

Appendix

Vol II

1 NOT, DETERMINED BY THE GENERALLY ACCEPTING ACCOUNTING
2 PRINCIPLES DID NOT REQUIRE SUCH A GOING CONCERN
3 QUALIFICATION?

4 A THE COMPANY HAD ARRIVED AT THAT CONCLUSION AND WE
5 AGREED WITH THAT.

6 Q AND THEN FOR THE YEAREND 2001 YOUR FIRM DID ONCE
7 AGAIN DO ANOTHER GOING CONCERN ANALYSIS IN THE SPRING OF
8 2002 FOR HOMEGOLD, CORRECT?

9 A CORRECT.

10 Q AND IN PREPARATION OF THAT YOU HAD A MEETING WITH MR.
11 SHEPPARD, MR. SHANE SMITH, KEVIN MARTIN, CY BURGESS AND
12 OTHERS DOWN IN COLUMBIA, SORT OF GETTING READY FOR THE
13 ISSUES ADVISING THE COMPANY MANAGEMENT OF WHAT ISSUES
14 NEEDED TO BE ADDRESSED AND GOING CONCERN WAS PART OF IT?

15 A WE HAD A SERIES OF MEETINGS WITH THEM AND I THINK YOU
16 ARE DESCRIBING ONE OF THEM.

17 Q AND THE IMPAIRMENT OF THE ISSUE, THE ISSUE OF
18 IMPAIRING THE DEBT BETWEEN CAROLINA INVESTORS AND HOMEGOLD
19 FINANCIAL GUARANTEED BY HOMEGOLD, INC., THAT WAS AN ISSUE
20 ON THE TABLE AS WELL?

21 A YES.

22 Q AND YOUR COMPANY HAD SUGGESTED THAT HOMEGOLD NEEDED
23 TO GET AN INDEPENDENT VALUATION COMPANY TO EVALUATE, PUT A
24 VALUE ON THE BUSINESS, THE MORTGAGE BUSINESS?

25 A THE RETAIL MORTGAGE DIVISION, YES.

1 Q THANK YOU, THE RETAIL MORTGAGE DIVISION, RIGHT?

2 A CORRECT.

3 Q THAT IS WHAT WAS BEING VALUED BY CBIZ AS WELL AS
4 BEING VALUED BY DELOITTE AND TOUCHE, CORRECT?

5 A YES.

6 Q THAT IS THE SAME RETAIL MORTGAGE DIVISION THAT IS
7 BEING DISCUSSED ABOUT IN THE PRESS RELEASE THAT WAS
8 INTRODUCED DURING YOUR TESTIMONY, CORRECT?

9 A I THINK YOU ARE SPEAKING OF THE FIRST QUARTER, '02,
10 PRESS RELEASE AND THEIR DISCUSSION ABOUT A PROFITABLE--

11 Q RETAIL MORTGAGE DIVISION?

12 A YES, TALKING ABOUT THE SAME THING.

13 Q TALKING ABOUT THE SAME THING. NOW, YOU GAVE THEM A
14 TIME FRAME, WE NEED THIS VALUATION DONE BY A CERTAIN
15 PERIOD OF TIME. AND THE COMPANY INITIALLY CONTACTED
16 RAYMOND JAMES FOR THAT PURPOSE, CORRECT?

17 A THAT IS OUR UNDERSTANDING, YES.

18 Q AND THAT RAYMOND JAMES WAS THE INVESTMENT FIRM THAT
19 HAD DONE THE \$125 MILLION DOLLAR OFFERING, TO RAISE \$125
20 MILLION DOLLARS IN PROCEEDS LESS TRANSACTIONAL COST FOR
21 HOMEGOLD BACK IN THE LATE 90'S, CORRECT?

22 A ACTUALLY I THOUGHT THAT WAS PRUDENTIAL SECURITIES SO
23 I DON'T KNOW IF THAT IS CORRECT.

24 Q BECAUSE OF RAYMOND JAMES WHO HAD A MEMBER ON THE
25 BOARD OF HOMEGOLD, THEY EVENTUALLY SAID WE CANNOT DO IT

1 AND YOU NEED TO GO GET SOMEONE ELSE?

2 A RAYMOND JAMES, WE UNDERSTAND EVENTUALLY ARRIVED AT
3 THAT CONCLUSION THAT THEY SHARED WITH MR. SHEPPARD.

4 Q SO, THERE WAS SOME DELAY, A FALSE START IF YOU WILL,
5 WITH GOING WITH THE RAYMOND JAMES, FAIR ENOUGH?

6 A THAT IS FAIR.

7 Q AND SUBSEQUENTLY CBIZ WAS RETAINED BY HOMEGOLD
8 MANAGEMENT TO DO A VALUATION OF THE RETAIL MORTGAGE
9 DIVISION, CORRECT?

10 A YES.

11 Q AND ARE YOU AWARE OF ANY PRIOR RELATIONSHIP BETWEEN
12 HOMEGOLD AND CBIZ, WHATSOEVER?

13 A I DO NOT KNOW.

14 Q AND DURING THESE DISCUSSIONS THAT WERE HAD THAT MR.
15 MARKEL AND OTHERS FROM ELLIOTT DAVIS WERE CRITICAL OF, THE
16 METHODOLOGY THAT WAS USED BY CBIZ, WAS THERE ANYTHING THAT
17 WAS SURFACED THAT THERE WAS SOMETHING OTHER THAN A, SOME
18 PRIOR RELATIONSHIP BETWEEN THE TWO ENTITIES?

19 A I AM NOT AWARE OF THAT.

20 Q BUT YOUR FIRM TESTED IT AND DETERMINED THAT THE
21 METHODOLOGY WAS NOT CORRECT, WAS NOT CONCERNED WITH THE
22 NUMBER, AS I UNDERSTAND YOUR TESTIMONY YESTERDAY?

23 A THAT IS CORRECT.

24 Q EVEN THOUGH THE NUMBER CAME OUT TO BE SOME \$160 TO
25 \$170 MILLION DOLLARS FOR THE RETAIL MORTGAGE DIVISION,

1 THAT IS WHAT YOU UNDERSTOOD AS FOR THAT CBIZ REPORT?

2 A YES.

3 Q SUBSEQUENTLY DELOITTE AND TOUCHE CAME OUT AND GOT
4 INVOLVED AND IN THIS INSTANCE, BECAUSE WE HAD A FALSE
5 START, WE HAD A CBIZ VALUATION AND THEN WE HAD DELOITTE
6 TOUCHE, YOU WERE ABLE TO INTERACT WITH DELOITTE AND TOUCHE
7 DURING THE PROCESS OR ON THE FRONT END TO BE SURE THAT THE
8 METHODOLOGY THAT DELOITTE AND TOUCHE EMPLOYEES WOULD NOT
9 BE LATER CRITICIZED BY ELLIOTT DAVIS?

10 A THE ONLY INTERACTION WE HAD WITH DELOITTE AND TOUCHE,
11 AT THE TIME OF THEIR ENGAGEMENT WAS, WE WERE READ
12 DELOITTE'S ENGAGEMENT LETTER TO HOMEGOLD MANAGEMENT AND
13 JOHN MARKEL WHO IS OUR VALUATION EXPERT COMMENTED ABOUT
14 DELOITTE'S ENGAGEMENT LETTER.

15 Q AND BUT YOUR FIRM ACCEPTED THE DELOITTE AND TOUCHE
16 APPRAISAL FOR PURPOSES OF DETERMINING WHAT DOLLAR AMOUNT
17 TO IMPAIR THE DEBT FROM HOMEGOLD TO CAROLINA INVESTORS?

18 A WE AUDITED THEIR VALUATION, WE AGREED WITH THE
19 METHODOLOGY THAT THEY USED IN ARRIVING AT THE AMOUNTS.

20 Q AND THEN THAT IMPAIRMENT REDUCTION WAS ROUGHLY \$6 AND
21 A HALF MILLION DOLLARS, DO YOU RECALL THAT?

22 A THAT SOUNDS CORRECT, YES.

23 Q AND THE TOTAL LOAN AMOUNT AT THE TIME WAS \$144
24 MILLION DOLLARS AT THE YEAREND OF 12/31/2000?

25 A 12/31/01 I THINK--

1 Q I AM SORRY, 12/31/01.

2 A YOUR NUMBERS ARE CORRECT.

3 Q YOUR FIRM DOES ANOTHER GOING CONCERN ANALYSIS AND
4 THERE IS AN INTERNAL MEMO THAT IS PREPARED ADDRESSING THE
5 GOING CONCERN ANALYSIS IN THE SPRING OF 2002 FOR THE 2001
6 AUDIT, CORRECT?

7 A YES.

8 Q AND DEFENSE EXHIBIT 3, IS THAT THE MEMO THAT WAS
9 PREPARED ADDRESSING THIS ISSUE?

10 A THIS IS AN INTERNAL MEMO THAT WE ACTUALLY SENT TO THE
11 EXECUTIVE COMMITTEE OF THE FIRM AT THAT POINT, BECAUSE WE
12 HAD MADE A DECISION BY THAT POINT.

13 MR. GRIFFIN: YOUR HONOR, I WOULD LIKE TO MOVE
14 DEFENDANT'S EXHIBIT NUMBER 3 INTO EVIDENCE.

15 MS. EVANS: NO OBJECTION.

16 THE COURT: DEFENDANT'S 3 IS ADMITTED.

17 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 3 WAS ADMITTED
18 INTO EVIDENCE.)

19 Q IT SAYS TO GARRY RANK FROM CY BURGESS AND THAT IS
20 YOUR AUDIT MANAGER, IF YOU WILL, THE ONE WORKING UNDER YOU
21 FOR HOMEGOLD, CORRECT?

22 A HE IS A SENIOR MANAGER AT THE FIRM, YES.

23 Q AND THE MEMO IS, IT ADDRESSES THE GOING CONCERN
24 ANALYSIS. BASICALLY THE CONCLUSION IS THAT BECAUSE OF
25 THESE ISSUES THE TIME HAS NOW COME TO ISSUE A GOING

1 CONCERN ANALYSIS, I MEAN A GOING CONCERN OPINION?

2 A THE COMPANY HAD TAKEN A POSITION IN 2001 THAT GOING
3 CONCERN WAS NOT REQUIRED AND WE DISAGREED WITH THAT AND
4 THIS SUMMARIZES OUR FACT PATTERNS AS TO WHY WE DISAGREED
5 WITH THAT.

6 Q AND I THINK YOU MENTIONED EARLIER THAT THIS WAS
7 SERIOUS BUSINESS, PUTTING A GOING CONCERN QUALIFICATION ON
8 THE BOOKS, FROM HOMEGOLD TO CAROLINA INVESTORS, CORRECT?

9 A IF YOU ARE AN ACCOUNTANT IT IS JUST PART OF OUR
10 ACCOUNTING LITERATURE. BUT THE OUTSIDE WORLD, THOSE WHO
11 USE FINANCIAL STATEMENTS AND THOSE WHO PURCHASE AUDITED
12 FINANCIAL STATEMENTS, GOING CONCERN IS A HIGHLY VOLATILE
13 ISSUE.

14 Q AND IN FACT THE, THE FACT OF PUTTING A GOING CONCERN
15 IN THE FINANCIALS, ADD SIGNIFICANT ADVERSE CONSEQUENCES
16 TO, NOT ONLY CAROLINA INVESTORS ABILITY TO REREGISTER AND
17 SELL SECURITIES BUT HOMEGOLD'S ABILITY TO OPERATE IN ITS
18 LENDING MARKET THROUGH OBTAINING CREDIT FROM WAREHOUSE
19 LENDERS?

20 A IN THE REALM OF ALL THINGS THAT COULD HAPPEN, IF YOU
21 ISSUE GOING CONCERN, THOSE ARE SOME OF THE POTENTIAL
22 RAMIFICATIONS THAT COULD OCCUR.

23 Q AND IN THE CONCLUSIONS, IN THE RISK EVALUATIONS ON
24 THIS DOCUMENT, AND I WOULD LIKE YOU, CAN YOU READ IT FROM
25 BACK THERE.

1 A I THINK I CAN.

2 Q CAN YOU READ THE FIRST PARAGRAPH TO THE JURY?

3 A RIGHT UNDER RISK EVALUATION?

4 Q YES.

5 A THE CONDITIONS NOTE ABOVE CREATE RISK THAT THE FIRM
6 COULD BE INVOLVED IN A CLASS ACTION LAWSUIT IN THE EVENT
7 THAT THE DEBENTURES ARE NOT REPAYED. THE RISK EXIST BOTH
8 IF WE ISSUE A GOING CONCERN OPINION AS WELL AS IF WE ISSUE
9 AN OPINION SILENT AS TO GOING CONCERN UNCERTAINTIES. THE
10 GOING CONCERN OPINION COULD CREATE ENOUGH INTEREST THAT
11 THE DEBENTURE HOLDERS RUSH TO CASH OUT THEIR DEBENTURES
12 UPON MATURITY. IN FACT, THE GOING CONCERN OPINION COULD
13 HASTEN THE VERY RUSH TO CASH OUT THAT COULD BANKRUPT THE
14 COMPANY.

15 Q SO, CERTAINLY YOUR FIRM, AS PART OF THIS
16 CONSIDERATION OF GIVING A GOING CONCERN CONSIDERED ITS
17 EXPOSURE TO LIABILITY FROM A CLASS ACTION LAWSUIT, ISN'T
18 THAT FAIR?

19 A WELL, IT ACTUALLY HAD BEEN A TWO STEP DECISION. IF
20 YOU LOOK AT THE MEMO THERE ARE VARIOUS HEADINGS IN THERE
21 AND THAT MEMO WAS ADDRESSED TO OUR EXECUTIVE COMMITTEE
22 WHICH IS OUR GOVERNING BODY. SO, WHAT WOULD OCCUR WAS
23 FIRST, BASED UPON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES
24 WE MADE A CONCLUSION THAT WAS DIFFERENT THAN THE COMPANY
25 THAT A GOING CONCERN OPINION NEEDED TO BE PUT IN THERE.

1 NOW, THAT WE HAVE MADE THAT DECISION WE WERE GOING THROUGH
2 AND ANALYZING WHAT THE IMPACT OF THAT COULD BE SO WE HAD
3 TAKEN A SECOND STEP. WOULD WE HAVE CONSIDERED THE RISK AT
4 THE FIRM ABOUT WHETHER TO ISSUE A GOING CONCERN OPINION OR
5 NOT, WHILE WE WERE GOING THROUGH OUR TECHNICAL LITERATURE,
6 THE ANSWER IS NO.

7 Q AND THEN YOU HAVE HAD, YOU WERE ASKED ABOUT
8 DEFENDANT'S EXHIBIT 62 WHICH IS, EXCUSE ME, STATE'S
9 EXHIBIT 62 WHICH IS IN EVIDENCE, WHICH IS A LETTER DATED
10 APRIL 3RD OF 2002 TO THE OFFICE OF THE SOUTH CAROLINA
11 ATTORNEY GENERAL IN REFERENCE TO CAROLINA INVESTORS. AND
12 YOU WERE READ A PARAGRAPH OF THAT LETTER, DO YOU RECALL
13 THAT TESTIMONY YESTERDAY?

14 A I DO, YES.

15 Q AND THIS LETTER, WAS YESTERDAY THE FIRST TIME THAT
16 YOU HAD SEEN THE LETTER?

17 A NO, I HAVE SEEN THAT LETTER BEFORE.

18 Q WAS THAT LETTER PROVIDED TO THE COMPANY DURING ITS
19 ONGOING REPRESENTATION OF HOMEGOLD?

20 A NO, IT WAS NOT.

21 Q THE LETTER THAT IS SIGNED, ON PAGE TWO OF THIS
22 DOCUMENT IT IS SIGNED BY THE BOARD OF CAROLINA INVESTORS,
23 LARRY OWEN, EARLE MORRIS, JOHN STERLING, DON BOBO AND
24 DANNY SHARPE. AND MR. SHEPPARD, ON THE SECOND PAGE MR.
25 SHEPPARD'S NAME IS MISSING RIGHT, A SIGNATURE FOR MR.

1 SHEPPARD IS MISSING?

2 A ON THAT PAGE IT IS, YES.

3 Q AND THEN THERE IS A COPY OF THE LETTER WITH A
4 SIGNATURE ABOVE MR. SHEPPARD'S NAME, CORRECT?

5 A YES.

6 Q AND THE SENTENCE THAT IS, YOU WERE ASKED ABOUT IS, IT
7 SAYS, CAROLINA INVESTORS BELIEVES THAT THE STANCE OF
8 ELLIOTT DAVIS WHICH WE CONSIDER OVERLY CONSERVATIVE MIGHT
9 HAVE BEEN INFLUENCED BY THE ENRON-ARTHUR ANDERSON DEBACLE
10 AND GLOBAL CROSSING ACCOUNTING PROBLEMS. THAT STATEMENT
11 THAT YOU WERE ASKED ABOUT IS A STATEMENT AS TO WHAT THESE
12 SIGNATURES, THIS LETTER BELIEVED, CORRECT?

13 A JUST BEING FAMILIAR WITH THE ENGLISH LANGUAGE THAT IS
14 HOW YOU CAN INTERPRET THAT, YES.

15 Q WELL, YOU WEREN'T TRYING TO TELL THE JURY YESTERDAY
16 THAT THAT LANGUAGE WAS SAYING THAT ELLIOTT DAVIS SAID WE
17 ARE TAKING THIS POSITION BECAUSE OF ENRON AND ARTHUR
18 ANDERSON DEBACLE. YOU WEREN'T TRYING TO LEAVE THAT
19 IMPRESSION WITH THE JURY YESTERDAY, WERE YOU?

20 A NO, IN FACT I WAS ASKED EXACTLY THE OPPOSITE, ENRON,
21 GLOBAL CROSSING, ARTHUR ANDERSON WERE NEVER A PART OF OUR
22 CONVERSATIONS WITH HOMEGOLD.

23 Q AND MY POINT IS, BUT YOU WEREN'T SAYING THAT THIS
24 LETTER SAYS THAT THE SIGNATURE CLAIMED THAT ELLIOTT DAVIS
25 MADE THOSE REPRESENTATIONS?

1 A NO, SINCE THEY START THAT SENTENCE OFF WITH WE
2 BELIEVE, THAT IS THEIR PERSONAL OPINION.

3 Q AND THE ENRON, ARTHUR ANDERSON DEBACLE IS WHERE
4 ARTHUR ANDERSON IS NO LONGER IN EXISTENCE AS A RESULT OF
5 DIFFICULTIES ARISING FROM THEIR AUDIT WORK AT ENRON, IS
6 THAT FAIR?

7 A AND BEING SUED BY THE FEDERAL GOVERNMENT AND BEING
8 PUT OUT OF BUSINESS, YES.

9 Q AND LASTLY, THIS LANGUAGE IN THE PROSPECTUS WITH
10 REGARD TO USE OF THE VALUATIONS. YOU CLEARLY SAID
11 YESTERDAY THAT THE LANGUAGE IN YOUR, ON PAGE F11 OF
12 EXHIBIT 50. AND IT IS BEGINNING WITH THIS PARAGRAPH, IN
13 ADDITION, HGFN HAS CONSIDERED THE DIVESTITURE OF ITS
14 RETAIL ORIGINATION DIVISION, IF NECESSARY, TO SATISFY ITS
15 NOTES PAYABLE TO THE COMPANY. RECENT INDEPENDENT
16 VALUATIONS HAVE VALUED THE DIVISION BETWEEN \$135 AND \$170
17 MILLION DOLLARS. AND THAT IS A NOTE IN THE FINANCIALS
18 THAT WAS GIVEN A CLEAN AUDIT OPINION LETTER BY ELLIOTT
19 DAVIS, CORRECT?

20 A THAT IS CORRECT.

21 Q AND YOU INDICATED YESTERDAY, THAT SENTENCE, RECENT
22 INDEPENDENT VALUATIONS VALUED THE DIVISION BETWEEN \$135
23 MILLION AND \$170 MILLION, THAT SENTENCE IS A TRUE
24 STATEMENT, CORRECT?

25 A AS IT IS WRITTEN IT IS A TRUE STATEMENT.

1 Q THAT YOU SAID, YOU SAID THAT YOU ADVISED MANAGEMENT
2 THAT PERHAPS IT SHOULDN'T BE IN THERE BUT THAT IT WASN'T
3 SUCH A MATTER WHERE IT WAS GOING TO CAUSE ELLIOTT DAVIS TO
4 NOT GIVE AN UNQUALIFIED OPINION, CORRECT?

5 A THAT IS CORRECT.

6 Q NOW, YOU SAY ADVICE MANAGEMENT. DID YOU PERSONALLY
7 TALK TO ANYBODY AT MANAGEMENT?

8 A I WOULD NOT HAVE ON THAT PARTICULAR ISSUE, CY BURGESS
9 WOULD OF HANDLED THAT MATTER.

10 Q SO, YOU DON'T KNOW, YOU CAN'T TELL FROM DIRECT
11 KNOWLEDGE, SO YOU PERSONALLY DIDN'T SPEAK TO ANYBODY AT
12 MANAGEMENT ABOUT THIS?

13 A NOT ON THAT PARTICULAR ISSUE, NO.

14 Q WHEN YOU SAID, WE, YOU ARE JUST REFERRING TO ELLIOTT
15 DAVIS IN GENERAL?

16 A THE WAY THAT WE APPROVE DOCUMENTS LIKE THIS AND MAKE
17 COMMENTS IS THAT THE COMPANY SENDS US A DRAFT. THERE ARE
18 ACTUALLY ABOUT FOUR OF US INSIDE OF ELLIOTT DAVIS THAT
19 READ THIS DOCUMENT, WE ALL MADE COMMENTS ON THAT DOCUMENT
20 AND THEN WE CENTRALIZED THOSE TO MR. BURGESS AND MR.
21 BURGESS CONTACTS THE COMPANY WITH OUR CUMULATIVE COMMENTS.
22 AND THEY DEBATE THEM AND SOME WE FEEL STRONGLY ABOUT AND
23 SOME WE DON'T.

