. NOW, PLEASE EXPLAIN AS SIMPLY AS YOU CAN WHAT
16 GOING CONCERN MEANS?

17 A OKAY. FROM A FINANCIAL STANDPOINT, FROM AN
18 ACCOUNTING STANDPOINT, WHAT THAT MEANS IS THAT THERE ARE
19 SOME CONCERNS ABOUT WHETHER THIS COMPANY CAN CONTINUE OVER
20 THE NEXT 12 MONTHS IN THE MANNER IN WHICH IT IS OPERATING
21 CURRENTLY. SO, TO SAY WE PREPARED THE FINANCIAL
22 STATEMENTS AND THERE IS GOING CONCERN, WE ARE CONCERNED
23 WHETHER OR NOT IT IS GOING TO CONTINUE FOR 12 MONTHS OR
24 MORE.

25 Q AND THIS CHART COMES FROM, BASED UPON STATEMENTS OF

1 AUDITING STANDARDS?

2 A THAT'S RIGHT.

3 Q AND WHEN DETERMINING WHETHER OR NOT A GOING CONCERN
4 SHOULD BE PUT IN, WHAT DO YOU AS A CERTIFIED PUBLIC
5 ACCOUNTANT DO IN DETERMINING THAT?

6 A IF YOU WOULD LOOK AT THE SAME THINGS THAT WE LOOK AT
7 TODAY, THE EXACT SAME THINGS WE LOOK AT TODAY. YOU LOOK
8 AT THOSE THINGS AND I GUESS OTHER THINGS THAT WOULD BE
9 IMPORTANT.

10 Q AND THAT IS THE FINANCIAL CONDITION OF THE COMPANY?

11 A THE FINANCIAL CONDITIONS, WHETHER THIS MADE MONEY,
12 LOST MONEY, HOW LONG HAS IT BEEN LOSING MONEY, WHAT IS ITS
13 NET WORTH, WHAT DO YOU THINK ABOUT IT.

14 Q AND WHAT DOES THIS MEAN FOR CAROLINA INVESTORS?

15 A IT MEANS THAT CAROLINA INVESTORS IS OWED MONEY BY
16 HOMEGOLD AND THERE IS SOME CONCERN ABOUT WHETHER OR NOT
17 HOMEGOLD CAN CONTINUE PAST 12 MONTHS. SO, IF I WAS OWED
18 WHATEVER THAT NUMBER WAS AND IN MILLIONS OF DOLLARS BY A
19 COMPANY THAT, THERE WAS SOME CONCERN ABOUT WHETHER THEY
20 WOULD CONTINUE FOR SOME PERIOD OF TIME. IT MEANS A LOT,
21 WILL THEY EVER COLLECT \$144 MILLION DOLLARS.

22 Q AND GOING CONCERN, IS THAT AN ACCOUNTING WORD?

23 A WELL, GOING CONCERN IS KIND OF ACCOUNTING LINGO, YES.

24 Q IS THERE ANYTHING THAT IS WORSE THAN GOING CONCERN
25 THAT CAN BE PUT IN A PROSPECTUS?

1 A GOING CONCERN IS PRETTY BAD, I GUESS BANKRUPTCY WOULD
2 BE WORSE THAN THAT. BUT GOING CONCERN IS A CONCERN ABOUT
3 WHETHER THIS COMPANY WILL CONTINUE. THAT IS PRETTY BAD.

4 Q THERE IS NOT LIKE A SUBSTANTIAL CONCERN LINGO OR
5 ANYTHING LIKE THAT?

6 A NO. IT IS A GOING CONCERN OR NOT A GOING CONCERN.

7 Q AND ELLIOTT DAVIS PUT THAT IN THE PROSPECTUS?

8 A IT IS AN OPINION PARAGRAPH IN THE PROSPECTUS.

9 Q AND THEY WOULD ALSO PUT THAT IN THE 10K THAT WOULD OF
10 BEEN FILED THAT SAME YEAR?

11 A YES.

12 Q SO, THERE WAS A GOING CONCERN REGARDING BOTH CAROLINA
13 INVESTORS AND HOMEGOLD?

14 A I BELIEVE SO, YES.

15 Q DURING THIS TIME FRAME WE TALKED ABOUT THE LOAN
16 IMPAIRMENT, WERE VALUATIONS CONDUCTED?

17 A YES, THEY WERE.

18 Q AND BASED UPON YOUR REVIEW OF THE INFORMATION, WHAT
19 WAS THE REASON TO GET THOSE VALUATIONS DONE?

20 A WELL, I SAID EARLIER THAT CAROLINA INVESTORS WOULD
21 OWE MONEY BY HOMEGOLD AND IT WAS PRETTY APPARENT THAT
22 HOMEGOLD WASN'T MAKING ANY MONEY. THE ONLY WAY THEY WERE
23 SURVIVING WAS TO TAKE THE MONEY FROM CAROLINA INVESTORS.
24 SO, THEY COULDN'T PAY THIS DEBT BACK. SO, YOU HAD TO LOOK
25 AT WHAT, IS THERE ANY OTHER SOURCE OF REPAYMENT ON THIS.

1 AND THE OTHER THING THEY LOOKED AT WAS IF THEY SOLD THE
2 RETAIL MORTGAGE DIVISION WOULD THAT BE A WAY THAT THEY
3 COULD REPAY THIS DEBT. SO THEY HAD TO DO A VALUATION TO
4 DETERMINE WHAT THE VALUE OF THE RETAIL MORTGAGE DIVISION
5 WAS IN SOME RESPECTS TO DETERMINE WHETHER OR NOT THEY
6 NEEDED TO IMPAIR THAT DEBT AND HOW MUCH THEY NEEDED TO
7 IMPAIR THAT DEBT.

8 Q AND BASED UPON YOUR REVIEW WHO INFORMED MANAGEMENT
9 THAT THEY HAD TO GET THESE VALUATIONS?

10 A THAT WOULD BE ELLIOTT DAVIS THAT WOULD OF TOLD THEM
11 THEY HAD TO GET A VALUATION DONE.

12 Q AND WHO WENT AND GOT THE VALUATIONS?

13 A WELL, MANAGEMENT WOULD OF GOTTEN THE VALUATION, THEY
14 WOULD OF ENGAGED WITH THE FIRMS TO DO THE VALUATIONS.

15 Q MR. BURKETT, I AM GOING TO SHOW YOU SOMETHING, HAVE
16 YOU REVIEWED THAT?

17 A YES, I HAVE.

18 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
19 MARK THIS FOR IDENTIFICATION PURPOSES ONLY.

20 THE COURT: IT WILL BE MARKED STATE'S 60.

21 (WHEREUPON, STATE'S EXHIBIT NO. 60 WAS MARKED FOR
22 IDENTIFICATION ONLY.)

23 Q MR. BURKETT, IS THAT SOMETHING THAT YOU REVIEWED TO
24 FORM YOUR EXPERT OPINION HERE TODAY?

25 A YES, IT IS.

1 Q AND WHO IS THAT VALUATION OF?

2 A THIS IS A VALUATION OF HOMEGOLD.

3 Q BY WHO?

4 A BY CBIZ.

5 Q BASED UPON YOUR REVIEW OF THE AUDITING PROCEDURES WAS
6 THAT VALUATION ACCEPTED BY ELLIOTT DAVIS?

7 A IT WAS NOT ACCEPTED, IT WAS REJECTED BY ELLIOTT
8 DAVIS.

9 Q IS THAT VALUATION SENT TO ELLIOTT DAVIS OR TO
10 HOMEGOLD MANAGEMENT?

11 A IT IS SENT TO HOMEGOLD MANAGEMENT.

12 Q IS THAT SOMETHING THAT IS HOMEGOLD MANAGEMENT, IS
13 HOMEGOLD'S RECORDS?

14 A YES.

15 Q I AM GOING TO SHOW YOU SOMETHING ELSE, DID YOU REVIEW
16 THAT IN FORMULATING YOUR OPINION HERE TODAY?

17 A YES, I DID.

18 MS. EVANS: YOUR HONOR, I WOULD LIKE TO MARK THIS FOR
19 IDENTIFICATION PURPOSES ONLY.

20 THE COURT: MARKED STATE'S 61.

21 (WHEREUPON, STATE'S EXHIBIT NO. 61 WAS MARKED FOR
22 IDENTIFICATION ONLY.)

23 Q AND WHAT WAS THAT?

24 A THAT WAS A VALUATION THAT WAS PREPARED BY DELOITTE
25 AND TOUCHE.

1 Q AND BASED UPON YOUR REVIEW OR YOUR EXPERT OPINION
2 HERE TODAY DID YOU REVIEW THAT?

3 A YES, I DID.

4 Q WAS THAT ACCEPTED BY ELLIOTT DAVIS?

5 A YES, IT WAS.

6 Q AND, AGAIN, IS THAT HOMEGOLD'S MANAGEMENT VALUATIONS?

7 A THAT WAS PREPARED FOR HOMEGOLD MANAGEMENT.

8 Q AND BASED UPON YOUR REVIEW AND FORMING YOUR EXPERT,
9 WELL, YOU DO VALUATIONS?

10 A YES, MA'AM.

11 Q IN DOING VALUATIONS WHO DO YOU GET THE INFORMATION TO
12 FORM YOUR OPINION ABOUT THE VALUE OF THE COMPANY?

13 A YOU DO VALUATIONS FOR A VARIETY OF DIFFERENT THINGS,
14 YOU LOOK AT THE HISTORY OF THE COMPANY, YOU LOOK AT THE
15 FINANCIAL STATEMENTS OF THE COMPANY WHICH IS MANAGERMENTS
16 REPRESENTATIONS, YOU ALSO LOOK AT PROJECTIONS INTO THE
17 FUTURE WHICH YOU GET FROM MANAGEMENT. SO, YOU GET A LOT
18 OF INFORMATION THAT YOU DO FROM MANAGEMENT.

19 Q WHEN YOU DO VALUATIONS DO YOU LOOK AT THE PROJECTIONS
20 OF THINGS THAT MANAGEMENT GIVES YOU?

21 A YES.

22 Q AND THAT WOULD BE MANAGEMENT OF THE COMPANY THAT IS
23 ASKING FOR IT?

24 A THAT'S RIGHT.

25 Q AND WHEN YOU DO VALUATIONS ARE THERE CERTAIN WARNINGS

1 OR RESTRICTIONS THAT YOU PERSONALLY PUT ON WHEN YOU DO
2 YOUR VALUATIONS?

3 A WELL, IT DEPENDS ON THE TYPE OF VALUATION YOU DO,
4 WHETHER OR NOT YOU PUT ANY KIND OF RESTRICTIONS ON THE USE
5 OF IT. IN MANY CASES YOU DO VALUATIONS FOR A SPECIFIC
6 PURPOSE AND IT IS ONLY FOR THAT PURPOSE AND SHOULD ONLY BE
7 USED FOR ONLY THAT PURPOSE. AND YOU PUT THAT IN THE BODY
8 OF THE LETTER WHEN YOU GIVE IT TO THEM, IT IS ONLY FOR A
9 SPECIFIC PURPOSE.

10 Q AND LET'S TRY TO KEEP THIS AS SIMPLE AS POSSIBLE BUT
11 ARE THERE DIFFERENT TYPES OF VALUATIONS THAT CAN BE DONE?

12 A THERE ARE THREE DIFFERENT TYPES OF VALUATIONS. THERE
13 IS FAIR MARKET VALUE, FAIR VALUE AND WHAT I WOULD CALL
14 STRATEGIC OR INVESTMENT VALUE.

15 Q AND LET'S EXPLAIN FAIR MARKET VALUE.

16 A FAIR MARKET VALUE IS JUST A STANDARD VALUE IS WILLING
17 BUYER, WILLING SELLER. VERY SIMILAR TO THE EXAMPLE I GAVE
18 YOU ABOUT BUYING AND SELLING YOUR HOUSE. YOU HAVE A
19 WILLING SELLER AND YOU HAVE GOT A WILLING BUYER. SO, IT
20 IS KIND OF WHAT IT WOULD TRADE FOR IN THE MARKET PLACE.

21 Q WHAT IS FAIR VALUE?

22 A IT IS REALLY A STATUTORY VALUE, IT IS A VALUATION
23 METHODOLOGY THAT IS SET BY SOME TYPE OF STATUTE THAT IS
24 LAW, SOME TYPE OF STATUTE. LIKE IN SOME CASES YOU DON'T
25 TAKE CERTAIN DISCOUNTS, YOU HAVE TO DO A VALUATION A

1 CERTAIN WAY BECAUSE IT IS STATUTORY VALUE.

2 Q AND WHAT IS THE THIRD TYPE OF STRATEGIC?

3 A IT IS A STRATEGIC OR INVESTMENT VALUE. A STRATEGIC
4 INVESTMENT VALUE IS DIFFERENT THAN ALL OF THESE BECAUSE IN
5 A STRATEGIC AND INVESTMENT VALUE, WHAT YOU HAVE IS YOU
6 HAVE A STRATEGIC PURPOSE. YOU HAVE A SPECIFIC PURCHASER
7 AND A SPECIFIC SELLER, SO YOU HAVE BASICALLY IDENTIFIED
8 WHO IS GOING TO BUY AND WHO IS GOING TO SELL. AND THAT
9 GIVES YOU A DIFFERENT VALUE. AND WHAT IS IMPORTANT ON
10 THIS IS DEPENDING ON WHAT YOU DO IN A VALUATION FOR, IT
11 WILL IMPACT WHAT THE VALUE OF THE COMPANY IS. IT MAY SEEM
12 KIND OF SILLY BUT THAT IS THE CASE, IF YOU DO WILLING
13 BUYER, WILLING SELLER, YOU MAKE IT ONE FAIR MARKET VALUE,
14 FAIR VALUE. IF YOU WANT A FAIR VALUE YOU MAY GET AN ALL
15 TOGETHER VALUE. AND UNDER STRATEGIC INVESTMENT VALUE YOU
16 GET ALL TOGETHER A DIFFERENT VALUE.

17 Q AND EXPLAIN AS SIMPLY AS YOU CAN WHY YOU WOULD HAVE
18 DIFFERENT VALUES DEPENDING UPON THE APPROACH, IF YOU ARE
19 REALLY VALUATING AS YOU ARE USING YOUR EXAMPLE, A HOUSE.

20 A RIGHT. WELL, I GUESS WE COULD USE THE EXAMPLE AS A
21 HOUSE. FOR A STRATEGIC INVESTMENT VALUE, YOU WOULD OF
22 ALREADY IDENTIFIED THE PERSON WHO IS GOING TO BUY THE
23 HOUSE AND THE FACT THAT THEY ARE GOING TO BUY THAT HOUSE
24 FROM YOU. AND IN A BUSINESS SETTING, IN A STRATEGIC
25 VALUE, A LOT OF TIMES SOMEBODY IS ALREADY IN THAT

1 BUSINESS, IS ALREADY DOING THE SAME THING YOU ARE DOING.
2 SO, IF YOU ARE IN THE BUSINESS OF SELLING SHOES AND YOU
3 ARE GOING TO SELL THIS COMPANY TO SOMEBODY ELSE THAT SELLS
4 SHOES. SO, THEY KNOW THE BUSINESS ALREADY, YOU HAVE
5 IDENTIFIED THEM AS THE PURCHASER AND THAT IS THE VALUE YOU
6 ARE GIVING. WHAT SOMEBODY WHO UNDERSTANDS A SHOE BUSINESS
7 THAT IS WILLING TO PAY FOR A BUSINESS IS DIFFERENT FROM
8 WHAT I AM WILLING TO PAY. BECAUSE I DON'T KNOW HOW TO RUN
9 A SHOE STORE. BUT THEY KNOW HOW TO RUN A SHOE STORE, THEY
10 KNOW HOW TO BUY ^{the} THE SHOES, HOW TO SELL THE SHOES, HOW TO
11 MARKET THE SHOES. IT MAY HAVE A GREATER VALUE TO THEM
12 THAN IT DOES TO ME.

13 Q SO, IN THAT CASE THE VALUE COULD BE HIGHER?

14 A IT MANY CASES IT GIVES YOU A HIGHER VALUE.

15 Q OKAY. AND ABOUT THE FAIR VALUE?

16 A IN THE FAIR VALUE IT COULD BE EITHER HIGHER OR LOWER,
17 DEPENDING ON WHAT YOU ARE ASKED TO DO. IN CASES, SOME OF
18 THE CASES THAT I TESTIFY IN HAVE TO DO WITH DESCENDING
19 SHAREHOLDERS, THAT IS WHEN A SHAREHOLDER IS GETTING OUT.
20 THAT VALUE SOMETIMES ENDS UP BEING MUCH HIGHER THAN IT
21 WOULD BE IN FAIR MARKET VALUE BECAUSE YOU CAN'T DO CERTAIN
22 THINGS IN THAT VALUATION THAT YOU CAN DO IN A REGULAR
23 VALUATION. AND IN FAIR MARKET VALUE YOU MAY DISCOUNT THAT
24 VALUATION BECAUSE YOU ARE TRYING TO SELL THE COMPANY IN
25 COLUMBIA, SOUTH CAROLINA. NOT EVERYBODY WANTS TO OWN A

1 COMPANY IN COLUMBIA, SOUTH CAROLINA SO YOU HAVE TO
2 DISCOUNT. BUT IF YOU ARE DOING IT FOR SOME TYPE OF BREACH
3 OF CONTRACT, A SHAREHOLDER DISPUTE, YOU MAY NOT BE ABLE TO
4 DISCOUNT IT FOR THAT AND YOU MAY USE A DIFFERENT
5 METHODOLOGY TOO.

6 Q AND BASED UPON YOUR REVIEW OF THE CBIZ VALUATION AND
7 YOUR OPINION WHAT APPROACH DID THEY TAKE?

8 A IT IS PRETTY CLEAR, THEY TOOK THE STRATEGIC
9 INVESTMENT VALUE APPROACH, THAT IS WHAT THEY DID.

10 Q AND BASED UPON YOUR REVIEW OF WHAT ELLIOTT DAVIS
11 NEEDED FOR THE AUDIT, WAS THAT THE TYPE OF VALUATION THAT
12 THEY NEEDED?

13 A THEY DID NOT, WHAT WAS NEEDED WAS A FAIR VALUE
14 APPROACH.

15 Q AND BASED UPON YOUR REVIEW OF THE DELOITTE AND TOUCHE
16 VALUATION, WAS THAT THE APPROACH THEY TOOK?

17 A YES, THEY TOOK THE FAIR VALUE APPROACH.

18 Q AND YOU ALSO IN YOUR COURSE OF BUSINESS REVIEW
19 VALUATIONS?

20 A YES.

21 Q WHEN YOU ARE REVIEWING THE VALUATIONS WHAT ARE YOU
22 REVIEWING IT FOR?

23 A I AM REVIEWING IN MANY CASES, I AM ON THE OPPOSITE
24 SIDE OF SOMEBODY WHO HAS ACTUALLY DONE THE VALUATIONS, I
25 WANT TO SEE IF I THINK IT MAKES SENSE OR NOT. WHETHER I

1 THINK IT IS CORRECT, I AM LOOKING AT ALL THE DIFFERENT
2 PARTS OF THE VALUATIONS. IT IS BASICALLY THREE WAYS TO
3 VALUE A BUSINESS IS AN ASSET APPROACH WHERE YOU JUST LOOK
4 AT THE ASSETS AND SAY, HEY, THIS IS WHAT THE ASSETS ARE
5 WORTH AND THIS IS THE LIABILITIES, THIS IS THE WORTH.
6 THERE IS AN INCOME APPROACH WHERE YOU LOOK AT WHAT HAS THE
7 COMPANY DONE IN THE PAST AND WHAT DO YOU THINK IT IS GOING
8 TO DO IN THE FUTURE. AND THEN THE MARKET APPROACH, WHAT
9 DO YOU THINK THE COMPANY, IN A SIMILAR COMPANY IN A MARKET
10 PLACE, WHAT IS IT SELLING FOR. SO, YOU ARE LOOKING TO SEE
11 IF THEY USE THOSE THREE METHODS OR NOT.

12 Q AND THESE VALUATIONS THAT WERE DONE, FROM YOUR REVIEW
13 OF THE AUDIT AND IN YOUR OPINION WERE THEY TO BE DONE FOR
14 INTERNAL PURPOSES ONLY?

15 A THERE IS NO QUESTION THAT THEY WERE DONE FOR INTERNAL
16 PURPOSES ONLY. IT SAYS THAT IN THE LETTER FOR A SPECIFIC
17 PURPOSE.

18 Q AND BASED UPON YOUR EXPERIENCE AND EXPERTISE IN DOING
19 VALUATIONS, WHEN YOU PUT THAT WARNING, WHAT DO YOU MEAN
20 FOR INTERNAL PURPOSES ONLY?

21 A IT MEANS FOR INTERNAL PURPOSES ONLY, I CERTAINLY
22 WOULDN'T WANT THAT TO BE PUBLISHED SOMEWHERE AND GIVE
23 SOMEBODY AN INDICATION THAT THIS IS WHAT THE COMPANY IS
24 ACTUALLY WORTH.

25 Q AND, AGAIN, THOSE PROJECTIONS WERE GIVEN TO

1 MANAGEMENT WITH THOSE SAME WARNINGS THAT YOU DO IN YOUR
2 EXPERT, WHEN YOU DO YOUR VALUATIONS?

3 A YOU SAID PROJECTIONS.

4 Q EXCUSE ME, VALUATIONS OF MANAGEMENT?

5 A THE VALUATIONS, YES.

6 Q AND HYPOTHETICALLY, IF MANAGEMENT WERE TO GIVE YOU
7 BAD PROJECTIONS HOW GOOD IS YOUR VALUATION?

8 A WELL, AGAIN I MENTIONED THIS AS THREE DIFFERENT
9 APPROACHES IS A VALUE. ONE OF THEM IS AN INCOME APPROACH.
10 AND ONE OF THE THINGS THAT YOU LOOK AT THERE IS WHAT THE
11 COMPANY HAS DONE IN THE PAST AND YOU ALSO LOOK AT WHAT THE
12 COMPANY IS GOING TO DO IN THE FUTURE. AND IF YOU GIVE
13 PROJECTIONS THAT THE COMPANY IS GOING TO MAKE MONEY IN THE
14 FUTURE AND THEY DON'T, THEN THOSE VALUATIONS ARE WRONG.
15 THEN WHAT YOU HAVE DONE IS WRONG.

16 Q AND BASED UPON YOUR REVIEW OF THOSE VALUATIONS WHAT
17 WERE THOSE INTERNAL VALUATIONS, ONLY THE VALUE OF THE
18 COMPANY OF WHAT DATE?

19 A THAT WAS AS OF DECEMBER 31ST OF 2001 IS WHAT, THE
20 DATE OF THESE VALUATIONS WERE THAT DAY.

21 Q SO, GOING INTO 2002, LET'S SAY MANAGEMENT DOESN'T
22 MEET THE PROJECTIONS OF THE, THE PROJECTIONS THAT THEY
23 GAVE TO CONDUCT THOSE VALUATIONS, DO THOSE VALUATIONS GET
24 LESS AND LESS ACCURATE AS THE YEAR GOES ON?

25 A IF YOU PROJECT YOU ARE GOING TO MAKE X AMOUNT OF

1 DOLLARS IN 2002 AND YOU ARE HALF WAY THROUGH 2002 AND YOU
2 REALIZE YOU ARE NOT GOING TO MAKE THAT MUCH MONEY THEN
3 THAT IS GOING TO IMPACT, NOT ONLY IN 2002 BUT IN 2003,
4 2004, 2005. AND IF YOU VALUE THAT COMPANY BASED ON THIS
5 INCOME STREAM IN THE FUTURE THEN IT IS CERTAINLY GOING TO
6 HAVE AN IMPACT ON YOUR VALUE. SO, IF YOU ARE NOT MEETING
7 YOUR PROJECTIONS THEN CLEARLY THE VALUATIONS ARE NOT
8 CORRECT.

9 Q AND THAT GOING CONCERN WAS ALSO PUT INTO THE CAROLINA
10 INVESTORS PROSPECTUS, CORRECT?

11 A I BELIEVE SO.

12 Q AND I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
13 STATE'S EXHIBIT NUMBER 50. AND I WOULD LIKE TO DRAW YOUR
14 ATTENTION FIRST TO PAGE F11 OF THAT.

15 A OKAY.

16 Q AND I WILL DRAW YOUR ATTENTION RIGHT HERE AND COULD
17 YOU PLEASE READ THAT LINE RIGHT THERE?

18 A THIS IS COMING FROM CAROLINA INVESTORS PROSPECTUS.
19 IT SAYS IN ADDITION HOMEGOLD HAS CONSIDERED THE
20 DIVESTITURE OF ITS RETAIL MORTGAGE ORIGINATION DIVISION IF
21 NECESSARY TO SATISFY THE NOTE PAYABLE TO THE COMPANY,
22 REACH AN INDEPENDENT VALUATION IS A VALUE TO THE DIVISION
23 BETWEEN \$135 MILLION AND \$170 MILLION DOLLARS.

24 Q OKAY. YOU JUST TESTIFIED THAT THOSE WERE FOR
25 INTERNAL MANAGEMENT AT HOMEGOLD ONLY?

1 A THAT'S CORRECT.

2 Q AND IT WAS CLEARLY STATED IN THOSE VALUATIONS THAT
3 YOU REVIEWED, BOTH OF THEM?

4 A YES.

5 Q AND WHERE ARE THOSE PROJECTIONS USED?

6 A THE VALUATIONS ARE USED IN THEIR PROSPECTUS SO THE
7 VALUATION NUMBERS ARE USED BECAUSE THE VALUATIONS, THERE
8 WAS TWO DIFFERENT VALUES BETWEEN \$135 MILLION WAS DELOITTE
9 AND TOUCHE'S VALUATION. AND \$170 MILLION DOLLARS WAS THE
10 CBIZ VALUATION.

11 Q SO, NOT ONLY INCLUDE THE VALUATIONS, THEY ALSO
12 INCLUDE THE REJECTED VALUATION?

13 A YES, THEY INCLUDE THE VALUATION THAT WAS NOT
14 ACCEPTED, THAT IS CORRECT.

15 Q AND I AM GOING TO DRAW YOUR ATTENTION TO A DIFFERENT
16 PAGE OF THAT PROSPECTUS. AND YOU SAID THAT THE DEFENDANT
17 WAS PRESENT FOR THAT MARCH 14TH MEETING WHEN ALL OF THESE
18 GOING CONCERN AND IMPAIRMENT WAS DISCUSSED?

19 A YES, MA'AM.

20 Q I AM GOING TO DRAW YOUR ATTENTION TO PAGE 16 OF THAT
21 PROSPECTUS. CAN YOU TELL THE JURY WHO IS LISTED AS AN
22 INVESTOR IN CAROLINA INVESTORS IN THAT PROSPECTUS FILED
23 APRIL 1ST OF 2002?

24 A THIS HAS TO DO WITH THE BONDS, IT IS SEVERAL PEOPLE.
25 EARLE MORRIS, LARRY OWEN, JACK, JOHN STERLING AND RONNIE

1 SHEPPARD.

2 Q AND HOW MUCH DOES IT SHOW THAT RONNIE SHEPPARD HAS
3 INVESTED IN CAROLINA INVESTORS AS OF APRIL 1ST OF 2002?

4 A WELL, THIS SAYS APRIL 15 OF 2002 AND IT SAYS, \$200
5 THOUSAND DOLLARS.

6 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED STATE'S
7 EXHIBIT NUMBER 49 WHICH IS THE PROSPECTUS FILED THE YEAR
8 PREVIOUSLY. PAGE 14 OF THAT AND THAT IS PREVIOUS TO THE
9 MARCH 14TH MEETING WHERE GOING CONCERN AND IMPAIRMENT IS
10 DISCUSSED. HOW MUCH DOES RONNIE SHEPPARD HAVE INVESTED IN
11 CAROLINA INVESTORS FOR THAT PROSPECTUS?

12 A NONE.

13 Q DO YOU REVIEW FINANCIAL INFORMATION AFTER HOMEGOLD'S
14 FINANCIAL INFORMATION, AFTER THE MARCH 14TH MEETING?

15 A YES.

16 Q AND DO YOU REMEMBER A CHECK IN THE AMOUNT OF \$200
17 THOUSAND DOLLARS GIVEN BACK TO HOMEGOLD TO RONNIE SHEPPARD
18 IN A PROMISSORY NOTE FOR THAT MONEY THAT WAS PUT INTO
19 CAROLINA INVESTORS AFTER THAT PROSPECTUS CAME OUT?

20 A I SAW ON THE CHECK IT WAS WRITTEN TO RONNIE SHEPPARD
21 FOR \$200 THOUSAND DOLLARS AND I SAW A PROMISSORY NOTE
22 WHERE HE WOULD PAY THAT BACK.

23 Q SO IN ESSENCE THE LANGUAGE THAT HAS GOING CONCERN
24 LIST RONNIE SHEPPARD AS AN INVESTOR IN CAROLINA INVESTORS
25 BUT BASED UPON WHAT YOU HAVE REVIEWED YOU HAVE SEEN A

1 CHECK WHERE HE TURNED AROUND AND GOT MONEY OUT OF HOMEGOLD
2 AS A PROMISSORY NOTE FOR THAT INVESTMENT, CAROLINA
3 INVESTORS?

4 A WELL, HE DID BORROW \$200 THOUSAND DOLLARS AT THE SAME
5 TIME.

6 Q AND DID YOU EVER SEE, BASED UPON WHAT YOU REVIEWED,
7 ANY REPAYMENT OF THAT \$200 THOUSAND DOLLARS?

8 A I NEVER SAW REPAYMENT OF \$200 THOUSAND DOLLARS.

9 Q AND IN FACT BASED UPON YOUR REVIEW, WASN'T THERE
10 ANOTHER \$200 THOUSAND DOLLAR CHECK CUT LATER IN 2002 TO
11 RONNIE SHEPPARD?

12 A I DID SEE ANOTHER \$200 THOUSAND DOLLAR CHECK.

13 Q AND WAS THERE ANY PROMISSORY NOTE OR ANYTHING THAT
14 WENT ALONG WITH THAT CHECK THAT YOU SAW?

15 A I DON'T KNOW IF THERE WAS A PROMISSORY NOTE WITH THAT
16 CHECK, I JUST SAW ANOTHER CHECK.

17 Q YOU REMEMBER THAT THERE WERE TWO DIFFERENT \$200
18 THOUSAND DOLLAR CHECKS?

19 A YES.

20 Q ONE WAS A PROMISSORY NOTE REGARDING THAT?

21 A YES, I DON'T BELIEVE I SAW ANYTHING WITH THAT CHECK.

22 Q WITH THE SECOND \$200 THOUSAND DOLLARS THAT HE GOT IN
23 2002?

24 A YES, WITH THE SECOND \$200 THOUSAND DOLLAR CHECK.

25 Q YOU ALSO REMEMBER REVIEWING THOSE SAME FINANCIALS AND

1 AFTER RONNIE SHEPPARD ATTENDS THE MARCH 14TH MEETING IN
2 2002 AND FINDS OUT ABOUT THE GOING CONCERN AND THE
3 IMPAIRMENT, THAT HE SUBMITS--

4 MR. GRIFFIN: YOUR HONOR, LEADING.

5 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

6 Q DO YOU REMEMBER SEEING A CHECK FOR REIMBURSEMENT FOR
7 WALLPAPER?

8 A I DO.

9 Q AND DO YOU REMEMBER APPROXIMATELY HOW MUCH THAT WAS?

10 A I THINK IT WAS ABOUT \$17 THOUSAND DOLLARS.

11 Q AND DO YOU REMEMBER WHEN THAT WALLPAPER WAS
12 PURCHASED?

13 A IT WAS PURCHASED A YEAR OR TWO BEFORE THE CHECK WAS
14 WRITTEN AND I DON'T REMEMBER THE EXACT DATE BUT AT LEAST A
15 YEAR BEFORE IF NOT EARLIER, MAYBE TWO YEARS BEFORE, A YEAR
16 AND A HALF.

17 Q WHAT ABOUT A CHECK FOR MILEAGE?

18 A THERE WAS ALSO A CHECK WRITTEN FOR MILEAGE.

19 Q AND APPROXIMATELY HOW MUCH WAS THAT?

20 A I THINK IT WAS ABOUT \$7,500 DOLLARS BUT I AM NOT, I
21 REALLY DON'T REMEMBER HOW MUCH THAT WAS BUT IT WAS A
22 CHECK.

23 Q AND THAT CHECK, WHEN WAS THAT EXPENSE INCURRED?

24 A IT WAS SOMETIME AFTER THAT MARCH MEETING.

25 Q THE MILEAGE EXPENSE?

1 A THE EXPENSE WAS FOR A PREVIOUS PERIOD.

2 Q AND DO YOU ALSO REMEMBER REVIEWING FINANCIAL
3 INFORMATION OF BOTH CAROLINA INVESTORS AND HOMEGOLD
4 ANYTHING ABOUT RESTRUCTURING OF THE DEBT BETWEEN CAROLINA
5 INVESTORS AND HOMEGOLD AROUND THIS PERIOD OF TIME?

6 A I DO.

7 Q AND JUST BRIEFLY EXPLAIN TO THE JURY WHAT YOU
8 REMEMBER ABOUT THAT?

9 A WELL, IF WE CAN GO BACK AND LOOK AT THE CHART, THE
10 INTER-COMPANY DEBT CHART IT WAS SOMETHING THAT WAS, IF WE
11 DON'T MIND LOOKING AT THAT. CAN I STEP DOWN.

12 THE COURT: SURE.

13 A AT THE END OF 2001 HOMEGOLD OWED CAROLINA INVESTORS
14 \$144 MILLION DOLLARS. NOW, IN, THEY HAVE SIGNED A NOTE
15 BETWEEN THE TWO COMPANIES AND THE NOTE WAS ONLY FOR \$125
16 MILLION DOLLARS. SO, WHAT THEY DID, SOMETIME I THINK IN
17 MARCH OF 2002 IS THAT THEY SIGNED ANOTHER NOTE FOR \$175
18 MILLION DOLLARS. SO, THEY UPPED THE NOTED FROM \$125
19 MILLION TO \$175 MILLION DOLLARS AND BECAUSE IN ORDER TO
20 SURPASS WHAT THEY HAVE LOANED THE COMPANY, \$125 MILLION,
21 TO SURPASS THAT LOAN TO ALMOST \$20 MILLION DOLLARS.

22 Q OKAY. AND THAT AGAIN WAS AFTER THE MARCH 14TH
23 MEETING?

24 A IT WAS AT THE MARCH 14TH MEETING.

25 Q LET'S MOVE ON, IN 2002 AND I THINK WE HAVE TALKED

1 ABOUT IT EARLIER, IS THERE ANYTHING HAPPENING WITH
2 HOMEGOLD OR CAROLINA INVESTORS THAT SHOWS THEY ARE
3 IMPROVING THEIR FINANCIAL?

4 A IN 2002?

5 Q IN 2002, YES.

6 A NO, THE CHART IS PRETTY CLEAR, THEY ARE STILL LOSING
7 LOTS OF MONEY, BORROWING MONEY TO KEEP THE OPERATING
8 GOING.

9 Q AND ALTHOUGH THE LOAN WAS IMPAIRED, THE LOAN WAS
10 IMPAIRED AS OF DECEMBER 31ST OF 2001, DO THEY, WHAT DO
11 THEY DO WITH THE LOAN?

12 A THEY CONTINUED TO LOAN MONEY, CAROLINA INVESTORS
13 CONTINUED TO LOAN MONEY UPSTREAM TO HOMEGOLD SO HOMEGOLD
14 CONTINUES OPERATIONS.

15 Q AND IS THE DEFENDANT ONE OF THE MEMBERS THAT IS ON
16 THE BOARD OF CAROLINA INVESTORS?

17 A YES, MA'AM.

18 Q AND AT THIS TIME FRAME FROM YOUR REVIEW WAS ANYONE
19 FROM CAROLINA INVESTORS ON THE BOARD OF HOMEGOLD?

20 A NO, MA'AM.

21 Q WERE THERE TWO INDIVIDUALS AT THAT MARCH 14TH
22 MEETING, HOWEVER, FROM CAROLINA INVESTORS?

23 A RIGHT.

24 Q DO YOU KNOW WHO THOSE TWO PEOPLE WERE?

25 A I AM TRYING TO REMEMBER WHO THEY WERE. WHAT WAS THE

1 QUESTION.

2 Q WERE THERE PEOPLE BESIDES THE DEFENDANT AND JACK
3 STERLING, WERE THERE TWO PEOPLE THAT WERE ALSO ON THE
4 BOARD OF CAROLINA INVESTORS THAT WERE THERE AT THE MARCH
5 14TH MEETING?

6 A I DON'T RECALL WHO THEY WERE BUT THERE WERE SOME
7 PEOPLE.

8 Q THERE WERE TWO OTHER PEOPLE THERE?

9 A TWO PEOPLE.

10 Q GOING BACK, WE TALKED ABOUT THAT PROSPECTUS BEING
11 FILED. I AM GOING TO SHOW YOU THE LETTER DATED APRIL 3RD
12 OF 2002, HAVE YOU REVIEWED THAT?

13 A YES MA'AM, I HAVE.

14 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
15 MOVE THIS INTO EVIDENCE.

16 THE COURT: HAS THAT BEEN MARKED YET?

17 MS. EVANS: NO, YOUR HONOR.

18 THE COURT: ANY OBJECTION AT THIS TIME?

19 MR. GRIFFIN: NO, YOUR HONOR.

20 THE COURT: IT WILL BE STATE'S 62.

21 (WHEREUPON, STATE'S EXHIBIT NO. 62 WAS ADMITTED INTO
22 EVIDENCE.)

23 Q MR. BURKETT, THERE IS TWO DIFFERENT COPIES OF THE
24 SAME LETTER, IS THAT CORRECT?

25 A YES.

1 Q AND THE FIRST ONE, IS IT FAIR TO SAY THAT IT IS
2 PRETTY DIFFICULT TO READ THE FIRST ONE?

3 A IT IS WITH MY EYESIGHT.

4 Q IS THE SECOND ONE A LITTLE BIT CLEARER?

5 A YES, IT IS.

6 Q I WOULD LIKE TO DRAW YOUR ATTENTION TO THIS FIRST
7 PARAGRAPH ON PAGE 2, CAN YOU READ THAT PARAGRAPH TO THE
8 JURY?

9 A IT SAYS THAT CAROLINA INVESTORS BELIEVES THAT THE
10 STANCE OF ELLIOTT DAVIS WHICH WE CONSIDER OVERLY
11 CONSERVATIVE MIGHT HAVE BEEN INFLUENCED BY THE
12 ENRON-ARTHUR ANDERSON DEBACLE AND GLOBAL CROSSING
13 ACCOUNTING PROBLEMS. HOMEGOLD HAS ADVISED THAT CAROLINA
14 INVESTORS THAT ITS, MORTGAGE ORIGINATION VOLUME AND
15 OPERATING LOSSES FOR THE FIRST QUARTER OF 2002 HAS BEEN
16 BETTER THAN ANY TIME IN THE PAST FOUR YEARS. HOMEGOLD HAS
17 ALSO PLANNED TO LIQUIDATE THE CAROLINA INVESTORS OVER
18 APPROXIMATELY SEVEN TO TEN YEARS. IN THE INTERIM HOMEGOLD
19 AND CAROLINA INVESTORS HAVE MODIFIED THE INTEREST RATE
20 FROM PRIME PLUS TWO PERCENT TO THREE PERCENT OVER THE
21 AVERAGE COST OF FUNDS FOR CAROLINA INVESTORS.

22 Q GOING TO THESE AND IS THAT LETTER SIGNED BY RONNIE
23 SHEPPARD AS ONE OF THE BOARD MEMBERS OF CAROLINA
24 INVESTORS?

25 A YES.

1 Q IS THE FIRST LETTER SIGNED BY THE OTHER MEMBERS THAT
2 IS LESS CLEAR TO SEE, ALSO SIGNED BY THEM?

3 A YES.

4 Q AND LOOKING AT THE NAME OF THAT DOES THAT REFRESH
5 YOUR MEMORY ABOUT THE OTHER TWO INDIVIDUALS THAT MIGHT OF
6 BEEN AT THAT MARCH 14TH MEETING?

7 A IT WAS DON BOBO, THAT WERE NOT AT THE MEETING. I
8 JUST DON'T REMEMBER.

9 Q OKAY. THAT IS FINE.

10 A I WOULD HAVE TO GO BACK AND LOOK AT THE MINUTES, I
11 REALLY DON'T WANT TO ANSWER THAT, I REALLY DON'T KNOW THE
12 ANSWER.

13 Q WHO IS THAT LETTER SENT TO?

14 A THIS LETTER IS SENT TO THE OFFICE OF THE SOUTH
15 CAROLINA ATTORNEY GENERAL, A SECURITIES DIVISION.

16 Q AND IS THAT WHERE THIS PROSPECTUS, THE SECURITIES
17 DIVISION, WHERE THIS GETS FILED?

18 A IT IS.

19 Q BASED UPON YOUR REVIEW OF WHAT YOU REVIEWED AT THE
20 MARCH 14TH MEETING, DID YOU SEE ANYTHING ABOUT ELLIOTT
21 DAVIS' DECISION BASED UPON ARTHUR ANDERSON AND THE ENRON
22 PROBLEM?

23 A NO, MA'AM.

24 Q AND BASED UPON YOUR EXPERIENCE AND EXPERTISE AND YOUR
25 REVIEW OF THE FINANCIAL STATEMENTS, WHAT IS THE REASON

1 THAT GOING CONCERN AND LOAN IMPAIRMENT WAS PUT IN FOR THE
2 YEAREND DECEMBER 31ST OF 2001?

3 A BECAUSE OF THE PAST PERFORMANCE OF THE COMPANY AND
4 POTENTIALLY THE FUTURE PERFORMANCE OF THE COMPANY.

5 Q AND THAT WAS THE LOAN IMPAIRMENT AND THE GOING
6 CONCERN?

7 A THAT IS RIGHT.

8 Q LET'S MOVE ON LATER TO 2002, ARE THERE OTHER
9 SIGNIFICANT EVENTS AND I'LL CALL YOUR ATTENTION TO
10 APPROXIMATELY TO³ AUGUST OF 2002, THAT OCCURRED AT
11 HOMEGOLD?

12 A WELL, I BELIEVE THERE WERE SOME RESIGNATIONS AND
13 THINGS GOING ON AT THAT POINT AND TIME.

14 Q AND I AM GOING TO SHOW YOU THIS, IS THAT SOMETHING
15 THAT YOU REVIEWED IN FORMING YOUR OPINION HERE TODAY?

16 A YES.

17 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
18 MARK THIS FOR IDENTIFICATION PURPOSES ONLY.

19 THE COURT: THAT WILL BE MARKED STATE'S 63, ID ONLY.
20 (WHEREUPON, STATE'S EXHIBIT NO. 63 WAS MARKED FOR
21 IDENTIFICATION ONLY.)

22 Q AND WHO IS THAT A LETTER FROM?

23 MR. GRIFFIN: YOUR HONOR, I WANT TO OBJECT AGAIN.

24 ALL SHE IS DOING IS TAKING ALL OF HER EVIDENCE AND PUT IT
25 THROUGH THE WITNESSES AND DOING, IT IS A SUMMARY OF HER

1 CASE, NOT OF ANY EXPERT OPINION.

2 THE COURT: THIS HAS BEEN IDENTIFIED ONLY, HE CAN
3 IDENTIFY WHAT THE DOCUMENT IS AND THAT IS AS FAR AS SHE
4 CAN GO.

5 MR. GRIFFIN: THANK YOU.

6 Q WHO IS THAT A LETTER FROM?

7 A THAT IS A LETTER FROM THE CFO OF HOMEGOLD.

8 Q AND LET'S TALK ABOUT THE LETTERS AT HOMEGOLD, DID YOU
9 REVIEW DURING THE DEFENDANT'S TENURE AS CEO OF HOMEGOLD
10 THE DIFFERENT CFO'S THAT WERE THERE DURING THE TIME FROM
11 HIS MERGER THAN WHEN HE LEFT IN DECEMBER.

12 MR. GRIFFIN: OBJECTION, YOUR HONOR, THAT HAS NOTHING
13 TO DO WITH ANY OPINION, I HAVEN'T HEARD AN OPINION FROM
14 THIS WITNESS YET TO BE HONEST WITH YOU, I OBJECT.

15 THE COURT: THE LAST QUESTION I OVERRULE THE
16 OBJECTION, YOU CAN ANSWER THAT QUESTION.

17 Q DID YOU REVIEW CFO'S?

18 A YES.

19 Q AND WHEN THE DEFENDANT MERGED WITH THE COMPANY WHO
20 WAS THE CFO?

21 A I FORGOTTEN WHO IT WAS BUT HE WENT THROUGH SEVERAL
22 DIFFERENT CFO'S DURING THAT TIME PERIOD.

23 Q AND WAS KEVIN MARTIN ONE OF THEM?

24 A YES, HE WAS.

25 Q OKAY. DID YOU ALSO REVIEW INFORMATION TO FORM YOUR

1 OPINION ABOUT ELLIOTT DAVIS AND ELLIOTT DAVIS RESIGNING AS
2 INDEPENDENT AUDITORS?

3 A I DID.

4 Q AND WAS THAT ALSO FILED IN ONE OF THE 8K'S?

5 A IT WAS.

6 Q AND I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
7 STATE'S EXHIBIT NUMBER 42. AND WHEN WAS THAT 8K FILED?

8 A OCTOBER THE 30TH OF 2002.

9 Q SO, ELLIOTT DAVIS RESIGNED AS INDEPENDENT AUDITORS IN
10 2002?

11 A YES, THEY DID.

12 Q DID YOU ALSO LOOK AT SOME POINT, THEM TRYING TO SELL
13 THE RETAIL MORTGAGE DIVISION?

14 A I DID.

15 Q AND BEFORE WE GET TO THE DEFENDANT'S PURCHASE, WERE
16 THERE OTHER OFFERS THAT CAME IN?

17 A THERE WERE.

18 Q AND BASED UPON YOUR REVIEW OF YOUR OFFERS, THE OFFERS
19 THAT CAME IN WERE THEY EQUAL TO OR CLOSE TO THE VALUATIONS
20 THAT WERE PUT INTO THAT PROSPECTUS?

21 A WELL, THE OFFERS THAT I LOOKED AT, THEY WERE NOT FOR
22 CASH, THEY WERE NOT OFFERS THAT THEY WOULD PAY CASH FOR
23 THE COMPANY AT ALL. WHAT THEY WERE WERE EARN OUTS, OKAY,
24 WHAT THE PURCHASER WAS SAYING WAS, I WILL BUY YOUR COMPANY
25 BUT I WILL PAY YOU BASED ON THE EARNINGS OF THE COMPANY

1 AND I WILL PAY YOU SOME NUMBER IN SOME FUTURE VALUE BASED
2 ON HOW MUCH I MAKE WHEN I BUY THIS COMPANY.

3 Q AND DID IT TURN TO EVENTUALLY THE EMMCO/HOMEGOLD
4 TRANSACTION?

5 A EVENTUALLY IT WAS SOLD, YES, THE EMMCO TRANSACTION.

6 Q AND DID YOU REVIEW THE TERMS OF THAT TRANSACTION?

7 A YES, I DID.

8 Q ALL RIGHT. WILL YOU PLEASE EXPLAIN WHAT HOMEGOLD DID
9 WITH THE HOMEGOLD/EMMCO TRANSACTION?

10 A CAN I STEP DOWN.

11 THE COURT: YES.

12 A ON DECEMBER OF 2002 HOMEGOLD SOLD THE RETAIL MORTGAGE
13 DIVISION, THEY SOLD IT TO EMMCO, A COMPANY THAT WAS OWNED
14 BY RONNIE SHEPPARD. AND THEY SOLD IT TO EMMCO AND WHAT
15 THEY DID, IS THEY GAVE \$60,800,000.00 PREPAID MARKET
16 EXPENSES AND THEY GAVE LAND AND PROPERTY FOR \$3,445,000.00
17 AND THAT MADE THE LOAN TO R-DOC OF \$3 MILLION DOLLARS AND
18 \$2 MILLION DOLLARS. AND EMMCO RECEIVED ALL THE ASSETS OF
19 HOMEGOLD AND THEY REQUIRED TEN OF THESE OFFICES.

20 Q AND WE HAVE BEEN USING THE TERM, HOMEGOLD, IS THERE A
21 HOMEGOLD FINANCIAL?

22 A YES.

23 Q INCORPORATED?

24 A YES.

25 Q AND IS THERE A HOMEGOLD INCORPORATED?

1 A YES.

2 Q AND DID HE BUY THE MORTGAGE DIVISION OF JUST HOMEGOLD
3 INCORPORATED?

4 A THAT IS CORRECT.

5 Q OKAY. HE DIDN'T BUY ALL OF HOMEGOLD, HOMEGOLD
6 CONTINUED TO EXIST?

7 A THAT IS RIGHT.

8 Q AND WHAT ELSE DID HE ACQUIRE WITH THIS?

9 A WELL, HE ACQUIRED OFFICES, TEN OF THE EIGHTEEN
10 OFFICES ALSO.

11 Q AND WHAT DID THE DEFENDANT PROMISE FOR ALL OF THIS?

12 A WHAT HE PROMISED WAS A PROMISSORY NOTE OF
13 \$8,445,000.00. HE GAVE \$150 THOUSAND DOLLARS IN CASH AND
14 HE AGREED TO PAY FIFTY PERCENT OF THE DEBT PROFITS BEFORE
15 TAXES.

16 Q AND IN ESSENCE ALL OF THAT WAS DONE WITH A PROMISE OF
17 THE DEFENDANT TO PAY BACK AND WHO WAS HE TO PAY BACK THE
18 MONEY?

19 A HE WAS TO PAY BACK TO HOMEGOLD.

20 Q AND BASED UPON YOUR REVIEW OF THE FINANCIALS DID YOU
21 EVER SEE FROM THE FINANCIALS ANY MONEY PAID BACK BY THE
22 DEFENDANT AND EMMCO TO HOMEGOLD OR CAROLINA INVESTORS?

23 A I DIDN'T SEE ANY MONEY BEING PAID FROM THE DEFENDANT
24 TO HOMEGOLD OR CAROLINA INVESTORS.

25 Q NOW, ON THIS CHART, IS THAT CORRECT?

1 A I BELIEVE THAT IS CORRECT.

2 Q IS THAT DECEMBER THE 31ST?

3 A MAYBE IT IS DECEMBER 31ST.

4 Q AND AT THIS POINT WHAT WE HAVE, YEAREND DECEMBER 31ST
5 HOW MUCH IS OWED TO CAROLINA INVESTORS?

6 A \$243,211,706.00.

7 Q AND WHAT IS THEIR ABILITY TO GET THAT MONEY BACK?

8 A WELL, THAT MONEY IS GOING TO PAID BACK, IT WAS
9 SUPPOSE TO BE PAID BACK OUT OF FUTURE PROFITS OF EMMCO,
10 FIFTY PERCENT OF THE FUTURE PROFITS BEFORE TAXES AND
11 INCOME.

12 Q MOVING ON TO 2003, HOMEGOLD CONTINUES TO EXIST,
13 CORRECT?

14 A YES.

15 Q WAS THERE ALSO ANOTHER COMPANY THAT CAME INTO THE
16 PICTURE AROUND 2001, 2002 CALLED FLEXCHECK?

17 A IT WAS.

18 Q AND JUST GIVE THE JURY A CURSORY UNDERSTANDING OF
19 WHAT THE FLEXCHECK DOCUMENTS THAT YOU, THE FLEXCHECK
20 SITUATION WAS. FIRST OF ALL, WHAT WAS FLEXCHECK?

21 A FLEXCHECK WAS AN LLC, IT WAS A LIMITED LIABILITY
22 COMPANY AND IT WAS A PAYDAY LENDING OPERATION.

23 Q AND WHAT TYPE OF RELATIONSHIP DID HOMEGOLD AND
24 FLEXCHECK HAVE?

25 A WELL, HOMEGOLD FUNDED THIS OPERATION AND THEY AGREED

1 TO LOAN UP TO \$15 MILLION DOLLARS TO THIS COMPANY TO GET
2 STARTED.

3 Q THEY WERE A SEPARATE COMPANY, THEY WERE A BORROWER OF
4 HOMEGOLD?

5 A YES.

6 Q WHAT ULTIMATELY HAPPENS WITH CAROLINA INVESTORS AND
7 HOMEGOLD?

8 A WELL, CAROLINA INVESTORS CLOSED THEIR DOORS ON MARCH
9 THE 20TH OF 2003 AND HOMEGOLD DECLARED BANKRUPTCY ON APRIL
10 THE 8TH OF 2003.

11 Q AND HOW MUCH DOES HOMEGOLD OWE TO CAROLINA INVESTORS
12 WHEN THEY CLOSED THEIR DOORS ON MARCH 21ST OF 2003?

13 A I THINK AROUND \$250 MILLION DOLLARS.

14 Q BASED UPON YOUR REVIEW OF THE HOMEGOLD/HOMESENSE
15 MERGER AND DOCUMENTS THAT YOU REVIEWED, HAVE YOU FORMED AN
16 OPINION ON WHETHER OR NOT THE DEFENDANT IN THE MERGER
17 BETWEEN HOMESENSE AND HOMEGOLD BROUGHT THE FULL AMOUNT OF
18 CASH OR CAPITAL THAT HE WAS SUPPOSE TO BRING IN TO THE
19 MERGER?

20 A IT DID NOT APPEAR TO ME THAT HE DID.

21 Q AND BASED UPON YOUR REVIEW OF THE MERGER DOCUMENTS DO
22 YOU HAVE AN OPINION AS TO WHETHER OR NOT AT THE TIME OF
23 THE MERGER, IT WAS CLEAR THAT CAROLINA INVESTORS WAS A
24 SUBSIDIARY OF HOMEGOLD?

25 A YES, IT WAS.

1 Q BASED UPON YOUR REVIEW OF THE MERGER DOCUMENTS DO YOU
2 HAVE AN OPINION ON WHETHER OR NOT THERE WAS FULL
3 DISCLOSURE REGARDING HOMEGOLD AND CAROLINA INVESTORS TO
4 THE DEFENDANT?

5 MR. GRIFFIN: YOUR HONOR, OBJECT TO THE DISCLOSURE,
6 HE IS NOT A DISCLOSER EXPERT, HE IS AN ACCOUNTANT.

7 THE COURT: I WILL OVERRULE, HE CAN ANSWER THE
8 QUESTION.

9 Q BASED UPON YOUR REVIEW OF THE MERGER DOCUMENTS DO YOU
10 HAVE AN OPINION WHETHER OR NOT THERE WAS FULL DISCLOSURE
11 OF THE FINANCIAL SITUATION AT HOMEGOLD AND CAROLINA
12 INVESTORS AT THE TIME OF THE HOMESENSE/HOMEGOLD MERGER?

13 A YES, IT WAS.

14 Q AND MR. BURKETT, BASED UPON YOUR REVIEW OF THE
15 CONSOLIDATED FINANCIAL STATEMENTS OF HOMEGOLD AND CAROLINA
16 INVESTORS AND THE OTHER INFORMATION THAT YOU HAVE RECEIVED
17 AND BASED UPON YOUR EXPERIENCE AND EXPERTISE AS A CPA DO
18 YOU HAVE AN OPINION AS TO WHETHER OR NOT THE FINANCIAL
19 CONDITION OF THE COMPANY IMPROVED IN 2002 AND IN ANY WAY
20 IMPROVED THEIR ABILITY TO PAY BACK THE LOAN TO CAROLINA
21 INVESTORS?

22 A I DO HAVE AN OPINION.

23 Q AND WHAT IS THAT OPINION?

24 A THAT IT DID NOT IMPROVE IN 2002.

25 Q IN 2000?

1 A IN 2000, NO IT DID NOT IMPROVE IN 2000.

2 Q THE SAME QUESTION FOR THE YEAR OF 2001?

3 A IT DID NOT IMPROVE IN 2001.

4 Q AND, MR. BURKETT, BASED UPON YOUR REVIEW OF THE
5 CONSOLIDATED FINANCIAL STATEMENTS OF HOMEGOLD AND CAROLINA
6 INVESTORS AND THE OTHER INFORMATION YOU REVIEWED AND BASED
7 UPON YOUR EXPERIENCE AND EXPERTISE AS A CPA DO YOU HAVE AN
8 OPINION AS TO WHETHER OR NOT IN 2001 THE COMPANY EARNED A
9 PROFIT OR MET THEIR PROJECTIONS?

10 A IT DID NOT EARN A PROFIT AND THE PROJECTIONS THAT I
11 SAW SHOWED IT WOULD BE PROFITABLE SO IT DID NOT MEET THE
12 PROJECTIONS.

13 Q AND WE ALREADY TALKED ABOUT THAT ONE QUARTER WHERE
14 THEY SHOWED A PROFIT BUT DID THEY ACTUALLY EARN A PROFIT
15 IN YOUR EXPERT OPINION?

16 A I DO NOT BELIEVE SO, NO.

17 Q AND, MR. BURKETT, IN YOUR REVIEW OF THE FINANCIAL
18 INFORMATION THAT HOMEGOLD, CAROLINA INVESTORS AND THE
19 OTHER INFORMATION THAT YOU HAVE REVIEWED, BASED UPON YOUR
20 EXPERIENCE AND EXPERTISE AS A CPA DO YOU HAVE AN OPINION
21 BY THE YEAREND OF 2001 THAT THE INTER-COMPANY DEBT WAS
22 GOING TO BE PAID OR PAID DOWN TO BE ABOUT \$100 MILLION
23 DOLLARS?

24 A I DO HAVE AN OPINION, YES, AND THE FACTS ARE IT DID
25 NOT GET PAID DOWN AND IT DIDN'T APPEAR TO ME THAT AT ANY

1 POINT AND TIME THAT THEY WOULD HAVE THE ABILITY TO PAY IT
2 DOWN.

3 Q AND, AGAIN, BASED UPON YOUR REVIEW AND EVERYTHING
4 HAVE YOU FORMED AN OPINION THAT IN NOVEMBER OF 2002 OF
5 WHETHER OR NOT THIS EMMCO TRANSACTION WAS GOING TO OR DID
6 PAY DOWN THE CAROLINA INVESTORS DEBT OF \$25 MILLION
7 DOLLARS?

8 A I DO HAVE AN OPINION, YES.

9 Q AND WHAT IS THAT?

10 A I DIDN'T SEE HOW IT WAS GOING TO PAY DOWN ANY DEBT, I
11 DIDN'T SEE HOW IT WAS GOING TO PAY THE DEBT OF \$25 MILLION
12 DOLLARS AT ALL.

13 Q AND, MR. BURKETT, BASED UPON YOUR REVIEW OF
14 EVERYTHING DO YOU HAVE AN OPINION THAT IN NOVEMBER OF 2002
15 WHETHER OR NOT, WOULD IT BE A FAIR OPINION THAT HOMEGOLD
16 WOULD EARN A PROFIT BY FORTH QUARTER OR YEAREND 2002?

17 A I DO HAVE AN OPINION.

18 Q AND WHAT IS THAT OPINION?

19 A MY OPINION WAS THEY WERE NOT GOING TO EARN A PROFIT
20 IN THE FORTH QUARTER OF 2002 AND THEY DID NOT EARN A
21 PROFIT IN THE FORTH QUARTER, 2002.

22 Q AND DID YOU REVIEW, I WANT TO GO BACK BRIEFLY FOR
23 IDENTIFICATION PURPOSES. MR. BURKETT, YOU PREVIOUSLY
24 TESTIFIED AS TO REIMBURSEMENTS FOR WALLPAPER, MILEAGE AND
25 TWO \$200 THOUSAND DOLLAR CHECKS?

1 A YES, MA'AM.

2 Q WITHOUT SAYING WHAT THOSE ARE, HAVE YOU SEEN THOSE
3 BEFORE?

4 A YES MA'AM, I HAVE SEEN THEM BEFORE.

5 Q OKAY.

6 MS. EVANS: YOUR HONOR, MAY I STATE WHAT THEY ARE
7 WITHOUT GOING INTO DETAILS OR JUST HAVE THEM EACH MARKED
8 AS IDENTIFICATION PURPOSES.

9 THE COURT: WILL BE MARKED, MARKED SEPARATELY OR AS
10 ONE?

11 MS. EVANS: SEPARATELY, YOUR HONOR.

12 THE COURT: HOW MANY DOCUMENTS ARE THERE?

13 MS. EVANS: FIVE, YOUR HONOR.

14 THE COURT: THOSE ARE 64 THROUGH 68, MADAM REPORTER?

15 COURT REPORTER: YES, SIR.

16 THE COURT: THOSE ARE MARKED FOR IDENTIFICATION ONLY.

17 (WHEREUPON, STATE'S EXHIBIT NOS. 64 THROUGH 68 WERE
18 MARKED FOR IDENTIFICATION ONLY.)

19 Q MR. BURKETT, WHEN YOU STARTED TESTIFYING YOU SAID
20 THAT YOU REVIEWED SEVERAL DOCUMENTS, ONE OF THEM WAS
21 MINUTES OF CAROLINA INVESTORS BOARD MINUTES. WITHOUT
22 SAYING WHAT IS IN THAT ARE THOSE THE MINUTES THAT YOU
23 REVIEWED?

24 A YES, MA'AM.

25 MS. EVANS: YOUR HONOR, FOR IDENTIFICATION PURPOSES

1 ONLY, ALL OF THEM AS ONE EXHIBIT.

2 THE COURT: WILL BE STATE'S 69 FOR IDENTIFICATION
3 ONLY.

4 (WHEREUPON, STATE'S EXHIBIT NO. 69 WAS MARKED FOR
5 IDENTIFICATION ONLY.)

6 Q MR. BURKETT, WE JUST DISCUSSED THE EMMCO TRANSACTION.
7 DID YOU REVIEW SEVERAL DOCUMENTS THERE REGARDING THE
8 EMMCO/HOMEGOLD TRANSACTION?

9 A YES MA'AM, I REVIEWED SOME OF THESE.

10 MS. EVANS: I BELIEVE THAT IS NUMBER 70 FOR
11 IDENTIFICATION.

12 THE COURT: 70 FOR IDENTIFICATION ONLY AT THIS TIME.
13 (WHEREUPON, STATE'S EXHIBIT NO. 70 WAS MARKED FOR
14 IDENTIFICATION ONLY.)

15 Q MR. BURKETT, I MEANT TO ASK YOU EARLIER, IN GOING
16 OVER THE EMMCO TRANSACTION YOU TALKED ABOUT A \$5 MILLION
17 DOLLAR LOAN, \$3 MILLION IN CASH AND \$2 MILLION IN KIND
18 SERVICES. BASED UPON YOUR REVIEW OF THE DOCUMENTS THAT
19 HAVE BEEN IDENTIFIED FOR IDENTIFICATION PURPOSES ONLY DID
20 YOU REVIEW THAT THERE WAS SOME AGREEMENT BETWEEN HOMEGOLD
21 AND EMMCO AFTER THE COMPANY WAS FORMED, THAT THERE WAS A
22 SERVICING AGREEMENT BETWEEN THE TWO COMPANIES?

23 A YES.

24 Q AND DID YOU, EVEN AFTER EMMCO WAS FORMED AND HOMEGOLD
25 WAS FORMED THERE IS STILL INTERACTION BETWEEN BOTH

1 HOMEGOLD AND EMMCO?

2 A YES, MA'AM.

3 Q AND WHAT DO YOU MEAN BY \$2 MILLION IN KIND SERVICES?

4 A I BELIEVE THAT WAS SERVICES THAT WAS GOING TO BE
5 PERFORMED.

6 Q AND PART OF WHAT YOU REVIEWED, WERE THERE SERVICING
7 AGREEMENTS THAT HOMEGOLD IS GOING TO DO THINGS FOR EMMCO
8 TO GET EMMCO STARTED?

9 A YES, THAT IS WHAT IT WAS.

10 Q AND AT THE END OF THE DAY CAROLINA INVESTORS, TO GET
11 PAID BACK WHEN THE EMMCO TRANSACTION STARTS, WHAT IS THEIR
12 ABILITY, WHAT IS YOUR EXPERT OPINION ABOUT THEIR ABILITY
13 TO BE REPAID BASED UPON THIS EMMCO AGREEMENT?

14 A WELL, IF YOU LOOK AT THE EMMCO AGREEMENT, WHAT IT
15 STATES IS THAT IT IS AN EARN OUT AND IT IS FIFTY PERCENT
16 OF THE NET PROFITS BEFORE TAXES OF THE COMPANY. AND YOU
17 TAKE, EMMCO IS BASICALLY THE SAME BUSINESS THAT HOMEGOLD
18 WAS. YOU HAVE GOT THE SAME PERSON RUNNING IT, WAS RUNNING
19 IT BEFORE SO YOU HAVE TAKEN THE SAME PERSON, THE SAME
20 BUSINESS AND IT HASN'T MADE ANY MONEY FOR A NUMBER OF
21 YEARS. AS A MATTER OF FACT, IT HAS LOST HUGE SUMS OF
22 BUSINESS AND THE FACT THAT THIS IS AN EARN OUT AND MY
23 CONCLUSION SINCE YOU HAVEN'T MADE ANY MONEY IN THE PAST IT
24 ISN'T LIKE YOU ARE GOING TO MAKE ANY MONEY IN THE FUTURE.
25 YOU REALLY HAVEN'T CHANGED MUCH AS FAR AS WHO IS RUNNING

1 THE BUSINESS, YOU ARE STILL IN THIS TYPE OF BUSINESS, THE
2 SAME PERSON RUNNING THE BUSINESS. SO FOR THEM TO GET PAID
3 BACK YOU WOULD HAVE TO MAKE MONEY AND THEN YOU WOULD BE
4 PAID BACK ALL OF IT, IF YOU LOOK AT THE FIFTY PERCENT NET
5 PROFITS, THAT NUMBER IS ALMOST \$250 MILLION DOLLARS THAN
6 EMMCO WOULD HAVE TO MAKE OVER \$500 MILLION DOLLARS BEFORE
7 TAXES JUST TO PAY BACK THAT DEBT RIGHT THEN.

8 Q AND BASED UPON YOUR REVIEW OF THE FINANCIAL SITUATION
9 AND JUST SPECIFICALLY LOOKING AT 2000, 2001, HOW MUCH
10 MONEY ARE THEY SPENDING TO MAKE EVERY DOLLAR?

11 A THEY ARE SPENDING ALMOST \$2 DOLLARS TO BRING IN A
12 DOLLAR, THEY ARE NOT MAKING ANY MONEY. THEY ARE BRINGING
13 IN A DOLLAR AND SPENDING ALMOST \$2 DOLLARS TO BRING IN A
14 DOLLAR.

15 Q AT THE END OF THE DAY, THE ABILITY, IN YOUR EXPERT
16 OPINION, WHAT IS THE ABILITY OF CAROLINA INVESTORS TO BE
17 REPAID THE ALMOST OVER \$200 MILLION DOLLARS THAT THE
18 INVESTORS IN CAROLINA INVESTORS INVESTED IN TO?

19 A BASED ON WHAT YOU SEE, THE CONCLUSION THAT I DREW,
20 THEY WERE NOT GOING TO BE PAID BACK AND THEY COULD NOT BE
21 PAID BACK.

22 Q BASED UPON EVERYTHING THAT YOU REVIEWED, WERE THEY
23 PAID BACK FROM THIS DEAL?

24 A I DIDN'T SEE WHERE THEY GOT BACK ANYTHING.

25 MS. EVANS: I HAVE NO FURTHER QUESTIONS OF THIS

1 WITNESS.

2 THE COURT: YA'LL STEP UP FOR JUST ONE MINUTE BEFORE
3 YOU START YOUR CROSS-EXAMINATION.

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
5 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
6 JURY.)

7 THE COURT: YOU MAY CROSS-EXAMINE, MR. GRIFFIN.

8 MR. GRIFFIN: THANK YOU, YOUR HONOR.

9 CROSS-EXAMINATION

10 BY MR. GRIFFIN: #

11 Q GOOD AFTERNOON, MR. BURKETT. DID I PRONOUNCE IT
12 CORRECTLY?

13 A IT IS BURKETT.

14 Q BURKETT?

15 A YES.

16 Q HAVE YOU BEEN AN EXPERT HOW MANY, A COUPLE OF HUNDRED
17 TIMES?

18 A YES, SIR.

19 Q AND YOU ARE GETTING PAID, YOU WERE PAID FOR YOUR TIME
20 TO REVIEW THESE RECORDS, CORRECT?

21 A YES, SIR.

22 Q AND YOU ARE BEING PAID FOR YOUR TIME TO TESTIFY HERE
23 TODAY?

24 A YES, SIR.

25 Q AND YOU HAVE BEEN, YOU WERE PAID FOR YOUR TIME WITH

1 CONNECTION OF OTHER MATTERS?

2 A OTHER MATTERS?

3 Q RELATING TO HOMEGOLD?

4 A YES, SIR.

5 Q ABOUT THE BANKRUPTCY TRUSTEE?

6 A YES, SIR.

7 Q AND YOU COLLECTED NORTH OF \$30 THOUSAND DOLLARS SO
8 FAR?

9 A I AM SORRY, I HAVEN'T BEEN PAID ANYTHING BY THE
10 BANKRUPTCY TRUSTEE. IS THAT YOUR QUESTION?

11 Q HOW MUCH HAVE YOU BEEN PAID TO REVIEW DOCUMENTS AND
12 TO OFFER TESTIMONY FOR LAWYERS, PEOPLE AT THE ATTORNEY
13 GENERALS OFFICE OR ANYONE AT HOMEGOLD OR CAROLINA
14 INVESTORS?