24 Q AND IS IT FAIR THAT THESE DISCUSSIONS WITH THE
25 COMPANY BEGIN AT THE CFO LEVEL?

1 A YES, IT IS A GOOD CHANCE, CY'S FIRST POINT OF CONTACT
2 WOULD OF BEEN KEVIN MARTIN.

3 Q AND I BELIEVE YOU SAID THAT ELLIOTT DAVIS' POSITION
4 WAS ESSENTIALLY TO DEFER TO SECURITIES COUNSEL AS TO
5 WHETHER THERE IS CONTRACTUAL ISSUES BETWEEN HOMEGOLD AND
6 THESE COMPANIES, CBIZ AND DELOITTE AND TOUCHE, CORRECT?

7 A TWO FOLD ISSUE, WE FELT THAT THERE WAS RISK ON THAT
8 SIDE. AND SECONDLY, THERE IS JUST RISK IN MAKING THAT
9 STATEMENT.

10 Q BUT IN YOUR COVER LETTER THAT ACCOMPANIES THESE
11 FINANCIAL STATEMENTS YOU HAVE, LET'S TALK ABOUT THESE
12 FORMS THAT YOUR COMPANY SUBSCRIBES TO WHERE YOU PULL THEM
13 DOWN AND YOU GET THE MOST UP TO DATE LANGUAGE FOR AUDIT
14 LETTERS, ABOUT ANYTHING ELSE. AND YOU MODIFY TO YOUR OWN
15 USE, CORRECT?

16 A YES.

17 Q AND DID YOU BEGIN WORKING OR IS THERE SOME FORM FOR
18 INDEPENDENT AUDITORS REPORT LETTER THAT WAS USED HERE THAT
19 WAS SUBSEQUENTLY MODIFIED?

20 A YES.

21 Q AND ONE OF THE MODIFICATIONS IS, IN THIS, IS IT A
22 STANDARD PRACTICE TO IDENTIFY MANAGEMENT PLANS. HERE IT
23 SAYS, THESE FACTORS RAISE SUBSTANTIAL DOUBT ABOUT THE
24 COMPANIES ABILITY TO CONTINUE AS A GOING CONCERN.
25 MANAGEMENT PLANS IN REGARDS TO THESE MATTERS, ARE ALSO

1 DESCRIBED IN NOTE TWO. DOES THAT COME OUT OF A FORM OR IS
2 THAT MODIFIED FOR THIS MATTER?

3 A THAT FORTH PARAGRAPH ACTUALLY COMES OUT OF THE SAME
4 STANDARD THAT TALKS ABOUT THE GOING CONCERN. SO, THE
5 STANDARD ABOUT THAT GOES ON ABOUT HOW AUDITORS ARE CHARGED
6 IN LOOKING AT GOING CONCERN. AND THEN AT THE END OF THAT
7 IT SAYS, OH, BY THE WAY, IF YOU HAVE A GOING CONCERN ISSUE
8 HERE IS THE SUGGESTED LANGUAGE. AND SO IN ESSENCE YOU
9 START WITH A BOILER PLATE, THE FIRST AND THEN WE BEGIN TO
10 CUSTOMIZE IT BUT ALSO REFERRING BACK TO NOTE TWO IS PART
11 OF THE SUGGESTED LANGUAGE IN THE PROFESSIONAL STANDARD.

12 Q SO YOU ARE DIRECTING THE READER TO NOTE TWO WHICH IS
13 ON PAGE F11 IN YOUR AUDIT COVER LETTER?

14 A AND THAT IS THE WHOLE PURPOSE OF THAT FORTH PARAGRAPH
15 BECAUSE ONE THING THAT I THINK YOU HAVE HEARD A COUPLE OF
16 TIMES, A STANDARD, A CLEAN AUDIT OPINION ONLY HAS THREE
17 PARAGRAPHS IN IT. THAT FORTH PARAGRAPH IS WHY I MENTIONED
18 TO YOU A LITTLE BIT EARLIER, THAT AS AN ACCOUNTANT I DON'T
19 FIND GOING CONCERN TO BE AS CRITICAL AN ISSUE AS THE
20 OUTSIDE WORLD DOES BECAUSE JUST THE TERM MR. GRIFFIN JUST
21 USED, IT REALLY IS EMPHASIS OF A MATTER. AND SO THERE IS
22 A CLEAN OPINION THERE BUT IN THE FORTH PARAGRAPH IT SAYS,
23 YOU KNOW, THERE HAVE BEEN SOME NEGATIVE TRENDS AND WE ARE
24 SUGGESTING THAT YOU GO BACK AND READ NOTE TWO, THE
25 FINANCIAL STATEMENTS SO THAT YOU UNDERSTAND WHAT THOSE

1 NEGATIVE TRENDS ARE. IT IS NOT A DISCLAIMER OPINION WHICH
2 IS A NEGATIVE SITUATION NOR IS IT AN ADVERSE OPINION AND
3 THOSE ARE TWO OTHER TYPES OF OPINIONS THAT COULD OCCUR
4 BESIDES A CLEAN OPINION. BUT BOTH OF THOSE ARE VERY
5 NEGATIVE AND WOULD NOT BE ACCEPTED BY THE SEC.

6 Q AND LASTLY, I BELIEVE YOU TALKED ABOUT THIS PRESS
7 RELEASE AND THE, IN ANSWERING THE QUESTIONS FROM THE
8 PROSECUTOR YOU INDICATED THAT THIS PRESS RELEASE CAME OUT
9 PRIOR TO THE CLOSING OF THE FIRST QUARTER WHILE YOU WERE
10 DOING THIS GOING CONCERN ANALYSIS. DO YOU RECALL THAT?

11 A WELL, AT THE TIME THAT PRESS RELEASE CAME OUT WE
12 WOULD OF CONCLUDED ON THE GOING CONCERN AND ISSUED OUR
13 OPINION ON THE YEAREND OF 2001.

14 Q THIS PRESS RELEASE, ACCORDING TO THIS DATE, DIDN'T
15 COME OUT UNTIL MAY 20TH OF 2002, CORRECT?

16 A CORRECT.

17 Q AND YOUR GOING CONCERN AND FINANCIALS WERE ALREADY
18 OUT AT THAT POINT AND TIME?

19 A THEY WERE ISSUED RIGHT AT THE BEGINNING AT APRIL, I
20 BELIEVE.

21 Q AND, AGAIN, IT REFERS TO THE RETAIL MORTGAGE DIVISION
22 IS WHAT IS BEING ADDRESSED IN THIS PRESS RELEASE, RIGHT?

23 A YES.

24 Q AND IT IS THE SAME RETAIL MORTGAGE DIVISION THAT IS
25 REFERENCED IN MANAGERMENTS PLANS NOTE TWO ON PAGE F11 OF

1 THE PROSPECTUS?

2 A CORRECT.

3 Q AND IT IS THE SAME RETAIL MORTGAGE DIVISION THAT WAS
4 VALUED BY BOTH CBIZ AND DELOITTE AND TOUCHE WITH YOUR
5 COMPANIES IMPAIRMENT ANALYSIS, CORRECT?

6 A THE CLIENTS IMPAIRMENT ANALYSIS THAT WE THEN AUDITED,
7 YES.

8 Q THE CLIENT DID THE IMPAIRMENT ANALYSIS?

9 A YES.

10 Q DIDN'T YOU SAY EARLIER THAT ELLIOTT DAVIS FORCED THE
11 COMPANY TO GET VALUATIONS SAY FROM THE DAYVIEW ANALYSIS?

12 A YES, TO ALLOW THEM TO DO AN IMPAIRMENT ANALYSIS.

13 Q ELLIOTT DAVIS WAS ABLE TO FORCE THE COMPANY TO DO
14 THINGS THAT IT REQUIRED OF IT IN ORDER TO ISSUE AN
15 UNQUALIFIED OPINION OR TO FIRE THEM?

16 A DID WE FORCE THE COMPANY TO DO THINGS?

17 Q YES.

18 A WE FORCED THEM TO GET AN OUTSIDE OPINION IF THEY
19 EXPECTED US TO BE THEIR AUDITORS AT THE END OF THE YEAR.

20 Q THANK YOU.

21 THE COURT: MS. EVANS, REDIRECT?

22 MS. EVANS: YES, YOUR HONOR.

23 REDIRECT EXAMINATION

24 BY MS. EVANS:

25 Q MR. RANK, YOU SAID THAT THERE WAS RISK IN MAKING THAT

1 STATEMENT THAT MR. GRIFFIN, THAT WAS IN FOOTNOTE, PAGE F11
2 OF THAT PROSPECTUS. WHAT ARE THOSE RISKS?

3 A WELL, THE RISKS OF MISLEADING THE PUBLIC WHICH COULD
4 BE INDIRECT CONFLICT WITH SEC REGULATIONS RELATIVE TO
5 FINANCIAL REPORTING AND DISCLOSURES.

6 Q AND ALL THAT INFORMATION THAT MR. GRIFFIN WAS GOING
7 THROUGH AND HAVING YOU GO THROUGH ABOUT THE FINANCIAL
8 CONDITION OF THE COMPANY, THIS IS ALL PUBLICLY PUT OUT
9 THERE ABOUT THE FINANCIAL CONDITION OF HOMEGOLD IN '97,
10 '99, '98, 2000, 2001, 2002, EXCUSE ME, IN 2002 THERE WAS
11 NOT ONE.

12 A THE 10K'S, THE 8K'S, THE 10Q'S, THE FORM 14'S, ALL OF
13 THAT IS PUBLIC INFORMATION.

14 Q AND CERTAINLY WOULD BE AVAILABLE TO MR. SHEPPARD AND
15 HIS DUE DILIGENCE TEAM DURING THIS HOMESENSE/HOMEGOLD
16 MERGER, CORRECT?

17 A THAT IS CORRECT.

18 Q SINCE WE HAVE BEEN TALKING ABOUT IT, YOU HAVE BEEN
19 TALKING ABOUT THIS FORM 14, MR. RANK, IS THAT WHAT YOU ARE
20 REFERRING TO?

21 A THIS IS A FORM 14, YES.

22 Q AND IS THIS FOR HOMEGOLD?

23 A IT IS.

24 Q WHAT YEAREND IS THAT FOR?

25 A THIS PARTICULAR ONE WOULD BE THE REQUIRED PUBLIC

1 NOTICE FOR THEIR ANNUAL SHAREHOLDERS MEETING THAT WOULD OF
2 BEEN HELD IN EARLY '02 RELATIVE TO THE 12/31/01 YEAREND.

3 Q I WANT TO CLEAR UP ONE ISSUE ABOUT THE BOARD OF
4 DIRECTORS, HAVE YOU SEEN THIS BEFORE?

5 A AS PART OF OUR, WHEN WE ARE ENGAGED AS AUDITORS, WE
6 READ ALL SEC FILINGS SO I HAVE READ THIS FORM 14 BEFORE,
7 YES.

8 Q AND THAT IS THE SEC FILING THAT IS PUT OUT THERE IN
9 THE PUBLIC?

10 A YES.

11 MS. EVANS: YOUR HONOR, WE WOULD LIKE TO MOVE THIS
12 INTO EVIDENCE.

13 THE COURT: ANY OBJECTION?

14 MR. GRIFFIN: YES, YOUR HONOR. HE DIDN'T PULL IT
15 DOWN FROM THE SEC WEBSITE.

16 MS. EVANS: YOUR HONOR, IT IS A PUBLIC DOCUMENT AND
17 HE HAS REVIEWED IT BEFORE.

18 THE COURT: LET ME TAKE A LOOK AT THE DOCUMENT. I
19 OVERRULE THE OBJECTION, THAT WILL BE MARKED AS THE NEXT
20 EXHIBIT. STATE'S 101 IS ADMITTED.

21 (WHEREUPON, STATE'S EXHIBIT NO. 101 WAS ADMITTED INTO
22 EVIDENCE.)

23 Q LET ME SHOW IT TO YOU FIRST. I WILL SHOW YOU PAGE
24 FOUR OF THIS EXHIBIT. CAN YOU PLEASE READ THAT AND TELL
25 THE JURY HOW THE BOARD OF DIRECTORS ARE PICKED AT HOMEGOLD

1 AT THE MERGER?

2 A JUST READING THIS PARAGRAPH, VOTING AGREEMENT
3 PROVIDES, AMONG OTHER THINGS, THAT THE PARTIES THERETO
4 WILL VOTE ALL OF THEIR COMPANIES SHARES IN FAVOR OF A.,
5 MAKING AND MAINTAINING THE NUMBER OF DIRECTORS OF THE
6 COMPANY AS SEVEN. B., THE ELECTION OF THREE MEMBERS OF
7 THE BOARD DESIGNATED BY MR. SHEPPARD. C., THE ELECTION OF
8 THREE MEMBERS OF THE BOARD DESIGNATED BY A MAJORITY IN
9 INTEREST OF THE PARTIES TO THE VOTING AGREEMENT OTHER THAN
10 MR. SHEPPARD. D. THE ELECTION OF THE SEVENTH MEMBER OF
11 THE BOARD NOMINATED BY MR. SHEPPARD AND APPROVED BY A
12 MAJORITY IN INTEREST OF THE PARTIES TO THE VOTING
13 AGREEMENT OTHER THAN MR. SHEPPARD WHICH APPROVAL SHALL NOT
14 BE UNREASONABLY WITHHELD. AND, E., THE APPOINTMENT OF MR.
15 STERLING TO SERVE AS CHAIRMAN OF THE BOARD--

16 Q THAT IS ALL I WANTED. ALL THAT SAYS IS THAT MR.
17 SHEPPARD GETS TO CHOOSE THREE, THE BOARD GETS TO CHOOSE
18 THREE AND THEN MR. SHEPPARD GETS TO CHOOSE THE FORTH ONE
19 UPON APPROVAL OF THE BOARD?

20 A THAT IS WHAT THAT SAYS, CORRECT.

21 Q OKAY. AND WHO DOES IT SAY THERE IS A SEVENTH MEMBER,
22 THE ONE THAT WAS CHOSEN, AT THIS TIME HOW MANY BOARD
23 MEMBERS ARE THERE?

24 A THIS IS A LISTING OF NOMINEES AT THAT PARTICULAR
25 ANNUAL MEETING AND IT REFERS TO FIVE OF THEM. MR. TEE

1 HOOPER, MR. BOB PHILPOTT, MR. SHEPPARD, MR. PAUL BANNINGER
2 AND MR. JACK STERLING.

3 Q AND THAT WAS YEAREND OF 2000?

4 A I THINK THAT WAS THE, THAT WOULD OF BEEN THE ANNUAL
5 MEETING IN THE SPRING OF '02, FOR THE ANNUAL MEETING
6 RELATIVE TO THE YEAREND OF 12/31/01. THE COMPANIES HOLD
7 THEIR ANNUAL MEETINGS AFTER THEIR YEAREND OR THEY HAVE
8 SHAREHOLDER MEETINGS, ETCETERA.

9 Q THAT IS ALL I HAVE.

10 THE COURT: RE-CROSS?

11 MR. GRIFFIN: NO, YOUR HONOR.

12 THE COURT: YOU MAY STEP DOWN. LADIES AND GENTLEMEN,
13 WE WILL BREAK FOR LUNCH. WE WILL TAKE ONE HOUR AND PLEASE
14 DON'T DISCUSS THE CASE. YOU ARE EXCUSED, EVERYONE ELSE
15 STAY SEATED WHILE THE JURY IS EXCUSED.

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

18 THE COURT: WE WILL SEE YOU ALL IN ONE HOUR.

19 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

20 THE COURT: IS THE STATE READY?

21 MR. PEAVY: YES, YOUR HONOR.

22 THE COURT: THE DEFENSE?

23 MR. GRIFFIN: YES, YOUR HONOR.

24 THE COURT: BRING THE JURY IN, PLEASE.

25 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT

1 APPROXIMATELY 2:10 P.M.)

2 THE COURT: MR. PEAVY, CALL YOUR NEXT WITNESS,
3 PLEASE.

4 MR. PEAVY: THE STATE CALLS GENE GREGORY TO THE
5 STAND.

6 GENE GREGORY, AFTER BEING DULY SWORN, TESTIFIED
7 AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. PEAVY:

10 Q MR. GREGORY, WILL YOU TELL US A LITTLE BIT ABOUT
11 YOURSELF, YOUR PERSONAL AND WORK HISTORY, SIR?

12 A WELL, I WAS RAISED IN UNION. I WORKED IN MILLS FOR
13 TWELVE YEARS RIGHT OUTSIDE OF HIGH SCHOOL PUSHING WHAT IS
14 CALLED A DOPE WAGON. WHEN YOU PUSH A DOPE WAGON, THAT IS
15 GOODY POWDERS. DOPE, THAT IS WHAT A COCA COLA STANDS FOR.
16 AND THAT IS WHAT I DONE.

17 Q BUT AFTER THAT WHAT DID YOU DO, SIR?

18 A I WENT INTO BUSINESS FOR MYSELF RUNNING GENE'S FINE
19 FOODS IN UNION ON THE DUNCAN BYPASS. I WILL HAVE BEEN
20 THERE FOR 42 YEARS IN MARCH.

21 Q WHAT KIND OF RESTAURANT IS THAT?

22 A FAST FOOD.

23 Q WHEN DID YOU OPEN THAT STORE?

24 A MARCH OF '65.

25 Q AND IS IT STILL GOING TODAY?

1 A STILL GOING STRONG.

2 Q ARE YOU STILL WORKING THERE?

3 A WORK SEVEN DAYS A WEEK, I DON'T MISS A DAY. I TAKE A
4 VACATION WHETHER I WANT TO OR NOT.

5 Q MR. GREGORY, LIVING IN THE UPSTATE DID YOU EVER COME
6 TO LEARN OF A COMPANY THAT WAS CALLED CAROLINA INVESTORS?

7 A I DID, SIR.

8 Q HOW DID YOU LEARN OF THAT COMPANY, SIR?

9 A WELL, JUST RUMORS, PEOPLE TALKING WHEN THE INTEREST
10 RATES GOT SO LOW PEOPLE WAS TALKING, ALWAYS TALKING ABOUT
11 WHERE THE MOST INTEREST WAS. AND A LADY WORKED IN THE
12 BANK CAME IN ONE DAY AND GIVE ME A PHONE NUMBER. AND I
13 THOUGHT I WOULD CALL LARRY OWEN, CEO OF HOMEGOLD. AND I
14 TALKED WITH HIM, I TOLD HIM I WOULD LOVE TO TALK WITH HIM
15 AND I WENT TO VISIT TO HOMEGOLD. AND SAT DOWN WITH HIM
16 AND MY BROTHER FOR ABOUT AN HOUR AND A HALF. I DISCUSSED
17 IT WITH HIM AND I LEFT AND LATER HE CALLED ME ONE DAY AND
18 SAID, I HAVEN'T HEARD FROM YOU. I SAID, WELL, I AM STILL
19 THINKING. AND LATER ON WE TALKED AGAIN AND I DECIDED TO
20 TAKE MY MONEY AND SEND IT OVER THERE.

21 Q WHERE WAS YOUR MONEY?

22 A IT WAS IN A BANK IN GAFFNEY AND AT THE TIME WAS UP
23 WHICH I HAD WEEKS TO SPARE AND I COULD GET IT AT THE TIME
24 THAT I WANTED TO.

25 MR. PEAVY: YOUR HONOR, MAY I APPROACH THE WITNESS?

1 THE COURT: YES.

2 Q MR. GREGORY, I AM SHOWING YOU WHAT HAS BEEN MARKED AS
3 STATE'S EXHIBIT NUMBER 102. DO YOU RECOGNIZE THAT
4 DOCUMENT, SIR?

5 A YES, SIR.

6 Q WHAT IS THAT DOCUMENT?

7 A IT IS WHERE I DEPOSITED MY MONEY, \$1,396,695.049.

8 Q WHEN DID YOU INVEST THAT MONEY, SIR?

9 A IT WAS IN 2001, I BELIEVE.

10 MR. PEAVY: YOUR HONOR, AT THIS POINT WE WOULD MOVE
11 STATE'S EXHIBIT NUMBER 102 INTO EVIDENCE.

12 THE COURT: ANY OBJECTION?

13 MR. GRIFFIN: NO, YOUR HONOR.

14 THE COURT: STATE'S 102 IS ADMITTED.

15 (WHEREUPON, STATE'S EXHIBIT NO. 102 WAS ADMITTED INTO
16 EVIDENCE.)

17 Q NOW, MR. GREGORY, YOU JUST MENTIONED THAT YOU HAD
18 INVESTED OVER A MILLION DOLLARS IN CAROLINA INVESTORS?

19 A MY LIFE EARNINGS.

20 Q DID THERE EVER BECOME A POINT WHERE YOU BECAME
21 CONCERNED ABOUT THE SAFETY OF YOUR INVESTMENT, SIR?

22 A I DID, SIR.

23 Q TELL ME ABOUT THAT.

24 A I WAS HAVING A LUNCHEON, MR. PEELER WAS RUNNING FOR
25 GOVERNOR AND A FELLOW KNOCKED ON MY DOOR AT MY RESTAURANT

1 AND HE HAD A NEWSPAPER AND IT WAS A STATE NEWSPAPER
2 STATING THAT CAROLINA INVESTORS HAD PROBLEMS. AND I
3 IMMEDIATELY WENT TO A PHONE AND CALLED MY BROTHER AND
4 ASKED ME HIM TO GO BY MY HOUSE AND PICK UP MY PAPERWORK,
5 THAT WE WERE GOING TO CAROLINA INVESTORS AFTER THE
6 LUNCHEON. AND HE BROUGHT IT TO ME AND WE DROVE TO PICKENS
7 AND I LAID IT ALL ON THE DESK. AND I TOLD MR. OWEN, I
8 CAME BACK FOR MY MONEY. AND WE TALKED ON FOR ABOUT AN
9 HOUR, AN HOUR AND A HALF AND HE KEPT INSISTING THAT I KEEP
10 MY MONEY THERE, WHY WOULD I WANT TO GO BACK ON ONE AND A
11 HALF PERCENT INTEREST WHEN HE WAS PAYING ME EIGHT AND A
12 HALF PERCENT INTEREST. AND I QUESTIONED HIS COLLECTIONS
13 AND HE SAID HIS COLLECTIONS WAS GOOD, THAT THEY DIDN'T
14 HAVE A PROBLEM WITH IT. AND ALSO HE HAD TALKED WITH ME
15 ABOUT HOMEGOLD, THAT THEY PUT THEIR MONEY INTO HOMEGOLD
16 AND THEY MORTGAGED IT OUT. AND I ASKED HOW WAS HOMEGOLD
17 DOING, WAS IT SOLID. AND HE SAID, OH YES, WE HAVE GOOD
18 WORKERS THERE, WE HAVE, HE HAD MENTIONED MR. SHEPPARD'S
19 NAME TO ME SEVERAL TIMES, ABOUT HOW GOOD HE WAS IN THE
20 LENDING INSTITUTION, HOW STRONG HE WAS AND HOW SMART HE
21 WAS. AND WE TALKED ON FOR A WHILE. I TOLD HIM I JUST
22 WANTED TO STUDY ABOUT IT, WAS GOING TO GO HOME AND PRAY
23 ABOUT IT. IF I WAS GOING TO LEAVE MY MONEY I WAS GOING TO
24 LET HIM KNOW. SO, WE STUDIED ABOUT IT AND I CALLED HIM
25 BACK, I TOLD HIM I HAD TO HAVE SOMETHING IN WRITING, THAT

1 MY MONEY WAS SAFE AND GUARANTEED. AND HE GAVE ME A LETTER
2 STATING THAT MY MONEY WOULD BE SAFE--

3 Q DO YOU MIND IF I STOP YOU THERE, MR. GREGORY. I AM
4 SHOWING YOU WHAT HAS BEEN MARKED FOR IDENTIFICATION
5 PURPOSES, STATE'S EXHIBIT NUMBER 103.

6 A YES SIR, THAT IS THE LETTER, SIR. HE MAILED THIS
7 LETTER TO MY WIFE, I TOLD HIM THAT MY WIFE WAS CONCERNED
8 ABOUT IT AND SHE HAD JUST AS MUCH INTO IT AS I HAD. AND
9 WE GOT THIS LETTER A DAY OR TWO LATER.

10 Q MR. GREGORY, IS THIS A FAIR AND ACCURATE COPY?

11 A YES, THAT IS THE COPY, YES.

12 MR. PEAVY: YOUR HONOR, AT THIS POINT WE WOULD OFFER
13 INTO EVIDENCE STATE'S EXHIBIT NUMBER 103.

14 THE COURT: ANY OBJECTION?

15 MR. GRIFFIN: NO, SIR.

16 THE COURT: WITHOUT OBJECTION, STATE'S 103 IS
17 ADMITTED.

18 (WHEREUPON, STATE'S EXHIBIT NO. 103 WAS ADMITTED INTO
19 EVIDENCE.)

20 Q I AM SHOWING YOU A BLOWN UP COPY OF THAT LETTER THAT
21 WE JUST LOOKED AT, YOU RECEIVED THIS LETTER IN THE MAIL?

22 A YES, SIR.

23 Q AND YOU RECEIVED IT FROM MR. OWEN?

24 A YES, SIR.

25 Q AND YOU RECEIVED IT AFTER YOU HAD THAT MEETING WHERE

1 YOU WERE CONCERNED ABOUT YOUR INVESTMENTS?

2 A RIGHT, YES SIR.

3 Q AND AS A RESULT OF RECEIVING THIS LETTER DID YOU
4 DECIDE TO KEEP YOUR MONEY IN CI?

5 A I DID.

6 Q OKAY. THAT LETTER IS SOME TIME FROM THE SPRING,
7 SUMMER OF 2002. IN THE FALL OF 2002 DID YOU EVER BECOME
8 CONCERNED ABOUT YOUR INVESTMENTS AGAIN?

9 A I DID. I WENT UP AND TALKED TO MR. OWEN ABOUT IT AND
10 IT WAS ALWAYS GOOD, IT WAS SAFE, THEY MADE MORE MONEY THAN
11 THEY EVER MADE AND IT WAS SOLID. HE FELT SURE THAT HE
12 WOULD ALWAYS TAKE CARE OF ME IF ANYTHING OCCURRED.

13 Q DID HE MENTION ANYTHING ABOUT HOMEGOLD BEING SOLD?

14 A MY SISTER-IN-LAW CALLED ME ONE DAY, SHE HAD MONEY IN
15 IT. AND SHE TOLD ME THAT THEY HAD REDUCED HER INTEREST
16 RATE--

17 MR. GRIFFIN: YOUR HONOR, OBJECTION.

18 THE COURT: I SUSTAIN THE OBJECTION.

19 Q WITHOUT TELLING ME WHAT YOUR SISTER-IN-LAW SAID, TELL
20 ME WHAT HAPPENED.

21 A ANYWAY I TURNED AROUND AND I CALLED MR. OWEN TO
22 MENTION IT TO HIM ABOUT IT. AND HE SAID WHILE I AM
23 TALKING TO YOU I WANT TO TELL YOU THAT HOMEGOLD HAS BEEN
24 SOLD. AND I AM LIKE OUT OF A CAGE WITH A MONKEY ON MY
25 SHOULDER, I FELT MORE SECURE TODAY THAN I EVER HAVE IN

1 THIS BUSINESS, THAT RONNIE SHEPPARD HAD BOUGHT THE COMPANY
2 AND HE IS STRONG AND HE IS GOOD AND WE WILL MAKE MONEY
3 NOW. YOU JUST SIT BACK AND DON'T WORRY. I SAID, MR.
4 OWEN, I QUIT WORRYING THE DAY YOU GIVE ME MY LETTER
5 STATING THAT YOU WOULD TAKE CARE OF ME. AND I DIDN'T HAVE
6 ANYTHING TO WORRY ABOUT, I QUIT WORRYING THAT DAY. HE
7 SAID, THAT IS RIGHT, I AM NOT GOING TO WORRY.

8 Q MR. GREGORY, AT ANY POINT WHEN YOU WERE DEALING WITH
9 MR. OWEN DID YOU EVER SEE ONE OF HIS BUSINESS CARDS?

10 A YES SIR, HE GAVE ME A BUSINESS CARD ONE TIME.

11 Q DO YOU HAPPEN TO HAVE THAT BUSINESS CARD WITH YOU?

12 A I HAVE IT IN MY POCKET, SIR. IT HAS MR. RONNIE
13 SHEPPARD'S NAME ON THE BACK OF IT. I DON'T KNOW WHY I
14 EVER KEPT IT BUT IT HAS BEEN IN MY BILLFOLD EVERY SINCE.

15 Q MR. GREGORY, THIS BUSINESS CARD THAT YOU GOT FROM MR.
16 OWEN, IS IT IN SUBSTANTIALLY THE SAME CONDITION OTHER THAN
17 THE WEAR AND TEAR.

18 A JUST THE WEAR AND TEAR ON IT, I HAVE HAD IT IN MY
19 BILLFOLD.

20 MR. PEAVY: YOUR HONOR, WE WOULD MOVE IN AS STATE'S
21 EXHIBIT NUMBER 104.

22 THE COURT: ANY OBJECTION?

23 MR. GRIFFIN: NO OBJECTION.

24 THE COURT: STATE'S 104 IS ADMITTED.

25 (WHEREUPON, STATE'S EXHIBIT NO. 104 WAS ADMITTED INTO

1 EVIDENCE.)

2 Q MR. GREGORY, THIS BUSINESS CARD, IT IS LARRY OWEN'S
3 BUSINESS CARD?

4 A YES, SIR.

5 Q AND ON THE BACK HERE, DOES IT HAVE MR. SHEPPARD'S
6 NAME ON IT?

7 A MR. SHEPPARD, YES SIR.

8 Q AND IS THERE A PHONE NUMBER ON THERE TOO?

9 A YES, SIR.

10 Q AND DID MR. OWEN GIVE YOU THAT PHONE NUMBER?

11 A HE GAVE ME THAT PHONE NUMBER, HE PUT IT ON THE CARD.

12 Q DID YOU EVER HAVE AN OPPORTUNITY TO TALK TO MR.
13 SHEPPARD IN PERSON OR ON THE PHONE?

14 A I SPOKE TO MR. SHEPPARD ONE TIME, SIR.

15 Q TELL ME ABOUT THAT.

16 A I WAS DOWN AND OUT AND DEPRESSED ONE DAY--

17 Q WHY WERE YOU DOWN AND OUT AND DEPRESSED?

18 A WELL, I HAD LOST ALL OF MY MONEY AND I WORKED SEVEN
19 DAYS A WEEK, DIDN'T SEE A CHANGE OF CATCHING UP. AND I
20 WENT TO THE PHONE AND I CALLED MR. SHEPPARD AND THEY
21 ANSWERED THE PHONE. AND I SAID, IS THIS MR. RONNIE
22 SHEPPARD WITH HOMEGOLD. HE SAID YOU HAVE THE WRONG
23 NUMBER. CLICK. SO, I GOT BACK TO MY CASH REGISTER, IT
24 WAS NO MORE THAN THIRTY SECONDS OR MORE. AND THEY SAID
25 TELEPHONE, I WENT BACK TO THE TELEPHONE AND HE SAID, IS

1 THIS RALPH EUGENE GREGORY. AND I SAID, YES. AND HE SAID,
2 YOU JUST CALLED THIS NUMBER AND I SAID, WHAT NUMBER IS IT.
3 AND HE SAID, I AM RONNIE SHEPPARD. AND I SAID, YOU TOLD
4 ME I HAD THE WRONG NUMBER AND HUNG UP ON ME. I SAID, I
5 JUST WANTED TO ASK YOU, I SAID, I LOST A LARGE AMOUNT OF
6 MONEY AND I LOST EVERYTHING I HAD. AND I JUST WANTED TO
7 CHAT WITH YOU BECAUSE I ALWAYS BEEN TOLD HOW SMART YOU
8 WERE IN THIS BUSINESS, HOW INTELLIGENT YOU WAS AND YOU
9 WOULD MAKE THE COMPANY MONEY. AND I WANT TO KNOW IF WE
10 HAVE ANY ASSETS. AND HE SAID, THE ONLY THING THAT I CAN
11 TELL YOU IS I HAVE A LOT OF ASSETS AND I WILL HAVE
12 SOMEBODY TO CALL YOU. CLICK. AND THAT WAS THE EXTENT OF
13 MY CONVERSATION WITH MR. SHEPPARD. I HAD NEVER SEEN MR.
14 SHEPPARD UNTIL WE WERE IN COURT OVER IN GREENVILLE,
15 ANDERSON, EXCUSE ME.

16 Q MR. GREGORY, THAT MONEY THAT YOU INVESTED, WHAT WAS
17 THAT MONEY, WHAT WAS THAT MONEY FOR?

18 A THAT WAS MY RETIREMENT, MY LIFE EARNINGS, I WAS
19 GETTING READY TO RETIRE, I HAVE BEEN WORKING FOUR HARD
20 YEARS, NIGHT AND DAY, FEET WRAPPED UP.

21 Q NO FURTHER QUESTIONS.

22 THE COURT: MR. GRIFFIN.

23 MR. GRIFFIN: NO QUESTIONS, YOUR HONOR.

24 THE COURT: SIR, YOU MAY STEP DOWN, WATCH YOUR STEP.
25 CALL YOUR NEXT WITNESS, PLEASE.

1 MR. PEAVY: THE STATE CALLS PAT EVETT TO THE STAND.

2 DIRECT EXAMINATION

3 BY MR. PEAVY:

4 Q MS. EVETT, TELL US A LITTLE BIT ABOUT YOURSELF, YOUR
5 PERSONAL HISTORY AND WORK HISTORY?

6 A I AM 57 YEARS OLD, I AM A LIFE LONG RESIDENT OF
7 PICKENS COUNTY. I HAD GRADUATED HIGH SCHOOL IN 1967, UPON
8 GRADUATION I STARTED TO WORK WITH CAROLINA INVESTORS.

9 Q WHEN YOU STARTED WORKING AT CAROLINA INVESTORS, WHAT
10 KIND OF JOBS WERE YOU DOING?

11 A I WAS GENERAL OFFICE HELP, SETTING UP SOME CEMETERY
12 ACCOUNTS, THAT WAS THE TYPE OF BUSINESS THEY WERE IN AT
13 THAT TIME, FINANCING CEMETERY LOANS. AND JUST GENERAL
14 OFFICE DUTIES.

15 Q AND THEN THEY EVENTUALLY BEGAN SELLING THE DEBENTURES
16 AND NOTES AND THINGS LIKE THAT?

17 A THEY WERE SELLING DEBENTURES AT THAT TIME BUT I WAS
18 NOT INVOLVED IN THAT.

19 Q DID YOU EVENTUALLY BECOME INVOLVED IN THAT AREA?

20 A YES, IN THE EARLY 1970'S I BECAME AN INVESTMENT CLERK
21 AND DEALT WITH THE INVESTORS COMING IN TO DEPOSIT MONEY.

22 Q AND WHEN DID YOU, I GUESS, WHEN DID YOU FIRST RETIRE
23 FROM CAROLINA INVESTORS?

24 A I LEFT THE COMPANY IN 1996, AT THAT TIME THEY WERE
25 GETTING READY TO MOVE THE ACCOUNTING DEPARTMENT AND OTHER

1 DEPARTMENTS TO THE GREENVILLE AREA, THE HYATT REGENCY IN
2 GREENVILLE, SOUTH CAROLINA.

3 Q AND DID YOU COME BACK TO WORK ON SOME KIND OF
4 PART-TIME?

5 A I DID, THEY OFFERED ME A POSITION TO DO SPECIAL
6 PROJECTS TWO TO THREE DAYS A WEEK. I WAS WORKING
7 PART-TIME ON CONTRACTUAL BASIS.

8 Q AND AFTER THIS ACCOUNTING DEPARTMENT HAD MOVED DID
9 YOU ESSENTIALLY ASSUME SOME BOOKKEEPING DUTIES?

10 A WITH THE COMPANY, YES, RESEARCH AND I HELPED WITH
11 RECONCILING THE CASH ACCOUNTS AND VARIOUS OTHER DUTIES.

12 Q AND AT SOME POINT WHEN YOU WERE WORKING THERE DID
13 CAROLINA INVESTORS AND HOMEGOLD CONSOLIDATE THEIR
14 ACCOUNTING FUNCTION?

15 A YES, THAT WAS CONSOLIDATED IN 1998 AND ALL OF THE
16 DEPARTMENTS, THE LOAN ORIGINATION DEPARTMENT AND THE
17 ACCOUNTING FUNCTIONS AND THE CORPORATE HEADQUARTERS WERE
18 MOVED TO THE PELHAM ROAD AREA IN GREENVILLE, SOUTH
19 CAROLINA.

20 Q WHEN DID YOU ULTIMATELY STOP WORKING FOR CAROLINA
21 INVESTORS?

22 A WHEN I ACTUALLY STOPPED WORKING WITH CAROLINA
23 INVESTORS WOULD OF BEEN IN 2003.

24 Q SO, YOU WORKED FROM 1967, ESSENTIALLY TO THE END?

25 A YES. IT IS COMPLICATED, WE WORKED UNDER DIFFERENT

1 NAMES BUT ESSENTIALLY THE SAME COMPANY.

2 Q TELL ME AND THE JURY A LITTLE BIT ABOUT WHAT CAROLINA
3 INVESTORS WAS, WHAT TYPE OF COMPANY IT WAS?

4 A IN 1963 CAROLINA INVESTORS WAS ORGANIZED TO FINANCE
5 CEMETERY PROPERTY, IT WAS OWNED AT THAT TIME BY DWIGHT
6 HOLDER WHO OWNED A LOT OF CEMETERIES IN THE SOUTHEAST.
7 AND HE ORGANIZED THE COMPANY, IN ORDER TO HAVE A WAY TO
8 FINANCE THESE CEMETERY LOANS. FROM THERE THEY STARTED
9 DOING HOME MORTGAGE LOANS AND EVENTUALLY THEY WERE SOLD IN
10 1991 TO EMERGENT GROUP. CAROLINA INVESTORS STARTED OUT AS
11 A COMMUNITY ORIENTED COMPANY, WE DEALT ON A LOCAL BASIS.
12 AFTER IT WAS SOLD IT BECAME, THE LOANS WERE MADE
13 THROUGHOUT THE UNITED STATES AND HOMEGOLD ASSUMED ALL OF
14 THE LOAN ORIGINATION DUTIES AND CAROLINA INVESTORS
15 ESSENTIALLY OFFICES TO SELL THE DEBENTURES TO THE
16 INVESTORS.

17 Q SO, THEY LET PEOPLE INVEST IN THE COMPANY?

18 A YES.

19 Q I AM GOING TO SHOW YOU WHAT HAS PREVIOUSLY BEEN
20 MARKED AS STATE'S EXHIBIT NUMBERS 105 THROUGH 118, WOULD
21 YOU LOOK THROUGH THEM FOR ME AND SEE IF YOU RECOGNIZE
22 THOSE?

23 A THESE ARE EXTERIOR AND INTERIOR PICTURES OF THE FOUR
24 CAROLINA INVESTORS BRANCHES.

25 Q ARE THEY FAIR AND ACCURATE REPRESENTATIONS OF THE

1 OFFICES WHEN YOU LAST SAW THEM?

2 A YES, THEY ARE.

3 MR. PEAVY: AT THIS POINT WE WOULD MOVE THESE IN.

4 MR. GRIFFIN: NO OBJECTION.

5 THE COURT: IS THAT 105 THROUGH 120?

6 MR. GRIFFIN: YES, SIR.

7 THE COURT: 105 THROUGH 120 ARE ADMITTED WITHOUT
8 OBJECTION.

9 (WHEREUPON, STATE'S EXHIBIT NOS. 105 THROUGH 120 WERE
10 ADMITTED INTO EVIDENCE.)

11 Q I AM SHOWING YOU WHAT HAS BEEN MARKED AS STATE'S
12 EXHIBIT NUMBER 105, WOULD YOU PLEASE TELL ME WHAT THAT IS?

13 A IT APPEARS TO BE THE EXTERIOR VIEW OF THE CAROLINA
14 INVESTORS OFFICE IN ANDERSON.

15 Q AT THIS POINT I AM SHOWING YOU STATE'S EXHIBIT NUMBER
16 107, DO YOU RECOGNIZE THAT?

17 A THAT IS ANOTHER EXTERIOR VIEW OF THE ANDERSON OFFICE.

18 Q IS THAT ANDERSON AS WELL?

19 A YES, IT IS.

20 MR. PEAVY: YOUR HONOR, IN ORDER TO EXPEDITE THIS I
21 THINK WE CAN PROBABLY JUST PUBLISH THESE INDIVIDUALLY TO
22 THE JURY.

23 THE COURT: THAT IS FINE.

24 Q WERE YOU WORKING AT CAROLINA INVESTORS OR HOMEGOLD IN
25 2000?

1 A YES, I WAS. I WAS WORKING AT THE PELHAM ROAD
2 FACILITY.

3 Q AND WERE YOU AWARE THAT A MERGER TOOK PLACE?

4 A YES SIR, I WAS.

5 Q AND WHAT COMPANY DID HOMEGOLD MERGE WITH?

6 A HOMESENSE.

7 Q AND AFTER THAT MERGER WHO WAS ESSENTIALLY RUNNING
8 HOMEGOLD?

9 A RONALD SHEPPARD.

10 Q DID YOU REPORT DIRECTLY TO MR. SHEPPARD?

11 A NO, I DID NOT.

12 Q AND SHORTLY AFTER OR SOME TIME AFTER THE MERGER DID
13 THE ACCOUNTING DEPARTMENT OF HOMEGOLD, DID IT MOVE?

14 A IN 2001, I BELIEVE, LAST SPRING, EARLY SUMMER THEY
15 WERE MAKING MOVES TO MOVE THE CORPORATE HEADQUARTERS AND
16 THE ACCOUNTING DEPARTMENT TO LEXINGTON, SOUTH CAROLINA.

17 Q AND THAT IS WHERE IT WAS HEADQUARTERED DOWN HERE IN
18 LEXINGTON?

19 A IT WAS.

20 Q AND DID YOU COME DOWN TO LEXINGTON AS WELL?

21 A NO, I DID NOT. MY TIES ARE TO THE UPSTATE AND SO I
22 WAS NOT GOING TO MOVE WITH THE COMPANY.

23 Q WERE YOU ALLOWED TO KEEP WORKING?

24 A I CONTINUED TO WORK AND I WAS TRANSFERRED TO THE
25 CAROLINA INVESTORS OFFICE IN PICKENS.

1 Q BUT DID YOU STILL WORK FOR HOMEGOLD?

2 A MY CHECKS WERE ISSUED BY HOMEGOLD, YES.

3 Q AND WHAT WERE YOUR DUTIES AT THAT TIME?

4 A I WAS ESSENTIALLY DOING BOOKKEEPING, I PROCESSED THE
5 ACCOUNTS PAYABLES OR OPERATING EXPENSES FOR CAROLINA
6 INVESTORS LIKE UTILITIES, FEES, ADVERTISING, THOSE WERE
7 PROCESSED BY ME. AND ALSO I KEPT DAILY CASH
8 RECONCILIATION.

9 Q AND WHO WERE YOU REPORTING TO AT THAT TIME?

10 A DAY TO DAY I WAS REPORTING TO LARRY OWEN BUT I WAS
11 ALSO UNDER THE UMBRELLA OF THE ACCOUNTING DEPARTMENT AT
12 HOMEGOLD, FOR ANY ACCOUNTING FUNCTIONS.