15 A FOR THIS CASE OUR BILL HAS BEEN ABOUT \$20 THOUSAND
16 DOLLARS THROUGH THE END OF LAST MONTH.

17 Q THAT IS JUST FOR THIS?

18 A YES, SIR.

19 Q AND THEN YOU WERE PAID FOR RELATED WORK?

20 A YES, SIR.

21 Q AND ROUGHLY HOW MUCH?

22 A I WOULD SAY \$30 THOUSAND DOLLARS OR SO BUT I REALLY
23 DON'T KNOW WHAT THAT NUMBER IS BUT I WILL SAY AROUND \$30
24 THOUSAND DOLLARS.

25 Q SO TOTAL OF SOME \$50 THOUSAND DOLLARS?

1 A YES, SIR.

2 Q NOW, YOU HAVE OFFERED AN OPINION, I TAKE IT, THAT
3 EMMCO DID NOT PAY BACK ANY MONEY UNDER THIS ARRANGEMENT,
4 THE EMMCO SALE THAT YOU HAVE INCORRECTLY IDENTIFIED AS
5 DECEMBER THE 3RD OF 2002, IS IT YOUR OPINION THAT THEY
6 DIDN'T PAY BACK ANYTHING, CORRECT?

7 A WHAT I SAID IS THAT I DIDN'T SEE THAT THEY PAID BACK
8 ANYTHING, I DIDN'T SEE ANY REFERENCE WHERE THEY PAID BACK
9 ANYTHING.

10 Q AND THE RECORDS PROVIDED WERE PROVIDED TO YOU TO
11 REVIEW, WHO PUT OUT THOSE RECORDS TO YOU?

12 A WELL, THEY WERE PROVIDED, WE GOT INFORMATION FROM THE
13 SECURITIES EXCHANGE COMMISSION, THE 10K'S AND THE 10Q'S
14 AND IT WAS PROVIDED BY THE STATE.

15 Q THAT IS IT?

16 A YES.

17 Q NOW, THE 10K'S, THERE WERE NO 10K'S FILED AFTER
18 DECEMBER 31 OF 2002, IS THAT CORRECT?

19 A THAT IS CORRECT.

20 Q AND THERE WAS NO 10Q FILED AFTER DECEMBER 31 OF 2002,
21 CORRECT?

22 A THAT IS CORRECT.

23 Q AND IN FACT YOU ARE AWARE THAT EMMCO REACHED A
24 FINANCIAL SETTLEMENT WITH A TRUSTEE OVER THE PURCHASE OF
25 THIS BUILDING, BUSINESS--

1 MS. EVANS: YOUR HONOR, MAY WE APPROACH?

2 THE COURT: SURE.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
4 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
5 JURY.)

6 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
7 THERE IS A MATTER THAT HAS COME UP THAT I NEED TO TAKE UP
8 OUTSIDE OF YOUR PRESENCE. AND THERE WILL BE SEVERAL
9 CONFERENCES AND HEARINGS LIKE THIS DURING THE COURSE OF
10 THE TRIAL THAT I HAVE TO SEND YOU OUT AND MAYBE TAKE
11 TESTIMONY. BUT AS FAR AS YOU ARE CONCERNED WE WILL BREAK
12 FOR THE DAY. LET ME CAUTION YOU AND ORDER YOU NOT TO
13 DISCUSS THE CASE WITH FAMILY OR FRIENDS OR WITH ANYONE
14 ELSE. YOU CAN LEAVE YOUR NOTE PADS THERE IN THE CHAIRS, A
15 BAILIFF WILL TAKE THEM UP AND PUT THEM IN THE JURY ROOM.
16 WE MAY HAVE SOME INCLEMENT WEATHER, WE MAY OR MAY NOT GET
17 SOME FROZEN PRECIPITATION. GENERALLY WHAT I DO IS SIMPLY
18 FOLLOW WHATEVER THE LOCAL SCHOOLS DO. SO, WHAT WE ARE
19 GOING TO DO, AND WE HAVE GOT TWO OR THREE OR FOUR SCHOOL
20 DISTRICTS THAT MAY BE DOING DIFFERENT THINGS. I HAVE GOT
21 A NUMBER THAT I AM GOING TO GIVE YOU, YOU CAN FIND OUT
22 WHEN YOU NEED TO BE HERE TOMORROW. IT IS 359-8000, IT
23 WILL BE OPTION NUMBER 4 AND THERE WILL BE A MESSAGE ON
24 THERE AND IF THERE IS NOTHING STICKING AND THE SCHOOLS ARE
25 ON SCHEDULE WE WILL BE ON SCHEDULE, YOU WILL NEED TO BE

1 HERE AT 9:30 TOMORROW MORNING. IF THE SCHOOLS END UP ON A
2 TWO HOUR DELAY THAT WILL PUT THEM GOING TO SCHOOL AT ABOUT
3 10:00, IT MAY BE 10:30 BEFORE I ASK YOU TO BE HERE BUT IT
4 WILL BE ON THAT RECORDING AT THAT NUMBER. I WILL BE IN
5 TOUCH WITH THE CLERK IN THE MORNING. I WILL PROBABLY LOOK
6 AT LEXINGTON DISTRICT ONE AND WHATEVER THEY DO WE WILL DO.
7 AND CALL THAT NUMBER AND WE WILL SEE YOU TOMORROW.
8 EVERYONE ELSE STAY SEATED WHILE THE JURY IS EXCUSED. WE
9 WILL SEE YOU AT 9:30 UNLESS SOMETHING CHANGES. HAVE A
10 GOOD EVENING.

11 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
12 THE DAY.)

13 THE COURT: LET'S GO AHEAD AND GET YOUR OBJECTION ON
14 THE RECORD AND THEN IF WE NEED TO TAKE SOME TESTIMONY WE
15 WILL DO THAT RIGHT NOW.

16 MS. EVANS: YOUR HONOR, CLEARLY PRETRIAL WE MADE A
17 MOTION NOT TO BRING UP ANY, FIRST OF ALL IT IS SEALED, I
18 HAVE NO IDEA WHAT THE DEFENDANT PAID BACK IN A BANKRUPTCY
19 PROCEEDING. IF I HAVE THOUGHT, AS MR. GRIFFIN HAS STATED,
20 THAT HE WAS NOT GOING TO GET INTO ANY REPAYMENT, I DID NOT
21 ASK HIM IF HE PAID BACK ANYTHING. I SAID TO HOMEGOLD,
22 THERE WAS A BANKRUPTCY PROCEEDING TOTALLY SEPARATE AND
23 APART AND MR. GRIFFIN SAID HE WAS NOT GOING TO GET INTO
24 ANY PAYMENT AND HE HAD NO INTENTION TO. AND IN FACT IT IS
25 A DIRECT VIOLATION OF JUDGE ROSS ANDERSON'S ORDER THAT

1 GETTING INTO ANY TYPE OF PAYMENT THAT WAS MADE. THAT IS
2 WHY WE BROUGHT IT UP PRETRIAL BECAUSE IF HE WAS GOING TO
3 GET INTO IT I WOULD OF SEEN WHAT WE COULD OF DONE TO BE
4 ABLE TO PROVIDE MR. BURKETT WITH WHATEVER BANKRUPTCY
5 PROCEEDING. MY QUESTION TO HIM WERE, PURSUANT TO THE
6 TERMS OF EMMCO DID HE PAY THAT BACK. AND A BANKRUPTCY
7 PROCEEDING IS NOT PURSUANT TO THE TERMS OF THE EMMCO DEAL,
8 THAT IS TOTALLY SEPARATE AND APART. AND AS FAR AS HOW
9 MUCH HE PAID BACK, THE ONLY PERSON THAT SHOULD KNOW THAT,
10 WE WILL GET MR. GLEISSNER UP THERE, THAT IS ALL SEALED.
11 AND JUDGE ROSS [#]ANDERSON ORDERED THAT IT BE SEALED AND I
12 HAVE NO IDEA, FIRST OF ALL, MR. GRIFFIN TALKED ABOUT
13 ANYTHING THAT MR. BURKETT, WE COULDN'T PROVIDE THAT
14 INFORMATION SO HE IS TRYING TO INSINUATE SOMEHOW THAT WE
15 HID INFORMATION THAT WE DON'T HAVE ACCESS TO. AND I WOULD
16 OBJECT TO THAT SERIES OF QUESTIONS AND I ASK FOR IT TO BE
17 STRUCK FROM THE RECORD.

18 THE COURT: MR. GRIFFIN.

19 MR. GRIFFIN: WELL, FIRST, I BELIEVE MY QUESTION TO
20 HIM, WAS THERE A FINANCIAL SETTLEMENT WITH THE TRUSTEE
21 OVER THE TERMS OF THIS TRANSACTION. I DON'T BELIEVE THAT
22 I ASKED ABOUT A LAWSUIT. BUT FOR THEM TO GO AND HAVE THIS
23 WITNESS TESTIFY, I HAVEN'T SEEN ANYWHERE EMMCO OR MR.
24 SHEPPARD HAS PAID ANY MONEY TO HOMEGOLD AS PART OF THIS
25 TRANSACTION LEAVES THE IMPRESSION THAT HE JUST WALKED ON

1 THAT DEBT AND THAT, HOW CAN I NOT RESPOND TO THAT
2 IMPRESSION THAT THIS WITNESS, AND I DON'T SEE HOW IT IS AN
3 EXPERT OPINION. AND I KEPT TRYING TO OBJECT AND OBVIOUSLY
4 IT IS HIS OPINION THAT THERE WAS NO MONEY PAID BUT IT IS
5 AN OPINION THAT HE OFFERED WITHOUT ANY ADEQUATE FACTUAL
6 INFORMATION. SO, IT DOESN'T INVOLVE ANY ORDER OF JUDGE
7 ROSS ANDERSON BECAUSE THE MATTER OF THE LAWSUIT FROM THE
8 TRUSTEE AGAINST EMMCO, IT WAS A RETURN OF THIS TRANSACTION
9 AND THAT WAS PUBLIC RECORD AND THAT ACTION WAS SETTLED.
10 AND THAT ACTION WAS DISMISSED, IT WAS A BASIS ON
11 BANKRUPTCY, IT WAS NOTICED TO EVERY INVESTOR IN CAROLINA
12 INVESTORS. NOW, WHAT IS UNDER SEAL IS THE FINANCIAL TERMS
13 FOR ALL THE LITIGANTS IN THAT LAWSUIT. AND I HAVE NOT AND
14 I WAS NOT AND I WILL NOT GO INTO THE FINANCIAL TERMS. BUT
15 THE STATE TO PUT ON EVIDENCE AND LEAVE THE IMPRESSION OF
16 THIS JURY THAT A DEAL WAS IN DECEMBER 31 OF 2002. AND THE
17 COMPANY FILES BANKRUPTCY IN MARCH OF 2002, AND THAT EMMCO
18 DIDN'T PAY ANY MONEY AND MR. SHEPPARD HELPED ON THE DEAL
19 AND HE GOT AWAY WITH A COMPANY WORTH WHO KNOWS WHAT
20 WITHOUT PAYING FOR IT IS UNFAIR. AND THEY SHOULD OF KNOWN
21 THIS WAS GOING, I MEAN I HAVE NO RESPONSE BUT TO BRING
22 THAT UP, YOUR HONOR.

23 THE COURT: MS. EVANS.

24 MS. EVANS: YOUR HONOR, THEY DO HAVE ANOTHER
25 RESPONSE. THEY CAN SAY THAT THEY CAN GO INTO THE TERMS OF

1 THE DEAL AND SAY, WAS HOMEGOLD AROUND OR DO WHATEVER, THEY
2 HAVE OTHER RESPONSES THAN IN GETTING INTO OTHER
3 PROCEEDINGS OF WHICH TO THIS DAY NOBODY KNOWS IF MR.
4 SHEPPARD PAID ANY MONEY, IT IS SEALED, IT WAS SETTLED AND
5 IT WAS SETTLED FOR EVERYBODY BUT THE TERMS AND THE MONEY
6 THAT WAS PAID WAS SEALED. AND TO SUGGEST SOMEHOW THAT WE
7 KEPT THIS FROM OUR EXPERT WHEN WE DON'T EVEN KNOW WHAT IT
8 IS AND PEOPLE HAVE TRIED TO GET IT UNSEALED. AS YOUR
9 HONOR IS AWARE OF, OTHER LAWYERS INVOLVED IN OTHER MATTERS
10 IN THIS CASE HAVE TRIED TO, IT WILL NOT BE UNSEALED, IT IS
11 A FINANCIAL SETTLEMENT. IT IS CONTRARY TO WHAT HE SAID,
12 HE ARGUED THAT WE CAN'T GET INTO ANYTHING FEDERAL HERE IN
13 STATE COURT ABOUT THE FEDERAL PERJURY OR ANYTHING THAT
14 GOES ON HERE AND HE IS MAKING THIS SOUND AS IF WE HID FROM
15 OUR EXPERT WHEN HE DON'T HAVE THIS INFORMATION TO GIVE HIM
16 OF WHETHER THERE IS A FINANCIAL SETTLEMENT BY THE
17 DEFENDANT. AND CONTRARY TO WHAT HE HAS TALKED ABOUT AND
18 THAT IS EXACTLY WHY WE BROUGHT THIS ISSUE UP PRETRIAL, I
19 WOULD OF GIVEN WHATEVER INFORMATION WE WOULD OF HAD IF HE
20 WAS GOING TO BE GOING INTO THAT. I CERTAINLY DON'T HAVE
21 ANY INFORMATION OF WHAT THE DEFENDANT PAID. BUT HE IS
22 ARGUING THAT ON THE ONE HAND THAT THE RECEIVINGS ARE
23 ANCILLARY AND THIS COURT HAS NO JURISDICTION AND THIS
24 COURT HAS NO JURISDICTION OVER BUT HE CAN SOMEHOW QUIZ OUR
25 EXPERT WHEN HE WAS SAYING, HE IS NOT GOING TO GO INTO THE

1 FINANCIAL SETTLEMENT IN THIS CASE.

2 MR. GRIFFIN: AND, YOUR HONOR, I WOULD HAVE NOT GONE
3 INTO IT HAD THEY NOT BROUGHT OUT AND TRY TO MAKE A CLAIM
4 THAT EMMCO DIDN'T PAY ANYTHING WHICH IS FALSE. AND, YOUR
5 HONOR, THE EXPERT BASED HIS OPINION ON INADEQUATE
6 INFORMATION AND THAT IS ALL BROUGHT OUT AND HIS OPINION IS
7 WORTH THE AMOUNT OF INFORMATION THAT HE HAS. AND I DID
8 NOT TRY TO INSINUATE AND IF YOUR HONOR WANTS TO INSTRUCT
9 THE JURY THAT THE INFORMATION PERTAINING TO THE TERMS,
10 THAT IS PART OF ANOTHER PROCEEDING AND THAT IS UNDER SEAL.
11 AND I DON'T MIND DOING THAT, I AM NOT TRYING TO IMPLICATE
12 THAT THEY HID SOMETHING FROM THEIR EXPERT, BUT WHAT I AM
13 TRYING TO DO IS DEFEND MY CLIENT. AT THE PRETRIAL I DID
14 NOT KNOW THAT THEY WERE GOING TO PUT A WITNESS TO SAY THAT
15 HE DIDN'T PAY BACK ANY MONEY. HOW CAN I NOT RESPOND TO
16 THAT.

17 MS. EVANS: UNDER THE EMMCO DEAL DID HE PAY BACK ANY
18 MONEY.

19 MR. GRIFFIN: HE ABSOLUTELY DID.

20 MS. EVANS: YOUR HONOR, WE DON'T KNOW THAT, IT IS
21 SEALED.

22 THE COURT: I UNDERSTAND. I WILL MAKE A RULING
23 TOMORROW MORNING WHEN WE START BACK. WE WILL BE IN RECESS
24 UNTIL 9:30. HAVE YOU FOLKS GOT THIS NUMBER, YOU NEED THIS
25 NUMBER IF YOU DON'T HAVE IT. 359-8000, OPTION NUMBER 4,

1 RIGHT NOW I ANTICIPATE UNLESS THERE ARE DELAYS AND
2 WHATNOT, THAT WE WILL RESUME AT 9:30 TOMORROW MORNING.

3 (WHEREUPON, THE TRIAL WILL RESUME THE NEXT MORNING.)

4 THE COURT: ALL RIGHT, LET THE RECORD REFLECT THAT
5 WHEN WE BROKE YESTERDAY THERE HAD BEEN AN OBJECTION TO A
6 LINE OF QUESTIONING. I HAVE HEARD ARGUMENTS YESTERDAY, I
7 HAVE ALSO DONE SOME RESEARCH AND HAD A CONVERSATION WITH
8 COUNSEL THIS MORNING AND WE WILL PERMIT THE DEFENSE ON
9 CROSS-EXAMINATION OF THE WITNESS WHO WAS TESTIFYING TO GO
10 INTO THE INFORMATION THAT THE WITNESS WAS PRIVY TO AS IT
11 RELATES TO ANY BANKRUPTCY PROCEEDINGS AND ALSO ESTABLISH
12 WHETHER THE DEFENSE WISHES TO DO THIS. AND THE STATE ON
13 REPLY, THE FACT THAT THOSE RECORDS AT THE BANKRUPTCY
14 PROCEEDING ARE SEALED AND THAT NO ONE IS PRIVY TO THAT
15 INFORMATION. AND I THINK THAT IS ALL I NEED TO PUT ON THE
16 RECORD CONCERNING THAT AT THIS POINT AND TIME. MR.
17 GRIFFIN, ANYTHING FURTHER?

18 MR. GRIFFIN: YOUR HONOR, I WILL BE HAPPY TO BRING IT
19 OUT IN MY QUESTIONING THAT IT WASN'T PRIVY, THE
20 INFORMATION AT THE BANKRUPTCY COURT, IT WAS UNDER SEAL SO
21 HIS OPINIONS ARE BASED ON WHAT HE HAD AVAILABLE TO HIM.

22 THE COURT: THAT IS WHERE WE WERE, THAT WAS NOT BY
23 CONSENT, THAT WAS BY THE COURT'S DECISION. I WILL LET THE
24 RECORD REFLECT THAT ALSO. ANYTHING ELSE FROM THE STATE TO
25 PUT ON THE RECORD BEFORE WE GET STARTED?

1 MS. EVANS: NO, YOUR HONOR.

2 THE COURT: BRING THE WITNESS BACK UP, PLEASE. BRING
3 THE JURY IN, PLEASE.

4 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
5 APPROXIMATELY 11:25 A.M.)

6 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN, THANK
7 YOU FOR BEING HERE ON TIME THIS MORNING, WE DID HAVE SOME
8 ADDITIONAL EVIDENTIARY MATTERS THAT I HAVE BEEN DEALING
9 WITH AND WE HAVE RESOLVED THOSE AT THIS TIME. WE WILL
10 CONTINUE CROSS-EXAMINATION AT THIS TIME. MR. GRIFFIN.

11 MR. GRIFFIN: THANK YOU, YOUR HONOR.

12 CONTINUE CROSS-EXAMINATION

13 BY MR. GRIFFIN:

14 Q MR. BURKETT, WHEN WE ENDED YESTERDAY I WAS
15 QUESTIONING YOU ABOUT WHAT INFORMATION YOU WERE ABLE TO
16 REVIEW TO FORM AN OPINION THAT EMMCO DID NOT PAY ANY
17 MONIES UNDER THE EARN OUT GROUP, CORRECT?

18 A YES, SIR.

19 Q AND YOU HAD SAID THAT THE INFORMATION THAT WAS
20 GENERALLY PROVIDED TO YOU WERE THE SEC FILINGS THAT YOU
21 WERE ABLE TO GET, THE 10K'S AND THE 10Q'S AND THAT NONE OF
22 THOSE HAD BEEN FILED AFTER THE DATE OF THE MERGER, I MEAN
23 THE EMMCO MERGER, CORRECT?

24 A YES, SIR.

25 Q SO THAT INFORMATION WOULD NOT OF BEEN ANY HELP TO

1 YOU?

2 A YES, SIR.

3 Q AND THAT YOU HAD REVIEWED CERTAIN OTHER INFORMATION
4 THAT WAS PROVIDED TO YOU BY THE ATTORNEY GENERALS OFFICE,
5 CORRECT?

6 A YES, SIR.

7 Q AND THEN I STARTED ASKING YOU QUESTIONS ABOUT
8 BANKRUPTCY AND JUST WANT TO BE FAIR AND CLEAR ON THE
9 RECORD THAT YOU WERE NOT ABLE TO REVIEW EVERYTHING IN THE
10 BANKRUPTCY COURT PROCEEDINGS, CORRECT?

11 A I WAS NOT ABLE TO REVIEW ANYTHING TO MY KNOWLEDGE IN
12 THE BANKRUPTCY PROCEEDINGS.

13 Q AND BECAUSE OF THERE ARE CERTAIN MATTERS IN THERE
14 THAT HAVE BEEN SEALED AND NOT AVAILABLE TO YOU OR THE
15 STATE?

16 A THAT IS MY UNDERSTANDING, IT IS NOT AVAILABLE TO
17 ANYBODY.

18 Q SO, THE OPINIONS THAT YOU HAVE RENDERED ARE ONLY
19 LIMITED TO WHAT YOU WERE ABLE TO REVIEW?

20 A YES SIR AND I THINK THAT IS WHAT I SAID IN MY
21 TESTIMONY BASED ON WHAT I HAD REVIEWED, I DID NOT SAY THAT
22 EMMCO HAD PAID ANYTHING.

23 Q AND IT IS CLEAR, BECAUSE OF SEALED MATTERS, YOU
24 WEREN'T ABLE TO REVIEW EVERYTHING?

25 A YES, SIR.

1 Q NOW, I DO WANT TO TALK WITH YOU, YOU GAVE YOUR
2 OPINION ALSO THAT THERE WAS NO WAY IN YOUR VIEW, LOOKING
3 BACK ON IT THAT EMMCO COULD HAVE BEEN ABLE TO REPAY THE
4 DEBT OWED TO, THAT HOMEGOLD OWED TO CAROLINA INVESTORS.
5 DO YOU REMEMBER THAT TESTIMONY?

6 A YES, SIR.

7 Q AND YOU HAD THE BENEFIT OF WHAT HAS HAPPENED, 20/20,
8 HINDSIGHT IS 20/20, CORRECT?

9 A YES, SIR.

10 Q AND YOU UNDERSTAND THAT THAT EMMCO TRANSACTION THAT
11 WE DISCUSSED YESTERDAY, THAT THAT TRANSACTION WAS VOTED ON
12 BY THE BOARD OF HOMEGOLD, CORRECT?

13 A YES, SIR.

14 Q AND THAT WAS VOTED ON BY THE BOARD OF CAROLINA
15 INVESTORS, CORRECT?

16 A THAT IS MY UNDERSTANDING, YES SIR.

17 Q AND YOU ALSO ARE AWARE THAT MR. SHEPPARD HAD RESIGNED
18 FROM THE BOARD OF HOMEGOLD BEFORE ANY VOTES WERE EVER
19 TAKEN?

20 A YES, SIR.

21 Q SO, HE DIDN'T GET A VOTE ON WHETHER TO APPROVE OR
22 DISAPPROVE THE EMMCO TRANSACTION AS A BOARD MEMBER?

23 A YES, SIR.

24 Q AND YOU ARE ALSO AWARE THAT MR. SHEPPARD WAS NOT ON
25 THE BOARD OF CAROLINA INVESTORS AT THE TIME THAT THE BOARD

1 VOTED TO APPROVE THE EMMCO TRANSACTION, CORRECT?

2 A I BELIEVE THAT IS CORRECT, YES SIR.

3 Q THAT IS BECAUSE MR. SHEPPARD HAD RESIGNED FROM THE
4 BOARDS OF BOTH COMPANIES IN NOVEMBER OF 2002, CORRECT?

5 A I BELIEVE THAT WAS RIGHT, NOVEMBER OF 2002.

6 Q AND THIS TRANSACTION OCCURRED AND CLOSED DECEMBER 31
7 OF 2002, CORRECT?

8 A YES, IT DID, AT THE END OF THE YEAR.

9 Q NOW, YOU WENT THROUGH EARNINGS AVAILABLE TO EMMCO AND
10 POTENTIAL PROSPECTS AND LOOKING BACK ON IT, LET ME BACK
11 UP. WERE YOU ABLE TO REVIEW A FAIRNESS OPINION ISSUED BY
12 SMITH CAPITAL TO THE BOARD OF HOMEGOLD SAYING, GIVEN ALL
13 THE CIRCUMSTANCES THAT THIS IS A FAIR TRANSACTION TO
14 HOMEGOLD?

15 A I DID.

16 Q AND BOARDS, BOARDS OF COMPANIES RELY ON SUCH FAIRNESS
17 OPINIONS IN MAKING THEIR DECISIONS, CORRECT?

18 A THEY DO.

19 Q AND YOU UNDERSTAND THAT SMITH CAPITAL IS A COMPANY
20 LOCATED IN CHARLOTTE, NORTH CAROLINA, CORRECT?

21 A I DON'T REMEMBER WHERE THEY ARE LOCATED BUT I KNOW
22 THAT THEY, I KNOW WHO THEY ARE BUT I AM NOT SURE WHERE.

23 Q SO, THE BOARD OF HOMEGOLD, YOU UNDERSTAND FROM WHAT
24 YOU HAVE REVIEWED, RETAINED THIS INDEPENDENT COMPANY TO DO
25 AN ANALYSIS TO SEE IF IN THEIR OPINION THIS WAS FAIR TO

1 HOMEGOLD AND THE SHAREHOLDERS?

2 A YES, SIR.

3 Q AND IN THE BENEFIT OF HINDSIGHT YOU DISAGREE WITH
4 THAT OPINION?

5 A NO SIR, I DON'T DISAGREE WITH THE OPINION, I MEAN THE
6 OPINION STATED IT WAS A FAIR TRANSACTION. MY STATEMENT
7 WAS YESTERDAY WAS THAT THIS WAS AN EARN OUT AND I DID NOT
8 BELIEVE THAT BASED ON AN EARN OUT THAT EMMCO WOULD BE ABLE
9 TO PAY HOMEGOLD ENOUGH MONEY TO PAY THE DEBT BACK. SO, I
10 DIDN'T SAY IT WASN'T A FAIR TRANSACTION.

11 Q FROM THAT EARN OUT. SO, FROM THE EARN OUT OF THE
12 EMMCO TRANSACTION YOU DIDN'T BELIEVE THEY WOULD BE ABLE TO
13 PAY THE DEBT BACK?

14 A I DID NOT THINK THAT THEY, BASED ON WHAT I HAD SEEN,
15 I DID NOT THINK THEY WOULD BE ABLE TO PAY THAT OUT.

16 Q YOU WERE ALSO AWARE AT THE TIME OF EARLY, LATE 2002,
17 EARLY 2003 THAT HOMEGOLD ALSO HAD THIS INVESTMENT IN
18 FLEXCHECK?

19 A YES, SIR.

20 Q AND THAT FLEXCHECK WAS AN ENTITY THAT WAS CREATED AND
21 ENTERED INTO THE PAYDAY LOAN BUSINESS, IF YOU WILL?

22 A YES, SIR.

23 Q AND THAT HOMEGOLD ENTERED INTO AN ARRANGEMENT WITH AN
24 INDIVIDUAL WHO HAS BEEN A CFO OF ADVANCE AMERICA, I
25 BELIEVE THAT IS THE NAME OF THIS COMPANY?

1 A I DON'T RECALL THE NAME BUT HE HAD BEEN WITH THE
2 PAYDAY, YES SIR.

3 Q AND THAT WAS ALSO A SOURCE OF REVENUE, AN ANTICIPATED
4 SOURCE OF REVENUE, THE FLEXCHECK FOR PAYING BACK THIS
5 CAROLINA INVESTORS DEBT?

6 A I WOULD AGREE IT WAS ANTICIPATED. I WOULDN'T SAY IT
7 WAS A SOURCE OF REVENUE BUT IT WAS AN ANTICIPATED SOURCE
8 OF REVENUE.

9 Q AND LOOKING AT THE TIME OF DECEMBER OF 2002 HOMEGOLD
10 HAD, THEY HAD THE EMMCO OPPORTUNITY AND THEN THEY HAD THE
11 FLEXCHECK OPPORTUNITY AS A WAY TO CONTINUE TO RECEIVE
12 MONIES, TO PAY BACK THIS INTER-COMPANY DEBT, CORRECT?

13 A THEY HAD THOSE TWO POSSIBILITIES, YES.

14 Q I WOULD LIKE TO GO BACK AND TALK BROADLY, NOW, ABOUT
15 THE DIFFERENT TYPES OF COMPANIES, WE GOT INTO THAT A
16 LITTLE BIT, YESTERDAY YOU DID ON DIRECT. BUT THE HOMEGOLD
17 FINANCIAL, INC. AND WE KNOW WHAT WE HAVE HERE, WE HAVE
18 BASICALLY THREE COMPANIES, HOMEGOLD FINANCIAL BEING THE
19 PARENT?

20 A RIGHT.

21 Q AND HOMEGOLD, INC. SUBSIDIARY AND THAT IS INVOLVED IN
22 THE MORTGAGE BUSINESS?

23 A THAT'S CORRECT.

24 Q AND CAROLINA INVESTORS IS A SUBSIDIARY AND THAT IS
25 INVOLVED IN SELLING NOTES AND DEBENTURES AND OTHER

1 ACTIVITIES, CORRECT?

2 A THAT'S CORRECT.

3 Q NOW, HOMEGOLD FINANCIAL IS A PUBLIC COMPANY AND WE
4 TALKED ABOUT THAT, RIGHT?

5 A YES.

6 Q AND WHAT I WANT TO TALK TO YOU ABOUT NOW IS THE ROLE
7 OF AN AUDITOR IN A PUBLIC COMPANY. HAVE YOU EVER BEEN AN
8 AUDITOR AND SERVED A PUBLIC COMPANY?

9 A NO SIR, I HAVE NOT.

10 Q HAVE YOU EVER IN YOUR ROLE AS AN ACCOUNTANT EVER BEEN
11 IN THE POSITION TO PUT A GOING CONCERN QUALIFICATION IN A
12 COMPANIES BOOKS OR RECORDS?

13 A I BELIEVE I HAVE AT ONE TIME.

14 Q ONE TIME?

15 A YES SIR, I BELIEVE SO.

16 Q NOW, WITH REGARD TO A PUBLICLY HELD COMPANY, THEY ARE
17 REQUIRED TO FILE A LOT OF INFORMATION, FINANCIAL
18 INFORMATION WITH THE SEC, CORRECT?

19 A THAT'S CORRECT.

20 Q AND THIS TABLE RIGHT HERE IS STACKED DOCUMENT ON TOP
21 OF DOCUMENT ON A LARGE PERCENTAGE OF INFORMATION THAT WAS
22 FILED WITH THE SEC?

23 A YES.

24 Q AND IN EACH FILING WITH THE SEC THE, LET'S TALK ABOUT
25 THESE TYPES OF FILINGS. WE HAVE GOT AND I AGREE WITH MS.

1 EVANS, WE DON'T KNOW WHERE THE NUMBER 10 COMES BUT THE 10K
2 IS THE ANNUAL REPORT?

3 A YES, SIR.

4 Q AND THAT 10K IS REQUIRED TO BE AUDITED, THE FINANCIAL
5 STATEMENTS ARE REQUIRED TO BE AUDITED BY A PUBLIC
6 ACCOUNTING FIRM, CORRECT?

7 A YES, SIR.

8 Q AND FOR THE YEARS WE ARE TALKING ABOUT THE PUBLIC
9 ACCOUNTING FIRM THAT AUDITED HOMEGOLD'S BOOKS AND RECORDS
10 WAS ELLIOTT DAVIS, CORRECT?

11 A YES, SIR.

12 Q AND THEY ARE THE LARGEST ACCOUNTING FIRMS IN THE
13 STATE, CORRECT?

14 A THEY ARE ONE OF THE LARGEST, I AM NOT SURE THEY ARE
15 THE LARGEST BUT THEY ARE ONE OF THE LARGEST, YES SIR.

16 Q IT IS HEADQUARTERED IN SOUTH CAROLINA, CORRECT?

17 A YES, SIR.

18 Q AND IS THE CORPORATE HEADQUARTERS IN GREENVILLE?

19 A I BELIEVE THEY ARE, YES SIR.

20 Q AND WE HAVE ALSO HEARD THE NAME OF DELOITTE AND
21 TOUCHE WITH REGARD TO A BUSINESS VALUATION, RIGHT?

22 A YES, SIR.

23 Q THAT IS ONE OF THE INTERNATIONAL ACCOUNTING FIRMS?

24 A YES, SIR.

25 Q AND IT IS HARD TO GET MUCH BIGGER THAN DELOITTE AND

1 TOUCHE, CORRECT?

2 A THEY ARE ONE OF THE BIGGEST FOUR FIRMS IN THE NATION
3 AND IN THE WORLD.

4 Q IN THE WORLD?

5 A YES, SIR.

6 Q OKAY. BUT GOING BACK TO THE 10K'S ANNUAL REPORTS,
7 THOSE ARE AUDITED IN THIS INSTANCE BY ELLIOTT DAVIS,
8 CORRECT?

9 A RIGHT.

10 Q AND IN FILING THOSE THERE IS ALSO REQUIRED TO BE A
11 LETTER OR A CERTIFICATE FROM SECURITIES COUNSEL FOR THE
12 COMPANY, CORRECT?

13 A I THINK SO, YES SIR.

14 Q AND THE SECURITIES LAW FIRM REPRESENTING HOMEGOLD WAS
15 THE WYCHE LAW FIRM UP IN GREENVILLE?

16 A YES, SIR.

17 Q AND THROUGH ALL THE FILINGS WE ARE TALKING ABOUT
18 HERE, CORRECT?

19 A I DON'T KNOW THE ANSWER TO THAT BECAUSE I DIDN'T LOOK
20 AND SEE BUT I BELIEVE THEY WERE, THAT WAS THE ONLY NAME
21 THAT I HEARD AS AN ATTORNEY, YOU KNOW, FOR HOMEGOLD DOING
22 THAT TYPE OF WORK.

23 Q THESE 10K'S ARE FILED ANNUALLY AND THERE ARE
24 QUARTERLY REPORTS THAT ARE REQUIRED?

25 A YES, SIR.

1 Q AND THOSE ARE THE Q'S?

2 A YES, SIR.

3 Q AND ARE THERE THREE Q'S OR FOUR Q'S?

4 A IT IS THREE Q'S AND THEN K, I THINK, IS THE WAY IT
5 WORKS.

6 Q SO THERE IS FIRST QUARTER, SECOND QUARTER AND THIRD
7 QUARTER AND THEN YOU HAVE A K?

8 A THEN A K.

9 Q AND THE Q'S ARE NOT REQUIRED TO BE AUDITED?

10 A THAT'S CORRECT BUT THE FINANCIAL STATEMENTS ARE NOT
11 REQUIRED TO BE AUDITED, THAT IS RIGHT.

12 Q THE FINANCIAL STATEMENTS?

13 A THAT'S RIGHT.

14 Q AND THEN IF SOMETHING HAPPENS ALONG THE WAY BETWEEN A
15 Q AND K OR TWO Q'S OR THREE Q'S, THERE IS ANOTHER
16 REPORTING REQUIREMENT WHICH BEGINS WITH THE NUMBER 8, 8K?

17 A RIGHT.

18 Q AND THAT IS FOR SOMETHING UNUSUAL OR SIGNIFICANT THAT
19 HAS OCCURRED IN THE COURSE OF THE YEAR AND YOU ARE IN
20 BETWEEN REPORTING REQUIREMENTS?

21 A YES, SIR.

22 Q AND THAT IS TO PUT THE INVESTMENT PUBLIC ON NOTICE
23 INFORMING THEM OF WHAT HAS TRANSPIRED, RIGHT?

24 A YES, SIR.

25 Q AND YOU MENTIONED EARLIER THAT IT IS VERY IMPORTANT,

1 FOR PUBLICLY TRADED COMPANIES, THAT THEY HAVE TO GUARD
2 THEIR INFORMATION AND ONLY TO RELEASE IT PUBLICLY THROUGH
3 THESE FILINGS.

4 A I DON'T THINK THAT I TALKED ABOUT GUARDING
5 INFORMATION AND I DID SAY IT PUBLISHES THIS INFORMATION,
6 YOU PUBLISH IT ALL AT ONCE, I DON'T THINK I USED THE WORD,
7 GUARDED.

8 Q YOU CERTAINLY DIDN'T USE THE WORD, GUARDED, BUT I
9 BELIEVE YOU TESTIFIED THAT IT WAS IMPORTANT AND THAT THESE
10 FILINGS, THAT THE INFORMATION BE MADE PUBLIC ALL AT ONCE?

11 A YES, SIR.

12 Q SO, THAT NO ONE HAS THE BENEFIT OF INFORMATION THAT
13 THEY CAN TAKE ADVANTAGE OF TO ANOTHER PERSON?

14 A YES, SIR.

15 Q SO THAT IS WHY YOU HAVE THESE REPORTING REQUIREMENTS
16 SO THAT THE INFORMATION IS AVAILABLE TO EVERYBODY PRETTY
17 MUCH SIMULTANEOUSLY?

18 A AT THE SAME TIME.

19 Q SO, IT IS SO SOME PERSON WOULDN'T HAVE AN UNFAIR
20 ADVANTAGE OVER OTHER PEOPLE IN TRADING SECURITIES?

21 A YES, SIR.

22 Q NOW, YOU TALKED ABOUT CORPORATE STRUCTURES A LITTLE
23 BIT BUT ARE YOU AWARE OF ANY EXCEPTIONS OR ALLOWANCES FOR
24 SAY A PARENT CORPORATION, HOMEGOLD INC., TO SHARE
25 FINANCIAL INFORMATION, EVEN THOUGH IT IS A SUBSIDIARY

1 SEPARATE COMPANY, CAROLINA INVESTORS IN BETWEEN THESE
2 REPORTING PERIODS?

3 A I DON'T KNOW THE ANSWER TO THAT.

4 Q AND WE ARE GOING TO HEAR THROUGH THIS TRIAL ABOUT
5 GAAP, G-A-A-P?

6 A I SUSPECT YOU WILL, YES SIR.

7 Q AND GAAP IS GENERALLY ACCEPTING ACCOUNTING PRINCIPLE?

8 A YES, SIR.

9 Q IT IS SOMETHING THAT YOU LEARN THROUGH YOUR EDUCATION
10 THROUGH COLLEGE?

11 A YES, SIR.

12 Q AND THEN YOU HAD TO TAKE A TEST TO BE A CPA?

13 A YES, I DID.

14 Q AND THEN YOU ALSO HAVE TRAINING BEFORE YOU CAN BE A
15 CERTIFIED PUBLIC ACCOUNTANT?

16 A YES, SIR.

17 Q AND THEN THESE GAAP PRINCIPLES, THEY ARE UPDATED AND
18 CHANGED QUITE FREQUENTLY, ARE THEY NOT?

19 A THEY ARE CHANGED, YES SIR.

20 Q AND THERE IS SOMETHING CALLED FASB?

21 A YES, SIR.

22 Q WHAT IS THAT?

23 A FINANCIAL ACCOUNTING STANDARDS BOARD.

24 Q NOW, THE CHAIRMAN OF CAROLINA INVESTORS, INC., I AM
25 SORRY, NOT THE CHAIRMAN, ONE OF THE BOARD MEMBERS WAS A

1 GENTLEMAN BY THE NAME OF EARLE MORRIS, WAS HE NOT?

2 A YES, SIR.

3 Q NOW, MR. MORRIS HAD, WAS ON SOME FOUNDATION OR HE HAD
4 SOME POSITION WITH THE FEDERAL ACCOUNTING STANDARDS BOARD,
5 ADVISORY COMMITTEE OR SOMETHING?

6 A YES, SIR.

7 Q AND HE WAS ALSO FORMERLY THE COMPTROLLER GENERAL FOR
8 THE STATE OF SOUTH CAROLINA?

9 A YES, SIR.

10 Q AND WHAT DOES A COMPTROLLER GENERAL DO?

11 A WELL, I AM ASSUMING HE HANDLES THE FINANCING OF THE
12 STATE, THAT IS WHAT I HAVE ALWAYS ASSUMED, HE IS IN CHARGE
13 FOR THE FINANCES OF THE STATE.

14 Q AND IN YOUR REVIEW OF THE BACKGROUND INFORMATION YOU
15 KNOW THAT MR. MORRIS WAS INVOLVED WITH CAROLINA INVESTORS
16 WELL BEFORE MR. SHEPPARD EVER MET THEM, CORRECT?

17 A YES, SIR.

18 Q WELL, THE OTHER MEMBERS OF THE CAROLINA INVESTORS
19 BOARD WAS A GUY NAMED JACK STERLING?

20 A YES, SIR.

21 Q AND YOU UNDERSTAND FROM YOUR REVIEW AND INFORMATION
22 THAT HE WAS A SOPHISTICATED BUSINESSMAN AND BEEN
23 SUCCESSFUL IN STARTING COMPANIES UP IN GREENVILLE?

24 A I UNDERSTOOD HE WAS A BUSINESSMAN, YES SIR.

25 Q YOU DON'T KNOW ABOUT HIS SUCCESS?

1 A I DON'T KNOW ABOUT HIS SUCCESS LEVEL SO I DON'T WANT
2 TO COMMENT ON THAT.

3 Q AND THAT HE WAS A GRADUATE OF THE CITADEL?

4 A SEE, I DON'T KNOW THAT EITHER BUT THAT IS A FINE
5 SCHOOL.

6 Q THE OTHER MEMBER OF THE CAROLINA INVESTORS BOARD WAS
7 LARRY OWEN, CORRECT?

8 A YES, SIR.

9 Q AND MR. OWEN, HE HAD BEEN WITH CAROLINA INVESTORS FOR
10 30 YEARS?

11 A FOR A LONG TIME.

12 Q AND THEN THERE WAS A GENTLEMAN BY THE NAME OF KEITH
13 GIDDENS, WERE YOU AWARE OF THAT, HE WAS ON THE BOARD?

14 A I REMEMBER THAT NAME BUT NOT MUCH ABOUT HIM.

15 Q HE HAS A HISTORY OF BEING CFO'S OF DIFFERENT
16 COMPANIES?

17 A I DON'T WANT TO ANSWER THAT BECAUSE I JUST DON'T
18 REMEMBER THAT.

19 Q AND THEN THERE WERE TWO LOCAL GENTLEMEN, ONE BY THE
20 NAME OF MR. BOBO ON THE CAROLINA INVESTORS BOARD?

21 A I HAVE SEEN THAT NAME, YES SIR.

22 Q AND MR. SHARPE?

23 A YES, SIR.

24 Q MR. BOBO WAS AN INVESTOR, IF YOU WILL, IN CAROLINA
25 INVESTORS, YOU SAW THAT FROM THE INFORMATION?

1 A I BELIEVE SO, YES SIR.

2 Q AND IN FACT HE HAD OVER \$500 THOUSAND DOLLARS OF HIS
3 MONEY IN THERE, DO YOU REMEMBER THAT FROM THE PROSPECTUS?

4 A I DON'T REMEMBER HOW MUCH HE HAD.

5 Q WE WILL GET TO THAT SHORTLY. AND THEN MR. DANNY
6 SHARPE, HE WAS ON THE BOARD, HE WAS A LOCAL PERSON?

7 A YES, SIR.

8 Q AND HE HAD BEEN ON THE BOARD ALONG WITH MR. BOBO FOR
9 A SUBSTANTIAL PERIOD OF TIME BEFORE MR. SHEPPARD EVER
10 SHOWED UP?

11 A I DON'T KNOW HOW LONG HE WAS ON THE BOARD BUT HE WAS
12 ON THE BOARD.

13 Q AND YOU KNOW HE HAD A COLLEGE DEGREE IN
14 ORGANIZATIONAL MANAGEMENT?

15 A I DON'T KNOW ANYTHING ABOUT HIS COLLEGE DEGREES, I AM
16 SORRY.

17 Q NOW, AND THEN WHEN THE HOMESENSE MERGER BECAME ABOUT
18 MR. SHEPPARD GOT ONE SEAT ON THE BOARD OF CAROLINA
19 INVESTORS?

20 A YES.

21 Q AND BUT THERE WERE, IT WAS A FIVE MEMBER BOARD, I
22 BELIEVE?

23 A I THINK THAT IS RIGHT, I BELIEVE IT WAS AROUND, I
24 WOULD HAVE TO GO BACK AND COUNT IT.

25 Q YOU HAVE GOT MR. MORRIS, MR. OWEN, MR. SHARPE, MR.

1 BOBO, MR. STERLING, THAT IS SIX MEMBERS?

2 A IF THAT IS ALL OF THEM, I THINK THAT ADDS UP TO SIX,
3 YES.

4 Q THEN THE COMPANY, THE PARENT COMPANY, HOMEGOLD
5 FINANCIAL, INC., YOU MENTIONED EARLIER THAT AS A RESULT OF
6 THE MERGER THAT A NUMBER OF DIRECTORS STEPPED OFF THE
7 BOARD OF HOMEGOLD FINANCIAL, INC.?

8 A YES, SIR.

9 Q NOW, THAT BOARD WAS A FIVE MEMBER BOARD, WAS IT NOT?

10 A I BELIEVE SO.

11 Q I AM NOT SURE THAT IT WAS.

12 A I DON'T REMEMBER EXACTLY THE NUMBERS OF THE BOARD
13 MEMBERS ON EACH BOARD.

14 Q I BELIEVE WHEN IT STARTED OUT IT WAS SEVEN MEMBERS OF
15 THE BOARD?

16 A I WILL TAKE YOUR WORD FOR THAT BECAUSE I DON'T KNOW.

17 Q YOU DON'T REMEMBER?

18 A I DON'T REMEMBER.

19 Q IN YOUR REVIEW OF THE DOCUMENTS DO YOU RECALL THAT
20 MR. SHEPPARD DID NOT GET CONTROL, THAT HE HAD GOT ONE SEAT
21 AND HE COULD SELECT TWO OTHERS?

22 A TWO OTHERS, THAT IS RIGHT.

23 Q AND THAT WAS STILL A MINORITY VOTING BLOCK IF
24 EVERYONE VOTED TOGETHER?

25 A IF IT WAS SEVEN AND IT WAS THREE THEN IT WOULD BE A

1 MINORITY, I DON'T WANT TO COMMENT ON WHETHER IT WAS SEVEN
2 OR SIX. BUT I DON'T RECALL THAT.

3 Q WHEN YOU TESTIFIED EARLIER THAT BOARD MEMBERS LEFT,
4 YOU JUST DON'T KNOW HOW MANY LEFT AND IN WHAT COMPOSITION
5 THEY LEFT?

6 A IT WAS MY UNDERSTANDING THAT TWO OF THEM LEFT AND HE
7 APPOINTED THE TWO, THAT IS WHAT I RECALL. I DIDN'T
8 TESTIFY TO HOW MANY BOARD MEMBERS IT WAS OR ANYTHING ELSE.

9 Q NOW, YOU ALSO TESTIFIED THAT ON THIS HOMEGOLD
10 AGREEMENT THAT MR. SHEPPARD WAS GIVEN 6,072,370 SHARES OF
11 COMMON STOCK?

12 A YES, SIR.

13 Q AND 10 MILLION SHARES OF PREFERRED STOCK?

14 A YES, SIR.

15 Q I DON'T WANT TO BELABOR THE POINT BUT THE DIFFERENT
16 CLASSES OF STOCK. COMMON STOCK IS THE KIND OF STOCK THAT
17 SOMEONE WHO OWNS AND CAN VOTE, CORRECT?

18 A THAT'S CORRECT.

19 Q THE PREFERRED STOCK IN THIS INSTANCE, ONE WHO HOLDS A
20 SHARE FOR PREFERRED STOCK DOESN'T GET TO VOTE FOR THAT
21 SHARE?

22 A THAT IS CORRECT.

23 Q AND THE REASON IT IS CALLED PREFERRED THOUGH, IS IT
24 RECEIVES IN THIS INSTANCE DIVIDENDS?

25 A YES, SIR.

1 Q AND IT WAS SUPPOSE TO ANYWAY AS YOU REVIEWED THE
2 DOCUMENTS?

3 A YES, SIR.

4 Q AND SO MR. SHEPPARD, UPON EXECUTION OF THIS MERGER
5 AGREEMENT WAS PROMISED 10 MILLION SHARES OF PREFERRED
6 STOCK THAT PROVIDED AN ANNUAL DIVIDEND, RIGHT?

7 A YES, SIR.

8 Q AND YOU RECALL THAT ANNUAL DIVIDEND WAS \$800 THOUSAND
9 DOLLARS?

10 A I THINK THAT IS CORRECT, IT WAS A LARGE NUMBER, YES
11 SIR.

12 Q AND YOU KNOW THAT THAT \$800 THOUSAND DOLLARS WAS TO
13 BE PAID IN QUARTERLY INSTALLMENTS OF \$200 THOUSAND DOLLARS
14 EACH QUARTER?

15 A IT WAS TO BE PAID IN QUARTERLY INSTALLMENTS, YES.

16 Q AND FROM YOUR VIEW OF THE RECORDS, DID YOU LEARN THAT
17 MR. SHEPPARD, UPON RECEIVING THAT 10 MILLION SHARES OF
18 STOCK AND EXECUTING THE MERGER AGREEMENT WAS TOLD THAT THE
19 COMPANY COULD NOT DECLARE DIVIDENDS ON THAT STOCK?

20 A YES, SIR.

21 Q AND SO AS A RESULT, THERE WAS A CHANGE THAT PROVIDED
22 THAT MR. SHEPPARD TO RECEIVE A SALARY BONUS, IF YOU WILL,
23 OF \$200 THOUSAND DOLLARS A QUARTER IN LIEU OF THE
24 PREFERRED STOCK DIVIDEND?

25 A YES, SIR.

1 Q AND THAT IS NOT SOMETHING THAT WE ARE TALKING ABOUT,
2 THIS ANNUAL BONUS OF TWO PERCENT NET TAXES?

3 A YOU ARE RIGHT, THAT IS BESIDES, THAT DOES NOT INCLUDE
4 THAT.

5 Q AND THAT IS IN ADDITION TO THE \$250 THOUSAND DOLLARS
6 IN SALARY?

7 A YES, SIR.

8 Q AND THAT \$800 THOUSAND DOLLARS A YEAR IS ESSENTIALLY
9 REPRESENTED PAYMENT FOR HOMESENSE, CORRECT?

10 A REPRESENTED PAYMENT FOR HOMESENSE?

11 Q TO MR. SHEPPARD?

12 A IT WAS PART OF HIS RETURN, OKAY, IF THAT IS WHAT IT
13 WAS. AGAIN, I DON'T WANT TO SAY IT WAS \$800 THOUSAND,
14 THOSE ARE YOUR WORDS AND NOT MINE. I AM NOT DISAGREEING
15 WITH THAT, I JUST DON'T KNOW WHAT THE NUMBER IS. BUT IT
16 WAS NOT, IT WAS NOT, THAT WAS PART OF THE RETURN FOR HIS
17 INVESTMENT IN THE COMPANY. SO, I WOULDN'T SAY IT WAS PART
18 OF THE PAYMENT FOR HOMESENSE, I AM NOT TRYING TO SPLIT
19 HAIRS WITH YOU BUT I DON'T THINK THAT IS ACTUALLY A
20 PAYMENT FOR HOMESENSE.

21 Q IN RETURN FOR HIS INVESTMENT IN WHAT COMPANY ARE YOU
22 REFERRING TO?

23 A IT WOULD BE HOMEGOLD.

24 Q AND THE INVESTMENT THAT HE PUT IN HOMEGOLD WAS
25 HOMESENSE?

1 A HOMESENSE, THAT IS RIGHT.

2 Q AND WE HAVE GOT THIS \$5.7 MILLION DOLLARS NONRECOURSE
3 NOTE HERE, CORRECT?

4 A YES, SIR.

5 Q AND WE TALKED ABOUT NONRECOURSE MEANING AND YOU GAVE
6 A VERY GOOD EXAMPLE OF A HOUSE AND MORTGAGE ON A HOUSE AND
7 THE ONLY SECURITY THAT THE BANK WOULD HAVE WOULD BE ON THE
8 HOUSE?

9 A THAT'S CORRECT.

10 Q NOW, THE COLLATERAL IN A SIMILAR SCENARIO IN THIS
11 INSTANCE THAT I AM NOT SURE THAT YOU WERE ABLE TO DISCUSS
12 IN YOUR DIRECT WAS MR. SHEPPARD'S STOCK?

13 A YES SIR, IT WAS.

14 Q AND IF HE DIDN'T PAY THEN THE COMPANY HAD A RIGHT TO
15 TAKE HIS STOCK BACK?

16 A AND I BELIEVE IT WAS PREFERRED STOCK, I BELIEVE, IF I
17 AM NOT MISTAKEN. NOT THE COMMON STOCK, IT WAS PREFERRED
18 STOCK, THE NON-VOTING STOCK, YES, I BELIEVE THAT IS
19 CORRECT.

20 Q AND DID YOU SEE ON THE RECORDS THAT WHEN THESE
21 DIVIDENDS WOULD COME OUT OR THESE \$200 THOUSAND DOLLAR
22 BONUSES WOULD COME THAT A PERCENTAGE OF THAT MONEY WAS
23 HELD BACK TO PAY THE INTEREST ON THIS NOTE?

24 A I DON'T RECALL THAT, I DON'T REMEMBER SEEING THAT.

25 Q YOU DON'T REMEMBER THAT?

1 A NO, SIR.

2 Q THE COMMON STOCK UNDER THIS ARRANGEMENT, NOW THE
3 HOLDER OF SIX MILLION SHARES OF COMMON STOCK WOULD BE ABLE
4 TO VOTE THOSE SHARES IN GENERAL, RIGHT?

5 A YES, SIR.

6 Q AND YOU ARE AWARE OF VOTING AGREEMENTS, ARE YOU NOT?

7 A YES, SIR.

8 Q AND MR. SHEPPARD ON THIS, WHERE THIS SIX MILLION
9 SHARES OF COMMON STOCK, AS PART OF THIS TRANSACTION, HAD
10 TO AGREE THAT HE COULDN'T VOTE THE SHARES EXCEPT IN
11 CONJUNCTION WITH WHAT THE BOARD WANTED?

12 A I DON'T KNOW THE ANSWER TO THAT, SO, I DIDN'T, I
13 DON'T KNOW THAT.

14 Q DID YOU NOT REVIEW A VOTING AGREEMENT IN THESE SEC
15 FILINGS?

16 A I DID NOT REVIEW THE VOTING, DID NOT LOOK AT THAT, NO
17 SIR. I AM NOT DISAGREEING THAT THAT IS THE CASE BUT I
18 DON'T WANT TO ANSWER THAT AS A YES OR A NO.

19 Q OKAY. YESTERDAY WHEN WE TALKED ABOUT A COMPANY OF
20 HOMEGOLD THAT WAS IN THE RED, IF YOU WILL, WELL BEFORE MR.
21 SHEPPARD EVER CAME ON THE SCENE, CORRECT?

22 A YES SIR, IT WAS IN THE RED.

23 Q AND THAT THEY WERE IN THE YEAR 12/31/98, NET INCOME
24 FROM OPERATIONS, THEY LOST \$72 MILLION DOLLARS, CORRECT?

25 A YOU SAID 1998, RIGHT?

1 Q YES.

2 A YES SIR, THAT IS CORRECT.

3 Q THEN THE YEAR OF 12/31/99, THEY LOST FROM OPERATIONS
4 \$35 MILLION DOLLARS?

5 A YES, SIR.

6 Q AND YOU EXPLAINED THAT ONE OF THE WAYS TO TRY TO STOP
7 THAT LOSS IN ANY BUSINESS, AS YOU CONSULT WITH CLIENTS, IS
8 INCREASE REVENUES, DECREASE EXPENSES AND OF COURSE YOU
9 WOULD HOPE FOR THE COMBINATION OF THE BOTH, CORRECT?

10 A YES, SIR.

11 Q AND IN 1998 WHEN HOMEGOLD LOST \$72 MILLION DOLLARS,
12 FOR '99 THEY DRAMATICALLY DECREASED EXPENSES, CORRECT?

13 A IF I COULD SEE THAT, YOU SAID 1999?

14 Q YES.

15 A YES, THEY DID DECREASE EXPENSES THAT WENT FROM \$164
16 MILLION DOWN TO \$64.

17 Q SO, THEY DECREASED EXPENSE BY \$100 MILLION DOLLARS?

18 A YES, SIR.

19 Q IN 1999. AND BY INCREASING EXPENSES BY \$100 MILLION
20 DOLLARS, THEY STILL LOST \$35 MILLION DOLLARS?

21 A YES, SIR.

22 Q AND THEN THE OTHER WAY TO DO IT IS TO GET MORE
23 BUSINESS?

24 A YES, SIR.

25 Q TRY TO BRING IN MORE MONEY THAN YOUR EXPENSE?

1 A YES, SIR.

2 Q MR. SHEPPARD ARRIVED ON THE SCENE IN MAY, JUNE OF
3 2000, CORRECT?

4 A YES, SIR.

5 Q AND THEN HE IS THERE FOR THE YEAR OF 2001?

6 A RIGHT.

7 Q AND THEN HE LEAVES IN NOVEMBER OF 2002, RIGHT?

8 A YES.

9 Q SO, HE HAS 30 MONTHS AT HOMEGOLD?

10 A YES.

11 Q AND IN THAT PERIOD OF TIME HE TRIED TO GROW THE
12 BUSINESS, DID HE NOT, FROM WHAT YOU REVIEWED?

13 A FROM WHAT I REVIEWED HE TRIED TO GROW THE BUSINESS,
14 HE TRIED TO HAVE MORE LOAN PRODUCTION WHICH IS SALES
15 REVENUE.

16 Q AND THAT IN THE END OF 2002 THE LOAN PRODUCTION WAS
17 GETTING SOMEWHERE CLOSE TO \$80 MILLION DOLLARS A MONTH,
18 CORRECT?

19 A IT WAS A LARGE NUMBER, I DON'T KNOW WHAT THAT NUMBER
20 WAS BUT IT WAS A LARGE NUMBER.

21 Q BUT THE PROBLEM WITH THAT NUMBER IS THE EXPENSES WERE
22 GROWING IN EXCESS OF THE PRODUCTION?

23 A THAT'S RIGHT.

24 Q NOW, IN ANY BUSINESS WHEN YOU GROW IT THERE ARE
25 STARTUP EXPENSES, CORRECT?

1 A WHEN YOU GROW A BUSINESS THERE ARE STARTUP EXPENSES.

2 Q YES, THERE ARE ADDITIONAL CAPITAL EXPENSES TO, WHEN
3 YOU EXPAND YOUR BUSINESS?

4 A IN MANY CASES THERE ARE, YES.

5 Q AND IN MANY CASES THE EXPENSES ARE INCURRED ON THE
6 FRONT END AND THEY ARE SET. AND THE REVENUE IS GENERATED
7 OVER TIME IF ALLOWED TO OPERATE LONG ENOUGH WILL THEN PAY
8 BACK THE ORIGINAL CAPITAL PAYMENT AND THEN PRODUCE INCOME
9 DOWN THE LINE, CORRECT?

10 A SOMETIMES THAT HAPPENS, YES.

11 Q THAT IS WHAT YOU WOULD LIKE TO HAPPEN IN A BUSINESS
12 MODEL?

13 A I THINK WE WOULD ALL LIKE TO MAKE MONEY.

14 Q AND IN THIS INSTANCE THE EXPENSES, THEY DID GROW
15 SUBSTANTIALLY IN 2002, CORRECT?

16 A YES, I BELIEVE THEY DID.

17 Q AND THAT THE COMPANY IN EARLY 2003 FILED BANKRUPTCY?

18 A YES, SIR.

19 Q SO, THEY JUST SIMPLY RAN OUT OF CASH?

20 A YES, SIR.

21 Q AND I WANT TO GO BACK TO THIS INTER-COMPANY LOAN
22 SUMMARY THAT YOU HAD DONE, CAN YOU SEE THAT?

23 A YES SIR, I CAN.

24 Q NOW, IT IS STARTING IN 12/31/96, THERE IS A
25 INTER-COMPANY DEBT OF \$44 MILLION ROUGHLY, CORRECT?

- 1 A YES, SIR.
- 2 Q AND THEN IN '97 IT GOES TO \$69 MILLION?
- 3 A YES, SIR.
- 4 Q AND THEN IN '98 IT GOES TO \$81 MILLION?
- 5 A YES, SIR.
- 6 Q AND THEN IN '99 IT GOES DOWN TO \$67 MILLION?
- 7 A YES, SIR.
- 8 Q NOW, FROM YOUR REVIEW OF THE RECORDS DOES IT APPEAR
- 9 THAT HOMEGOLD PROVIDED ROUGHLY \$14 MILLION DOLLARS IN CASH
- 10 BACK TO CAROLINA INVESTORS BETWEEN 1998 AND 1999?
- 11 A THE LOAN WAS REDUCED BY THAT MUCH SO I ASSUME IT WAS
- 12 A PAYMENT, BUT I AM NOT SURE WHAT THAT WAS.
- 13 Q YOU DON'T KNOW WHETHER HOMEGOLD JUST TRANSFERRED
- 14 ASSETS FROM ITS BOOKS OVER TO CAROLINA INVESTORS?
- 15 A I THINK THEY DID TRANSFER SOME ASSETS BUT I DON'T
- 16 REMEMBER THE AMOUNT OF THEM, OKAY.
- 17 Q DO YOU KNOW IF THE ASSETS BEING TRANSFERRED, SOME
- 18 WERE CALLED RESIDUAL MORTGAGE POOLS, DO YOU KNOW ANYTHING
- 19 ABOUT THAT?
- 20 A I DON'T KNOW THE ASSETS THAT WERE TRANSFERRED, NO
- 21 SIR.
- 22 Q WE WILL GET BACK TO THAT. AT THE END OF 2000 THE
- 23 NUMBER HAS GROWN TO \$100 MILLION, CORRECT?
- 24 A YES, SIR.
- 25 Q AND THEN IN 2001 IT GOES TO \$144 MILLION, CORRECT?

1 A YES, SIR.

2 Q AND THEN IN 2002 IT GOES TO \$243 MILLION ON THIS
3 CHART, CORRECT?

4 A YES, SIR.

5 Q NOW, YOU WERE ABLE TO GET, WHERE WERE YOU ABLE TO GET
6 THE NUMBERS FOR 2000 AND 2001?

7 A I GOT THE NUMBERS FROM 2001, I THINK, FROM THE
8 FINANCIAL REPORTS AND FROM 2002, I CAN'T RECALL WHERE WE
9 GOT THAT FROM.

10 Q OKAY. WELL, THAT GETS TO MY POINT, IN 2001 YOU ARE
11 ABLE TO GET THAT \$144 MILLION DOLLAR NUMBER FROM CERTIFIED
12 FINANCIAL REPORTS THAT WERE FILED WITH THE SEC?

13 A YES, SIR.

14 Q AND YOU ARE ABLE TO GET THAT NUMBER FROM 2000 FROM
15 CERTIFIED FINANCIAL REPORTS FILED WITH THE SEC?

16 A YES, SIR.

17 Q NOW, IN 2002, YEAREND THOSE BOOKS AND RECORDS WOULD
18 NOT BE PREPARED UNTIL THE SPRING OF '03, RIGHT?

19 A YES, SIR.

20 Q AND AT THAT POINT AND TIME THERE IS A BANKRUPTCY
21 PROCEEDING BEGINNING IN MARCH OF '03, CORRECT?

22 A YES, SIR.

23 Q SO, THERE IS NO CERTIFIED FINANCIALS THAT WERE
24 PROVIDED?

25 A YES, SIR.

1 Q SO, YOU HAVE TAKEN SOMEBODY'S NUMBER HERE BUT YOU
2 CAN'T TELL US WHOSE NUMBER THAT IS?

3 A YES SIR, THAT IS RIGHT.

4 Q LET'S KEEP GOING WITH THESE NUMBERS. YOU ALSO CAN'T
5 TELL US AS THIS DEBT IS INCREASING, HOW MUCH OF THE
6 INCREASE IS DUE TO JUST ACCRUED INTEREST, CAN YOU?

7 A NO, SIR.

8 Q NOW, TELL THE JURY WHAT ACCRUED INTEREST IS.

9 A ACCRUED INTEREST IS ON A DEBT, IT IS JUST LIKE
10 ANYTHING ELSE. IF THE COMPANY, IF ONE COMPANY OWES
11 ANOTHER COMPANY MONEY THEN IT COULD BE INTEREST THAT IS
12 BEING CHARGED, IT IS INTEREST BEING CHARGED TYPICALLY.
13 SO, THAT IS THE INTEREST THAT IS BEING CHARGED BETWEEN ONE
14 COMPANY TO THE OTHER FOR THE DEBT.

15 Q NOW, THAT AND IF A COMPANY, LIKE AN INDIVIDUAL, IF
16 THEY OWE MONEY TO ONE PERSON, SAY \$100 THOUSAND DOLLARS AT
17 TEN PERCENT, SO IN A YEAR YOU WOULD HAVE TO PAY BACK \$110
18 THOUSAND, CORRECT?

19 A YES.

20 Q OKAY. AND IF YOU ARE UNABLE TO PAY BACK THAT \$110
21 THOUSAND AND YOU BORROW MONEY FROM THE SAME SOURCE THEN
22 NOW YOU HAVE BORROWED \$110 THOUSAND?

23 A THAT IS CORRECT.

24 Q AND YOU ARE PAYING INTEREST, THE \$10 THOUSAND
25 INTEREST THAT YOU ALREADY OWE?

1 A THAT IS CORRECT.

2 Q SO THE DEBTOR HAS A COMPOUNDING EFFECT, THAT DEBT
3 KEEPS GOING UP AND UP AND UP?

4 A IN YOUR EXAMPLE, WHAT YOU SAID, IF YOU DIDN'T PAY
5 ANYTHING BACK AND FORTH, THEN THAT IS CORRECT.

6 Q SO, IF THE DEBT IS ACCRUING THE INTEREST, THE DEBT IS
7 GROWING NOT SO MUCH EXPEDIENTIALLY BUT MORE THAN JUST A
8 STRAIGHT TEN PERCENT OR WHATEVER THE INTEREST RATE IS,
9 CORRECT?

10 A IT WILL GROW MORE, YES.

11 Q AND THAT IS JUST BECAUSE OF THE COMPOUNDING OF
12 INTEREST?

13 A YES.

14 Q AND IF YOU ARE, ON THE OTHER END OF IT AND YOU WERE
15 AN INVESTOR IN CAROLINA INVESTORS AND YOU PUT SAY, \$100
16 THOUSAND DOLLARS IN AND I USE THAT AS AN EXAMPLE BECAUSE
17 THAT IS AN EASY NUMBER TO WORK WITH AND YOU LEFT IT IN
18 THERE FOR TEN YEARS YOU ARE GOING TO, THAT COMPOUNDING
19 EFFECT IS GOING TO BE WORTH, PERHAPS \$200 THOUSAND
20 DOLLARS, DEPENDING ON INTEREST REATES?

21 A DEPENDING ON INTEREST RATES, YOU WOULD HOPE THAT IT
22 WOULD BE WORTH MORE THAN WHAT YOU STARTED WITH, YES.

23 Q AND THAT IS THE AFFECT OF THE COMPOUND INTEREST?

24 A YES, SIR.

25 Q FROM 2000 TO 2001, WHICH IS THE LAST CERTIFIED

1 FINANCIAL RESULTS WE HAVE, THERE IS A \$44 MILLION DOLLAR
2 INCREASE?

3 A YES.

4 Q IN THE DEBT BUT WE DON'T KNOW, YOU DON'T KNOW OF THAT
5 \$44 MILLION DOLLARS HOW MUCH IS JUST BUILT UP INTEREST?

6 A NO, SIR.

7 Q AND BECAUSE, IF YOU DON'T TAKE ANY MONEY, SAY
8 12/31/02 AND THEN AND YOU HAVE GOT \$243,211,760.00 IN
9 12/31/02, THEN YOU HAVE GOT 3/21/03, \$251 MILLION DOLLARS.
10 IF SOMEONE DIDN'T PAY ANY MONEY, ANY ADDITIONAL DRAWS ON
11 THIS THE NUMBER WOULD STILL GROW, CORRECT?

12 A YES, SIR. IF IT WASN'T ANY MONEY PAID BACK, OKAY,
13 YES.

14 Q NOW, THE NUMBER YOU GOT FROM BANKRUPTCY, WHERE DID
15 THAT COME FROM, DO YOU KNOW, THE \$251,910?

16 A SOME REPORTS THAT I RELIED AND I CAN'T RECALL RIGHT
17 NOW WHAT REPORT THAT WAS.

18 Q THEY WERE NOT CERTIFIED FINANCIAL REPORTS FROM
19 ELLIOTT DAVIS OR ANY OTHER?

20 A NO, SIR.

21 Q GOING BACK TO YOUR RED NUMBERS, ON YOUR INCOME
22 STATEMENT, FOR 1998 THERE IS, LET'S GO TO 1999. YOU HAD
23 NET OPERATING LOSSES OF \$35 MILLION DOLLARS, CORRECT?

24 A YES, SIR.

25 Q NOW, WHEN HOMEGOLD REPORTS THEIR 10K NUMBERS THE,

1 SOMEONE WOULD STILL SEE A NET OPERATING LOSS BUT THEIR
2 BOTTOM LINE THAT YEAR WAS A PROFIT OF ABOUT A MILLION
3 BUCKS, CORRECT?