13 Q SO, YOU WERE DOING BOOKKEEPING DUTIES, HAD ACCESS TO
14 THE GENERAL LEDGER?

15 A TO CAROLINA INVESTORS GENERAL LEDGER, YES.

16 Q SO, WERE YOU KEEPING TRACK OF THE MONEY THAT CAME IN?

17 A YES, I WAS.

18 Q AND THE MONEY THAT WENT OUT?

19 A YES, THAT WAS PART OF MY DUTIES TO RECORD THE
20 DEPOSITS THAT WERE MADE AND ALSO THE WITHDRAWALS AND ANY
21 INVOICES THAT WERE PAID.

22 Q SO, YOU HAD ACCESS TO THIS GENERAL ACCOUNT. WERE YOU
23 AWARE OF WHETHER HOMEGOLD EVER REMOVED ANY OF THAT MONEY
24 FROM THAT ACCOUNT?

25 A YES, THEY DID.

1 Q HOW WOULD YOU KNOW THAT, MA'AM?

2 A I WOULD SEE THAT COME THROUGH ON THE BANK ACCOUNT
3 STATEMENT FROM THE BANK WHICH WAS PULLED EACH MORNING BY
4 HOMEGOLD ACCOUNTING DEPARTMENT AND FAXED TO ME IN ORDER
5 FOR ME TO DO MY RECONCILIATION OF THE CASH ACCOUNT.

6 Q SO, AS A RESULT OF THAT TRANSFER DID YOU HAVE TO DO
7 SOMETHING TO YOUR BOOKS THAT YOU WERE WORKING WITH?

8 A I WOULD HAVE TO RECORD THAT ENTRY AND ALSO LET MR.
9 OWEN KNOW THAT THOSE TRANSFERS HAD BEEN MADE.

10 Q AND DID YOU DO THIS FROM, I GUESS, FROM 2001 TO THE
11 END?

12 A YES SIR, I DID.

13 Q DID YOU EVER HAVE AN OCCASION TO BECOME CONCERNED
14 THAT THE BALANCE WAS TOO LOW OR ANYTHING LIKE THAT?

15 A YES, ON SEVERAL OCCASIONS.

16 Q TELL US ABOUT THAT?

17 A ON SEVERAL OCCASIONS, I LIKE TO KEEP A MILLION TO A
18 MILLION AND A HALF DOLLARS IN THE BANK ACCOUNT SIMPLY FOR
19 THE FACT THAT WE HAD SEVERAL INVESTORS WHO HAD IN EXCESS
20 OF A MILLION DOLLARS IN THEIR ACCOUNT. AND IN CASE ONE OF
21 THOSE INVESTORS DECIDED TO WITHDRAW THEIR MONEY I DIDN'T
22 WANT THERE TO BE A PROBLEM WITH THEM GOING TO THE BANK AND
23 BEING ABLE TO GET THEIR FUNDS.

24 Q AND WAS THERE EVER AN OCCASION THAT IT GOT TOO LOW
25 WHERE YOU HAD TO TAKE SOME TYPE OF ACTION?

1 A YES, WHEN IT DROPPED BELOW A MILLION DOLLARS I WOULD
2 ADVISE MR. OWEN OF THE BANK BALANCE AND HE WOULD CONTACT
3 THE EXECUTIVE OFFICERS AT HOMEGOLD. AND ON OCCASION I,
4 MYSELF, CONTACTED SHANE SMITH IN ORDER TO REQUEST A
5 TRANSFER FROM HOMEGOLD BACK INTO THE CAROLINA INVESTORS
6 COLLECTION ACCOUNT.

7 Q HOW MANY TIMES YOU HAD TO PERSONALLY CALL?

8 A FIVE OR SIX TIMES OVER THAT PERIOD OF TIME.

9 Q NOW, DURING THE TIME PERIOD SAY FROM 2001 TO 2003
10 THAT, I GUESS, TO THE END OF THE COMPANY. WERE YOU
11 PREPARING DAILY CASH REPORTS?

12 A YES, I WAS.

13 Q AND WHAT WERE YOU DOING WITH THOSE REPORTS?

14 A AFTER THOSE REPORTS WERE PREPARED I FAXED THEM BACK
15 TO THE ACCOUNTING DEPARTMENT AT HOMEGOLD.

16 Q YOU MENTIONED EARLIER THAT YOU WERE DOING ACCOUNTS
17 RECEIVABLE OR PAYABLE AND THINGS LIKE THAT. I AM GOING TO
18 SHOW YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT NUMBER
19 83. DO YOU RECOGNIZE THAT?

20 A YES, I DO.

21 Q COULD YOU TELL ME WHAT THAT IS?

22 A THIS IS AN INVOICE FROM AN ATTORNEY IN DURHAM. AND
23 IT IS FOR SERVICES RENDERED AND THIS WAS SENT FROM
24 HOMEGOLD TO CAROLINA INVESTORS FOR PAYMENT.

25 Q WHEN DID YOU FIRST RECEIVE THAT?

1 A I WOULD RECEIVE THIS IN LATE NOVEMBER OF 2002.

2 MR. PEAVY: YOUR HONOR, AT THIS POINT WE WOULD ENTER
3 INTO EVIDENCE STATE'S 83.

4 THE COURT: ANY OBJECTION?

5 MR. GRIFFIN: NO, YOUR HONOR.

6 THE COURT: STATE'S 83 IS ADMITTED.

7 (WHEREUPON, STATE'S EXHIBIT NO. 83 WAS ADMITTED INTO
8 EVIDENCE.)

9 Q WHEN YOU FIRST RECEIVED THIS WHAT WAS YOUR REACTION?

10 A WELL, AS I REVIEW ALL OF THE INVOICES BEFORE PAYING
11 THEM SO I CAN CORRECTLY CODE THEM TO THE CORRECT GENERAL
12 LEDGER ACCOUNT, I WAS READING THE TEXT OF THE INVOICE AND
13 IT TALKS ABOUT MEETINGS WITH HOMEGOLD'S ATTORNEYS AND
14 ABOUT CONSERVATORSHIP AND RECEIVERSHIP AND ABOUT SEC
15 FILINGS AND ABOUT A POSSIBLE BANKRUPTCY.

16 Q WHEN YOU NORMALLY RECEIVED INVOICES SUCH AS THIS,
17 WHAT WAS YOUR TYPICAL COURSE OF ACTION?

18 A THEY WERE GIVEN TO MR. OWEN TO REVIEW AND TO APPROVE.

19 Q DID YOU DO ANYTHING OUT OF THE ORDINARY WITH THIS
20 ONE?

21 A I TOOK THAT ONE DIRECTLY TO HIM RATHER THAN THROUGH
22 THE NORMAL PROCESS.

23 Q AND RIGHT HERE WHERE THE SUBJECT LINE IS, IS THAT
24 BLACKED OUT?

25 A YES, IT IS. AND IT CAME THAT WAY TO OUR OFFICE.

1 Q FROM HOMEGOLD?

2 A YES.

3 Q AND AS A RESULT OF HAVING THAT CONVERSATION WITH MR.
4 OWEN ABOUT THIS DOCUMENT WHAT HAPPENED NEXT?

5 A WHEN HE RECEIVED IT HE SAID THAT HE WOULD CALL
6 HOMEGOLD OFFICIALS AND FIND OUT EXACTLY WHAT WAS GOING ON.

7 Q AND DID YOU ULTIMATELY PAY THAT?

8 A YES, WE DID. THAT WAS GIVEN BACK TO ME BY MR. OWEN
9 WITH THE NOTATION THAT IT WAS OKAY TO PAY.

10 Q WHILE YOU WERE EMPLOYED AT THE PICKENS OFFICE OF
11 CAROLINA INVESTORS, I GUESS TECHNICALLY BY HOMEGOLD, BUT
12 WORKING AT CAROLINA INVESTORS DID YOU EVER OBSERVE ANY
13 MEETINGS BETWEEN HOMEGOLD OFFICIALS AT THE CAROLINA
14 INVESTORS OFFICE?

15 A YES, I DID.

16 Q AND WHO FROM HOMEGOLD WOULD YOU SEE COME DOWN TO THE
17 PICKENS OFFICE?

18 A AT DIFFERENT TIMES KAREN MILLER, JACK STERLING,
19 FORREST FERRELL, RONNIE SHEPPARD AND KEVIN MARTIN.

20 Q AND IF I CAN, I WOULD LIKE YOU TO TAKE US THROUGH,
21 YOU SAID EARLIER THAT YOU WERE WORKING ON THE LAST WEEK
22 THAT CAROLINA INVESTORS WAS OPEN. WILL YOU TAKE ME
23 THROUGH THAT LAST WEEK OF OPERATIONS, PLEASE, MA'AM.

24 A IT WAS A NORMAL WEEK. WE STARTED OUT WITH OUR BANK
25 ACCOUNT WAS ABOUT \$1.1 MILLION DOLLARS, THE BALANCE IN THE

1 BANK ACCOUNT. AND AS THE WEEK PROGRESSED THE BALANCE
2 STEADILY DROPPED AND WHEN WE CALLED TO FIND OUT WHEN WE
3 COULD GET A TRANSFER OF MONEY BACK INTO THE ACCOUNT WE
4 WERE TOLD THAT THEY WERE EXPECTING A LOAN SALE TO COME
5 THROUGH BUT THE MONEY HAD JUST NOT ARRIVED TO HOMEGOLD.
6 BUT AS SOON AS IT DID THEY WOULD TRANSFER THE MONEY BACK
7 INTO OUR ACCOUNT.

8 Q DID YOU EVER GET THAT MONEY?

9 A NO, WE DID NOT.

10 Q DID YOU WORK A FULL WEEK THAT WEEK?

11 A I WORKED UP UNTIL 2:00 O'CLOCK ON FRIDAY AFTERNOON.

12 Q HOW DID YOU FIND OUT THAT THE DOORS HAD CLOSED?

13 A I HAD TAKEN MY GRANDDAUGHTER TO VOLLEYBALL PRACTICE
14 AND WHEN I GOT HOME I RECEIVED A CALL FROM MR. OWEN, HE
15 WAS UPSET AND IN TEARS AND HE SAID THAT--

16 MR. GRIFFIN: I AM GOING TO OBJECT TO HEARSAY.

17 THE COURT: SUSTAINED.

18 A I FOUND OUT FROM MR. OWEN AND HE TOLD ME THAT--

19 MR. GRIFFIN: OBJECTION.

20 THE COURT: YOU CAN'T GO INTO THAT, I SUSTAIN THE
21 OBJECTION.

22 Q WITHOUT TELLING ME, YOU FOUND OUT FROM MR. OWEN?

23 A YES.

24 Q NOW, MS. EVETT, DID YOU HAVE ANY MONEY INVESTED IN
25 CAROLINA INVESTORS?

1 A YES SIR, I HAD APPROXIMATELY \$83 THOUSAND DOLLARS IN
2 CAROLINA INVESTORS.

3 Q WHEN DID YOU FIRST START INVESTING IN CAROLINA
4 INVESTORS?

5 A WHEN I WAS FIRST EMPLOYED THERE I STARTED A SAVINGS
6 ACCOUNT AND MY HUSBAND AND I ADDED TO IT OVER THE YEARS,
7 IT WAS AN ACCUMULATION OF 30 YEARS OF SAVINGS.

8 Q STARTED BACK IN 1960?

9 A 1967, YES.

10 Q DID YOU EVER RENEW INVESTMENTS WHILE MR. SHEPPARD WAS
11 THE HEAD OF HOMEGOLD?

12 A YES, I DID.

13 Q MS. EVETT, WHAT WAS THAT MONEY FOR?

14 A THAT MONEY WAS TO BE USED IN CASE OF EMERGENCIES.
15 WHEN CAROLINA INVESTORS CLOSED IT DOORS I LOST MY JOB, MY
16 HUSBAND WAS THE ONLY SOURCE OF INCOME, IF SOMETHING HAD
17 HAPPENED TO HIM AND OUR NEST EGG WAS GONE. AND IT WAS TO
18 PROVIDE COLLEGE EDUCATIONS TO HELP WITH MY FOUR
19 GRANDDAUGHTERS COLLEGE EDUCATION AND JUST FOR EMERGENCIES.

20 Q HOW HAS THE COLLAPSE OF CAROLINA INVESTORS AFFECTED
21 YOU PERSONALLY?

22 A WELL, WITHIN THE COMMUNITY IT WAS VERY DEVASTATING
23 BECAUSE THE INVESTORS WERE NEIGHBORS, FRIENDS,
24 ACQUAINTANCES, PEOPLE THAT YOU HAD GONE TO SCHOOL WITH.
25 AND AS A VISIBLE SOURCE, OUR VISIBLE ENTITY, THE EMPLOYEES

1 OF CAROLINA INVESTORS WERE QUESTIONED AND WITH SUSPICION
2 LIKE WE HAD DONE, LIKE WE HAD TAKEN THE MONEY OR DONE
3 SOMETHING WITH THE MONEY.

4 Q I HAVE ONE FINAL QUESTION THAT I MISSED, MS. EVETT.
5 ALTHOUGH YOU HAD ACCESS TO CAROLINA INVESTORS BOOKS WHEN
6 YOU WERE IN THE PICKENS BRANCH, DID YOU HAVE ACCESS TO
7 HOMEGOLD'S BOOKS AND THEIR LEDGERS AND THINGS LIKE THAT?

8 A NO, I DID NOT.

9 Q THAT IS ALL I HAVE. THANK YOU.

10 THE COURT: CROSS-EXAMINE, MR. GRIFFIN.

11 CROSS-EXAMINATION

12 BY MR. GRIFFIN:

13 Q MS. EVETT, HOW LONG DID YOU WORK AT CAROLINA
14 INVESTORS?

15 A I WORKED AT CAROLINA INVESTORS FROM 1967 TO 2003, SO
16 IT WOULD OF BEEN 36 YEARS.

17 Q AND YOU WERE SHOWN SOME PICTURES OF, THIS PICTURE,
18 WILL YOU TELL US, PLEASE, WHERE THAT IS?

19 A THAT IS THE BERA LOCATION, IT IS LOCATED IN
20 GREENVILLE, BERA IS A COMMUNITY WITHIN GREENVILLE. AND
21 THAT IS THE CAROLINA INVESTORS OFFICE THERE.

22 Q AND HOW LONG HAD THAT OFFICE BEEN OPENED?

23 A THAT OFFICE WAS OPENED IN THE LATE 1980'S.

24 Q THIS OFFICE, CAN YOU TELL US WHERE THAT IS LOCATED?

25 A THAT IS THE MAIN OFFICE IN PICKENS, SOUTH CAROLINA.

1 THAT HAD BEEN THERE SINCE 1968.

2 Q AND THAT SIZE?

3 A YES.

4 Q AND THE INSIDE OF THE OFFICE HERE, IS THAT THE INSIDE
5 OF THE PICKENS OFFICE?

6 A YES, IT IS.

7 Q AND THOSE ARE TELLER STATIONS?

8 A YES, THOSE WERE INSTALLED WHEN THE BUILDING WAS
9 ORIGINALLY BUILT.

10 Q IN 1968?

11 A IN 1968.

12 Q WAS IT BUILT FOR CAROLINA INVESTORS AS TO SELL THESE
13 NOTES AND DEBENTURES?

14 A THAT AND ALSO, AT THAT TIME THEY WERE SELLING
15 CEMETERY LOANS, IT WAS ALSO USED TO COLLECT PAYMENTS FOR
16 CEMETERY AND MORTGAGE LOANS.

17 Q AND THAT IS IN 1968 IS WHEN THIS BUILDING--

18 A '68, '69, SOMEWHERE ALONG THERE.

19 Q THE INSIDE HERE WITH SOME PICTURES, WHAT IS THAT?

20 A THAT APPEARS TO BE THE EXECUTIVE OFFICE, WHAT WAS
21 DWIGHT HOLDERS OFFICE AND THEN MR. EARLE MORRIS USED THAT
22 OFFICE.

23 Q AND DO YOU RECALL WHEN MR. EARLE MORRIS CAME TO WORK
24 AT CAROLINA INVESTORS?

25 A MR. MORRIS HAD BEEN A DIRECTOR OF CAROLINA INVESTORS

1 SINCE PROBABLY THE 1970'S, 1980'S, HIS FATHER WAS AN
2 ORIGINAL DIRECTOR AND WHEN HIS FATHER PASSED AWAY HE
3 BECAME A DIRECTOR.

4 Q AND THEN WHEN MR. MORRIS LEFT THE STATE OFFICE HE
5 BECAME AN OFFICER OF CAROLINA INVESTORS?

6 A YES, HE DID.

7 Q AND HE CAME TO THE OFFICE THREE OR FOUR TIMES A WEEK?

8 A USUALLY TWO OR THREE TIMES A WEEK.

9 Q AND THIS PHOTOGRAPH, IS THAT STILL THE EXECUTIVE
10 OFFICE?

11 A YES, IT IS. THAT IS ANOTHER VIEW.

12 Q AND THIS, AND THAT IS THE PICKENS OFFICE?

13 A YES, IT IS.

14 Q THIS LAST ONE, IS THAT THE PICKENS OFFICE?

15 A NO, THAT IS THE BEREA OFFICE, THE INSIDE OF THAT.

16 Q AND THAT OFFICE WAS OPENED?

17 A IN THE LATE 1980'S, 1989.

18 Q AND YOU WORKED AT, I SORT OF DIDN'T FOLLOW YOUR
19 CAREER PATH OF CAROLINA INVESTORS. YOU WORKED THERE IN
20 THE EARLY 60'S THOUGH--

21 A I WORKED THERE IN THE EARLY 60'S THROUGH 1996,
22 WHENEVER I STARTED CONTRACTUAL RELATIONSHIP WITH THE
23 CONSOLIDATED ACCOUNTING DEPARTMENT WHICH WAS AT HOMEGOLD.

24 Q AND UP UNTIL 1996 WAS YOUR JOB WITHIN THE ACCOUNTING
25 DEPARTMENT OF CAROLINA INVESTORS?

1 A WE DID THE ACCOUNTING FOR CAROLINA INVESTORS, WE ALSO
2 DID THE ACCOUNTING FOR EMERGENT MORTGAGE AT THAT LOCATION.

3 Q AND IN FACT PRIOR TO 1996, WHEN YOU WERE DOING THAT
4 ACCOUNTING, WERE THE MONIES BEING LOANED TO CAROLINA
5 INVESTORS TO EMERGENT MORTGAGE?

6 A YES, THEY WERE.

7 Q AND YOU WERE PHYSICALLY LOCATED IN THE PICKENS
8 OFFICE?

9 A YES, IT WAS.

10 Q AND YOU WERE ABLE TO OBSERVE HOW THE PICKENS OFFICE
11 OPERATED.

12 A SOMEWHAT, YES.

13 Q AND IT WAS RUN BY LARRY OWEN?

14 A WELL, MR. OWEN RAN CAROLINA INVESTORS. THERE WERE
15 OTHER OFFICERS WHO RAN THE EMERGENT MORTGAGE PART OF IT.

16 Q AND THEN IN 1995 OR 1996 THERE WAS SOME
17 RESTRUCTURING?

18 A THE ACCOUNTING DEPARTMENT WAS ALREADY CONSOLIDATED
19 BUT THEY DECIDED TO MOVE THE ACCOUNTING DEPARTMENT ALONG
20 WITH THE MORTGAGE ORIGINATION DEPARTMENT TO THE HYATT,
21 WELL, THE MORTGAGE ORIGINATION WAS NOT MOVED THERE. BUT
22 THE ACCOUNTING DEPARTMENT WAS MOVED TO THE HYATT REGENCY
23 OFFICE IN GREENVILLE, SOUTH CAROLINA.

24 Q AND THEN, YOU PHYSICALLY, YOU WENT TO WORK FROM
25 PICKENS TO GREENVILLE?

1 A TO GREENVILLE, YES.

2 Q AND THAT WAS IN 1996?

3 A YES.

4 Q AND YOU STAYED IN THAT POSITION, AT THAT LOCATION?

5 A WELL, THEY MOVED FROM THE HYATT REGENCY LOCATION IN
6 1997, 1998 TO THE LOCATION OFF OF PELHAM ROAD WHERE THEY
7 HAD CONSOLIDATED EVERYTHING, THE ACCOUNTING, THE LOAN
8 ORIGINATION DEPARTMENT AND ALSO THE CORPORATE
9 HEADQUARTERS.

10 Q AND YOUR FUNCTION AT THE PELHAM ROAD OFFICE WAS STILL
11 TO MAINTAIN THE GENERAL LEDGERS FOR CAROLINA INVESTORS?

12 A YES, WELL, NOT JUST FOR CAROLINA INVESTORS. THE
13 STRUCTURE OF THE ACCOUNTING DEPARTMENT AT THAT TIME YOU
14 DID NOT HAVE A CERTAIN COMPANY THAT YOU DID ACCOUNTING
15 FUNCTIONS FOR. YOU HAD CERTAIN DUTIES WITHIN THE
16 DEPARTMENT THAT COVERED ALL OF THE, BOTH OF THE
17 SUBSIDIARIES.

18 Q AND IN YOUR FUNCTION, DID YOU INTERFACE OR
19 COMMUNICATE WITH MR. OWEN AND OTHERS WHO WERE WORKING FOR
20 CAROLINA INVESTORS?

21 A NO, I DID NOT.

22 Q SO, YOU WERE PRIMARILY JUST WITHIN THE ACCOUNTING
23 DEPARTMENT?

24 A RIGHT.

25 Q AND WHO DID YOU REPORT TO?

1 A I REPORTED TO THE, THE VICE-PRESIDENT, EVENTUALLY THE
2 CFO OF THE COMPANY.

3 Q AND PRIOR TO 2000 IT WOULD OF BEEN KEVIN MAST?

4 A MY IMMEDIATE SUPERVISOR WOULD OF BEEN JENNIFER
5 CHAMPAGNE AND THEN RHONDA JOHNSON AND THEN SHANE SMITH.

6 Q YOU DESCRIED IN YOUR TESTIMONY EARLIER ABOUT HOW
7 MONIES WOULD BE TRANSFERRED FROM CAROLINA INVESTORS BANK
8 ACCOUNT OVER TO HOMEGOLD'S OPERATING ACCOUNT?

9 A YES.

10 Q WERE THOSE TRANSFERS TAKING PLACE BEFORE 2000?

11 A YES.

12 Q WERE THEY TAKING PLACE BEFORE 1999?

13 A YES.

14 Q WERE THEY TAKING PLACE BEFORE 1998?

15 A YES.

16 Q AND BEFORE 1997?

17 A AS FAR AS I KNOW, YES.

18 Q AND THEN IN, AND THEY TOOK PLACE IN THE YEAR OF 2000?

19 A YES.

20 Q AND 2001?

21 A YES.

22 Q AND IN 2001 THE ACCOUNTING DEPARTMENT MOVED TO
23 LEXINGTON COUNTY?

24 A YES, THEY DID.

25 Q BUT YOU DIDN'T WANT TO LEAVE?

1 A NO, I DID NOT WANT TO RELOCATE.

2 Q AND SO YOU PHYSICALLY WENT BACK TO WORK IN WHERE?

3 A THEY MOVED ME TO THE PICKENS OFFICE OF CAROLINA
4 INVESTORS.

5 Q AND SO YOU WERE THERE FROM--

6 A FROM JULY OF 2001 TO, I WAS THERE THROUGH SEPTEMBER
7 OF 2003, AFTER THE BANKRUPTCY.

8 Q THE BANKRUPTCY WAS IN MARCH OF 2003?

9 A YES.

10 Q AND WHEN YOU MOVED BACK IN JULY OF 2001 WAS THE SAME
11 PLAYERS ESSENTIALLY STILL AT CAROLINA INVESTORS, MR. OWEN?

12 A YES.

13 Q AND HIS WIFE?

14 A YES.

15 Q AND MR. MORRIS?

16 A YES.

17 Q DID YOU NOTICE IF ANYTHING CHANGED ABOUT THE WAY
18 BUSINESS WAS BEING DONE AT CAROLINA INVESTORS FROM WHEN
19 YOU LAST WORKED AT THAT PICKENS OFFICE?

20 A OTHER THAN THE FACT THAT THE LOAN ORIGINATIONS WERE
21 NOT BEING DONE AT CAROLINA INVESTORS. EVERYTHING AS FAR
22 AS THE INVESTMENT PART WAS BEING DONE THE SAME.

23 Q SELLING THE NOTES AN DEBENTURES WERE THE SAME?

24 A YES.

25 Q YOU SAY LOAN ORIGINATION, YOU MEAN LOANING MONEY FOR

1 MORTGAGES, FOR PEOPLE BUYING HOUSES?

2 A RIGHT.

3 Q FROM SPRING, JULY OF 2001 THROUGH THE CLOSE OF
4 BUSINESS AT CAROLINA INVESTORS, YOU MENTIONED THAT YOU SAW
5 SOME MEETINGS, WERE THE CAROLINA INVESTORS BOARD MEETINGS
6 HELD AT THE PICKENS OFFICE?

7 A YES, THEY WERE.

8 Q AND THOSE BOARD MEETINGS, THAT WOULD BE THE OCCASION
9 THAT YOU WOULD SEE MR. SHEPPARD?

10 A I THINK I SAW MR. SHEPPARD THERE ON POSSIBLY TWO
11 OCCASIONS.

12 Q ONE OR TWO BOARD MEETINGS?

13 A YES.

14 Q BUT WITH REGARD TO DAY TO DAY BUSINESS OPERATIONS DID
15 YOU EVER SEE MR. SHEPPARD COME UP THERE AND DIRECT PEOPLE
16 ON HOW TO DO THEIR JOBS?

17 A NO, I DID NOT.

18 Q AND WERE YOU AWARE THAT MR. SHEPPARD MADE ANY PHONE
19 CALLS UP TO THE CAROLINA INVESTORS OFFICES?

20 A I AM NOT AWARE OF THAT.

21 Q ARE YOU AWARE OF ANYBODY THAT WAS REPORTING DIRECTLY
22 TO MR. SHEPPARD AND THE OFFICES OF CAROLINA INVESTORS?

23 A I WOULD NOT KNOW THAT.

24 Q YOU STATED, MS. EVETT, THAT WHEN CAROLINA INVESTORS
25 FILED BANKRUPTCY YOU HAD AN ACCOUNT BALANCE OF ROUGHLY \$80

1 THOUSAND DOLLARS?

2 A YES, SIR.

3 Q AND THAT ACCOUNT BALANCE WAS THE RESULT OF INVESTING
4 IN CAROLINA INVESTORS FOR OVER 30 YEARS?

5 A YES, IT WAS.

6 Q AND A LOT OF THAT PERCENTAGE OF THAT BALANCE, WAS
7 THAT INTEREST THAT YOU HAD EARNED THROUGH HAVING TO LEAVE
8 YOUR MONEY THERE AT CAROLINA INVESTORS?

9 A SOME OF IT WAS BUT THERE HAD BEEN WITHDRAWALS OVER
10 THAT 30 YEAR PERIOD, SO NOT ALL INTEREST.

11 Q AND THEN WHEN CAROLINA INVESTORS FILED BANKRUPTCY AT
12 SOME POINT AND TIME HAVE YOU BEEN ABLE TO RECEIVE SOME
13 MONEY BACK FROM CAROLINA INVESTORS ON YOUR INVESTMENT?

14 A YES, I HAVE.

15 Q WHEN THE BILL THAT YOU HAD INTRODUCED, THAT WAS
16 INTRODUCED THROUGH YOU, THE BILL FOR THE LEGAL FEES?

17 A YES.

18 Q I BELIEVE YOU INDICATED THAT IT CAME IN LATE
19 NOVEMBER?

20 A YES.

21 Q AND IT HAS A DATE, WHAT IS THE DATE?

22 A THE DATE OF THE INVOICE IS 11/21/02.

23 Q HAD YOU KNOWN THAT MR. SHEPPARD HAD RESIGNED FROM HIS
24 BOARD POSITIONS AND OFFICERS POSITION AT HOMEGOLD BEFORE
25 THAT DATE?

1 A NO, I WAS NOT AWARE OF THAT.

2 Q AND THE DATE IT WAS OKAYED TO BE PAID?

3 A THAT IS ALL, NOVEMBER THE 25TH OF 2002.

4 Q AND YOU DON'T KNOW THAT MR. SHEPPARD HAS ALREADY
5 RESIGNED?

6 A I HAVE NO IDEA.

7 Q AND WHEN CAROLINA INVESTORS FILED BANKRUPTCY AND
8 CLOSED ITS DOORS DURING THOSE LAST WEEKS, THAT LAST WEEK
9 YOU DESCRIBED, YOU WERE AWARE THAT MR. SHEPPARD WAS NO
10 LONGER AN OFFICER OR BOARD MEMBER OF EITHER HOMEGOLD OR
11 CAROLINA INVESTORS AT THAT TIME?

12 A I DON'T KNOW THAT I FOUND OUT AT THAT TIME BUT I DID
13 FIND OUT LATER THAT HE HAD RESIGNED.

14 Q WELL BEFORE THAT?

15 A AS I THINK THE DATE WAS AT THE END OF 2002.

16 Q THAT IS ALL THAT I HAVE.

17 THE COURT: REDIRECT?

18 MR. PEAVY: YES, YOUR HONOR.

19 REDIRECT EXAMINATION

20 BY MR. PEAVY:

21 Q MS. EVETT, MR. GRIFFIN HAD JUST ASKED YOU A QUESTION
22 ABOUT WHETHER OR NOT ANYTHING HAD CHANGED AT CAROLINA
23 INVESTORS WHEN YOU WERE WORKING AT THAT PICKENS OFFICE.
24 YOU NEVER SAT IN WITH ANY INVESTMENT COUNSELORS WHEN THEY
25 WERE MEETING WITH THEIR INVESTORS?

1 A NO.

2 Q YOU DON'T KNOW WHAT WAS SAID?

3 A NO.

4 Q YOU DON'T KNOW IF ANYTHING DIFFERENT WAS SAID TO THEM
5 IN THOSE YEARS OF 2000, 2001 AND 2002?

6 A NO.

7 Q NOW, DURING THOSE YEARS THAT YOU WERE THERE AT THE
8 PICKENS OFFICE THAT MR. SHEPPARD WAS IN CHARGE, DID THEY
9 OPEN A NEW BRANCH AT CAROLINA INVESTORS?

10 A YES, THEY DID.

11 Q AND WHAT WAS THAT BRANCH?

12 A THAT WAS THE ANDERSON BRANCH.

13 Q STATE'S EXHIBIT 83, PAGE THREE OF THAT DOCUMENT,
14 WOULD YOU PLEASE READ THIS ENTRY, PLEASE?

15 A THIS ENTRY IS DATED ON THE INVOICE 09/05/2002. AND
16 IT LIST THE INITIALS OF THE ATTORNEY, CRR. AND UNDER
17 SERVICES RENDERED IT SAYS, TELEPHONE CONFERENCE WITH KAREN
18 MILLER AND RONNIE S., TELEPHONE CONFERENCE WITH J.
19 STERLING REGARDING STATUS.

20 Q THANK YOU. YOU TALKED TO MR. GRIFFIN A MINUTE AGO
21 ABOUT WORKING THERE FROM 2000, I GUESS FROM 2001 TO 2003,
22 DID CAROLINA INVESTORS CLOSE ITS DOORS ON MARCH 21ST?

23 A YES, IT DID.

24 Q THAT WAS THE LAST DAY THAT YOU WORKED THERE?

25 A THAT WAS THE LAST DAY THAT THE COMPANY WAS OPENED. I

1 WORKED UNTIL SEPTEMBER.

2 Q THANK YOU.

3 THE COURT: ANYTHING FURTHER?

4 MR. GRIFFIN: NO, YOUR HONOR.

5 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
6 WITNESS, PLEASE.

7 MR. MYRICK: YOUR HONOR, THE STATE CALLS DAVID
8 BOWERMAN.

9 DAVID BOWERMAN, AFTER BEING DULY SWORN,
10 TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. MYRICK:

13 Q MR. BOWERMAN, WOULD YOU INTRODUCE YOURSELF TO THE
14 JURY, PLEASE?

15 A YES, I AM THE PRESIDENT OF CBIZ VALUATION GROUP AND I
16 WORK AND LIVE IN DELAND.

17 Q YOU SAID YOU ARE THE PRESIDENT?

18 A YES.

19 Q WHAT BUSINESS IS CBIZ?

20 A WE WORK A CONSULTING COMPANY THAT VALUES COMPANIES,
21 SECURITIES, ASSETS, REAL ESTATE, ETCETERA FOR COMPANIES OR
22 INDIVIDUALS ALL AROUND THE COUNTRY.

23 Q DID YOU BRING SOMETHING TO COURT WITH YOU TODAY?

24 A I DID.

25 Q WHAT DID YOU BRING?

1 A I BROUGHT SOME COPIES OF WORK PAPERS THAT WERE
2 REQUESTED.

3 Q DID YOU BRING A VALUATION WITH YOU?

4 A I BROUGHT A DRAFT OF THE VALUATIONS STUDY, A PROPOSAL
5 TO PERFORM SOME WORK AND THREE OTHER WORK PAPERS.

6 Q THE VALUATION, WHO WAS IT FOR?

7 A IT WAS FOR HOMEGOLD FINANCIAL, INC.

8 Q IS CREATING SUCH VALUATIONS PART OF THE NORMAL COURSE
9 OF BUSINESS AT CBIZ?

10 A THAT IS ALL ^{WE} WE DO.

11 Q THAT IS ALL YOU DO?

12 A RIGHT.

13 Q MAY I SEE WHAT YOU BROUGHT.

14 MR. MYRICK: IF I MAY APPROACH THE WITNESS, YOUR
15 HONOR.

16 THE COURT: YES.

17 Q THE COPY OF THE VALUATION THAT YOU BROUGHT, IS IT A
18 TRUE AND CORRECT COPY?

19 A I BELIEVE IT IS, YES.

20 Q YOU SAID IT WAS A DRAFT, WHAT DO YOU MEAN BY THAT?

21 A IT WAS NEVER ISSUED IN A FINAL FORM, WHAT WE
22 TYPICALLY DO WHEN WE DO AN ANALYSIS FOR A CLIENT, THEY
23 HIRE US AND WE TAKE A BUNCH OF INFORMATION WE GATHER FROM
24 THEM, OUTSIDE SOURCES, PUT IT TOGETHER IN A REPORT AND
25 THEN SHARE THAT REPORT WITH A CLIENT. BEFORE WE GO FINAL

1 AND SAY, IS THIS WHAT YOU THINK, HAVE WE GOT THE FACTS
2 RIGHT, ETCETERA. AND ONCE WE GET THE CONFORMATION THAT
3 THE CLIENT IS SATISFIED WITH IT THEN WE GO FINAL.

4 Q IS IT ONE OF YOUR DUTIES TO INSURE THAT THE COPIES
5 THAT YOU BROUGHT TO COURT TODAY ARE TRUE AND CORRECT?

6 A ABSOLUTELY.

7 Q AND THIS REPORT, DO YOU ROUTINELY MAINTAIN COPIES OF
8 REPORTS THAT YOU DO FOR CLIENTS?

9 A YES, WE KEEP WORK PAPERS FOR ALL OF OUR CLIENTS.

10 MR. MYRICK: YOUR HONOR, WE WOULD LIKE TO MOVE
11 STATE'S 121 INTO EVIDENCE.

12 MR. GRIFFIN: NO OBJECTION.

13 THE COURT: WITHOUT OBJECTION, STATE'S 121 IS
14 ADMITTED.

15 (WHEREUPON, STATE'S EXHIBIT NO. 121 WAS ADMITTED INTO
16 EVIDENCE.)

17 Q I HAVE NO MORE QUESTIONS FOR YOU. THANK YOU.

18 THE COURT: MR. GRIFFIN.

19 CROSS-EXAMINATION

20 BY MR. GRIFFIN:

21 Q MR. BOWERMAN, DID YOU BRING SOME OTHER WORK PAPERS
22 WITH YOU?

23 A I DID.

24 Q CAN I TAKE A LOOK. THE EXHIBIT 101, THAT VALUATION
25 FOR HOMEGOLD, I AM SORRY, 121. WERE YOU EMPLOYED WITH

1 CBIZ AT THE TIME THAT SERVICE WAS RENDERED?

2 A NO.

3 Q YOU CAME ON AFTER THE FACT?

4 A LIKE FOUR OR FIVE MONTHS LATER.

5 Q AND YOUR REVIEW OF THE FILES, WORK PAPERS, FROM THE
6 RECORDS, CAN YOU DETERMINE WHO DID THIS SERVICE?

7 A WHO PREPARED THE FORMS?

8 Q WHO PERFORMED THIS SERVICE?

9 A I HAVE TWO IN PARTICULAR.

10 Q WHO IS THAT?

11 A CATHY BERNARD AND RAY GALARDY, (PHONETIC).

12 Q AND WERE THEY OUT OF THE ATLANTA OFFICE OR SOMEWHERE
13 ELSE?

14 A THEY WORK AT THE PRINCETON OFFICE, PRINCETON, NEW
15 JERSEY. THEY NO LONGER WORK IN THE FIRM.

16 Q WERE THEY WORKING IN THE FIRM, AT A TIME WITH YOU?

17 A YES.

18 Q AND WAS IT THEIR JOB WITHIN THE FIRM TO DO BUSINESS
19 VALUATIONS?

20 A ABSOLUTELY.

21 Q THAT IS WHAT THEY WERE, WERE THEY EXPERTS IN THAT
22 FIELD?

23 A YES.

24 Q DO THE FILES INDICATE HOW HOMEGOLD CAME ABOUT IN
25 RETAINING THE SERVICES FOR CBIZ FOR THIS VALUATION, A

1 MS. EVANS: YES, YOUR HONOR.

2 THE COURT: IS THE DEFENSE READY?

3 MR. GRIFFIN: YES, YOUR HONOR.

4 THE COURT: BRING THE JURY IN, PLEASE.

5 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
6 APPROXIMATELY 3:30 P.M.)

7 MS. EVANS: THE STATE CALLS JENNIFER CHAMPAGNE TO THE
8 STAND.

9 JENNIFER CHAMPAGNE, AFTER BEING DULY SWORN,
10 TESTIFIED AS FOLLOWS: ~~4~~

11 DIRECT EXAMINATION

12 BY MS. EVANS:

13 Q MS. CHAMPAGNE, PLEASE TELL THE JURY ABOUT YOUR
14 EDUCATIONAL BACKGROUND.

15 A I HAVE A UNDERGRADUATE DEGREE FROM FURMAN UNIVERSITY,
16 GRADUATED IN 1989. AND THEN I HAVE SOME OTHER
17 PROFESSIONAL EDUCATION THAT IS MORE RELATED TO THE BANKING
18 INDUSTRY THAT I AM WORKING IN NOW.

19 Q WHAT IS THAT EDUCATION, PLEASE?

20 A I HAVE PORTIONS OF A MASTERS DEGREE IN BUSINESS
21 ADMINISTRATION FROM CLEMSON UNIVERSITY THAT I HAVE NOT
22 COMPLETED YET. AND I HAVE, I AM ALMOST COMPLETED WITH
23 THE, A MASTERS IN BANKING FROM THE GRADUATE SCHOOL OF
24 BANKING THAT IS HELD AT LSU, LOUISIANA STATE UNIVERSITY.

25 Q DO YOU HAVE ANY BACKGROUND WITH FINANCE?

1 A I DO.

2 Q PLEASE TELL THE JURY ABOUT THAT.

3 A OKAY. I AM A CERTIFIED PUBLIC ACCOUNTANT. I WORKED
4 FOR KPMG, I WORKED FOR SIX YEARS DIRECTLY OUT OF FURMAN.
5 AND BECAME A CPA DURING THAT TIME PERIOD. I AUDITED AND
6 WORKED ON SEC FILINGS FOR THE BANKING INDUSTRY WHILE I WAS
7 WORKING FOR KPMG. AND THEN I ACTUALLY WENT TO WORK FOR A
8 BANK, WENT TO WORK FOR AMERICAN FEDERAL BANK WHICH IS NOW
9 PART OF SUN TRUST THROUGH SEVERAL MERGERS. AFTER AMERICAN
10 FEDERAL WAS PURCHASES BY CCB, WHICH IS A PREDECESSOR OF
11 SUN TRUST AND WHEN IT WAS PURCHASED I WENT TO WORK FOR
12 ANOTHER COMPANY IN DOWNTOWN GREENVILLE CALLED STERLING
13 DIAGNOSTIC IMAGING. AND I WAS DOING, THEY WERE A NEW
14 COMPANY AND I WAS DOING, HELPING THEM CREATE POLICIES AND
15 PROCEDURES WHICH WOULD GOVERN THE INTERNAL CONTROLS AS
16 THEY WERE SETTING UP THEIR NEW COMPANY, INTERNAL CONTROL
17 SYSTEM IN THE COMPANY. THEN I LEFT STERLING BECAUSE IT
18 WAS BEING ACQUIRED BY A COMPANY CALLED AGFA. AND I WENT
19 TO WORK FOR HOMEGOLD AND THE MORTGAGE BUSINESS, AT THAT
20 TIME THEY OWNED MORE THAN JUST THE MORTGAGE BUSINESS. BUT
21 I ALWAYS WORKED PRETTY MUCH IN THE MORTGAGE SIDE OF THE
22 COMPANY DOING MAINLY THE GENERAL LEDGER ACCOUNTING AND
23 OVERSEEING AND ADMINISTERING THE ACCOUNTING DEPARTMENT.

24 Q AND YOU SAID YOU WORKED FOR A COMPANY CALLED STERLING
25 COMPANY, THAT WAS NO RELATION TO STERLING THAT WAS AT

1 HOMEGOLD?

2 A NO, THE STERLING GROUP WAS OUT OF HOUSTON.

3 Q WHAT WERE YOUR PRIMARY RESPONSIBILITIES WHEN YOU
4 WORKED AT HOMEGOLD?

5 A MY TITLE WAS THE SENIOR VICE-PRESIDENT OF FINANCE,
6 THE ACTUAL DAY TO DAY DUTIES THAT I PERFORMED WERE RELATED
7 TO MAKING SURE THE ACCOUNTING WAS DONE PROPERLY WITHIN THE
8 COMPANY, A LOT OF INTERNAL REPORTING ABOUT INCOME AND
9 EXPENSES, ESPECIALLY ACROSS DEPARTMENTAL LINES. I HAD THE
10 FOLKS WORKING FOR ME THAT PAID ALL THE BILLS AND WE MADE
11 SURE THAT ALL OF THE BOOKS AND RECORDS WERE ACCURATE AND
12 THAT INFORMATION WAS CLEAR AND AVAILABLE TO PEOPLE WITHIN
13 THE COMPANY FOR THEIR USE.