4 A IT WAS, YOU ARE TALKING ABOUT 1999?

5 Q YES.

6 A YES, ABOUT \$1.8, YES SIR.

7 Q AND THE RESULT OF THAT DIFFERENCE IS \$29,500,000.00
8 DOLLARS OF, I GUESS GAINS, IF YOU WILL, AS RECOGNIZED, ONE
9 TIME ADJUSTMENT OR GAINS ON THE BUYBACK OF THESE BONDS?

10 A PART OF THAT, YOU ARE RIGHT, THE \$29,500 WAS BASED ON
11 THE BUYBACK OF THE BONDS.

12 Q NOW, THE \$7,386,000.00 DOLLARS, THAT SAYS OTHER
13 INCOME EXPENSES, WHAT IS THAT REFERRING TO?

14 A IT IS JUST REFERRING TO OTHER THINGS IN THE FINANCIAL
15 STATEMENT, IT IS NOT A PART OF OPERATIONS. I CAN GO BACK
16 AND LOOK AND TELL YOU WHAT IT WAS BUT I DON'T RECALL
17 EXACTLY WHAT IT WAS.

18 Q SO, THE BOTTOM LINE, THEY ARE REPORTING PROFITS BUT
19 THESE ARE ACCURATE ACCOUNTING ADJUSTMENTS MADE IN
20 ACCORDANCE WITH THE GENERALLY ACCEPTED ACCOUNTING
21 PRINCIPLES?

22 A WELL, I WOULDN'T CALL IT AN ACCOUNTING ADJUSTMENT BUT
23 IT IS AFTER YOU, THE NET INCOME OF OPERATIONS IS ONE
24 THING, THE NET INCOME OF THE BUSINESS IS SOMETHING
25 DIFFERENT.

1 Q LET'S TALK ABOUT THE BOND BUY BACK. YOU KNOW THAT
2 HOMEGOLD, THEY HAD A \$125 MILLION DOLLAR BOND OFFER?

3 A YES, SIR.

4 Q AND THAT THOSE PURCHASERS OF THOSE BONDS, THE GROSS
5 PROCEEDS WERE \$125 MILLION DOLLARS OF HOMEGOLD LESS SOME
6 TRANSACTION COST?

7 A YES SIR, THAT WOULD BE NORMAL.

8 Q AND THEN THE GAIN THAT IS SHOWING HERE IS HOMEGOLD
9 TAKING SOME MONEY FROM SOMEWHERE AND GOING ON THE OPEN
10 MARKET AND REPAYING THAT DEBT?

11 A THAT IS RIGHT, THEY ARE BUYING THE DEBT BACK, THAT IS
12 RIGHT AND THEY ARE BUYING THE BONDS BACK.

13 Q AND THEY ARE BUYING IT BACK FOR LESS THAN THEY, THAN
14 THEY RECEIVED IT?

15 A FOR THE FACE VALUE, YES.

16 Q AND SO THEY ARE NOT MAKING ANY MONEY HERE, THEY ARE
17 JUST TAKING MONEY AND REPAYING DEBT AT A LOWER COST AND
18 THAT REPORTS AS A PROFIT?

19 A WELL, IT IS A PROFIT SO THEY ARE MAKING MONEY BUT
20 THEY ARE TAKING THEIR CASH AND PAYING OFF LIABILITY, THEY
21 ARE PAYING OFF LIABILITIES WITH CASH FOR LESS THAN WHAT
22 THE LIABILITIES ACTUALLY IS.

23 Q NOW, IN ONE OF THESE, DO YOU RECALL WHICH YEAR, '98
24 OR '99 WHERE HOMEGOLD RECOGNIZED THIS DEFERRED TAX ASSET
25 FOR THE FIRST TIME?

1 A I DON'T REMEMBER WHICH YEAR IT WAS.

2 Q NOW, AND YOU HAD A CHART OVER HERE WITH A DEFINITION
3 OF DEFERRED TAX ASSET, I AM NOT GOING TO SPEND A WHOLE LOT
4 OF TIME ON IT.

5 A THAT IS THE ACCOUNTING DEFINITION, YES SIR.

6 Q AND IN THIS INSTANCE, WHAT WE ARE TALKING ABOUT, WHEN
7 YOU TESTIFIED YESTERDAY ABOUT THE NOL, THAT WAS INCREASED
8 BY HOMEGOLD IN NOVEMBER OF 2002, RIGHT, IT WAS SEPTEMBER
9 OF 2000, NOT 2002.

10 A ASK ME AGAIN, I AM SORRY.

11 Q DO YOU RECALL YESTERDAY TESTIFYING ABOUT THE NOL
12 BEING INCREASED TO ROUGHLY \$22 MILLION DOLLARS IN THE FALL
13 OF 2000?

14 A THE NOL, I AM SORRY.

15 Q THE NET OPERATING LOSS, THE DEFERRED TAX ASSET?

16 A BEING INCREASED.

17 Q THE VALUE OF IT BEING INCREASED?

18 A IT WAS INCREASED, YES SIR, THAT IS RIGHT. WE DID SAY
19 THAT, RIGHT, YES SIR.

20 Q AND DO YOU RECALL THAT IT INCREASED FROM ROUGHLY \$10
21 TO \$12 MILLION UP TO \$22 MILLION OR SOMETHING LIKE THAT?

22 A YES, SIR.

23 Q IT WAS ABOUT A \$10 MILLION DOLLAR INCREASE?

24 A YES SIR, THAT IS RIGHT.

25 Q THAT WAS IN THE FALL OF 2000?

1 A I DON'T REMEMBER WHAT DATE WE ARE LOOKING AT, I DON'T
2 REMEMBER WHICH DATE IT WAS BUT IT WAS AN INCREASE. I
3 WOULD THINK IT WOULD BE THE END OF AN ANNUAL PERIOD, NOT
4 AT THE END, I DON'T KNOW.

5 Q WE MAY GO BACK OVER THAT. BUT THE POINT THAT I WANT
6 TO MAKE AT THIS POINT AND TIME IS, THERE WAS AN EXISTING
7 DEFERRED TAX ASSET ON THE BOOKS OF HOMEGOLD?

8 A YES, SIR.

9 Q PRIOR TO JUNE OF 2000?

10 A I BELIEVE SO, YES SIR.

11 Q AND THAT ASSET IS, BECAUSE HOMEGOLD HAS LOST SO MUCH
12 MONEY THEY ARE ABLE TO GET BENEFICIAL TAX TREATMENT ON
13 FUTURE INCOME?

14 A THAT IS A VERY SIMPLISTIC WAY OF LOOKING AT THAT, YOU
15 ARE RIGHT, YES. IT IS VERY COMPLICATED, THAT IS NOT ALL
16 IT IS BUT THAT IS PART OF IT, YES.

17 Q AND SO IN ORDER TO RECOGNIZE THAT DEFERRED TAX ASSET
18 ON SOME COMPANY BALANCE SHEET AND CHECK OFF BY AN AUDITOR,
19 A PUBLIC AUDITOR, THERE IS SOME JUDGMENT THAT HAS TO BE
20 MADE AS TO THE COMPANIES ABILITY TO TURN A PROFIT.

21 A AND MANAGEMENT MAKES THAT DETERMINATION, THAT IS
22 THEIR ASSERTION.

23 Q A PUBLIC ACCOUNTING FIRM CAN'T JUST BLINDLY ACCEPT
24 MANagements WORD FOR IT WHEN THEY SIGNED THEIR NAME TO
25 FINANCIALS FILED WITH THE SEC, CAN THEY?

1 A IT IS KIND OF A FINE LINE THERE. FINANCIAL
2 STATEMENTS ARE MANAGEMENTS ASSERTION, IS MANAGEMENTS
3 REPRESENTATIONS OF THE FINANCIAL STATEMENTS. AND WHAT
4 ACCOUNTANTS DO IS THEY EXPRESS AN OPINION ON IT, THEY
5 WOULD EXPRESS AN OPINION ON THAT FINANCIAL STATEMENT.

6 Q AND SO, IN THE YEAR FOR 2000 THERE IS A 10K, LET ME
7 SEE IF I CAN DIG IT OUT FOR YOU. THIS IS STATE'S EXHIBIT
8 24 AND IF YOU DON'T MIND DIGGING THAT OUT.

9 A YOU ARE SAYING FOR 2000, THAT IS WHAT YOU ARE ASKING
10 ME, RIGHT?

11 Q YES, SIR. I AM ASKING YOU TO TELL THE JURY WHAT THE,
12 WHAT IS REPORTED IN THE 10K'S FOR THE DEFERRED TAX ASSET
13 FOR 2000?

14 A IT WAS \$22 MILLION DOLLARS.

15 Q AND THOSE ARE THE AUDITED FINANCIAL REPORTS, RIGHT?

16 A THIS COMES FROM THE AUDITED FINANCIAL STATEMENT, YES.

17 Q AND IT IS SIGNED ON BY, ELLIOTT DAVIS ISSUES THEIR
18 OPINION THAT THAT NUMBER IS SUPPORTED BY THE GENERALLY
19 ACCEPTED ACCOUNTING PRINCIPLE, I TAKE IT.

20 A WHAT IT STATES IS, AND I CAN JUST READ THIS TO YOU.
21 IT SAYS OUR OPINION OF THE CONSOLIDATED FINANCIAL REFERRED
22 TO ABOVE ARE FAIRLY PRESENTED IN ALL MATERIAL RESPECTS.
23 IT GOES ON TO SAY FOR THE YEARS IT IS PRESENTED, THAT IS
24 WHAT THIS STATEMENT SAYS.

25 Q NOW, THERE IS ANOTHER ACCOUNTING ISSUE THAT YOU

1 MENTIONED, IN REGARD TO THE, I MEAN THAT DEFERRED TAX
2 ASSET AND LET ME JUMP FORWARD. IN MY SIMPLICITY WORLD
3 WHICH IS WHERE I LIVE, HAS VALUE BECAUSE IF YOU MAKE MONEY
4 IN THE FUTURE YOU CAN APPLY THAT TAX BENEFIT TO SAVE
5 TAXES. SO, THERE IS A JUDGMENT TO BE MADE, IS THIS
6 COMPANY GOING TO GO FORWARD, CORRECT?

7 A YES, SIR.

8 Q NOW, IN 2002 HOMEGOLD AUDITORS, ELLIOTT DAVIS,
9 APPLYING THE STANDARDS THAT THEY ARE REQUIRED TO APPLY,
10 THAT THEY HAVE TO PLACE A GOING CONCERN QUALIFICATION IN
11 THE FINANCIALS, CORRECT?

12 A I BELIEVE IT WAS THE 2001 FINANCIAL STATEMENTS, THEY
13 WERE IN THE YEAR OF 2002, DURING THE 2001 FINANCIAL
14 STATEMENTS, YES SIR.

15 Q AND THEN, SO FOR THE YEAR OF 2001 10K?

16 A YES, SIR.

17 Q AND THEY ARE DOING THOSE FINANCIALS WHEN ELLIOTT
18 DAVIS COMES TO THE CONCLUSION THAT THEIR CONCERNS ABOUT
19 THE COMPANY GOING FORWARD?

20 A YES, SIR.

21 Q AS A RESULT OF THOSE CONCERNS IN APPLYING GENERALLY
22 ACCEPTED ACCOUNTING PRINCIPLES, ELLIOTT DAVIS THEN HAS TO
23 SAY, WE HAVE TO STRIKE THIS \$22 MILLION DOLLARS OFF OF
24 YOUR BALANCE SHEET?

25 A YES, SIR.

1 Q SO, ALL OF A SUDDEN THERE IS A LOSS OF \$22 MILLION
2 DOLLARS BECAUSE OF GENERALLY ACCEPTED ACCOUNTING
3 PRINCIPLES?

4 A YES, SIR. I GUESS THAT IS A WAY TO PUT IT.

5 Q AND IT IS NOT LIKE, IN THAT YEAR THE COMPANY THROUGH
6 OPERATIONS LOST \$22 MILLION DOLLARS BUT IT STILL SHOWS UP
7 ON THEIR FINANCIAL STATEMENTS?

8 A ABSOLUTELY, SIMILAR, JUST AS THE SAME AS YOU ARE
9 REFERRING TO THOSE GAINS, IT IS THE SAME THING.

10 Q AND WHOEVER GIVES CAN TAKE IT AWAY?

11 A I DON'T THINK THAT ACCOUNTANTS ARE THAT WAY BUT, YOU
12 KNOW, I DON'T THINK IT WAS THAT WAY, NO SIR.

13 Q IN GOING CONCERN QUALIFICATIONS DOES NOT MEAN THAT
14 THE ACCOUNTING FIRM IS SAYING, WE DON'T BELIEVE THIS
15 COMPANY IS GOING TO MAKE IT, RIGHT?

16 A WHAT IT TYPICALLY MEANS IS THAT THEY ARE CONCERNED
17 ABOUT IT OPERATING IN THE SAME MANNER OVER THE NEXT TWELVE
18 MONTHS.

19 Q NOW, I KNOW I AM JUMPING AROUND AND I APOLOGIZE. ON
20 THE FINANCIAL INDICATORS THAT YOU MENTIONED EARLIER, THAT
21 THEY ARE ALL TRENDING DOWNWARD FROM HOMEGOLD, RIGHT?

22 A YES, SIR.

23 Q AND THEY BEGAN TRENDING DOWNWARD IN 1997?

24 A YES, SIR. FROM '97 FORWARD, REALLY, I THINK.

25 Q AND IF WE CAN WALK THROUGH, WERE YOU ABLE TO

1 DETERMINE HOW MUCH CASH HOMEGOLD WENT THROUGH FROM 1996 TO
2 2000, BEFORE MR. SHEPPARD WAS HERE?

3 A NO SIR, I DO NOT KNOW WHAT THAT NUMBER IS, IT WOULD
4 TAKE A LONG TIME TO CALCULATE THAT NUMBER.

5 Q DO YOU KNOW, THERE WAS AN INITIAL PUBLIC OFFERING,
6 WAS THERE NOT?

7 A YES, SIR.

8 Q AND THAT IS WHERE THE COMPANY GOES ON THE MARKET AND
9 SELLS STOCK?

10 A YES, SIR.

11 Q AND THEY GET THE MONEY?

12 A THEY GET THE MONEY.

13 Q DO YOU KNOW HOW MUCH THAT IS?

14 A NO SIR, I DO NOT.

15 Q THEN THERE WAS A BOND OFFERING OF \$125 MILLION
16 DOLLARS, RIGHT?

17 A THAT IS THE BOND OFFERING WE JUST TALKED ABOUT, YES
18 SIR.

19 Q THAT IS AN ADDITIONAL \$125 MILLION?

20 A YES, SIR.

21 Q ON TOP OF WHATEVER THE PUBLIC OFFERING THEY RAISED?

22 A YES.

23 Q AND THEN THEY GOT MONEY FROM INTER-COMPANY DEBT FROM
24 CAROLINA INVESTORS?

25 A RIGHT.

1 Q AND THEY ARE BURNING THROUGH THAT?

2 A THEY STARTED, THAT IS HOW THEY STARTED, WHAT BECAME
3 HOMEGOLD WAS INITIALLY A LOAN FROM CAROLINA INVESTORS.

4 Q SO, THAT WAS ANOTHER SOURCE OF FUNDS THAT HOMEGOLD
5 WAS SPENDING, I AM TALKING BEFORE 2000?

6 A THEY DID, YES, THEY DID GET SOME MONEY FROM CAROLINA
7 INVESTORS IN THAT TIME FRAME, YES SIR.

8 Q AND THE, IT SAYS 12/31/98, THERE IS \$81 MILLION
9 DOLLARS THAT THEY HAD GOTTEN, RIGHT?

10 A YES, SIR.

11 Q AND IT DROPS TO '99, TO \$67 MILLION AND WE ARE NOT
12 SURE IF THAT IS JUST A TRANSFER OF ASSETS OR NOT?

13 A RIGHT.

14 Q AND THEN LET'S BACK UP TO \$100 MILLION IN 2000?

15 A YES, SIR.

16 Q \$19 MILLION MORE THAN IT WAS IN '98?

17 A YES, SIR.

18 Q AND SO IN ADDITION TO THOSE FUNDS ARE YOU AWARE THAT
19 HOMEGOLD WAS ABLE TO SELL THIS SBA BUSINESS AND GENERATE
20 SUBSTANTIAL SUMS?

21 A THEY SOLD PART OF ANOTHER BUSINESS AND THAT IS WHERE
22 THEY GOT THE MONEY, I THINK, TO BUY BACK SOME OF THESE
23 BONDS. I BELIEVE THEY HAD USED PART OF THOSE PROCEEDS.

24 Q AND DO YOU RECALL HOW MUCH MONEY THE SBA BUSINESS WAS
25 NETTED HOMEGOLD?

1 A I DON'T REMEMBER, NO SIR.

2 Q YOU WERE ASKED EARLIER YESTERDAY IF YOU HAD AN
3 OPPORTUNITY TO REVIEW THE PROXY STATEMENT?

4 A YES, SIR.

5 Q IF I CAN FIND IT. AND IT IS STATE'S 58 FOR ID
6 PURPOSES AND YOU SAID THAT YOU REVIEWED THAT IN FORMING
7 YOUR OPINIONS, CORRECT?

8 A YES SIR.

9 Q AND IN THAT PROXY STATEMENT IT SAYS FINANCIAL HISTORY
10 FOR HOMESENSE, DOES IT NOT?

11 A I AM SURE IT DOES, YES SIR.

12 Q AND THAT PROXY STATEMENT WAS A STATEMENT THAT WAS
13 SENT TO THE SHAREHOLDERS OF HOMEGOLD TO APPROVE THE MERGER
14 BETWEEN HOMESENSE AND HOMEGOLD, RIGHT?

15 A YES, IT WAS SENT TO THE HOMEGOLD SHAREHOLDERS, YES
16 SIR.

17 Q CAN YOU TURN TO THE FINANCIAL INFORMATION ABOUT
18 HOMESENSE IN THE PROXY STATEMENT?

19 A SOME OF IT, YES SIR.

20 Q IS IT ATTACHED TO THE INDEPENDENT AUDITORS REPORT OF
21 J.W. HUNT AND COMPANY, DO YOU HAVE THAT IN THERE?

22 A LET ME GET TO THAT, LET ME SEE IF I CAN FIND WHAT YOU
23 ARE ASKING FOR. HERE YOU GO.

24 Q AND YOU MENTIONED EARLIER ABOUT J.W. HUNT, TELL THE
25 JURY WHO J.W. HUNT AND COMPANY IS?

1 A J.W. HUNT IS A CPA FIRM HERE IN THE CENTRAL PART OF
2 THE STATE IN COLUMBIA.

3 Q AND I THINK YOU TESTIFIED YESTERDAY THAT THEY DID DUE
4 DILIGENCE FOR SOMEBODY?

5 A TO HOMESENSE.

6 Q AND IS IT YOUR UNDERSTANDING THAT FOR HOMESENSE, THAT
7 THEY INSPECTED THE BOOKS AND RECORDS OF HOMEGOLD OR THAT
8 THEY JUST PROVIDED AN AUDIT OF HOMESENSE'S RECORD FOR
9 HOMEGOLD?

10 A THEY DID THAT, THEY DID THE FINANCIAL STATEMENT,
11 OKAY, AND THEY ALSO WERE PART OF THE DUE DILIGENCE
12 PROCESS.

13 Q SO, THE FINANCIAL STATEMENTS OF HOMESENSE, FOR
14 PURPOSES OF THE MERGER WERE AUDITED BY J.W. HUNT, CORRECT?

15 A YES, SIR.

16 Q AND THE AUDITED FINANCIAL, LIKE YOU DID HERE, THIS
17 INCOME STATEMENT FOR HOMESENSE AND I BELIEVE IT HAS GOT A
18 PAGE FOUR OF THAT DOCUMENT. AND IF YOU WILL JUST TELL THE
19 JURY--

20 MS. EVANS: YOUR HONOR, I WOULD OBJECT, THIS HAS BEEN
21 MOVED IN FOR IDENTIFICATION PURPOSES ONLY, IF HE IS GOING
22 TO HAVE HIM READ IT HE CAN CERTAINLY HAVE IT TO REFRESH
23 HIS MEMORY AND ASK HIM QUESTIONS ABOUT IT. BUT I DON'T
24 THINK HE LAID A PROPER FOUNDATION OF THE AUTHENTICITY, IT
25 IS ONLY MOVED IN FOR IDENTIFICATION.

1 THE COURT: THE DOCUMENT IS NOT IN EVIDENCE, I
2 BELIEVE IT HAS BEEN MARKED FOR IDENTIFICATION ONLY AT THIS
3 TIME, THE OBJECTION IS SUSTAINED.

4 MR. GRIFFIN: YOUR HONOR, I WILL BE HAPPY TO MOVE IT
5 IN, IF THEY DON'T HAVE AN OBJECTION TO IT.

6 MS. EVANS: I THINK YOU HAVE TO LAY A FOUNDATION TO
7 MOVE THAT IN.

8 Q DOES THAT REFRESH YOUR RECOLLECTION AS TO WHETHER
9 HOMESENSE WAS MAKING MONEY PRIOR TO THE MERGER AT
10 HOMEGOLD?

11 A I CAN LOOK AT THE NUMBERS AND TELL YOU BUT FROM MY
12 MEMORY I COULDN'T TELL YOU WHETHER THEY ARE MAKING MONEY
13 OR NOT. IF THAT IS YOUR QUESTION, I CAN LOOK AT THESE
14 NUMBERS ON HERE AND TELL YOU.

15 Q I AM NOT GOING TO ASK YOU TO READ THE NUMBERS.

16 A OKAY, SO I CAN'T TELL YOU WITHOUT LOOKING AT THE
17 NUMBERS, OKAY.

18 Q LET ME TAKE THAT BACK FROM YOU. LET'S GO TO
19 SOMETHING THAT IS IN EVIDENCE, THIS WOULD BE EXHIBIT 39
20 AND FOR THE RECORD IT IS THE FORM 8K FILED BY HOMEGOLD
21 WITH THE SECURITIES AND EXCHANGE COMMISSION DATED MAY 9TH
22 OF 2000. AND WHAT I WANT TO ASK YOU, SIR, IS, FIRST IF
23 YOU DON'T MIND ADVISING THE JURY WHAT THAT FILING IS?

24 A IT IS AN 8K FROM MAY 9TH OF 2000.

25 Q AND THE INFORMATION IN IT IS, IS A REPORT FROM

1 ELLIOTT DAVIS, THE AUDITORS SAYING THAT THEY HAVE AUDITED
2 HOMESENSE'S FINANCIALS, IS THAT CORRECT?

3 A THERE IS AN AUDITED FINANCIAL STATEMENT IN HERE BY
4 ELLIOTT DAVIS FROM HOMESENSE, YES.

5 Q AND THE, WELL FIRST WILL YOU JUST READ THE SENTENCE
6 OR TWO ABOUT THE OPINION OF ELLIOTT DAVIS TO THE FINANCIAL
7 STATEMENTS OF HOMESENSE?

8 A WE HAVE AUDITED THE COMPANY COMBINED BALANCE SHEET OF
9 HOMESENSE FINANCIAL AND AFFILIATES AS OF MARCH 31ST OF
10 2000. AND THE RELATED COMBINED STATEMENTS OF OPERATIONS
11 SHAREHOLDERS DEFICIT AND CASH FLOWS FOR THE YEAR ENDED.
12 THESE FINANCIAL STATEMENTS ARE THE RESPONSIBILITY OF THE
13 COMPANIES MANAGEMENT, OUR RESPONSIBILITY IS TO EXPRESS AN
14 OPINION ON THESE FINANCIAL STATEMENTS BASED ON OUR AUDIT,
15 THE COMBINED FINANCIAL STATEMENTS OF HOMESENSE FINANCIAL
16 CORPORATION AND AFFILIATES AT MARCH 31ST OF 1999 WERE
17 AUDITED BY OTHER AUDITORS WHOSE REPORTS ARE DATED JUNE
18 29TH, 1999 EXPRESS AN UNQUALIFIED OPINION. THAT IS THE
19 FIRST PARAGRAPH. YOU WANT ME TO CONTINUE TO READ?

20 Q SURE.

21 A OKAY. THIS IS THE SECOND PARAGRAPH. WE CONDUCTED
22 OUR AUDIT AND ACCORDING TO THE GENERAL ACCEPTED AUDITING
23 STANDARDS, THESE STANDARDS REQUIRE THAT WE PLAN AND
24 PERFORM THE AUDIT TO OBTAIN REASONABLE ASSURANCE ABOUT
25 WHETHER THE COMBINED FINANCIAL STATEMENTS ARE FREE OF

1 MATERIAL MISSTATEMENTS. AN AUDIT INCLUDES EXAMINING ON A
2 TAX BASIS, EVIDENCE SUPPORTING THE AMOUNTS AND DISCLOSURES
3 IN THE FINANCIAL STATEMENTS. AN AUDIT ALSO INCLUDES
4 ASSESSING THE ACCOUNTING PRINCIPLES USED AND SIGNIFICANT
5 ESTIMATES MADE BY MANAGEMENT AS WELL AS EVALUATING THE
6 OVERALL FINANCIAL PRESENTATION. WE BELIEVE THAT OUR AUDIT
7 PROVIDES A REASONABLE BASIS FOR OUR OPINION. THIRD
8 PARAGRAPH, IN OUR OPINION THE COMBINED FINANCIAL
9 STATEMENTS REFERRED TO ABOVE PRESENT FAIRLY IN ALL
10 MATERIAL RESPECTS THE FINANCIAL POSITION OF HOMESENSE
11 FINANCIAL CORPORATION AFFILIATES AS OF MARCH 31ST OF 2000.
12 AND THE COMBINED RESULTS OF OPERATIONS AND CASH FLOW,
13 EXCUSE ME, IN THEIR CASH FLOWS FOR THE YEAREND ENDED IN
14 CONFORMING WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

15 Q I WILL TAKE THAT BACK FROM YOU.

16 A OKAY.

17 Q AND YOU UNDERSTAND THAT THIS WAS ELLIOTT DAVIS', THIS
18 WAS FILED WITH THE SEC?

19 A YES, SIR.

20 Q AND IT PREDATED THE MERGER BY A FEW MONTHS?

21 A YES, SIR.

22 Q WHAT I WOULD LIKE TO DO NEXT IS, WE TALKED ABOUT, YOU
23 TALKED ABOUT YESTERDAY THE IMPAIRMENT OF DEBT?

24 A YES, SIR.

25 Q THIS IS A CHART YESTERDAY AND THIS IS THE DEFINITION

1 OF IMPAIRMENT OF LOANS, RIGHT?

2 A THAT IS CORRECT.

3 Q AND IN THIS, IN THERE IT IS WHEN, AND IT IS ONLY IN
4 COMPANIES, CORRECT?

5 A WHEN YOU ARE DOING FINANCIAL STATEMENTS FOR
6 COMPANIES, YES.

7 Q SO, THE COMPANY OWES YOU \$100 DOLLARS AND IT LOOKS
8 LIKE THEY ARE GOING TO ONLY REPAY YOU \$50 DOLLARS, YOU
9 CAN'T CARRY \$100 DOLLARS ON YOUR BALANCE SHEET, YOU HAVE
10 TO REDUCE IT TO \$50 DOLLARS?

11 A YES, SIR.

12 Q IN MY SIMPLE WORLD, IS THAT FAIR?

13 A THAT IS FAIR, YES SIR.

14 Q IN THE SPRING OF 2002, IN ADDITION TO THE GOING
15 CONCERN ISSUES THAT YOU TALKED ABOUT AND WE WENT OVER FOR
16 THE 12/31/2001 10K, THERE IS ALSO DISCUSSIONS ABOUT THE
17 IMPAIRMENT OF DEBT?

18 A YES, SIR.

19 Q AND THAT IS THIS INTER-COMPANY DEBT BETWEEN CAROLINA
20 INVESTORS AND HOMEGOLD?

21 A YES, SIR.

22 Q NOW, I DON'T WANT TO GET TOO COMPLICATION BUT IT IS
23 IMPORTANT IT WAS TALKED ABOUT YESTERDAY. THE DEBT BETWEEN
24 CAROLINA INVESTORS AND HOMEGOLD AS OF 12/31 OF 2000 WAS
25 ACTUALLY BETWEEN CAROLINA INVESTORS AND HOMEGOLD

1 FINANCIAL?

2 A I BELIEVE THAT IS CORRECT, YES SIR.

3 Q AND THEN GUARANTEED BY HOMEGOLD, INC.

4 A RIGHT.

5 Q AND THAT IS CALLED AN ASSUMPTION AGREEMENT?

6 A I BELIEVE SO, YES.

7 Q THAT ASSUMPTION AGREEMENT, AND I THINK YOU TESTIFIED
8 YESTERDAY THAT THAT ASSUMPTION AGREEMENT WAS ENTERED INTO
9 AFTER THE MEETING OF MARCH OF 2002, DO YOU REMEMBER SAYING
10 ANYTHING LIKE THAT YESTERDAY?

11 A THE ASSUMPTION AGREEMENT, I DON'T REMEMBER THAT
12 YESTERDAY.

13 Q ARE YOU AWARE THAT THE ASSUMPTION AGREEMENT WAS IN
14 PLACE FOR THE ENTIRE YEAR OF 2001?

15 A NO, SIR.

16 Q AND THAT IT WAS RENEWED THE FOLLOWING--

17 A OH, I AM SORRY. YOU ARE TALKING ABOUT THE DEBT
18 BETWEEN THE TWO COMPANIES, I AM SORRY.

19 Q I AM TALKING ABOUT THE DEBT BETWEEN THE CAROLINA
20 INVESTORS?

21 A RIGHT.

22 Q THIS DEBT WAS ASSUMED BY HOMEGOLD FINANCIAL AND
23 GUARANTEED BY HOMEGOLD, INC.

24 A YOU ARE TALKING ABOUT THE NOTES, I AM SORRY, I THINK
25 I UNDERSTAND WHAT YOU ARE ASKING, I DIDN'T UNDERSTAND.

1 THERE WAS A NOTE BETWEEN THE TWO COMPANIES AND THAT NOTE
2 CHANGES. IS THAT WHAT YOU ARE ASKING ME?

3 Q THAT IS CORRECT.

4 A YES, SIR.

5 Q AND THAT NOTE WAS SWITCHED UP TO HERE AND THEN
6 GUARANTEED BY THIS COMPANY, DO YOU REMEMBER THAT?

7 A I DON'T REMEMBER THAT.

8 Q YOU RECALL A QUESTION ABOUT EXECUTING SOME ASSUMPTION
9 AGREEMENT AFTER THE MARCH 2002 MEETING?

10 A THE ASSUMPTION AGREEMENT, I REMEMBER TALKING ABOUT
11 THE NOTE CHANGED AFTER THAT TIME PERIOD, YES SIR.

12 Q AND YOU BELIEVE THAT WAS THE FIRST TIME IT CHANGED?

13 A NO SIR, I DON'T KNOW THAT THAT IS THE FIRST TIME IT
14 CHANGED. I WAS ASKED SPECIFICALLY ABOUT WHETHER THAT NOTE
15 HAD CHANGED AFTER THAT MEETING AND I SAID THAT IT DID
16 CHANGE AFTER THAT MEETING. BUT I DIDN'T, THERE WAS NO
17 OTHER QUESTION ABOUT THAT.

18 Q SO, YOU AREN'T SAYING THAT THIS ASSUMPTION AGREEMENT,
19 YOU DIDN'T TESTIFY THAT THIS ASSUMPTION AGREEMENT WENT
20 INTO PLACE FOR THE VERY FIRST TIME AFTER THAT?

21 A NO SIR, IF WE ARE TALKING ABOUT THE SAME THING, NO
22 SIR, I THINK I UNDERSTAND WHAT YOU ARE ASKING ME..

23 Q THE DEBT HERE AT 12/31/2001 BETWEEN HOMEGOLD
24 FINANCIAL, INC., GUARANTEED BY THE SUBSIDIARY, HOMEGOLD,
25 INC. IS \$144 MILLION DOLLARS?

1 A YES, SIR.

2 Q AND WHAT ELLIOTT DAVIS IS DOING, IS THEY ARE SAYING
3 WE DON'T THINK, BECAUSE WE HAVE THIS GOING CONCERN ISSUE
4 AND OTHERS THAT HOMEGOLD WILL BE ABLE TO REPAY THIS DEBT
5 TO CAROLINA INVESTORS?

6 A THAT IS WHAT THEY ARE TELLING THE MANAGEMENT OF THE
7 COMPANY.

8 Q IN FULL?

9 A THAT IS RIGHT.

10 Q SO, WE ARE GOING TO HAVE TO DECIDE HOW MUCH TO WRITE
11 DOWN?

12 A RIGHT.

13 Q AND MY EXAMPLE, YOU KNOW, IS CAN THE COMPANY PAY BACK
14 \$50 DOLLARS OR HOW MUCH?

15 A RIGHT.

16 Q AND SO THAT IS WHAT IS AT ISSUE IN THE SPRING OF
17 2002?

18 A THEY ARE SAYING SOMEBODY HAS TO DECIDE HOW MUCH HAS
19 TO BE WRITTEN DOWN, THAT IS CORRECT.

20 Q AND WHEN HOMEGOLD ASKED, HOMEGOLD ASKED, EXCUSE ME,
21 ELLIOTT DAVIS ASKED AND HOMEGOLD WENT OUT AND OBTAINED AN
22 INDEPENDENT APPRAISAL BY THE CBIZ COMPANY?

23 A YES, SIR.

24 Q AND THIS CBIZ COMPANY CAME DOWN AND FORMED AN
25 APPRAISAL AND YOU WERE SHOWN A COPY OF THIS DOCUMENT AS

1 EXHIBIT 60 FOR ID YESTERDAY?

2 A YES, SIR.

3 Q AND THAT APPRAISAL WAS NOT ACCEPTED BY ELLIOTT DAVIS
4 SO HOMEGOLD THEN RETAINED THE SERVICES OF DELOITTE AND
5 TOUCHE, THE WORLDWIDE ACCOUNTING FIRM THAT WE MENTIONED?

6 A RIGHT, YOU SAID THEN HOMEGOLD OBTAINED DELOITTE,
7 RIGHT.

8 Q YES.

9 A THE ANSWER IS YES.

10 Q HOMEGOLD OBTAINED DELOITTE?

11 A YES.

12 Q AND THEN THE CBIZ APPRAISAL CAME IN, AS YOU RECALL,
13 IN THE DOCUMENTS AS \$160, \$170?

14 A A \$160 MILLION TO \$170 MILLION DOLLARS.

15 Q WHICH IS \$25 MILLION MORE THAN THE NOTE, RIGHT?

16 A YES, SIR. IT DEPENDS ON WHICH NUMBER YOU ARE USING,
17 YES.

18 Q \$15 TO \$25 MILLION?

19 A YES, SIR.

20 Q AND THEN, WHICH IN THAT CASE THERE WOULD NOT BE A
21 NEED FOR AN IMPAIRMENT IF THAT WAS THE VALUE ACCEPTED BY
22 THE AUDITORS?

23 A IF THIS WAS THE VALUE THAT WAS ACCEPTED THEN YOU ARE
24 ABSOLUTELY RIGHT, IT WOULD NOT NEED TO BE IMPAIRED.

25 Q AND THE AUDITORS DID NOT ACCEPT THAT REPORT AND THEN

1 DELOITTE AND TOUCHE WAS THEN RETAINED AND THEN A SECOND
2 APPRAISAL WAS PERFORMED, CORRECT?

3 A YES, SIR.

4 Q AND YOU WERE PROVIDED A COPY OF STATE'S EXHIBIT 61
5 FOR ID AND SAID YOU REVIEWED THIS DOCUMENT IN FORMING YOUR
6 OPINION, CORRECT?

7 A YES SIR, I DID.

8 Q AND THE DOCUMENT THAT YOU REVIEWED THERE TO FORM YOUR
9 OPINION IS A DRAFT OF THE DOCUMENT, IS IT NOT?

10 A YES, SIR.

11 Q AND IN FORMING YOUR OPINION DID YOU EVER REVIEW THE
12 FINAL VERSION OF THE DOCUMENT?

13 A I DON'T KNOW THAT I EVER SAW THE FINAL VERSION OF THE
14 DOCUMENT, THERE WAS SOME PAGES THAT WERE STILL STAMPED AS
15 DRAFT OF WHAT I GOT AND THERE WAS OTHER PAGES THAT WERE
16 NOT. SO, I DON'T KNOW AND I ASSUMED, I ASSUME THAT I HAVE
17 GOT THE FINAL VERSION BUT I AM NOT SURE OF THAT.

18 Q WELL, YOU CERTAINLY KNOW THAT, THAT THE DELOITTE AND
19 TOUCHE APPRAISAL WAS ACCEPTED BY ELLIOTT DAVIS?

20 A YES.

21 Q AND THE AMOUNTS THAT CAME IN WERE--

22 MS. EVANS: YOUR HONOR, I AM GOING TO HAVE TO OBJECT
23 AGAIN, THIS DOCUMENT IS NOT EVIDENCE AT THIS TIME.

24 THE COURT: THE DOCUMENTS ARE NOT IN EVIDENCE, HE CAN
25 ASK QUESTIONS, THE STATE ASKED QUESTIONS YESTERDAY ABOUT

1 THE VALUATIONS, THE VARIOUS VALUATIONS BY THE VARIOUS
2 FIRMS AND I WILL OVERRULE THAT OBJECTION. GO AHEAD.

3 Q AND DO YOU RECALL WHAT DELOITTE AND TOUCHE, WHAT
4 THEIR VALUATION CAME IN AT?

5 A HAVE A RANGE OF \$135 MILLION TO \$144 MILLION OR
6 SOMETHING LIKE THAT.

7 Q AND THEN AT THE END OF THE DAY ELLIOTT DAVIS USED
8 THAT TO IMPAIR THE DEBT \$6 AND A HALF MILLION, CORRECT?

9 A A LITTLE OVER THAT, YES SIR. THAT WAS USED TO IMPAIR
10 THE DEBT, YES.

11 Q AND \$6 AND A HALF MILLION OF \$144 MILLION IS LESS
12 THAN FIVE PERCENT?

13 A YES, SIR.

14 Q AND IN AN IMPAIRMENT ANALYSIS IS THERE A MATERIALITY
15 ASSESSMENT?

16 A SURE.

17 Q AND IT IS LESS THAN FIVE PERCENT ON THE FRINGE OF
18 MATERIALITY?

19 A I THINK THAT \$6 AND A HALF MILLION DOLLARS IS VERY
20 MATERIAL FOR THIS COMPANY.

21 Q UNDER THIS SITUATION?

22 A ABSOLUTELY.

23 Q NOW, YOU ALSO TESTIFIED YESTERDAY AND YOU WERE SHOWN
24 LANGUAGE IN THE PROSPECTUS AND LET'S TALK ABOUT WHAT A
25 PROSPECTUS IS. A PROSPECTUS IS THE DOCUMENT THAT IS NOT

1 FILED WITH THE SECURITIES EXCHANGE COMMISSION BUT RATHER
2 IT IS A DOCUMENT THAT CAROLINA INVESTORS FILES WITH THE
3 SOUTH CAROLINA ATTORNEY GENERALS OFFICE, THE SECURITIES
4 DIVISION OF THE ATTORNEY GENERALS OFFICE, CORRECT?

5 A YES, SIR.

6 Q AND THAT DOCUMENT IS REQUIRED FOR ANYONE WHO IS
7 SELLING SECURITIES IN THIS STATE, THEY HAVE TO FILE A
8 PROSPECTUS AND THEY HAVE TO REGISTER THE SECURITIES?

9 A YES, SIR.

10 Q IN REVIEWING THIS YESTERDAY AND SOME OTHER DOCUMENTS
11 YOU WERE ASKED ABOUT LIMITING LANGUAGE IN THE APPRAISAL
12 REPORT, DO YOU RECALL THAT?

13 A I WAS ASKED WHETHER OR NOT THE LANGUAGE WAS SIMILAR
14 IN THE ONES THAT LOOKED AT AND MY RESPONSE WAS THAT IT
15 WAS.

16 Q AND THAT YOUR, SO YOU WERE TESTIFYING THAT THE
17 REPORTS THERE WERE LIMITED TO INTERNAL USE ONLY?

18 A I AM SORRY, I UNDERSTAND WHAT YOU ARE ASKING ME NOW.
19 WHAT I SAID WAS, YES, I SAID THAT THESE REPORTS, THE TWO
20 WE JUST TALKED ABOUT WOULD BE USED FOR INTERNAL PURPOSES
21 ONLY.

22 Q THAT WAS THE LIMITATION IN THE REPORT?

23 A YES, SIR.

24 Q AND I ASK YOU TO REFRESH YOUR RECOLLECTION IF YOU
25 WILL PULL UP THE DELOITTE AND TOUCHE REPORT AND REVIEW IT

1 AND SEE IF IT REFRESHES YOUR RECOLLECTION AS WHETHER THERE
2 ARE LIMITATIONS IN THE DELOITTE AND TOUCHE DOCUMENT THAT
3 YOU REVIEWED?

4 A IT SAYS THAT THIS REPORT IS NOT INTENDED FOR FURTHER
5 CIRCULATION OR PUBLICATION. AND IT IS NOT TO BE USED EVEN
6 IN ABBREVIATED FORM FOR PURPOSES OTHER THAN WHAT IS
7 OUTLINED HEREIN WITHOUT THE EXPRESSED KNOWLEDGE OF
8 DELOITTE AND TOUCHE. THAT IS WHAT IT SAYS.

9 Q AND THE USE OF THE OUTLINE HEREIN?

10 A THE USE OF THE OUTLINE HEREIN IS, IT SAYS STRONG
11 CONSIDERATION WAS GIVEN TO THE DEFINITION OF FAIR VALUES
12 PUT FORTH IN SFAS NUMBER 141 AND THE IMPLICATION OR
13 DEFINITION PUBLISHED BY AICPA ON DECEMBER 17TH OF 2001.
14 OUR UNDERSTANDING THAT OUR VALUATION THAT WE USED FOR THE
15 FINANCIAL REPORTING PURSUANT TO THE TEST BY HGFI, ELLIOTT
16 DAVIS FOR IMPAIRMENT IN ACCORDANCE WITH SFAS 114 OF A LOAN
17 FROM CAROLINA INVESTORS, A SUBSIDIARY OF HGFI TO HGFI
18 ONLY. ACCORDING TO OUR WORK PRODUCT, IS NOT TO BE USED
19 FOR ANY OTHER PURPOSE OR DISTRIBUTED TO THIRD PARTIES
20 EXCEPT FOR THOSE FOR WHICH THE PURPOSE OF OUR ANALYSIS
21 ENCOMPASSES WITHOUT THE EXPRESSED KNOWLEDGE AND CONSENT OF
22 DELOITTE AND TOUCHE.

23 Q SO, HAVING REVIEWED THAT, DOES THAT REFRESH YOUR
24 RECOLLECTION THAT THAT DOCUMENT CAN BE USED FOR
25 INFORMATION FOR FINANCIAL REPORTS?

1 A TO BE USED FOR THE IMPAIRMENT, THAT IS WHAT IT SAYS.

2 Q FINANCIAL REPORTING OF THE IMPAIRMENT?

3 A FOR THE FINANCIAL REPORTING OF THE IMPAIRMENT, YES.

4 Q AND REPORTING WOULD BE ALL OF THIS?

5 A THE REPORTING, WHAT THIS MEANS TO ME MEANS THE
6 REPORTING OF THE IMPAIRMENT. IN OTHER WORDS, YOU USE THIS
7 FIGURE TO DETERMINE WHAT THE IMPAIRMENT WAS SO WHEN YOU
8 MAKE THE INTERNAL ALLOWANCE, TO WRITE THAT ASSET DOWN,
9 THAT IS WHAT IT IS TO BE USED FOR THAT, STRICTLY FOR THAT
10 AND NOTHING ELSE.

11 Q THAT IS YOUR UNDERSTANDING?

12 A THAT IS MY UNDERSTANDING, NOT TO BE PUBLISHED IN ANY
13 OTHER DOCUMENT FOR ANY OTHER REASON EVEN, INCLUDING THESE
14 REPORTS.

15 Q OKAY.

16 THE COURT: MR. GRIFFIN, ARE WE AT A DECENT BREAKING
17 POINT FOR THE LUNCH HOUR?

18 MR. GRIFFIN: YES, SIR.

19 THE COURT: LADIES AND GENTLEMEN, WE WILL BREAK FOR
20 LUNCH, WE WILL BE BACK IN ONE HOUR. DON'T DISCUSS THE
21 CASE, EVERYONE ELSE STAY SEATED WHILE THE JURY IS EXCUSED.

22 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
23 A LUNCH BREAK.)

24 THE COURT: WE WILL RESUME AT 1:45. SIR, YOU CAN
25 STEP DOWN AND DON'T DISCUSS YOUR TESTIMONY DURING THE

1 BREAK.

2 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

3 THE COURT: IS THE STATE READY?

4 MS. EVANS: THE STATE IS READY, YOUR HONOR.

5 THE COURT: IS THE DEFENSE READY?

6 MR. GRIFFIN: YES, YOUR HONOR.

7 THE COURT: THE WITNESS CAN RESUME THE WITNESS STAND,
8 PLEASE. BRING THE JURY IN, PLEASE.

9 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
10 APPROXIMATELY 2:00 P.M.)

11 THE COURT: MR. GRIFFIN, YOU CAN CONTINUE ON
12 CROSS-EXAMINATION.

13 CONTINUE CROSS-EXAMINATION

14 BY MR. GRIFFIN:

15 Q MR. BURKETT, WE ARE HEADED FOR THE HOME STRETCH AND
16 WE HAVE A FEW OTHER THINGS TO GO OVER. I JUST WANT TO BE
17 SURE THAT WE ALL UNDERSTAND YOUR STOCK CHART AND IT IS A
18 BAR GRAFT AND AT THE DECEMBER OF 1997 YOUR CHART
19 REPRESENTS STOCK TRADING AT SOMEWHERE UNDER \$16 DOLLARS A
20 SHARE?

21 A YES AND THAT IS THE AVERAGE PRICE AT THAT MONTH, THAT
22 IS WHAT THE AVERAGE PRICE WAS DURING THAT MONTH, YES.

23 Q SO, YOU PICKED MONTHS, IS THERE ANY METHOD TO THE
24 MONTHS THAT YOU SELECTED?

25 A I DON'T THINK IT REALLY WAS, WE JUST DID QUARTERS IS

1 WHAT WE DID, AS YOU CAN SEE AND DO A GRAFT OF WHAT THE
2 AVERAGE HIGH AND LOW PRICE OF THE STOCK WAS.

3 Q AND SO IN DECEMBER OF 1997 IT WAS TRADING BETWEEN \$14
4 TO \$16 DOLLARS?

5 A I THINK IF I REMEMBER CORRECTLY IT GOT UP TO ALMOST
6 \$20 DOLLARS A SHARE, BUT THAT IS THE AVERAGE PRICE PER
7 SHARE, IF I REMEMBER.

8 Q DECEMBER OF 1999, THAT IS UNDER \$2 DOLLARS?

9 A YES SIR, THAT IS RIGHT.

10 Q AND THEN MARCH OF 2000 THERE IS A BLIP BUT STILL
11 UNDER \$2 DOLLARS?

12 A YES, YOU ARE RIGHT.

13 Q FROM 1997 TO JUNE OF 2000 WHEN MR. SHEPPARD ARRIVED
14 ON THE SCENE, THE STOCK HAD GONE FROM SOMEWHERE LESS THAN
15 RIGHT AROUND \$16 DOLLARS DOWN TO LESS THAN \$2 DOLLARS?

16 A YES SIR, THAT IS CORRECT.

17 Q THAT IS THE STOCK THAT MR. SHEPPARD RECEIVED AS A
18 COMMON STOCK, 6 MILLION SHARES?

19 A YES, SIR.

20 Q NOW, THIS CASH FLOW CHART, THE RED LINE IS BORROWED
21 FUNDS, CORRECT?

22 A YES, SIR. THAT IS CASH FLOW FROM FINANCING.

23 Q AND THE DARKER LINE IS FUNDS FROM OPERATIONS?

24 A CASH FLOW FROM FINANCING IS RED, YES, THAT IS RIGHT.

25 AND THE CASH FLOW FROM FINANCING IS RED, OKAY. AND CASH

1 FLOW FROM FINANCING IS THE DARKER LINE.

2 Q WHAT IS THE DARK LINE?

3 A THE DARK LINE IS CASH FLOW FROM OPERATIONS.

4 Q AND THE RED LINE IS FROM FINANCING?

5 A YES, SIR.

6 Q AND A LITTLE BEFORE THE YEAR OF 2000 THERE IS AN
7 INTERSECTION OF THOSE TWO LINES AND THE RED IS GOING UP
8 HIGHER THAN THE DARK LINE, CORRECT?

9 A YES, SIR.

10 Q THAT MEANS PRIOR TO, IN 2000 IS THAT, IS THAT YEAREND
11 2000 OR IS THAT THE FIRST OF 2000?

12 A THAT WOULD BE, WELL, IT WOULD BE THE YEAREND OF 2000.

13 Q FROM THAT CHART?

14 A YES, SIR. 12/31 OF 2000.

15 Q AND THE TREND, I GUESS, STARTING, WELL THE CHART
16 SPEAKS FOR ITSELF, THE TRENDING?

17 A YES, SIR.

18 Q WHAT I WANT TO DO NOW IS GO OVER THIS PROSPECTUS
19 WHICH IS STATE'S EXHIBIT 50 THAT IS IN EVIDENCE THAT YOU
20 TESTIFIED TO YESTERDAY. I WANT TO HAND YOU A COPY THAT I
21 HAVE AND IF THIS TECHNOLOGY WORKS I HAVE THIS SAME
22 DOCUMENT SCANNED INTO THIS COMPUTER UP THERE. AND SO WHAT
23 I WANT TO DO IS GO THROUGH WITH YOU BUT FIRST JUST
24 IDENTIFY, THESE ARE, THIS IS THE PROSPECTUS FOR THE NOTES
25 AND DEBENTURES AND IT SAYS, SERIES 2003 BUT AND THAT IS

1 THE SAME?

2 A YES SIR, IT IS.

3 Q AND AS WE GO THROUGH THIS, WHAT I WOULD LIKE YOU TO
4 TAKE A LOOK AT FOR ME, PLEASE, THIS IS THE HISTORY OF THE
5 COMPANY THAT WE TALKED ABOUT, YOU TALKED ABOUT YESTERDAY.
6 DO YOU RECALL TESTIFYING ABOUT THE DESCRIPTION OF THE
7 COMPANY?

8 A YES, SIR.

9 Q AND THERE IT SAYS THAT CAROLINA INVESTORS IS A SOUTH
10 CAROLINA CORPORATION ENGAGED IN THE BUSINESS OF INVESTING
11 IN FIRST AND SECOND LIEN RESIDUAL MORTGAGES, CORRECT?

12 A RESIDENTIAL, YES SIR.

13 Q EXCUSE ME, RESIDENTIAL MORTGAGES. INTEREST ONLY AND
14 RESIDENTIAL CERTIFICATES AND OTHER SOUTH CAROLINA
15 INVESTMENTS INCLUDING LOANS TO AFFILIATED COMPANIES. AND
16 AFFILIATED COMPANIES THAT WE KNOW ABOUT, OBVIOUSLY, IS
17 HOMEGOLD?

18 A YES, SIR.

19 Q NOW, YOU MENTIONED YESTERDAY YOU DIDN'T THINK THAT
20 WAS A FAIR DESCRIPTION OF WHAT CAROLINA INVESTORS DID WITH
21 THEIR MONEY?

22 A WHAT I SAID IS, WHAT THEY REALLY DID WAS LOAN MONEY
23 TO THE AFFILIATES, THEY DIDN'T ACTUALLY INVEST IN THAT.
24 AT ONE TIME THAT IS WHAT THEY WERE DOING, THEY WERE
25 LOANING MONEY, INVESTING IN THIS, THAT IS THE WAY I READ

1 IT.

2 Q AND ABOUT THIS RESIDUAL MORTGAGE POOLS?

3 A YES.

4 Q DO YOU KNOW ANYTHING ABOUT THAT?

5 A I HAVE GLANCED AT IT BUT I HAVE NOT STUDIED IT AT
6 ALL.

7 Q AND I GUESS WHAT I, I WOULD LIKE TO POINT OUT, IT
8 SAYS THAT, IT TALKS ABOUT HOMEGOLD, DOES IT NOT AND IT
9 TELLS WHERE YOU COULD GET MORE INFORMATION ABOUT HOMEGOLD
10 FINANCIALS?

11 A YES, SIR.

12 Q AND THAT IS, IT SAYS INFORMATION CAN BE OBTAINED FREE
13 OF CHARGE ON THE SEC WEB PAGE, CORRECT?

14 A YES, SIR.

15 Q AND THAT IS HOW YOU GOT ALL OF THESE DOCUMENTS OFF OF
16 THE SEC WEB PAGE, CORRECT?

17 A THAT IS HOW THOSE DOCUMENTS WERE GOTTEN, YES, I
18 DIDN'T GET THOSE DOCUMENTS BUT THEY DID COME FROM THE SEC
19 WEB PAGE.

20 Q THEY WERE AVAILABLE ON THE SEC WEB PAGE?

21 A YES, SIR.

22 Q AND THOSE DOCUMENTS WERE ALSO, COULD BE OBTAINED FROM
23 HOMEGOLD, RIGHT?

24 A YES, SIR.

25 Q AND THEN ALSO ON THIS DOCUMENT THERE IS A DESCRIPTION

1 OF THE USE OF PROCEEDS AND THERE IS EXPECTED SOME \$220
2 MILLION DOLLARS DOWN HERE AT THE BOTTOM?

3 A YES, SIR.

4 Q FROM THAT AMOUNT THERE WILL BE SOME MONEY PAID FOR
5 ACCOUNTING, LEGAL AND OTHER EXPENSES. AND WE ARE GOING TO
6 GET INTO THE ACCOUNTING PART. BUT DO YOU UNDERSTAND IN
7 THIS PROSPECTUS THERE IS A AUDITED FINANCIAL ATTACHED TO
8 IT, CORRECT?

9 A YES, SIR.

10 Q AND THEN THE ACCOUNTING PART ON THE NEXT PAGE, IN
11 REGARD TO, AND HERE IT SAYS ROUGHLY THAT \$30 THOUSAND
12 DOLLARS WILL BE EXPENDED ON LEGAL FEES, ACCOUNTING FEES,
13 DOES IT NOT?

14 A YES SIR, IT DOES.

15 Q AND THEN FURTHER IN THE DOCUMENT THERE IS A SECTION
16 REGARDING SPECIAL RISK FACTORS, DO YOU RECALL SEEING THAT?

17 A YES SIR, I SEE THAT.

18 Q AND THEN UNDER FOOTNOTE ONE THERE IS A COMPLETE
19 SECTION, IF YOU COULD JUST READ TO THE JURY THE FIRST
20 THREE SENTENCES IN REGARD TO THE GOING CONCERN DISCUSSION?

21 A THE FINANCIAL STATEMENTS OF THE COMPANY WHICH ARE
22 INCLUDED IN THIS PROSPECTUS HAVE BEEN PREPARED ON THE
23 ASSUMPTION THAT THE COMPANY WILL CONTINUE AS A GOING
24 CONCERN. THE COMPANY LENDS MONEY TO AFFILIATED COMPANIES,
25 THE PRIMARY AFFILIATE COMPANY WHICH REPAYS THESE LOANS IS

1 HGFN, THE PARENT COMPANY. HGFN HAS SUSTAINED SUBSTANTIAL
2 OPERATING LOSSES IN RECENT YEARS AND HAS AN UNAUDITED
3 DEFICIT SHAREHOLDERS EQUITY OF APPROXIMATELY \$84 MILLION
4 DOLLARS AS OF DECEMBER 30TH OF 2001. THE OPERATING LOSSES
5 AND DEFICIT OF HGFN HAVE CAUSED THE COMPANY CLOSELY TO
6 MONITOR THE ABILITY TO COLLECT THE AMOUNTS DUE FROM
7 AFFILIATED COMPANIES. THESE CLOSELY MONITORED
8 CIRCUMSTANCES OF HGFN'S FINANCIAL CONDITION RAISES
9 SUBSTANTIAL DOUBT ABOUT THE ABILITY FOR THE COMPANY TO
10 CONTINUE AS A GOING CONCERN. DUE TO THESE CIRCUMSTANCES,
11 THE COMPANIES EXTERNAL AUDITORS, ELLIOTT DAVIS, LLC, 87
12 SOUTH PLEASANTBURG DRIVE, GREENVILLE, SOUTH CAROLINA,
13 29606 HAS ISSUED AN UNQUALIFIED OPINION ON THE FINANCIAL
14 STATEMENTS OF THE COMPANY WITH A MANDATORY PARAGRAPH
15 RELATED TO THE GOING CONCERN.

16 Q WHERE IT SAYS DEFICIT SHAREHOLDER EQUITY OF
17 APPROXIMATELY \$84 MILLION DOLLARS.

18 A RIGHT.

19 Q THAT COMPANY IS IN THE RED?

20 A YES, SIR.

21 Q HAS NO NET WORTH?

22 A THEY OWE MORE THAN THEY OWN, YES SIR.

23 Q AND THEN IT SAYS THESE CLOSELY MONITORED, WELL IT
24 SAYS, THESE CLOSELY MONITORED CIRCUMSTANCES RAISE
25 SUBSTANTIAL DOUBT ABOUT THE ABILITY OF THE COMPANY TO

1 CONTINUE AS A GOING CONCERN. AND THAT PARS UP THE
2 LANGUAGE THAT THE AUDITORS ALSO PUT IN, CORRECT?

3 A YES, SIR.

4 Q THIS IS NOT THE PORTION OF A PROSPECTUS WHERE THE
5 AUDITORS ARE PUBLISHING THIS, THIS IS THE COMPANIES
6 STATEMENT, RIGHT?

7 A YES, SIR.

8 Q NOW AT THE BACK OF IT THERE IS THE AUDITORS
9 STATEMENT, RIGHT?

10 A YES, SIR.

11 Q I WANT TO JUMP FORWARD, IF YOU DON'T MIND, LOOK AT
12 THE BOTTOM OF PAGE 5 AND WHAT I WOULD LIKE YOU TO TAKE A
13 LOOK AT IS 10 AND 11 AND 12. I AM SORRY, I MEANT 11, 12
14 AND 13. NUMBER 11 SAYS, DOES IT NOT, THAT THE SECURITIES
15 ARE NOT INSURED BY ANY PRIVATE OR PUBLIC ORGANIZATIONS,
16 CORRECT?

17 A THAT IS CORRECT.

18 Q AND ALSO IT SAYS THEY ARE NOT SECURED BY A PLEDGE
19 MEANING THE COMPANIES ASSETS OR AFFILIATES ASSETS?

20 A THAT IS CORRECT.

21 Q WOULD YOU EXPLAIN WHAT THAT MEANS, THAT THESE NOTES,
22 THERE IS NO SECURITY OR NO PLEDGE ATTACHED TO THESE?

23 A WHAT IT MEANS TO ME IS THAT NOTHING THERE IS ATTACHED
24 TO IT, MEANING SECURITY.

25 Q IF THE COMPANY DOESN'T PAY THERE WOULD PERHAPS BE

1 OTHERS WHO HAVE LIENS ON ASSETS BUT THERE ARE NO LIENS
2 TIED TO THIS, CORRECT?

3 A THAT IS CORRECT.

4 Q AND NUMBER 12 SAYS, THE ABILITY OF THE COMPANY TO
5 GENERATE INCOME TO RETIRE SECURITIES OFFERED DEPEND IN
6 PART UPON THE ABILITY TO TRACK NOTE HOLDERS?

7 A YES, SIR.

8 Q AND THEN LASTLY IT SAYS, IN VIEW OF THE ABOVE FACTORS
9 INVESTORS ARE CAUTIONED THAT THE PURCHASE OF THESE
10 DEBENTURES SHOULD NOT BE MADE WHERE ANY INVESTOR DESIRES
11 AN INSURED OR LOW RISK INVESTMENT OR WISHES TO REDEEM OR
12 BE ABLE TO SELL THE SECURITY AT ANY TIME PRIOR TO
13 MATURITY?

14 A YES, SIR.

15 Q AND ESSENTIALLY WHAT DO YOU UNDERSTAND THAT TO BE?

16 A WELL, IT JUST MEANS THAT, THIS IS PART OF THE RISK
17 FACTOR, I THINK ACCORDING TO THIS, PART OF THE RISK
18 ASSOCIATED WITH THESE. AND JUST TELLING SOMEBODY THAT
19 THERE IS NO SECURITIES AS WE SAID EARLIER, THEY MAY NOT BE
20 REDEEMABLE EARLY.

21 Q AND THEN IF YOU ARE LOOKING FOR A SAFE SECURITY
22 INVESTMENT THIS IS NOT FOR YOU?

23 A IT IS TELLING YOU PART OF THE RISK IS, AND IT SAYS IF
24 YOU DESIRE UNINSURED OR LOW RISK INVESTMENT, IT TALKS
25 ABOUT THAT.

1 Q WHEN YOU SAID THE DESCRIPTION OF WHAT THE COMPANY DID
2 IS PERHAPS NOT A FAIR DESCRIPTION, AND THEN I ASKED YOU
3 ABOUT THE RESIDUAL RECEIVABLE, MORTGAGES, DOES THAT
4 REFRESH YOUR RECOLLECTION ABOUT THE COMPANY, ACQUIRING,
5 INVESTING IN RESIDUAL INTEREST RECEIVABLES?

6 A YES, IT SAYS THE COMPANY HAS PURCHASED RESIDUAL
7 INTEREST RECEIVABLES AT BOOK VALUE.

8 Q AND IT SAYS THAT THE COMPANY ESTIMATES THE CASH FLOWS
9 THAT IT WILL RECEIVE OVER THESE PORTFOLIO LOANS, DO YOU
10 SEE THAT?

11 A YES.

12 Q BACK IN THE DESCRIPTION OF THE COMPANY TALKS ABOUT
13 INVESTING IN MORTGAGE, LOANS?

14 A RIGHT.

15 Q AND THEN I WANT TO GO FURTHER, ON PAGE 16. THAT SORT
16 OF GOES BACK TO WHO IS INVOLVED IN THIS COMPANY AND THERE
17 ARE SOME NAMES THAT I HAD NOT ASKED ABOUT EARLIER. AND I
18 JUST WANT TO, THERE IS SOME QUESTIONS ABOUT ALL THE
19 PLAYERS. BUT WE ARE TALKING ABOUT CAROLINA INVESTORS,
20 RIGHT?

21 A YES, SIR.

22 Q AND WE ARE TALKING ABOUT MR. EARLE MORRIS?

23 A YES, SIR.

24 Q MR. OWEN, MR. STERLING, MR. SHEPPARD AND THEN MR.
25 BOBO UP THERE, IT SAYS THERE THAT HE HAS \$925,678.00

1 WORTH?

2 A YES, SIR.

3 Q MR. SHARPE, IT SAYS HE HAS \$14 THOUSAND AND THIS IS
4 WHERE IT SAYS THAT MR. SHEPPARD HAS \$200 THOUSAND?

5 A YES SIR, THAT IS.

6 Q AND ANN OWEN, AND THAT IS MR. OWEN'S WIFE, CORRECT?

7 A YES, SIR.

8 Q SHE IS A SENIOR VICE-PRESIDENT OF INVESTMENTS AND SHE
9 HAS SOME MONEY INVESTED?

10 A YES, SIR.

11 Q NOW, WE ARE TALKING ABOUT CORPORATE STRUCTURE EARLIER
12 AND YOU WERE QUALIFIED AS AN EXPERT IN CORPORATE STRUCTURE
13 OR YOU ARE KNOWLEDGEABLE ABOUT CORPORATE STRUCTURE?

14 A YES, SIR.

15 Q NOW, FROM DAY-TO-DAY, ISN'T IT TRUE THAT A
16 CORPORATION IS RUN BY ITS OFFICERS?

17 A YES, SIR.

18 Q AND HERE THE OFFICER ON THIS PROSPECTUS, CEO IS MR.
19 OWEN, RIGHT?

20 A YES, SIR.

21 Q AND THEN IT SAYS SENIOR VICE-PRESIDENT IS MS. ANN
22 OWEN, RIGHT?

23 A YES, SIR.

24 Q NOW, THE DIRECTORS OF THE COMPANY, THEY DON'T DO THE
25 DAY-TO-DAY BUSINESS AFFAIRS OF THE COMPANY, DO THEY?

1 A TYPICALLY THEY DO NOT.

2 Q AND BUT WITH THE DIRECTORS, THOUGH, THEY HAVE AN
3 AUTHORITY TO VOTE TO HIRE OR FIRE OFFICERS?

4 A YES, SIR.

5 Q AND THE OFFICERS RUN THE COMPANY?

6 A THAT IS TYPICALLY THE WAY IT WORKS, YES SIR.

7 Q AND THEN THE DIRECTORS ARE ELECTED BY THE
8 SHAREHOLDERS, CORRECT?

9 A YES, SIR.

10 Q NOW, IN THIS CASE HOMEGOLD FINANCIAL IS THE OWNER OF
11 THE SHAREHOLDER?

12 A YES, SIR.

13 Q THE AND I WANT TO, IF YOU CAN GO AHEAD AND FLIP TO
14 THE AUDITORS PAGE. AND IT IS F2 OF THE DOCUMENT, THAT
15 COVER LETTER IS A LETTER THAT IS ATTACHED TO THE
16 FINANCIALS?

17 A YES SIR, IT IS.

18 Q AND IT IS WRITTEN BY ELLIOTT DAVIS, THE INDEPENDENT
19 AUDITOR, CORRECT?

20 A YES, SIR.

21 Q AND THIS LETTER SAYS THAT THERE IS THIS GOING CONCERN
22 LANGUAGE. AND HERE WE HAVE GOT THE AUDITORS SAYING THAT
23 THE CONSOLIDATED FINANCIALS HAVE BEEN PREPARED ASSUMING
24 THAT THE COMPANY WILL CONTINUE AS A GOING CONCERN. THEN
25 IT GOES ON TO SAY AS DISCUSSED IN NOTE TWO OF THE

1 CONSOLIDATED FINANCIAL STATEMENTS COMPANIES PARENT HAVE
2 INCURRED OPERATING LOSSES OF A DEFICIT OF \$84 MILLION
3 DOLLARS?

4 A YES, SIR.

5 Q AND THERE IS A LANGUAGE. THESE FACTORS RAISE
6 SUBSTANTIAL DOUBT ABOUT THE COMPANIES ABILITY TO CONTINUE
7 AS A GOING CONCERN?

8 A YES, SIR.

9 Q AND IT SAYS THAT THE MANAGEMENT PLANS AND THAT THESE
10 MATTERS ARE ALSO DESCRIBED IN NOTE TWO. I WANT TO ASK YOU
11 FIRST ABOUT FINANCIAL STATEMENTS AND THE ACCOMPANYING
12 NOTES, WHAT IS THE PURPOSE OF ACCOMPANYING NOTES AND
13 FINANCIAL STATEMENTS?

14 A WELL, THE NOTES EXPLAIN THINGS THAT YOU SEE IN THE
15 FINANCIAL STATEMENT.

16 Q AND ARE THE NOTES PART OF THE FINANCIAL STATEMENTS?

17 A THEY ARE PART, I WOULD SAY PART OF THE FINANCIAL
18 STATEMENT, I THINK THAT IS A FAIR REPRESENTATION.

19 Q AND IN GENERALLY ACCEPTED ACCOUNTING PRINCIPLES WHEN
20 AN AUDITOR IS PREPARING FINANCIAL STATEMENTS, THOSE NOTES
21 THAT GO WITH IT ARE TO BE READ WITH THE FINANCIAL
22 STATEMENTS?

23 A WELL, UNDERSTAND THAT THE AUDITORS DON'T PREPARE THE
24 FINANCIAL STATEMENTS AND MANAGEMENT PREPARES THE
25 FINANCIALS. SO, THE ANSWER TO YOUR QUESTION, THEY ARE TO

1 BE USED WITH MANAGEMENT'S FINANCIAL STATEMENT, THEY ARE TO
2 EXPLAIN THE FINANCIAL STATEMENT.

3 Q SO, THE NOTES THEN ARE THE AUDITORS NOTES OF THE
4 MANAGEMENT'S FINANCIALS?

5 A NO, SIR. WHAT THE AUDITOR DOES IS EXPRESS AN OPINION
6 WHICH IS WHAT YOU JUST READ, THE FINANCIAL STATEMENTS AND
7 THE NOTES ARE MANAGEMENT'S REPRESENTATION.

8 Q AND THE AUDIT COMPANY IS SAYING THAT THEY ARE
9 BLESSING THIS INFORMATION?

10 A WELL, THEY SAY IT IS FAIRLY PRESENTED AND WHAT THIS
11 SAYS, IS FAIRLY PRESENTED IN ALL MATERIAL RESPECTS, IS
12 WHAT THEY ARE SAYING.

13 Q AND SO WHEN YOU TURN YOUR PAGE AS TO THE LETTER WE
14 JUST SAW, WE GET TO A LIST OF NUMBERS?

15 A YES, SIR.

16 Q NOW, THESE NUMBERS ARE PUT TOGETHER BY THE AUDIT
17 FIRM. I KNOW THAT THEY DON'T GENERATE THE NUMBERS BUT THE
18 AUDIT FIRM PUBLISHES ITS REPORT WITH THE FINANCIAL
19 STATEMENTS?