14 Q AND WHAT YEAR DID YOU START WORKING AT HOMEGOLD?

15 A I WENT TO WORK FOR HOMEGOLD IN MARCH OF 1998.

16 Q AND WHO DID YOU REPORT TO?

17 A AT THAT TIME I REPORTED TO JIM AUSTIN.

18 Q WHO WAS CFO AT THE TIME?

19 A KEVIN MAST.

20 Q AND DURING THAT TIME WHEN YOU GOT THERE WAS THERE
21 FINANCIAL PROBLEMS AT HOMEGOLD?

22 A YOU WOULD NEED TO DEFINE FINANCIAL PROBLEMS A LITTLE
23 BIT MORE SPECIFICALLY.

24 Q JUST TELL ME IN GENERAL TERMS, DAY TO DAY, WHAT WERE
25 YOU DOING WHEN YOU FIRST ARRIVED IN 1998?

1 A AT THE TIME THAT I FIRST ARRIVED HOMEGOLD HAD GONE
2 THROUGH A PERIOD OF VERY QUICK, VERY FAST GROWTH. AND
3 THERE WERE PEOPLE IN THE ACCOUNTING DEPARTMENT WHO HAD
4 BEEN HIRED AT THAT TIME WHO, BECAUSE OF THE FAST GROWTH
5 WERE NOT ABLE TO KEEP UP WITH SOME OF THE THINGS THAT WERE
6 GOING ON. SO, THERE WERE A FEW THINGS THAT WERE BEHIND
7 AND THINGS LIKE THAT BUT WE WERE ABLE TO WORK THROUGH
8 THOSE ISSUES AND I FELT THAT WE HAD DONE A GOOD JOB OF
9 MAKING SURE THAT THE BOOKS AND RECORDS WERE ACCURATE BY,
10 PROBABLY ABOUT NINE MONTHS TO REALLY FEEL GOOD ABOUT
11 EVERYTHING BEING CAUGHT UP.

12 Q AND WAS THE PRODUCTION THAT EXPANDED DECREASED
13 BECAUSE SOMEONE LEFT THE COMPANY?

14 A MY UNDERSTANDING IS THAT TWO OR THREE MONTHS BEFORE I
15 GOT THERE THAT MR. MCSHANE HAD LEFT THE COMPANY. AND ONE
16 OF THE ISSUES WAS THE GROWTH AND THE THINGS THAT WERE DONE
17 DURING HIS TENURE, HE DIDN'T WORK WELL WITH THE ACCOUNTING
18 DEPARTMENT IS MY UNDERSTANDING.

19 Q AND DURING THIS TIME FRAME WHAT ARE YA'LL DOING IN
20 THE ACCOUNTING DEPARTMENT REGARDING THOSE EXPENSES, WHAT
21 ARE YOU TRYING TO DO IN THIS 1998, 1999 TIME FRAME?

22 A ONE OF THE MOST IMPORTANT THINGS IS TO MAKE SURE, IN
23 ORDER TO MAKE SURE YOUR FINANCIAL STATEMENTS ARE ACCURATE
24 YOU NEED TO MAKE SURE THAT YOU HAVE ALL THE BILLS, THAT
25 EVERYTHING IS ACCOUNTED FOR AND A PROPER TIME PERIOD WHICH

1 IS, WE CALL THAT CUTOFF IN THE INDUSTRY, WE WANT TO MAKE
2 SURE THAT THE EXPENSES AND THE INCOME GO IN THE RIGHT
3 PLACE AT THE RIGHT TIME PERIODS. WE NEEDED TO MAKE SURE,
4 ONE OF THE REASONS WE NEEDED TO MAKE SURE THAT ALL OF
5 THESE THINGS WERE ACCURATE IS BECAUSE WE WERE A PUBLIC
6 COMPANY AND YOU HAVE TO REPORT THINGS ACCURATELY AND
7 DISCLOSURES MANY TIMES WILL BE DEPENDENT UPON KNOWING THAT
8 YOU HAVE EVERYTHING. WE WERE TRYING TO RECONCILE CASH
9 ACCOUNTS ON A DAILY BASIS BECAUSE OF THE VOLUME OF THE
10 TRANSACTIONS GOING THROUGH THERE. IT WAS REQUIRED TO BE
11 DONE EVERY DAY. IF YOU DIDN'T DO IT EVERY DAY YOU WOULD
12 GET BEHIND VERY QUICKLY. WE WERE, IF YOU DON'T PAY YOUR
13 BILLS ON TIME YOU HAVE TO PAY PENALTIES AND INTEREST AND
14 OTHER THINGS TO YOUR CREDITORS. AND WE WANTED TO MAKE
15 SURE THAT EVERYTHING WAS BEING PAID ON TIME AND THAT WE
16 WERE DOING THINGS IN A TIMELY MANNER FOR OUR VENDORS AND
17 OTHER PEOPLE.

18 Q AND AROUND THIS TIME FRAME DID YOU BECOME AWARE OF A
19 MERGER BETWEEN A COMPANY CALLED HOMESENSE?

20 A I DID, IN EARLY 2000.

21 Q AND WHERE WAS THAT COMPANY LOCATED?

22 A IN LEXINGTON, SOUTH CAROLINA.

23 Q AND WHERE WERE YOU WORKING FOR AT HOMEGOLD?

24 A I WAS WORKING ON PELHAM ROAD IN GREENVILLE, SOUTH
25 CAROLINA.

1 Q WHERE ARE YOU ORIGINALLY FROM?

2 A I AM ORIGINALLY FROM MISSISSIPPI BUT I WENT TO SCHOOL
3 IN IRMO.

4 Q AND AT SOME POINT DID YOU START GETTING INVOLVED FROM
5 THE ACCOUNTING STANDPOINT BETWEEN THE HOMESENSE/HOMEGOLD
6 MERGER?

7 A I DID. I WAS INVOLVED DURING THE DUE DILIGENCE
8 PERIOD AND IMMEDIATELY FOLLOWING THE MERGER.

9 Q AND WHAT WERE SOME THINGS THAT YOU FIRST NOTICED,
10 WHAT WAS YOUR RESPONSIBILITY REGARDING THE MERGER?

11 A WELL, AS I MENTIONED, I PAID THE BILLS AND I NEEDED
12 TO MAKE SURE THAT I KNEW HOW I WAS GOING TO BE ABLE TO DO
13 THAT AND HOW THEIR OPERATIONS WERE GOING TO BE MERGED INTO
14 MY OPERATION. I WAS GIVEN THE UNDERSTANDING THAT BECAUSE
15 HOMEGOLD HAD A SIGNIFICANT INFRASTRUCTURE AND WE WERE ABLE
16 TO ACCOUNT FOR EVERYTHING ON A TIMELY BASIS AND REPORT IT
17 TO THE SEC ACCURATELY THAT WE WERE GOING TO BE TAKING ON
18 THE PAYMENT OF THEIR BILLS, WE WERE GOING TO BE MERGING
19 THEIR GENERAL LEDGER INTO OURS, THINGS OF THAT NATURE. WE
20 NEEDED TO BE INVOLVED IN THE DUE DILIGENCE PERIOD, NOT
21 ONLY FOR PURPOSES OF HELPING TO WRITE THE PROXY STATEMENT
22 THAT WAS GOING TO BE GIVEN TO SHAREHOLDERS AND TO THE SEC
23 BUT ALSO BECAUSE I WAS GOING TO HAVE TO INTEGRATE THOSE
24 THINGS INTO MY ACCOUNTING RECORDS AT THE TIME THAT THE
25 MERGER WAS CONSUMMATED.

1 Q AND DID YOU NOTICE ANY PROBLEMS WHEN YOU STARTED
2 LOOKING AT THE HOMESENSE BOOKS?

3 A WELL THE FIRST THING THAT I NOTICED THAT I WAS, WAS
4 THAT THE DUE DILIGENCE LIST THAT BOTH SIDES EXCHANGED WITH
5 EACH OTHER WAS A VERY LENGTHY LIST AND WE COMPLETED OUR
6 SIDE OF THE LIST. WE SENT A LOT OF INFORMATION TO WHOEVER
7 WAS DOING THAT, REVIEWING THE DOCUMENTS FOR THE OPPOSITE
8 PARTY BUT WE HAD A VERY DIFFICULT TIME RECEIVING ANY
9 DOCUMENTS IN RETURN SO I JUST DIDN'T GET A LOT OF
10 INFORMATION.

11 Q AND WHO ARE YOU DEALING WITH PRIMARILY DOWN AT
12 HOMESENSE?

13 A THE PEOPLE THAT I WOULD OF BEEN DEALING WITH WOULD OF
14 BEEN ACCOUNTING TYPE COUNTERPARTS, CONTROLLER, ASSISTANT
15 CONTROLLER OR SOMEONE OF THAT NATURE IN THE ACCOUNTING
16 DEPARTMENT.

17 Q DO YOU REMEMBER ANY NAMES?

18 A TINA TURNAGE WAS ONE NAME THAT I REMEMBER, I AM NOT
19 POSITIVE ABOUT THE OTHERS.

20 Q DO YOU REMEMBER A PERSONAL SECRETARY THAT THE
21 DEFENDANT HAD?

22 A I REMEMBER THAT THERE WAS SOMEONE THAT WORKED VERY
23 CLOSELY WITH HIM, I THINK HER NAME WAS MEREDITH BUT IT HAS
24 BEEN SEVERAL YEARS.

25 Q LET ME JUST ASK YOU, BEFORE WE GO ANY FURTHER INTO

1 THE MERGER, WHAT WAS THE FINANCIAL CONDITION OF HOMEGOLD
2 AROUND THIS TIME?

3 A WELL, THE FINANCIAL CONDITION OF THE COMPANY WAS MADE
4 PUBLIC IN PUBLIC DOCUMENTS. AND THE COMPANY HAD LOST
5 MONEY IN THE PREVIOUS YEARS. BUT I DON'T REALLY KNOW HOW
6 LONG THAT WOULD CONTINUE OR WHETHER OR NOT THE COMPANY
7 WOULD BE ABLE TO DO WELL, THAT WASN'T MY ROLE.

8 Q BESIDES NOT BEING ABLE TO GET THINGS WHEN YOU
9 ULTIMATELY DID GET SOME HOMESENSE BOOKS, WHAT DID YOU
10 NOTICE FROM AN ACCOUNTING STANDPOINT ABOUT THE ACCOUNTING
11 THAT WAS GOING ON AT HOMESENSE?

12 A I HAD A VERY HARD TIME MAKING OR SEEING HOW THE
13 DETAILED RECORDS SUPPORTED THE FINANCIAL STATEMENTS THAT I
14 WAS GIVEN IN ORDER TO HELP DRAFT THE PROFORMA CONSOLIDATED
15 FINANCIAL STATEMENTS THAT WERE INCLUDED IN THE PROXY.

16 Q AND DID YOU HAVE ANY DEALINGS WITH THE DEFENDANT
17 DURING THIS TIME FRAME OR AFTERS?

18 A I DID AT TIMES.

19 Q AND DID YOU MEET WITH HIM BEFORE THE MERGER TO TRY TO
20 GET SOME OF THIS INFORMATION?

21 A I CAME TO LEXINGTON TWO DIFFERENT TIMES DURING THE
22 DUE DILIGENCE PERIOD AND I CAN REMEMBER SPECIFICALLY ONE
23 OF THOSE TIMES THAT MR. SHEPPARD CAME INTO THE CONFERENCE
24 ROOM WHERE WE WERE WORKING TO SPEAK TO US.

25 Q WHAT, IF ANYTHING, DID HE SAY, DO YOU REMEMBER?

1 A I BELIEVE THAT HE JUST HAD A LOT OF GENERAL THINGS TO
2 SAY ABOUT HOW WONDERFUL THINGS WERE GOING TO BE AFTER THE
3 MERGER, I HAVE JUST A GENERAL SENSE OF THAT FROM MY
4 MEMORY, I DON'T REMEMBER ANYTHING EXACTLY WHAT HE SAID.

5 Q AND SPECIFICALLY WHAT ARE SOME ACCOUNTING ISSUES THAT
6 YOU NOTICED ABOUT ON THE HOMESENSE BOOKS?

7 A I DON'T REMEMBER A LOT OF DETAILED ENTRIES IN THE
8 BOOKS BUT OTHER THAN THE FACT THAT I REMEMBER THAT MANY OF
9 THEM DID NOT EXACTLY MATCH THE FINANCIAL STATEMENTS
10 RECORDS THAT I WAS GIVEN. I DO REMEMBER SEEING THAT I
11 FELT THAT THINGS THAT MIGHT NOT RELATE TO THE COMPANY
12 COULD BE IN THE RECORDS OF HOMESENSE. BUT IT WAS JUST A
13 GENERAL FEELING.

14 Q THAT IS HOW MANY YEARS AGO NOW?

15 A SEVEN.

16 Q SEVEN YEARS AGO. AND WHAT WAS HOMEGOLD'S PROCEDURES
17 FOR PAYING BILLS AND EVERYTHING LIKE THAT PRIOR TO THE
18 MERGER?

19 A OUR INTERNAL CONTROL SYSTEM WAS VERY IMPORTANT. AND
20 AT THAT TIME WHAT WE REQUIRED WAS THAT IF SOMEONE INCURRED
21 AN EXPENSE THAT EXPENSE HAD TO BE SIGNED OFF AND APPROVED
22 BY THEIR DIRECT SUPERVISOR BEFORE IT COULD BE SENT TO THE
23 ACCOUNTING DEPARTMENT TO BE PAID. AND WE GENERALLY
24 REQUIRED VENDORS TO SEND THE INVOICE ITSELF DIRECTLY TO
25 THE ACCOUNTING DEPARTMENT AND THEN WE WOULD MAKE A COPY

1 AND SEND THAT OUT TO THE APPROVING SUPERVISOR. SO THAT WE
2 KEPT THE ORIGINAL, WE COULD MAKE SURE THAT THE BILL WOULD
3 BE PAID ON TIME, WE HAD A SYSTEM FOR MAKING SURE THAT
4 THINGS WERE NOT LATE. AND WE NEEDED THE ORIGINAL, SO WE
5 ASKED THEM TO APPROVE A COPY WHICH WOULD OF BEEN ATTACHED
6 TO THE ORIGINAL, PAY THE BILL, SEND IT TO THE VENDOR.

7 Q AND DURING YOUR TIME FRAME THAT YOU WERE THERE,
8 BEFORE AND AFTER THE MERGER, WHO WERE YOUR INDEPENDENT
9 AUDITORS?

10 A ELLIOTT DAVIS.

11 Q WHOSE FINANCIAL STATEMENTS THOUGH, ARE THE ONES THAT
12 YOU ARE WORKING ON?

13 A MANAGEMENT IS RESPONSIBLE FOR THE FINANCIAL
14 STATEMENTS OF ANY COMPANY.

15 Q AND MANAGEMENT OF HOMEGOLD?

16 A MANAGEMENT OF HOMEGOLD WOULD OF BEEN RESPONSIBLE FOR
17 HOMEGOLD'S CONSOLIDATED FINANCIAL STATEMENTS, YES.

18 Q AND DID THAT MERGER EVENTUALLY GO THROUGH?

19 A IT DID.

20 Q AFTER THE MERGER WHO WAS IN CHARGE OF HOMEGOLD, OR
21 WHO WAS CEO OF HOMEGOLD?

22 A RONNIE SHEPPARD WAS THE CEO FOLLOWING THE MERGER.

23 Q OKAY. AND DID SOMETHING OCCUR THAT CAUSED YOU TO
24 FEEL UNCOMFORTABLE AFTER THE MERGER REGARDING RONNIE
25 SHEPPARD?

1 A YES, IT DID.

2 Q PLEASE EXPLAIN TO THE JURY WHAT THAT WAS?

3 A AT ABOUT A MONTH AFTER THE MERGER WAS CONSUMMATED MY
4 ACCOUNTING DEPARTMENT AND MY ACCOUNTS PAYABLE PEOPLE WERE
5 PAYING ALL THE BILLS FOR BOTH COMPANIES. AND THEY WERE,
6 THERE WERE A LOT OF INVOICES COMING FROM LEXINGTON AT THAT
7 TIME. WE WERE TRYING TO OBTAIN APPROVALS AND MAKE SURE
8 THAT INVOICES WERE CODED CORRECTLY AND PUT INTO THE
9 GENERAL LEDGER CORRECTLY AND PAID ON A TIMELY MANNER. AND
10 SOME OF THE INVOICES THAT WERE BEING REQUESTED FROM
11 LEXINGTON WERE RELATED TO ASKING FOR PAYMENTS FOR A
12 MORTGAGE PAYOFF QUOTE WHICH WHEN SOMEONE IS REFINANCING A
13 MORTGAGE WHICH IS MUCH OF WHAT HOMEGOLD'S BUSINESS WAS,
14 THEY WOULD HAVE TO CALL THE CURRENT MORTGAGE COMPANY AND
15 ASK FOR A PAYOFF OF THE LOAN THAT WAS BEING REFINANCED.
16 THAT USUALLY REQUIRED A FEE, THE FEE MIGHT BE \$25 DOLLARS
17 FOR THEM TO PERFORM THAT SERVICE. SO, WE WERE BEING ASKED
18 TO TURN THOSE CHECKS AROUND QUICKLY SO THAT THEY COULD BE,
19 SO THAT THE LOAN PROCESS COULD GO ON AND IT WOULDN'T BE
20 HELD UP. WE WERE DOING THAT FROM GREENVILLE, FROM THE
21 PELHAM ROAD LOCATION AND WE WERE TURNING THEM AROUND
22 THROUGH THE OVERNIGHT MAIL. THEY WOULD CALL US, WE WOULD
23 ISSUE THE CHECK, WE WOULD OVERNIGHT IT TO THE LOAN OFFICER
24 THAT WAS MAKING THE REQUEST. WE WERE TOLD THAT PROCESS
25 WAS NOT FAST ENOUGH AND THAT OUR CHECK STOCK AND A MODULE

1 OF THE ACCOUNTING SYSTEM, THE ACCOUNTS PAYABLE SYSTEM
2 WHICH ACTUALLY PRINTS THE CHECK AND INTERFACES WITH THE
3 GENERAL LEDGER AND CAUSES THE ENTRIES TO GO INTO THE BOOKS
4 AND RECORDS OF THE COMPANY, THAT WAS BEING, WAS GOING TO
5 BE MOVED TO LEXINGTON.

6 Q AND WHO WAS KAREN MILLER?

7 A AT THAT TIME KAREN MILLER, I BELIEVE, WAS THE HEAD OF
8 THE INFORMATION TECHNOLOGY, THE COMPUTER PART OF THE
9 BUSINESS.

10 Q AFTER THE MERGER DID SHE BECOME MORE INVOLVED IN THE
11 ACCOUNTING DEPARTMENT?

12 A DURING THE 30 DAYS AFTER THE MERGER THAT I WAS THERE
13 SHE CAME TO MY OFFICE AND TOLD ME THAT THAT MOVE, THAT
14 COMPUTER SYSTEM WAS GOING TO BE PUT DOWN INTO LEXINGTON.

15 Q AND DID YOU HAVE A PROBLEM WITH THAT?

16 A I DID.

17 Q AND WHY DID YOU HAVE A PROBLEM OF NOT HAVING
18 CENTRALIZED BOOKS?

19 A WHEN YOU HAVE A PORTION OF YOUR CHECK STOCK THAT IS
20 REMOVED FROM YOUR CONTROL THEN THE INTERNAL CONTROL AND
21 YOUR ABILITY TO MAKE SURE THAT ALL THE CHECK STOCK IS
22 ACCOUNTED FOR AND THAT YOU CAN RECONCILE YOUR BANK
23 STATEMENTS AND YOUR BANK ACCOUNTS GOES DOWN SIGNIFICANTLY.
24 YOU CAN'T ACCOUNT FOR WHERE ALL THE CHECKS ARE, WE WERE
25 ALREADY HAVING PROBLEMS WHEN WE WERE ASKING FOR THE PROPER

1 APPROVALS AND THE CHECKS TO BE DONE WITHIN THE INTERNAL
2 CONTROL SYSTEMS. SO, IF THEY REMOVED THAT FROM MY CONTROL
3 AND YOU HAVE TO REALIZE, I KEPT MY CHECK STOCK LOCKED UP,
4 I KNEW WHERE EVERY CHECK WAS, I DID NOT ALLOW THERE TO BE
5 CHECKS ROMPED WILLY NILLY AROUND THE BUSINESS, AROUND THE
6 OFFICES, THEY WERE KEPT UNDER LOCK AND KEY. AND IF YOU
7 TOOK THAT OUT OF MY CONTROL THEN I WAS RESPONSIBLE FOR THE
8 GENERAL LEDGER AND THE ENTRIES INTO IT BUT I DIDN'T HAVE
9 THE CONTROL TO MAKE SURE THAT I UNDERSTOOD WHAT WAS BEING,
10 WHAT WAS GOING THROUGH THERE NOR DID I HAVE PHYSICAL
11 SECURITY OVER THE CHECKS THEMSELVES.

12 Q YOU MEAN CONTROL, YOU MEAN TO BE ABLE TO MAKE SURE IT
13 IS PROPERLY ACCOUNTED FOR?

14 A YES, AND IF IT IS MY RESPONSIBILITY THEN I NEED TO BE
15 ABLE TO HAVE PHYSICAL SECURITY OVER THE DOCUMENTS THAT CAN
16 PAY CHECKS, SPEND MONEY.

17 Q AND AS SENIOR VICE-PRESIDENT OF FINANCE, WAS IT YOUR
18 RESPONSIBILITY?

19 A AT THAT TIME IT WAS MY RESPONSIBILITY.

20 Q AND WHAT DID YOU SAY TO MS. MILLER WHEN SHE CAME IN
21 AND TOLD YOU THAT?

22 A I TOLD HER THAT POSSIBILITY HAD ALREADY BEEN
23 DISCUSSED BY MYSELF AND MR. MAST, HE HAD HEARD THAT
24 REQUEST PREVIOUSLY AND HE HAD TOLD ME THAT HE DISAGREED
25 WITH IT.

1 Q WHO WAS REQUESTING THAT THEY HAVE THAT CHECK WRITING
2 ABILITY MOVED DOWN TO LEXINGTON?

3 A MY UNDERSTANDING IS THAT IT WAS COMING FROM MR.
4 SHEPPARD.

5 Q AND WHAT DID YOU SAY TO MS. MILLER THAT DAY?

6 A I TOLD HER THAT I HAD BEEN TOLD BY MR. MAST THAT WAS
7 NOT GOING TO HAPPEN. THAT I SPECIFICALLY DISAGREED WITH
8 IT AND THAT I FELT THAT IF, THAT WE NEEDED TO ADDRESS
9 THEIR CONCERN ABOUT NOT HAVING THE CHECK STOCK TURN
10 AROUND, IF IT WASN'T TURNING AROUND QUICKLY WE NEEDED TO
11 FIND A BETTER WAY, THAT WAS NOT A GOOD SOLUTION IN MY
12 OPINION.

13 Q THAT WAS THE TONE OF THIS CONVERSATION WHAT YOU HAD
14 WITH MS. MILLER?

15 A THE FIRST CONVERSATION THAT I HAD WITH MS. MILLER
16 ABOUT IT, I THINK THAT I WAS FAIRLY ADAMANT ABOUT MY
17 POSITION. SHE LEFT MY OFFICE AND CAME BACK AND WHEN SHE
18 DID I WAS ANGRY.

19 Q AND WERE YOU TOLD THAT IT WAS GOING TO BE MOVED TO
20 LEXINGTON?

21 A THAT IS WHY I WAS ANGRY.

22 Q WHAT DID YOU SAY TO HER AT THAT POINT?

23 A I TOLD HER THAT I DID NOT FEEL THAT MR. SHEPPARD WAS
24 AN APPROPRIATE PERSON TO RUN A PUBLIC COMPANY BECAUSE HE
25 DIDN'T UNDERSTAND THE INTERNAL CONTROLS THAT WERE REQUIRED

1 FOR GATHERING AND PUTTING TOGETHER THE FINANCIAL
2 INFORMATION THAT WOULD SUPPORT FINANCIAL STATEMENTS THAT
3 WERE FILED IN THE PUBLIC ARENA WITH THE SEC.

4 Q AND WHAT DID YOU DO AFTER YOU SAID THAT?

5 A I SAID, AND IF YOU TELL HIM WHAT I SAID I WILL GET
6 YOU.

7 Q AFTER YOU MADE THOSE STATEMENTS WHAT DID YOU DO?

8 A I ACTUALLY WORKED FOR A FEW MORE HOURS, I APPROACHED
9 KAREN AND TOLD HER THAT I REALIZED WHAT I SAID WAS
10 INAPPROPRIATE, THAT IT WAS SAID IN THE HEAT OF ANGER. AND
11 THEN THAT EVENING I WENT HOME, DISCUSSED IT WITH MY
12 HUSBAND, THE NEXT MORNING I WENT TO MR. MAST AND RESIGNED
13 MY POSITION.

14 Q AND DID YOU HAVE ANOTHER JOB OFFER AT THE TIME THAT
15 YOU DID THAT?

16 A I DID NOT.

17 Q AND WHY DID YOU DO THAT BASED UPON WHAT YOU SAID TO
18 MS. MILLER?

19 A WHAT I SAID TO MS. MILLER WAS NOT PROFESSIONAL BUT
20 THE REASON AND I PROBABLY COULD OF ASKED FORGIVENESS AND
21 IT WAS, IT WAS AN IMPROPER THING TO SAY. HOWEVER, THE
22 REASON THAT I RESIGNED WAS THAT THE INTERNAL CONTROL
23 SYSTEM OF A PUBLIC COMPANY IS ABSOLUTE VITAL, IT HAS TO BE
24 ABOVE REPROACH AND ONE OF THE ELEMENTS OF A PROPER
25 INTERNAL CONTROL SYSTEM IN MY PROFESSIONAL OPINION, IT IS

1 A WELL KNOWN ELEMENT OF THE COSO FRAMEWORK WHICH IS
2 FRAMEWORK ON INTERNAL CONTROL THAT WAS PUT FORTH BY THE
3 TREADWAY COMMISSION YEARS AND YEARS AGO.

4 Q THERE IS A NEW TERM, I DIDN'T THINK WE WOULD HEAR ANY
5 NEW ACCOUNTING TERMS, WHAT DID YOU JUST SAY?

6 A COSO STANDS FOR THE COMMITTEE OF SPONSORING
7 ORGANIZATIONS, COSO AND IT WAS A PORTION OF THE TREADWAY
8 COMMISSION WHICH WAS THE COMMISSION THAT WAS PUT TOGETHER,
9 I DON'T KNOW, BEFORE MY COLLEGE EDUCATION. SO, SOMETIME
10 BEFORE THE 80'S AND IT EXPLAINS WHAT THE PROPER FRAMEWORK
11 FOR INTERNAL CONTROL IN A COMPANY SHOULD BE. AND ONE OF
12 THE MOST IMPORTANT ELEMENTS IS CALLED THE CONTROLLED
13 ENVIRONMENT AND IT MEANS THAT FROM THE TOP OF THE COMPANY
14 YOU HAVE TO HAVE AN ENVIRONMENT THAT SUPPORTS AND BELIEVES
15 IN THE QUALITY OF THE INTERNAL CONTROLS OVER FINANCIAL
16 REPORTING. AND ONCE THAT SYSTEM IS NOT OPERATING, ONCE
17 THE ACCOUNTING PEOPLE LIVE IN AN ENVIRONMENT WHERE THE
18 INTERNAL CONTROL SYSTEM IS NOT, THERE IS NO EMPHASIS
19 PLACED ON IT, IT IS NOT DEEMED AS IMPORTANT, THEN IT
20 BECOMES VERY DIFFICULT FOR SOMEONE LIKE ME TO DO THEIR
21 JOB. WE CANNOT ACCOUNT FOR THINGS PROPERLY AND MORE
22 IMPORTANT WE CANNOT DISCLOSE, ESPECIALLY IN FOOTNOTES TO
23 THE FINANCIAL STATEMENTS AND IN FILINGS WITH THE SEC, THEY
24 REQUIRE INFORMATION. BECAUSE IT MIGHT NOT BE COMPLETE, IT
25 MIGHT NOT BE ACCURATE, IT MIGHT IN SOME WAY BE MISLEADING

1 TO A USER OF THE FINANCIAL STATEMENTS. AND INTERNAL
2 CONTROL IS A VITAL PART OF THAT, THAT IS SO IMPORTANT.
3 AND ONCE I FELT THAT I HAD NO CONFIDENCE IN THE INTERNAL
4 CONTROL SYSTEM OF THE COMPANY AND THE CONTROLLED
5 ENVIRONMENT THAT WAS PRESENT THERE I DIDN'T WANT TO WORK
6 THERE ANYMORE.

7 Q AND WAS PART OF YOUR CONCERN OF WHAT YOU SAW THAT WAS
8 GOING ON AT HOMESENSE WHEN YOU WERE DOING THE DUE
9 DILIGENCE?

10 A I AM SURE THAT, THAT IS ALL ABOUT THE CONTROLLED
11 ENVIRONMENT AND IT WOULD CERTAINLY HAVE BEEN PART OF MY
12 DECISION.

13 Q AND WAS THE OTHER ONE THAT YOU, THE COMMENT THAT YOU
14 MADE TO MS. MILLER WAS GOING TO GO?

15 A I KNEW IT WOULD.

16 Q WHO DID YOU THINK SHE WOULD TELL THAT TO?

17 A WELL, OBVIOUSLY I THOUGHT SHE WOULD TELL RONNIE, MR.
18 SHEPPARD.

19 Q AND THAT NIGHT YOU WENT HOME AND DIDN'T GO BACK?

20 A I WENT IN THE MORNING TO PRESENT MY RESIGNATION TO
21 MR. MAST IN PERSON.

22 Q I DON'T HAVE ANY FURTHER QUESTIONS.

23 THE COURT: MR. GRIFFIN.

24 CROSS-EXAMINATION

25 BY MR. GRIFFIN:

1 Q GOOD AFTERNOON.

2 A GOOD AFTERNOON.

3 Q FIRST, YOU WERE, PART OF YOUR DUTIES INVOLVING
4 HOMESENSE/HOMEGOLD MERGER, YOU CAME DOWN TO DO DUE
5 DILIGENCE WORK FOR HOMEGOLD, ISN'T THAT CORRECT?

6 A THAT'S CORRECT.

7 Q AND IN THIS DUE DILIGENCE EXAMINATION THAT YOU DID ON
8 BEHALF OF HOMEGOLD, YOU DISCOVERED SOME ACCOUNTING
9 ENTRIES, THE WAY HOMESENSE WAS RECOGNIZING INCOME AND THAT
10 CAUSED YOU TO QUESTION WHAT ULTIMATELY WOULD BE THE NET
11 WORTH OF HOMESENSE, CORRECT?

12 A I DID NOT REMEMBER EXACT THINGS THAT I FOUND THAT I
13 WAS NOT COMFORTABLE WITH, I AM SURE THAT IS WRITTEN DOWN
14 SOMEWHERE IN THE VAST DOCUMENTS THAT YOU HAVE.

15 Q BUT YOU DO REMEMBER THAT THERE BEING SOME THINGS THAT
16 YOU DID NOT THINK WERE PROPER ACCOUNTING ENTRIES OR
17 PROCEDURES?

18 A I FOUND THINGS THAT I DEFINITELY WANTED TO LOOK INTO
19 FURTHER BUT I DID NOT HAVE ANY FURTHER INFORMATION
20 REGARDING.

21 Q AND WITH REGARD TO THOSE ISSUES YOU TOOK THOSE TO THE
22 CHIEF FINANCIAL OFFICER PRIOR TO THE MERGER, KEVIN MAST,
23 DID YOU NOT?

24 A I WOULD HAVE DONE THAT IN THE COURSE OF MY DUTIES AND
25 I ALSO WOULD ASK FOR MORE INFORMATION FROM THE ACCOUNTING

1 PEOPLE THAT I HAD CONTACT WITH HOMESENSE.

2 Q AND THAT WOULD OF BEEN CHRISTINA TURNAGE?

3 A MORE LIKELY THAN NOT.

4 Q AND THE PURPOSE OF THIS DUE DILIGENCE PERIOD THAT YOU
5 WERE CHARGED WITH DOING IS TO DETERMINE IF THE, IF
6 HOMEGOLD IS GETTING THROUGH SOME PURCHASE OR MERGER
7 AGREEMENT, WHAT THEY THINK THEY ARE GETTING, RIGHT?

8 A THAT WOULD NOT HAVE BEEN MY SPECIFIC JOB, MY SPECIFIC
9 JOB WOULD HAVE RELATED A LITTLE MORE AT A DETAILED LEVEL,
10 PUTTING, THERE IS A DISCLOSURE IN THE PROXY STATEMENT THAT
11 TAKES HOMEGOLD, ADDS IT TO HOMESENSE, MAKES ELIMINATION
12 ENTRIES AND MERGER ENTRIES AND THEN COMES UP WITH A
13 PROFORMA CONSOLIDATED AFTER THE MERGER. MY
14 RESPONSIBILITIES WOULD HAVE BEEN IN TRYING TO MAKE SURE
15 THAT THOSE TWO ENTITIES WERE COMPARABLE IN TERMS OF WHERE
16 THINGS WERE CLASSIFIED AND HOW THEY WERE ADDED TOGETHER.
17 I WAS NOT MAKING DECISIONS ABOUT THE MERGER AT THAT TIME.

18 Q ANYTHING THAT YOU FOUND, WHAT YOU THOUGHT TO BE OUT
19 OF THE ORDINARY, YOU REPORTED THAT TO MR. MAST?

20 A IF I HAD PROBLEMS I WOULD OF REPORTED IT.

21 Q AND YOU ARE SAYING HERE TODAY THAT YOU THINK YOU
22 RECALL HAVING SOME PROBLEMS?

23 A I RECALL THERE DEFINITELY BEING THINGS THAT WE NEEDED
24 MORE INFORMATION ON.

25 Q THEN WITH REGARD TO HOMEGOLD, BEFORE THE MERGER YOUR

1 CFO WAS MR. MAST?

2 A CORRECT.

3 Q AND THE PRESIDENT OF THE COMPANY WAS MR. GIDDENS?

4 A CORRECT.

5 Q AND THEN THE CHIEF EXECUTIVE OFFICER WAS MR.
6 STERLING?

7 A CORRECT.

8 Q AND YOU BEGAN TO WORK FOR HOMEGOLD, I BELIEVE, YOU
9 TESTIFIED IN 1998?

10 A MARCH OF 1998.

11 Q AND THE MERGER WOULD OF BEEN IN THE SPRING OF 2000,
12 SO YOU HAD AN OPPORTUNITY TO WORK WITH, MR. MAST WAS THE
13 CFO IN '98 AS WELL?

14 A HE WAS.

15 Q AND THEN YOU LEFT, WHAT MONTH DID YOU LEAVE?

16 A I LEFT AT THE VERY BEGINNING OF JUNE OF 2000.

17 Q AND THE MERGER WAS LIKE MAY?

18 A MY UNDERSTANDING WAS THAT IT WAS LATE IN APRIL OR THE
19 BEGINNING OF MAY, YES, I DON'T REMEMBER THE EXACT DATE OF
20 THE MERGER. I WAS THERE ABOUT A MONTH.

21 Q SO, YOU STAYED APPROXIMATELY 30 DAYS?

22 A GIVE OR TAKE.

23 Q AND ONE OF THE ISSUES, AFTER YOU LEFT DID MR. MAST
24 LEAVE AT SOME POINT AND TIME, WERE YOU AWARE OF THAT?

25 A YES, HE DID.

1 Q HOW LONG AFTER YOU LEFT?

2 A A MONTH OR TWO, I AM NOT SURE OF THE DATE OF HIS
3 DEPARTURE.

4 Q MR. GIDDENS HAD LEFT FRANKLY BEFORE THE MERGER BUT IN
5 ANTICIPATION OF THE MERGER, CORRECT?

6 A I BELIEVE SO, I DON'T KNOW THE EXACT DATE OF HIS
7 DEPARTURE.

8 Q WELL, HE WAS NOT THERE AFTER THE MERGER, WAS HE?

9 A I DO NOT RECALL HIM BEING THERE AFTER THE MERGER.

10 Q AND THERE WAS A SHAKEUP IN SENIOR MANAGEMENT OF
11 HOMEGOLD AS A RESULT OF THE MERGER, CORRECT?

12 A THERE WAS.

13 Q AND YOU EXPRESSED YOUR OPINION THAT YOU DIDN'T
14 BELIEVE THAT MR. SHEPPARD HAD THE QUALITIES TO RUN A
15 PUBLIC COMPANY?

16 A I EXPRESSED THAT OPINION TO MS. MILLER.

17 Q MS. MILLER. AND YOU WERE AWARE FROM YOUR DUE
18 DILIGENCE EXAMINATION THAT MR. SHEPPARD HAD NOT BEEN
19 RUNNING A PUBLIC COMPANY?

20 A CORRECT.

21 Q THAT HOMESENSE WAS A LARGE COMPANY WITH NOTHING IN
22 THE MAGNITUDE OF HOMEGOLD?

23 A I DON'T REMEMBER THE EXACT MAGNITUDE OF THE HOMEGOLD
24 BUSINESS.

25 Q WHAT WAS THE EXACT MAGNITUDE THAT YOU RECALL OF

1 HOMEGOLD'S?

2 A SIR, I WORK WITH NUMBERS EVERY DAY, I DON'T REMEMBER,
3 I DON'T KNOW WHAT YOU ARE ASKING, IF YOU ARE ASKING
4 MORTGAGE VOLUME, I DON'T REMEMBER.

5 Q HOW ABOUT EMPLOYEES, THOUSANDS OF EMPLOYEES?

6 A NOT AT THE TIME I WAS THERE, I DON'T RECALL THAT
7 BEING THAT LARGE. AT ONE POINT AND TIME HOMEGOLD MIGHT
8 HAVE HAD THAT MANY BUT I DON'T REMEMBER EXACTLY.

9 Q BUT IN THE ACCOUNTING CONTROL FOR A COMPANY THAT IS
10 NOT PUBLIC AND IS CLOSELY HELD, FAMILY OWNED BUSINESS ARE
11 NOT THE SAME, THE CONTROLLED REQUIREMENTS ARE NOT THE SAME
12 AS A REPORTING COMPANY LIKE HOMEGOLD, RIGHT?

13 A IT DEPENDS ON HOW YOU CHARACTERIZE THE REPORTING
14 REQUIREMENTS. A GOOD COMPANY OF ANY SORT SHOULD HAVE GOOD
15 INTERNAL CONTROL.

16 Q WELL, THERE WERE NO REPORTING REQUIREMENTS TO
17 ENTITIES SUCH AS THE SEC THAT HOMESENSE HAD TO COMPLY
18 WITH, CORRECT?

19 A MANY COMPANIES HAVE TO REPORT FINANCIAL STATEMENTS TO
20 BANKS AND OTHER LENDERS, THERE ARE OFTEN REASONS FOR YOU
21 TO HAVE FINANCIAL STATEMENTS THAT ARE A HIGH QUALITY AND
22 ACCURACY. AND AN INTERNAL CONTROL SYSTEM SUPPORTS THAT
23 QUITE WELL.

24 Q IN EVERY BUSINESS?

25 A IN THE VAST MAJORITY OF BUSINESSES. AND I WOULD ALSO

1 SAY THAT AN INTERNAL CONTROL SYSTEM IS GOOD FOR HIGH
2 QUALITY FINANCIAL INFORMATION THAT ALLOWS ANY MANAGEMENT
3 PERSON TO MAKE HIGH QUALITY DECISIONS ABOUT THEIR
4 BUSINESSES.

5 Q BUT THE CONCERN THAT YOU EXPRESSED TO MS. MILLER WAS
6 THAT MR. SHEPPARD WAS NOT THE PERSON THAT WAS SUITED TO
7 RUN A PUBLIC COMPANY IN THE CONTROLS ASSOCIATED, CORRECT?

8 A I WOULD SAY THAT THOSE ARE EXPRESSLY A HIGHER
9 REQUIREMENT THAN MIGHT BE NEEDED BY, SAY, A SOLE
10 PROPRIETORSHIP, YES.

11 Q AND BEING A PUBLIC COMPANY MEANS THAT THE COMPANY HAS
12 TO FILE FINANCIAL STATEMENTS WITH THE SECURITIES AND
13 EXCHANGE COMMISSION ON A QUARTERLY AND ANNUAL BASIS,
14 RIGHT?

15 A IT DOES.

16 Q AND YOU HAD, THERE WAS SOME ISSUE ABOUT AFTER THE
17 MERGER, THE 30 DAYS OR SO WHEN YOU WERE STILL WORKING AT
18 THE ACCOUNTING DEPARTMENT THAT A LEVEL OF FRUSTRATION WAS
19 EXPERIENCED BY THE FOLKS DOWN HERE IN LEXINGTON ABOUT
20 GETTING CHECKS CUT, BILLS PAID, QUICKLY ENOUGH SO THAT
21 THESE LOANS COULD BE CLOSED AND MORTGAGES COULD BE
22 SATISFIED, IS THAT RIGHT?

23 A EVIDENTLY OVERNIGHT WASN'T FAST ENOUGH.

24 Q BUT THERE WAS A LEVEL OF FRUSTRATION?

25 A I SUPPOSE.

1 Q AND OVERNIGHT DELIVERY WOULD COST, \$8, \$10, \$12
2 DOLLARS FOR A \$25 DOLLAR CHECK?

3 A I AM NOT AWARE OF THE PRICES AND I AM NOT AWARE THAT
4 WOULD OF BEEN THE ONLY THING GOING THROUGH THE MAIL AT
5 THAT TIME, IT COULD OF BEEN PUT IN WITH A NUMBER OF OTHER
6 DOCUMENTS THAT MIGHT OF BEEN NEEDED IN THE OTHER OFFICES.
7 IT IS COMMONLY DONE.

8 Q AND THE, YOUR CONCERN WAS THAT THE, SOME OF THE
9 ABILITY TO CUT CHECKS, SOME OF THE CONTROLS THAT YOU HAD
10 BEFORE THE MERGER WERE BEING ERODED BECAUSE THERE WAS A
11 DESIRE TO BE ABLE TO CUT SOME OF THOSE CHECKS DOWN IN
12 LEXINGTON?

13 A THAT WAS MY CONCERN.

14 Q AND YOU VOICED YOUR OPINION THAT THE COMPANY NOT DO
15 THAT, ALLOW CHECKS TO BE WRITTEN OUT OF LEXINGTON?

16 A NOT IN THE WAY THAT THEY WERE PROPOSING TO DO IT,
17 THERE WERE MANY OTHER WAYS TO DO IT AND THERE ARE MANY
18 OTHER WAYS THAT WE COULD OF DISCUSSED IT INSTEAD OF HAVING
19 IT TO BE TOLD TO US IN THE WAY THAT IT WAS PRESENTED.

20 Q AND THE OPINION THAT YOU EXPRESSED WAS ESSENTIALLY
21 REJECTED?

22 A IN THE PRECISE MANNER THAT IT WAS ASKED OR TOLD TO ME
23 THAT IT WAS GOING TO BE DONE, MY EXPRESSED SUGGESTION WAS
24 THAT WE SIT DOWN AND TALK ABOUT IT AND TRY TO FIND
25 SOMETHING THAT WAS MUTUALLY AGREEABLE TO ALL THE PARTIES

1 AND WOULD ALLOW ME TO CONTINUE TO DO MY JOB.

2 Q AND YOU HAD THAT CONVERSATION WITH MS. MILLER?

3 A I DID.

4 Q YOU DIDN'T HAVE THAT CONVERSATION WITH MR. SHEPPARD?

5 A I DID NOT.

6 Q AND THE RESULT OF THIS EVENT WITH MS. MILLER AND YOU
7 LOSING YOUR TEMPER, YOU APOLOGIZED AND WENT HOME AND THEN
8 JUST QUIT?