20 A THE AUDITOR PUBLISHES, THE FINANCIAL STATEMENTS ARE
21 PUBLISHED, OKAY. AND THE AUDITOR PUTS THIS COVER LETTER
22 WITH THE FINANCIAL STATEMENT, THIS IS NOT THE AUDITORS
23 FINANCIAL STATEMENT, THIS IS THE COMPANIES FINANCIAL
24 STATEMENT. IT IS A REPRESENTATION OF MANAGEMENT AND WHAT
25 THE AUDITOR SAYS IS THAT THIS IS FAIRLY PRESENTED.

1 Q AND IF THE AUDIT COMPANY HAS CONCERNS ABOUT SOME OF
2 THE INFORMATION IN THE FINANCIALS THEY WILL ISSUE A, LET'S
3 GO BACK, THERE IS AN UNQUALIFIED LETTER?

4 A RIGHT.

5 Q AND THEN THERE IS A QUALIFIED LETTER?

6 A RIGHT.

7 Q WHAT WE HAVE HERE IS AN UNQUALIFIED LETTER?

8 A THAT IS CORRECT.

9 Q IF IN INSTANCES WHERE YOU FIND A QUALIFIED LETTER IS
10 WHERE THE AUDIT FIRM DISAGREES WITH THE MANAGEMENT IN SOME
11 RESPECT WITH THE NUMBERS?

12 A AND IT WOULD BE IN SOME MATERIAL RESPECT, YES SIR.

13 Q OR MATERIAL RESPECTS WITH THE NOTES?

14 A WHAT I WOULD SAY WITH THE NUMBERS, MAYBE THE NOTES,
15 YES.

16 Q THERE IS, DURING THE AUDIT, THE COMPANY HAS AN
17 OPPORTUNITY TO MAKE ADJUSTMENTS AS REQUESTED BY THE AUDIT
18 FIRM TO GET AN UNQUALIFIED LETTER, RIGHT?

19 A IN CERTAIN CIRCUMSTANCES, YES, THAT WOULD BE RIGHT.

20 Q WELL, AND IN THIS CASE THE MANAGEMENT PUT THE GOING
21 CONCERN LANGUAGE IN THERE?

22 A RIGHT.

23 Q BUT IT WAS CERTAINLY NOT THEIR IDEA TO PUT GOING
24 CONCERN LANGUAGE?

25 A THE CPA FIRM, DID YOU MEAN TO SAY THE CPA FIRM PUT IT

1 IN THERE.

2 Q THE CPA FIRM PUT IT IN THEIR AUDIT LETTER?

3 A AUDIT LETTER, YES SIR.

4 Q AND THE MANAGEMENT PUT IT IN THEIR PROSPECTUS?

5 A YES, SIR.

6 Q OKAY. AND THEN YOU HAVE GOT SOME ADJUSTMENTS THAT
7 YOU TALKED ABOUT EARLIER WITH REGARD TO THE NOL, THE
8 DEFERRED TAX ASSET BEING WRITTEN DOWN?

9 A RIGHT, YES SIR.

10 Q AND THAT WAS DONE HERE AND SHOWS UP, NOT IN THIS BUT
11 IN THE 10K, RIGHT?

12 A YES, SIR.

13 Q THE INVESTING ACTIVITY OF CAROLINA INVESTORS IS WHAT
14 I WANT AND THAT IS ON PAGE F6. AND, AGAIN, WE HAVE GOT
15 PURCHASE OF RESIDUAL RECEIVABLES, NET FROM AFFILIATES.
16 AND THAT IS UNDER INVESTING ACTIVITIES?

17 A YES, SIR.

18 Q AND GOING BACK TO THE COMPANY DESCRIPTION, AND IT
19 SAYS THE COMPANY INVEST IN?

20 A SECOND AND FIRST LIEN RESIDENTIAL MORTGAGES, OKAY.

21 Q AND BUT YOU DON'T KNOW WHAT RESIDENTIAL RECEIVABLES
22 REFER TO?

23 A WELL, WHEN I SPOKE ABOUT THIS EARLIER, WHAT I WAS
24 EXPLAINING HERE WAS THAT IT DIDN'T MAKE FIRST AND SECOND
25 LIEN MORTGAGES AND THAT IS HOW I READ THAT.

1 Q THERE IS A DIFFERENCE BETWEEN USING THE WORD, INVEST
2 IN AND ORIGINATE, IS THERE NOT?

3 A IT MAY BE, YES SIR.

4 Q NOW, WE WANT TO GO TO PAGE F11. AND THE NOTE TWO
5 TALKS ABOUT THE GOING CONCERN. AND THERE THIS IS THE NOTE
6 THAT THE AUDITORS REFER TO IN THEIR COVER LETTER. IT GOES
7 BACK AND SAYS SEE NOTE TWO?

8 A YES, SIR.

9 Q AND THIS IS THE INFORMATION, CORRECT, THIS IS NOTE
10 TWO?

11 A YES, SIR.

12 Q AND IT IS NOTES THAT SHOULD BE READ IN CONJUNCTION
13 WITH THE FINANCIAL STATEMENTS?

14 A YES, SIR.

15 Q THAT WAS GIVEN AN UNQUALIFIED OPINION BY THE
16 AUDITORS?

17 A YES, SIR.

18 Q AND THERE IT SAYS, AGAIN, WE WILL GO THROUGH AND IT
19 LIST A NUMBER OF ITEMS THAT MANAGEMENT HAS TAKEN TO
20 ATTEMPT TO TURN THE CORNER OF THE COMPANY, DO YOU SEE
21 THAT, MANAGEMENT HGFN, THE STEPS TAKEN TO REVERSE THESE
22 NEGATIVE TRENDS?

23 A YES SIR, I SEE THAT.

24 Q GO DOWN TO THAT PARAGRAPH RIGHT DOWN THERE AT THE
25 BULLET POINTS. AND THERE IT SAYS HGFN HAS CONSIDERED THE

1 DIVESTITURE OF THIS RETAIL MORTGAGE ORIGINATION DIVISION,
2 IF NECESSARY TO SATISFY IT NOTES PAYABLE TO THE COMPANY.
3 NOW, THEN IT SAYS, RECENT INDEPENDENT VALUATIONS HAVE
4 VALUED THE DIVISION AT A, BETWEEN \$135 MILLION AND \$170
5 MILLION DOLLARS. HGFN MANAGEMENT MAY PURSUE POTENTIAL
6 ACQUIRES FOR THE DIVISION BUT WILL CONTINUE TO OPERATE AND
7 GROW THE DIVISION UNTIL AND IF IT IS SOLD.

8 A THAT IS RIGHT.

9 Q YOU SAID EARLIER THAT IN YOUR OPINION THAT THESE
10 APPRAISALS WERE BEING MISUSED BY THE COMPANY IN THIS
11 PROSPECTUS. DO YOU RECALL THAT TESTIMONY?

12 A I DO.

13 Q WOULD YOU AGREE THAT THE ACCOUNTING FIRM, ELLIOTT
14 DAVIS ISSUED AN UNQUALIFIED OPINION THAT THESE NOTES ARE
15 PROPER, CORRECT?

16 A THEY ISSUED AN UNQUALIFIED OPINION ON THE FINANCIAL
17 STATEMENT. THE NOTES, MANAGEMENTS NOTES AND IT IS
18 UNDERNEATH THE THING HAVING TO DO WITH GOING CONCERN. AND
19 I DO TAKE ISSUE WITH \$135 MILLION AND \$170 MILLION
20 DOLLARS. I BELIEVE, THAT NUMBER ONE, THAT THEY WERE
21 VALUED BETWEEN \$135 MILLION AND \$170 MILLION DOLLARS.
22 WHEN I TALKED TO THE JURY EARLIER I TALKED ABOUT THE
23 STANDARD OF VALUE, HOW THESE WERE VALUED, THIS IS NOT,
24 THEY WERE NOT, THE VALUATIONS WERE NOT TO BE USED FOR THAT
25 PURPOSE, THIS IS NOT WHAT YOU COULD SELL THIS DIVISION

1 FOR. NEITHER ONE OF THESE APPRAISALS WERE THAT.

2 Q WELL, MR. BURKETT, DIDN'T YOU JUST, MERE MOMENTS AGO
3 IN ANSWERING MY QUESTION, SAY THAT THE NOTES ARE TO BE
4 READ IN CONJUNCTION WITH THE FINANCIALS AND WHEN AN AUDIT
5 COMPANY GETS AN UNQUALIFIED OPINION IT IS AS TO THE NOTES
6 AND TO THE FINANCIALS?

7 A WHAT I SAID IS, WHAT THE ACCOUNTING FIRM DOES, AND WE
8 READ THAT, ALL MATERIAL RESPECTS. THE NOTES BELONG TO THE
9 COMPANIES MANAGEMENT. THEY ARE THE ONES WHO WRITE THE
10 NOTES. AND AS I WAS SAYING, I DISAGREE THAT THEY SHOULD
11 BE IN HERE, THIS GIVES SOMEBODY AN IMPRESSION THAT YOU
12 HAVE HAD THESE COMPANIES VALUED AND SOMEBODY IS GOING TO
13 PAY YOU THIS MUCH MONEY FOR THAT, NUMBER ONE. ON THE
14 SECOND THING WE HAVE TALKED ABOUT IMPAIRMENT OF LOANS, WE
15 HAVE TALKED ABOUT THAT. THE BASIC TENURE FOR ACCOUNTANT,
16 I MEAN FOR FINANCIAL STATEMENTS LIKE THAT AND NOTICE YOU
17 DON'T SAY ANYTHING IS WORTH MORE. WHAT WE ARE DOING, IT
18 SHOULD NOT BE IN HERE AND I THINK IT IS VERY MISLEADING.

19 Q AND THAT IS YOUR OPINION?

20 A THAT IS MY OPINION.

21 Q HAVE YOU EVER WORKED ON ATTACHED AUDITED FINANCIALS
22 THAT ARE GOING TO BE FILED WITH THE SECRETARY OF STATE OR
23 ANYONE ELSE?

24 A YES, I HAVE.

25 Q HAVE YOU EVER BEEN INVOLVED IN OBTAINING BUSINESS

1 VALUATIONS FOR PURPOSES OF IMPAIRING DEBT AND TO BE FILED
2 IN CONJUNCTION WITH PROSPECTUS'?

3 A I HAVE NEVER ATTACHED ONE, NO SIR.

4 Q NOW, AND WE TALKED ABOUT A LOT OF DOCUMENTS THAT YOU
5 HAVE REVIEWED EARLIER AND THIS ONE, IF YOU HAD AN
6 OPPORTUNITY TO REVIEW ANY OF THE DOCUMENTS FROM THE WYCHE
7 LAW FIRM, A FIRM THAT WORKED ON THE PROSPECTUS WITH REGARD
8 TO WHETHER ANY DRAFTS OR ANYTHING LIKE THAT?

9 A NO SIR, I HAVE NOT SEEN ANY DRAFTS FROM THE WYCHE LAW
10 FIRM.

11 Q AND WERE YOU ABLE TO REVIEW ANY DOCUMENTS FROM
12 ELLIOTT DAVIS, THE ACCOUNTING FIRM, IN RELATED TO THE
13 PREPARATION OF THE LANGUAGE THAT WENT INTO THIS
14 PROSPECTUS?

15 A NO SIR, I DID NOT.

16 Q DO YOU KNOW SOMEONE WHO GOT PAID \$30 THOUSAND DOLLARS
17 FOR, OR ANTICIPATED THAT IS WHAT IT WAS GOING TO COST?

18 A YES, SIR.

19 Q BUT YOU DIDN'T TRY TO FIND OUT WHAT WAS DONE?

20 A I WASN'T ASKED TO TRY TO FIND OUT WHAT WAS DONE AND I
21 DID NOT GO LOOK FOR THAT.

22 Q THAT IS ALL I HAVE.

23 THE COURT: ALL RIGHT, MS. EVANS, REDIRECT?

24 MS. EVANS: THANK YOU, YOUR HONOR, IF IT PEASES THE
25 COURT.

REDIRECT EXAMINATION

BY MS. EVANS:

Q MR. BURKETT, ALL OF THESE SEC FILINGS AND THIS PROSPECTUS, WHOSE STATEMENTS ARE THESE?

A THESE ARE MANAGEMENTS STATEMENTS.

Q MANAGEMENT OF HOMEGOLD?

A YES, OF HOMEGOLD.

Q ALL OF THESE STATEMENTS THAT WE ARE TALKING ABOUT, FROM MARCH 9TH OF 2000 ON ARE MANAGEMENTS STATEMENTS?

A YES, MA'AM.

Q AND WHO IS MANAGEMENT?

A MANAGEMENT IS THE PEOPLE IN CHARGE, THE CEO, THE PEOPLE WHO RUN THE COMPANY, THE PRESIDENT, THE OPERATING OFFICERS AND CFO'S, CEO'S, THOSE TYPE OF PEOPLE.

Q AND WHO WAS THE CEO?

A RONNIE SHEPPARD.

Q I WANT TO CLEAR UP SOMETHING. MR. GRIFFIN KEPT ON REFERRING TO TWO VALUATIONS, THE CBIZ AND THE DELOITTE AND TOUCHE AS ELLIOTT DAVIS AS ELLIOT DAVIS' VALUATIONS. WHO REQUESTED THOSE VALUATIONS?

A WELL, FIRST OF ALL THEY WERE VALUATIONS BY THOSE FIRMS AND THEY WERE REQUESTED BY HOMEGOLD.

Q HOMEGOLD MANAGEMENT?

A HOMEGOLD MANAGEMENT, YES.

Q I THINK YOU CLEARED IT UP WHEN MR. GRIFFIN WAS TRYING

1 TO SAY ELLIOTT DAVIS BUT YOU CLEARED IT UP THAT HOMEGOLD
2 ON THAT?

3 A YES.

4 Q AND THEY WERE PROPERTIES OF HOMEGOLD?

5 A YES, MA'AM.

6 Q SO, ONCE CBIZ AND DELOITTE AND TOUCHE GAVE THE
7 VALUATIONS, THEY ARE SENT TO HOMEGOLD?

8 A YES, MA'AM.

9 Q YOU WENT THROUGH THE PROSPECTUS AND TALKED ABOUT THE
10 PRESIDENT AND BOARD OF DIRECTORS OF CAROLINA INVESTORS?

11 A YES, MA'AM.

12 Q WENT THROUGH EARLE MORRIS, LARRY OWEN, ANN OWEN AND
13 ALL OF THOSE INDIVIDUALS THAT HE LISTED?

14 A YES, MA'AM.

15 Q AND CAROLINA INVESTORS IS A SUBSIDIARY OF HOMEGOLD?

16 A YES, MA'AM.

17 Q AND WHO CHOOSES WHO IS GOING TO BE ON THE BOARD OF
18 DIRECTORS OF A SUBSIDIARY?

19 A THE PARENT COMPANY OWNS ALL OF THE STOCK AND THEY
20 WILL CHOOSE THE BOARD OF DIRECTORS?

21 Q SO, HOMEGOLD CHOSE WHO TO BE ON THAT BOARD?

22 A I WOULD ASSUME SO, YES, MA'AM.

23 Q AND HOMEGOLD GOT TO CHOOSE WHO WAS GOING TO BE
24 PRESIDENT OF CAROLINA INVESTORS?

25 A YES, MA'AM.

1 Q AND HOMEGOLD GOT TO CHOOSE WHO WAS GOING TO BE CEO?

2 A YES, MA'AM.

3 Q I BELIEVE HE WAS REFERRING TO THE 8K IN WHICH IT WAS
4 ANNOUNCED ABOUT THE MERGER AND HE SAID IT WAS SOME MONTH
5 BEFORE. WAS IT IN FACT THAT 8K, NOT MONTHS BEFORE BUT IN
6 FACT THE EVERY DAY OF THE MERGER?

7 A I THINK THIS IS THE DAY OF THE MERGER, YES.

8 Q SO, IT WASN'T A MONTH BEFORE LIKE MR. GRIFFIN SAID?

9 A I DON'T BELIEVE IT WAS, I THINK IT WAS, THAT IS MAY
10 9TH.

11 Q AND GOING OVER THE PROSPECTUS, SHOULD THIS ENTIRE
12 PROSPECTUS JUST SPEAK FOR ITSELF JUST AS IT IS?

13 A AND YOU ARE REFERRING TO WHICH PROSPECTUS?

14 Q ANY PROSPECTUS.

15 A YES.

16 Q WHEN AN INVESTMENT IS OFFERED SHOULDN'T IT JUST SPEAK
17 FOR ITSELF?

18 A I BELIEVE SO, YES MA'AM.

19 Q MR. GRIFFIN TALKED ABOUT WHEN THE GOING CONCERN CAME
20 OUT, \$22 MILLION DOLLARS AND THE DEFERRED TAX ASSET HAD TO
21 BE TAKEN OUT.

22 A YES, MA'AM.

23 Q SO, YEAREND DECEMBER 31ST OF 2001 THE COMPANY
24 ACTUALLY REALLY ONLY LOST \$34 MILLION IN OPERATING COST
25 AND NOT \$58 MILLION, THE \$22 MILLION DOLLARS DIFFERENCE?

1 A WELL, NOW, THE DEFERRED TAX THING DOES THAT AFFECT
2 LOSS IN OPERATIONS, THAT IS THE TOTAL NET LOSS. SO, I
3 DON'T REMEMBER THE NUMBERS, THAT NUMBER IS NOT IN THE
4 NUMBERS WE LOOKED ON THE BOARD THAT WAS NET INCOME FROM
5 OPERATIONS, IT WOULD BE BELOW THE LINE. SO, IT WOULD NOT
6 AFFECT THE NET INCOME FROM OPERATIONS.

7 Q SO, WHAT YOU ARE TALKING ABOUT, FOR THIS ONE, IT
8 WOULDN'T AFFECT THAT?

9 A WHEN I TALKED ABOUT THINGS I TALKED ABOUT THE CORE
10 SERVICES WHICH WAS NET INCOME FROM OPERATIONS WHICH IS THE
11 THIRD LINE ON THE INCOME STATEMENT. IT IS THE THIRD LINE
12 THERE. DO YOU MIND IF I GET DOWN.

13 THE COURT: SURE.

14 A THIS IS WHAT WE ARE TALKING ABOUT, THE CORE OF
15 SERVICES. THIS IS NET INCOME FROM OPERATIONS. THE
16 DEFERRED TAX WOULD BE DOWN IN THESE NUMBERS DOWN HERE, ANY
17 ADJUSTMENT WOULD BE DOWN IN THIS PART. SO, IT WOULD NOT
18 AFFECT THIS LINE RIGHT HERE.

19 Q THAT IS ALL I HAVE.

20 THE COURT: ANY RECROSS?

21 MR. GRIFFIN: NO, YOUR HONOR.

22 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
23 WITNESS.

24 MS. EVANS: SURE, YOUR HONOR, I WOULD LIKE TO, AT
25 THIS POINT RELEASE MR. BURKETT FROM HIS SUBPOENA BUT THE

1 RIGHT TO RECALL IN REBUTTAL.

2 THE COURT: THAT IS FINE.

3 MS. EVANS: THE STATE CALLS GARRY RANK.

4 GARRY RANK, AFTER BEING DULY SWORN, TESTIFIED AS
5 FOLLOWS:

6 DIRECT EXAMINATION

7 BY MS. EVANS:

8 Q MR. RANK, PLEASE TELL THE JURY A LITTLE BIT ABOUT
9 YOURSELF?

10 A SURE, IN MY PROFESSIONAL CAPACITY?

11 Q YES.

12 A I GRADUATED FROM THE UNIVERSITY OF AKRON IN 1979, I
13 GREW UP IN OHIO. UPON GRADUATED I JOINED A CPA FIRM IN
14 OHIO, CALLED HILL BARTH AND KING WHICH, IS A REGIONAL
15 FIRM. WE HAD OFFICES IN BOTH OHIO AND PENNSYLVANIA. IN
16 1985, AFTER SIX YEARS OF HILL BARTH AND KING I MOVED TO
17 SOUTH CAROLINA AND JOINED ELLIOTT DAVIS. IN 1991 I BECAME
18 AN OWNER OF ELLIOTT DAVIS, ONE OF THE 34 OWNERS OF ELLIOTT
19 DAVIS, WE REFER TO OURSELVES AS PARTNERS. SO, I AM BOTH
20 AN OWNER OF THE ACCOUNTING FIRM AND I ALSO PRACTICE AS A
21 CERTIFIED PUBLIC ACCOUNTANT. DO MOSTLY AUDIT WORK, AUDIT
22 FINANCIAL STATEMENTS, PRIMARILY PRACTICE WITH COMPANIES
23 THAT ARE REGISTERED WITH THE SECURITIES EXCHANGE
24 COMMISSION IN PARTICULAR FINANCIAL INSTITUTIONS. MOST OF
25 THE WORK I DO DEAL WITH COMMERCIAL BANKS, THAT IS WHY I

1 WAS ASSIGNED TO THE HOMEGOLD ACCOUNT BECAUSE OF THE
2 FINANCIAL SERVICES MADE OF THE COMPANY.

3 Q YOU TOO ARE A CPA?

4 A YES, I AM A CERTIFIED PUBLIC ACCOUNTANT.

5 Q AND ARE YOU STILL EMPLOYED WITH ELLIOTT DAVIS?

6 A YES, I AM. I AM A PARTNER OF ELLIOTT DAVIS.

7 Q AND WHAT ROLE WAS YOUR ROLE INVOLVED WITH HOMEGOLD
8 AND CAROLINA INVESTORS?

9 A I WAS A PARTNER OF AN ENGAGEMENT, WE BEGIN TO WORK
10 WITH, BACK IN THOSE DAYS IT WAS CALLED EMERGENT. EMERGENT
11 EVENTUALLY CHANGED THEIR NAME TO HOMEGOLD. ELLIOTT DAVIS
12 WAS VERY, SOME OF OUR SENIOR PARTNERS AT ELLIOTT DAVIS
13 KNEW A NUMBER OF THE BOARD MEMBERS AND OFFICERS OF
14 HOMEGOLD AND WE HAD THE OPPORTUNITY TO REPLACE THEIR BIG
15 FOUR ACCOUNTING FIRM BACK IN 1990 WHICH WAS ERNST AND
16 YOUNG. MY ROLE AS PARTNER AND BECAUSE OF FINANCIAL
17 SERVICES BACKGROUND WAS TO MANAGE THE CONTRACTUAL SERVICES
18 THAT WE HAD AGREED TO PERFORM FOR HOMEGOLD. AND SO IN
19 THAT CAPACITY AS PARTNER I WAS THE PRIMARY LIAISON WITH
20 THE CLIENT, MADE SURE THAT WE HAD THE APPROPRIATE STAFF ON
21 THE AUDIT ENGAGEMENT, AUDITING SERVICES WERE THE ONLY
22 SERVICES THAT WE PROVIDED TO THEM, WE DID NOT DO ANY TAX
23 WORK FOR THEM. WE ALSO DID NOT DO ANY CONSULTING WORK FOR
24 THEM. WE PROVIDED SERVICES TO THEM THROUGH 1995. AND
25 THAT WAS THE YEAR IN WHICH I THINK YOU HEARD THEY RAISED

1 THE MONEY THROUGH THE PUBLIC DEBT OFFERING, THE \$125
2 MILLION DOLLARS. THAT IS ALSO WHEN THEY CONSOLIDATED
3 THEIR OPERATING FOCUS BACK IN 1990, THEY ACTUALLY HAD
4 THREE LINES OF BUSINESS THAT THEY WERE IN. THEY WERE IN
5 THE TRANSPORTATION INDUSTRY, THEY WERE IN THE FINANCE
6 INDUSTRY THROUGH CAROLINA INVESTORS AND THEY ALSO WERE IN
7 THE TEXTILE INDUSTRY, THEY HAD A TEXTILE MANUFACTURING
8 COMPANY. IN 1994, '95 THEY DIVESTED THEMSELVES OF THE
9 TRANSPORTATION SUBSIDIARY, ALSO THE TEXTILE SUBSIDIARY AND
10 FOCUSED STRICTLY ON FINANCIAL SERVICES AND PUT TOGETHER A
11 STRATEGY TO BECOME A MAJOR PLAYER IN THE SUBPRIME LENDING
12 INDUSTRY. WHEN THEY RAISED THE MONEY IN THE PUBLIC DEBT
13 OFFERING, USING NEW YORK INVESTMENT BANKING FIRMS. THAT
14 TYPE OF CIRCUMSTANCE TYPICALLY DICTATES THAT YOU HAVE A
15 NATIONAL FIRM DOING YOUR AUDIT WORK. SO, IN 1996 AND IN
16 1997 THEY ENGAGED THEIR KPMG TO DO THEIR AUDIT AND THEN
17 WHEN THEY RAN INTO OPERATING DIFFICULTIES THE RELATIONSHIP
18 WITH THE BIG FOUR FIRM WAS ELIMINATED AND WE WERE ASKED IF
19 WE WOULD REENGAGE IN 1998 AND THEN WE PROVIDED SERVICES
20 FOR THEM FROM 1998 UNTIL WE RESIGNED IN OCTOBER OF 2002.

21 Q AND YOU SAY OPERATING DIFFICULTIES, IS KPMG MORE
22 EXPENSIVE THAN ELLIOTT DAVIS?

23 A AS A GENERAL RULE THE ANSWER IS YES.

24 Q AND THAT WAS A LONG WAY OF SAYING, WERE YOU THEIR
25 INDEPENDENT AUDITORS FROM THOSE TIMEFRAMES THAT YOU JUST

1 TALKED ABOUT?

2 A YES, WE WERE ENGAGED TO AUDIT, WE ACTUALLY DID A
3 SERIES OF AUDITS FOR THEM, FINANCIAL STATEMENTS FOR
4 CAROLINA INVESTORS, HOMEGOLD FINANCIAL, INC., HOMEGOLD,
5 INC. AND WE ALSO DID A COUPLE OF SIDE PROCEDURES FOR THEM
6 WHICH WERE REQUIRED OPINIONS FOR THE SERVICING BUSINESS
7 THAT THEY WERE IN RELATIVE TO THE HOME MORTGAGES THAT THEY
8 BOTH ORIGINATED AND ALSO SERVICED AT TIMES.

9 Q DO THEY HAVE IN-HOUSE ACCOUNTANTS?

10 A YES, THEY, IN PARTICULAR FROM '90 UP THROUGH 2000
11 THEY HAD A VERY SOPHISTICATED INTERNAL FINANCIAL
12 ACCOUNTING GROUP. WHEN WE WERE REENGAGED IN 1998 THEY HAD
13 AT LEAST FOUR CPA'S ON STAFF. THEY WERE ONE OF OUR, I
14 WOULD SAY MORE SOPHISTICATED CLIENTS RELATIVE TO THE
15 QUALITY OF THE FINANCIAL STAFF THEY HAD THAT PREPARED THE
16 FINANCIAL STATEMENTS, LOOKED AT ACCOUNTING ISSUES AND MADE
17 DECISIONS ABOUT THE APPROPRIATE TREATMENT, ETCETERA WHICH
18 ALLOWED US TO BE IN THE POSITION OF YOUR ENGAGED WORK
19 WHICH WAS STRICTLY TO PERFORM A NECESSARY PROCEDURES AND
20 DECIDE WHETHER WE AGREED OR DISAGREED WITH HOW THEY
21 PRESENTED THEIR FINANCIAL INFORMATION.

22 Q SO, IN LAYMANS TERM, YA'LL DIDN'T DO THE DAY-TO-DAY
23 BOOKS OF HOMEGOLD OR CAROLINA INVESTORS, THAT WAS DONE BY
24 IN-HOUSE ACCOUNTANTS?

25 A AS THEIR AUDITORS, WE COULD NOT PROVIDE AUDIT

1 SERVICES TO THEM IF WE WERE INVOLVED IN THE DAY-TO-DAY
2 ACCUMULATIONS OF RECORDING OF TRANSACTIONS, YOU HAVE TO BE
3 SEPARATED FROM THAT FUNCTION IN ORDER TO BE INDEPENDENT
4 AND THEREFORE TO BE ABLE TO AUDIT.

5 Q OKAY. AND EACH YEAR THAT YOU WERE ENGAGED, YOU USED
6 THE TERM, ENGAGED. WAS THERE ALSO AN ENGAGEMENT LETTER
7 THAT WENT ALONG WITH THAT?

8 A YES, ENGAGED IS A TERM THAT WE USE IN THE ACCOUNTING
9 INDUSTRY FOR REALLY HAVING A CONTRACTUAL RELATIONSHIP AND
10 SO EACH YEAR WITH EACH ONE OF THOSE SERVICES WE PROVIDE TO
11 THEM, WE WOULD EXECUTE A CONTRACT WHICH WE CALL ENGAGEMENT
12 LETTER WHICH WOULD STIPULATE WHAT OUR ROLE WAS ON A
13 PARTICULAR ENGAGEMENT AND TYPICALLY ALSO HAVE FEE
14 ARRANGEMENTS IN IT.

15 Q AND I AM GOING TO SHOW YOU A LETTER DATED DECEMBER
16 16TH, DO YOU RECOGNIZE THAT?

17 A YES, I DO.

18 Q MR. RANK, WHO SIGNED THAT LETTER?

19 A THIS IS A LETTER ON ELLIOTT DAVIS COMPANY LETTERHEAD,
20 IT WAS SIGNED BY ME AS A PARTNER IN AN ENGAGEMENT LETTER
21 AND WE ASKED FOR A SIGNATURE FROM A CLIENT TO ACCEPT THE
22 CONTRACT, THIS IS OUR ENGAGEMENT LETTER ON HOMEGOLD, INC.
23 FOR THE AUDIT FOR 2000.

24 Q YOU WROTE THAT LETTER AND YOU SENT THAT TO HOMEGOLD?

25 A YES.

1 MS. EVANS: AT THIS TIME, YOUR HONOR, WE WOULD LIKE
2 TO MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 71.

3 THE COURT: ANY OBJECTION?

4 MR. GRIFFIN: NO, YOUR HONOR.

5 THE COURT: STATE'S 71 IS ADMITTED.

6 (WHEREUPON, STATE'S EXHIBIT NO. 71 WAS ADMITTED INTO
7 EVIDENCE.)

8 Q AND BASICALLY, WITHOUT READING THIS ENTIRE LETTER
9 DOES THAT OUTLINE WHAT YOU ARE GOING TO DO AS INDEPENDENT
10 AUDITOR?

11 A YES, IT DOES.

12 Q AND IS THAT STANDARD LANGUAGE, THAT IS JUST ONE OF
13 YOUR ENGAGEMENT LETTERS WITH HOMEGOLD, BUT IS THAT THE
14 BASIC STANDARD LANGUAGE THAT YOU USE FOR MOST OF YOUR
15 ENGAGEMENT LETTERS WITH HOMEGOLD?

16 A YES, AS MOST ACCOUNTING FIRMS WE SUBSCRIBE TO VARIOUS
17 SERVICES. OUR PARTICULAR SERVICE AT THIS POINT AND TIME
18 WOULD OF BEEN A PROFESSIONAL PUBLICATIONS FIRM CALLED PPC
19 AND WE WILL PULL DOWN CORE DOCUMENTS THAT HAVE MOST OF THE
20 LANGUAGE THAT YOU WOULD HAVE IN HERE. AND THEN WE WOULD
21 CUSTOMIZE THIS TO THE DEGREE THAT WE NEEDED TO FIT THE
22 ENGAGEMENT OR FIT CERTAIN STANDARDS.

23 Q AND YOU JUST TESTIFIED THE YEARS THAT YOU WERE
24 INVOLVED FOR PURPOSES OF THIS, WERE YOU ENGAGED AS
25 INDEPENDENT AUDITORS DURING THE TIME OF THE

1 HOMESENSE/HOMEGOLD MERGER?

2 A YES, WE WERE.

3 Q AND PLEASE TELL THE JURY ABOUT YOUR INVOLVEMENT IN
4 THAT MATTER?

5 A THE COMPANY IN PARTICULARLY BEARING 1998 AND 1999 WAS
6 LOOKING FOR A STRATEGIC PARTNER TO REPLACE SOME EXPERTISE
7 THAT THEY LOST IN 1997. THEY HAD BROUGHT A GROUP IN THAT
8 WAS HEADING A MAN WHOSE NAME WAS JOHN MCSHANE AND JOHN
9 BROUGHT TO THE HOMEGOLD ENVIRONMENT THE TALENT THAT WAS
10 NECESSARY TO BE IN THE SUBPRIME LENDING INDUSTRY. IN
11 1997, IF I RECALL CORRECTLY, THEY HAD RAMPED THEIR
12 ORIGINATION OF MORTGAGES UP TO ABOUT \$1.1 BILLION DOLLARS
13 WHICH IS A SIGNIFICANT LEVEL OF ORIGINATIONS, ESPECIALLY
14 WHEN YOU START FROM ZERO. MR. MCSHANE AND HIS GROUP HAD A
15 FALLOUT WITH THE COMPANY. AND SO IN ORDER FOR HOMEGOLD TO
16 CONTINUE TO REMAIN IN THAT BUSINESS AND TO LEVERAGE UP THE
17 INFRASTRUCTURE THAT THEY HAD CREATED WHILE MR. MCSHANE WAS
18 THERE AND THAT INFRASTRUCTURE WAS CONTRACTS ON BUILDINGS,
19 TALENT, LOAN OFFICERS, THEY INVESTED IN SOFTWARE, THEY HAD
20 UTILITY BILLS, EVERYTHING NECESSARY TO BE IN THE BUSINESS
21 BUT THEY DIDN'T HAVE THE KEY PEOPLE TO RUN THAT BUSINESS.
22 SO, THEY WERE LOOKING FOR A STRATEGIC PARTNER AND
23 NEGOTIATIONS WITH SEVERAL COMPANIES ACROSS THE COUNTRY TO
24 REPLACE THAT TALENT. THEY ENTERED INTO NEGOTIATIONS WITH
25 MR. SHEPPARD'S COMPANY, HOMESENSE.

1 Q WERE THERE OTHER NEGOTIATIONS BEFORE MR. SHEPPARD'S
2 COMPANY, HOMESENSE?

3 A YES.

4 Q APPROXIMATELY HOW MANY?

5 A THERE ARE TWO THAT I CAN RECALL SPECIFICALLY.

6 Q THIS WASN'T THE FIRST MERGER THAT THEY WERE LOOKING
7 AT, THE HOMEGOLD/HOMESENSE MERGER?

8 A THAT IS CORRECT.

9 Q PLEASE CONTINUE ON ABOUT THE MERGER.

10 A WE WERE MADE AWARE OF WHEN THEY WERE TALKING TO
11 SOMEONE AND PERHAPS THEY WERE UPDATING US WHAT THE STATUS
12 WAS. BUT BECAUSE OF THE HIGH LEVEL OF TALENT THEY HAD,
13 BOTH PRESIDENT'S LEVEL AT THAT POINT AND TIME AND THE
14 PRESIDENT'S NAMES, KEITH GIDDENS AND OF COURSE, THEIR
15 FINANCIAL STAFF. THEY DID ALL OF THE LEG WORK TO LOOK AT
16 THE COMPANY THAT THEY NEGOTIATED WITH, LOOKING AT THE
17 FINANCIAL STATEMENTS, INTERVIEW IS THE PEOPLE AND DECIDE
18 IF THAT COMPANY HAD THE APPROPRIATE TALENT AND HAD THE
19 APPROPRIATE FINANCIAL STABILITY THAT COULD BECOME A
20 STRATEGIC PARTNER WITH THEM. SO, WE HAD NO INVOLVEMENT IN
21 NEGOTIATIONS. AND THEN AT ONE POINT, PROBABLY WAS EARLY
22 IN 2000, THEY INFORMED US THAT THEY HAD ENTERED INTO
23 CERTAIN CONTRACTUAL ARRANGEMENTS WITH MR. SHEPPARD AND HIS
24 COMPANY, HOMESENSE. AND THEN THEY FINALIZED NEGOTIATIONS
25 AND EVENTUALLY MERGED WITH MR. SHEPPARD'S COMPANY IN EARLY

1 MAY OF 2000.

2 Q YOU TALKED A COUPLE TIMES ABOUT THE ACCOUNTING STAFF
3 THAT THEY HAD. WHO WAS THE CFO AT THE TIME OF THE MERGER?

4 A THE CFO FOR HOMEGOLD WAS A GENTLEMAN BY THE NAME OF
5 KEVIN MAST.

6 Q AND HOW LONG, FROM YOUR EXPERIENCE AND YOUR DEALINGS
7 WITH HOMEGOLD, HAD HE BEEN WITH HOMEGOLD?

8 A KEVIN JOINED HOMEGOLD IN THE EARLY 90'S, PROBABLY
9 AROUND 1992, IF I RECALL CORRECTLY. HE ACTUALLY CAME TO
10 THEM AND THEY DID A SBA LENDING COMPANY FROM OUT WEST.
11 AND KEVIN CAME ALONG WITH THAT ACQUISITION AND ACTUALLY
12 WAS THE CFO OF THAT PARTICULAR SUBSIDIARY. AND THEN THEY
13 DIVESTED THE OTHER SEGMENTS OF THE COMPANY, THE
14 TRANSPORTATION OF TEXTILES AND BECAME A FINANCIAL SERVICES
15 COMPANY WHICH FIT KEVIN MAST'S TALENT, BACKGROUND, HE WAS
16 A CPA WHO HAD WORKED FOR A BIG FOUR ACCOUNTING FIRM. HE
17 THEN BECAME THE CFO OF HOMEGOLD, INC. AND PROBABLY IN MY
18 EXPERIENCE FOR THE 28 YEARS I HAVE BEEN PRACTICING, HE IS
19 PROBABLY ONE OF THE FIVE MOST TALENTED CFO'S THAT I HAVE
20 HAD THE OPPORTUNITY TO WORK WITH.

21 Q DO YOU REMEMBER ALL THE PEOPLE AROUND THAT TIME
22 FRAME, AROUND 2000 THAT WORKED IN THE ACCOUNTING
23 DEPARTMENT?

24 A YES, WHEN WE WERE REENGAGED IN 1998 AND I THINK MOST
25 PEOPLE WERE STILL WITH THEM. JENNIFER CHAMPAGNE WAS A CPA

1 WHO WAS PART OF THAT FINANCIAL STAFF AND HER BACKGROUND
2 WITH A NATIONAL ACCOUNTING FIRM OF KPMG. JIM AUSTIN WHO
3 WAS A CPA, HAD A BACKGROUND WITH THE NATIONAL ACCOUNTING
4 FIRM OF KPMG. MIKE HOLCOMB WHO WAS A CPA AND HAD A
5 BACKGROUND WITH WACHOVIA BANK AND THAT IS JUST A KIND OF A
6 CROSS SECTION OF SOME OF THE TALENT THAT THEY HAD ON THEIR
7 FINANCIAL STAFF.

8 Q WERE YOU PART OF THE DUE DILIGENCE TEAM ON BEHALF OF
9 HOMEGOLD?

10 A PRIOR TO THE MERGER THE ACTUAL CONSUMMATION OF THE
11 MERGER, WE WERE NOT PART OF THE DUE DILIGENCE TEAM.

12 Q AFTER THE MERGER DID YOU BECOME, I GUESS DID YOU
13 REVIEW THE MERGER AND THE MERGER AGREEMENTS?

14 A WELL, WE WOULD OF READ THE MERGER AGREEMENTS TO MAKE
15 SURE WE UNDERSTOOD THE MECHANICS OF THE TRANSACTION AS
16 PART OF THE AUDIT. THE ONLY TWO SERVICES WE PROVIDED,
17 REALLY RELATIVE TO THE MERGER ITSELF, WE WERE ASKED TO DO
18 THE FINAL AUDIT OF HOMESENSE, MR. SHEPPARD'S PRIOR
19 ACCOUNTANTS WERE THE J.W. HUNT FIRM THAT AUDITED THE
20 FINANCIAL STATEMENTS OF HOMESENSE. HOMESENSE WAS AT A
21 WHAT WE CALL A FISCAL YEAREND, THEY WERE A MARCH YEAREND
22 VERSUS HOMEGOLD THAT A CALENDAR YEAREND, WHICH WAS A
23 DECEMBER YEAREND. J.W. HUNT ISSUED THEIR LAST AUDITED
24 FINANCIAL STATEMENTS ON HOMESENSE FOR THE YEAR ENDED MARCH
25 OF 1999. ELLIOTT DAVIS WAS ASKED TO DO THE FINAL AUDIT OF

1 HOMESENSE WHICH WAS FOR THE YEAR ENDING MARCH OF 2000 SO
2 WE DID THAT AUDIT REALLY AT THE REQUEST OF HOMEGOLD. MR.
3 SHEPPARD AGREED WITH THAT AND THEN WE ALSO ISSUED A LETTER
4 TO THE BOARD OF DIRECTORS OF HOMESENSE WHICH SIMPLY STATED
5 THAT, THERE IS A DOCUMENT THAT IS REQUIRED TO BE FILED
6 UNDER SEC REGULATIONS, THE SECURITY EXCHANGE COMMISSION
7 SINCE HOMEGOLD WAS A PUBLICLY REGISTERED COMPANY. AS A
8 RESULT OF THE MERGER AND BECAUSE OF ITS MATERIALITY, THE
9 DOLLAR ASPECTS OF THE MERGER, THEY WERE REQUIRED TO DO A
10 PUBLIC FILING THAT NOT ONLY DISCLOSED PUBLIC INFORMATION
11 ABOUT HOMESENSE BUT ALSO PUT TOGETHER PROFORMA WHICH IS
12 CALLED PROFORMA FINANCIAL INFORMATION THAT SHOWS OWNERS OF
13 HOMEGOLD AND OTHER INTERESTED READERS, THAT AFTER HOMEGOLD
14 AND HOMESENSE ARE MERGED HERE IS WHAT THEIR OPERATIONS
15 WERE, WILL LOOK LIKE. AND SO WE WERE ASKED TO ISSUE A
16 LETTER TO THE BOARD OF HOMESENSE THAT SIMPLY STATED THAT
17 THE INFORMATION THAT WAS CONTAINED IN THE FORM 14 FILING,
18 FORM 14 IS JUST A TECHNICAL DOCUMENT THAT THIS INFORMATION
19 WAS INCLUDED IN. THAT THE INFORMATION THAT WAS IN THE
20 DOCUMENT REGARDING HOMEGOLD WAS ACCURATE RELATIVE TO PRIOR
21 PUBLIC FILINGS. SO, WE TOOK THAT FORM 14, WE TRACED THAT
22 INFORMATION TO OTHER PUBLIC FILINGS AND WE ISSUED A LETTER
23 TO THE BOARD OF DIRECTORS OF HOMESENSE STATING THAT WE HAD
24 COMPARED THOSE TWO DOCUMENTS AND WE NOTED NO EXCEPTIONS
25 BETWEEN THEM.

1 Q AND WE HAVE HEARD SEVERAL ACCOUNTING TERMS AND, BUT
2 THIS IS THE FIRST TIME I HAVE HEARD THIS FORM 14. JUST
3 BRIEFLY EXPLAIN WHAT THAT IS?

4 A SURE. A FORM 14, YOU KNOW, THE SECURITIES EXCHANGE
5 COMMISSION HAS A WHOLE SERIES OF FORMS. FORM 14 MOST
6 COMMONLY IS USED IN WHAT IS CALLED A PROXY FILING. AND I
7 AM NOT GOING TO EXPLAIN THIS TO YOU AS A SECURITIES
8 ATTORNEY WOULD BE BUT I WILL EXPLAIN IT TO YOU IN MY
9 PROFESSIONAL EXPERIENCE WITH A NUMBER OF FORM 14'S. EACH
10 YEAR MOST PUBLICLY TRADED COMPANIES ARE REQUIRED TO HAVE
11 AN ANNUAL MEETING. YOU ARE REQUIRED TO GIVE NOTICE TO
12 SHAREHOLDERS AND THE GENERAL PUBLIC OF THAT MEETING. AND
13 THIS FORM HAS TO BE RELEASED 30 DAYS PRIOR TO THE MEETING
14 THAT HAS A VARIETY OF INFORMATION IN IT. THE TYPICAL FORM
15 14 NOTIFIES PEOPLE OF THE MEETING, WHERE IT IS GOING TO BE
16 LOCATED. IT ALSO TYPICALLY HAS A SERIES OF INFORMATION
17 ABOUT ELECTIONS OR VOTES MAY TAKE PLACE AT THE MEETING.
18 NOMINATIONS OF DIRECTORS. IT JUST FLOWS AS TYPICALLY
19 CERTAIN EXECUTIVE COMPENSATION, IT DISCLOSES CERTAIN STOCK
20 PERFORMANCE. IF THE COMPANY IS GOING TO ADOPT A STOCK
21 OPTION PROGRAM IT WILL DISCLOSE THAT. AND SO IN THIS
22 PARTICULAR CASE, HAVING THE MERGER INFORMATION IN IT
23 BETWEEN HOMEGOLD AND HOMESENSE WAS A LITTLE BIT UNUSUAL,
24 IN FACT I HAD NOT SEEN IT PUT IT IN A FORM 14 BEFORE, I
25 HAVE NOT SEEN IT PUT IN A FORM 14 AFTERWARDS. BUT IT WAS

1 THE, BECAUSE OF THE TIMING OF THE MERGER IT WAS A DOCUMENT
2 THAT YOU ARE PERMITTED TO PUT THAT INFORMATION IN JUST
3 FROM AN EFFICIENCY PERSPECTIVE SO THAT WAS PERMITTED TO BE
4 DONE. USUALLY A FORM 14 IS ABOUT 30 PAGES FOR
5 CONVERSATION SAKE, THIS PARTICULAR FORM 14 WAS PROBABLY
6 ABOUT 120 PAGES BECAUSE IT HAD ALL OF THESE DOCUMENTS THAT
7 WERE RELATED TO THE MERGER.

8 Q AND IN ADDITION TO THAT FORM 14 WHICH THEY BELIEVED
9 THAT TO BE, THERE WAS ALSO AN 8K THAT WAS FILED, CORRECT?

10 A YES, THERE WAS.

11 Q AND THAT WAS, THIS IS STATE'S EXHIBIT NUMBER 39
12 ALREADY IN EVIDENCE, WHAT IS THE DATE OF THAT?

13 A THIS PARTICULAR 8K IS DATED MAY 9TH AND THE FORM 14 I
14 AM SPEAKING OF IS ACTUALLY FILED IN EARLY APRIL. THAT IS
15 WHY THERE ARE TWO DOCUMENTS.

16 Q TWO DIFFERENT DOCUMENTS?

17 A YES.

18 Q AND THEN, AND YOU DON'T NEED TO EXPLAIN WHAT AN 8K IS
19 HOPEFULLY, THAT 8K IS GIVING NOTICE TO THE PUBLIC THAT
20 THERE IS GOING TO BE A MERGER BETWEEN THESE TWO COMPANIES?

21 A I THINK THAT PARTICULAR 8K, IF I REMEMBER CORRECTLY,
22 I HAVEN'T LOOKED AT IT IN A LONG TIME. BUT IT DISCLOSED
23 SOME ADDITIONAL INFORMATION BECAUSE THERE WAS A CHANGE
24 THAT OCCURRED IN THE MERGER THAT REALLY REQUIRED AN
25 UPDATING OF THAT PROFORMA INFORMATION THAT I MENTIONED TO

1 YOU AS TO WHAT THE TWO COMPANIES WOULD BE LIKE AFTER THEY
2 WERE PUT TOGETHER. SO, THAT IS WHY THERE ARE ACTUALLY TWO
3 FILINGS RELATIVE TO THE FINANCIAL ASPECTS OF THE MERGER.

4 Q AND AS YOU SAID, YOU DIDN'T GET REALLY INVOLVED
5 DURING THE NEGOTIATIONS OF THE MERGER ONCE THE MERGER WAS,
6 IN ESSENCE, CONSUMMATED OR DECIDED UPON. YOUR ROLE WAS TO
7 REVIEW THE BOOKS OF HOMESENSE, IS THAT CORRECT?

8 A WE WERE ASKED TO PERFORM AN AUDIT OF THE HOMESENSE
9 FINANCIALS FOR THE YEAREND IN MARCH OF 2000. AND THOSE
10 FINANCIAL STATEMENTS WERE USED TO COMPLETE THE COMPUTATION
11 OF THE FINANCIAL PRICE OF THAT MERGER.

12 Q AND IN REVIEWING HOMESENSE OR DOING THE AUDIT OF
13 HOMESENSE, DID YOU NOTICE ANY PROBLEMS WITH HOMESENSE'S
14 BOOKS OR THEIR FINANCIAL STATEMENTS?

15 A YES.

16 Q PLEASE TELL THE JURY SOME OF THE ISSUES THAT YOU
17 FOUND IN REVIEWING HOMESENSE'S FINANCIALS?

18 A WHEN WE BEGAN AN AUDIT, TYPICALLY, SINCE WE ARE
19 AUDITING FINANCIAL STATEMENTS AND FINANCIAL INFORMATION
20 THAT IS PREPARED BY THE COMPANY, THEY HAND US A STACK OF
21 DOCUMENTS AND THEN WE BEGIN TO MOVE THROUGH IT AND WE
22 EITHER BEGIN TO AGREE OR DISAGREE WITH WHAT IS IN IT. SO,
23 THE INITIAL FINANCIAL STATEMENTS THAT WE WERE HANDED FOR
24 HOMESENSE INDICATED A CERTAIN LEVEL OF PROFITABILITY AND
25 ALSO INDICATED A CERTAIN LEVEL OF EQUITY. AND I THINK YOU

1 HAVE HEARD THAT TERM, THAT IS THE DIFFERENCE BETWEEN THE
2 ASSETS AND THE LIABILITIES. AND FOR CONVERSATION SAKE,
3 THE INITIAL FINANCIAL STATEMENTS THAT WE WERE HANDED HAD
4 EQUITY OF ABOUT \$1.5 MILLION DOLLARS. AND WE PROPOSED
5 AUDIT ADJUSTMENTS TO THOSE THAT TOOK THAT MILLION AND A
6 HALF DOLLARS OF EQUITY TO ACTUALLY A DEFICIT OF EQUITY OF
7 \$200 THOUSAND DOLLARS. SO, WE PROPOSED ADJUSTMENTS OF
8 \$1.7 MILLION DOLLARS THAT REDUCED THE EQUITY OF HOMESENSE.

9 Q CAN YOU TRY TO EXPLAIN WHAT THAT MEANS IN LAYMANS
10 TERMS?

11 A WELL, THAT MEANS THAT AND IN THIS PARTICULAR CASE,
12 THERE WAS REVENUE THAT WAS RECOGNIZED THAT INCREASED THE
13 NET INCOME OF HOMESENSE FOR THE YEAR ENDED, MARCH OF 2000
14 THAT WE DISAGREED WITH BASED UPON PROFESSIONAL ACCOUNTING
15 STANDARDS. AND SO WE REQUIRED THEM, IN ORDER FOR US TO
16 PRODUCE A OPINION THAT WE AGREED WITH THE FINANCIAL
17 STATEMENTS WE REQUIRED THEM TO REVERSE THAT REVENUE WHICH
18 REDUCED THE NET INCOME WHICH THEN REDUCED THE EQUITY OF
19 THE COMPANY.

20 Q AND, AGAIN, WHAT WAS IT RELAYED THAT THE EQUITY OF
21 THE COMPANY OF HOMESENSE WAS AT THE TIME OF THE MERGER.
22 ALL WHAT YOU ARE TALKING ABOUT YOU FOUNC OUT POST MERGER,
23 CORRECT?

24 A THAT IS CORRECT.

25 Q WHAT WAS RELAYED AT THE TIME OF THE MERGER ABOUT WHAT

1 THE EQUITY OF HOMESENSE WAS?

2 A WELL, IF I UNDERSTAND YOU CORRECTLY, THE MERGER
3 DOCUMENT REQUIRED THAT THE DAY THAT HOMEGOLD AND HOMESENSE
4 MERGED, HOMESENSE HAD TO HAVE AN EQUITY OF X AMOUNT OF
5 DOLLARS AND I BELIEVE THAT THEIR EQUITY HAD TO EXCEED SOME
6 PLACE BETWEEN \$1.7 AND \$2 MILLION DOLLARS. THAT IS HOW
7 THEY NEGOTIATED THE ORIGINAL DEAL. AND IF HOMESENSE'S
8 EQUITY WAS BELOW THAT THRESHOLD THEN IT, THEY WOULD HAVE
9 TO NEGOTIATE THROUGH THAT DIFFERENCE IN SOME MANNER.

10 Q AND BASED UPON YOUR AUDIT WAS A DEFICIT IN THAT
11 EQUITY THAT SAID, THAT HAD AT MAY 9TH OF 2000, AT THE TIME
12 OF THE HOMESENSE/HOMEGOLD MERGER?

13 A YES, OUR OPINION ON OUR FINANCIAL STATEMENTS WAS
14 BASED ON A DEFICIT EQUITY OF \$200 THOUSAND DOLLARS WHICH
15 WAS APPROXIMATELY \$2 MILLION DOLLARS LESS THAN THE
16 REQUIRED EQUITY THAT HOMESENSE WAS TO WALK TO THE CLOSING
17 TABLE WITH.

18 Q SO, THEY WERE SUPPOSE TO COME WITHOUT \$1.5 MILLION
19 DOLLARS, THEY ACTUALLY HAD NEGATIVE \$200 THOUSAND DOLLARS?

20 A THAT IS CORRECT.

21 Q OKAY. DID YOU NOTICE, HOW WERE YOU ABLE TO RECONCILE
22 OR FIND THAT LACK OF EQUITY BY DOING YOUR AUDIT, WERE
23 THERE THINGS THAT WERE BOOKED, YOU WERE TALKING ABOUT
24 GENERALLY ACCOUNTING STANDARDS PRINCIPLES. WERE THERE
25 THINGS THAT WERE BOOKED OR, CAN YOU JUST EXPLAIN HOW THAT

1 WOULD BE THE COMPANY ON MARCH 9TH WOULD APPEAR ON THE
2 BOOKS TO HAVE EQUITY AND THEN AFTER YOU DO THE AUDIT THEY
3 WOULD AND WHAT WERE SOME THINGS THAT YOU SAW THAT
4 CONCERNED YOU ABOUT THE ACCOUNTING.

5 A THERE ARE A HUNDRED THINGS WE DO IN AN AUDIT. WHEN
6 YOU ARE AUDITING A MORTGAGE ORIGINATION COMPANY, ONE OF
7 THE CORE AUDIT RISK YOU LOOK AT IS THE TIMING IN WHICH
8 THEY RECOGNIZE REVENUE. AND IN HOMESENSE'S CASE THEY HAD
9 A TWO FOLD ISSUE, WHEN YOU ORIGINATE MORTGAGES AND SELL
10 THEM, IF YOU ORIGINATE ONE DAY AND YOU CLOSE IT. AND ANY
11 ONE OF US WALK IN AND WE GET A MORTGAGE, WE BUY A HOUSE.
12 THAT DAY WE WALK OUT WITH THE CLOSING THERE IS A COMPANY
13 THAT SITS THERE THAT OWNS THAT MORTGAGE PACKAGE. AND IN
14 THE CASE OF HOMESENSE AND IN THE CASE OF HOMEGOLD THEY
15 THEN TURNED AROUND AND SOLD THOSE MORTGAGE PACKAGES. AND
16 THEY PRODUCED INCOME AND REVENUE BY BOTH ORIGINATING THOSE
17 MORTGAGES AND THEN THEY TURNED AROUND AND MADE MONEY BY
18 SELLING THOSE MORTGAGES. PROFESSIONAL STANDARDS REQUIRE
19 THAT YOU CAN ONLY RECOGNIZE THE REVENUE FROM ORIGINATION
20 WHEN YOU SELL IT AND THERE IS TYPICALLY IS ABOUT A 60 DAY,
21 60 TO 30 DAY TIME LAG BETWEEN THE TIME IT IS ORIGINATED
22 AND THE TIME IT MAY BE SOLD. SO, THE FIRST ISSUE WAS IS
23 THAT THEY WERE REPORTING REVENUE ON THE DAY THAT IT
24 CLOSED, NOT THE DAY THAT IT WAS SOLD. THAT ADJUSTMENT WAS
25 ABOUT \$500 THOUSAND DOLLARS, A HALF OF MILLION DOLLARS

1 THAT THEY ACTUALLY RECOGNIZED TOO SOON. ON THE OTHER SIDE
2 OF THAT, THIS WAS A MARCH SET OF FINANCIAL STATEMENTS.
3 THEY HAD TAKEN SOME REVENUE FROM APRIL AND PULLED IT BACK
4 INTO MARCH AND THAT WAS ANOTHER HALF OF A MILLION DOLLARS.
5 SO, WE PUT BOTH OF THOSE SETS OF NUMBERS IN THE CORRECT
6 PERIOD AND THAT REDUCED THE NET INCOME ON THAT PARTICULAR
7 ISSUE BY ABOUT A MILLION DOLLARS.

8 Q WAS THAT AN ISSUE THAT YOU EVER DEALT WITH AT
9 HOMEGOLD BEFORE OR SEE ANYTHING LIKE THAT GO ON AT
10 HOMEGOLD PRIOR TO THIS MERGER?

11 A WE ALWAYS OBVIOUSLY LOOKED AT THAT ISSUE CLOSELY AT
12 HOMEGOLD BUT THAT WAS NOT AN ISSUE THAT WE HAD AT HOMEGOLD
13 PRIOR TO THE HOMESENSE MERGER.

14 Q AFTER THE HOMESENSE MERGER DID YOU NOTICE THOSE SAME
15 PROBLEMS OCCURRING AT HOMEGOLD THAT YOU SAW GOING ON AT
16 HOMESENSE DOWN THE ROAD?

17 A WE HAD A SERIES OF MEETINGS WITH MR. SHEPPARD AND A
18 FEW OF HIS PEOPLE BECAUSE THEY WANTED TO INSTITUTE THE
19 SAME TYPE OF POLICY THAT THEY HAD AT HOMESENSE AND
20 HOMEGOLD. AND PROBABLY EARLY ON IN DEALING WITH MR.
21 SHEPPARD, PROBABLY FOR THE FIRST YEAR THAT, UNDER AUDIT
22 WITH MR. SHEPPARD'S GROUP WHICH WOULD BE THE YEAR ENDED AT
23 HOMEGOLD DECEMBER OF 2000, WE HAD A SERIES OF DEBATES
24 ABOUT THE TECHNICAL ASPECTS OF THAT. AND WE NEVER AGREED
25 THAT IT WAS APPROPRIATE TO RECOGNIZE A REVENUE INCORRECTLY

1 BUT WE DID HAVE A SERIES OF MEETINGS ABOUT THAT.

2 Q AND YOU SAID THAT YOU PERFORMED THIS AUDIT, AT SOME
3 POINT AT THE END OF THE AUDIT, DOES HOMESENSE HAVE TO
4 AGREE WITH YOUR AUDIT AND YOUR FINDINGS?

5 A WELL, IT IS THEIR FINANCIAL STATEMENTS. AND IN ORDER
6 FOR US TO PUT OUR OPINION ON THEM, IF WE SUGGESTED
7 ADJUSTMENTS TO THEM THEY HAVE ONE OF TWO CHOICES, THEY
8 EITHER ACCEPT THE ADJUSTMENTS AND THEN WE ISSUE OUR
9 OPINION OR THEY REJECT THE ADJUSTMENTS AND THEY EITHER
10 FIRE US OR WE RESIGN. SO, IN THE CASE OF HOMESENSE THEY
11 ACCEPTED THE ADJUSTMENTS AND WE ISSUED OUR OPINION.

12 MR. GRIFFIN: YOUR HONOR, MAY WE APPROACH?

13 THE COURT: SURE.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
15 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
16 JURY.)

17 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
18 IT IS A GOOD TIME TO TAKE AN AFTERNOON BREAK, WE WILL TAKE
19 ABOUT TEN MINUTES, DON'T DISCUSS THE CASE. YOU ARE
20 EXCUSED AND EVERYONE ELSE STAY SEATED, PLEASE.

21 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
22 A BREAK.)

23 THE COURT: ALL RIGHT, WE WILL TAKE ABOUT TEN
24 MINUTES. YOU MAY STEP DOWN AND DON'T DISCUSS YOUR
25 TESTIMONY.

1 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

2 THE COURT: IS THE STATE READY TO PROCEED?

3 MS. EVANS: YES, YOUR HONOR.

4 THE COURT: MR. GRIFFIN?

5 MR. GRIFFIN: YES, SIR.

6 THE COURT: BRING THE JURY IN, PLEASE.

7 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
8 APPROXIMATELY 3:40 P.M.)

9 CONTINUE DIRECT EXAMINATION

10 BY MS. EVANS:

11 Q MR. RANK, YOU WERE JUST TALKING ABOUT DOING THE AUDIT
12 OF HOMESENSE AND THE HOMESENSE BOOKS, AT THE END OF THAT
13 DID YOU GET WHAT IS KNOWN AS A REPRESENTATION LETTER FROM
14 THE DEFENDANT?

15 A WE DID, YES.

16 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
17 STATE'S EXHIBIT NUMBER 72. CAN YOU LOOK AT THAT AND DO
18 YOU RECOGNIZE THAT?

19 A YES, I DO.

20 Q AND WHAT IS THAT?

21 A A REPRESENTATION LETTER IS WE REFER TO IT IN THE
22 ACCOUNTING INDUSTRY, AT THE END OF A FINANCIAL AUDIT WE
23 ASK THE COMPANY TO KIND OF SIGN A STANDARD BLANKET
24 STATEMENT. SO THIS IS ON HOMESENSE LETTERHEAD, IT IS
25 ACTUALLY ADDRESSED TO ELLIOTT DAVIS AND IT WAS SIGNED BY

1 THE CHIEF EXECUTIVE OFFICER AND ALSO THE IN-CHARGE
2 BOOKKEEPER THAT HOMESENSE HAD.

3 Q WHO ARE THOSE TWO PEOPLE THAT SIGNED IT?

4 A THE FULL CHARGE BOOKKEEPER WAS MERIDITH AND I CAN'T
5 READ HER LAST NAME.

6 Q AND WHO SIGNED AS CHIEF EXECUTIVE OFFICER OF
7 HOMESENSE?

8 A WELL THE CHIEF EXECUTIVE OFFICER WAS MR. SHEPPARD SO
9 I ASSUME THAT THIS IS HIS SIGNATURE EVEN THOUGH I CAN'T
10 READ IT. SO, AT THE END OF AN AUDIT WE ASK THEM TO SIGN A
11 LETTER THAT BASICALLY SAYS, YOU KNOW, WE JUST FINISHED
12 AUDITING YOUR FINANCIAL STATEMENTS. AND WE ISSUED AN
13 OPINION AND YOU HAVE TOLD US EVERYTHING WE NEEDED TO KNOW
14 TO ARRIVE AT A CONCLUSION. IF WE ASK YOU A QUESTION YOU
15 ANSWERED IT HONESTLY. IF WE ASK YOU FOR INFORMATION ON A
16 PARTICULAR SUBJECT YOU GAVE IT TO US AND IT WALKS THROUGH
17 A WHOLE SERIES OF BOILER PLATE STATEMENTS. AND, AGAIN, WE
18 CUSTOMIZE THESE LETTERS AS NECESSARY BUT IT IS JUST A
19 REPRESENTATION THAT IS MADE TO US THAT IF WE ASK THEM
20 SOMETHING THEY HONESTLY ANSWERED US.

21 Q AND WHAT IS THE DATE OF THAT LETTER?

22 A DATED FEBRUARY 28TH OF 2001.

23 Q AND THE MERGER ACTUALLY TOOK PLACE IN MAY OF 2000,
24 CORRECT?

25 A THAT IS CORRECT.

1 Q BUT THAT HAS TO BE DONE AFTER YOU COMPLETED THE AUDIT
2 OPINION?

3 A YES, AND THIS DATE IS GOING TO MATCH THE DATE OF OUR
4 AUDIT OPINION, I ASSUME IT DOES.

5 Q IT TOOK YOU FROM APPROXIMATELY MAY 9TH OF 2000 TO
6 MARCH OF 2001 TO CONDUCT THAT AUDIT?

7 A YES.

8 Q AND WHAT WAS SOME OF THE REASONS FOR THE LENGTH OF
9 TIME FOR THAT AUDIT?

10 A WELL, THE FIRST ISSUE WOULD OF BEEN WHEN WE ACTUALLY
11 STARTED AND I DON'T RECALL WHEN THAT WAS. BUT TYPICALLY
12 ON A MARCH YEAREND YOU WOULD START AN AUDIT ABOUT THREE
13 MONTHS AFTER THE YEAREND. SO, IF THIS IS MARCH OF 2000,
14 WE PROBABLY WOULD NOT HAVE STARTED ANY EARLIER THAN JUNE
15 OF 2000. AND THEN WE WOULD OF DONE THE WORK AND BECAUSE
16 OF THE NATURE OF THE ADJUSTMENTS THAT I DISCUSSED EARLIER,
17 THERE WERE PROBABLY SOME MEETINGS AND DEBATES THAT WENT ON
18 ABOUT CERTAIN ISSUES. BECAUSE TYPICALLY YOU WOULDN'T SEE
19 THIS MUCH TIME ELAPSED BETWEEN THE YEAREND MARCH OF 2000
20 AND A LETTER DATED FEBRUARY THE 28TH OF 2001. SO, I THINK
21 THE COMBINATION, THE ISSUE HERE WAS, I THINK WE STARTED
22 OUTSIDE OF THE TRADITIONAL TIME FRAME THAT I SUGGESTED AND
23 I THINK BECAUSE OF THE ISSUES IT TOOK US A LITTLE LONGER
24 TO FINALLY END THE AUDIT ENGAGEMENT.

25 Q AND YOU TOLD THE JURY THAT YOU HAD TO MAKE

1 ADJUSTMENTS TO THE HOMESENSE BOOKS, CORRECT?

2 A YES.

3 Q AND I AM GOING TO DRAW YOUR ATTENTION TO PARAGRAPH
4 NUMBER 17, CAN YOU PLEASE TELL THE JURY WHAT THAT SAYS?

5 A I HAVE NUMBER 17, WE CONCUR WITH ADJUSTMENTS MADE AS
6 A RESULT OF THE AUDIT AND AGREE THAT THEY ARE PROPER AND
7 ACCURATE.

8 Q OKAY. SO, WHAT HE IS SAYING, ARE THOSE THE
9 ADJUSTMENTS THAT YOU WERE JUST TELLING THE JURY ABOUT TO
10 THE BOOKS?

11 A IN THOSE ADJUSTMENTS AND I AM SURE THERE WERE A FEW
12 OTHERS THAT WE WOULD OF MADE.

13 Q AND THAT ADJUSTMENT, WHAT AFFECT DID IT HAVE ON WHAT
14 HOMESENSE BROUGHT TO THE MERGER?

15 A THE NET AFFECT OF THOSE ADJUSTMENTS WAS A LITTLE OVER
16 A MILLION DOLLARS.

17 MS. EVANS: AT THIS TIME I WOULD LIKE TO MOVE INTO
18 EVIDENCE STATE'S 72.

19 THE COURT: WITHOUT OBJECTION?

20 MR. GRIFFIN: NO OBJECTION.

21 THE COURT: WITHOUT OBJECTION, STATE'S 72 IS IN
22 EVIDENCE.

23 (WHEREUPON, STATE'S EXHIBIT NO. 72 WAS ADMITTED INTO
24 EVIDENCE.)

25 Q DID THOSE ACCOUNTING ISSUES CONCERN YOU?

1 A YES.

2 Q PLEASE TELL THE JURY WHY.

3 A WELL, FIRST OF ALL, THEY WERE VERY MATERIAL. TO
4 START WITH \$2 MILLION DOLLARS WORTH OF EQUITY AND YOU
5 ELIMINATE HALF OF IT BECAUSE OF INAPPROPRIATE IN ADHERENCE
6 TO PROFESSIONAL STANDARDS. IT RAISES TWO QUESTIONS.
7 EITHER THEY DON'T HAVE THE TALENT AT THE COMPANY,
8 HOMESENSE TO UNDERSTAND THE TECHNICAL STANDARDS. OR THEY
9 UNDERSTOOD THEM AND THEY CHOSE TO IGNORE THEM AND VIOLATE
10 THEM. SO, SINCE WE WERE NO LONGER GOING TO PROVIDE
11 SERVICES TO HOMESENSE BECAUSE THEY WERE NOW MERGED INTO
12 HOMEGOLD, IT DIDN'T GET THE SAME CONCERN ABOUT THE ENTITY
13 OF HOMEGOLD WHICH WAS THE ONLY SERVICE WE PROVIDED TO
14 THEM. BUT IT DID CAUSE US TO PUT OUR ANTENNAS UP, SO TO
15 SPEAK, JUST RELATIVE TO THE FUTURE OF ISSUES THAT MAY
16 ARISE AT HOMEGOLD UNDER MR. SHEPPARD'S TENURE.

17 Q AND AS OF MAY 9TH OF 2000 WHO BECAME CEO OF HOMEGOLD?

18 A MR. SHEPPARD.

19 Q AND YOU PREVIOUSLY TALKED ABOUT THE ACCOUNTING
20 DEPARTMENT AND I THINK YOU MENTIONED THE CFO AT THE TIME
21 OF THE MERGER OF 2000, WAS KEVIN MAST, HOW LONG DID HE
22 STAY WITH HOMEGOLD AFTER THE MERGER?

23 A IF I REMEMBER CORRECTLY KEVIN MAST LEFT HOMEGOLD
24 WITHIN, ABOUT FIVE MONTHS AFTER THE MERGER. SO, I THINK
25 HE LEFT AROUND JULY OF 2000.

1 Q AND I THINK YOU MENTIONED ANOTHER NAME, JENNIFER
2 CHAMPAGNE. DO YOU KNOW ABOUT APPROXIMATELY HOW LONG SHE
3 STAYED AFTER THE MERGER?

4 A I THINK SHE LEFT WITHIN ABOUT TWO MONTHS OF THE
5 MERGER.

6 Q YOU HAVE ALREADY TALKED ABOUT YOUR FEELINGS ABOUT,
7 DOES THAT CAUSE YOU CONCERN THAT THEY LEFT?

8 A YES, BUT ONE OF THE ISSUES WAS BECAUSE OF HOMEGOLD'S
9 VOLUME DROPPING FROM THAT 1997 LEVEL THAT I MENTIONED TO
10 YOU AND BECAUSE THEY WEREN'T REGAINING THAT LEVEL AS
11 RAPIDLY AS THEY NEEDED TO. ONE ISSUE IS THAT THEY NEEDED
12 TO CUT SOME COST. SO TO A DEGREE THEY WERE OVERSTAFFED IN
13 A VARIETY OF AREAS OF THE COMPANY, AND OF COURSE THE
14 FINANCIAL AREA WOULD OF BEEN ONE OF THOSE. AND THEN THE
15 SECOND ISSUE, SO WE WOULD OF EXPECTED SOME LEVEL OF
16 TURNOVER. SECONDLY, IT IS NOT UNCOMMON WHEN YOU CHANGE
17 OFFICERS AND WHAT WE REFER TO AS THE C LEVEL, CEO'S,
18 CFO'S, COO'S, THOSE OFFICERS BEGIN TO BRING THEIR OWN
19 PEOPLE IN AND THEY BEGIN TO BRING THEIR OWN STYLE IN. AND
20 SO I KNOW KEVIN MAST AND JENNIFER CHAMPAGNE, IN
21 PARTICULAR, DID NOT LIKE THE STYLE THAT THEY SAW RELATIVE
22 TO MR. SHEPPARD BUT I DON'T NECESSARILY FIND THAT UNUSUAL
23 WHEN YOU CHANGE A C LEVEL EXECUTIVE. SO, AGAIN, WE
24 PROBABLY WOULD OF ANTICIPATED SOME LEVEL OF TURNOVER AND I
25 THINK YOU ASKED IF IT CONCERNED US. A TURNOVER IN A

1 FINANCIAL STAFF ALWAYS CONCERNS US BUT WE START TO LOOK AT
2 WHAT THE UNDERLYING REASONS ARE.

3 Q WHO BECAME THE NEXT CFO OF HOMEGOLD?

4 A I BELIEVE AFTER KEVIN MAST LEFT IT WAS A GENTLEMAN BY
5 THE NAME OF LARRY GOSNELL.

6 Q AND DO YOU REMEMBER APPROXIMATELY HOW LONG LARRY
7 GOSNELL STAYED?

8 A I BELIEVE HE ONLY STAYED THERE FOR THREE MONTHS.

9 Q AND AFTER LARRY GOSNELL DO YOU REMEMBER WHO BECAME
10 THE NEXT CFO?

11 A I BELIEVE, HER FIRST NAME IS RHONDA BUT I DON'T
12 RECALL HER LAST NAME.

13 Q AND HOW LONG DID SHE STAY APPROXIMATELY?

14 A I THINK, WE CLOSED THE 2000 AUDIT PROCEDURES WITH
15 RHONDA AND I WANT TO GUESS THAT RHONDA DIDN'T SAY FOR MORE
16 THAN SIX MONTHS.

17 Q AND DO YOU REMEMBER WHO BECAME THE NEXT CFO?

18 A I BELIEVE AFTER RHONDA, THAT IS WHEN KEVIN MARTIN
19 BECAME THE CFO.

20 Q AND DURING YOUR TIME WORKING AS INDEPENDENT AUDITOR,
21 WHEN IS THE FIRST TIME YOU MET THE DEFENDANT?

22 A THE FIRST TIME I ACTUALLY SAW MR. SHEPPARD WAS IN THE
23 ANNUAL MEETING OF HOMEGOLD WHICH WOULD OF BEEN IN LATE
24 APRIL OF 2000, THEY PUBLICLY INTRODUCED MR. SHEPPARD AT
25 THEIR ANNUAL MEETING WHICH WAS HELD IN DOWNTOWN

1 GREENVILLE. THEN THE FIRST TIME I ACTUALLY SPOKE WITH AND
2 MET MR. SHEPPARD WAS PROBABLY IN LATE MAY OF 2000.

3 Q AND WHERE WAS THAT?

4 A HOMEGOLD'S CORPORATE OFFICES WERE AT A LARGE FACILITY
5 ON PELHAM ROAD IN GREENVILLE, SOUTH CAROLINA. AND I MET
6 MR. SHEPPARD THERE ONE DAY WHILE WE WERE DOING SOME WORK
7 AT THAT PELHAM ROAD OFFICE.

8 Q AND DID YOU EVER, DURING YOUR TIME WHEN HE WAS CFO,
9 CEO, EXCUSE ME AND YOU WERE THE INDEPENDENT AUDITORS, HAVE
10 A CONVERSATION WITH THE DEFENDANT ABOUT CAROLINA INVESTORS
11 AND THE DEBT OWED TO THEM?

12 A WE WOULD AT VARIOUS TIMES, I AM GOING TO GUESS IN THE
13 MONTHS AND YEARS THAT WE WORKED WITH MR. SHEPPARD I AM
14 GOING TO GUESS THAT I HAD UPWARDS OF TWENTY PLUS PHONE
15 CALLS IN MEETINGS WITH MR. SHEPPARD AND VARIOUS OF HIS
16 STAFF. AND DURING SOME OF THOSE MEETINGS WE WOULD OF
17 DISCUSSED THE DEBT AT HOMEGOLD, YES, AT CAROLINA
18 INVESTORS.

19 Q AND FROM THE TIME OF THE MERGER OR EVEN BEFORE WAS
20 THERE A BIG DEBT TO CAROLINA INVESTORS?

21 A YES.

22 Q LET ME SHOW YOU A CHART.

23 MR. GRIFFIN: YOUR HONOR, OBJECTION, I UNDERSTAND
24 THAT CHART IS NOT INTO EVIDENCE, IT WAS USED AS A
25 DEMONSTRATIVE AIDE FOR THE LAST WITNESS UNLESS HE PREPARED

1 IT.

2 THE COURT: I DON'T KNOW THAT HE HAS TO PREPARE IT,
3 HE IS FAMILIAR WITH OR THE FIGURES ON THE CHART HE CAN, OF
4 COURSE, USE THAT TO ASSIST IN HIS TESTIMONY. I DON'T
5 KNOW, YOU WILL HAVE TO LAY A FOUNDATION, MS. EVANS.

6 Q MR. RANK, AS AN INDEPENDENT AUDITOR DID YOU BECOME
7 AWARE OF THE INCREASING DEBT, THE INTER-COMPANY DEBT
8 BETWEEN CAROLINA INVESTORS AND HOMEGOLD?

9 A YES.

10 Q AND AS, WERE YOU AS THE INDEPENDENT AUDITORS AWARE OF
11 WHAT THAT AMOUNT WAS THROUGHOUT THE TIME FRAME THAT YOU
12 WERE THE INDEPENDENT AUDITORS, SPECIFICALLY SPEAKING WHEN
13 YOU WERE REENGAGED IN, I THINK YOU SAID IN 1997 ON?

14 A WE WERE ENGAGED IN 1998 AND YES, I AM FAMILIAR WITH
15 THOSE AMOUNTS.

16 Q AND I AM GOING TO SHOW YOU, FOR PURPOSES, DO THESE
17 NUMBERS LOOK FAMILIAR TO YOU?

18 A YES.

19 Q AND THIS IS THE INTER-COMPANY DEBT STARTING IN 1996,
20 YOU WOULD OF TAKEN BACK OVER HERE IN 1998?

21 A YES.

22 Q AND SO YOU HAD TAKEN OVER IN 1998, APPROXIMATELY HOW
23 MUCH WAS THE DEBT AT CAROLINA INVESTORS IN 1998, HOMEGOLD?

24 A ACCORDING TO THE CHART, \$81 MILLION DOLLARS.

25 Q AND GOING TO 1999?

1 A '99 IT DECLINED TO \$67 MILLION.

2 Q YEAREND OF 2000, HOW MUCH WAS THE DEBT?

3 A \$100 MILLION DOLLARS.

4 Q YEAREND OF 2001, YOU ARE STILL THE INDEPENDENT
5 AUDITORS, CORRECT?

6 A YES.

7 Q DOES THAT APPEAR TO BE ACCURATE AS TO WHAT THAT WAS?

8 A YES, IT IS.

9 Q DURING THESE TWO YEARS DID THAT INTER-COMPANY DEBT
10 BECOME A BIGGER PROBLEM OR AN ISSUE TO YOU AS AN
11 INDEPENDENT AUDITOR?

12 A YES, IT DID.

13 Q AND YOU WERE NOT AN INDEPENDENT AUDITOR AT YEAREND
14 2002, WERE YOU?

15 A NO, WE RESIGNED FROM THE ENGAGEMENT IN OCTOBER OF
16 2002.

17 Q SO, DURING THE TIME FRAME OF THE YEAREND OF 2000,
18 2001, AND UNTIL YOU LEFT OCTOBER OF 2002 WAS THE
19 INTER-COMPANY DEBT A CONCERN OF YOURS AS AN INDEPENDENT
20 AUDITOR?

21 A YES.

22 Q AND PLEASE TELL THE JURORS ABOUT SOME OF THE
23 CONVERSATIONS THAT YOU REMEMBER HAVING WITH THE DEFENDANT
24 ABOUT THE INTER-COMPANY DEBT AND THE ABILITY TO PAY THAT
25 DEBT BACK?

1 A WELL, PROBABLY THE MOST FREQUENT CONVERSATION WE
2 WOULD HAVE IS THIS CONCEPT OF IMPAIRMENT THAT I THINK YOU
3 HAVE HEARD. AND IF A COMPANY, IN PARTICULAR AT CAROLINA
4 INVESTORS LEVEL, IF THEY ARE RECORDING A RECEIVABLE AMOUNT
5 THE COMPANY ALWAYS HAS TO MAKE A DECISION AS TO WHETHER
6 THAT AMOUNT WILL BE COLLECTED IN FULL OR NOT. IF THERE IS
7 RISK THAT IT WILL NOT BE COLLECTED IN FULL THEY MAY HAVE
8 TO WRITE THAT AMOUNT DOWN. SO, THE IMPAIRMENT
9 CONVERSATION AT THE CAROLINA INVESTORS LEVEL WAS AN
10 ONGOING ACCOUNTANT ISSUE THAT WE DEALT WITH. ANOTHER
11 MANNER IN WHICH WE DISCUSSED AT ONE MEETING, WE HAD IN
12 OCTOBER 2001, WHAT WE CALL PLANNING MEETING WHERE WE MET
13 WITH MYSELF AND MY SENIOR MANAGER IN THE ENGAGEMENT WHOSE
14 NAME WAS CY BURGESS. WE MET IN HOMEGOLD'S OFFICES WHICH
15 HAD NOW MOVED TO LEXINGTON. MR. SHEPPARD, HIS CFO, KEVIN
16 MARTIN AND ANOTHER INDIVIDUAL WHO WAS CONTROLLER OF THE
17 COMPANY WHOSE NAME IS, LAST NAME I THINK IS MCSHANE. AND
18 WE BROUGHT A POWERPOINT PRESENTATION WITH US THAT WE HAD
19 ON POWERPOINT FORMAT. AND WE WALKED THROUGH WITH THEM A
20 SERIES OF ISSUES AT THIS NORMAL MEETING. AS YOU NOTICE,
21 WE HAD THAT MEETING IN OCTOBER OF 2001 AND IT WAS AN
22 ANTICIPATION OF THE DECEMBER 2001 AUDIT. AND WE WALKED
23 THROUGH SOME STANDARD THINGS LIKE WHO THE STAFF ON THE
24 ENGAGEMENT IS GOING TO BE, WHAT ARE THE SERVICES THAT WE
25 ARE GOING TO PROVIDE, WHAT KIND OF TIMING ARE WE DEALING

1 WITH, WHEN CAN WE START. YOU KNOW, HOW MANY PEOPLE CAN WE
2 BRING, WHEN WE HAVE CERTAIN INFORMATION READY WHEN DO WE
3 HAVE TO SIGN OFF, WHEN DO WE HAVE TO BE DONE TO MEET SOME
4 OF YOUR DEADLINES. AND WE ALSO IN THAT PARTICULAR MEETING
5 WENT THROUGH WHAT WE THOUGHT WERE GOING TO BE CRITICAL
6 ISSUES.

7 Q LET ME STOP YOU RIGHT THERE. AND I HAVE TWO
8 DIFFERENT COPIES AND, MR. RANK, I NEED YOU TO LOOK, IS
9 THAT YOUR HANDWRITING?

10 A THAT IS MY HANDWRITING.

11 Q AND IS THIS THE POWERPOINT PRESENTATION THAT YOU WERE
12 JUST TALKING ABOUT?

13 A YES, IT IS.

14 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
15 ENTER THIS IN, THIS HAS BEEN PREMARKED AS STATE'S EXHIBIT
16 NUMBER 74.

17 MR. GRIFFIN: NO OBJECTION.

18 THE COURT: WITHOUT OBJECTION, STATE'S 74 IS
19 ADMITTED.

20 (WHEREUPON, STATE'S EXHIBIT NO. 74 WAS ADMITTED INTO
21 EVIDENCE.)

22 Q AND THIS IS THE POWERPOINT PRESENTATION THAT YOU WENT
23 OVER?

24 A YES.

25 Q OKAY, WAS THE DEFENDANT PRESENT WHEN YOU WERE GIVING

1 THAT POWERPOINT PRESENTATION.

2 A YES, MR. SHEPPARD WAS AT THAT MEETING.

3 Q PLEASE EXPLAIN, CONTINUE ON NOW THAT YOU HAVE THE
4 POWERPOINT PRESENTATION IN FRONT OF YOU, TO GO ON ABOUT
5 WHAT WAS DISCUSSED AND THE REASON WHY YOU HAD THAT
6 MEETING. FIRST OF ALL, WHAT WAS THE REASON FOR THAT
7 MEETING?

8 A THE REASON FOR THE MEETING WAS TO PLAN THE ENGAGEMENT
9 AS I MENTIONED AND TO NOT HAVE ANY SURPRISES. YOU CAN'T
10 GET DOWN TO THE END OF THE YEAR ALL OF A SUDDEN AND HAVING
11 A CLIENT SURPRISE THE AUDITOR OR HAVE THE AUDITOR SURPRISE
12 THE CLIENT. YOU CAN DO THAT BUT IT IS NOT A VERY GOOD
13 IDEA. SO, WE HAVE A HABIT OF MEETING IN ADVANCE AND THEN
14 WE WENT THROUGH SOME OF THE THINGS THAT I MENTIONED AND I
15 WAS GETTING AROUND TO, WE ALSO WHAT WE THOUGHT WOULD BE
16 CRITICAL ACCOUNTING ISSUES AND THERE WAS REVENUE
17 RECOGNITION THAT WE ALWAYS LOOKED AT. THEY HAD A DEFERRED
18 TAX ASSET THAT WAS ON THEIR BOOKS WHICH YOU ALWAYS HAD TO
19 LOOK AT, AN IMPAIRMENT OF THAT DEFERRED TAX ASSET. THEY
20 HAD GOODWILL ON THEIR BOOKS AND WE ALWAYS HAD TO LOOK
21 WHETHER THERE WAS IMPAIRMENT OF THAT GOODWILL. ANNUALLY,
22 SINCE 1998 WE HAD DISCUSSIONS WITH THEM ABOUT GOING
23 CONCERN CONCEPT. AND THEN THE BIGGEST ISSUES THAT WAS
24 DISCUSSED AT THAT MEETING, AUDITORS SOMETIMES DON'T DEMAND
25 TOO MUCH BECAUSE IT IS THEIR FINANCIAL STATEMENTS. BUT IN

1 THIS PARTICULAR YEAR, BECAUSE THE LEVEL TO WHICH THE
2 CAROLINA INVESTORS DEBT HAD RISEN WE DEMANDED THAT THEY
3 HAVE AN INDEPENDENT VALUATION DONE OF THE VALUE OF THE
4 RETAIL MORTGAGE DIVISION. SO, THEY NEEDED TO ENGAGE A
5 THIRD PARTY AND BRING TO US, I THINK WE HAD ORIGINALLY
6 ASKED THAT WE HAVE THAT REPORT BY THE END OF DECEMBER.
7 SO, WE HAD PLENTY OF TIME TO AUDIT IT AND DIGEST IT. AND
8 SO THE CRITICAL ACCOUNTING MATTERS THAT WE THOUGHT WE WERE
9 GOING TO BE DEALING WITH AND LET THEM ASK US ANY
10 QUESTIONS, MAKE SURE THEY HAVE TIME TO GO BACK AND GATHER
11 WHATEVER INFORMATION, SUPPORT OUTSIDE HELP THEY NEED, SO
12 ON AND SO FORTH. THOSE ARE THINGS THAT WE WENT THROUGH AT
13 THAT MEETING.

14 Q OKAY. LET'S JUST STEP BACK TO WHAT LED UP TO THIS
15 MEETING, I AM GOING TO SHOW YOU A MEMO DATED 3/19/01. DO
16 YOU RECOGNIZE THAT AND IS THAT YOUR HANDWRITING ON THAT?

17 A I RECOGNIZE THIS AND THAT IS MY HANDWRITING, I THINK
18 THERE IS ALSO SOME HANDWRITING ON HERE FROM MR. BURGESS
19 WHO DRAFTED THE MEMO.

20 MS. EVANS: YOUR HONOR, AT THIS TIME WE WOULD LIKE TO
21 MOVE INTO EVIDENCE, STATE'S EXHIBIT NUMBER 73.

22 THE COURT: ANY OBJECTION.

23 MR. GRIFFIN: NO OBJECTION.

24 THE COURT: STATE'S 73 IS ADMITTED WITHOUT OBJECTION.
25

1 (WHEREUPON, STATE'S EXHIBIT NO. 73 WAS ADMITTED INTO
2 EVIDENCE.)

3 Q BEFORE WE GO TO THIS OCTOBER MEETING, WHAT DOES THAT
4 MEMO REGARD?

5 A THIS IS A INTERNAL MEMO, IT IS ON PLAIN PAPER, SUCH
6 MEMO WOULD ONLY HAVE BEEN CIRCULATED INSIDE OF ELLIOTT
7 DAVIS. IT IS ADDRESSED TO THE HOMEGOLD AUDIT FILES, IT IS
8 FROM CY BURGESS WHO WAS A SENIOR MANAGER ON THE ENGAGEMENT
9 WITH A COPY COMING TO ME AS A PARTNER, THE DATE IS
10 3/19/01. AND THE SUBJECT IS HOMEGOLD GOING CONCERN.

11 Q SO AND THAT IS MARCH 2001, IS IT FAIR TO SAY THAT AT
12 THIS POINT, ARE YOU CONCERNED ABOUT THE FINANCIAL
13 CONDITION OF THE COMPANY?

14 A YES AND AFTER THIS MEMO WOULD OF BEEN GENERATED
15 RELATIVE TO THE 2000 AUDIT, THE TIMING OF THIS MEMO,
16 3/19/01, WE WOULD OF JUST BEEN WRAPPING UP THE 2000 AUDIT
17 ENGAGEMENT.

18 Q SO, BEFORE WE GET TO THE YEAREND OF 2001, LET'S GO TO
19 THE YEAREND 2000. WAS GOING CONCERN SOMETHING THAT WAS
20 DISCUSSED AT THE YEAREND 2000 OF WHETHER OR NOT GOING
21 CONCERN SHOULD HAVE BEEN PUT INTO THE PROSPECTUS, THAT YOU
22 WOULD OF REQUESTED MANAGEMENT TO PUT IN AT THE END OF THE
23 YEAR OF 2000?

24 A YES, AND WE ACTUALLY LOOKED AT THE GOING CONCERN
25 ISSUE EVEN IN 1998 BEFORE WE REACCEPTED THE CLIENT.

1 Q LET'S START WITH 1998, WHAT ARE SOME OF THE ISSUES
2 THAT YOU LOOKED AT IN 1998?

3 A WELL, UNDER, YOU HEARD US TALK ABOUT GAAP, GENERALLY
4 ACCEPTED ACCOUNTING PRINCIPLES. THERE IS ALSO A LITTLE
5 SISTER CONCEPT OF THAT CALLED GAAS, GENERALLY ACCEPTED
6 AUDITING STANDARDS. UNDER GENERALLY ACCEPTED AUDITING
7 STANDARDS, IN ALL FINANCIAL STATEMENT AUDITS THAT WE DO
8 ANY SERIES OF CHECKLIST THAT YOU PULL OUT, YOU WILL FIND
9 AN AREA THAT SAYS, HAS THE AUDITOR CONSIDERED GOING
10 CONCERN. SO, EVERY FINANCIAL AUDIT THAT IS DONE THAT IS
11 ALWAYS AN ISSUE THAT YOU LOOK AT. THAT IN PARTICULAR
12 BECOMES CRITICAL IN A CASE LIKE HOMEGOLD'S FINANCIAL
13 STATEMENTS WHERE THEY HAVE A SERIES OF NEGATIVE TRENDS,
14 LACK OF PROFITABILITY, DECLINING EQUITY, DIFFICULTY IN
15 OBTAINING LOANS TO MANAGE THEIR BUSINESS WAREHOUSE LINES,
16 DECLINING STOCK PRICES, THERE ARE A SERIES OF FINANCIAL
17 ISSUES THAT YOU CAN LOOK AT. IN 1998 HOMEGOLD HAD THOSE
18 TRENDS, THEY HAD A BIG LOSS FROM 1997 WHEN MCSHANE LEFT
19 HOMEGOLD. SO, IT WAS AN ISSUE WHEN WE REENGAGED THEM AND
20 WE LOOKED AT IT CLOSELY IN EVERY YEAREND UP UNTIL THE
21 POINT AND TIME WE ISSUED THE 2001 FINANCIAL STATEMENT.

22 Q AND IN 1998 YOU TESTIFIED THAT HOMEGOLD HAD STARTED,
23 WHEN YOU CAME BACK WAS FOCUSING ON THE SUBPRIME LENDING
24 MARKET. WAS THERE A DOWNTURN IN 1998 IN THE SUBPRIME
25 LENDING MARKET?

1 A YES AND IT MAYBE BEEN A COUPLE OF YEARS BEFORE THAT
2 BUT THE SUBPRIME LENDING INDUSTRY, NATIONWIDE, WAS
3 DEPRESSED.

4 Q EXPLAIN THAT TYPE OF INDUSTRY, IS THAT SOMETHING THAT
5 IS CYCLICAL?

6 A LIKE MANY BUSINESS AND NOT LIKE, WHETHER IT IS
7 SUBPRIME LENDING OR IT IS STANDARD LENDING, IT MOVES UP
8 AND DOWN WITH VARIOUS CYCLES THAT COULD BE DRIVING BY ,
9 INTEREST RATES OR THE COMPANY, WHETHER IT IS HEALTHY OR
10 UNHEALTHY.

11 Q LET'S GO TO THAT MEMO ADDRESSING GOING CONCERN
12 YEAREND 2000. WHAT WERE SOME OF THE ISSUES THAT YOU WERE
13 LOOKING AT REGARDING GOING CONCERN YEAREND 2000.

14 A FIRST OF ALL, ONE POINT WHAT I WOULD MAKE WHEN WE
15 LOOK AT GOING CONCERN ISSUE BOTH UNDER, PRIOR TO MR.
16 SHEPPARD COMING ON BOARD AND THEN AFTER MR. SHEPPARD AND
17 WITH THE VARIOUS FINANCIAL STAFF THAT WE DEALT WITH, THE
18 COMPANY ACTUALLY HANDED US A MEMORANDUM AS TO THEIR
19 POSITION ON GOING CONCERN. SO, NOT ALL COMPANIES ARE
20 SOPHISTICATED ENOUGH TO DO THAT BUT HOMEGOLD WAS DURING
21 THE WHOLE TIME THAT WE PROVIDED AUDIT SERVICES TO THEM.
22 SO, THIS PROCESS TO START WITH, THEM HANDING US THEIR
23 POSITION AS TO WHETHER THEY FELT THAT GOING CONCERN
24 APPLIED TO THEM OR DID NOT. THIS MEMORANDUM IS OUR
25 RESPONSE BECAUSE IT ACTUALLY STARTS OFF THAT MANAGEMENT

1 HAS ASSERTED AND MANagements ASSERTION IN 2000 WAS, THEY
2 DID NOT NEED THE GOING CONCERN PARAGRAPH PUT INTO THEIR
3 FINANCIAL STATEMENT. SO, WE WOULD OF BEEN EVALUATING THAT
4 AND ISSUES THAT WE WOULD OF LOOKED AT WOULD OF BEEN THE
5 ABILITY OF THE COMPANY TO MEET DEBT OBLIGATIONS WHEN THEY
6 ARE DUE, WHETHER IN FACT THEY HAD POSITIVE WORKING CAPITAL
7 OR NOT. WORKING CAPITAL IS A DIFFERENCE BETWEEN HIGHLY
8 LIQUID ASSETS AND HIGHLY LIQUID DEBT. IF YOUR ASSETS
9 EXCEED YOUR DEBT THEN YOU ARE LIQUID.

10 Q IN YEAREND 2000, WAS THAT A PROBLEM?

11 A YES.

12 Q AND CONTINUE ON.

13 A IN THIS MEMO, NEGATIVE SHAREHOLDERS EQUITY, DENIAL OF
14 USE OF CREDIT FACILITIES, COMPLIANCE WITH CONTRACTUAL
15 CAPITAL REQUIREMENTS AND THEN WE TALK ABOUT MANAGEMENT
16 PLANS. SO, THIS WOULD OF BEEN KIND OF OUR REBUTTAL TO
17 CERTAIN POSITIONS THAT THEY HAD TAKEN RELATIVE TO WHAT THE
18 GOING CONCERN SHOULD APPLY OR NOT.

19 Q AND ULTIMATELY DID YA'LL DECIDE WHETHER OR NOT TO PUT
20 GOING CONCERN IN YEAREND 2000?

21 A IN 2000 WE CAME TO THE CONCLUSION THAT THEY DID NOT
22 MEET THE REQUIREMENTS FOR US AS AUDITORS TO INSERT THE
23 FORTH PARAGRAPH AND THE OPINION DESCRIBES THAT.

24 Q AND EXPLAIN, AS INDEPENDENT AUDITORS, AS YOU SAID,
25 MANAGEMENT MAKES THE ASSERTION TO YOU AND YOU HAVE TO

1 EITHER AGREE OR NOT AGREE, CORRECT?

2 A CORRECT.

3 Q IS IT FAIR TO SAY THAT YOU CAN'T FORCE MANAGEMENT TO
4 PUT GOING CONCERN, IF THEY DISAGREE WITH YOU. WHAT WOULD
5 BE YOUR REMEDY IF THEY DIDN'T WANT TO DO IT?

6 A FOR CONVERSATION SAKE, IF IN 2000 WE HAD COME TO THE
7 CONCLUSION THAT GOING CONCERN LANGUAGE NEEDED TO BE
8 INCLUDED AND IF THEY HAD REFUSED THEN EITHER WE WOULD OF
9 RESIGNED OR THEY WOULD OF FIRED US.

10 Q AND SO THE YEAREND 2000, GOING CONCERN, AND THEN YOU
11 KNOW YOU ARE GETTING READY, AS YOU JUST TESTIFIED, FOR
12 YEAREND 2001, WERE YOU LOOKING AT THE QUARTERLY STATEMENTS
13 AND THE LOSSES THAT WERE GOING ON DURING THE YEAR OF 2001?

14 A YES, BECAUSE HOMEGOLD WAS AN SEC REGISTRANT, SEC
15 STANDARDS REQUIRE THAT YOUR FINANCIAL AUDITOR ALSO PERFORM
16 CERTAIN PROCEDURES ON YOUR QUARTERLY INFORMATION. AND
17 THEY ARE CALLED REVIEW, AND REVIEWED AS BEING, LOOK AT IN
18 THIS CONTEXT, REVIEW IS ACTUALLY A TECHNICAL TERM IN THE
19 ACCOUNTING INDUSTRY. AND FIRST OF ALL WE OBTAINED MONTHLY
20 PACKAGES FROM HOMEGOLD AND SO WHEN THEY CLOSED THEIR
21 RECORDS ON A MONTHLY BASIS THEY WERE SENDING US THE SAME
22 PACKAGES THAT THEY LOOKED AT SO WE ACTUALLY LOOKED AT
23 THEIR INFORMATION ON A MONTHLY BASIS. BUT THEN
24 TECHNICALLY WE ACTUALLY PERFORMED CERTAIN PROCEDURES IN
25 WHICH WE TOOK THAT VERY SIMILAR MONTHLY INFORMATION AND

1 ACTUALLY LOOKED UNDERNEATH IT TO LOOK AT CERTAIN
2 DOCUMENTATION WHICH SUPPORTED IT, WE WOULD PERFORM
3 ANALYTICAL PROCEDURES ON IT, IF THERE WERE CERTAIN TRENDS
4 AND AMOUNTS THAT WERE OUTSIDE THE BUDGET, WERE OUTSIDE OF
5 EXPECTATIONS WE WOULD INTERVIEW MANAGEMENT AND DETERMINE
6 WHY THOSE NUMBERS WERE DIFFERENT. SO, ALL THROUGHOUT THE
7 YEAR, WHETHER IT BE MONTHLY OR QUARTERLY WE KEPT A CLOSE
8 EYE ON AND BECAME, REMAINED WELL INFORMED AS TO WHAT WAS
9 OCCURRING AT THE COMPANY.

10 Q DID YOU EVER REVIEW INFORMATION REGARDING A SIMILAR
11 SITUATED COMPANY WITH A PARENT SUBSIDIARY INTER-COMPANY
12 LOAN THAT FACED THESE FINANCIAL PROBLEMS?

13 A YES.

14 Q AND DO YOU REMEMBER A CONVERSATION THAT YOU HAD WITH
15 THE DEFENDANT ABOUT THAT?

16 A WELL, I THINK WHAT YOU JUST ASKED ME WAS, HAD I EVER
17 LOOKED AT ANOTHER COMPANY THAT HAD SIMILAR CIRCUMSTANCES?

18 Q YES.

19 A DID I DISCUSS THOSE CIRCUMSTANCES WITH MR. SHEPPARD.

20 Q AND THE REMEDIES?

21 A OH, YES. THERE WAS A, OF COURSE, WE AS AUDITORS WERE
22 ALWAYS INTERESTED IN WHAT ALTERNATIVES, BOTH THE EXECUTIVE
23 OFFICERS AND THE BOARD OF HOMEGOLD HAD UNDER CONSIDERATION
24 TO REPAY ALL CREDITORS, WHETHER IT BE CAROLINA INVESTORS
25 OR OTHER CREDITORS. BESIDES THE CORE STRATEGY WHICH THEY

1 HAD WHICH WAS TO INCREASE THE LEVEL OF LOAN OFFICERS WHICH
2 WOULD INCREASE THE LEVEL OF PRODUCTION, INCREASE THE
3 MARGIN THAT THEY GOT OFF OF THAT PRODUCTION, IMPROVE THE
4 TERMS THEY HAD WITH THEIR WAREHOUSE LENDERS WHICH WOULD
5 ULTIMATELY INCREASE PROFITABILITY AND EARN THEIR WAY OUT
6 OF IT. SO, EARN MONEY TO CREATE CASH TO PAY CREDITORS BUT
7 THERE ARE OTHER STRATEGIES THAT CAN BE EMPLOYED. ONE OF
8 THE DISCUSSIONS THAT I HAD WITH MR. SHEPPARD WAS WHETHER
9 HE WAS AWARE OF A PUBLICLY TRADED EXAMPLE OF A COMPANY
10 THAT WAS OUT OF THE LOWER MIDWEST, I BELIEVE IT WAS
11 HEADQUARTERED OUT OF LOUISIANA WHO HAD A VERY SIMILAR
12 STRUCTURE THAT HAD A PARENT COMPANY, WAS IN THE SUBPRIME
13 LENDING INDUSTRY. THEY RAISED A PORTION OF THEIR FUNDING
14 THROUGH THE SAME TYPE OF DEBENTURES THAT WERE SOLD THROUGH
15 CAROLINA INVESTORS AND THEY ACTUALLY RESTRUCTURED THAT
16 DEBT. THEY DID A PUBLIC FILING AND THEY CONVERTED THOSE
17 NOTES INTO A COMBINATION OF EQUITY AND NOTES. AND SO IF I
18 HAD A NOTE FOR \$10 THOUSAND DOLLARS ON THIS OTHER COMPANY
19 THEY HANDED ME SIX SHARES OF STOCK THEN MY NOTE WENT DOWN
20 TO \$3 THOUSAND DOLLARS. SO, THEY RECOGNIZED THE FACT THAT
21 THEY COULDN'T CONTINUE TO SERVICE THAT INTEREST ON THOSE
22 NOTES AND THEY CONVERTED THOSE INSTRUMENTS INTO EQUITY
23 WHICH THEY REALLY WERE BECAUSE THEY WEREN'T GETTING
24 INTEREST. THAT STRATEGY AND THERE ARE OTHER STRATEGIES
25 THAT ONE COULD EMPLOY. IN ONE OF OUR CONVERSATIONS WITH

1 MR. SHEPPARD ONE DAY, I JUST ASK IF THEY WERE FAMILIAR
2 WITH THAT SITUATION AND IF THEY HAD CONSIDERED IT. AND I
3 BELIEVE I ACTUALLY SHARED THE ARTICLE, THE INFORMATION ON
4 THAT WITH MR. SHEPPARD. THE RESPONSE I GOT WAS THAT HE
5 WAS NOT FAMILIAR WITH THAT AND SO HE APPRECIATED THE
6 PASSING ALONG OF THAT INFORMATION. BUT ALSO THE
7 INDICATION THAT I GOT IS THAT THEY HAD NO OTHER STRATEGIES
8 THAT THEY HAD DISCUSSED EITHER AT THE EXECUTIVE OFFICER,
9 THEIR LEVEL, THE BOARD LEVEL THAT AT LEAST HE SHARED WITH
10 ME THAT DAY.

11 Q AND BASED ON WHAT YOU SAW AS A FINANCIAL AUDITOR DID
12 THEY EVER DO ANYTHING SUCH AS THAT, SIMILAR TO WHAT THAT
13 OTHER COMPANY DID?

14 A THE ONLY OTHER STRATEGY THAT I AM AWARE OF THAT THE
15 OFFICERS AND THE BOARD MEMBERS OF HOMEGOLD EMPLOYED AS THE
16 ATTEMPT TO NOT ONLY SELL THE RETAIL MORTGAGE DIVISION BUT
17 OVER A PERIOD OF YEARS THEY SOLD OFF A NUMBER OF OTHER
18 BUSINESS LINES THAT THEY HAD TO RAISE CASH AND TO CREATE
19 FOCUS ON THEIR SOLE REMAINING LINE OF BUSINESS WHICH WAS
20 SUBPRIME LENDING.

21 Q THEY NEVER WENT AND DID ANYTHING TO RESTRUCTURE THE
22 CAROLINA INVESTORS, FROM WHAT YOU SAW?

23 A NOT TO MY KNOWLEDGE.

24 Q LET'S MOVE ON. WE JUST DISCUSSED YEAREND 2000, FIRST
25 QUARTER OF 2001, DID ANYTHING CHANGE FINANCIALLY FOR THE

1 CONDITION OF HOMEGOLD?

2 A NO AND PROBABLY MOST IMPORTANTLY WHAT YOU ARE
3 REFERRING TO IS THEY CONTINUED TO LOSE MONEY.

4 Q WHAT ABOUT THE DEBT FROM CAROLINA INVESTORS?

5 A I CAN'T SPECIFICALLY COMMENT ABOUT THE LEVEL BUT I
6 WOULD GATHER THAT ALL DURING 2001 THAT DEBT LEVEL
7 CONTINUED TO INCREASE.

8 Q AND ANOTHER ISSUE THAT YOU TAKE UP WHEN YOU ARE
9 DEALING WITH GOING CONCERN, DO YOU TALK TO COMPANY
10 MANAGEMENT ABOUT PROJECTIONS?

11 A YES.

12 Q PLEASE EXPLAIN TO THE JURY WHAT PROJECTIONS ARE.

13 A MOST LARGE COMPANIES AND SOPHISTICATED COMPANIES PUT
14 TOGETHER FORECAST FOR COMING PERIODS OF TIME. SO, IN THE
15 CASE OF 2001, IN LATE OF 2000 HOMEGOLD WOULD OF PUT
16 TOGETHER SOME BUDGETS TO, FIRST OF ALL, IT GIVES YOU
17 SOMETHING TO TARGET ITS GOALS. IT GIVES YOU INFORMATION
18 THAT CREDITORS DEMAND, IT GIVES YOU INFORMATION THAT
19 AUDITORS ARE INTERESTED IN, IT IS INFORMATION THAT YOU
20 SHARE WITH YOUR BOARD OF DIRECTORS. AND ACTUALLY THOSE
21 BUDGETS, IF I GO BACK TO 2000 FOR A MINUTE, THAT IS ONE OF
22 THE WAYS THAT WE ACTUALLY AUDITED THE GOING CONCERN ISSUE
23 IS WE WILL TAKE THAT BUDGET INFORMATION AND WE PERFORM
24 WHAT WE CALL STRESS TEST ON THAT INFORMATION. SO, IF
25 MANAGEMENT SAYS THEY HAVE GOT THIS LEVEL OF REVENUE WE

1 WILL DECREASE IT BY TEN, TWENTY, THIRTY PERCENT AND SEE
2 WHAT HAPPENS TO THEIR MODEL, WE WILL GO INTO THEIR EXPENSE
3 SECTION AND WE WILL INCREASE TEN, TWENTY, THIRTY PERCENT,
4 WHATEVER WE THINK COULD BE APPROPRIATE. AND JUST SEE, YOU
5 KNOW, MOST BUDGETS ARE NOT HIGHLY ACCURATE, SOME ARE MUCH
6 BETTER THAN OTHERS. BUT IT IS TOUGH TO PREDICT THE
7 FUTURE. WE, AS AUDITORS, ONE OF THE TOOLS THAT WE USE IS
8 TO STRESS THOSE BUDGETS AND TO SEE IF THEY ARE WRONG ABOUT
9 CERTAIN CORE AREAS, WHAT WILL THE RESULT BE. THAT IS ONE
10 OF THE MAIN TEST THAT WE USED IN PARTICULAR IN 2000. AS
11 WE WERE GOING THROUGH 2001 AND IN WATCHING THE ACTUAL
12 RESULTS TO THE BUDGET IT WAS VERY CLEAR TO US THAT THEY
13 WERE WELL OFF BUDGET, NO DIFFERENT THAN IN 2000, THEY WERE
14 WELL OFF THE BUDGETS THAT THEY HAD DEVELOPED IN LATE 1999.

15 Q DID YOU EVER HAVE ANY SPECIFIC DISCUSSIONS WITH THE
16 DEFENDANT ABOUT PROJECTIONS THAT HE WOULD MAKE?

17 A YES, WE, IN PARTICULAR OVER THE 1999 AUDIT, THE 2000
18 AUDIT AND THE 2001 AUDIT WE COMMITTED SIGNIFICANT
19 RESOURCES TO GOING THROUGH THE BUDGET. IN FACT THE 2000
20 AUDIT AND THE 2001 AUDIT WE BROUGHT SOME SPECIALIST IN
21 FROM OUR FIRM WHO COME OUT OF OUR, WOULD BE CALLED OUR
22 STRATEGIC ADVISORY SERVICES GROUP. ONE OF THEM HAS A
23 PROFESSIONAL BACKGROUND IS A COMMERCIAL BANKER, THE OTHER
24 INDIVIDUAL ACTUALLY WAS THE CHAIRMAN OF OUR FIRM WHO WAS A
25 SPECIALIST IN MERGERS AND ACQUISITIONS AND WE BROUGHT THEM

1 AS PART OF OUR TEAM TO GO THROUGH THOSE NUMBERS AND MEET
2 WITH MR. SHEPPARD AND OTHER OF HIS OFFICERS. JUST TO HAVE
3 THEM EXPLAIN TO US, YOU KNOW, WHERE DID YOU GET THE
4 NUMBERS, WHAT KIND OF ASSUMPTIONS DID YOU MAKE, SO ON AND
5 SO FORTH. SO, WE COULD DECIDE AGAIN IF WE STRESS THESE
6 NUMBERS WHAT IS THE WORSE THING THAT COULD HAPPEN AND WHAT
7 IS THE BEST THING THAT COULD HAPPEN.

8 Q AND DID YOU STRESS THE PROJECTIONS THAT HE WAS GIVING
9 OUT?

10 A YES.

11 Q AND DID YOU COME INTO ANY CONCLUSIONS REGARDING
12 WHETHER OR NOT ABOUT THOSE PROJECTIONS FOCUSING ON THE
13 YEAR OF 2001?

14 A YES. IN 2000 MR. SHEPPARD WAS ONLY PRESENT FROM MAY
15 FORWARD. SO, HIS STYLE AND STRATEGIES AND PEOPLE WEREN'T
16 IN A POSITION TO HAVE QUITE AS MUCH INFLUENCE ON 2000 AS
17 THEY WERE IN 2001. BUT THE WAY THAT ELLIOTT DAVIS LOOKED
18 AT 2001 IT WAS THE CHANGES THAT HE MADE WERE FULLY
19 IMPLEMENTED BY 2001 AND WE HAD MANY CONVERSATIONS ABOUT
20 WHAT WAS HAPPENING WITH THE EXPANSION EFFORTS, HOW MANY
21 LOAN OFFICERS THEY WERE PUTTING IN PLACE, HOW NEGOTIATIONS
22 WERE WITH WAREHOUSE LENDERS, HOW MUCH MARGIN THEY WERE
23 SQUEEZING OUT OF THAT ORIGINATION AND SALE PROCESS. AND
24 LET'S SAY WE MET MANY TIMES WITH MR. SHEPPARD AND THE
25 STAFF OVER THAT. AND IN 2001 MUCH DIFFERENT THAN 2000, IN

1 2001 WE PUT IN THE GOING CONCERN LANGUAGE BECAUSE WE
2 ACTUALLY CAME TO THE CONCLUSION, IN THE MIDDLE OF 2001
3 THAT WE COULD NO LONGER RELY ON THEIR ABILITY TO PROJECT
4 THE FUTURE.

5 Q AND BY THEIR ABILITY, WHO ARE YOU REFERRING TO?

6 A IT WOULD BE MR. SHEPPARD AND HIS STAFF WHO PUT
7 TOGETHER THE BUDGETS.

8 Q AND LET'S GO BACK TO THAT POWERPOINT PRESENTATION, IS
9 THAT NORMAL WHEN YOU ARE HAVING A PLANNING MEETING TO DO
10 THAT POWERPOINT PRESENTATION?

11 A FOR OUR SOPHISTICATED CLIENTS, YES.

12 Q AND GO THROUGH SOME OF THE THINGS THAT YOU ALL TALK
13 ABOUT AT THAT PLANNING MEETING FOR YEAREND OF 2000.
14 BEFORE I DO THAT, DID ANYTHING GET BETTER IN THE SECOND
15 QUARTER OF 2001?

16 A NO.

17 Q WHAT ABOUT THE THIRD QUARTER, ANYTHING THAT YOU
18 REMEMBER ABOUT THE THIRD QUARTER OF 2001?

19 A THEIR NET INCOME GOT BETTER BUT IT WAS IN PARTICULAR
20 BECAUSE OF AN ACCOUNTING CHANGE THAT THEY MADE WHICH WE
21 STRONGLY DISAGREED WITH.

22 Q EXPLAIN THAT TO THE JURY.

23 A HOMEGOLD, ONE OF THE WAYS IN WHICH HOMEGOLD GOT ITS
24 POTENTIAL CUSTOMERS IS THEY WERE BUYING CUSTOMER LISTS.
25 AND ALL OF US GET PHONE CALLS NOWADAYS AND IF YOU EVER

1 WONDER WHERE THEY GOT YOUR NAME THEY TYPICALLY BOUGHT IT
2 FROM SOMEBODY. AND THEY WERE SPENDING ROUGHLY A MILLION
3 DOLLARS A MONTH FOR LIST OF PEOPLE AND WITH PHONE NUMBERS.
4 AND THESE LIST WOULD BE CIRCULATED AMONGST THE LOAN
5 OFFICERS AND THAT IS HOW THEY WOULD MAKE PHONE CALLS AND
6 SEND INFORMATION AND SO ON AND SO FORTH. HISTORICALLY
7 HOMEGOLD, WHEN THEY BOUGHT A LIST AND PAID FOR IT THEY
8 EXPENSED IT IN THAT MONTH THAT THEY PAID FOR IT. THEY
9 TOOK A POSITION IN THE THIRD QUARTER OF '01 THAT LIST HAD
10 A VALUE OVER A PERIOD THAT WAS LONGER THAN A MONTH. AND I
11 THINK THAT CONCLUSION THAT THEY ARRIVED AT WAS, INSTEAD OF
12 EXPENSING IT IN A MONTH THEY, THE ACCOUNTING PROCEDURE OF
13 CAPITALIZING THAT THE DAY THEY PAID FOR IT, IN OTHER
14 WORDS, INSTEAD OF EXPENSING IT AND RUNNING IT THROUGH THE
15 INCOME STATEMENT THEY POSTED THE BALANCE SHEET. AND THEN
16 THEY WOULD ADVERTIZE IT TO INCOME OVER EITHER A FOUR OR
17 FIVE OR SIX MONTH PERIOD, I DON'T RECALL EXACTLY WHICH
18 PERIOD THEY CHOSE. THAT CHANGE IN THAT PRINCIPLE, IN THE
19 THIRD QUARTER OF '01, IT RESOLVED IN INCREASING THAT
20 INCOME ABOUT \$5 MILLION DOLLARS AND THEY MADE A PRIOR
21 ENTRY TO INCREASE EQUITY ANOTHER \$2 MILLION DOLLARS. SO,
22 THERE WAS A \$7 MILLION DOLLAR IMPACT OF THE CHANGE IN THIS
23 PRINCIPLE THAT THEY MADE. AND KEVIN MART DRAFTED A
24 POSITION PAPER ON THE CHANGE, WE WERE GIVEN AN OPPORTUNITY
25 TO READ THE, WELL FIRST OF ALL, THE WAY WE FOUND ABOUT IT

1 IS WHEN WE GOT THEIR, IT WAS DISCUSSED WITH US IN ADVANCE.
2 WHEN WE GOT THE THIRD QUARTER CLOSING WE ALL OF A SUDDEN
3 NOTICED ITS PROFIT AND IT DIDN'T TAKE US BUT FIVE MINUTES
4 TO SEE WHERE IT CAME FROM BECAUSE THEY HAD THIS NEW ASSET
5 ON THE BALANCE SHEET WHICH WAS PREPAID CUSTOMER LIST. SO,
6 WE, CY BURGESS, THE SENIOR MANAGER GOT TOGETHER WITH KEVIN
7 MARTIN AS HE DID ON A REGULAR BASIS. AND KEVIN SUPPLIED
8 US WITH A POSITION PAPER THEY TOOK AND WE RESEARCHED IT,
9 WE ACTUALLY WENT OUTSIDE OF OUR FIRM TO ANOTHER FIRM THAT
10 WE HAVE A RELATIONSHIP WITH, A LARGE FIRM AND MADE SURE
11 THAT WE UNDERSTOOD THE TECHNICAL OPTIONS THAT ONE HAD WITH
12 THIS. AND WE CAME TO THE CONCLUSION THAT, WHILE IT MAY BE
13 LOGICAL TO SPREAD THOSE COST OVER MORE THAN ONE MONTH
14 THERE WAS A LIMIT TO HOW FAR YOU COULD SPREAD IT. AND SO
15 WE STRONGLY DISAGREED WITH THAT. BUT SINCE WE WEREN'T
16 REQUIRED TO AUDIT THOSE QUARTERLY NUMBERS, ALL WE COULD DO
17 WAS DISAGREE WITH THE ISSUE, WHICH WE ACTUALLY TOOK TO
18 THEIR AUDIT COMMITTEE WHICH WAS PRETTY UNUSUAL, IN FACT IT
19 WAS ONE OF THE FIRST ITEMS ON A QUARTERLY BASIS THAT I CAN
20 RECALL GOING TO THE CHAIRMAN OF THEIR AUDIT COMMITTEE WHO
21 ACTUALLY ENGAGES US AND EXPLAIN TO THEM THE DEGREE TO
22 WHICH WE DISAGREED WITH IT. AND IF THAT WAS IN THE
23 FINANCIAL STATEMENTS AT THE END OF, WELL, I WILL PUT IT
24 THIS WAY. UNDER NO CIRCUMSTANCES WOULD WE ACCEPT THAT
25 ACCOUNTING TREATMENT AS PART OF OUR AUDIT AT THE END OF

1 THE YEAR. SO, THEY HAD ONE OF TWO CHOICES, YOU EITHER
2 REVERSE IT WHICH THEY ULTIMATELY DID BUT THEY REVERSED IT
3 AFTER THEY FILED THEIR THIRD QUARTER Q. SO, THEY SENT IT
4 OUT TO THE GENERAL PUBLIC OR, THEY EITHER HAD TO REVERSE
5 IT OR WE WOULD NOT SIGN OFF THE YEAREND FINANCIAL
6 STATEMENTS SO THEY REVERSED THE POSITION.

7 Q SO, WHEN WOULD THE THIRD QUARTER BE FILED?

8 A THEY MOVED THE STANDARDS AROUND A LITTLE BIT SINCE
9 THEN BUT I BELIEVE THE Q WAS REQUIRED TO BE FILED WITHIN
10 60 DAYS AFTER THE CLOSING OF THE QUARTER, THE SEPTEMBER
11 QUARTER, THE Q WAS DUE AT THE END OF NOVEMBER AS A FILING
12 WITH THE SEC.

13 Q SO, FROM THE END OF NOVEMBER UNTIL YOU ALL ISSUE THE
14 10K AND I THINK YA'LL DIDN'T REALLY GET TO THAT UNTIL
15 AROUND APRIL IN THE PROSPECTUS TO THE PUBLIC, IT LOOKS
16 LIKE HOMEGOLD HAS MADE A PROFIT FOR THE THIRD QUARTER?

17 A FOR THAT PARTICULAR QUARTER, YES. AND WE NOT ONLY
18 WENT TO THE AUDIT COMMITTEE WITH THAT BUT WE IN WRITING,
19 THAT FILING, THAT WAS A MATERIAL ITEM. YOU REALLY WOULD
20 HAVE TO TALK TO YOUR SEC ATTORNEYS TO SEE WHAT KIND OF
21 ADVICE, OUR ADVICE WAS NOT ONLY REVERSE IT BUT THEY AMEND
22 THEIR THIRD QUARTER Q.

23 Q DO YOU KNOW IF THE AMENDED THIRD QUARTER Q WAS EVER
24 FILED?

25 A THEY DID NOT AMEND THEIR THIRD QUARTER Q.

1 Q SO, FROM THE END OF NOVEMBER, YOU ALL KNEW THE GOING
2 CONCERN AND REVERSE IT BACK OUT THERE TO THE PUBLIC THAT
3 THEY HAD MADE A PROFIT?

4 A THAT IS CORRECT.

5 Q ALL RIGHT, NOW WE WILL GET TO THE POWERPOINT
6 PRESENTATION IN THE OCTOBER 2001 MEETING. PLEASE EXPLAIN
7 SOME OF THE THINGS THAT WERE EXPLAINED TO HOMEGOLD
8 MANAGEMENT INCLUDING THE DEFENDANT AT THAT MEETING, GOING
9 THROUGH YOUR POWERPOINT?

10 A I MENTIONED ⁸SOME OF THEM, WHAT WE HAD BEEN ENGAGED
11 FOR, WHAT KIND OF PRODUCT WE WERE ASKED TO ISSUE, WHO THE
12 MEMBERS OF THE TEAM WERE, WHAT THE ENGAGEMENT TIMING WAS,
13 WHAT THE MEASURE OF AUDIT AREAS WERE. AND I MENTIONED
14 THOSE TO YOU EARLIER. AND THEN SOME OF THE MEASURED
15 AUDITED AREAS WE ACTUALLY WENT INTO WITH A LITTLE MORE
16 DETAIL WITH THE GOING CONCERN AS A SEPARATE SLIDE. IN
17 FACT, IT HAS GOT TWO SLIDES THAT BELONG TO IT.

18 Q IN OCTOBER OF 2001 YOU ARE TELLING THEM ABOUT GOING
19 CONCERN. I THINK YOU JUST MADE A STATEMENT, YA'LL HAVE
20 DECIDED PRETTY MUCH AFTER THE SECOND QUARTER THAT GOING
21 CONCERN, UNLESS THINGS WOULD CHANGE, IS THAT CORRECT?

22 A YES.

23 Q CONTINUE ON OF WHAT YOU TALKED ABOUT AT THAT MEETING?

24 A WE HAD A SLIDE ON THE SUBJECT OF EVALUATING WHETHER
25 THE GOODWILL THAT WAS ON THE BOOKS. THEY HAD ABOUT \$20

1 MILLION DOLLARS OF GOODWILL THAT WAS ON THE BOOKS
2 PRIMARILY FROM THE HOMESENSE ACQUISITION. AND IF THE
3 GOING CONCERN WAS GOING TO BE IN 2001 FINANCIAL
4 STATEMENTS, IT KIND OF TRIGGERED A SERIES OF OTHER
5 DECISIONS. ONE IS WHICH YOU HAVE TO WRITE OFF THE
6 GOODWILL, SO THAT WOULD BE A \$20 MILLION WRITEOFF. AND IF
7 THE GOING CONCERN ULTIMATELY WAS IN THE 2001 FINANCIAL
8 STATEMENTS YOU WOULD HAVE TO WRITE OFF THE DEFERRED TAX
9 ASSET, THAT WAS ON THE BOOKS AT ABOUT \$22 MILLION DOLLARS.
10 AND THEN ANOTHER SET OF SLIDES IS DEDICATED TO THE
11 CAROLINA INVESTORS NOTE RECEIVABLE. IT WAS LIKELY THAT
12 TWO FOLD, DEPENDING ON THE GOING CONCERN ISSUE AND
13 DEPENDING UPON THE EXTERIOR THIRD PARTY VALUATION. THERE
14 WAS A GOOD CHANCE THAT THEY MAY HAVE TO IMPAIR THE
15 RECEIVABLE FROM HOMEGOLD THAT WAS ON THE CAROLINA
16 INVESTORS BOOKS BECAUSE THERE WERE SEPARATE FINANCIAL
17 STATEMENTS ISSUED FOR CAROLINA INVESTORS FOR PURPOSES OF
18 LICENSING AND THEIR ABILITY TO ISSUE THE NOTES AND
19 DEBENTURES TO THE GENERAL PUBLIC. WE ALSO HAD A SLIDE IN
20 HERE OF WHAT IS CALLED RESIDUAL ASSETS, YOU HAVE HEARD
21 THAT TERM A LITTLE BIT. THAT IS ANOTHER ASSET THAT IS ON
22 THE BOOKS THAT DEALS WITH THE CASH FLOW THAT ONE CAN
23 GENERATE FROM CERTAIN MORTGAGE LOANS THEY WOULD SELL WITH
24 IT IN THAT THIRTY TO SIXTY DAY TIME FRAME THAT I
25 MENTIONED. SOMETIMES THERE IS CERTAIN LOANS THAT ARE

1 REJECTED IN THE PROCESS FROM YOUR TYPICAL PURCHASE LINES.
2 AND SO THEY SAVE THOSE FOR A WHILE AND THEY EVENTUALLY PUT
3 THEM TOGETHER SOMETIMES IN WHAT ARE CALLED SECURITIZATION
4 TRANSACTIONS AND THEY WILL SELL THEM TO ANOTHER PARTY.
5 AND THEN THEY GET SOME CASH FLOW OFF OF THOSE OVER A
6 PERIOD OF TIME. AND SO THE ASSET THAT IS ON THE BOOKS
7 BECAUSE YOU SOLD THE LOAN, SO THERE IS NOT A LOAN ON YOUR
8 BOOKS ANYMORE BUT YOU HAVE THIS, WHAT IS CALLED A RESIDUAL
9 ASSET BECAUSE OVER TIME YOU GET A CERTAIN CASH INFLOW.
10 AND IT IS POSSIBLE THAT THERE COULD BE IMPAIRMENTS TO THAT
11 ALSO, THAT WAS NOT SO MUCH BECAUSE OF THE GOING CONCERN,
12 THAT REALLY WAS BECAUSE OF THE MARKET PLACE AND THE
13 CONDITION OF THOSE INSTRUMENTS. AND THEN WE TALKED ABOUT
14 SOME TECHNICAL ISSUES RELATIVE TO CERTAIN THINGS,
15 CONFORMATION PROCEDURES. AND THE LAST ISSUE IS ONE THAT
16 JUST ASKED SOME QUESTIONS ABOUT DEVELOPMENTS DURING 2001,
17 WHAT WAS THE STATUS OF THE RELATIONSHIP WITH WAREHOUSE
18 LENDERS, WHAT WERE CURRENT PROJECTIONS FOR '02 PRODUCTION
19 LEVELS. PLANS THAT THEY HAD AS I MENTIONED TO YOU EARLIER
20 ABOUT PLANS IN LIGHT OF CONTINUED PRESSURE ON
21 PROFITABILITY. WHAT WERE THEIR EXPECTED FUTURE BORROWING
22 LEVELS FROM CAROLINA INVESTORS, WAS IT GOING TO GO UP OR
23 WAS IT GOING TO GO DOWN. AND WHAT THEIR EXPECTED TIME
24 FRAME RELATIVE TO RETURNING TO PROFITABLE OPERATIONS.
25 Q ON THAT LAST SLIDE THAT YOU TALKED ABOUT, DO YOU

1 REMEMBER WHAT, IF ANYTHING, THAT THE DEFENDANT SAID ABOUT
2 WHETHER OR NOT THEY WERE GOING TO INCREASE BORROWING FROM
3 CAROLINA INVESTORS DURING THE YEAR OF 2002?

4 A AT THAT PARTICULAR MEETING I DON'T RECALL WHAT THE
5 ANSWER IS.

6 Q DID YOU ALSO ASK THE COMPANY TO GET VALUATIONS AT
7 THAT MEETING?

8 A YES.

9 Q AND BEFORE WE GET TO THE VALUATIONS, YOU BROUGHT UP
10 SOMETHING THAT I MEANT TO COVER EARLIER. YEAREND 2000 DID
11 YOU ALSO INCREASE THE DEFERRED TAX ASSET?

12 A WE DID.

13 Q OKAY. PLEASE EXPLAIN ABOUT THE INCREASE OF THE
14 DEFERRED TAX ASSET.

15 A YES AND I, AS I RECALL IT WENT FROM \$10 MILLION TO
16 \$22 MILLION OR FROM \$12 MILLION TO \$22 MILLION FROM ONE
17 YEAREND REPORTING PERIOD TO THE NEXT. BUT SITTING HERE
18 RIGHT NOW I DON'T EXACTLY REMEMBER WHETHER THAT WAS '99 TO
19 2000 OR THAT WAS 2000 TO 2001.

20 Q WELL, WAS THE DEFENDANT AT THE COMPANY WHEN THEY
21 INCREASED THE DEFERRED TAX ASSET?

22 A AGAIN SINCE I DON'T KNOW WHAT THE TIMING WAS I AM NOT
23 SURE. IF I COULD LOOK AT THE 2001 10K I CAN TELL YOU
24 THAT.

25 Q SURE. YOU MEAN 2000?

1 A EITHER ONE, THE 2000, THE 2001 WOULD PROBABLY BE
2 BETTER.

3 Q THAT IS THE YEAREND 2000 10K. DID YOU REVIEW THAT,
4 THAT WAS THE YEAR?

5 A FROM, AT THE YEAREND OF 1999 THEY REPORTED A \$12
6 THOUSAND DOLLAR DEFERRED TAX ASSET. AND YEAREND DECEMBER
7 31 OF 2000 THEY REPORTED \$22 THOUSAND DOLLAR DEFERRED TAX
8 ASSET. SO, IT INCREASED \$10 THOUSAND DOLLARS DURING 2000.

9 Q AND AS YOU SAID, EXPLAIN WHAT WENT ON REGARDING THAT
10 DEFERRED TAX ASSET?

11 A WELL, THE DEFERRED TAX ASSET ACTUALLY HAS A VARIETY
12 OF COMPONENTS IN IT. BUT THE LARGEST ONE WAS AS A RESULT
13 OF SOME NET OPERATING LOSSES FROM PRIOR YEARS THAT THEY
14 HAD AVAILABLE TO CARRY OVER TO THE FUTURE PROFITABLE
15 YEARS. AND AS I RECALL, AT THE END OF 2000 THE TOTAL
16 VALUE THAT ONE COULD OF RECORDED WAS PROBABLY IN THE
17 NEIGHBORHOOD OF \$50 MILLION DOLLARS. THAT IS HOW LARGE
18 THE LOSSES WERE THEY HAD TO CARRY FORWARD. SO, WHEN ONE
19 MAKES A DEFERRED ASSET CALCULATION YOU START WITH WHAT IS
20 THE LARGEST NUMBER, ALL OF YOUR TIMING DIFFERENCES AND I
21 WANT TO SAY THAT IS ROUGHLY \$50 MILLION DOLLARS. BUT THEN
22 YOU HAVE TO TAKE A SECOND STEP WHICH IS REALISTICALLY HOW
23 MUCH OF THAT ASSET CAN THEY EXPECT TO USE AND THEN YOU MAY
24 HAVE TO RECORD WHAT IS KNOWN AS A VALUATION ALLOWANCE.
25 AND SO IF I AM CORRECT ABOUT THE GROSS AMOUNT BEING \$50

1 MILLION DOLLARS THEY PUT A VALUATION ALLOWANCE AGAINST IT
2 THAT TOOK IT DOWN TO \$22 MILLION DOLLARS BECAUSE OF THEIR
3 TREND OF LOSSES. IT WASN'T LIKE THAT THEY WOULD BE ABLE
4 TO EARN ENOUGH MONEY TO USE THOSE CARRYOVER OPERATING
5 LOSSES BEFORE THEY EXPIRED BECAUSE THEY DON'T LAST
6 INDEFINITELY. MOST OF THE TIME THEY HAVE ABOUT A FIFTEEN
7 YEAR LIFE ON THEM. IN 1997, IF I RECALL CORRECTLY, WHEN
8 HOMEGOLD HAD THE \$1.1 BILLION MORTGAGE ORIGINATIONS, THEY
9 HAD THAT INCOME OF \$11 MILLION DOLLARS. SO, YOU KNOW, IN
10 THE NOT TOO PAST TIME OF OPERATING RESULTS THEY CAN MAKE
11 MONEY QUICKLY IF THEY CAN TURN THE COMPANY AROUND. SO,
12 WHAT WAS AGREED ON AND I REMEMBER HAVING A MEETING WITH
13 THEM BECAUSE AGAIN, THEY WOULD WRITE A POSITION PAPER ON
14 WHAT THE LEVEL OF DEFERRED TAX ASSET WOULD BE. AND AT THE
15 TIME WHEN THEY ADJUSTED IT UP TO \$22 MILLION THEIR INITIAL
16 POSITION WAS, WE CAN TAKE IT ALL THE WAY UP TO THE FIFTY
17 AND I MAY NOT BE ACCURATE ABOUT FIFTY. AND SO WE HAD A
18 SERIES OF MEETINGS OVER THAT ISSUE AND WE DEBATED WITH
19 THEM AND THE LEVEL THAT WE FOUND THAT WAS ACCEPTABLE WAS
20 AT THE \$22 MILLION DOLLAR.

21 Q SO, THEY INCREASED IT FROM \$10 MILLION DOLLARS?

22 A FROM 1999 TO 2000.

23 Q AND YOU SAY THEM, WHO WAS THEM?

24 A WELL, THE YEAREND OF 2000 WOULD OF BEEN CLOSED OUT,
25 MR. SHEPPARD WAS THE CEO AND THEN RHONDA WAS THE CFO.

1 Q AND SHE RESIGNED SHORTLY THEREAFTER?

2 A SHE DID AND AS I RECALL SHE REFUSED TO SIGN THE 10K.

3 Q LET'S GO ON NOW AND TO, YOU HAVE THAT, LET'S GO TO
4 THE VALUATIONS THAT YOU TESTIFIED TO. DID YOU ASK
5 HOMEGOLD MANAGEMENT TO GET VALUATIONS?

6 A YES.

7 Q AND WHEN DID YOU REQUEST THEM BY, HOW QUICKLY DID YOU
8 WANT THEM?

9 A IT DOESN'T STATE IT BUT WE ASKED, I BELIEVE, TO HAVE
10 THEM BY NO LATER THAN THE END OF DECEMBER OR THE MIDDLE OF
11 DECEMBER. SO, IF WE WERE SITTING THERE IN OCTOBER THEY
12 NEEDED TO ENGAGE SOMEONE REASONABLY WITHIN 15 DAYS AND
13 THEN GIVE THEM ENOUGH TIME TO DO THEIR WORK WHICH COULD
14 TAKE 30 TO 60 DAYS SO WE COULD GET A PRELIMINARY REPORT.
15 SO, NOT ONLY FOR US BUT MANAGEMENT NEEDED TO KNOW WHAT THE
16 ANSWER TO THAT OUTSIDE THIRD PARTY VALUATION WAS ALSO SO
17 ALL OF US COULD UNDERSTAND WHAT THE IMPACT COULD BE ON
18 THAT SERIES OF ISSUES THAT WE DISCUSSED.

19 Q OKAY. AND WHO WAS REQUESTING THE VALUATIONS?

20 A WELL, THE MANAGEMENT OF HOMEGOLD REQUESTED THOSE
21 VALUATIONS.

22 Q OKAY. AND DO YOU REMEMBER WHO DID THE FIRST
23 VALUATION?

24 A WELL, THE FIRST VALUATION WAS ACTUALLY DONE BY CBIZ
25 BUT THE FIRST PARTY THAT WAS GOING TO BE ENGAGED TO DO THE

1 VALUATIONS WAS RAYMOND JAMES AND ASSOCIATES.

2 Q AND WHY DID RAYMOND JAMES DO IT?

3 A RAYMOND JAMES ACTUALLY HAD A SEAT ON THE BOARD OF
4 DIRECTORS AS A RESULT OF THE HOMESENSE TRANSACTION. AND
5 RAYMOND JAMES INITIALLY INDICATED TO MANAGEMENT THAT THEY
6 WOULD PERFORM THE VALUATION AND AS WE GOT CLOSER TO THE
7 MIDDLE OF DECEMBER AND WE WERE GETTING NO INDICATION THAT
8 THEY WERE ABOUT TO GET A REPORT MR. SHEPPARD INFORMED US
9 ONE DAY THAT RAYMOND JAMES CAME TO THE CONCLUSION SINCE
10 THEY HAD A MEMBER OF THEIR FIRM ON THE BOARD OF DIRECTORS
11 OF HOMEGOLD THAT THEY WERE NOT INDEPENDENT RELATIVE TO
12 PROVIDING THAT VALUATION. SO, MANAGEMENT SOUGHT A SECOND
13 PARTY AND THAT TURNED OUT TO BE CBIZ.

14 Q WHO ENGAGED CBIZ TO DO THE VALUATION?

15 A MANAGEMENT.

16 Q OF?

17 A OF HOMEGOLD.

18 Q AND WHEN DID YOU GET, WHAT WAS THE PURPOSE BEHIND
19 ASKING THEM TO GET A VALUATION?

20 A THERE IS A PROFESSIONAL STANDARD THAT COMES IN WHEN
21 YOU ARE LOOKING AT THE IMPAIRMENT ISSUE AT THE CAROLINA
22 INVESTORS LEVEL. AND THERE IS A CERTAIN TYPE OF VALUATION
23 THAT YOU ARE LOOKING AT TO GAGE THAT NOTE RECEIVABLE AND I
24 THINK YOU HAVE HEARD EARLIER THE VARIOUS TYPES OF
25 VALUATIONS. THE VALUATION THAT WAS NEEDED BOTH FOR

1 MANAGERMENTS USE TO LOOK AT THE IMPAIRMENT ISSUE AND THEN
2 FOR US TO USE AS EXTERNAL AUDITORS WAS ONE THAT WOULD
3 SATISFY CERTAIN PROFESSIONAL STANDARDS. AND I BELIEVE
4 THAT STANDARD WAS KNOWN AS FAS 141, THAT IT WOULD HAVE TO
5 MEET THOSE STANDARDS. AND BASICALLY IS A FAIR MARKET
6 VALUATION STUDY.

7 Q AND DO YOU REMEMBER WHEN YOU GOT THAT CBIZ VALUATION,
8 APPROXIMATELY?

9 A I THINK THAT WE GOT AN INITIAL DRAFT OF IT IN EARLY
10 FEBRUARY.

11 Q OKAY. AND DID YOU GET A FINAL COPY OF IT?

12 A I DON'T BELIEVE THAT VALUATION WAS EVER FINALIZED.

13 Q AND LET'S GO TO, WERE YOU IN ATTENDANCE ON A MEETING
14 THAT OCCURRED ON MARCH 14 OF 2002?

15 A YES.

16 Q AND IS THAT HANDWRITING OF YOUR NOTES?

17 A THAT IS NOT MY HANDWRITING.

18 Q THAT IS NOT YOUR HANDWRITING?

19 A NO.

20 Q DID YOU TAKE NOTES AT THAT MEETING?

21 A I DID BUT THEY WEREN'T IN THAT FORMAT.

22 Q DO YOU KNOW WHOSE HANDWRITING THAT WAS?

23 A I DO NOT.

24 Q OKAY. WHO WAS IN ATTENDANCE AT THIS MARCH 14TH
25 MEETING?

1 A THERE WERE A NUMBER OF PEOPLE IN ATTENDANCE. FROM
2 ELLIOTT DAVIS THERE WERE FOUR OF US, MYSELF AND CY BURGESS
3 WHO WAS THE SENIOR MANAGEMENT OF THE AUDIT ENGAGEMENT.
4 CHARLES DUKE WHO DID A LOT OF TIME ON THE PROJECTIONS WHO
5 WAS ON THE STRATEGIC GROUP, WAS PART OF THE AUDIT TEAM.
6 AND THEN JOHN MARKEL WHO WAS A PARTNER WITH OUR FIRM WHO
7 WAS A VALUATION SPECIALIST THAT WE BROUGHT IN AS PART OF
8 THE AUDIT TEAM. THERE WERE THREE ATTORNEYS THERE FROM THE
9 WYCHE FIRM THAT WAS, THIS MEETING WAS AT THE WYCHE LAW
10 FIRM WHICH IS IN GREENVILLE, SOUTH CAROLINA. THE WYCHE
11 LAW FIRM WAS SEC COUNSEL TO HOMEGOLD. THE FULL BOARD OF
12 HOMEGOLD WAS THERE.

13 Q AND WHO WERE THOSE INDIVIDUALS?

14 A I WON'T REMEMBER ALL OF THEM, MR. SHEPPARD WAS THERE,
15 JACK STERLING, TOMMY WYCHE WHO IS ALSO ONE OF THE THREE
16 LAWYERS THAT I MENTIONED AND HE WAS AN ADVISER OF THE
17 BOARD. BOB PHILPOTT, TEE HOOPER, AND THERE WAS PROBABLY
18 AT LEAST FOUR OTHER MEMBERS FROM THE BOARD BUT I AM NOT
19 GOING TO REMEMBER THEIR NAMES. MR. OWEN WAS THERE, LARRY
20 OWEN FROM CAROLINA INVESTORS, EARLE MORRIS FROM CAROLINA
21 INVESTORS, KEVIN MARTIN WAS THERE, I BELIEVE PAUL
22 BANNINGER WAS THERE, PAUL WAS AN EXPERIENCED SUBPRIME
23 LENDER THAT MR. SHEPPARD BROUGHT TO THE TEAM SOMETIME
24 DURING 2001. SO, IT WAS A LARGE GATHERING.

25 Q OKAY. DO YOU KNOW OF ANY OTHER MEMBERS OF CAROLINA

1 INVESTORS BOARD WERE THERE?

2 A BESIDES MR. STERLING AND MR. SHEPPARD, MR. MORRIS AND
3 MR. OWEN, I DON'T REMEMBER ANY OTHER OF THE MEMBERS OF THE
4 CAROLINA INVESTORS BOARD BEING THERE.

5 Q WHAT DID YOU DISCUSS AT THAT MEETING?

6 A I WAS IN CHARGE OF THAT MEETING AND THEN THE DATE OF
7 MARCH 14TH IS WHY THERE WERE SO MANY PEOPLE THERE. OUR
8 SIGN OFF GOAL FOR THE FINANCIAL STATEMENT FOR CAROLINA
9 INVESTORS WAS MARCH 30TH. SO, WE WERE ONLY 15 DAYS
10 ROUGHLY AWAY FROM THAT SIGN OFF DATE. AND THE REASON THEY
11 HAD TO BE SIGNED OFF ON MARCH 30TH WAS BECAUSE THAT WAS
12 THE DATE THEY HAD TO RENEW THEIR LICENSE WITH THE SOUTH
13 CAROLINA ATTORNEY GENERAL TO SELL THE NOTES AND
14 DEBENTURES.

15 Q AND THAT IS CAROLINA INVESTORS?

16 A CORRECT. AND THE PURPOSE OF THE MEETING WAS, THERE
17 HAD BEEN A SERIES OF MEETINGS BEFORE THAT, TELEPHONE CALLS
18 AND FACE TO FACE MEETINGS. BUT THE PRIMARY GOAL OF THAT
19 MEETING IS THAT WE HAD TWO MAJOR ISSUES THERE. NUMBER ONE
20 WAS WE REJECTED THE CBIZ VALUATION. OUR EXPERT, JOHN
21 MARKEL HAD GONE THROUGH IT, WE ACTUALLY ENGAGED TWO OTHER
22 EXPERTS OUTSIDE OF OUR FIRM TO LOOK AT THAT PROPOSAL AND
23 WE, AS AUDITORS, HAD COME TO THE CONCLUSION THAT THE
24 METHODOLOGY THAT WAS USED BY CBIZ WAS NOT APPROPRIATE FOR
25 THE CIRCUMSTANCES THAT WAS TO BE USED. WE NEVER ARGUED

1 ABOUT WHAT THE NUMBER WAS THEY CAME UP WITH, I THINK THEY
2 CAME UP WITH A RANGE THAT HAD SOME PLACE BETWEEN \$165
3 MILLION AND \$170 MILLION. OUR PROBLEM IS NOT WITH THE
4 NUMBER BECAUSE WE WERE NOT ENGAGED OR QUALIFIED TO COME UP
5 WITH THE NUMBER. BUT WE HAVE TO BE COMFORTABLE WITH
6 AUDITORS THAT THE METHOD THAT THEY USED TO ARRIVE AT THE
7 ANSWER WAS SUPPORTABLE. AND JOHN MARKEL WHO HEADED UP
8 THAT ISSUE ON OUR EFFORT, HE HAD SIX CORE REASONS AS TO
9 WHY THE METHOD THAT CBIZ USED TO ARRIVE AT AN ANSWER WAS
10 NOT SUPPORTABLE. WE HAD DEBATED THOSE SIX ISSUES WITH
11 HOMEGOLD MANAGEMENT, REALLY FROM THE TIME THAT WE GOT THAT
12 DRAFT IN EARLY FEBRUARY AND MARCH 14TH WE WERE FINALLY
13 GETTING DOWN TO THE DEADLINE THAT WE NEEDED TO MEET AND
14 EXPLAIN THAT WE ARE NOT GOING TO CHANGE OUR MIND, ELLIOTT
15 DAVIS, AND WE ARE NOT GOING TO USE THAT VALUATION. SO, IF
16 YOU DON'T COME WITH A BETTER VALUATION HERE IS WHAT IS
17 GOING TO HAPPEN. PROBABLY THE CLOSEST SECOND NUMBER WE
18 HAVE IS SOMETHING THAT THAT \$144 MILLION DOLLAR ASSET ON
19 CAROLINA INVESTORS BOOKS IS PROBABLY WORTH SOMETHING UNDER
20 \$100 MILLION DOLLARS. SO, IF YOU DON'T COME UP WITH A
21 VALUATION THAT IS ACCEPTABLE, A VALUATION METHODOLOGY THAT
22 IS ACCEPTABLE WE HAVE TO TAKE SOME STAB IN THE DARK AT HOW
23 MUCH IMPAIRMENT IS GOING TO HAVE TO BE RECORDED WITH THE
24 CAROLINA INVESTORS LEVEL. AND BASED UPON SOME RULES OF
25 THUMB IS THAT WE SEE IN THE INDUSTRY, WE THINK THAT

1 IMPAIRMENT IS GOING, YOU KNOW, IS GOING TO HAVE TO TAKE
2 THAT RECEIVABLE BELOW \$100 MILLION DOLLARS. AND THE
3 SECOND ISSUE WAS THAT THE GOING CONCERN LANGUAGE WAS GOING
4 IN THE AUDITORS REPORT, THE VALUATION WAS A SEPARATE
5 ISSUE. WE CONCLUDED THAT THE GOING CONCERN WAS GOING IN
6 THE FOOTNOTES IN THE OPINION. SO, ONE OF THE THINGS THAT
7 WE WERE PREPARED FOR IS THAT WE WERE GOING TO LEAVE THAT
8 MEETING HAVING BEEN FIRED, YOU KNOW, THAT IS ONE OF THE
9 THINGS THAT HAPPENS. MANAGEMENT AND THE AUDITORS DON'T
10 ALWAYS AGREE SO THAT IS WHY THERE IS SO MANY PEOPLE THERE
11 BECAUSE THE DECISION MAKERS WERE THERE BOTH FROM OUR SIDE
12 OF THE FENCE AND FROM THEIR SIDE OF THE FENCE. SO, WE
13 WALKED DOWN THROUGH THOSE ISSUES AND WE GIVE THEM EXAMPLES
14 OF THE GOING CONCERN LANGUAGE AND WHAT THE OPINION WOULD
15 BE LIKE. AND I THINK THAT MEETING LATEST FOR JUST SHY OF
16 TWO HOURS AND THEN WE LEFT. AND AS I UNDERSTAND THAT
17 MEETING CONTINUED BECAUSE THEY HAD SOME DECISIONS TO MAKE,
18 WHAT TO DO ABOUT ENGAGING ANOTHER VALUATION EXPERT, WHAT
19 ARE GOING TO BE THE RAMIFICATIONS OF THE GOING CONCERN AND
20 SO THAT WAS THE PURPOSE OF THAT MEETING THAT DAY.

21 Q CAN YOU EXPLAIN TO THE JURY THE ATMOSPHERE OF WHAT
22 THAT MEETING WAS THEN YOU WERE TELLING THEM ABOUT THE
23 GOING CONCERN LANGUAGE THAT WAS PUT IN?

24 A WELL, WE HAD A NUMBER OF CONVERSATIONS PRIOR TO THAT
25 SO THERE WEREN'T A LOT OF SURPRISES AT THAT MEETING BUT

1 THIS WAS A SERIOUS MATTER WITH SOME SERIOUS PEOPLE. I
2 THINK PROBABLY IF I WAS ON MANAGEMENTS SIDE OR THE BOARDS
3 SIDE, THEY OBVIOUSLY WERE TRYING TO PERSUADE ELLIOTT DAVIS
4 TO CHANGE THEIR MIND. WE HAD ALREADY HAD OUR
5 CONVERSATIONS AT ELLIOTT DAVIS WHICH INVOLVED PROBABLY
6 UPWARDS TO TWELVE PARTNERS WHICH WAS PRETTY UNUSUAL FOR A
7 DECISION WITH A CLIENT. AND WE WERE NOT GOING TO CHANGE
8 OUR MIND IN THAT MEETING. SO, IT WAS A PRODUCTIVE MEETING
9 BECAUSE IT DID WIND UP WITH CERTAIN CONCLUSIONS. THERE
10 WERE OBVIOUSLY CERTAIN POINTS THAT AT TIMES WHEN IT WAS A
11 LITTLE TENSE BUT IT WAS A SERIOUS MATTER. SO, I EXPECTED
12 THAT.

13 Q YOU ALREADY TALKED ABOUT YOUR PRIOR CONVERSATIONS YOU
14 HAD WITH HOMEGOLD MANAGEMENT AND SPECIFICALLY THE
15 DEFENDANT ABOUT GOING CONCERN. HAD YOU, PRIOR TO THAT
16 MARCH 14TH MEETING HAD YOU ANY DISCUSSIONS WITH ANYONE AT
17 CAROLINA INVESTORS ABOUT GOING CONCERN?

18 A WELL, OTHER THAN MR. SHEPPARD AND MR. STERLING WHO
19 WERE ON THE BOARD AT CAROLINA INVESTORS WE HAD NOT UP TO
20 THAT POINT EVER SPOKEN DIRECTLY TO MR. OWEN OR MR. MORRIS
21 NOR THE OTHER TWO MEMBERS WHO WERE NOT THERE.

22 Q DO YOU KNOW WHO THOSE TWO MEMBERS WERE THAT WERE NOT
23 THERE?

24 A MR. BOBO IS ONE AND I CAN'T TELL YOU THE OTHER.

25 Q THERE WAS ONE OTHER THAT WASN'T AT THAT MEETING?

1 A CORRECT.

2 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
3 STATE'S EXHIBIT NUMBER 76. DO YOU RECOGNIZE THAT AND DID
4 YOU RECEIVE THAT LETTER?

5 A I DO RECOGNIZE THIS AND I DID RECEIVE IT.

6 MS. EVANS: YOUR HONOR, I WOULD LIKE TO PRESENT INTO
7 EVIDENCE.

8 MR. GRIFFIN: NO OBJECTION.

9 THE COURT: WITHOUT OBJECTION STATE'S 76 IS ADMITTED.
10 (WHEREUPON, STATE'S EXHIBIT NO. 76 WAS ADMITTED INTO
11 EVIDENCE.)

12 Q WHO IS THAT LETTER FROM?

13 A THIS LETTER IS A HOMEGOLD LETTERHEAD, IT IS ADDRESSED
14 TO GARRY RANK AND IT IS FROM MR. SHEPPARD.

15 Q AND ATTACHED TO THAT, IS THERE A COPY TO READ IN
16 WHICH THERE APPEARS TO BE A SIGNATURE?

17 A IT SAYS SINCERELY AND TYPED IN RONALD J. SHEPPARD AND
18 THEN THERE IS A SIGNATURE.

19 Q BUT THE FIRST LETTER THAT IS CLEAR TO READ, THERE IS
20 NO SIGNATURE ON IT, CORRECT?

21 A THAT IS CORRECT AND IT IS ALSO NOT ON LETTERHEAD.

22 Q WHAT IS THE DATE OF THAT LETTER?

23 A THE LETTER IS DATED MARCH 18TH OF 2002.

24 Q THAT LETTER IS WRITTEN FOUR DAYS AFTER MARCH 14TH
25 MEETING OR IT IS DATED FOUR DAYS AFTER THE MARCH 14TH

1 MEETING?

2 A YES.

3 Q AND WHAT DID YOU THINK WHEN YOU GOT THAT LETTER?

4 A I WAS A LITTLE SURPRISED BECAUSE I HAD NEVER RECEIVED
5 THE LETTER FROM MR. SHEPPARD BEFORE NOR HAD I EVER
6 RECEIVED THE LETTER AFTER THIS. I HADN'T ASKED FOR THE
7 LETTER SO I REALLY WASN'T EXPECTING IT. AND THEN WHEN I
8 READ ITS CONTENT, WHAT I THOUGHT ABOUT IT WAS THAT IT WAS
9 A ONE LAST ATTEMPT ON, IN THIS CASE MR. SHEPPARD'S PART TO
10 PERSUADE ELLIOTT DAVIS TO MAKE A DECISION OTHER THAN WHAT
11 WAS DISCUSSED AT THE MARCH 14TH MEETING.

12 Q I THINK YOU JUST TESTIFIED NOTHING WAS GOING TO
13 PERSUADE YOU TO CHANGE YOUR DECISION?

14 A THAT IS CORRECT.

15 Q I WANT TO DRAW YOUR ATTENTION, SPECIFICALLY IN THAT
16 LETTER TO, CAN YOU READ TO THE JURY THIS FIRST PARAGRAPH
17 ON THE SECOND PAGE.

18 A THIS IS THE NEW COMPANY I WALKED INTO IN 2000. I
19 KNEW A LOT OF THE ISSUES I WAS WALKING IN TO. MOST OF THE
20 ISSUES WERE SURPRISES, EVEN WITHOUT ANY SURPRISES I
21 EXPECTED A 30 MONTH TURNAROUND TIME. EVEN WITHOUT THE
22 SURPRISES WE KNEW WE WOULD HAVE TO USE THE CASH SUPPLIED
23 BY CAROLINA INVESTORS TO RUN THE BUSINESS WHILE WE WERE
24 GETTING IT FIXED. EVEN WITHOUT THE SURPRISES WE KNEW THE
25 STOCK WOULDN'T RESPOND UNTIL THE MARKET BEGAN TO SEE SOME

1 REAL RESULTS.

2 Q AND HE CONTINUES ON TALKING ABOUT THINGS THAT
3 HAPPENED DURING HIS TENURE AT HOMEGOLD, CORRECT?

4 A YES.

5 Q AND I AM GOING TO DRAW YOUR ATTENTION TO THE LAST
6 PARAGRAPH OF THAT PAGE AND PLEASE READ THAT TO THE JURY.

7 A WE HAVE DISCUSSED THIS BEFORE, GARRY, ELLIOTT DAVIS
8 TOOK UP THE CHALLENGE EVEN BEFORE I DID. YOU HAVE
9 CONTINUED HELPING THE POST-MERGER COMPANY AND I APPRECIATE
10 THAT. I KNOW YOU WANT THIS BUSINESS TO SUCCEED PROBABLY
11 ONLY SLIGHTLY LESS THAN I DO. THIS IS THE YEAR WE WILL
12 SEE THAT SUCCESS.

13 Q MR. RANK, WHAT DID YOU THINK WHEN YOU READ THAT
14 PARAGRAPH?

15 MR. GRIFFIN: OBJECTION, YOUR HONOR, WHAT HE THINKS
16 ABOUT IT IS IRRELEVANT, WHAT WAS SAID.

17 THE COURT: I WILL PERMIT HIM TO ANSWER IT,
18 OVERRULED, GO AHEAD.

19 Q WHAT DID YOU THINK WHEN YOU READ THAT PARAGRAPH?

20 A WELL, I THOUGHT IT WAS INACCURATE AND I THOUGHT IT
21 WAS BUNK, SO TO SPEAK.

22 Q AND DID THAT LETTER GET YOU TO CHANGE YOUR MIND ABOUT
23 PUTTING GOING CONCERN IN?

24 A NO AND WE HAD ALSO, THE SAME DAY WE RECEIVED A SECOND
25 LETTER. WE RECEIVED A LETTER FROM MR. STERLING THAT WAS

1 SENT TO ONE OF MY SENIOR PARTNERS. SO, ONCE MR. WELLING,
2 (PHONETIC), AND I CHATTED IT WAS VERY CLEAR THAT THIS WAS
3 A STRATEGY THAT THEY HAD DEVISED TO AGAIN TO MAKE ONE MORE
4 ATTEMPT TO PERSUADE ELLIOTT DAVIS TO THINK DIFFERENTLY
5 ABOUT CERTAIN DECISIONS THAT WE HAD MADE.

6 Q DID YOU AT THAT MARCH 14TH MAKE IT CLEAR TO HOMEGOLD
7 THAT GOING CONCERN WAS GOING TO BE PUT IN THAT PROSPECTUS
8 AND 10K FILING?

9 A YES, IN FACT WE GAVE THEM EXAMPLES OF EXACTLY WHAT
10 THE WORKING OF OUR ^{#1} REPORT ON THEIR FINANCIAL STATEMENTS
11 WOULD LOOK LIKE.

12 Q AND YOU SAID YOU GOT THAT LETTER FROM THE DEFENDANT?

13 A I RECEIVED THIS IN THE MAIL, YES.

14 Q AND YOU GOT A LETTER, SAME NATURE, FROM MR. STERLING?

15 A CORRECT.

16 Q AND HE GOES THROUGH IN THERE IN DETAIL OTHER THINGS
17 THAT WENT ON WHILE HE WAS AT THE COMPANY?

18 A WHILE HE WAS AT THE COMPANY AND UNDERSTANDINGS THAT
19 HE HAD OF THE, WHAT NEEDED TO CHANGE AT THE COMPANY AT THE
20 TIME THAT THEY MERGED.

21 Q AND HE TALKS ABOUT SOME THINGS THAT HE THOUGHT WAS
22 SURPRISES AT THE COMPANY, CORRECT?

23 A YES.

24 Q AND, AGAIN, WHAT DOES HE DO, AGAIN YOU TALKED ABOUT
25 PRODUCTION EARLIER, AND I DRAW YOUR ATTENTION TO THIS

1 PARAGRAPH AND YOU DON'T HAVE TO READ THE WHOLE ONE. BUT
2 WHAT DOES, IN GENERAL TERMS, DOES HE TALK ABOUT IN THAT
3 LETTER THAT HE SENT YOU AT THAT MARCH 14TH MEETING ABOUT
4 PROJECTIONS.

5 A HE BASICALLY IS TALKING ABOUT PRODUCTION AND
6 PROFITABILITY. HE SAYS WE ARE LOOKING AT OUR BIGGEST
7 PRODUCTION MONTH EVER. WE BELIEVE OUR PROJECTION OF \$97
8 MILLION WHICH WOULD BE ON A MONTHLY GOAL IS CONSERVATIVE.

9 Q AND WHAT DID YOU THINK WHEN YOU READ THAT?

10 A WE HAD PERFORMED A SIGNIFICANT AMOUNT OF PROCEDURES
11 ON THEIR PRODUCTION LEVELS AT THIS POINT. SO, AND I
12 MENTIONED EARLIER THAT WE HAD LOST CONFIDENCE IN THEIR
13 ABILITY TO PREDICT THE FUTURE.

14 Q MR. RANK, I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED
15 AS STATE'S EXHIBIT NUMBER 78. CAN YOU LOOK THROUGH THAT
16 AND DO YOU RECOGNIZE THAT?

17 A I DO RECOGNIZE THIS, YES.

18 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
19 MOVE STATE'S 78 INTO EVIDENCE.

20 MR. GRIFFIN: NO OBJECTION.

21 THE COURT: STATE'S 78 IS ADMITTED.

22 (WHEREUPON, STATE'S EXHIBIT NO. 78 WAS ADMITTED INTO
23 EVIDENCE.)

24 Q WHAT IS THE FRONT PAGE OF THAT?

25 A THE FAX TRANSMITTAL IS FROM ME TO MR. SHEPPARD AND IT

1 IS DATED APRIL 2ND OF '02.

2 Q AND PLEASE GO THROUGH WHAT IS FAXED OR WHAT IS
3 ATTACHED TO THAT, IS WHAT ATTACHED TO THAT WHAT YOU FAXED
4 TO HIM?

5 A MY TRANSMITTAL INDICATES THERE WERE FOUR PAGES WHICH
6 WOULD INCLUDE THE COVER AND THIS IS A THREE PAGE
7 MEMORANDUM AND THEN THERE WAS A CONFORMATION THAT WAS
8 SENT.

9 Q AND WAS IT ALSO SENT TO OTHER INDIVIDUALS, DOWN IN
10 THE PACKET?

11 A YES, WE ALSO SENT A COPY OF THIS TO BOB PHILPOTT WHO
12 WAS THE CHAIRMAN OF THE AUDIT COMMITTEE, JACK STERLING WHO
13 WAS THE CHAIRMAN OF THE BOARD AND KEVIN MARTIN WHO WAS THE
14 CFO.

15 Q OKAY. AND GO THROUGH THAT MEMO, WHAT DOES THAT MEMO
16 REGARD?

17 A THIS MEMO IS VERY SIMILAR TO THE ONE THAT WE
18 DISCUSSED EARLIER AND IT IS AN INTERNAL ELLIOTT DAVIS
19 MEMO. SO, IT IS TO THE HOMEGOLD FILES THAT WAS DRAFTED BY
20 CY BURGESS WHO WAS THE SENIOR MANAGER ENGAGEMENT. IT IS
21 DATED MARCH 30TH OF '02 WITH A COPY TO ME AND IT IS, THE
22 SUBJECT-MATTER IS THE GOING CONCERN.

23 Q AND KIND OF LAY OUT WHAT IT SAYS ABOUT THE GOING
24 CONCERN IN THERE.

25 A THIS MEMO ACTUALLY LAYS OUT THE, CERTAIN OF THE

1 TECHNICAL SECTION OF THE GUIDANCE FOR GOING CONCERN WHICH
2 IS AUDITING STANDARDS, SECTION 341. AND IT LAYS OUT THE
3 CERTAIN, LET'S SAY FOR CONVERSATION SAKE IN, THERE ARE 25
4 PARAMETERS THAT SUGGEST THAT YOU HAVE GOT A GOING CONCERN
5 ISSUE. WE LAID OUT IN HERE, FOR CONVERSATION SAKE, THE
6 EIGHT THAT WE FELT DEMANDED THAT THE GOING CONCERN BE IN
7 THE '01 FINANCIAL STATEMENTS. WE LAID THAT OUT IN A
8 TECHNICAL FORMAT SO THEY FULLY UNDERSTOOD WHY WE HAD
9 ARRIVED AT THE CONCLUSION AND THEN WE ALSO INCLUDED IN
10 THAT AN EXAMPLE OF THE LANGUAGE THAT WOULD BE INCLUDED IN
11 ELLIOTT DAVIS' REPORT ON COMPANIES FINANCIAL STATEMENT.

12 Q AND YOU HAVE THE MARCH 14TH MEETING, DO YOU REMEMBER
13 HAVING A SUBSEQUENT TELEPHONE CONFERENCE REGARDING GOING
14 CONCERN AND THE IMPAIRMENT, AT THIS MARCH 14TH MEETING,
15 DID YOU TELL THEM TO GO GET A NEW VALUATION SO YOU COULD
16 PERFORM THE YEAREND AUDIT?

17 A WELL, I WON'T SAY WE TOLD THEM TO GET ONE BUT IT WAS
18 VERY CLEAR THAT IF THEY DIDN'T WANT, IF ELLIOTT DAVIS WAS
19 STILL GOING TO BE ENGAGED AND IF THEY DIDN'T WANT AN
20 IMPAIRMENT THAT BROUGHT THE NUMBER BELOW \$100 MILLION
21 DOLLARS THAT THEY WERE GOING TO HAVE TO FIND A
22 SATISFACTORY FIRM TO PREPARE THE VALUATION.

23 Q DO YOU REMEMBER A MARCH 19TH TELEPHONE CONFERENCE
24 ABOUT THIS ISSUE?

25 A YES.

1 Q AND WHO WAS ON THAT TELEPHONE CONFERENCE, THE BEST
2 THAT YOU CAN REMEMBER?

3 A WELL, I BELIEVE THAT REALLY CENTERED THE AUDIT
4 COMMITTEE AND I REMEMBER BOB PHILPOTT WAS ON THAT
5 CONVERSATION, I BELIEVE TEE HOOPER WAS, BOTH AUDIT
6 COMMITTEE MEMBERS AND BOARD MEMBERS AND MYSELF AND JOHN
7 MARKEL WAS ON THAT CONVERSATION. AND PROBABLY KEVIN
8 MARTIN AND AFTER THAT I COULDN'T TELL YOU.

9 Q YOU ARE NOT SURE IF THE DEFENDANT WAS INVOLVED IN
10 THAT ONE?

11 A I DON'T REMEMBER IF MR. SHEPPARD WAS ON THAT CALL OR
12 NOT.

13 Q OKAY. WAS THERE A SUBSEQUENT MARCH 25TH MEETING OF
14 2002?

15 A YES.

16 Q AND WAS THE DEFENDANT AT THAT MEETING?

17 A I DO NOT RECALL.

18 Q WHO WAS AT THAT MEETING THAT YOU RECALL?

19 A I AM GOING TO GUESS THAT WE--

20 Q DON'T GUESS, JUST TRY TO REMEMBER WHO SPECIFICALLY
21 YOU REMEMBER BEING AT THAT MEETING.

22 A I DO NOT.

23 Q YOU DON'T REMEMBER, WAS IT A MEETING ABOUT THE SAME
24 ISSUE?

25 A WELL, WE WERE HAVING A SERIES OF PHONE CALLS AND

1 MEETINGS ALL SURROUNDING THE VALUATION ISSUE. SO, I AM
2 ASSUMING THAT BOTH OF THOSE MEETINGS, THAT WAS THE CORE
3 SUBJECT.

4 Q SO, AS OF MARCH 25TH YOU STILL DID NOT HAVE A SECOND
5 VALUATION?

6 A CORRECT.

7 Q AND DID THAT CONCERN YA'LL?

8 A SURE IT DID, I AM SURE IT CONCERNED MANAGEMENT MORE
9 THAN IT CONCERNED US, BUT IT CONCERNED US.

10 Q AND DID MANAGEMENT GO OUT AND OBTAIN A SECOND
11 VALUATION?

12 A THEY DID.

13 Q AND WHO DID THAT SECOND VALUATION?

14 A THEY ENGAGED ONE OF THE BIG FOUR ACCOUNTING FIRMS,
15 DELOITTE AND TOUCHE OUT OF ATLANTA.

16 Q AND GAIN WHO IS THAT VALUATION GO TO?

17 A THAT FIRM WAS ENGAGED BY MANAGEMENT AND THE REPORT
18 WOULD OF GONE TO MANAGEMENT.

19 Q AND MANAGEMENT MEANING MANAGEMENT OF HOMEGOLD?

20 A YES.

21 Q AND DID YOU AS INDEPENDENT AUDITORS ACCEPT THAT
22 VALUATION?

23 A YES, WE DID.

24 Q AND WHAT DOES THAT MEAN?

25 A WELL, FIRST OF ALL, BECAUSE OF THE SENSE OF URGENCY

1 WE WERE PERMITTED BY HOMEGOLD TO ACTUALLY TO TALK TO
2 DELOITTE AT THEIR ENGAGEMENT. SO, ACTUALLY AS A RESULT OF
3 THE MARCH 14TH MEETING, JOHN MARKEL WHO IS A PARTNER AT
4 ELLIOTT DAVIS AND AN VALUATION EXPERT, HE ACTUALLY
5 SUGGESTED TO HOMEGOLD SOME OTHER VALUATION EXPERTS THAT HE
6 KNEW IN THE MARKET PLACE. WHEN THEY CAME BACK TO US, THE
7 MANAGEMENT OF HOMEGOLD, THEY HAD ENGAGED DELOITTE. AND SO
8 WE MUTUALLY AGREED THAT IF THE MANAGEMENT OF HOMEGOLD
9 FOUND IT APPROPRIATE AND DELOITTE AGREED IT WOULD PROBABLY
10 BE A GOOD IDEA IF JOHN MARKEL FROM ELLIOTT DAVIS TALKED TO
11 DELOITTE AND MADE SURE THAT DELOITTE UNDERSTOOD EXACTLY
12 WHAT TYPE OF VALUATION WAS NEEDED FOR THE PURPOSES OF
13 LOOKING AT IMPAIRMENT ON THE LOAN, ON THE BOOKS OF
14 CAROLINA INVESTORS BECAUSE THERE WAS NO TIME TO WASTE IN
15 GETTING THAT NUMBER. SO, WE WERE ABLE, JOHN MARKEL WAS
16 ABLE TO CHAT WITH THEM, DELOITTE PERFORMED THEIR
17 PROCEDURES AND WE RECEIVED A MEASURE, RECEIVED A DRAFT
18 REPORT OF THAT VALUATION THAT DELOITTE THEN SHARED WITH
19 ELLIOTT DAVIS.

20 Q AND BASED UPON THAT DID YOU IMPAIR THE LOAN TO
21 CAROLINA INVESTORS?

22 A WE FIRST OF ALL AUDITED THE VALUATION TO MAKE SURE
23 THAT IT MET THE PRESENT STANDARDS WERE NEEDED. AND WHEN
24 IT WAS CONCLUDED THAT IT DID, THEN ATTEMPTED TO APPLY THE
25 COUNTING IMPAIRMENT TO THE LOAN. THEIR INITIAL ADJUSTMENT

1 WE DID NOT AGREE WITH BECAUSE THEY USED THE HIGH END OF
2 THE RANGE, THAT VALUATION CAME BACK WITH A RANGE ON IT.
3 WE SAID WE WILL ONLY ACCEPT THE LOW END OF THE RANGE SO
4 THEY ADJUSTED IT AGAIN AND THEN WE ACCEPTED THAT
5 ADJUSTMENT.

6 Q AND IN REVIEWING THE VALUATION ARE YOU REVIEWING FOR
7 THE NUMBERS OR FOR THE METHODOLOGY.

8 A SINCE WE ARE NOT VALUATION EXPERTS AND MORE
9 IMPORTANTLY WE CAN'T, WE CAN'T ARRIVE AT A NUMBER AND THEN
10 TURN AROUND AND ^{AS}AUDIT IT, THEY HAVE TO GIVE US A NUMBER
11 AND THEN WE EITHER AGREE OR DISAGREE WITH IT. AND THEN
12 WHEN I SAID THEY GIVE US A NUMBER THEY GIVE US AN,
13 DELOITTE IN THE REPORT WITH THE METHODOLOGY THAT THEY USED
14 AND WE APPLY OUR STANDARDS TO THAT AND IF THAT METHODOLOGY
15 THAT THEY USED MEETS THE STANDARDS THEN AS A NATURAL
16 BYPRODUCT OF THAT YOU CAN ACCEPT THE RESULTS.

17 Q AND THOSE VALUATIONS WERE PROPERTY IN ESSENCE OF
18 HOMEGOLD MANAGEMENT?

19 A YES.

20 Q DID YOU NOTICE ANYTHING ABOUT DISCLAIMERS IN THOSE
21 VALUATIONS?

22 A I READ BOTH OF THOSE DRAFTS OF THE VALUATION BOTH
23 FROM CBIZ AND FROM DELOITTE. THE DOCUMENTS, THEY
24 CONTAINED LANGUAGE THAT STATED THAT THEY WERE FOR INTERNAL
25 USE ONLY AND THEY WERE NOT TO BE PUBLISHED OUTSIDE OF THE

1 COMPANY.

2 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
3 STATE'S EXHIBIT NUMBER 50. DO YOU PREPARE THE FILINGS AND
4 THE PROSPECTUS FOR CAROLINA INVESTORS?

5 A NO, WE DO NOT.

6 Q WHO PREPARES THOSE?

7 A THIS IS A TWO-PART DOCUMENT, THAT THE FIRST PART OF
8 IT BEING, WHAT I WOULD CALL A LEGAL PORTION OF THE
9 DOCUMENT WHICH MEETS THE SOUTH CAROLINA SECURITIES LAWS
10 REQUIREMENTS. AND THEN THERE IS THE SECOND PART IS AN
11 ATTACHMENT OF AUDITED FINANCIAL STATEMENTS. THE AUDITED
12 FINANCIAL STATEMENTS ARE PREPARED BY THE COMPANY ARE AUDIT
13 OPINIONS ON THE THOSE FINANCIAL STATEMENTS WHICH IS
14 INCLUDED. THE FRONT PORTION OF THAT DOCUMENT, AS I
15 UNDERSTOOD IT, TYPICALLY WAS PREPARED BY THE WYCHE LAW
16 FIRM, THEIR SEC COUNSEL, IN CONJUNCTION WITH THE FINANCIAL
17 STAFF OF HOMEGOLD. ELLIOTT DAVIS IS CHARGED WITH READING
18 THAT PORTION OF IT AND MAKING SURE THAT THERE ARE NOT
19 ITEMS IN THERE THAT ARE DIFFERENT THAN WHAT IS IN THE
20 AUDITED FINANCIAL STATEMENTS THAT ARE ATTACHED.

21 Q OKAY. ELLIOTT DAVIS REVIEWS THE AUDITED FINANCIAL
22 STATEMENTS THAT ARE PREPARED BY HOMEGOLD?

23 A WE AUDIT THE FINANCIAL STATEMENTS THAT ARE PREPARED
24 BY HOMEGOLD.

25 Q AND THE PROSPECTUS AND ALL OF THESE FILINGS ARE

1 STATEMENTS BY WHOM?

2 A THEY ARE STATEMENTS BY MANAGEMENT.

3 Q OKAY. THEY ARE NOT STATEMENTS BY ELLIOTT DAVIS?

4 A THEY ARE NOT, THEY REPORT ON THE AUDITED FINANCIAL
5 STATEMENT.

6 Q ARE THEY STATEMENTS BY THE WYCHE LAW FIRM?

7 A THEY ARE NOT.

8 Q I AM GOING TO DRAW YOUR ATTENTION TO FOOTNOTE F11 AND
9 DO THEY, DO YOU SEE IN THERE WHERE THEY PUT THOSE
10 VALUATIONS THAT MANAGEMENT GOT SO YOU ALL COULD IMPAIR THE
11 LOAN IN THAT PROSPECTUS?

12 A THEY HAVE A FOOTNOTE TO THE FINANCIAL STATEMENTS THAT
13 REFERS TO THE TWO VALUATIONS THAT WERE DONE.

14 Q OKAY. DID ELLIOTT DAVIS PREPARE THAT?

15 A WE DID NOT PREPARE THAT FOOTNOTE.

16 Q AND DID THEY MENTION BOTH VALUATIONS, THE DELOITTE
17 AND TOUCHE AND THE CBIZ?

18 A THEY DO.

19 Q NOW, YOU REVIEWED THOSE?

20 A WE READ THESE, YES.

21 Q BUT YOU DON'T MAKE A DECISION ON WHAT GOES IN THAT
22 AND WHAT DOESN'T GO IN THAT?

23 A WELL, SINCE THAT IS PART OF THE AUDITED FINANCIAL
24 STATEMENTS WE HAVE A SAY IN WHETHER WE AGREE OR DISAGREE
25 WITH WHAT IS INCLUDED IN THEM. ON THAT PARTICULAR

1 SENTENCE, OUR ADVICE WAS THAT THEY NOT PUT THAT IN THERE.
2 BUT THAT PARTICULAR NOTE TO THOSE FINANCIAL STATEMENTS,
3 THE SUBJECT OF THAT NOTE IS THE GOING CONCERN ISSUE. AND
4 TRADITIONALLY THE CONTENT OF FINANCIAL STATEMENTS, BALANCE
5 SHEET, INCOME STATEMENT, CASH FLOWS, NOTES IS HISTORIC AND
6 IS THE FINANCIAL STATEMENTS AND BACKWARDS. THAT
7 PARTICULAR NOTE ON GOING CONCERN IS ONE OF THE FEW TIMES
8 WHEN THE PROFESSIONAL STANDARD ALLOWS SOME DISCUSSION OF
9 THE FUTURE BECAUSE THE GOING CONCERN ISSUE IS ONE, THAT
10 OKAY, THERE HAS BEEN SUBSTANTIAL DOUBT RAISED ABOUT YOUR
11 ABILITY TO CONTINUE, WHAT ARE YOU GOING TO DO ABOUT IT.
12 SO, THAT NOTE DISCUSSES WHAT SOME OF THEIR PLANS ARE AND
13 ONE OF THE ITEMS THAT THEY HAD CHOSE TO PUT IN THERE WERE,
14 WAS THE POTENTIAL SALE OF THE RETAIL MORTGAGE DIVISION AND
15 THEY SUGGESTED AN AMOUNT THAT TWO VALUATIONS HAD PUT OUT.
16 ELLIOTT DAVIS ARRIVED AT THE CONCLUSION THAT PROBABLY WAS
17 MORE OF A LEGAL ISSUE THAN IT WAS AN ACCOUNTING ISSUE
18 BECAUSE THERE WERE TWO PROBLEMS WITH IT. NUMBER ONE, IT
19 WAS NUMBERS THAT CAME FROM VALUATIONS THAT SPECIFICALLY
20 STATED, DON'T PUBLISH THIS. AND NUMBER TWO, THEIR SEC
21 COUNSEL PROBABLY WAS IN A BETTER POSITION TO DECIDE IF
22 THAT WAS A MATERIALLY MISLEADING STATEMENT OR NOT. WE
23 CAME TO THE CONCLUSION AS AUDITORS THAT, AS A SENTENCE, IT
24 DID SAY THAT THEY HAD OBTAINED TWO VALUATIONS AND HERE ARE
25 THE NUMBERS. WE CAME TO THE CONCLUSION WHILE WE DIDN'T

1 LIKE IT AS THE SENTENCE WAS WORDED, IT REALLY WASN'T TRUE.
2 THE STATEMENT TRUE IN THAT THEY DID RECEIVE TWO VALUATIONS
3 AND HERE WERE THE NUMBERS. BUT ANY READER OBVIOUSLY WOULD
4 HAVE TO BE QUITE AWARE OF WHERE THOSE NUMBERS CAME FROM
5 AND WHAT THEY MEANT. SO, TO US THEY REALLY RAISED MORE
6 QUESTIONS THAN THEY PROVIDED THE ANSWER. SO, ANY TIME YOU
7 ARE READING A DOCUMENT LIKE THAT WE COME UP WITH A LIST OF
8 ITEMS WE DISAGREE WITH AND CERTAIN ITEMS WE STRONGLY
9 DISAGREE WITH. THAT WAS ONE OF THE ITEMS THAT WE
10 DISAGREED WITH AND THEY CHOSE TO LEAVE IT IN THERE AND WE
11 DID NOT STRONGLY DISAGREE WITH THAT.

12 Q AND AS FAR AS WHETHER OR NOT THEY REACHED THEIR, WHAT
13 THEY GOT FROM DELOITTE AND CBIZ, THAT WAS A MATTER THAT IS
14 NOT A FINANCIAL MATTER AS FAR AS YOU ARE CONCERNED?

15 A THAT WAS NOT, IT WAS NOT OUTSIDE, TOTALLY OUTSIDE OF
16 STANDARDS RELATIVE TO PUBLISHING FINANCIAL INFORMATION.
17 WHETHER OR NOT IT WAS OUTSIDE OF CONTRACTUAL ARRANGEMENTS
18 THEY HAD WITH THIRD PARTIES, THAT WAS A SECOND MATTER.

19 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED INTO
20 EVIDENCE AS STATE'S EXHIBIT NUMBER 62 AND I AM GOING TO
21 DRAW YOUR ATTENTION TO THE SECOND PARAGRAPH ON THE SECOND
22 PAGE AND CAN YOU READ THAT TO THE JURY.

23 A THIS IS A LETTER TO THE SOUTH CAROLINA ATTORNEY
24 GENERALS OFFICE.

25 Q THE SECURITIES DIVISION?

1 A YES AND IT LOOKS LIKE IT IS SIGNED BY THE BOARD OF
2 CAROLINA INVESTORS AND THE PARTICULAR PARAGRAPH THAT YOU
3 HAVE REFERRED TO SAYS, CAROLINA INVESTORS BELIEVES THAT
4 THE STANCE OF ELLIOTT DAVIS WHICH WE CONSIDER OVERLY
5 CONSERVATIVE MIGHT HAVE BEEN INFLUENCED BY THE
6 ENRON-ARTHUR ANDERSON DEBACLE AND GLOBAL CROSSING
7 ACCOUNTING PROBLEMS.

8 Q WAS THAT EVER DISCUSSED AT ANY OF YOUR DEALINGS
9 REGARDING THE DECISION TO PUT GOING CONCERN INTO THE
10 PROSPECTUS?

11 A NO.

12 Q WAS ANYTHING EVER MENTIONED ABOUT THAT?

13 A WELL, IN PARTICULAR THERE WAS NOTHING ABOUT THAT
14 DISCUSSED WITH HOMEGOLD AND THERE WERE NO INTERNAL
15 CONVERSATIONS AT ELLIOTT DAVIS REGARDING ARTHUR ANDERSON
16 AND ENRON. THE GOING CONCERN STANDARDS HAVE EXISTED FOR
17 DECADES SO IT HAD NOTHING TO DO WITH CHANGES.

18 Q AND BETWEEN THE TWO WITH THE SIGNATURES, WHO ARE THE
19 ONLY TWO PEOPLE THAT SIGNED THAT WERE NOT AT THAT MARCH
20 14TH MEETING?

21 A DON BOBO AND DANNY SHARPE.

22 Q DID JACK STERLING SIGN THAT LETTER?

23 A JACK STERLING, MR. SHEPPARD, MR. MORRIS AND MR. OWEN.

24 Q AND THEY WERE ALL AT THAT MARCH 14TH MEETING?

25 A YES.

1 Q BESIDES THE ISSUE OF GOING CONCERN AND LOAN
2 IMPAIRMENT THAT COMES UP IN 2002 DID YOU ALL HAVE ANOTHER
3 ISSUE REGARDING THE INTERNAL CONTROLS AT HOMEGOLD?

4 A I THINK YOU MAY BE REFERRING TO OUR MANAGEMENT LETTER
5 AS A RESULT OF THE 2001 AUDIT. A MANAGEMENT LETTER AND
6 MORE TECHNICALLY IT IS REFERRED TO AS A REPORTABLE
7 CONDITIONS LETTER. WHEN AUDITORS ARE ENGAGED TO AUDIT A
8 COMPANIES FINANCIAL STATEMENTS, BY STANDARDS THAT EXISTED
9 AT THAT POINT AND TIME, BECAUSE THEY HAVE CHANGED AS WE
10 SIT HERE TODAY. THEY HAVE BECOME STRONGER. WE ARE
11 CHARGED AS AUDITORS WITH UNDERSTANDING THEIR INTERNAL
12 CONTROL ENVIRONMENT, THE ENVIRONMENT IN WHICH THEY GATHER
13 AND REPORT FINANCIAL TRANSACTIONS. AND IF WE BECOME AWARE
14 OF EITHER INTERNAL CONTROL SYSTEMS OR PROCEDURES THAT
15 DON'T EXIST OR DON'T FUNCTION, IF WE AS AUDITORS BELIEVE
16 THAT THE LACK OF OR THE NON-FUNCTIONING OF THOSE CONTROL
17 SYSTEMS SUBJECT THE COMPANY TO A HIGH LEVEL OF RISK THAT
18 INFORMATION THAT THEY PREPARE AND MAY REPORT TO THE
19 OUTSIDE PUBLIC COULD BE INACCURATE. WE ARE REQUIRED AS
20 PART OF THE AUDIT, BECAUSE WE ARE NOT ENGAGED TO LOOK AT
21 THEIR CONTROLLED ENVIRONMENT, BUT AS PART OF THE AUDIT WE
22 HAVE TO UNDERSTAND THE CONTROLLED ENVIRONMENT. SO, IF WE
23 FIND INSTANCES THAT RISE TO THE LEVEL THAT COULD CAUSE
24 INFORMATION TO BE MATERIALLY MISSTATED WE HAVE TO WRITE A
25 REPORTABLE CONDITIONS LETTER. SO, WE WROTE ONE AS THE

1 RESULT OF THE 2001 AUDIT.

2 Q AND DID YOU WRITE THAT?

3 A MR. BURGESS WROTE THAT AND I APPROVED IT.

4 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
5 EXHIBIT 79, IS THAT WHAT YOU ARE REFERRING TO. DON'T TALK
6 ABOUT WHAT IS IN IT, BUT IS THAT WHAT YOU ARE REFERRING
7 TO?

8 A THIS IS THE LETTER, YES.

9 MS. EVANS: YOUR HONOR, I WOULD LIKE TO ADMIT THIS
10 INTO EVIDENCE.

11 MR. GRIFFIN: NO OBJECTION.

12 THE COURT: STATE'S 79 IS ADMITTED.

13 (WHEREUPON, STATE'S EXHIBIT NO. 79 WAS ADMITTED INTO
14 EVIDENCE.)

15 Q NOW, MR. RANK, IS THAT WHAT YOU ARE REFERRING TO?

16 A THIS IS THE LETTER ON REPORTABLE CONDITIONS AS A
17 RESULT OF OUR 2001 FINANCIAL AUDIT.

18 Q AND WHAT WERE SOME OF YOUR CONCERNS THAT YOU HAD IN
19 THAT?

20 A WE ACTUALLY LISTED IN HERE, WHAT WE CALL FINDINGS.
21 THE FIRST ONE WAS OUR CONCERN WITH THE QUALITY OF THE
22 INITIAL FINANCIAL INFORMATION THAT THE COMPANY WAS
23 PRODUCING, IN PARTICULAR AT QUARTER END AND AT YEAREND.
24 AND IN THAT WE SUMMARIZED AT THE BOTTOM, IN PARTICULARLY
25 AS A RESULT OF THE 2001 AUDIT BECAUSE OF OUR, DUE TO OUR

1 AUDIT PROCEDURES IN 2001 WE REQUIRED THE COMPANY TO POST
2 ALMOST \$80 MILLION DOLLARS WORTH OF INTEREST WHICH IS
3 HIGHLY UNUSUAL. SO, OUR RECOMMENDATION IN HERE IS THAT
4 THE AUDIT COMMITTEE APPROVE ALL FINANCIAL INFORMATION
5 PRIOR TO ITS RELEASE. SO, WE WERE SUGGESTING THAT THE
6 COMPANIES ABILITY TO HAVE CONFIDENCE IN THE INFORMATION
7 THAT THE FINANCIAL STAFF OF THE COMPANY PREPARES, IN OUR
8 OPINION, DIDN'T EXIST AND THEREFORE THE AUDIT COMMITTEE
9 SHOULD APPROVE ALL FINANCIAL INFORMATION BEFORE IT WAS
10 RELEASED.

11 MS. EVANS: I THINK THAT A DOCUMENT SHOULD OF BEEN
12 ATTACHED WAS NOT ATTACHED TO THAT.

13 THE COURT: PART OF THAT SAME EXHIBIT.

14 MR. GRIFFIN: NO OBJECTION.

15 THE COURT: THAT WILL BE ATTACHED TO THAT.

16 Q AND IS THIS THE LETTER THAT GOES ALONG WITH THAT?

17 A YES. THE SECOND FINDING ON HERE IS ONE REGARDING THE
18 RESIDUALS THAT WE SPOKE OF WHICH ARE REALLY JUST A
19 RECEIVABLE. AND THIS IS ANOTHER CASE WHERE THE COMPANY
20 DID NOT HAVE THE EXPERTISE TO VALUE THE RESIDUALS ON AN
21 ONGOING BASIS BECAUSE IF THEY DECLINED, AND THEY DECLINED
22 FOR TWO REASONS. THEY DECLINED BECAUSE CASH WAS COLLECTED
23 BUT THEY ALSO DECLINED BECAUSE THEY LOST VALUE. AND SO
24 OUR PLACE WAS, THAT SINCE THEY DIDN'T HAVE THE EXPERTISE
25 WE ADVISED THEM THAT THE COMPANY THEY HAD USED WAS AN

1 OUTSIDE FIRM CALLED DAYVIEW AND WE ADVISED THEM THAT ON A
2 QUARTERLY BASIS THEY NEEDED TO ENGAGE DAYVIEW BECAUSE ONE
3 OF THE ADJUSTMENTS THAT WE MADE, ONE OF THE ADJUSTMENTS
4 THAT WE PROPOSED AS PART OF OUR AUDIT WAS A \$7 MILLION
5 DOLLAR REDUCTION OF THAT RESIDUAL ASSET AFTER WE FORCED
6 THEM AS PART OF THE AUDIT, 2001 AUDIT, TO GO TO DAYVIEW
7 AND GET A VALUATION. AND THEN THE OTHER SUGGESTION ON
8 HERE IS ACTUALLY ANOTHER SUGGESTION ABOUT THE RESIDUALS
9 VALUATION. SO, THERE WERE REALLY TWO ON HERE THAT RELATED
10 TO THE DAYVIEW VALUATIONS AND THE RESIDUALS.

11 THE COURT: ARE YOU AT A PRETTY GOOD BREAKING POINT.

12 MS. EVANS: I HAVE SOME MORE TO COVER BUT THIS IS AT
13 A GOOD BREAKING POINT.

14 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
15 WE WILL BREAK FOR THE DAY, DO NOT WATCH OR READ OR TALK TO
16 ANYONE ABOUT THE CASE. WE WILL START AT 9:30 TOMORROW
17 MORNING. YOU CAN LEAVE YOUR PADS THERE, EVERYONE ELSE
18 STAY SEATED, PLEASE.

19 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
20 THE DAY.)

21 THE COURT: WE WILL RESUME AT 9:30 IN THE MORNING.
22 MR. RANK, DON'T DISCUSS YOUR TESTIMONY WITH ANYONE, YOU
23 WILL BE BACK ON THE STAND TOMORROW MORNING. IF I CAN SEE
24 COUNSEL UP HERE FOR SCHEDULING PURPOSES.

25 (WHEREUPON, THE TRIAL WILL RESUME THE NEXT DAY AT

1 9:30 A.M.)

2 THE COURT: WE HAVE A JUROR THAT HAD A DEATH IN HER
3 FAMILY OVER NIGHT. SHE HAS BEEN EXCUSED. THE FIRST ORDER
4 OF BUSINESS WILL BE TO SEAT ONE OF THE ALTERNATES WHEN THE
5 JURY IS BROUGHT IN. IS THE STATE READY TO PROCEED?

6 MS. EVANS: THE STATE IS READY, YOUR HONOR.

7 THE COURT: IS THE DEFENSE READY?

8 MR. GRIFFIN: YES, YOUR HONOR.

9 THE COURT: LET'S GET THE JURY IN, PLEASE.

10 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
11 APPROXIMATELY 9:35 A.M.)

12 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
13 ONE OF THE JURORS HAS HAD TO BE EXCUSED BECAUSE OF THE
14 DEATH IN HER FAMILY. SO, THE FIRST THING WE WILL DO THIS
15 MORNING IS TO SELECT ONE OF THE ALTERNATES TO TAKE HER
16 PLACE. MADAM CLERK, YOU HAVE THREE NAMES, DRAW ONE OUT
17 PLEASE.

18 CLERK OF COURT: JUROR NUMBER 173, ALEX MORRIS.

19 THE COURT: MR. MORRIS, YOU WILL NOW BE A MEMBER OF
20 THE JURY, THANK YOU. MS. EVANS, YOU MAY CONTINUE YOUR
21 DIRECT EXAMINATION.

22 CONTINUE DIRECT EXAMINATION

23 BY MS. EVANS:

24 Q MR. RANK, YESTERDAY I THINK WE ENDED AND WE WERE JUST
25 TALKING ABOUT AN AUDIT LETTER THAT ELLIOTT DAVIS SENT

1 REGARDING THE INTERNAL CONTROLS ABOUT THE AUDITING WITH
2 HOMEGOLD.

3 A YES.

4 Q AND WHAT WAS, WHEN WAS THAT DONE?

5 A THAT WAS THE RESULT OF THE AUDIT OF THE FINANCIAL
6 STATEMENTS FOR 2001. AND I BELIEVE WE ISSUED THAT LETTER
7 RIGHT AROUND MAY, IF I REMEMBER CORRECTLY.

8 Q STATE'S EXHIBIT NUMBER 79. WHAT IS THE ACTUAL DATE
9 ON THAT?

10 A THE ACTUAL DATE ON IT IS JUNE 4TH AND I WOULD JUST
11 FROM PROTOCOL, THESE LETTERS, WE WOULD OF TALKED TO THE
12 AUDIT COMMITTEE AND THE MEMBERS OF MANAGEMENT PRIOR TO THE
13 ISSUANCE OF THE LETTER JUST TO CLARIFY AND MAKE SURE WE
14 ARE ACCURATE ABOUT OUR STATEMENTS, THAT DOESN'T
15 NECESSARILY MEAN THEY WOULD AGREE WITH THE CONTENT. BUT
16 AS LONG AS IT IS ACCURATE, WE WOULD OF TALKED TO THEM
17 ABOUT THE LETTER WELL IN ADVANCE OF ITS DATE.

18 Q I THINK YOU POINTED OUT WHAT THE PROBLEMS WERE
19 YESTERDAY. MOVING ON IN 2002, DID THE FINANCIAL CONDITION
20 OF THE COMPANY IMPROVE ABOUT THE FIRST QUARTER OF 2002?

21 A IT DID NOT.

22 Q PLEASE EXPLAIN IN GENERAL TERMS FOR THE JURY WHAT WAS
23 GOING ON, THE FINANCIAL CONDITION IN 2002?

24 A THE ITEM WE WATCHED THE MOST AND BEFORE WE ISSUED THE
25 FINANCIAL STATEMENTS FOR 2001, WE HAD THE OPPORTUNITY TO

1 ACTUALLY LOOK AT THE RESULTS THEY HAD OBTAINED FOR JANUARY
2 OF 2002 AND FEBRUARY OF 2002. AND THE THING THAT BOTHERED
3 US THE MOST WAS THE LEVELS TO WHICH THEY CONTINUED TO MISS
4 THE BUDGETS THAT THEY HAD PROPOSED TO US. AND THEN, OF
5 COURSE, THE LEVEL OF EXPENSES AT THE RATE BECAUSE OF THEIR
6 EXPANSION STRATEGY. THEY ALSO, IN THAT FIRST QUARTER OF
7 2002, AS IT IS CUSTOMARY WITH MANY SEC REGISTRANTS BUT NOT
8 ALL SEC REGISTRANTS, THEY WILL TYPICALLY RELEASE A PRESS
9 RELEASE PRIOR TO THE FILING OF THEIR QUARTERLY INFORMATION
10 WITH THE SECURITIES EXCHANGE COMMISSION, YOU WILL SEE
11 THESE IN THE NEWSPAPER FREQUENTLY AND THEY ARE PERMITTED
12 TO DO THAT. IN THAT FIRST QUARTER OF 2002, IN THEIR PRESS
13 RELEASE THE HEADLINE INDICATED THAT THEY HAD ACHIEVED A
14 PROFIT IN THE RETAIL MORTGAGE DIVISION. AND WE OBJECTED
15 TO THAT LANGUAGE BECAUSE UNDER THE SECURITIES LAWS
16 RELATIVE TO DISCLOSURES THERE HAS TO BE AN UNDERLYING
17 COMPANY THAT IS ASSOCIATED WITH THAT. AND THAT UNDERLYING
18 COMPANY BEING DEFINED AS A SET OF RECORDS THAT SUPPORT
19 THAT PROFITABILITY AND THERE WAS NO SET OF RECORDS THAT
20 SUPPORTED THAT PROFITABILITY. WHAT THERE WAS WAS A
21 CALCULATION THAT TOOK THE COMPANY AND THEN MADE CERTAIN
22 DISCRETIONARY SUBTRACTIONS THAT INCREASED THE LOSS TO A
23 PROFIT. AND WE OBJECTED TO THAT LANGUAGE BECAUSE IT WAS
24 INAPPROPRIATE BUT NOT TOO MUCH DIFFERENT THAN THE THIRD
25 QUARTER ISSUE WE TALKED ABOUT IN 2001 WITH THE ACCOUNTING

1 FOR THE PREPAID ADVERTISING COST. ALL WE COULD DO WAS
2 OBJECT TO THE ISSUE, WE COULD NOT STOP THE PRESS RELEASE,
3 THAT REALLY AGAIN WAS MUCH MORE OF A LEGAL ISSUE WITH
4 THEIR SECURITIES COUNSEL. ALSO IN THAT FIRST QUARTER '02
5 PRESS RELEASE THERE WAS A STATEMENT BY THE COMPANY THAT
6 THERE WAS NOT A LIQUIDITY ISSUE AT HOMEGOLD AND AGAIN IN
7 ELLIOTT DAVIS' PERSPECTIVE THAT WAS A FALSE STATEMENT.
8 SO, WE ALSO OBJECTED TO THAT STATEMENT BECAUSE IT WAS VERY
9 CLEAR IN THAT FIRST QUARTER 2002 PRESS RELEASE, THEY WERE
10 ATTEMPTING TO PERSUADE PUBLIC OPINION THAT THE SITUATION
11 WAS IMPROVING WHILE IN FACT IT WAS NOT. WERE THE
12 ORIGINATIONS IMPROVING, YES THEY WERE. WERE THEY MAKING
13 SOME PROGRESS ON THEIR STRATEGY, YES THEY WERE. BUT THE
14 NET RESULT WHICH IS WHAT COMPANIES ARE CHARGED TO DISCUSS
15 STILL WERE NEGATIVE AND WELL OFF BUDGET.

16 Q AND WHEN YOU SAY STATEMENTS OF MANAGEMENT, DO YOU
17 REMEMBER SPECIFICALLY IF THE DEFENDANT WAS QUOTED IN THOSE
18 PRESS RELEASES?

19 A MR. SHEPPARD WAS QUOTED SPECIFICALLY IN THAT PRESS
20 RELEASE.

21 Q IN REGARDING THOSE ISSUES THAT YOU WERE JUST TALKING
22 ABOUT?

23 A I THINK THEY, THE QUOTE ABOUT PROFITABILITY WITH THE
24 RETAIL MORTGAGE DIVISION WAS A DIRECT QUOTE FROM MR.
25 SHEPPARD. THE LIQUIDITY ISSUE WAS JUST IN THE GENERAL

1 NARRATIVE OF THE PRESS RELEASE. THAT STATEMENT WAS REALLY
2 ATTRIBUTED TO THE COMPANY AND I DON'T BELIEVE IT WAS
3 ATTRIBUTED TO A SPECIFIC INDIVIDUAL.

4 Q SO, AT THE SAME TIME THEY ARE RELEASING THEIR
5 FINANCIALS, THEY ARE DOING A PRESS RELEASE THAT SUGGEST
6 SOMETHING DIFFERENT THAN WHAT WAS GOING ON?

7 A YES, ACTUALLY DO THE PRESS RELEASE BEFORE THEY MAKE
8 SEC FILINGS, I WOULD GUESS IF WE ARE TALKING ABOUT THE
9 QUARTER THAT ENDED IN MARCH, THEY PROBABLY DID THAT PRESS
10 RELEASE IN EARLYst MAY AND THEN FILED WITH THE SEC AT THE
11 END OF MAY.

12 Q AND LET ME SHOW YOU, CAN YOU IDENTIFY THAT?

13 A THIS IS THE PRESS RELEASE THAT I AM SPEAKING OF, YES.

14 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
15 MOVE STATE'S EXHIBIT NUMBER 100 INTO EVIDENCE.

16 MR. GRIFFIN: NO OBJECTION.

17 THE COURT: WITHOUT OBJECTION STATE'S 100 IS
18 ADMITTED.

19 (WHEREUPON, STATE'S EXHIBIT NO. 100 WAS ADMITTED INTO
20 EVIDENCE.)

21 Q MR. RANK, IS THAT THE PRESS RELEASE THAT YOU ARE
22 TALKING ABOUT?

23 A YES, IT IS. IT IS DATED MAY 20TH OF 2002.

24 Q AND I WILL DRAW YOUR ATTENTION TO THE QUOTE THAT YOU
25 WERE JUST TALKING ABOUT. CAN YOU PLEASE READ THE SECOND

1 PARAGRAPH TO THE JURY?

2 A RONALD J. SHEPPARD, THE CHIEF EXECUTIVE OFFICER OF
3 HOMEGOLD, INC. COMMENTED, "ALTHOUGH WE NORMALLY DO NOT
4 PUBLICLY RELEASE THE RESULTS OF OUR INDIVIDUAL OPERATING
5 DIVISIONS WE FELT IT IMPORTANT TO LET THE PUBLIC KNOW THAT
6 OUR MORTGAGE OPERATIONS ARE INDEED OPERATING PROFITABILITY
7 IN SPITE OF THE TREMENDOUS GROWTH EFFORTS WE ARE
8 ENTERTAINING."

9 Q AND THAT IS THE COMMENT YOU TOOK ISSUE WITH AMONG
10 OTHERS?

11 A YES.

12 Q DID YOU ALSO HAVE CONCERN ABOUT THE INTER-COMPANY
13 DEBT REGARDING THE FINANCIAL CONDITION OF HOMEGOLD AND
14 CAROLINA INVESTORS?

15 A YES, FOR THE SIMPLE FACT THAT WE HAD ALREADY GONE
16 THROUGH THE IMPAIRMENT ANALYSIS AS PART OF THE '01 AUDIT.
17 BUT THE INTER-COMPANY DEBT OF THE FIRST QUARTER OF 2002
18 CONTINUED TO GROW.

19 Q AND DID YOU HAVE DISCUSSIONS WITH THE DEFENDANT ABOUT
20 THE REPAYMENT OF THE INTER-COMPANY DEBT?

21 A AT VARIOUS TIMES WE DID, YES.

22 Q OKAY. DO YOU RECALL SPECIFICALLY ABOUT A
23 CONVERSATION WITH THE DEFENDANT ABOUT WHAT WOULD HAPPEN
24 AND THE CHANCE THEY COULDN'T PAY BACK THE DEBT TO CAROLINA
25 INVESTORS?

1 A YES, I THINK I DISCUSSED A LITTLE BIT YESTERDAY OUR
2 PROBING AS TO WHAT OTHER TYPES OF STRATEGIES THE COMPANY
3 AND THE BOARD AND THE EXECUTIVE OFFICERS HAD CONSIDERED.
4 IN THE PLANING MEETING THAT WE DISCUSSED YESTERDAY IN
5 OCTOBER OF 2001 AND I DISCUSSED THE POWERPOINT
6 PRESENTATION WHERE WE REALLY WENT THROUGH THE ISSUES
7 RELATED TO THE 2001 AUDIT. IN THAT MEETING WAS MYSELF, CY
8 BURGESS WHO WAS A MEMBER OF ELLIOTT DAVIS, SENIOR
9 MANAGEMENT ON THE ENGAGEMENT, MR. SHEPPARD WAS PRESENT,
10 KEVIN MARTIN WHO WAS THE CFO AND THEN A CONTROLLER OF THE
11 COMPANY WHOSE NAME IS, SHAWN, I BELIEVE. AFTER WE WENT TO
12 THE PLANNING MEETING SHANE, I BELIEVE IS HIS NAME, I
13 APOLOGIZE, I AM HORRIBLE WITH NAMES. SHANE LEFT THE
14 MEETING, KEVIN MARTIN LEFT THE MEETING AND THAT JUST LEFT
15 CY BURGESS AND MYSELF AND MR. SHEPPARD WHICH WAS NOT
16 UNUSUAL, BY THE WAY, BECAUSE SOMETIMES THERE WERE CERTAIN
17 CONFIDENTIAL MATTERS THAT WE DISCUSSED WITH EXECUTIVE
18 OFFICERS WHEN CERTAIN PEOPLE THAT REPORT TO THEM ARE NOT
19 PRESENT. AND IN THIS PARTICULAR CONVERSATION BECAUSE I
20 THOUGHT WE HAD A GOOD RELATIONSHIP WITH MR. SHEPPARD, WE
21 WERE SITTING TALKING ABOUT A FEW ISSUES AND ONE OF THE
22 QUESTIONS THAT I ASKED MR. SHEPPARD WAS HAD HE OR THE
23 BOARD OF DIRECTORS SOUGHT THE COUNSEL OF BANKRUPTCY
24 ATTORNEYS. AND NOT BECAUSE I AM IN A POSITION AS AN
25 ACCOUNTANT TO GAGE WHETHER IN FACT THAT THAT USE OF

1 BANKRUPTCY WAS APPROPRIATE OR NOT. BUT IN MY PROFESSIONAL
2 EXPERIENCE I AM AWARE THAT WHEN COMPANIES ARE STRUGGLING
3 AND THEY MAY NEED TO EITHER SEEK BANKRUPTCY PROTECTION
4 WHICH CAN HELP STRUGGLING COMPANIES OR YOU ARE FORCED INTO
5 BANKRUPTCY THAT THOSE OPTIONS AND THAT STRATEGIES IS
6 SOMETHING THAT YOU SHOULD HAVE SOME PROFESSIONAL GUIDANCE
7 ON. AND SO AGAIN I WAS PROBING TO SEE WHAT ALTERNATIVE
8 PLANS THEY HAD AND MR. SHEPPARD, I THINK, SEEMED A LITTLE
9 SURPRISED AT THAT QUESTION. BUT HIS ANSWER, NO, THEY HAD
10 NOT DONE THAT. AND OF COURSE, I REALIZE IN HIS POSITION
11 THEY MAY HAVE DONE THAT, HE WAS CHOOSING NOT TO TELL ME
12 WHICH WOULD OF BEEN APPROPRIATE OR THEY HAD IN FACT HAD
13 NOT BUT HE DID NOT SHARE ANYTHING WITH ME. AND I THINK AS
14 A RESULT OF THAT QUESTION AND SOME OF THE SERIOUS ISSUES
15 THAT WE HAVE DISCUSSED AS PART OF THE POWERPOINT
16 PRESENTATION HE SAT BACK AND KIND OF SAID, YOU KNOW, IF
17 ELLIOTT DAVIS IS CONCERNED ABOUT BEING ASSOCIATED WITH
18 HOMEGOLD AND OUR ABILITY TO REPAY CAROLINA INVESTORS YOU
19 SHOULD CUT AND RUN NOW BECAUSE CAROLINA INVESTORS WILL
20 NEVER BE PAID BACK. AND I WAS SURPRISED AT THAT RESPONSE.
21 BUT I ALSO THOUGHT IT TO BE A BIT ILLOGICAL BECAUSE THERE
22 WERE ASSETS NOT TO PAY ALL OF THE MONEY BACK BUT TO AT
23 LEAST PAY A PORTION OF IT BACK. SO, I DIDN'T FIND THE, I
24 DIDN'T SAY THIS TO MR. SHEPPARD BUT I DIDN'T FIND THE
25 COMMENT TO REALLY TO BE LOGICAL BASED ON THE WAY THAT I

1 LOOKED AT THINGS. AND MR. SHEPPARD, AT TIMES WOULD SAY
2 SOME THINGS THAT WERE A LITTLE SHOCKING AND I THINK IT WAS
3 A TOOL THAT HE USED SOMETIMES TO SEE HOW PEOPLE REACTED TO
4 THINGS. HE IS NOT THE FIRST LEADER OF A COMPANY THAT I
5 HAVE BUMPED INTO THAT WOULD SHOCK EVERY ONCE IN A WHILE
6 JUST TO SEE HOW YOU RESPONDED AND WHAT YOU MIGHT SAY. SO,
7 I DIDN'T PUT A LOT OF STRENGTH IN WHAT HE SAID BECAUSE I
8 DIDN'T TECHNICALLY AGREE WITH WHAT HE SAID, I DIDN'T THINK
9 THAT WOULD HAPPEN. THE OTHER THING THAT HE MENTIONED IN
10 THAT MEETING AND I HAD HEARD HIM SAY THIS BEFORE WAS THAT
11 IF SOMETHING OCCURRED AND THE PURCHASES OF THE NOTES AND
12 DEBENTURES AT CAROLINA INVESTORS WERE NOT REPAID BECAUSE
13 HOMEGOLD DID NOT REPAY CAROLINA INVESTORS THAT WHEN THE
14 TELEVISION CREWS CAME TO RECORD THE EVENTS, HE WOULD LOAD
15 EVERYBODY IN HIS MOTOR HOME AND DRIVE THEM AROUND TO THE
16 OTHER BOARD MEMBERS OF HOMEGOLD. BECAUSE IN HIS OPINION
17 THEY WERE THE ONES THAT WERE FULLY RESPONSIBLE FOR HAVING
18 CREATED THE CONDITION. AND I WAS PARTIALLY CORRECT BUT
19 AGAIN, NOT COMPLETELY CORRECT. SO, THOSE ARE THE TWO
20 THINGS THAT I RECALL IN THAT PARTICULAR MEETING, MR.
21 SHEPPARD SHARING WITH US AS WE KIND OF DISCUSSED SOME OF
22 THE MORE SERIOUS ISSUES THAT WE WERE DEALING WITH.

23 Q EXPLAIN HOW YOU SAID PARTIALLY CORRECT BUT NOT
24 COMPLETELY CORRECT. EXPLAIN HOW IT IS NOT COMPLETELY
25 CORRECT IN OCTOBER OF 2001.

1 A WELL, WHEN MR. SHEPPARD JOINED THE COMPANY, I THINK
2 SOME NUMBERS THAT YOU HAVE HEARD, MR. SHEPPARD, THE MERGER
3 WAS COMPLETE IN MAY OF 2000 SO JUST TO GO BACK AND USE A
4 NUMBER AT DECEMBER 31ST OF 1999, THE LAST YEAREND BEFORE
5 MAY OF 2000. THE INTER-COMPANY DEBT LEVEL WAS
6 APPROXIMATELY \$68 MILLION DOLLARS IN 12/31/99. SO, WHEN
7 MR. SHEPPARD CAME TO HOMEGOLD THEY ALREADY HAD \$68 MILLION
8 DOLLARS THAT THEY OWED TO CAROLINA INVESTORS. SO, THAT IS
9 MY COMMENT THAT WAS PARTIALLY CORRECT BECAUSE HE DID
10 INHERIT A CERTAIN LEVEL OF THAT DEBT.

11 Q BUT WHEN, UNDER MR. SHEPPARD BEING CEO, DID THAT
12 INCREASE?

13 A THAT DID INCREASE FROM 2000 AND OF COURSE UP UNTIL
14 WHEN THE COMPANY FAILED AND THEN DECLARED BANKRUPTCY.

15 Q SO, OCTOBER OF 2001, THE DEFENDANT IS TELLING YOU
16 THAT HE KNOWS CAROLINA INVESTORS IS NOT GOING TO EVER BE
17 REPAYED THEIR MONEY?

18 A THAT WAS A STATEMENT THAT HE MADE, YES.

19 Q DID ELLIOTT DAVIS START HAVING CONCERNS ABOUT BEING
20 THE INDEPENDENT AUDITORS IN 2002 OF CAROLINA INVESTORS AND
21 HOMEGOLD?

22 A WELL, WE WERE CONCERNED IN 2001 BUT I THINK AS I
23 MENTIONED TO YOU BEFORE SENIOR PARTNERS OF OUR FIRM AND
24 OUR FIRM IS 80 YEARS OLD. AND WE KNEW MANY OF THE BOARD
25 MEMBERS OF HOMEGOLD WELL. WE DEALT WITH A LOT OF CLIENTS

1 WHO RUN INTO TOUGH TIMES AND A LOT OF TIMES IN TOUGH TIMES
2 YOU COUNT ON YOUR ADVISERS. SO, ELLIOTT DAVIS IS NOT OF
3 THE NATURE THAT WERE JUST GOING TO CUT AND RUN BECAUSE
4 TIMES WERE TOUGH. BUT AS BUSINESS OWNERS AND MANAGERS OF
5 OUR RISK YOU DO BEGIN TO CROSS THE LINE WHERE THAT LOYALTY
6 AND RESPONSIBILITY THAT WE HAVE TO OUR CLIENTS MAY HAVE TO
7 CHANGE BECAUSE OF CHANGES THAT YOU SEE AS A CLIENT. THE
8 CLIENT MAKING DECISIONS THAT ARE ILLOGICAL, THE CLIENT NOT
9 MAKING DECISIONS THAT SHOULD BE MADE. SO, IN LATE OF 2001
10 WE BEGAN TO HAVE⁴ DISCUSSIONS INSIDE OF ELLIOTT DAVIS WITH
11 OUT LEADERSHIP GROUPS AS TO WHETHER WE SHOULD CONTINUE TO
12 PROVIDE SERVICES TO HOMEGOLD BECAUSE OF THE RISK THAT ARE
13 BROUGHT TO OUR FIRM THAT WAS BEYOND OUR STANDARDS. BUT WE
14 HAD MADE THE CONCLUSION THAT AS LONG AS WE FELT WE WERE
15 GIVEN THE OPPORTUNITY TO CONDUCT THE 2001 AUDIT IN
16 ACCORDANCE WITH THE GENERAL ACCEPTED AUDITING STANDARDS
17 AND AS LONG AS WE WERE ABLE TO DO ENOUGH WORK THAT WE
18 COULD CONCLUDE THAT MANAGEMENTS FINANCIAL STATEMENTS WERE
19 PREPARED IN ACCORDANCE TO ACCOUNTING PRINCIPLES WE WOULD
20 SEE THE ENGAGEMENT THROUGH. BUT ONCE WE GOT INTO 2002 IF
21 WE DID NOT BEGIN TO SEE IMPROVEMENT IN BOTH THE DECISION
22 MAKING AND THEREFORE THE OPERATIONAL RESULTS WE WERE
23 LIKELY GOING TO RESIGN FROM THE ENGAGEMENT WHICH WAS THE
24 WAY AUDITORS APPROACH SITUATIONS LIKE THIS.
25 Q AND WHEN YOU SAY HOMEGOLD MANAGEMENTS THAT YOU HAD

1 PROBLEMS AND CONCERNS ABOUT DECISIONS THAT THEY WERE
2 MAKING, WHO SPECIFICALLY HOMEGOLD MANAGEMENT DID YOU HAVE
3 A PROBLEM WITH IT ON THE DECISION THAT THEY WERE MAKING?

4 A WELL, FROM THE TIME THAT HOMEGOLD MERGED WITH
5 HOMESENSE IT WAS VERY CLEAR THAT, AS WAS THE INTENT OF THE
6 MERGER FROM ELLIOTT DAVIS' OBSERVATION AND MINE THAT MR.
7 SHEPPARD WAS IN CHARGE OF HOMEGOLD FINANCIAL, THAT THEY
8 NEEDED HIS EXPERTISE. AND THEREFORE FOR HIM TO PERFORM
9 SKILLS THAT HE HAD IN THE SUBPRIME LENDING INDUSTRY HE
10 NEEDED TO HAVE CONTROL OF THE COMPANY. SO, AS 2001
11 UNFOLDED WHICH WAS THE YEARS THAT I MENTIONED YESTERDAY
12 MR. SHEPPARD ONLY HAD RESPONSIBILITY FOR A PORTION OF 2000
13 BECAUSE HE DIDN'T JOIN THE COMPANY UNTIL MAY OF 2000. BUT
14 FOR 2001 THE COMPANY WAS FULLY UNDER HIS CONTROL. AND, OF
15 COURSE, IN 2002 THAT CONTINUED THE SAME SO IT WAS REALLY
16 MR. SHEPPARD'S LEADERSHIP DECISIONS AND STYLE THAT WE WERE
17 BECOMING VERY UNCOMFORTABLE WITH.

18 Q AND DID YOU HAVE SEVERAL CONVERSATIONS WITH THE
19 DEFENDANT ABOUT ACCOUNTING AND ACCOUNTING ISSUES AND THE
20 PROPER WAY TO DO THEM?

21 A YES. TYPICALLY WHEN, I THINK I MENTIONED YESTERDAY
22 IN THE TIME THAT WE PROVIDED SERVICES TO HOMEGOLD UNDER
23 MR. SHEPPARD'S LEADERSHIP I AM CERTAIN I MET WITH HIM AT
24 LEAST 20 TIMES, SOMETIMES IN PERSON AND SOMETIMES OVER THE
25 TELEPHONE. AND IN PARTICULARLY IN CRITICAL ACCOUNTING

1 DISCUSSIONS THAT WOULD COME UP, DISCUSSIONS WE HAD ABOUT
2 THE REVENUE RECOGNITION, THE LEVEL OF THE DEFERRED TAX
3 ASSET, ACCOUNTING FOR THE RESIDUALS THAT WERE ON THEIR
4 BOOKS. DEALING WITH THE GOING CONCERN ISSUES MR. SHEPPARD
5 WAS PRESENT WHICH WOULD BE NORMAL FOR SERIOUS ISSUES. IT
6 ALSO WAS VERY CONSISTENT WITH HIS LEADERSHIP STYLE, HE WAS
7 A HANDSOME INDIVIDUAL. AND MR. SHEPPARD WAS A GOOD
8 PARTICIPANT IN THOSE CONVERSATIONS. HE DID NOT HAVE THE
9 PROFESSIONAL TRAINING THAT WE DO AS A CPA. SO, IN OTHER
10 WORDS, WHAT WE ARE TRAINED TO DO IS READ TECHNICAL
11 STANDARDS, MAKE OBSERVATIONS OF FACT PATTERNS AND
12 COMPANIES THAT WE WORK WITH AND UNDERSTAND WHEN WE HAVE TO
13 APPLY THOSE STANDARDS. AND THEN WHEN YOU UNDERSTAND THOSE
14 STANDARDS, THEN APPLY THEM IN THE REAL WORLD AND HAVE
15 EXPERIENCE DOING THAT. MR. SHEPPARD NOT UNLIKE, I
16 PROBABLY HAD THE PRIVILEGE OF WORKING WITH OVER 100 CEO'S
17 IN MY 28 YEAR EXPERIENCE AND I WOULD SAY THAT 98 PERCENT
18 OF THEM DO NOT HAVE THAT TYPE OF EXPERIENCE OR THEY WOULD
19 BE A CFO, A CERTIFIED FINANCIAL OFFICER, OR NOT A CEO, IT
20 IS NOT A CERTIFIED FINANCIAL OFFICER. BUT WHAT MR.
21 SHEPPARD DID HAVE THE SKILLS TO DO WHICH AGAIN IS
22 CONSISTENT WITH 98 PERCENT OF THE CEO'S THAT I HAVE WORKED
23 WITH IS VERY CLEARLY, UNDERSTANDS WHAT THE IMPACT OF THE
24 DECISIONS OF THE ACCOUNTING STANDARDS WERE. SO, AS HE
25 WOULD SIT AND OTHER CEO'S THAT I WORK WITH, HE WOULD SIT

1 AND LISTEN TO THE ACCOUNTANTS DEBATE AND WOULD ASK US
2 QUESTIONS ABOUT, OKAY, IF THIS DECISION IS MADE WHAT IS
3 THE EFFECT ON NET INCOME, WHAT IS THE EFFECT ON REVENUE
4 RECOGNITION, WHAT IS THE EFFECT ON EQUITY, HOW DOES IT
5 EFFECT OUR DEBT LEVELS AND THEN TAKE A POSITION AS TO HOW
6 HE WOULD PREFER THE COMPANY MAKES A DECISION ABOUT IT
7 WHICH WAS NOT ALWAYS IN AGREEMENT WITH THE WAY ELLIOTT
8 DAVIS LOOKED AT IT. SO, I FOUND HIM TO BE A VERY GOOD
9 PARTICIPANT IN THOSE CONVERSATIONS BECAUSE WITH ACCOUNTING
10 LITERATURE AND DECISIONS YOU MAKE, THERE ARE TYPICALLY NO
11 SINGLE ANSWERS THAT ARE CORRECT. MOST ANSWERS ARE MADE
12 WITHIN A RANGE AND THEN ONE-HALF DECIDE WHERE YOU WANT TO
13 LAND ON THE RANGE, YOU HEARD IT TALKED ABOUT WITH MR.
14 BURKETT AS TO WHETHER THE AGGRESSIVE END OF THE RANGE IS
15 TAKEN OR WHETHER THE CONSERVATIVE DECISION IS MADE IN
16 APPLYING STANDARDS AND ANY PLACE WITHIN THAT RANGE IS AN
17 ACCEPTABLE DECISION. WHAT IS NOT ACCEPTABLE IS TO MAKE
18 DECISIONS THAT ARE OUTSIDE THE RANGE COMPLETELY.

19 Q AND DID THE DEFENDANT MAKE SOME OF THOSE DECISIONS
20 THAT WERE OUTSIDE THE RANGE COMPLETELY?

21 A YES AND I THINK WE HAD EVIDENCE OF THAT WHEN WE
22 PERFORMED THE MARCH 2000 AUDIT OF THE HOMESENSE RECORDS
23 AND FOUND THAT A COMPANY THAT HAD ALREADY BEEN AUDITED BY
24 OTHER AUDITORS WAS REPORTING REVENUE INCORRECTLY. THAT
25 ONE PAPER THAT THEY GAVE US ON THE IMPAIRMENT WAS WRITTEN

1 FROM A COMPLETELY UNSUPPORTABLE POSITION. THE DECISION
2 THAT THEY MADE ON THE DEFERRED TAX ASSET TO TAKE IT UP TO
3 ITS TOTAL LEVEL WAS COMPLETELY AN UNSUPPORTABLE POSITION.
4 AND YOU KNOW SOMETIMES, I DON'T FIND IT UNUSUAL THAT A
5 COMPANY WOULD START ON THE AGGRESSIVE END BECAUSE YOU HAVE
6 ALWAYS GOT TO HAVE ROOM TO NEGOTIATE DOWN TO THE CREDIT
7 END BUT THE TONE AND THE FREQUENCY OF WHICH WE WERE ALWAYS
8 HAVING TO DEBATE FROM THE INCORRECT POSITION GOES BACK TO
9 WHAT BEGIN TO MAKE ELLIOTT DAVIS UNCOMFORTABLE WITH THE
10 INTEGRITY OF WHICH DECISIONS WERE BEING MADE.

11 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
12 STATE'S EXHIBIT NUMBER 80. CAN YOU IDENTIFY THAT?

13 A I DO, YES.

14 MS. EVANS: YOUR HONOR, I WOULD LIKE TO MOVE INTO
15 EVIDENCE STATE'S EXHIBIT NUMBER 80.

16 THE COURT: ANY OBJECTION?

17 MR. GRIFFIN: NO, YOUR HONOR.

18 THE COURT: STATE'S 80 IS ADMITTED WITHOUT OBJECTION.
19 (WHEREUPON, STATE'S EXHIBIT NO. 80 WAS ADMITTED INTO
20 EVIDENCE.)

21 Q MR. RANK, PLEASE EXPLAIN TO THE JURY WHAT THAT IS?

22 A THIS IS AN INTERNAL MEMO, A WHITE PAPER THAT IS AN
23 INTERNAL DOCUMENT FOR ELLIOTT DAVIS, IT IS ADDRESSED TO
24 THE HOMEGOLD FILES, IT IS FROM CY BURGESS, THE SENIOR
25 MANAGER OF THE ENGAGEMENT AND MYSELF. AND WE ARE PUTTING

1 TO FILE AN AUGUST 20TH, 2002 UPDATE ON THE STATUS OF OUR
2 SERVICES TO HOMEGOLD FINANCIAL, INC.

3 Q I WILL DRAW YOUR ATTENTION TO THE FIRST BULLET POINT,
4 CAN YOU PLEASE READ THAT TO THE JURY AND EXPLAIN WHAT YOU
5 WERE JUST TALKING ABOUT WITH SENIOR MANAGEMENT.

6 A THIS FIRST BULLET POINT SAYS, SIGNIFICANT CHANGES IN
7 A CLIENT SUCH AS SENIOR MANAGEMENT PERCEIVED INTEGRITY OF
8 MANAGEMENT, OWNERSHIP, FINANCIAL STABILITY OR THE RISK
9 ASSOCIATED WITH A PARTICULAR ENGAGEMENT. AND THOSE BULLET
10 POINTS ARE UNDER A SUMMARY OF REASONS FOR THE FIRM TO
11 DISCONTINUE SERVICES, THAT IS ONE OF THE REASONS WHY.

12 Q AND WHO DID YOU MEAN BY SENIOR MANAGEMENT WHEN YOU
13 WERE, IN THAT BULLET POINT?

14 A THAT PRIMARILY, OF COURSE, WOULD BE DIRECTED AT THE
15 LEADERSHIP AND OF COURSE THE LEADER AT THAT POINT AND TIME
16 WAS MR. SHEPPARD. WE ALSO WOULD OF BEEN DIRECTING THAT TO
17 THEIR CFO.

18 Q LET'S TURN OVER TO THE SECOND PAGE, CAN YOU PLEASE
19 READ TO THE JURY WHAT YOUR FIRST BULLET POINT IS ON THAT
20 SECOND PAGE AS TO ONE OF THE REASONS WHY YOU WANTED TO
21 WITHDRAW AS INDEPENDENT AUDITORS?

22 A THESE BULLET POINTS ARE UNDER A HEADING, WE NOTED THE
23 FOLLOWING CONCERNING HOMEGOLD'S FINANCIAL PERFORMANCE AND
24 THEN THE FIRST BULLET POINT, THE COMPANY INCURRED A NET
25 LOSS OF \$24.1 MILLION DOLLARS FOR THE SIX MONTHS ENDED

1 JUNE 30TH OF 2002.

2 Q AND GO ON TO THE NEXT BULLET POINT?

3 A THE NET LOSS FOR THE SECOND QUARTER WAS \$14.7 MILLION
4 COMPARED TO A NET LOSS OF \$9.4 MILLION DURING THE QUARTER
5 ENDED MARCH 30TH, 2002.

6 Q SO, WHAT YOU ARE SAYING THERE IS COMPARED TO 2001
7 WHERE THE SECOND QUARTER LOSS WAS \$9.4 MILLION, NOW IN
8 2002 \$14.7 MILLION?

9 A WHAT WE ARE COMPARING IS THE FIRST QUARTER OF '02
10 LOSS TO THE SECOND QUARTER '02 LOSS. I MAY OF HEARD YOU
11 SAY '01. AND THE LOSS IN THE SECOND QUARTER OF '02 WAS
12 LARGER THAN THE LOSS IN THE FIRST QUARTER..

13 Q AND WHAT IS THE NEXT BULLET POINT THAT YOU HAVE?

14 A THE NEXT BULLET POINT IS THAT PRODUCTION LEVELS
15 CONTINUE TO SIGNIFICANTLY LAG BEHIND PROJECTIONS.

16 Q AND GO ON TO THE NEXT BULLET POINT?

17 A THE NEXT BULLET POINT SAYS, CFO, KEVIN MARTIN
18 INDICATED THAT 17 PRODUCTION CENTERS, THAT OF 17
19 PRODUCTION CENTERS, ONLY THREE WERE PROFITABLE EVEN BEFORE
20 ALLOCATING ANY CORPORATE OVERHEAD TO THEM. NOTE, THE 12
21 OF THESE 18 CENTERS WERE OPENED DURING 2002 AND WHILE
22 PRODUCTION LEVELS DO REQUIRE TIME TO RAMP UP KEVIN
23 INDICATED THAT THEY MAY HAVE TO CONSIDER CLOSING SOME
24 CENTERS IF PRODUCTION LEVELS DON'T INCREASE.

25 Q READ THE NEXT BULLET POINT OF WHY HE DECIDED TO

1 RESIGN?

2 A HOMEGOLD CONTINUES TO EXPERIENCE SIGNIFICANT COST IN
3 GENERATING LOAN PRODUCTION. EXPENSE, SALARIES AND
4 BUSINESS DEVELOPMENT COST ARE 137 PERCENT OF TOTAL
5 REVENUES.

6 Q WHAT DOES THAT MEAN RIGHT THERE, 137 PERCENT OF TOTAL
7 REVENUES?

8 A WELL, THAT MEANS THAT STRATEGICALLY TO BE PROFITABLE
9 YOUR REVENUES HAVE GOT TO EXCEED YOUR COST. THIS SAYS
10 THAT THEIR COST ARE ACTUALLY EXCEEDING THEIR REVENUES BY
11 37 PERCENT. SO, COST ARE 137 PERCENT OF REVENUES.

12 Q AND I WILL DRAW YOUR ATTENTION TO THE LAST SENTENCE
13 IN THAT BULLET POINT?

14 A THROUGH THE SIX MONTHS ENDING JUNE 30TH OF 2002 TOTAL
15 EXPENSES WERE 184 PERCENT OF TOTAL REVENUES.

16 Q AND GO DOWN TWO BULLET POINTS, THE SECOND BULLET
17 POINT AND THE, CAN YOU READ WHAT YOU TALKED ABOUT WITH
18 CAROLINA INVESTORS?

19 A HOMEGOLD CONTINUES TO EXPERIENCE AN EXTREME RELIANCE
20 ON BORROWINGS THROUGH ITS CAROLINA INVESTORS SUBSIDIARY.
21 SINCE DECEMBER 31ST OF 1999 THE DEBT THE COMPANY HAS
22 INCURRED THROUGH CAROLINA INVESTORS HAS GROWN FROM \$145
23 MILLION TO \$231 MILLION AT DECEMBER 31ST, 2001 AND \$267.5
24 MILLION AT JUNE 30TH OF 2002.

25 Q I DRAW YOUR ATTENTION TO THE THIRD PAGE OF THAT MEMO

1 AND READ THE LAST SENTENCE OF THAT FIRST PARAGRAPH TO THE
2 JURY?

3 A ACCORDINGLY WE ARE RECOMMENDING THAT WE INFORM THE
4 CHAIRMAN OF THE AUDIT COMMITTEE AND MANAGEMENT THAT WE
5 WILL NOT STAND FOR REELECTION AS HOMEGOLD'S INDEPENDENT
6 AUDITORS.

7 Q THE PREVIOUS PARAGRAPH, STARTING WITH THOSE DEBT
8 HOLDERS?

9 A THOSE DEBT HOLDERS WOULD LIKELY REALIZE SIGNIFICANT
10 LOSSES IF HOMEGOLD WERE TO FILE BANKRUPTCY OR OTHERWISE
11 NOT SURVIVE THE FINANCIAL DURESS IT IS UNDER.

12 Q ALTHOUGH THIS IS AN INTERNAL MEMO TO THE FILE, AS YOU
13 JUST READ THE LAST PARAGRAPH, DID YOU SHARE THESE CONCERNS
14 ABOUT WHY YOU WERE WITHDRAWING FROM COUNSEL WITH HOMEGOLD,
15 SPECIFICALLY THE DEFENDANT?

16 A DID WE SHARE THE CONTENT OF THIS?

17 Q NOT THE CONTENT BUT YOUR CONCERNS OF WHY YOU WERE
18 WITHDRAWING?

19 A WELL, YES, WE HAD BEEN TALKING ABOUT THIS WHOLE
20 SERIES OF ISSUES FOR A NUMBER OF YEARS, IT GOES BACK TO
21 EVEN 2000, WITH THEM.

22 Q OKAY. WHAT IS THE DATE ON THIS MEMO?

23 A THIS MEMO IS DATED AUGUST 20TH OF 2002.

24 Q AND WHEN DID YOU OFFICIALLY WITHDRAW AS COUNSEL AS
25 INDEPENDENT AUDITORS, EXCUSE ME.

1 A MR. BURGESS AND I ACTUALLY MET WITH THE CHAIRMAN OF
2 THEIR AUDIT COMMITTEE AND ONE OF THE OTHER MEMBERS OF THE
3 AUDIT COMMITTEE ACTUALLY AT THE TIME THAT THIS MEMO HAD
4 BEEN DONE. AND THEN WE OFFICIALLY RESIGNED FROM THE
5 CLIENT ON OCTOBER THE 14TH OF 2002 AND THE APPROPRIATE
6 FILING WAS MADE WITH THE SECURITIES EXCHANGE COMMISSION
7 WHICH IS REQUIRED FOR AUDITORS WHO RESIGN COMPANIES THAT
8 ARE PUBLIC REGISTRANTS.

9 Q MR. RANK, I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED
10 AS STATE'S EXHIBIT NUMBER 81. IS THAT A MEMORANDUM FROM
11 YOU?

12 A IT IS, YES.

13 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
14 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 81.

15 MR. GRIFFIN: NO OBJECTION.

16 THE COURT: STATE'S 81 IS ADMITTED.

17 (WHEREUPON, STATE'S EXHIBIT NO. 81 WAS ADMITTED INTO
18 EVIDENCE.)

19 Q AND JUST BRIEFLY EXPLAIN TO THE JURY WHAT THAT IS,
20 WELL FIRST OF ALL WHO IS IT TOO?

21 A THIS IS ON WHITE PAPER AND IT JUST SAYS MEMORANDUM,
22 IS ADDRESSED TO KAREN MILLER.

23 Q AND WHAT IS HER TITLE?

24 A AT THAT TIME SHE WAS THE CFO AT HOMEGOLD FINANCIAL,
25 INC., THIS WOULD OF BEEN AFTER THE RESIGNATION OF KEVIN

1 MARTIN.

2 Q DID, WERE YOU AWARE THAT KEVIN MARTIN RESIGNED?

3 A YES.

4 Q AND WHO INFORMED YOU THAT KEVIN MARTIN RESIGNED FROM
5 THE COMPANY?

6 A ACTUALLY I WOULD OF BEEN INFORMED BY CY BURGESS.

7 Q DID ANYONE TELL YOU A REASON WHY HE RESIGNED?

8 A I DO NOT RECALL BEING TOLD SPECIFICALLY WHY HE
9 RESIGNED AT THAT POINT AND TIME. BUT UNDER THE
10 CIRCUMSTANCES THAT THE COMPANY WAS UNDER I WAS NOT
11 SURPRISED BY THAT SO I DID NOT INQUIRE DEEPLY ABOUT THAT
12 SUBJECT.

13 Q OKAY. SO, YOU WERE NEVER SHOWN A RESIGNATION LETTER
14 THAT WAS SENT TO THE DEFENDANT, WERE YOU?

15 A AT THAT TIME I WAS NOT.

16 Q AND SO WHO IS THE CFO AT THIS POINT AND TIME?

17 A KAREN MILLER.

18 Q WHAT IS THAT MEMORANDUM BASICALLY ABOUT?

19 A WHEN WE RESIGNED ON OCTOBER THE 14TH THAT IS WHEN THE
20 ITEMS THAT TRIGGERS A REQUIRED FILING BY THE COMPANY WITH
21 THE SEC ON A FORM 8K THAT YOU HAVE HEARD MENTION. AND AS
22 A RESULT, THE WAY THE PROCESS WORKS IS THE COMPANY
23 ACTUALLY FILES AN 8K AND THEY SAY THAT ELLIOTT DAVIS
24 RESIGNED. AND THEN ELLIOTT DAVIS IS ACTUALLY REQUIRED TO
25 SEND A LETTER TO THE SEC WITHIN THREE DAYS OF THE 8K

1 FILING AND STATE WHETHER WE AGREE WITH COMMENTS THAT THE
2 COMPANY MADE IN THE 8K OR NOT. AS A RESULT OF THAT FILING
3 AND OUR LETTER THEY RECEIVED A COMMENT LETTER FROM THE SEC
4 TO CLARIFY CERTAIN STATEMENTS THAT WERE MADE IN THE 8K.
5 AND EVEN THOUGH WE WERE NOT THEIR AUDITORS ANY MORE WE
6 WERE INVOLVED IN THE 8K FILING BECAUSE IT WAS ABOUT OUR
7 RESIGNATION. SO, THIS WAS OUR ADVICE AS TO WHAT THEY MAY
8 CONSIDER IN RESPONDING TO THE LETTER THAT THEY GOT FROM
9 THE SEC.

10 Q AND, MR. RANK, LET'S JUST GO OVER 2002, THAT WAS
11 OBVIOUSLY A SIGNIFICANT YEAR FOR ELLIOTT DAVIS CONCERNING
12 HOMEGOLD?

13 A AS WAS 2001, YES.

14 Q WE TALKED YESTERDAY ABOUT THAT MARCH 14TH MEETING.
15 WAS LARRY OWEN AT ATTENDANCE AT THAT MARCH 14TH MEETING?

16 A YES, HE WAS.

17 MR. GRIFFIN: YOUR HONOR, MAY WE APPROACH.

18 THE COURT: YES.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
21 JURY.)

22 Q WAS EARLE MORRIS ALSO PRESENT AT THAT MEETING?

23 A YES, HE WAS.

24 Q WHAT WAS ELLIOTT DAVIS' CONCERNS REGARDING PUTTING
25 GOING CONCERN IN THAT CAROLINA INVESTORS PROSPECTUS ABOUT

1 THE IMPACT THAT WOULD HAVE ON THOSE APPROXIMATELY 8,000
2 CAROLINA INVESTORS?

3 A WELL, I THINK WHAT YOU ARE ASKING, WE HAD A SECURITY
4 CONCERN, A PHYSICAL SECURITY CONCERN.

5 Q AND EXPLAIN TO THE JURY WHAT YOU MEAN BY A PHYSICAL
6 SECURITY CONCERN AT ELLIOTT DAVIS?

7 A WELL, WHEN PEOPLE DON'T GET PAID BACK MONEY THEY
8 USUALLY GET A LITTLE UPSET AND SO I HAD DISCUSSED THE SAME
9 TIME THAT MR. BURGESS AND I DRAFTED THE MEMORANDUM TO OUR
10 EXECUTIVE COMMITTEE WHICH WAS OUR GOVERNING BODY INSIDE OF
11 ELLIOTT DAVIS. I TOLD THEM, YOU KNOW, JUST THINKING
12 OUTSIDE OF THE BOX, I HAD NEVER BEEN THROUGH A SITUATION
13 LIKE THIS THAT WAS QUITE AS, HAD THE POTENTIAL FOR THE
14 IMPACT THAT IT HAD. SO, I JUST ADVISED THEM THAT I
15 THOUGHT WE SHOULD TAKE UNDER CONSIDERATION AS TO WHETHER
16 WHEN THIS WAS ANNOUNCED TO THE PUBLIC AND I AM SPEAKING OF
17 OUR RESIGNATION LETTER, BUT AT THAT POINT AND TIME WE WERE
18 SPEAKING OF THE ISSUANCE OF GOING CONCERN OPINION, WHICH
19 WE THOUGHT COULD BE THE BEGINNING OF THE END. AND IT
20 WASN'T, YOU KNOW, WITH HINDSIGHT THE END CAME A LITTLE BIT
21 LATER BUT WE THOUGHT IT COULD BE THE BEGINNING AND PEOPLE
22 WOULD REACT AT THAT POINT AND TIME. SO, I JUST ADVISED
23 OUR EXECUTIVE COMMITTEE THAT WE SHOULD CONSIDER AS TO
24 WHETHER WE NEEDED TO HAVE A SECURITY GUARD AT OUR LOCAL
25 OFFICES JUST TO BE PAYING ATTENTION TO WHATEVER REACTION

1 MAY OCCUR, THAT WAS A LITTLE HARD TO ANTICIPATE WHAT
2 EXACTLY THAT WAS. FORTUNATELY, NUMBER ONE, WE DIDN'T DO
3 THAT. OUR EXECUTIVE COMMITTEE DECIDED NOT TO DO THAT AND
4 THANKFULLY NOTHING OCCURRED AS A RESULT OF THAT, AT THE
5 POINT AND TIME THAT THE GOING CONCERN WAS RELEASED TO THE
6 GENERAL PUBLIC.

7 Q OKAY. AND BASED UPON WHAT WAS PUT IN THAT PROSPECTUS
8 BY MANAGEMENT AND THE DISCUSSION AT THE MARCH 14TH MEETING
9 DID YOU NOTICE THAT INVESTMENTS KEPT ON OCCURRING IN
10 CAROLINA INVESTORS?

11 A YES. IN CONSISTENT WITH WHAT WE EXPECTED TO OCCUR
12 THE LEVEL OF PURCHASES OF THE DEBENTURES AND NOTES FROM
13 CAROLINA INVESTORS CONTINUED TO INCREASE.

14 MS. EVANS: YOUR HONOR, MAY WE APPROACH?

15 THE COURT: SURE.

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
17 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
18 JURY.)

19 Q MR. RANK, IN JUST GENERAL TERMS, IN OCTOBER OF 2001,
20 AGAIN, YOU SAID THAT THE DEFENDANT MADE THE STATEMENT TO
21 YOU THAT CAROLINA INVESTORS WERE NEVER GOING TO GET PAID
22 BACK?

23 A CORRECT.

24 Q AND YOU ALL PUT GOING CONCERN IN THE MARCH 14TH, 2002
25 MEETING, TOLD THEM ABOUT GOING CONCERN BEING PUT IN AND

1 THE IMPAIRMENT OF THE LOAN?

2 A WE CONFIRMED THAT THE GOING CONCERN WOULD BE PART OF
3 THE REPORT, WE HAD OBVIOUSLY HAD DISCUSSED THAT WITH THEM
4 MUCH EARLIER THAN THAT. SO, THAT WASN'T A TOTAL SURPRISE
5 TO THEM.

6 Q AND AS YOU PREVIOUSLY STATED, THINGS ARE GOING WORSE,
7 FROM THE MEMO THAT YOU JUST SAID, FROM 2001 TO 2002 AND
8 WHAT STATEMENTS, AGAIN, IS THE DEFENDANT MAKING ABOUT HOW
9 HOMEGOLD IS DOING PUBLICLY?

10 A PUBLICLY AS EVIDENCED BY THIS PRESS RELEASE THAT IS
11 DATED MAY 20TH OF 2002, THERE IS SUGGESTION THAT THEY ARE
12 IN FACT IMPROVING.

13 Q IS THAT TRUE?

14 A NO.

15 Q I HAVE NO FURTHER QUESTIONS.

16 THE COURT: MR. GRIFFIN.

17 CROSS-EXAMINATION

18 BY MR. GRIFFIN:

19 Q MR. RANK, YOU TESTIFIED ABOUT A MEETING IN SOMETIME
20 IN 2001 WHERE MR. SHANE SMITH WAS PRESENT, MR. KEVIN
21 MARTIN WAS PRESENT, MR. SHEPPARD WAS PRESENT, MR. CY
22 BURGESS WAS PRESENT AND YOU WERE PRESENT?

23 A YES, SIR.

24 Q AND THAT WAS THE POWER POINT MEETING, YOU WERE GIVING
25 THE POWER POINT PREPARING FOR THE YEAREND FOR 2001 AUDITED

1 FINANCIALS, CORRECT?

2 A THAT IS CORRECT.

3 Q AND YOU TESTIFIED AS THAT MEETING CAME TO A
4 CONCLUSION THAT MR. KEVIN MARTIN WAS DISMISSED, MR. SHANE
5 SMITH WAS DISMISSED FROM THE ROOM OR THAT THEY LEFT AND
6 THEN YOU HAD A PRIVATE CONVERSATION WITH THE PRESENCE OF
7 MR. CY BURGESS AND MR. SHEPPARD?

8 A YES, SIR.

9 Q AND IN THAT CONVERSATION YOU TESTIFIED HERE TODAY
10 UNDER OATH, BEFORE THIS JURY, THAT MR. SHEPPARD SAID WORDS
11 TO THE EFFECT THAT, ELLIOTT DAVIS IS WORRIED AND THAT THEY
12 SHOULD, "CUT AND RUN NOW BECAUSE CAROLINA INVESTORS WAS
13 NOT GOING TO BE REPAID IN FULL."?

14 A THAT IS CORRECT.

15 Q MR. RANK, DO YOU ALSO REMEMBER A CONVERSATION THAT
16 YOU HAD WITH THIS GENTLEMAN RIGHT HERE, AGENT BOB CATHEY?

17 A I DO, YES.

18 Q AND YOU HAD THAT CONVERSATION WITH AGENT CATHEY ON
19 OCTOBER 27TH OF 2003 IN THE LAW OFFICES OR AT ONE OF THE
20 LAW OFFICES OF TURNER, PADGET, CORRECT?

21 A I DON'T RECALL WHERE THE MEETING WAS BUT IF THAT IS
22 WHAT YOU NOTE I WILL ACCEPT THAT.

23 Q IN THE PRESENCE OF YOUR ATTORNEYS, CORRECT?

24 A YES.

25 Q AND YOU WERE INTERVIEWED BY AGENT CATHEY TO GIVE,

1 BECAUSE HE WAS INVESTIGATING THIS WHOLE MATTER AS AN
2 OFFICER OF THE STATE OF SOUTH CAROLINA, CORRECT?

3 A YES.

4 Q AND DURING THAT INTERVIEW YOU WERE ASKED BY AGENT
5 CATHEY, DID YOU HAVE ANY RECOLLECTION OF ANY COMMENTS THAT
6 MR. SHEPPARD MADE USING THE PHRASE CUTTING AND RUNNING.
7 DO YOU RECALL AGENT CATHEY ASKING YOU THAT QUESTION?

8 A NO, I DO NOT.

9 Q I GUESS YOU DON'T RECALL TELLING AGENT CATHEY THAT
10 YOU HAD NO RECOLLECTION OF ANY COMMENTS MADE BY MR.
11 SHEPPARD ABOUT CUTTING AND RUNNING IN YOUR INTERVIEW IN
12 OCTOBER OF 2003?

13 A I DO NOT RECALL THAT, NO.

14 Q ARE YOU SAYING HERE TODAY THAT YOU DID NOT TELL AGENT
15 CATHEY THAT YOU HAVE NO RECOLLECTION OF MR. SHEPPARD USING
16 PHRASES OF CUTTING AND RUNNING?

17 A I DO NOT RECALL MY CONVERSATION WITH THE AGENT.

18 Q WOULD IT OF BEEN SOMETHING THAT YOU THOUGHT IT WOULD
19 OF BEEN IMPORTANT TO TELL AGENT CATHEY IF THAT, IN FACT,
20 OCCURRED?

21 A DEPENDING UPON THE QUESTIONS THAT I WAS BEING ASKED
22 THAT DAY, IT MAY OR MAY NOT HAVE BEEN IMPORTANT.

23 Q IF HE ASKED YOU SPECIFICALLY, DO YOU RECALL HAVING A
24 CONVERSATION WITH MR. SHEPPARD, HE SAID WORDS TO THE
25 AFFECT OF CUTTING AND RUNNING. DO YOU THINK THAT WOULD OF

1 BEEN IMPORTANT?

2 A IF I WOULD OF RECALLED AN OCTOBER 14TH CONVERSATION I
3 WOULD OF MENTIONED THAT.

4 Q AND THIS MEETING WAS IN 2003 THAT YOU HAD WITH AGENT
5 CATHEY?

6 A TWO YEARS AFTER MY 2001 CONVERSATION WITH MR.
7 SHEPPARD, YES.

8 Q AND NOW WE ARE FIVE, PLUS YEARS AFTER THAT
9 CONVERSATION WITH MR. SHEPPARD?

10 A CORRECT.

11 Q AND YOU REMEMBER IT CRYSTAL CLEARLY HERE TODAY UNDER
12 OATH?

13 A UNDER OATH THERE IS NO DOUBT IN MY MIND THAT MR.
14 SHEPPARD MADE THAT STATEMENT TO ME THAT DAY.

15 Q YOU CAN'T EXPLAIN WHY YOU WOULD NOT OF MENTIONED THAT
16 TO MR. CATHEY IN YOUR INTERVIEW?

17 A WELL, I THINK THE LOGICAL ANSWER FOR THAT IS, IS
18 WHATEVER MR. CATHEY WAS ASKING ME THAT DAY THAT WAS NOT AN
19 IMPORTANT PART OF WHAT WAS BEING DISCUSSED. AND THEREFORE
20 IT DID NOT COME TO MY MIND.

21 Q NOW, YOU WERE ALSO SUED BY MR. SHEPPARD?

22 A YES, WE WERE.

23 Q IN CIVIL COURT?

24 A I CAN'T COMMENT THE NATURE OF IT BUT MR. SHEPPARD DID
25 SUE ELLIOTT DAVIS, YES.

1 Q AND YOU PERSONALLY?

2 A I DON'T RECALL EXACTLY WHO ALL THE PLAINTIFFS WERE,
3 THE DEFENDANTS WERE BUT I AM AWARE HE SUED US.

4 Q AND YOUR TESTIMONY HERE TODAY IS--

5 MS. EVANS: YOUR HONOR, CAN WE APPROACH.

6 THE COURT: SURE.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
8 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
9 JURY.)

10 Q BUT YOU ARE⁸ CRYSTAL CLEAR HERE TODAY ABOUT CUTTING
11 AND RUNNING, WHEN THAT PHRASE WAS MADE, IT WASN'T MADE IN
12 THE PRESENCE OF SHANE SMITH, CORRECT?

13 A CORRECT.

14 Q AND THAT IT WAS MADE IN RESPONSE TO A QUESTION THAT
15 YOU HAD ASKED, CORRECT?

16 A TO A SERIES OF ISSUES THAT WE DISCUSSED AND QUESTIONS
17 WE ASKED, YES.

18 Q AND THAT THE CUTTING AND RUNNING WAS, HE WAS
19 ENCOURAGING ELLIOTT DAVIS TO CUT AND RUN?

20 A I DON'T THINK TECHNICALLY HE WAS ENCOURAGING US TO DO
21 THAT, NO, I THINK HE WAS LOOKING FOR A KIND OF RESPONSE HE
22 WAS GETTING FROM ME PERSONALLY ABOUT HIS STATEMENT.

23 Q AND THE STATEMENT WAS, IF ELLIOTT DAVIS IS NOT GOING
24 TO STICK AROUND, IF CAROLINA INVESTORS AREN'T REPAID THEN
25 THEY MIGHT AS WELL CUT AND RUN NOW?

1 A HIS STATEMENT WAS, IF WE WERE CONCERNED ABOUT THE
2 PURCHASES OF THE NOTES AND DEBENTURES NOT BEING REPAYED
3 THEN WE SHOULD CUT AND RUN NOW.

4 Q LET ME GO BACK, MR. RANK, AND TALK ABOUT THE GOING
5 CONCERN LANGUAGE THAT WAS PUT IN THE FINANCIALS. YOU
6 TESTIFIED AT THE END OF DIRECT A MOMENT AGO THAT YOU
7 THOUGHT THAT WOULD BE THE BEGINNING OF THE END, CORRECT?

8 A YES, AND FOR ONE SIMPLE REASON. THE OPINION OF
9 ELLIOTT DAVIS FROM A FINANCIAL STATEMENTS WE WERE SPEAKING
10 OF WAS ON THE CAROLINA INVESTORS FINANCIAL STATEMENTS.
11 THOSE FINANCIAL STATEMENTS, AS I MENTIONED YESTERDAY HAD
12 TO BE SIGNED OFF BECAUSE THAT WAS THE RENEWAL DATE OF THE
13 LICENSE ISSUED BY THE SOUTH CAROLINA ATTORNEY GENERAL TO
14 CAROLINA INVESTORS ON AN ANNUAL BASIS THAT ALLOWED THEM TO
15 SELL THE NOTES AND DEBENTURES. WE ARE NOT ATTORNEYS SO WE
16 DON'T FULLY UNDERSTAND THE ROLE AND RESPONSIBILITY OF THE
17 SOUTH CAROLINA ATTORNEY GENERALS INVESTMENT OFFICE. BUT
18 IT WAS POSSIBLE, AS WE LOOKED AT IT IN CIRCUMSTANCES, THAT
19 WHEN THEY RECEIVED AN OPINION THAT HAD A GOING CONCERN
20 LANGUAGE IN IT THEY MAY NOT RENEW THE LICENSE. AND IF
21 THEY DID NOT RENEW THE LICENSE CAROLINA INVESTORS WOULD NO
22 LONGER BE ABLE TO RENEW OR ISSUE NEW NOTES AND DEBENTURES.
23 AND THEREFORE THAT WOULD OF CREATED A LIQUIDITY CRISES AT
24 CAROLINA INVESTORS WHICH WOULD THEN WOULD OF CREATED A
25 LIQUIDITY CRISES AT HOMEGOLD FINANCIAL, INC. SO, THAT IS

1 JUST LOGICAL THINKING FROM OUR PERSPECTIVE ABOUT WHAT I
2 REFERRED TO AS THE BEGINNING OF THE END.

3 Q AND, MR. RANK, ISN'T IT A FACT THAT IT WAS YOUR
4 EXPECTATION THAT THE ATTORNEY GENERALS OFFICE WOULD NOT
5 REISSUE AND REGISTER ADDITIONAL DEBENTURES TO BE SOLD BY
6 CAROLINA INVESTORS ONCE YOUR FIRM PUT A GOING CONCERN
7 QUALIFICATION IN THE FINANCIALS?

8 A IT WAS NOT OUR EXPECTATION BASED ON FACT, IT WAS A
9 POSSIBLE REACTION TO THE ISSUANCE OF THE GOING CONCERN
10 OPINION.

11 Q BUT IN FACT THE ATTORNEY GENERALS OFFICE WITH ELLIOTT
12 DAVIS' UNQUALIFIED OPINION LETTER WITH THE GOING CONCERN
13 LANGUAGE IN THERE ACCEPTED THE REGISTRATION IN THE SPRING
14 OF 2002 THAT ALLOWED CAROLINA INVESTORS TO CONTINUE
15 SELLING NOTES AND DEBENTURES IN THE STATE OF SOUTH
16 CAROLINA. ISN'T THAT CORRECT?

17 A THEY RENEWED THEIR LICENSE FOR ANOTHER YEAR.

18 Q THE REGISTRATION OF ALLOWING THEM TO SELL SECURITIES?

19 A UNDER SOUTH CAROLINA SECURITIES LAWS, YES SIR.

20 Q NOW, HAD CAROLINA INVESTORS LICENSE NOT HAVE BEEN
21 RENEWED BY THE ATTORNEY GENERALS OFFICE, THERE WOULD OF
22 BEEN NO MORE SALES OF SECURITIES AFTER MARCH 30TH OF 2002,
23 CORRECT?

24 A THAT IS A SECURITIES LAW QUESTION BUT LOGICALLY I AM
25 THINKING THAT WOULD BE YES.

1 Q AND YOU SAID THAT WOULD HAVE CREATED A LIQUIDITY
2 CRISES FOR BOTH CAROLINA INVESTORS AND HOMEGOLD?

3 A THAT IS CORRECT.

4 Q THE OPERATIONAL ENTITY OF HOMEGOLD?

5 A THAT IS CORRECT.

6 Q AND THE REASON IT WOULD HAVE CREATED A LIQUIDITY
7 CRISIS IS BECAUSE NOT ONLY FOR THE YEAR OF 2001 BUT THE
8 YEAR OF 2000 AND '99 THAT CAROLINA INVESTORS WOULD NOT BE
9 ABLE TO FULLY REPAY ALL OF ITS DEBENTURE HOLDERS SOLELY
10 FROM THE CASH IT HAD ON HAND, CORRECT?

11 A THAT IS CORRECT.

12 Q AND THAT THE MONEY THAT CAROLINA INVESTORS USED
13 BEGINNING WELL BEFORE MR. SHEPPARD ARRIVED WAS LOANED TO
14 THE MORTGAGE ENTITY, HOMEGOLD, INC., TO FUND ITS
15 OPERATIONS?

16 A THAT IS CORRECT.

17 Q AND THAT IS WHAT THE INTER-COMPANY DEBT IS?

18 A THAT IS CORRECT.

19 Q AT ANY POINT AND TIME BEFORE MR. SHEPPARD ARRIVES ON
20 THE SCENE, IF EVERY DEBENTURE HOLDER AT CAROLINA INVESTORS
21 WANTED TO BE FULLY REPAYED PREDATING JANUARY OF 2000, THERE
22 WAS NOT MONEY THERE FOR THAT PURPOSE, ISN'T THAT CORRECT?

23 A I WOULD NOT AGREE WITH THAT.

24 Q WELL THE MONEY THAT WOULD BE AVAILABLE WOULD HAVE TO
25 COME FROM REPAYMENT OF THE DEBT FROM HOMEGOLD?

1 A WELL, THE TIME FRAME YOU ARE REFERRING BACK TO WHICH
2 IS PRIOR TO MR. SHEPPARD COMING ON BOARD, THE LEVEL OF THE
3 DEBT WAS ONLY \$68 MILLION DOLLARS WHEREAS AT THE POINT AND
4 TIME THEY DECLARED BANKRUPTCY THAT NUMBER WAS WELL IN
5 EXCESS OF \$200 MILLION DOLLARS. SO, THERE, THE ABILITY OF
6 CAROLINA INVESTORS TO HAVE RECEIVED ASSETS FROM HOMEGOLD
7 TO REPAY THE \$68 MILLION AND THEN CAROLINA INVESTORS REPAY
8 THE HOLDERS OF THOSE NOTES OBVIOUSLY WOULD HAVE BEEN
9 PENDING MUCH HIGHER LEVEL IF THEY ONLY HAD TO DEAL WITH
10 \$68 MILLION DOLLARS VERSUS THEM HAVING TO DEAL WITH IN
11 EXCESS OF \$200 MILLION DOLLARS.

12 Q WELL, THE LIQUIDITY CRISES THAT WOULD OF BEEN CREATED
13 IN '99 AND 2000, WOULD OF BEEN THE INABILITY FOR CAROLINA
14 INVESTORS TO TAKE MONEY THAT THEY RAISED BY SELLING
15 SECURITIES TO PAY OFF PREVIOUS NOTE HOLDERS, CORRECT?

16 A THE SAME TYPE OF LIQUIDITY CRISES COULD OF OCCURRED
17 IN EITHER 1999 OR 2000.

18 Q NOW, SOMETHING THAT YOU DID NOT TESTIFY ABOUT AND I
19 WANT TO GET INTO BRIEFLY. IS THAT IN, AT ONE POINT AND
20 TIME AND IT CARRIED OVER THE HOMEGOLD, THE MORTGAGE ENTITY
21 WHICH IS HOMEGOLD, INC., HAD THIS INTER-COMPANY DEBT TO
22 CAROLINA INVESTORS AND THAT NUMBER KEPT GROWING, DID IT
23 NOT, FROM '99 TO 2000, 2001?

24 A YES.

25 Q AND THERE WAS A TRANSACTION ENGINEERED AT HOMEGOLD

1 FINANCIAL WHERE THE PARENT COMPANY ASSUMED THE DEBT FROM
2 ITS SUBSIDIARY OF HOMEGOLD, INC., THAT IT OWED TO CAROLINA
3 INVESTORS AND THAT IS CALLED THIS ASSUMPTION AGREEMENT,
4 CORRECT?

5 A I AM FAMILIAR WITH THE TRANSACTION THAT YOU ARE
6 SPEAKING OF, I CAN'T STATE THAT, IT ALSO REFERS TO THE
7 ASSUMPTION AGREEMENT BUT I AM FAMILIAR WITH THE
8 TRANSACTION YOU ARE SPEAKING OF.

9 Q AND THIS ASSUMPTION AGREEMENT, THAT ALLOWED FOR THE
10 REMOVAL OF DEBT FROM HOMEGOLD, INC., THE MORTGAGE ENTITY
11 FROM ITS BOOKS FROM A BALANCE SHEET STATEMENT AND PUT THAT
12 DEBT ON THE PARENT COMPANY, CORRECT?

13 A THAT IS CORRECT.

14 Q AND THEN HOMEGOLD, INC., THE MORTGAGE COMPANY,
15 ALTHOUGH IT WASN'T HOLDING THAT DEBT ON ITS BALANCE SHEET,
16 THAT WAS REPORTED IN A FOOTNOTE, CORRECT?

17 A THAT IS CORRECT.

18 Q AND THAT TRANSACTION WAS WELL KNOWN TO ELLIOTT DAVIS,
19 RIGHT?

20 A THAT TRANSACTION WAS AUDITED BY US THEREFORE IT WAS
21 WELL KNOWN TO US AND THEREFORE IT WAS DONE IN ACCORDANCE
22 WITH THE GENERAL ACCEPTING ACCOUNTING PRINCIPLES.

23 Q THANK YOU. NOW, I WANT TO TALK TO YOU ABOUT, YOU
24 KEEP SAYING MANAGEMENT OF HOMEGOLD AND I WANT TO TALK
25 ABOUT THE MANAGEMENT OF HOMEGOLD. BEFORE THE HOMESENSE

1 DAYS, I MEAN BEFORE THE HOMESENSE MERGER WHICH OCCURRED
2 MAY OF 2000, THE MANAGEMENT OF HOMEGOLD CONSISTED OF ITS
3 OFFICERS, CORRECT, A SET OF OFFICERS?

4 A YES, SIR.

5 Q THEN THEY REPORT TO THE BOARD OF DIRECTORS, CORRECT?

6 A YES, SIR.

7 Q AND ON THIS SLATE OF BOARD OF DIRECTORS THAT, PRIOR
8 TO MAY OF 2000, YOU HAD A MR. JACK STERLING WHO SAT ON THE
9 BOARD OF HOMEGOLD FINANCIAL, CORRECT?

10 A YES, SIR.

11 Q YOU HAD A MR. TEE HOOPER, CORRECT?

12 A YES, SIR.

13 Q NOW, MR. HOOPER IS, HE AND MR. STERLING WERE BUSINESS
14 PARTNERS, STARTED UP OTHER BUSINESSES IN THE GREENVILLE
15 AREA, THAT YOU ARE AWARE OF, MODERN OFFICE MACHINES?

16 A I AM AWARE OF THAT PARTICULAR TRANSACTION THAT YOU
17 ARE SPEAKING OF, YES.

18 Q THEY WERE ENTREPRENEURS, BUSINESSMEN IN GREENVILLE?

19 A YES, SIR.

20 Q AND MR. TEE HOOPER WAS CHAIRMAN OF THE DEPARTMENT OF
21 TRANSPORTATION?

22 A I UNDERSTAND HE IS PART OF THE COMMISSION, I DON'T
23 KNOW SPECIFICALLY WHAT HIS ROLE IS.

24 Q AND THEN YOU HAVE GOT A MR. BOB PHILPOTT ON THE BOARD
25 BEFORE MR. SHEPPARD?

- 1 A YES, SIR.
- 2 Q AND MR. PHILPOTT IS A BUSINESSMAN OUT OF CHARLOTTE,
3 RIGHT?
- 4 A YES.
- 5 Q AND THEN THERE WAS SOME OTHER GENTLEMEN WHO STEPPED
6 OFF THE BOARD WHEN MR. SHEPPARD ARRIVED AND I BELIEVE MR.
7 PORTER ROSE AND SOME OTHERS, CORRECT?
- 8 A THERE WAS SOME CHANGES THAT OCCURRED AND ONE OF THOSE
9 WAS MR. ROSE, YES.
- 10 Q AND THE, WHEN MR. SHEPPARD COMES ON BOARD IT IS A
11 SEVEN MEMBER BOARD OF DIRECTORS AT HOMEGOLD FINANCIAL,
12 INC., IS IT NOT?
- 13 A THAT SOUNDS CORRECT, YES.
- 14 Q AND MR. SHEPPARD GOES ON THE BOARD AND HE GETS ONE
15 VOTE FOR HIMSELF, CORRECT?
- 16 A IF YOU MAKE A PRESUMPTION THAT THE WAY THAT THE
17 VOTING CONTROLLED THE BOARD IS AS ONE VOTE PER MEMBER THEN
18 THAT WOULD BE CORRECT.
- 19 Q AND THEN I BELIEVE A MR. JAN SIROTA CAME ON BOARD AND
20 HE WAS WITH RAYMOND JAMES, A BIG INVESTMENT COMPANY?
- 21 A YES.
- 22 Q AND THEN THE THIRD INDIVIDUAL, DO YOU RECALL HIS
23 NAME, THAT CAME ON BOARD?
- 24 A A NEW MEMBER?
- 25 Q YES.

1 A I WOULD NOT RECALL THE SPECIFIC INDIVIDUAL THAT CAME
2 ON BOARD AT THAT POINT AND TIME.

3 Q AND THEN I WANT TO GO BACK AGAIN, BEFORE THE MERGER
4 WE HAD A SET OF OFFICERS AT HOMEGOLD, WE HAD THE CEO WHICH
5 WAS MR. STERLING?

6 A YES.

7 Q AND THEN WE HAD THE PRESIDENT WAS MR. KEITH GIDDENS?

8 A CORRECT.

9 Q AND THEN WE HAD CFO, KEVIN MAST, CORRECT?

10 A CORRECT.

11 Q AND MR. MAST IS SOMEONE WHOSE TALENTS YOU THOUGHT
12 VERY HIGHLY OF?

13 A THAT IS CORRECT.

14 Q THEN UNDER MR. MAST IS IN THE CFO DEPARTMENT AND THAT
15 IS THE CHIEF FINANCIAL OPERATOR OF THE COMPANY, THERE WAS
16 AN ACCOUNTING DEPARTMENT UNDER HIM, CORRECT?

17 A YES, SIR.

18 Q AND YOU MENTIONED SOME NAMES, A JENNIFER CHAMPAGNE
19 AND SOME OTHERS THAT REPORTED TO MR. MAST, RIGHT?

20 A YES.

21 Q AND THAT THOSE PERSONS DUTIES ARE TO DO THE
22 ACCOUNTING FUNCTION OF THIS PUBLICLY TRADED CORPORATION?

23 A CORRECT.

24 Q AND THEN YOUR FIRM COMES IN AT THE END OF THE YEAR,
25 QUARTERLY AND AUDITS THEIR WORK, CORRECT?

1 A CORRECT.

2 Q AND THEN YOU PASS UPON WHETHER THEIR WORK IS DONE IN
3 ACCORDANCE WITH THE GENERALLY ACCEPTED ACCOUNTING
4 PRINCIPLES, RIGHT?

5 A CORRECT.

6 Q AND THE STRUCTURE OF HOMEGOLD FINANCIAL, WELL, FIRST
7 IT IS A PUBLICLY TRADED COMPANY, RIGHT?

8 A CORRECT.

9 Q IT IS A PUBLIC CORPORATION?

10 A RIGHT.

11 Q AND BECAUSE OF THAT IT IS UNDER A LOT MORE, THERE ARE
12 A LOT MORE REGULATORY REQUIREMENTS FOR A PUBLICLY TRADED
13 COMPANY THEN THERE IS FOR A WHOLLY OWNED CLOSELY HELD
14 FAMILY BUSINESS, IS THAT FAIR TO SAY?

15 A THAT IS FAIR TO SAY.

16 Q AND THAT A PUBLICLY HELD COMPANY HAS TO FILE THESE
17 QUARTERLY FINANCIAL STATEMENTS AND THEN AN ANNUALLY
18 FINANCIAL STATEMENT, RIGHT?

19 A YES.

20 Q AND THAT IS WHAT IS BEING AUDITED, THE ANNUAL
21 STATEMENTS ARE BEING AUDITED BY YOUR FIRM WHICH IS A
22 SIGNIFICANT UNDERTAKING, CORRECT?

23 A CORRECT.

24 Q NOW, WITH REGARD TO THE COMPONENT OF HOMEGOLD
25 FINANCIAL, THE SUBSIDIARY OF CAROLINA INVESTORS, THAT

1 ENTITY ALSO IS ENGAGED IN A BUSINESS THAT IS SUBJECT TO
2 STRICT REGULATORY REQUIREMENTS, DOES IT NOT?

3 A YES.

4 Q AND THERE IT SOLD NOTES AND DEBENTURES IN SOUTH
5 CAROLINA SECURITIES TO INVESTORS, HENCE CAROLINA
6 INVESTORS, RIGHT?

7 A CORRECT.

8 Q AND THOSE HAD TO BE REGISTERED IN THIS INSTANCE WITH
9 THE SOUTH CAROLINA SECURITIES COMMISSION WHICH IS, I
10 BELIEVE THE TIMES WE WERE TALKING ABOUT IS THE UMBRELLA OF
11 THE ATTORNEY GENERALS OFFICE, RIGHT?

12 A YES, THAT SOUNDS FAMILIAR.

13 Q AND IN ORDER TO HAVE THESE SECURITIES REGISTERED,
14 THEY HAVE TO BE, THERE IS A REGISTRATION STATEMENT THAT
15 HAS TO BE SUBMITTED AND CERTIFIED FINANCIALS, AUDITED
16 FINANCIALS, CORRECT?

17 A YES.

18 Q AND THAT YOUR FIRM DID THE AUDITED FINANCIALS FOR
19 CAROLINA INVESTORS, DID THEY NOT?

20 A YES.

21 Q NOW, BEFORE 2000 WAS THERE A SEPARATE ACCOUNTING
22 DEPARTMENT FOR CAROLINA INVESTORS, SAY GOING FROM 1998?

23 A AT SOME TIME PRIOR TO 1999 THERE WOULD OF BEEN A
24 SEPARATE ACCOUNTING DEPARTMENT AT CAROLINA INVESTORS.

25 Q WHEN YOUR FIRM WAS ENGAGED BY HOMEGOLD FINANCIAL,

1 INC., THE SECOND TIME, WHAT YEAR WAS THAT?

2 A WE WERE ENGAGED TO AUDIT THEIR FINANCIAL STATEMENTS
3 FOR THE YEAR ENDED DECEMBER 31ST OF 1998 SO WE WERE
4 ENGAGED SOME TIME IN THE MIDDLE OF 1998.

5 Q AND WHEN YOU WERE ENGAGED WAS THERE A SEPARATE
6 ACCOUNTING DEPARTMENT FOR CAROLINA INVESTORS?

7 A NO.

8 Q WAS THERE A SEPARATE CFO FOR CAROLINA INVESTORS?

9 A NO.

10 Q AND WHEN YOU WERE DOING THE BOOKS AND RECORDS AND
11 DOING THE AUDITED FINANCIALS FOR CAROLINA INVESTORS DID
12 YOU DEAL WITH THE SAME PEOPLE, MR. MAST, MS. CHAMPAGNE AND
13 OTHERS UNDER THEM?

14 A THE HOLDING COMPANY AND ITS VARIOUS SUBSIDIARIES
15 BECAUSE THERE IS MORE SUBSIDIARIES THAN JUST CAROLINA
16 INVESTORS AND THEY HAVE CENTRALIZED THEIR FINANCIAL
17 FUNCTION AND THEY WERE ALL HOUSED ON PELHAM ROAD IN
18 GREENVILLE, SOUTH CAROLINA.

19 Q NOW, AS PART OF THE MERGER WITH HOMESENSE AND
20 HOMEGOLD YOU UNDERTOOK, YOUR FIRM UNDERTOOK TO AUDIT THE
21 FINANCIALS OF HOMESENSE FOR THE YEAR ENDING MARCH OF 2000?

22 A WE WERE ENGAGED BY HOMESENSE TO AUDIT THOSE FINANCIAL
23 STATEMENTS, YES.

24 Q AND HOMESENSE WAS, YOU NEED TO HELP ME HERE, IT WAS
25 ON A DIFFERENT--

1 A THERE WERE A FISCAL YEAREND, THEY WERE ON MARCH
2 YEAREND VERSUS HOMEGOLD WHICH WAS A DECEMBER YEAREND.

3 Q SO, THE RESULTS THAT YOU AUDITED WERE FROM APRIL 1 OF
4 1999 TO MARCH 31 OF 2000?

5 A THAT IS CORRECT.

6 Q AND THE YEARS PRIOR TO THAT HOMESENSE HAD AUDITED
7 FINANCIALS, DID THEY NOT?

8 A YES, SIR.

9 Q THEY WERE AUDITED BY A FIRM IN COLUMBIA CALLED J.W.
10 HUNT COMPANY, CORRECT?

11 A THAT IS CORRECT.

12 Q AND YOUR FIRM, ELLIOTT DAVIS, DID NOT UNDERTAKE TO
13 PREAUDIT, REEXAMINE THE WORK DONE BY J.W. HUNT ON BEHALF
14 OF HOMESENSE, CORRECT?

15 A WHEN A NEW AUDITOR TAKES OVER WORK WE TYPICALLY DO
16 NOT PREAUDIT THE PRIOR YEARS BUT WE DO INTERVIEW THE PRIOR
17 AUDIT FIRM AND WE ALSO REVIEW THEIR AUDIT WORK PAPERS FROM
18 THAT YEAR WHICH IS SUCH AN EFFICIENCY ISSUE AS IT ALSO IS
19 A GAINING OF INFORMATION AND EVIDENCE, IN PARTICULAR, IF
20 WE WANT TO EVEN ACCEPT THE ENGAGEMENT OR NOT. SO, WE DID
21 LOOK AT THEIR WORK BUT WE DID NOT GO BACK AND RE-PERFORM
22 THE 1999 AUDIT WORK AND THEREFORE ISSUE OUR OWN OPINION ON
23 1999. WE REFERRED TO THE OPINION OF THE PRIOR AUDITORS IN
24 OUR 2000 REPORT.

25 Q AND YOU ALSO IN YOUR TESTIMONY EARLIER, YOU DESCRIBED

1 THAT THERE WAS SOME ADJUSTMENTS THAT YOUR FIRM RECOMMENDED
2 OR REQUIRED OF, WE WILL GET TO THAT IN A MINUTE BUT, BUT
3 TO DETERMINE THE BOOKS OF HOMESENSE WERE NOT IN
4 CONFORMANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES
5 WITH REGARD TO RECOGNITION OF INCOME. THAT IS ONE ITEM
6 THAT YOU MENTIONED, RIGHT?

7 A YES, AS PART OF OUR EXAMINATION WE IDENTIFIED WHAT
8 ARE CALLED PROPOSED ADJUSTING ENTRIES, THAT THOSE
9 FINANCIAL STATEMENTS OF HOMESENSE ARE OWNED AND CREATED BY
10 THE COMPANY. WE⁴ PROPOSED ENTIRES WHICH THEY COULD EITHER
11 ACCEPT OF REJECT. WE PROPOSED THOSE ENTRIES AND THEY
12 ACCEPTED THEM.

13 Q NOW, HOMESENSE DID NOT OPERATE IN THIS STRICT
14 REPERTORY ENVIRONMENT THAT HOMEGOLD FINANCIAL DID,
15 CORRECT?

16 A HOMESENSE WAS NOT A REGISTERED COMPANY WITH THE
17 SECURITIES EXCHANGE COMMISSION SO THEY WERE NOT SUBJECT TO
18 THE QUARTERLY AND ANNUAL FILINGS AND THE 8K AND THE FORM
19 14 THAT YOU HAVE HEARD DISCUSSED.

20 Q AND HOMESENSE ALSO DID NOT HAVE ANY ENTITY OR DID NOT
21 ITSELF SELL SECURITIES, NOTES AND DEBENTURES TO CITIZENS
22 IN SOUTH CAROLINA SUCH THAT THEY HAD TO HAVE A
23 REGISTRATION STATEMENT OR PROSPECTUS FILED WITH THE SOUTH
24 CAROLINA SECURITIES COMMISSION, CORRECT?

25 A NOT TO MY KNOWLEDGE, NO.

1 Q AND THAT THE HOMESENSE FINANCIALS WERE, AND THAT
2 HOMESENSE WAS BY AND LARGE OWNED BY MR. SHEPPARD, CORRECT?

3 A I BELIEVE HE WAS THE MAJORITY SHAREHOLDER, YES.

4 Q AND DO YOU KNOW HOW MANY OTHER SHAREHOLDERS THERE
5 WERE?

6 A I WANT TO STATE HOW MANY THERE WERE BUT I DON'T
7 BELIEVE MR. SHEPPARD OWNED A HUNDRED PERCENT OF HOMESENSE.

8 Q WELL, WOULD YOU AGREE THAT IT WAS WHAT WE CALL A
9 CLOSELY HELD CORPORATION BUSINESS?

10 A USUALLY WHEN WE USE THE TERM, UP CLOSELY HELD
11 CORPORATION, USUALLY THE INDIVIDUAL OWNS MORE THAN FIFTY
12 PERCENT OF A COMPANY, THAT KIND OF MEETS THE DEFINITION OF
13 CLOSELY HELD. CLOSELY HELD CAN ALSO BE A TERM THAT WE USE
14 IN OUR INDUSTRY THAT IF AN INDIVIDUAL HAS CONTROL OF A
15 COMPANY, WHETHER OR NOT THEY HAVE FIFTY PERCENT OR NOT.
16 BUT I THINK UNDER YOUR DESCRIPTION THAT WOULD BE A CLOSELY
17 OWNED COMPANY.

18 Q AND THAT COMPANY HAD PERHAPS A COUPLE OF HUNDRED
19 EMPLOYEES, DO YOU RECALL, FROM YOUR AUDIT?

20 A I DO NOT RECALL.

21 Q WELL, TELL US, HOMEGOLD, THE WORK YOU DID FOR
22 HOMEGOLD, DO YOU RECALL A BALLPARK NUMBER OF EMPLOYEES
23 THAT WERE AT HOMEGOLD?

24 A DO I RECALL THAT?

25 Q YES, SIR.

1 A YES, SIR.

2 Q AND ROUGHLY HOW MANY EMPLOYEES. BEFORE MR. SHEPPARD
3 ARRIVED ON THE SCENE?

4 A WELL, I WILL GO THROUGH SOME NUMBERS THAT I RECALL.
5 WHEN WE NO LONGER DID HOMEGOLD AUDIT, WE DID NOT DO THE
6 '96, '97--

7 MS. EVANS: YOUR HONOR, A JUROR NEEDS A BREAK.

8 THE COURT: ALL RIGHT, IT IS A GOOD TIME TO TAKE A
9 BREAK. DON'T DISCUSS THE CASE, YOU ARE EXCUSED TO YOUR
10 JURY ROOM. EVERYONE ELSE STAY SEATED, PLEASE.

11 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
12 A BREAK.)

13 THE COURT: WE WILL TAKE ABOUT TEN MINUTES. MR.
14 RANK, DON'T DISCUSS YOUR TESTIMONY DURING THE BREAK.

15 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

16 THE COURT: MR. GRIFFIN, ARE YOU READY?

17 MR. GRIFFIN: YES, SIR.

18 THE COURT: THE STATE READY?

19 MS. EVANS: YES, YOUR HONOR.

20 THE COURT: GET THE JURY IN, PLEASE.

21 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
22 APPROXIMATELY 11:15 A.M.)

23 THE COURT: MR. GRIFFIN, YOU MAY CONTINUE.

24 CONTINUE CROSS-EXAMINATION

25 BY MR. GRIFFIN:

1 Q MR. RANK, BEFORE WE BROKE I WAS ASKING YOU ABOUT THE
2 AUDIT OF HOMESENSE AND THE ADJUSTMENTS TO THE HOMESENSE
3 FINANCIALS FOR THE YEAREND MARCH OF 2000. THAT IS WHERE
4 WE ARE. AND ONE OF THE ADJUSTMENTS WAS THE RECOGNITION OF
5 REVENUE FROM THE SALE OF LOANS, CORRECT?

6 A YES, SIR.

7 Q AND WHAT WAS HAPPENING IS THAT ON THE HOMESENSE BOOKS
8 AND RECORDS, PRIOR TO ELLIOTT DAVIS DOING AN EXAMINATION,
9 THAT HOMESENSE RECOGNIZED THE MONIES THEY RECEIVED. WHAT
10 WE CALL ON THE FRONT END WHICH WOULD BE POINTS AND THINGS
11 WHEN SOMEONE BORROWS MONEY FROM A BANK OR THEY RECEIVE
12 MONEY, THEY HAVE TO PAY SOME POINTS UP FRONT, SO THAT IS
13 FRONT END MONEY, IF YOU WILL, CORRECT?

14 A YOU COULD DESCRIBE FRONT END MONEY AS THAT, YES.

15 Q AND THEN HOMESENSE AND HOMEGOLD AND OTHER MORTGAGE
16 COMPANIES, THEY TAKE THAT LOAN, THAT PAPER AND THEY SELL
17 IT TO INVESTORS AND THEY MAKE MONEY ON THE BACK END,
18 CORRECT?

19 A THAT IS A FAIR EXPLANATION OF THE BACK END, YES.

20 Q AND I KNOW IT IS SIMPLE AND THAT IS THE WORLD THAT I
21 LIVE. SO THAT BACK END, THAT PROFIT ON THE BACK END
22 SOMETIMES REFERRED TO AS LOAN PREMIUMS, IS THAT HOW
23 ACCOUNTANTS REFER TO IT AS?

24 A WELL, THERE ARE VARIOUS TERMS THAT ARE USED BUT THAT
25 IS AN ACCEPTABLE ONE.

1 Q AND WHAT HOMESENSE WAS DOING, WHEN A LOAN WOULD CLOSE
2 HOMESENSE AND ITS ACCOUNTING DEPARTMENT WOULD RECOGNIZE
3 THE MONEY MADE ON THE FRONT END AND ON THE BACK END EVEN
4 THOUGH THEY HAD NOT RECEIVED THE BACK END MONEY QUITE YET,
5 CORRECT?

6 A THEY WERE RECORDING IT INCORRECTLY ACCORDING TO THE
7 GENERAL ACCEPTING ACCOUNTING PRINCIPLES.

8 Q AND WE ARE TALKING ABOUT THE LOAN PREMIUM, THE MONEY
9 ON THE BACK END?

10 A I DON'T SPECIFICALLY RECALL THE CALCULATIONS THAT WE
11 LOOKED AT DURING OUR AUDIT BUT WHAT I AM AWARE OF IS WE
12 PROPOSED ADJUSTMENTS OF APPROXIMATELY A MILLION DOLLARS.
13 ON THE SET OF CIRCUMSTANCES YOU ARE DESCRIBING AND THOSE
14 ADJUSTMENTS WERE AGREED TO BY MANAGEMENT AND ACCEPTED AND
15 POSTED TO THEIR RECORDS.

16 Q WE WILL GET TO THAT. BUT THOSE ADJUSTMENTS WERE FOR
17 THE LOAN PREMIUM THAT I AM REFERRING TO, THAT IS BASICALLY
18 A MONTH OF INCOME THAT WE ARE TALKING ABOUT, CORRECT?

19 A IT COULD BE IN YOUR EXAMPLE, YES.

20 Q YOU TALKED EARLIER ABOUT AND A DOCUMENT WAS
21 INTRODUCED WHICH IS THE LETTER, IT IS EXHIBIT 72, A LETTER
22 DATED FEBRUARY 28 OF 2001. THAT LETTER IS WHERE YOU SAY
23 MR. SHEPPARD ACCEPTS THESE ADJUSTMENTS, CORRECT?

24 A THIS IS THE REPRESENTATION LETTER THAT I SPOKE OF
25 EARLIER WHERE WE REQUESTED AUDITS AND IT SAYS, IF WE ASK

1 YOU A QUESTION YOU HAVE TOLD US THE TRUTH AND IF WE ASK
2 YOU FOR DOCUMENTS YOU GAVE US THE DOCUMENTS.

3 Q AND THAT LETTER IS, YOU USUALLY SIGN AT THE
4 CONCLUSION OF THE AUDIT?

5 A THAT'S CORRECT.

6 Q SO, THE LETTER IS DATED FEBRUARY 28TH OF 2001, IT IS
7 TO ELLIOTT DAVIS AND THEN IT IS AND AT THE END HERE IT IS
8 SIGNED BY, IT SAYS CEO AND IT APPEARS TO BE MR. SHEPPARD'S
9 SIGNATURE, CORRECT?

10 A I DON'T KNOW WHOSE SIGNATURE, I CAN RECOGNIZE THE
11 LOWER ONE BUT NOT THE UPPER ONE.

12 Q THE LOWER ONE YOU RECOGNIZE AS WHAT?

13 A I CAN READ THE FIRST NAME, IT SAYS MEREDITH.

14 Q NOW, IT IS SENT, THE SAME EXHIBIT, IT IS SENT TO CY
15 BURGESS AND HE WORKS AT ELLIOTT DAVIS, RIGHT?

16 A AT THAT TIME HE WAS A SENIOR MANAGER WITH ELLIOTT
17 DAVIS, YES.

18 Q AND HE WORKED ON THE HOMEGOLD ACCOUNTING UNDERNEATH
19 YOU, RIGHT?

20 A YES.

21 Q AND RHONDA JOHNSON, SHE WAS IN THE ACCOUNTING
22 DEPARTMENT AND COULD HAVE AT THIS POINT AND TIME BE CFO
23 BUT MAYBE NOT OF HOMEGOLD, CORRECT?

24 A SHE WAS THE CFO AT HOMEGOLD AT THAT POINT, YES.

25 Q AND THEN THERE IS A NOTE THAT SAYS, CY, BILL HAS

1 OBTAINED A SIGNED REP FROM RONNIE. NOW THAT THIS HAS BEEN
2 TAKEN CARE OF WE NEED TO PROCEED AS QUICKLY AS POSSIBLE IN
3 GETTING THE HOMESENSE FINANCIAL STATEMENTS FILED, AN 8K.
4 GIVE ME A CALL MONDAY TO DISCUSS. DO YOU SEE THAT?

5 A I CAN SEE THAT, YES.

6 Q AND WHAT IS THAT REFERRING TO?

7 A THIS FAX IS SENT TO CY BURGESS AT ELLIOTT DAVIS FROM
8 RHONDA JOHNSON WHO IS THE CFO AT HOMEGOLD. AND SO SHE IS
9 SAYING, BILL, I BELIEVE WAS LEGAL COUNSEL AT HOMEGOLD. SO
10 SHE IS SAYING THAT BILL HAS OBTAINED A SIGNED LETTER FROM
11 RONNIE, MR. SHEPPARD. NOW THAT IS TAKEN CARE OF WE CAN
12 PROCEED TO OBTAIN HOMEGOLD'S FINANCIAL STATEMENTS. SO, WE
13 WOULD OF BEEN, WE WOULD HOLD THE FINANCIAL STATEMENTS AND
14 NOT RELEASE THEM UNTIL ALL OF THE ITEMS HAD BEEN WRAPPED
15 UP FOR THE AUDIT AND THEN ONE OF THOSE APPARENTLY WAS
16 RECEIVING A REPRESENTATION LETTER FROM HOMESENSE THAT HAD
17 BEEN SIGNED BY MR. SHEPPARD.

18 Q IT SAYS FOR 8K, WHAT IS 8K?

19 A AN 8K IS A FILING WITH THE SEC.

20 Q AND RIGHT HERE WE ARE TALKING ABOUT AN 8K, THAT IS
21 THE 8K FILING WITH THE SEC?

22 A THAT IS THE ONE THAT YOU ARE REFERRING TO, YES.

23 Q AND THEN ATTACHED TO THAT THERE IS SOME EMAIL THAT
24 HAS GOT A MEREDITH CASTEEN AND THAT IS FROM BILL LONG. IS
25 THAT THE BILL YOU ARE TALKING ABOUT THAT IS GENERAL

1 COUNSEL AT HOMEGOLD?

2 A I BELIEVE THAT WAS HIS ROLE, YES.

3 Q AND UNDERNEATH THAT THERE IS A, WELL THIS SAYS, THIS
4 EMAIL FROM CY BURGESS DATED 3/1/01, DO YOU SEE THAT?

5 A I SEE THAT DATE, YES.

6 Q THAT IS FRIDAY, MARCH 1. BUT THIS WAS SO AN 8K COULD
7 BE FILED FOR PURPOSES OF YOUR AUDIT OF HOMESENSE RECORDS,
8 CORRECT?

9 A I DON'T RECALL WHY THE 8K WOULD OF BEEN FILED.

10 Q WELL, YOU KNOW THAT AN 8K WAS FILED?

11 A THERE WAS AN 8K THAT WAS SHOWN TO ME YESTERDAY
12 REGARDING THAT FILE.

13 Q THIS SAYS, IS THIS THE 8K THAT YOU WERE SHOWN
14 YESTERDAY?

15 A IF YOU WILL SHOW ME THE COVER OF THAT 8K I CAN ANSWER
16 YOUR QUESTION. THIS IS THE DOCUMENT THAT I SAW YESTERDAY,
17 YES.

18 Q THIS IS THE 8K FILING OF ELLIOTT DAVIS' REPORT OF THE
19 FINANCIALS OF HOMESENSE, CORRECT?

20 A ELLIOTT DAVIS DOES NOT MAKE 8K FILINGS, HOMEGOLD
21 FINANCIAL, INC. MAKES 8K FILINGS. AND WHAT THE PURPOSE OF
22 THAT WAS I DON'T RECALL AS TO WHY THE COMPANY MADE THE
23 FILING.

24 Q AND THAT WOULD BE THE SECURITIES COUNSEL IS INVOLVED
25 IN THAT LINE OF HOMEGOLD'S BUSINESS?

1 A IT IS USUALLY AN ORGANIZED EFFORT THAT THE COMPANY
2 STARTS THE PROCESS AND THEN USUALLY LEGAL COUNSEL AND
3 AUDITORS ARE GIVEN THE OPPORTUNITY TO LOOK AT DOCUMENTS.
4 SO, THERE WERE PROBABLY A SERIES OF PEOPLE INVOLVED IN
5 THAT.

6 Q NOW, THERE IS A LETTER ATTACHED IN THIS 8K AND IS
7 THIS THE AUDIT LETTER, IF YOU WILL, OF ELLIOTT DAVIS?

8 A THAT IS OUR OPINION LETTER ON HOMESENSE'S FINANCIALS.

9 Q AND THAT OPINION LETTER IS DATED, WHAT DATE, MR.
10 RANK?

11 A THAT SAYS JUNE 23RD OF 2000.

12 Q AND YOUR EXHIBIT, 72 IS DATED WHAT DATE?

13 A FEBRUARY 28TH OF 2001.

14 Q DOES THIS LETTER OF ELLIOTT DAVIS FILED WITH THE
15 SECURITIES COMMISSION REFRESH YOUR RECOLLECTION AS TO WHEN
16 THE AUDIT WAS COMPLETED?

17 A NO.

18 Q WAS IT NOT COMPLETED AROUND JUNE OF 2000?

19 A IT DEPENDS ON HOW YOU ARE USING THE TERM, COMPLETED.

20 Q WELL, YOUR EXAMINATION OF BOOKS AND RECORDS?

21 A WE WOULD HAVE COMPLETED OUR EXAMINATION OF BOOKS AND
22 RECORDS, THE SIGNIFICANT PORTION OF OUR FIELD WORK ON JUNE
23 23RD OF 2000.

24 Q AND THEN YOU WOULD AGREE THAT THERE WAS A SUBSTANTIAL
25 BETWEEN YOUR COMPLETED OF THE FIELD WORK UNTIL YOU

1 RECEIVED A REPRESENTATION LETTER SIGNED BY MR. SHEPPARD
2 ACCEPTING HIS ADJUSTMENTS, SOME SIX MONTHS LATER?

3 A I WOULD AGREE THAT THERE IS A SIGNIFICANT PERIOD OF
4 TIME BETWEEN THOSE TWO DATES. I DON'T RECALL WHEN MR.
5 SHEPPARD ACCEPTED THOSE FINANCIAL STATEMENTS.

6 Q YOU CERTAINLY HAVE SEEN THE LETTER ACKNOWLEDGING
7 ACCEPTANCE WAS SIGNED FRANKLY, FROM THE EMAIL
8 CORRESPONDENCE WOULD OF BEEN AFTER FEBRUARY 28TH OF 2001,
9 CORRECT?

10 A I SEE THAT DATE, YES.

11 Q AND WERE YOU AWARE THAT DURING THIS PERIOD OF TIME
12 THAT THERE WERE DISPUTES BY MR. SHEPPARD AND OTHERS WITH
13 ELLIOTT DAVIS ON YOUR AUDIT WORK OF HOMESENSE?

14 A I AM AWARE THAT HOMESENSE OBVIOUSLY DID NOT
15 UNDERSTAND CORRECT ACCOUNTING FOR THE ORIGINATION AND SALE
16 OF LOANS. AND I AM AWARE THAT THEY DEBATED THAT ISSUE
17 WITH US FOR AN EXTENDED PERIOD OF TIME.

18 Q AND YOU ARE ALSO AWARE THAT DURING THAT EXTENDED
19 PERIOD OF TIME THERE WAS A DEBATE AND A DISPUTE GOING ON
20 BETWEEN MR. SHEPPARD AND HOMEGOLD ABOUT THE
21 REPRESENTATIONS AND WARRANTIES THAT HOMEGOLD HAD MADE
22 PERTAINING TO ITS FINANCIAL CONDITION, CORRECT?

23 A I AM NOT AWARE OF THAT, NO.

24 Q ARE YOU AWARE OF ANY CANCELLATION AGREEMENT ENTERED
25 IN TO BETWEEN MR. SHEPPARD AND HOMEGOLD CANCELING SOME

1 WARRANTIES AND REPRESENTATIONS AND INDEMNIFICATION
2 AGREEMENTS?

3 A I RECALL SOME NEGOTIATIONS THAT OCCURRED AFTER THE
4 CLOSING OF THE TRANSACTION. OUR UNDERSTANDING WAS AND OUR
5 ROLE IN THAT WAS PRIMARILY DUE TO THE FACT THAT
6 HOMESENSE'S AUDITED FINANCIAL STATEMENTS IN MARCH OF 2000
7 DID NOT DELIVER THE LEVEL OF EQUITY THAT WAS REQUIRED
8 UNDER THE PURCHASE AGREEMENT. AND THAT ISSUE AND PERHAPS
9 OTHERS THAT I AM NOT FAMILIAR WITH WAS DEBATED BETWEEN MR.
10 SHEPPARD AND HOMEGOLD.

11 Q AND DO YOU KNOW WHETHER OR NOT THE EXECUTION OF THIS
12 LETTER, ACCEPTING THESE ADJUSTMENTS WAS PART OF SOME
13 GLOBAL RESOLUTION THAT RESULTED IN THE CANCELLATION OF THE
14 INDEMNIFICATION?

15 A I DO NOT KNOW THAT.

16 Q I WANT TO GO BACK TO THE 8K THAT WAS FILED. AND GO
17 TO THE, SOME OF THE NOTES HERE EXPLAINING THE ADJUSTMENTS.
18 AND THE FIRST IS NOTE ONE DEALING WITH REVENUE
19 RECOGNITION, DO YOU SEE THAT?

20 A I CAN SEE THAT, YES.

21 Q AND ESSENTIALLY, THE DOCUMENT SAYS ORIGINATION FEES
22 CHARGED ON CLOSED LOANS ARE DEFERRED OR REPORTED AS
23 DEFERRED LOAN FEES IN THE HOMESENSE FINANCIAL SHEET UNTIL
24 THE SELL OF THE LOAN OF THE THIRD PARTIES AND THEY ARE
25 REPORTED AS PERIOD INCOME. AND GAINS ON SALES OF LOANS

1 RECORDED AND LOANS ARE SOLD TO THIRD PARTIES, AS A
2 DIFFERENCE BETWEEN BOOK VALUE AND SALES PROCEEDS. IS THAT
3 THE BACK END MONEY THAT WE WERE DISCUSSING EARLIER?

4 A THAT PARAGRAPH IS IN REFERENCE IN THE DESCRIPTION
5 THAT YOU GAVE, YES.

6 Q AND THEN THERE IS NOTES FURTHER IN THE DOCUMENT
7 REGARDING, NOTE NINE, IF YOU WILL EXPLAIN NOTE NINE
8 PLEASE?

9 A NOTE NINE IS A PART OF THE FOOTNOTE TO THE HOMESENSE
10 FINANCIAL STATEMENTS THAT IS DISCUSSING PRIOR PERIOD
11 ADJUSTMENTS. AND IT DISCUSSED THE \$460 THOUSAND AND THE
12 \$511 THOUSAND OR THE SUM OF THOSE ARE APPROXIMATELY THE
13 MILLION DOLLARS THAT I MENTIONED. IN MY DESCRIPTION WERE
14 SOME OF THE ADJUSTMENTS THAT WE PROPOSED TO THE HOMESENSE
15 FINANCIALS.

16 Q AND AGAIN IT SAYS HOMESENSE PREVIOUSLY RECOGNIZED
17 LOAN ORIGINATION FEES RELATED TO LOAN COST ON A CASH
18 BASIS. THE FEES SHOULD BE DEFERRED UNTIL THE LOANS WERE
19 SOLD AND AS A RESULT, THE CAUSE OF THAT THERE HAS BEEN
20 REPORTED AN ADJUSTMENT. HE HAS GOT TWO NUMBERS, \$400
21 THOUSAND NUMBER AND \$500 THOUSAND DOLLAR NUMBER, CORRECT?

22 A YOU STATED THAT I STATED THAT, BUT THAT IS THE
23 COMPANIES FOOTNOTE.

24 Q AND THIS IS THE COMPANIES FOOTNOTE THAT WAS, THAT
25 ELLIOTT DAVIS GAVE AN UNQUALIFIED OPINION ON, CORRECT?

1 A THAT IS A FOOTNOTE IN THE FINANCIAL STATEMENTS ON
2 WHICH WE HAVE GIVEN A QUALIFIED OPINION, YES SIR.

3 Q WHAT YOU ARE EXPLAINING IS THIS ADJUSTMENT--

4 MS. EVANS: YOUR HONOR, I AM GOING TO OBJECT, HE IS
5 SAYING WHAT YOU ARE EXPLAINING. MR. RANK HAS MADE IT
6 CLEAR THAT HE IS NOT EXPLAINING THIS, THIS IS HOMEGOLD'S
7 STATEMENT.

8 THE COURT: REPHRASE YOUR QUESTION.

9 Q MR. RANK, IS THIS THE ADJUSTMENT THAT YOU HAVE
10 TESTIFIED ABOUT YESTERDAY IN REGARDING HAVING TO MAKE
11 ADJUSTMENTS TO HOMESENSE BOOKS?

12 A YES, SIR.

13 Q THIS ADJUSTMENT IS ESSENTIALLY A TIMING ISSUE, IS IT
14 NOT, AS TO WHEN YOU RECOGNIZE THE INCOME?

15 A IT IS A TIMING ISSUE. IN OTHER WORDS, DID THE
16 COMPANY EARN THAT MONEY AND THE ANSWER IS YES. AND THE
17 QUESTION IS WHEN THEY ARE PERMITTED TO RECORD IT IN A SET
18 OF FINANCIAL STATEMENTS THAT IS FOR THE YEAREND IN MARCH
19 31ST OF 2000.

20 Q SO, IT IS NOT AN ISSUE WHERE THAT MONEY WAS NOT MADE,
21 IT IS A QUESTION OF WHEN YOU SHOULD, WHAT PERIOD AND WHAT
22 YEAR YOU SHOULD REPORT IT IN, CORRECT?

23 A ACCORDING TO PROFESSIONAL STANDARDS IT IS A QUESTION
24 OF TIMING OF RECOGNITION, CORRECT.

25 Q NOW, GOING FORWARD TO THE HOMESENSE/HOMEGOLD MERGER,

1 WAS ELLIOTT DAVIS INVOLVED IN AUDITING THE COMBINED BOOKS
2 AND RECORDS OF HOMEGOLD FOR THE YEAREND OF 2000 AND DID
3 YOU AUDIT THE 10K, THE BOOKS AND RECORDS FOR HOMEGOLD FOR
4 12/31/2000?

5 A YES.

6 Q WAS ELLIOTT DAVIS CONSULTED IN ANY WAY WITH REGARD TO
7 HOW THE HOMEGOLD/HOMESENSE MERGER TRANSACTION SHOULD BE
8 REPORTED IN THE BOOKS AND RECORDS OF HOMEGOLD FOR PURPOSES
9 OF PROXY STATEMENT THAT WAS TO BE SENT TO SHAREHOLDERS TO
10 VOTE TO APPROVE OR NOT APPROVE?

11 A WE WOULD NOT HAVE AUDITED THAT PROXY STATEMENT BUT WE
12 WOULD OF BEEN GIVEN THE OPPORTUNITY TO HAVE READ THAT
13 DOCUMENT WHICH IS THE ONLY THING THAT THE COMPANY IS
14 REQUIRED TO ALLOW US TO DO.

15 Q WERE YOU INVOLVED IN ANY WAY WITH REGARD TO
16 DETERMINING, WITH REGARD TO MANAGERMENTS DECISION IN HOW TO
17 REPORT THIS LOAN THAT MR. SHEPPARD, THIS NONRECOURSE LOAN
18 THAT MR. SHEPPARD RECEIVED AS PART OF THIS TRANSACTION,
19 HOW THAT LOAN WAS ACCOUNTED FOR ON THE BOOKS AND RECORDS
20 OF HOMEGOLD. DID YOU GET CONSULTED IN ANY WAY WITH REGARD
21 TO THAT?

22 A YES.

23 Q AND PART OF THE CONSULTATION DID YOU, WHO DID YOU
24 HAVE THOSE DISCUSSIONS WITH, MR. MAST?

25 A YES.

1 Q AND THEN WAS AN INQUIRY SENT TO THE SEC AS TO HOW IT
2 SHOULD BE APPROPRIATELY RECORDED?

3 A KEVIN MAST WAS CFO AT HOMEGOLD, RAISED A QUESTION
4 ABOUT A TECHNICALITY RELATED TO THE REPORTING OF THE LOAN
5 THAT WAS CREATED THAT MR. SHEPPARD ULTIMATELY OWED
6 HOMEGOLD, THAT WAS PART OF THE NEGOTIATED TERMS IN THE
7 TRANSACTION. AND THE LITERATURE THAT BOTH KEVIN MAST AND
8 HIS STAFF LOOKED AT AND ELLIOTT DAVIS LOOKED AT ON OUR OWN
9 REALLY DID NOT GIVE YOU A CLEAR ANSWER. SO, ONE OF THE
10 WAYS THAT YOU CAN RESOLVE UNCLEAR ISSUES IS YOU COULD
11 WRITE A LETTER TO THE SEC WHICH MR. MAST DID AND YOU LAY
12 OUT A FACT PATTERN AND YOU ARRIVE AT A CONCLUSION. THEN
13 YOU ASK THE SEC IF THEY CONCUR WITH YOUR CONCLUSION. SO,
14 MR. MAST WROTE A LETTER, ELLIOTT DAVIS WAS GIVEN THE
15 OPPORTUNITY TO READ AND COMMENT ON THAT LETTER BEFORE IT
16 WAS SENT, THE GOAL IS TO SEND A HIGHLY QUALIFIED LETTER AS
17 YOU CAN. AND THEN THE SEC GAVE MR. MAST A RESPONSE TO
18 THAT LETTER.

19 Q PRIOR TO GETTING THE RESPONSE THE COMPANY, HOMEGOLD,
20 THROUGH MANAGEMENT HAD RECORDED THAT LOAN AS AN ASSET ON
21 ITS BOOKS, CORRECT?

22 A THAT IS CORRECT.

23 Q AND THEN, AND THAT WAS PRIOR TO MR. SHEPPARD COMING
24 AS SHAREHOLDER, BOARD MEMBER OR OFFICER OF HOMEGOLD,
25 CORRECT?

1 A I DON'T RECALL, CAN YOU TELL ME WHAT THE FILING DATE
2 WAS ON THAT FORM 14?

3 Q I DON'T HAVE IT, UNTIL YOU SAID IT YESTERDAY I DIDN'T
4 KNOW WHAT A FORM 14 WAS.

5 A I CAN'T TELL YOU DEFINITELY HOW CLOSE IT WAS TO
6 WHETHER MR. SHEPPARD, WHETHER THE TRANSACTION HAD CLOSED
7 OR NOT. THE DATES WERE CLOSE, I WOULD AGREE WITH YOU THAT
8 MR. SHEPPARD HAD NO CONSULTATION ON THAT ACCOUNTING
9 RECORDING IF THAT IS WHAT YOU ARE ASKING ME.

10 Q THAT IS WHAT I AM ASKING.

11 A YES, HE DID NOT?

12 Q AND SUBSEQUENTLY MR. MAST HEARD FROM THE SEC AND THAT
13 NUMBER WAS ACCOUNTED FOR DIFFERENTLY IN THE BOOKS AND
14 RECORDS, I MEAN THE LOANS WERE ACCOUNTED FOR DIFFERENTLY
15 IN THE BOOKS AND RECORDS AT HOMEGOLD, IS THAT CORRECT?

16 A THAT'S CORRECT.

17 Q AND YOUR FIRM WAS CONSULTED BEFORE AND AFTER WITH
18 REGARD TO THE TREATMENT OF THAT LOAN ON THE BOOKS OF
19 HOMEGOLD?

20 A THAT IS CORRECT.

21 Q NOW, PRIOR TO THE MERGER OF HOMEGOLD AND HOMESENSE,
22 YOU TESTIFIED THAT ELLIOTT DAVIS ON AN ANNUAL BASIS,
23 STARTING I GUESS IN 1998 WAS CONDUCTING A GOING CONCERN
24 ANALYSIS OF HOMEGOLD BECAUSE OF THE LOSSES IT SUSTAINED IN
25 1998?

1 A IN 1998 AND PRIOR AND YES, WE DID PERFORM THAT
2 ANALYSIS.

3 Q I AM GOING TO SHOW YOU DEFENDANT'S EXHIBIT NUMBER 1
4 AND ASK YOU IF YOU CAN IDENTIFY THAT DOCUMENT.

5 A YES, I RECOGNIZE THIS.

6 Q AND IS THAT THEN THE ANALYSIS, YEAREND ANALYSIS OF
7 HOMEGOLD THAT WAS PREPARED BY ELLIOTT DAVIS WITH YOUR
8 INITIALS THAT APPEAR AT THE BOTTOM OF THAT?

9 A AS I RECALL IN 1999, FIRST OF ALL, THE INITIAL
10 POSITION TAKEN ON--

11 Q I JUST WANT TO DEAL WITH THE DOCUMENT FIRST, PLEASE,
12 SIR.

13 A ASK ME THE QUESTION AGAIN.

14 Q IS THAT DOCUMENT AN INTERNAL MEMO OF ELLIOTT DAVIS
15 ADDRESSING CERTAIN FINANCIAL AND ACCOUNTING ISSUES OF
16 HOMEGOLD FOR THE YEAREND OF 1999?

17 A YES, THIS MEMO SUMMARIZES OUR CONCLUSION ON THE
18 POSITION THAT THE COMPANY TOOK REGARDING THE HOMEGOLD,
19 REGARDING THE GOING CONCERN ISSUE.

20 MR. GRIFFIN: YOUR HONOR, I WOULD LIKE TO MOVE IN
21 DEFENDANT'S EXHIBIT 1.

22 THE COURT: ANY OBJECTION?

23 MS. EVANS: NO, YOUR HONOR.

24 THE COURT: DEFENDANT'S 1 IS ADMITTED.

25

1 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 1 WAS ADMITTED
2 INTO EVIDENCE.)

3 Q NOW, THAT WE HAVE TAKEN CARE OF THAT PROCEDURAL
4 MATTER, MR. RANK, THAT DOCUMENT IS WHAT, PLEASE EXPLAIN IT
5 TO THE JURY.

6 A AS I HAVE DISCUSSED A COUPLE OF TIMES, ON A SERIES OF
7 ISSUES THAT YOU WOULD DEAL WITH IN ANY AUDIT, THIS
8 PARTICULAR SITUATION, HOMEGOLD WOULD GIVE US THEIR
9 POSITION ON THE PROFESSIONAL LITERATURE THAT DISCUSSES A
10 GOING CONCERN AND THEN WE WOULD AUDIT THAT POSITION THEY
11 TOOK. THIS MEMO SUMMARIZES OUR CONCLUSION RELATIVE TO THE
12 POSITION THAT THEY TOOK. THEY TOOK A POSITION IN 1999
13 THAT THE GOING CONCERN DID NOT APPLY TO THEM. AND THIS
14 MEMO SUMMARIZES OUR CONCLUSION AND AFTER AUDIT PROCEDURES
15 WE AGREED WITH THAT.

16 Q AND THE DOCUMENT AND TURN TO PAGE TWO, DOWN AT THE
17 BOTTOM WHERE IT SAYS ASSESSMENT OF LIQUIDITY GOING CONCERN
18 AND THAT SUPPORTS THE DOCUMENT THAT YOU ARE TALKING ABOUT?

19 A I ACTUALLY REFER TO THE WHOLE DOCUMENT.

20 Q I UNDERSTAND BUT THERE IT SAYS, FOR THE SECOND YEAR
21 IN A ROW THAT HOMEGOLD EXPERIENCED LOSS BEFORE TAXES THAT
22 IS DUE TO MANY FACTORS. AND WHAT, YOU HAVE BEEN GIVEN
23 SOME MODELS HERE AND HERE THESE ARE MODELS THAT ARE
24 PROVIDED BY MANAGEMENT OF THE COMPANY?

25 A YES.

1 Q AND AGAIN THIS DOCUMENT IS DATED 12/31/1999, CORRECT?

2 A I SEE THAT DATE, YES SIR.

3 Q AND IT WOULD OF BEEN PREPARED, IS THAT YOUR INITIALS
4 RIGHT THERE?

5 A THOSE ARE MY INITIALS THERE IN THE CENTER, YES.

6 Q AND 3/1, IS THAT SIGNIFICANT OF A DATE OR ANYTHING?

7 A THAT WOULD JUST BE A WORK PAPER INDEX SYSTEM THAT WE
8 USE.

9 Q SO, THE DATE WOULD BE ABOVE THAT, 2/19/2000?

10 A WELL, THAT WOULD BE THE DATE, I THINK THAT WAS A
11 YOUNG LADY, WHO KTC IS, THAT IS THE DATE SHE SIGNED HER
12 INITIALS, 2/19/2000.

13 Q THE MERGER WITH MR. SHEPPARD WAS IN MAY OF 2000,
14 CORRECT?

15 A IT WAS CLOSED IN MAY OF 2000, CORRECT.

16 Q NOW, HERE IT SAYS BASED UPON THE PROJECTION MODEL IT
17 APPEARS THE COMPANY WILL HAVE ENOUGH LIQUIDITY, DESPITE
18 ANOTHER PREDICTED NET LOSS AND I GUESS THE PREDICTED NET
19 LOSS WOULD OF BEEN FOR THE YEAR OF 2000?

20 A CORRECT.

21 Q BEFORE MR. SHEPPARD ARRIVES THE ACCOUNTING FIRM IS
22 BEING TOLD, YOU LOST MONEY IN 1998, YOU LOST MONEY IN
23 1999, YOU ARE GOING TO LOSE MONEY AGAIN IN 2000, RIGHT?

24 A CORRECT.

25 Q AND THEN IT GOES ON TO SAY, ACCORDING TO CLIENT

1 REPORTS, LOAN PRODUCTION FOR JANUARY WAS \$20.48 MILLION
2 DOLLARS. AND THAT IS LESS THAN WHAT THEY HAD PROJECTED
3 ACCORDING TO THIS REPORT, CORRECT?

4 A THAT IS WHAT THAT SAYS, YES.

5 Q AND THEN IT SAYS BUT SIGNIFICANTLY BETTER THAN ED
6 COMPANIES MODEL OF \$18 MILLION. ED, IS THAT YOUR COMPANY?

7 A THAT WOULD BE ELLIOTT DAVIS AND COMPANY, THAT IS WHAT
8 WE USE TO BE CALLED BEFORE WE DROPPED THE COMPANY.

9 Q AND IT SAYS THE CASH POSITION AT 1/31/2000 APPEARS TO
10 BE REASONABLE COMPARED TO BUDGET AND BASED ON THOSE
11 FACTORS ELLIOTT DAVIS DETERMINED THAT IT WOULD BE, NOT BE
12 APPROPRIATE UNDER THE GENERAL ACCEPTING ACCOUNTING
13 PRINCIPLES TO PLACE A GOING CONCERN?

14 A THAT IS CORRECT. AND THE REASON WE ARE PARTICULARLY
15 DOING THAT, WE ARE ADDRESSING CASH POSITION LIQUIDITY IS,
16 IS AN AUDITOR'S CHARGE IS TO LOOK AT TWELVE MONTHS OUT AND
17 THAT IS WHEN IT ENDS. WE ARE NOT CHARGED LOOKING OUT TWO
18 YEARS, THREE YEARS, FIVE YEARS. SO, THE CORE QUESTION WE
19 ALWAYS LOOK AT IS, AS I ALWAYS MENTION TO YOU, YOU MAY OF
20 SAW WHY WE HAD A MODEL OF \$18 MILLION DOLLARS VERSUS THEIR
21 BUDGET OF \$20 MILLION DOLLARS, WHEN I TALKED TO YOU
22 YESTERDAY ABOUT HOW WE WOULD STRESS THEIR MODELS. SO, WE
23 SAID, OKAY, THEY ARE SAYING LOAN PRODUCTION FOR THE MONTH
24 WOULD BE \$18 MILLION, THEY SAID IT WOULD BE \$21 MILLION.
25 AND WE LOOKED AT HOW LONG THEIR MODEL COULD BE BEFORE THEY

1 WOULD PERHAPS RUN OUT OF LIQUIDITY TO PAY THEIR DEBTS IN
2 ACCORDANCE WITH NORMAL TERMS. AND OUR CONCLUSION WAS IS
3 THAT THEY HAD ENOUGH LIQUIDITY TO CONTINUE FOR ANOTHER
4 TWELVE MONTH PERIOD WHICH AT THE TIME WE WERE CHARGED AT
5 LOOKING AT.

6 Q AND THE GOING CONCERN AND I THINK YOU TOUCHED ON THIS
7 YESTERDAY. BUT THE GOING CONCERN ANALYSIS IS ONE OF THE
8 UNIQUE SITUATIONS IN ACCOUNTING WHERE ACCOUNTANTS ARE
9 LOOKING FORWARD AND NOT BACKWARDS. IS THAT FAIR?

10 A WE AS AUDITORS ARE PERMITTED TO CONSIDER FORWARD
11 LOOKING INFORMATION WHERE AS TRADITIONALLY A FINANCIAL
12 AUDIT IS STRICTLY WHAT IS THERE TODAY AND WHAT WAS THERE
13 YESTERDAY.

14 Q AND THERE ARE OTHER INSTANCES OF THAT BUT GOING
15 CONCERN IS CLEARLY ONE OF THOSE INSTANCES WHERE YOU LOOKED
16 AT FORWARD LOOKING INFORMATION.

17 A THAT IS A GOOD EXAMPLE OF ONE OF THE EXCEPTIONS WHEN
18 YOU CAN DO THAT, YES SIR.

19 Q AND DEFERRED TAX ASSET IS ANOTHER EXAMPLE?

20 A YOU ARE ALLOWED TO PULL CERTAIN INFORMATION INTO A
21 DEFERRED TAX ANALYSIS WHICH WOULD BE A PREDICTION OF
22 FUTURE PROFITABILITY AS ONE OF THE FACTORS THAT YOU LOOK
23 AT AS TO WHETHER YOU CAN RECORD A DEFERRED TAX ASSET OR
24 NOT.

25 Q AND AT THE YEAREND 2000, THIS MEMO, THESE CONCLUSIONS

1 ARE THE CONCLUSIONS OF ELLIOTT DAVIS?

2 A THIS WOULD OF BEEN A MEMO THAT SUMMARIZES THAT
3 CONCLUSION OF THE AUDIT TEAM AND SO THE YOUNG LADY WHOSE
4 INITIALS ARE KTC, SHE DRAFTED THE MEMO AFTER READING THE
5 CLIENT'S INFORMATION. AS YOU NOTICE, THAT WAS ALSO SIGNED
6 BY CY BURGESS, HE WOULD READ IT NEXT AND THEN AS PART OF
7 THE ENGAGEMENT, I WAS THE THIRD PERSON TO READ THE
8 DOCUMENT.

9 Q AND THE NOTE HERE SAYS, NO, THERE ARE OTHER POSSIBLE
10 FACTORS IN OUR CONSIDERATION OF THE GOING CONCERN THAT ARE
11 EXCLUDED HERE INCLUDING THE POSSIBLE SALE OF CAROLINA
12 INVESTORS, THE SELL OF THE BUILDING THAT IS PAID OFF AND
13 POTENTIAL ACQUISITION OF HOMESENSE. DO YOU SEE THAT?

14 A I SEE THAT, YES.

15 Q WHAT DO YOU RECALL ABOUT DISCUSSIONS WITH MANAGEMENT
16 PRIOR TO MR. SHEPPARD ARRIVING ABOUT THE SALE OF CAROLINA
17 INVESTORS, POSSIBLE SALE OF CAROLINA INVESTORS.

18 A WE WOULD OF GOTTEN THAT INFORMATION FROM THEIR MEMO
19 SO THAT WOULD OF BEEN ONE OF THE ISSUES THAT THEY WOULD OF
20 LAID OUT IN THEIR ANALYSIS OF THE GOING CONCERN ISSUE.

21 Q AND, OF COURSE, POTENTIAL ACQUISITION OF HOMESENSE,
22 THAT IS WHAT ULTIMATELY TRANSPIRED IN THE SPRING OF 2000,
23 CORRECT?

24 A THAT IS CORRECT.

25 Q AND ELLIOTT DAVIS RELIED UPON THESE OTHER POSITIVE

1 FACTORS IN REACHING ITS CONCLUSION THAT THERE NEED BE NO
2 GOING CONCERN PLACED FOR THE YEAREND FINANCIALS OF 1999?

3 A WE RELIED ON A WEALTH OF INFORMATION TO ARRIVE AT
4 THAT CONCLUSION AND THAT IS SOME OF THE TIMES THAT YOU ARE
5 REFERRING TO.

6 Q BUT AGAIN, IT SAYS WHILE HOMEGOLD IS LIKELY TO
7 CONTINUE INCURRING OPERATION LOSSES THROUGH THE COMING
8 YEAR LIQUIDITY APPEARS TO BE ADEQUATE TO CARRY THE COMPANY
9 THROUGH THE NEXT LEVEL. DO YOU RECALL WHERE THAT
10 LIQUIDITY WAS COMING FROM?

11 A IT WAS COMING FROM A SERIES OF ISSUES THAT WAS CASH
12 THAT THEY HAD ON HAND AT THAT POINT AND TIME. IT WOULD
13 COME FROM A COLLECTION OF RECEIVABLES THAT THEY HAD ON
14 THEIR BOOKS AT THAT POINT. THEY ALREADY HAD A WELL
15 DOCUMENTED THREE OR FOUR YEAR HISTORY OF SELLING OFF
16 SUBSIDIARIES SO THERE ARE PROCEEDS THAT WOULD COME FROM
17 THAT. SO, THERE ARE ANY NUMBER OF SOURCES FROM WHICH THEY
18 GOT LIQUIDITY.

19 Q WELL, THE ONLY, AND CAROLINA INVESTORS BEING THE
20 INTER-COMPANY DEBT BEING ONE SOURCE?

21 A THAT WAS ALSO A SOURCE.

22 Q THAT YOU JUST FAILED TO MENTION IN YOUR LITANY OF
23 SOURCES?

24 A I DIDN'T MENTION ANY DEBT INSTRUMENTS IN MY SUMMARY.
25 I MENTIONED ONLY ASSETS.

1 Q WHAT OTHER ASSETS WOULD THERE HAD BEEN TO YOUR
2 KNOWLEDGE BESIDES CAROLINA INVESTORS?

3 A I JUST DESCRIBED A NUMBER OF THOSE, IF YOU CAN GIVE
4 ME THEIR 10K FOR '99 I CAN GIVE YOU SOME OTHERS.

5 Q WELL, BEFORE--

6 MS. EVANS: THE WITNESS JUST ASKED FOR SOMETHING AND
7 I ASK THAT HIM GIVE HIM THAT 10K.

8 THE COURT: WELL, HE MAY BE MOVING TO ANOTHER
9 QUESTION. GO AHEAD, MR. GRIFFIN.

10 Q PRIOR TO JANUARY OF 2000 HOMEGOLD HAD SOLD OFF A
11 NUMBER OF ASSETS, SIGNIFICANTS ASSETS, HAD THEY NOT?

12 A YES, SIR.

13 Q ONE BEING THIS SBA BUSINESS, SMALL BUSINESS
14 ADMINISTRATION LICENCED BUSINESS, CORRECT?

15 A YES.

16 Q AND THAT RAISED SUBSTANTIAL SUMS OF MONEY, DO YOU
17 RECALL HOW MUCH THAT NETTED?

18 A I DO NOT.

19 Q AND THEY SOLD OFF AN AUTOMOBILE LOAN BUSINESS, DO YOU
20 RECALL THAT?

21 A YES, SIR.

22 Q WHAT OTHER BUSINESSES DO YOU RECALL THAT HOMEGOLD
23 SOLD OFF IN 1997, '98?

24 A I DON'T RECALL WHAT THEY SOLD.

25 Q NOW, I THINK YOU ALSO TESTIFIED EARLIER THAT IN '97

1 HOMEGOLD WAS MAKING OR MADE MONEY THAT UNDER MR. MCSHANE
2 GENERATING \$1.1 BILLION DOLLARS IN MORTGAGE ORIGINATIONS
3 ANNUALLY, CORRECT?

4 A YES.

5 Q AND \$1.1 BILLION DOLLARS TRANSLATE TO ABOUT \$70, \$80
6 MILLION DOLLARS A MONTH, I JUST ROUGHED IT, YOU ARE THE
7 ACCOUNTANT?

8 A I DON'T HAVE MY CALCULATOR, SO YOU ARE ON YOUR OWN.

9 Q IF \$80 MILLION A MONTH FOR 10 MONTHS, THAT IS \$800
10 MILLION, THEN WE ARE STILL I GUESS \$300 MILLION SHORT TO
11 GET TO THOSE. SOMEWHERE IN THAT NEIGHBORHOOD?

12 A THAT IS FAIR.

13 Q AND WHEN MR. SHEPPARD COMES ON THE SCENE HOMEGOLD IS
14 GENERATING \$20 MILLION DOLLARS A MONTH ACCORDING TO YOUR
15 GOING CONCERN LIQUIDITY ANALYSIS, THAT HOMEGOLD'S
16 PROJECTED \$21 MILLION DOLLARS A MONTH, RIGHT?

17 A YES.

18 Q AND YOUR COMPANY HAS STRESSED AND MODELED \$18 MILLION
19 DOLLARS A MONTH, RIGHT?

20 A YES.

21 Q AND YOU ALSO EXPLAINED EARLIER THAT MR. MCSHANE'S
22 GROUP, FOR WHATEVER REASON, PARTED WAYS WITH HOMEGOLD AND
23 THAT CAUSED SIGNIFICANT OPERATING ISSUES AT HOMEGOLD, IS
24 THAT FAIR?

25 A THAT IS FAIR.

1 Q BUT HOMEGOLD HAD WRAPPED UP TO THE CAPACITY TO DO
2 \$1.1 BILLION DOLLARS OF MORTGAGE A YEAR AND THAT OVERHEAD,
3 THAT STRUCTURAL OVERHEAD, THAT IT MADE IT DIFFICULT FOR
4 HOMEGOLD TO MAKE A PROFIT WHEN THEY LOST THAT AMOUNT OF
5 VOLUME, RIGHT?

6 A CORRECT.

7 Q SO, MR. MCSHANE LEAVING AND HIS GROUP PULLING OUT AS
8 WELL AS THE MARKET TURN FOR HOMEGOLD, EXCUSE ME, FOR THE
9 SUBPRIME LENDING. THERE IS NO QUESTION THAT IT CREATED
10 DISASTROUS FINANCIAL RESULTS FOR THE COMPANY FROM 1998 AND
11 1999, IS THAT FAIR TO SAY?

12 A YES, SIR.

13 Q AND WHEN MR. SHEPPARD'S TEAM CAME ON YOU UNDERSTOOD
14 THAT DURING THIS LIQUIDITY GOING CONCERN ANALYSIS THAT HE
15 WAS BROUGHT ON TO TURN THAT MORTGAGE BUSINESS AROUND,
16 RETURN THAT ENTITY TO PROFITABILITY, ISN'T THAT RIGHT?

17 A THERE ACTUALLY WAS A GENTLEMAN AFTER MR. MCSHANE, I
18 BELIEVE HIS LAST NAME WAS KESTER, SO THERE WAS ONE
19 GENTLEMAN IN BETWEEN THE HOMESENSE MERGER BUT I DO AGREE
20 WITH YOUR SUMMARY OF WHAT THE INTENT WAS OF ACQUIRING
21 HOMESENSE.

22 Q AND THAT EVEN HOMEGOLD HAD BEEN LOOKING FOR OTHER
23 PARTNERS PRIOR TO MR. SHEPPARD. I THINK YOU SAID
24 YESTERDAY THAT THERE WERE PERHAPS TWO OTHERS PRIOR TO MR.
25 SHEPPARD?

1 A THAT COMMENT YESTERDAY, THERE ARE AT LEAST TWO OTHER
2 SITUATIONS THAT HOMEGOLD MADE US AWARE WHERE THEY HAD
3 ENTERED INTO EARLY DISCUSSIONS ABOUT MERGER ACQUISITIONS.

4 Q AND THAT AT THE END OF THE DAY MR. SHEPPARD COMES ON
5 BOARD IN MAY OR JUNE OF 2000 AS A RESULT OF THE MERGER,
6 ISN'T THAT RIGHT?

7 A I BELIEVE HE CAME ON IN MAY OF 2000, YES.

8 Q IN A YEAR THAT ELLIOTT DAVIS HAD PREDICTED THE
9 COMPANY WOULD LOSE MONEY, REGARDLESS, CORRECT?

10 A OUR ANALYSIS OF THE GOING CONCERN AGREED WITH THEIR
11 BUDGET THAT THEY WOULD LOSE MONEY, YES SIR.

12 Q AND UPON ARRIVING AT HOMEGOLD THERE WERE, HOMEGOLD'S
13 MAIN WAREHOUSE LINE OF CREDIT WAS A COMPANY THAT HAD ITS
14 MAIN WAREHOUSE LINE OF CREDIT WAS STEPPING OUR OR STEPPING
15 DOWN ITS LINE TO HOMEGOLD?

16 A I THINK YOU ARE SPEAKING OF CIT WHICH WAS THEIR MAIN
17 WAREHOUSE LENDER WHICH IS A SOURCE OF FUNDS THAT THEY USED
18 TO FUND THEIR LOAN ORIGINATIONS. AND I BELIEVE I HAVE
19 READ AND IT WAS DISCUSSED BACK AT THAT POINT THAT CIT DID
20 NOT AGREE WITH THE HOMESENSE MERGER, I AM NOT SO SURE IT
21 WAS HOMESENSE SPECIFICALLY OR IT WAS ANY MERGER. BUT I
22 BELIEVE THEY INFORMED MANAGEMENT THAT THEY WERE GOING TO
23 DECREASE THAT WAREHOUSE LINE OVER A PERIOD OF TIME.

24 Q AND AT THE BEGINNING OF THE YEAR, DURING THE GOING
25 CONCERN ANALYSIS ONE OF THE ISSUES THAT YOU LOOKED AT WAS

1 LIQUIDITY FOR HOMEGOLD AND THAT WAREHOUSE LINES WOULD BE
2 ONE OF THE LIQUIDITY, SOURCES OF LIQUIDITY FOR THE
3 COMPANY, CORRECT?

4 A YES, SIR.

5 Q THAT WAS A \$100 MILLION DOLLAR WAREHOUSE LINE, WAS IT
6 NOT?

7 A YES.

8 Q IN THE THIRD QUARTER OF 2000 HOMEGOLD MANAGEMENT
9 TAKES IN THEIR QUARTERLY 10Q'S, THEY TAKE THE OPPORTUNITY
10 TO INCREASE THIS DEFERRED TAX ASSET, DO YOU RECALL THEM
11 DOING THAT?

12 A YES, SIR.

13 Q AND DO YOU RECALL THAT BEFORE HOMEGOLD MANAGEMENT
14 TOOK THE OPPORTUNITY TO INCREASE THE DEFERRED TAX ASSETS
15 THAT THERE WERE DISCUSSIONS AMONGST ELLIOTT DAVIS
16 PERSONNEL INCLUDING YOURSELF, MAYBE NOT, MR. BURGESS AND
17 OTHERS AT HOMEGOLD. DO YOU RECALL THAT THERE WAS BACK AND
18 FORTH DISCUSSIONS REGARDING THAT?

19 A YES, SIR.

20 Q AND AS A RESULT OF THAT GIVE AND TAKE THE DOLLAR
21 AMOUNT OF THE DEFERRED TAX ASSET WAS INCREASED FROM
22 ROUGHLY \$10 MILLION TO \$22 MILLION DOLLARS IN THE THIRD
23 QUARTER OF 2002, RIGHT?

24 A I RECALL THE INCREASE. AS WE DISCUSSED YESTERDAY I
25 CAN'T SAY THAT HAPPENED IN THE THIRD QUARTER BUT I AM

1 AWARE THAT IT HAPPENED IN 2000.

2 Q WOULD THE THIRD QUARTER Q HELP YOU?

3 A YES, SIR.

4 Q I WILL ASK YOU TO TELL US, THIS IS DEFENDANT'S
5 EXHIBIT NUMBER 10, IS THAT A Q FOR 2000?

6 A THIS IS ACTUALLY THE THIRD QUARTER OF '99.

7 Q OKAY. IS THAT THE THIRD QUARTER Q?

8 A YES SIR, IT IS.

9 Q AND IF YOU WOULD TELL US WHETHER THE NOL, THE
10 DEFERRED TAX ASSET, WAS IT INCREASED IN THE THIRD QUARTER?

11 A IT LOOKS LIKE THE DOCUMENT THAT THE INCREASE OCCURRED
12 IN THE THIRD QUARTER.

13 Q AND IS THERE A NOTE TO THE FINANCIALS EXPLAINING THE
14 INCREASE?

15 A THAT MAKES IT A LITTLE DIFFICULT TO COME TO A
16 CONCLUSION. THERE IS A 10Q, SOMETIMES THEY HAVE NOTES,
17 THEY USUALLY HAVE MD&A, MANAGEMENTS DISCUSSIONS AND
18 ANALYSIS. SO, IT IS JUST A NARRATIVE ABOUT WHAT YOU SEE
19 IN THE FINANCIAL STATEMENTS. THERE IS A TAX CONSIDERATION
20 SECTION AND IT TALKS ABOUT THE \$22 MILLION DOLLARS TAX
21 ASSET, IT DOESN'T SAY SPECIFICALLY THAT IT OCCURRED BUT
22 LOOKING AT SOME OTHER NUMBERS IN HERE IT LOOKS LIKE IN THE
23 THIRD QUARTER IS WHEN THEY POSTED THAT.

24 Q AND RHONDA JOHNSON WAS THE CFO AT THE TIME?

25 A WE CLOSED THE 2000 AUDIT WITH RHONDA JOHNSON AS THE

1 CFO.

2 Q AND YOU SAID EARLIER THAT SHE REFUSED TO SIGN THE
3 2000 10K, CORRECT?

4 A IF MY MEMORY IS CORRECT, YES.

5 Q YOU CHARACTERIZED MR. MAST AS SOMEONE WITH EXTREME
6 TALENT LEVEL AND MS. JOHNSON'S BACKGROUND, SHE HAD NOT HAD
7 ANY EXPERIENCE IN A PUBLIC COMPANY, HAD SHE?

8 A SHE WORKED FOR A PUBLIC COMPANY BUT AS I RECALL HER
9 RESUME, NOT IN THE CFO ROLE.

10 Q BUT AT THE ~~END~~ END OF THE YEAR FOR THE 10K THAT WAS FILED
11 BY HOMEGOLD ELLIOTT DAVIS GAVE A CLEAN BILL OF HEALTH, IF
12 YOU WILL, ON FINANCIALS THROUGH ITS UNQUALIFIED AUDIT
13 OPINION?

14 A FOR THE YEAREND 2000, YES.

15 Q AND THERE WERE NO ISSUES THAT HAD TO BE TAKEN TO THE
16 AUDIT COMMITTEE OR NO DISPUTES WHERE ELLIOTT DAVIS GOT TO
17 THE POINT WHERE THEY HAD THREATENED TO WALK AWAY OR
18 ANYTHING LIKE THAT FOR THE YEAR OF 2000?

19 A NOT IN RELATIONSHIP TO THE TYPES OF DISCUSSIONS THAT
20 WE HAD FOR 2001, THAT IS CORRECT.

21 Q YOU MENTIONED ON DIRECT THAT THERE WAS DISCUSSION
22 ABOUT MANAGEMENT, THAT MANAGEMENT WANTED TO TAKE THAT
23 DEFERRED TAX ASSET ALL THE WAY UP TO ITS MAXIMUM POTENTIAL
24 WHICH YOU PUT OUT A NUMBER OF \$50 MILLION BUT YOU ARE NOT
25 SURE IF THAT IS EXACTLY THE NUMBER BUT IT IS A LARGE

1 NUMBER?

2 A I WAS NOT SURE OF THE NUMBER, READING THAT DOCUMENT I
3 JUST LOOKED AT THE NUMBER, I SAID \$50 MILLION YESTERDAY,
4 ACCORDING TO THAT DOCUMENT THE NUMBER IS ACTUALLY \$32
5 MILLION.

6 Q NOW, DO YOU RECALL WHO IN MANAGEMENT IS HAVING THESE
7 DISCUSSIONS, WHO AT ELLIOTT DAVIS ABOUT HOW FAR TO TAKE
8 THE NOL?

9 A MR. SHEPPARD WAS INVOLVED IN THOSE CONVERSATIONS.

10 Q DID YOU HAVE A CONVERSATION WITH MR. SHEPPARD ABOUT
11 THE NOL?

12 A YES, I DID.

13 Q WHO ELSE WAS INVOLVED IN THE CONVERSATION?

14 A THERE WAS A GROUP OF PEOPLE, THEIR INSIDE LEGAL
15 COUNSEL WAS IN ONE OF THE MEETINGS THAT I RECALL. I
16 BELIEVE THE OTHER CFO THAT WE MENTIONED YESTERDAY, LARRY
17 GOSNELL WAS IN THAT CONVERSATION, FORREST FERRELL SAT IN
18 THAT CONVERSATION.

19 Q JACK STERLING?

20 A I THINK JACK STERLING DID ATTEND ONE OF THOSE
21 MEETINGS.

22 Q WAS MR. PHILPOTT WHO WAS ON THE AUDIT COMMITTEE, WAS
23 HE IN THAT CONVERSATION?

24 A I DON'T RECALL MR. PHILPOTT BEING IN ON A
25 CONVERSATION WITH THE DEFERRED TAX BUT I DON'T RECALL, IT

1 DOESN'T MEAN THAT HE WAS OR WASN'T.

2 Q MR. TEE HOOPER, WAS HE INVOLVED IN THAT CONVERSATION?

3 A I BELIEVE HE WAS NOT.

4 Q AND THE AUDIT FIRM REPORTS TO THE AUDIT COMMITTEE, IF
5 YOU WILL?

6 A WE ARE ENGAGED BY AND REPORT DIRECTLY TO THE AUDIT
7 COMMITTEE, YES.

8 Q NOW, MOVING TO THE ISSUE OF 2001, THE ACCOUNTING
9 TREATMENT THAT ELLIOTT DAVIS DISAGREED WITH WAS TAKING
10 THESE PREPAID MARKETING EXPENSES AND EXTENDING THE LIFE ON
11 ITS BOOKS, CAPITALIZING THEM, IF YOU WILL. IS THAT
12 CORRECT?

13 A THOSE ARE ONE OF THE ISSUES THAT WE DISAGREED WITH,
14 YES.

15 Q AND IN 2001, WHAT WERE THE OTHER ISSUES THAT YOU
16 DISAGREED WITH?

17 A THE VALUE WHICH THEY HAD THE RESIDUALS RECORDED.
18 THEIR POSITION ON THE GOING CONCERN, THEIR POSITION ON
19 GOODWILL, THEIR POSITION ON THE DEFERRED TAX ASSET.

20 Q LET'S GO TO THE TREATMENT OF THE PREPAID MARKETING
21 EXPENSES AND IN THAT ISSUE DO YOU RECALL AND I THINK YOU
22 SAID THAT KEVIN MARTIN, THIS IS A DIFFERENT KEVIN THAN
23 KEVIN MAST. BUT KEVIN MARTIN WAS CFO AT THE TIME?

24 A YES, THAT WAS IN THE THIRD QUARTER OF 2001.

25 Q AND HE IS A CPA, IS HE NOT?

1 A HE USED INITIALS SO I ASSUME HE WAS.

2 Q DO YOU KNOW IF HE CAME FROM A BANKING BACKGROUND?

3 A I DO NOT RECALL HIS BACKGROUND.

4 Q AND THEN UNDER MR. MARTIN IN THE ACCOUNTING
5 DEPARTMENT WAS SHANE SMITH AND HE IS RIGHT UNDER MR.
6 MARTIN, CORRECT?

7 A I BELIEVE THAT WAS HIS PRIMARY SECOND PERSON, YES.

8 Q AND MR. MARTIN WROTE A POSITION PAPER AS CFO OF THE
9 COMPANY EXPLAINING THE COMPANIES POSITION WHY THE TAX
10 TREATMENT OF THESE PREPAID MARKETING EXPENSES SHOULD BE AS
11 THE COMPANY REQUESTED, DID HE NOT?

12 A HE WROTE A POSITION PAPER ABOUT THE ACCOUNTING
13 TREATMENT, ACCOUNTING, YOU SAID TAX.

14 Q I APOLOGIZE, THE ACCOUNTING TREATMENT OF THESE
15 PREPAID MARKETING EXPENSES?

16 A YES.

17 Q AND IT WAS HIS POSITION AS A CPA AND CFO OF THE
18 COMPANY THAT THESE, THAT THIS WAS A LEGITIMATE ACCOUNTING
19 TREATMENT FOR THESE PREPAID MARKETING EXPENSES?

20 A HIS PAPER TOOK THAT POSITION, YES.

21 Q AND AS YOU RECALL THESE DISCUSSIONS OF MR. SHANE
22 SMITH, ALSO A CPA, SUPPORTED THAT DECISION?

23 A I PERSONALLY DID NOT HAVE A CONVERSATION WITH SHANE
24 ON THAT ISSUE BUT I DID, WAS INVOLVED WITH KEVIN MARTIN.
25 SO, I DON'T KNOW WHETHER SHAWN AGREED WITH THAT OR NOT.

1 Q SHANE.

2 A SHANE, I AM SORRY.

3 Q AND THAT WAS IN THE THIRD QUARTER OF 2001 AND I AM
4 GOING TO ASK YOU TO LOOK AT THE THIRD QUARTER 2001 Q, JUST
5 TO VERIFY, AND THAT IS EXHIBIT 16. AND THAT IT WAS, THAT
6 WAS IN THE THIRD QUARTER Q?

7 A THAT IS IN THIS THIRD QUARTER 2001 Q.

8 Q AND ONCE AGAIN, IN THE THIRD QUARTER 2001 Q THERE IS
9 AN EXPLANATION OF THE CHANGE IN THE ACCOUNTING TREATMENT,
10 IS THERE NOT?

11 A THERE IS.

12 Q YOU HAVE THAT IN FRONT OF YOU?

13 A I DO.

14 Q THIS IS THE YEAR THAT AS A RESULT OF THIS ACCOUNTING
15 CHANGE HOMEGOLD REPORTED A PROFIT FOR THE QUARTER,
16 CORRECT?

17 A I DIDN'T LOOK AT WHETHER THEY DID.

18 Q WE TESTIFIED ABOUT THAT YESTERDAY, THAT BECAUSE OF
19 THIS ACCOUNTING CHANGE HOMEGOLD REPORTED A PROFIT FOR THE
20 QUARTER. DO YOU RECALL TESTIFYING ABOUT THAT?

21 A IF I AGREED WITH THE STATEMENT THAT WAS MADE, I WOULD
22 LIKE TO SEE THAT AND I CAN TELL YOU WHETHER THAT IS TRUE
23 OR NOT, I BELIEVE IT IS.

24 Q SO, YOU DISAGREED WITH WHAT SHE ASKED WITHOUT KNOWING
25 FOR SURE, IS THAT WHAT YOU ARE TELLING US?

1 A NO, MY RECOLLECTION IS IT WAS PROFIT FOR THE QUARTER.

2 Q AND THAT YOUR TESTIMONY WAS THAT THESE FINANCIALS OUT
3 THERE WERE SITTING THERE WITH PEOPLE TO BELIEVE THAT THEY
4 MADE A PROFIT DURING THE QUARTER UNTIL ELLIOTT DAVIS CAME
5 AND CORRECTED THAT AT THE END OF THE YEAR. THAT WAS YOUR
6 LINE OF TESTIMONY, DO YOU RECALL THAT?

7 A WE DIDN'T ACTUALLY CORRECT IT AT THE END OF THE YEAR,
8 THEY REVERSED THEIR POSITION AND WHEN WE RECEIVED THEIR
9 YEAREND FINANCIAL STATEMENT FOR '01, THAT POSITION WAS NOT
10 IN THERE.

11 Q BUT IN THE SAME FINANCIALS YOU WOULD AGREE THAT THERE
12 IS A NOTE EXPLAINING THIS CHANGE IN THE ACCOUNTING
13 TREATMENT, IS THERE NOT?

14 A IN THAT 10Q THERE IS AN EXPLANATION, YES SIR.

15 Q THIS IS A 10Q THAT WE ARE TALKING ABOUT WHERE AS A
16 RESULT OF THIS ACCOUNTING CHANGE HOMEGOLD REPORTED A
17 PROFIT THAT YOU AGREED WITH THE PROSECUTOR YESTERDAY?

18 A THAT IS THE 10Q, YES SIR.

19 Q SO, NOTE TWO SAYS IN SEPTEMBER OF 2001 THE COMPANY
20 CAPITALIZED COST RELATING TO THE DEVELOPMENT OF ITS
21 PROPRIETARY LEADS DATA BASE WHICH WAS RECORDED AS A
22 TANGIBLE ASSET WHICH HAS AN INITIAL LIFE OF 24 MONTHS.
23 AND IT SAYS PRIOR TO THIS THE COMPANY DEFERRED MOST
24 MARKETING EXPENDITURES OVER SIX MONTHS OF REFERRAL PERIOD.
25 CAN YOU EXPLAIN TO US, YESTERDAY YOU INDICATED THAT THEY

1 WERE EXPENSING IT MONTHLY AND THIS SAYS THAT PRIOR TO THIS
2 THEY WERE DEFERRING IT FOR SIX MONTHS. IS YOUR TESTIMONY
3 THE SAME AS WHAT THEY ARE SAYING HERE OR IS THERE
4 SOMETHING DIFFERENT?

5 A NO, MY RECOLLECTION YESTERDAY WAS THE TIME FRAME
6 CHANGE WAS INCORRECT, THAT IS THE CORRECT CHANGE.

7 Q SO, THEY WERE DEFERRING FOR SIX MONTHS UNDER ELLIOTT
8 DAVIS', UNDER THE FINANCIALS THAT WERE GIVEN AN
9 UNQUALIFIED OPINION BY ELLIOTT DAVIS, PREVIOUSLY, CORRECT?

10 A IN 1999 WOULD OF BEEN THE LAST TIME WE HAD OPINED ON
11 THAT, ACTUALLY 2000 WOULD OF BEEN THE LAST TIME WE AGREED
12 WITH THIS SIX MONTH DEFERRAL, YES.

13 Q AND WHAT YOU ARE TALKING ABOUT IS STRETCHING OUT THAT
14 DEFERRAL FROM SIX MONTHS TO TWENTY FOUR MONTHS AND THIS
15 NOTE SAYS, THE CHANGE, BY CAPITALIZING THOSE COST, THAT
16 \$3.3 MILLION WHICH HAD BEEN EXPENSED DURING THE FINAL FIVE
17 MONTHS OF 2000 WOULD CAPITALIZE. AND THEN IT GOES ON TO
18 EXPLAIN WHAT THE ACCOUNTING EFFECT OF THOSE CHANGES WAS,
19 DOES IT NOT. BUT IT HAS GOT WHAT THE DIFFERENCE, THE
20 ACCOUNTING DIFFERENCE?

21 A YES.

22 Q IT KEEPS EXPLAINING ON PAGE 14, THE NEXT PAGE,
23 CORRECT. BUT THERE IS AN EXPLANATION IN THE 10Q AS TO
24 WHAT DIFFERENCE THIS ACCOUNTING CHANGE MAKES, CORRECT?

25 A THERE IS ONE, YES.

1 Q NOW, THE 10Q IS NOT REQUIRED TO BE AUDITED BUT IT IS
2 REQUIRED TO BE SIGNED OFF ON, CORRECT, BY OFFICERS OF THE
3 COMPANY, CORRECT?

4 A CORRECT.

5 Q NOW, THIS 10Q THAT YOU TALKED ABOUT YESTERDAY IS
6 SIGNED BY MR. SHEPPARD, AS CHIEF EXECUTIVE OF HOMEGOLD,
7 CORRECT?

8 A YES.

9 Q SIGNED BY FORREST FERRELL WHO ON THE NEXT PAGE
10 IDENTIFIES HIMSELF AS THE PRESIDENT OF HOMEGOLD, CORRECT?

11 A YES.

12 Q AND IT IS SIGNED BY KEVIN MARTIN, THE CHIEF FINANCIAL
13 OFFICER OF HOMEGOLD, DOES IT NOT?

14 A YES.

15 Q AND HE IS THE ONE THAT CARRIES A C, AND A P, AND AN A
16 AFTER HIS NAME, CORRECT?

17 A HE APPARENTLY DOES, YES.

18 Q NOW, AT THE END OF THE, AT THE END OF YEAR OF 2001
19 THAT IS WHEN, GOES BACK AND DOES ANOTHER GOING CONCERN
20 ANALYSIS, CORRECT?

21 A YES.

22 Q BUT BEFORE I GET TO THAT, FOR THE END OF THE YEAR
23 2000 WHICH WOULD HAVE BEEN IN EARLY 2001 ELLIOTT DAVIS DID
24 A GOING CONCERN ANALYSIS FOR THAT YEAR, THE 2000 YEAR,
25 CORRECT?

1 A YES.

2 Q IN 1998 YOU DID A GOING CONCERN ANALYSIS, IN 1999 YOU
3 DID A GOING CONCERN ANALYSIS, AT THE END OF 2001 YOU DID A
4 GOING CONCERN ANALYSIS, WAS GOING CONCERN WAS PLACED IN.
5 I AM GOING BACK TO THE INTERIM YEAR OF 2000 AND IN THE
6 SPRING OF 2001 YOU DID A GOING CONCERN ANALYSIS?

7 A YES.

8 Q I AM GOING TO SHOW YOU DEFENDANT'S EXHIBIT NUMBER 2
9 AND ASK DO YOU RECOGNIZE THIS DOCUMENT AS A MEMO OF THE
10 COMPANIES, ISSUE PERTAINING TO HOMEGOLD?

11 A I RECOGNIZE IT, YES.

12 MR. GRIFFIN: YOUR HONOR, I WOULD LIKE TO MOVE
13 EXHIBIT 2 IN EVIDENCE AT THIS TIME?

14 THE COURT: ANY OBJECTION.

15 MS. EVANS: NO OBJECTION.

16 THE COURT: DEFENDANT'S 2 IS ADMITTED.

17 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 2 WAS ADMITTED
18 INTO EVIDENCE.)

19 Q I AM NOT GOING TO SPEND MUCH TIME ON IT, MR. RANK,
20 THAT IS AN ANALYSIS THAT YOUR FIRM WENT THROUGH TO
21 DETERMINE AT THE END OF THE YEAR OF 2000, BASED ON THE
22 RESULTS OF 2000 WHETHER THE COMPANY WAS GOING TO PUT A
23 GOING CONCERN ON THE FINANCIALS, CORRECT?

24 A YES.

25 Q AND AS A RESULT OF THAT ANALYSIS, YOUR FIRM CHOSE