9 A I DID BUT IT WAS MS. MILLER'S EXPLANATION THAT RONNIE
10 WANTED IT DONE THAT LEAD ME TO BELIEVE THAT SHE HAD THIS
11 CONVERSATION WITH HIM IN ADDITION OF HER HAVING A
12 CONVERSATION, LEAVING MY OFFICE AND COMING BACK AND SAYING
13 RONNIE SAID THAT WAS HOW IT WAS TO BE DONE.

14 Q SO, YOU QUIT?

15 A I FELT THAT MY ABILITY TO DO MY JOB AND TO FEEL
16 COMFORTABLE OF WHAT WAS GOING TO BE IN MY FINANCIAL
17 STATEMENTS WAS NOT, I AM A CPA, I TAKE AN OATH OF ETHICS,
18 I AM NOT GOING TO ENDANGER MY LICENSE FOR SOMEONE THAT I
19 FEEL LIKE DOESN'T SUPPORT MY OPINIONS. AND THAT WAS MY
20 OPINION AT THE TIME BUT IT WAS MY JOB.

21 Q SO, YOU QUIT?

22 A I DID.

23 Q THANK YOU.

24 THE COURT: REDIRECT.

25

REDIRECT EXAMINATION

1 BY MS. EVANS:

2 Q WHEN YOU GAVE YOUR ADVICE, DID YOU GO THROUGH THE
3 PROPER PROCEDURE?

4 A I DID.

5 Q WAS IT FOLLOWED?

6 A I DO NOT BELIEVE THAT IT WAS FOLLOWED.

7 Q I HAVE NOTHING FURTHER.

8 RE-CROSS-EXAMINATION

9 BY MR. GRIFFIN:

10 Q HOW MANY DAYS DID YOU STAY ON THE JOB AFTER YOU
11 EXPRESSED THAT OPINION?

12 A NO FULL DAYS AFTER THAT.

13 Q THANK YOU.

14 THE COURT: YOU MAY STEP DOWN. MADAM FORELADY AND
15 LADIES AND GENTLEMEN, WE ARE AT A GOOD BREAKING POINT FOR
16 THE WEEK SO WE ARE GOING TO STOP A LITTLE EARLIER THAN THE
17 LAST COUPLE OF DAYS. LET ME AGAIN CAUTION YOU OVER THE
18 WEEKEND NOT TO TALK TO ANYBODY ABOUT THIS CASE, DON'T READ
19 OR WATCH OR LISTEN TO ANYTHING ABOUT THE CASE, DON'T DO
20 ANY RESEARCH ABOUT THE CASE. MONDAY MORNING WE WILL START
21 AT 10:30. HAVE A GOOD WEEKEND, YOU ARE EXCUSED. EVERYONE
22 ELSE STAY SEATED.

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

25 THE COURT: SEE YOU FOLKS AT 10:30 MONDAY MORNING.

1 (WHEREUPON, THE TRIAL WILL RESUME ON MONDAY MORNING.)

2 THE COURT: FOR THE RECORD, WE HAVE A JUROR WHOSE
3 BEST FRIEND WAS KILLED IN AN AUTO ACCIDENT YESTERDAY
4 MORNING. I HAVE SPOKEN WITH THAT JUROR TRYING TO GET SOME
5 FEEL FOR WHETHER A DELAY OR POSTPONEMENT WOULD GET HER IN
6 A POSITION WHERE SHE COULD CONTINUE TO SERVE AS AN
7 ALTERNATE. AND AFTER THAT CONVERSATION I AM CONVINCED
8 THAT WOULD NOT BE POSSIBLE. IN ADDITION TO BEING A HIGH
9 SCHOOL AND COLLEGE BEST FRIEND, SHE CURRENTLY WITH THIS
10 INDIVIDUAL AND I DON'T THINK I SHARED THIS WITH COUNSEL,
11 HAD A SIBLING, A BROTHER WHO WAS KILLED IN A SIMILAR
12 MATTER ABOUT EIGHT YEARS AGO. AND SHE IS JUST NOT GOING
13 TO BE ABLE TO CONTINUE SO SHE HAS BEEN EXCUSED. THAT IS
14 JUROR NUMBER 270, SHE HAS BEEN EXCUSED, SHE IS AN
15 ALTERNATE AND WE WON'T BE MAKING A REPLACEMENT. ANYTHING
16 ELSE FOR THE RECORD BEFORE WE CONTINUE WITH THE WITNESSES.
17 ANYTHING FROM THE STATE?

18 MS. EVANS: NO SIR, NOTHING FROM THE STATE.

19 THE COURT: THE DEFENDANT.

20 MR. GRIFFIN: NO, YOUR HONOR.

21 THE COURT: LET'S BRING THE JURY IN, PLEASE.

22 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
23 APPROXIMATELY 11:30 A.M.)

24 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
25 WELCOME BACK AND HOPE YOU HAD A DECENT WEEKEND. I HAVE

1 EXCUSED ONE OF THE ALTERNATE JURORS BECAUSE OF THE DEATH
2 OF HER CLOSEST PERSONAL FRIEND. AFTER TALKING TO HER I
3 FELT LIKE SHE WOULD NOT BE ABLE TO CONTINUE AND I WOULD
4 SIMPLY TELL YOU THAT AND THAT WE ARE LEFT WITH ONE
5 ALTERNATE NOW. THESE ARE CIRCUMSTANCES BEYOND ANYONES
6 CONTROL BUT I WOULD LIKE TO POINT THAT OUT TO YOU. LET
7 ME, BEFORE WE CONTINUE, CONTINUOUSLY DURING THE TRIAL HAVE
8 ORDERED YOU AND REMINDED YOU AND CAUTIONED YOU NOT TO READ
9 OR WATCH OR LISTEN TO ANYTHING ABOUT THE CASE. IS THERE
10 ANYONE ON THE JURY WHO HAS BEEN UNABLE TO COMPLY WITH THE
11 COURT'S ORDER IN THAT RESPECT. IF SO, WILL YOU RAISE YOUR
12 HAND FOR ME, PLEASE.

13 (NO RESPONSE.)

14 THE COURT: I SEE NO RESPONSE. CALL YOUR NEXT
15 WITNESS, PLEASE.

16 MS. PORTER: THE STATE CALLS SHANE SMITH TO THE
17 STAND.

18 SHANE SMITH, AFTER BEING DULY SWORN, TESTIFIED
19 AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MS. PORTER:

22 Q WILL YOU PLEASE TELL THE JURY A LITTLE BIT ABOUT YOUR
23 BACKGROUND AND YOUR EDUCATION.

24 A I GREW UP IN SOUTH CAROLINA, WENT TO BOB JONES
25 UNIVERSITY, GRADUATED IN 1991 WITH A DEGREE IN ACCOUNTING.

1 Q AFTER YOU GRADUATED FROM BOB JONES UNIVERSITY DID YOU
2 BEGIN TO WORK FOR DIFFERENT COMPANIES IN THE ACCOUNTING
3 FIELD?

4 A YES, I DID.

5 Q AND IN JANUARY OF 2001 DID YOU BEGIN TO WORK FOR
6 HOMEGOLD?

7 A YES.

8 Q AND IN WHAT POSITION?

9 A VICE-PRESIDENT OF ACCOUNTING.

10 Q AND DID YOU REMAIN IN THAT POSITION THROUGHOUT YOUR
11 TENURE AT HOMEGOLD?

12 A AT ONE POINT, AFTER THAT I BECAME VICE-PRESIDENT OF
13 FINANCE.

14 Q WAS THAT IN MAY OF 2001?

15 A YES.

16 Q WHILE YOU WERE VICE-PRESIDENT OF FINANCE DID YOU
17 CONTINUE AS VICE-PRESIDENT OF ACCOUNTING AS WELL?

18 A THERE WAS A GOOD WHILE WHERE WE DIDN'T HIRE A
19 REPLACEMENT FOR MY POSITION AND I HAD TO PULL DOUBLE
20 DUTIES, SO TO SPEAK, ON THAT.

21 Q IN MARCH OF 2003 WAS THERE SOMETHING SIGNIFICANT THAT
22 HAPPENED WITH HOMEGOLD?

23 A MARCH OF 2003 HOMEGOLD FINANCIAL AND HOMEGOLD, INC.,
24 FILED BANKRUPTCY.

25 Q DID THE COMPANY SEASE TO EXIST AT THAT POINT AND TIME

1 OR DID IT CONTINUE ON DURING THE BANKRUPTCY?

2 A IT CONTINUED ON DURING THE BANKRUPTCY.

3 Q AND DID YOU REMAIN EMPLOYED BY HOMEGOLD THROUGHOUT
4 THE BANKRUPTCY?

5 A YES.

6 Q AND ARE YOU STILL WORKING ON A CONTRACTUAL BASIS FOR
7 HOMEGOLD?

8 A YES, THROUGH THE BANKRUPTCY TRUSTEE.

9 Q CURRENTLY NOW DO YOU ALSO HAVE ANOTHER OCCUPATION?

10 A I AM CURRENTLY EMPLOYED, SELF EMPLOYED AS A REAL
11 ESTATE DEVELOPER.

12 Q I WANT TO TAKE YOU BACK TO JANUARY OF 2001 WHEN YOU
13 BEGAN TO WORK FOR HOMEGOLD FINANCIAL, INC. WHAT WAS THE
14 CONDITION OF THE COMPANY WHEN YOU BEGAN TO WORK FOR THEM?

15 A VERY POOR FINANCIAL CONDITION.

16 Q IS IT FAIR TO SAY THAT THEY WERE A DISTRESSED
17 COMPANY?

18 A YES.

19 Q AND WERE YOU FULLY AWARE OF THAT WHEN YOU CHOSE TO GO
20 TO WORK FOR THEM?

21 A YES, I WAS.

22 Q WHY WOULD YOU DO THAT?

23 A THE JOB I HAD BEFORE THAT, I WAS SORT OF PIGEON HOLD
24 AND FELT LIKE THIS WAS AN OPPORTUNITY FOR ME TO WORK IN
25 THE JOB, MORE CHALLENGING AND PUBLICLY THE COMPANY WOULD

1 TURN AROUND AND BE A GREAT SUCCESS.

2 Q GENERALLY WHAT WERE YOUR DUTIES AS THE VICE-PRESIDENT
3 OF ACCOUNTING?

4 A I HAD SIX OR SEVEN PEOPLE THAT REPORTED TO ME, WE
5 PERFORMED BANK RECONCILIATIONS, GENERAL LEDGER
6 RECONCILIATIONS, MY STAFF PREPARED INTERNAL UNAUDITED
7 FINANCIAL STATEMENTS.

8 Q WERE YOU ALSO OVER THE ACCOUNTS PAYABLE DEPARTMENT?

9 A AT ONE POINT, YES, IT BECAME A DIRECT REPORT TO ME.

10 Q AS A PART OF THOSE DUTIES WOULD YOU PREPARE OR
11 SUPERVISE THE PREPARATION OF MONTHLY FINANCIAL REPORTS FOR
12 HOMEGOLD AND ITS SUBSIDIARIES?

13 A YES.

14 Q AND ONE OF THOSE SUBSIDIARIES, WOULD THAT BE CAROLINA
15 INVESTORS?

16 A YES.

17 Q DID YOU ALSO WORK ON PREPARING THE FILINGS REQUIRED
18 BY THE SECURITIES AND EXCHANGE COMMISSION, THE 10Q'S, THE
19 10K'S, 8K'S?

20 A YES, I DID.

21 Q DID YOU ALSO WORK ON THE ANNUAL PROSPECTUS THAT WAS
22 FILED HERE IN SOUTH CAROLINA FOR CAROLINA INVESTORS?

23 A YES.

24 Q AS A RESULT OF WORKING ON ALL OF THESE DIFFERENT
25 REPORTS DID YOU BECOME FAMILIAR WITH THE RELATIONSHIP

1 BETWEEN THE PARENT COMPANY OF HOMEGOLD AND ITS
2 SUBSIDIARIES?

3 A YES, I DID.

4 Q AND SPECIFICALLY AT THIS TIME FRAME IN JANUARY OF
5 2001 HOW MANY SUBSIDIARIES DID HOMEGOLD HAVE?

6 A TECHNICALLY THERE WERE SEVEN OR EIGHT, SEVERAL OF
7 THOSE WERE JUST SHELL COMPANIES THAT, THEY WERE REALLY
8 JUST TWO SUBSIDIARIES THAT HAD ANY BUSINESS DEALINGS.

9 Q SO, THERE WAS JUST REALLY TWO SUBSIDIARIES?

10 A THE PARENT COMPANY WAS A SHELL ITSELF AND THERE WERE
11 TWO SUBSIDIARIES THAT WERE UP AND GOING BUSINESSES.

12 Q AND WHAT WERE THOSE TWO SUBSIDIARIES?

13 A HOMEGOLD, INCORPORATED AND CAROLINA INVESTORS,
14 INCORPORATED.

15 Q WHEN YOU SAY HOMEGOLD, INCORPORATED, ARE YOU
16 REFERRING TO THE RETAIL MORTGAGE DIVISION?

17 A YES.

18 Q WHAT WAS CAROLINA INVESTORS PRIMARY COURSE OF
19 BUSINESS?

20 A IT SOLD WHAT ARE CALLED NOTES AND DEBENTURES TO THE
21 PUBLIC.

22 Q WHEN THOSE NOTES AND DEBENTURES WERE SOLD WHAT
23 HAPPENED TO THE CASH THAT CAROLINA INVESTORS BROUGHT IT?

24 A IT WOULD STAY WITH CAROLINA INVESTORS AND UNTIL ONE
25 OF THE AFFILIATED COMPANIES WOULD HAVE A CASH NEED, AND

1 THEN WE WOULD TRANSFER CASH JUST LIKE ANY OTHER LEGITIMATE
2 CORPORATION, ALL THE CASH GETS USED BY ALL OF THE
3 AFFILIATES.

4 Q LET ME BACK YOU UP, THEY KEEP IT UNDER THEIR
5 MATTRESS, DO THEY KEEP IT IN A DESK DRAWER, WAS IT IN A
6 SAFE, WHAT HAPPENED TO THE CASH?

7 A THE CASH WAS DEPOSITED INTO THE BANK OF AMERICA
8 CHECKING ACCOUNT.

9 Q DID HOMEGOLD HAVE THE SAME BANK AMERICA ACCOUNT, WAS
10 IT A JOINT ACCOUNT BETWEEN, I MEAN WAS THERE ONE BIG
11 ACCOUNT FOR EVERYBODY.

12 A THERE WERE A LOT OF SEPARATE ACCOUNTS THAT HOMEGOLD
13 HAD CONTROL ALONG WITH CAROLINA INVESTORS WITH THE BANK OF
14 AMERICA ACCOUNT.

15 Q WHAT WAS HOMEGOLD'S PRIMARY BANK?

16 A AT THAT POINT AND TIME IT WAS FIRST UNION, WACHOVIA.

17 Q WERE THE TWO BANKS DIFFERENT, ONE FOR CAROLINA
18 INVESTORS I BELIEVE YOU SAID WAS BANK OF AMERICA AND FOR
19 HOMEGOLD, I AM SORRY, WHAT DID YOU SAY?

20 A IT WAS FIRST UNION AT THE TIME, NOW IT IS CALLED
21 WACHOVIA.

22 Q WHY WERE THEY DIFFERENT?

23 A I FOUND OUT WHEN WE CHANGED BANKING RELATIONSHIPS
24 LATER TO BB&T, I FOUND OUT THAT IT WAS A VERY SENSITIVE
25 SUBJECT WITH LARRY OWEN AT CAROLINA INVESTORS, THAT BANK

1 AMERICA ACCOUNTS STAY OPEN BECAUSE, THEY HAVE ALWAYS BEEN
2 THE GENERAL BANKING ACCOUNT OF CAROLINA INVESTORS. AND IF
3 IT CHANGED THAT HE WAS AFRAID THAT IT WOULD SPOOK THE
4 INVESTORS.

5 Q WHY WOULD AN AFFILIATE OR ANOTHER SUBSIDIARY NEED
6 CAROLINA INVESTORS CASH?

7 A TO SUPPORT ITS OPERATIONS.

8 Q AND AT THAT TIME WAS THE RETAIL MORTGAGE DIVISION,
9 HOMEGOLD, INCORPORATED, OPERATIONALLY PROFITABLE?

10 A NO.

11 Q SO, WITHOUT CAROLINA INVESTORS CASH COULD THE RETAIL
12 MORTGAGE DIVISION HAVE REMAINED IN BUSINESS?

13 A NOT FOR LONG.

14 Q WOULD YOU PLEASE EXPLAIN, HOW DOES IT WORK, HOW DO
15 YOU TAKE CASH OUT OF A BANK ACCOUNT, HOW IS IT ACCOUNTED
16 FOR AND WHAT TYPE OF INSTRUMENTS NEED TO BE IN PLACE?

17 A WHEN AN AFFILIATE MOVES CASH OUT OF ONE OF HIS BANK
18 ACCOUNTS TO ANOTHER AFFILIATE ACCOUNT, YOU KEEP TRACK OF
19 IT BY THE INTER-COMPANY LOAN AND THEIR DUAL ENTRY
20 ACCOUNTING PROVIDES FOR AN ENTRY TO BE MADE ON A CASH
21 ACCOUNT AND ON A LOAN ACCOUNT AT THE SAME TIME. SO, YOU
22 KEEP TRACK OF THAT.

23 Q SO, IN THIS PARTICULAR COMPANY, HOMEGOLD FINANCIAL,
24 INCORPORATED, WAS THERE AN INTER-COMPANY LOAN THAT
25 EXISTED?

1 A YES.

2 Q AND WHAT TWO COMPANIES OUT OF THE GROUP DID IT EXIST
3 BETWEEN?

4 A IT EXISTED BETWEEN HOMEGOLD, INC., AND CAROLINA
5 INVESTORS, INC.

6 Q AND WHEN YOU ARRIVED IN 2001, THIS INTER-COMPANY DEBT
7 EXISTED, CORRECT?

8 A YES, MA'AM.

9 Q EACH TIME THAT THE RETAIL MORTGAGE DIVISION TOOK CASH
10 OUT OF CAROLINA INVESTORS, WHAT DID THAT CAUSE THE
11 INTER-COMPANY DEBT TO DO?

12 A THE INTER-COMPANY WOULD INCREASE, HOMEGOLD, INC.
13 WOULD OWE CAROLINA INVESTORS MORE.

14 Q IS THIS A SIMPLIST WAY OF SHOWING THE RELATIONSHIP
15 BETWEEN THE PARENT COMPANY AND TWO SUBSIDIARIES?

16 A YES, MA'AM.

17 Q AND SO THE CASH GOES FROM CAROLINA INVESTORS TO THE
18 RETAIL MORTGAGE DIVISION AND A NOTE IN ESSENCE GOES FROM
19 THE RETAIL MORTGAGE DIVISION TO CAROLINA INVESTORS?

20 A YES, THAT IS CORRECT.

21 Q DID THIS INTER-COMPANY DEBT CONCERN YOU?

22 A YES, MA'AM.

23 Q WHY?

24 A IT SEEMED TO HAVE GROWN A FEW YEARS BEFORE I WENT TO
25 WORK THERE, AND IT WAS GOING TO KEEP GROWING UNLESS

1 HOMEGOLD, INC. BECAME PROFITABLE.

2 Q DID YOU DISCUSS THOSE CONCERNS WITH ANYONE IN
3 PARTICULAR?

4 A I DISCUSSED IT WITH ALL OF MY SUPERVISORS.

5 Q A MOMENT AGO YOU MENTIONED LARRY OWEN, HOW DID YOU
6 MEET HIM?

7 A HE WAS THE PRESIDENT OF CAROLINA INVESTORS,
8 INCORPORATED AND THE FIRST TIME I MET HIM WAS AROUND THE
9 TIME OF THE PROSPECTUS BEING FILED IN 2001.

10 Q AND WHY WOULD YOU COME IN CONTACT WITH MR. OWEN?

11 A THE NATURE OF THE CONTACTS WITH, FROM HIM OR TO ME OR
12 MY STAFF, EITHER OR, HAD TO DO WITH THE FINANCIAL
13 CONDITION OR THE PERFORMANCE OF HOMEGOLD.

14 Q AND TYPICALLY WHO WOULD CONTACT WHO, WOULD YOU CALL
15 HIM OR WOULD HE CALL YOU?

16 A MR. OWEN WOULD TYPICALLY CALL ME.

17 Q AFTER HAVING WORKED AT HOMEGOLD FOR SEVERAL MONTHS,
18 DID YOU NOTICE A PATTERN OR A TREND AS WHEN MR. OWEN WOULD
19 CONTACT YOU?

20 A YES, AFTER A FEW QUARTERS HAD PASSED, I NOTICED IT
21 WAS SIGNIFICANT CONCERNS OR ANXIETY OR QUESTIONS COMING
22 FROM MR. OWEN AROUND THE QUARTER END FOR HOMEGOLD, INC.

23 Q YOU SAID CONCERNS, WHAT WERE HIS CONCERNS?

24 MR. GRIFFIN: OBJECTION, YOUR HONOR, HEARSAY.

25 MS. PORTER: YOUR HONOR, I BELIEVE IT FALLS WITHIN

1 THE EXCEPTION OF THE HEARSAY, 801(2)(E). STATEMENT BY A
2 COCONSPIRATOR REPORTED DURING THE COURSE IN FURTHERANCE OF
3 THE CONSPIRACY.

4 THE COURT: YOU WANT TO BE HEARD, I WILL TAKE THE
5 JURY OUT.

6 MR. GRIFFIN: YES, SIR.

7 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
8 LET ME HEAR THESE ARGUMENTS OUTSIDE OF YOUR PRESENCE, WE
9 WILL HAVE YOU BACK IN A FEW MINUTES. PLEASE DON'T DISCUSS
10 THE CASE, IF YOU WILL STEP BACK TO YOUR JURY ROOM.
11 EVERYONE ELSE STAY SEATED, PLEASE.

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

13 THE COURT: MR. GRIFFIN.

14 MR. GRIFFIN: YOUR HONOR, THEY ARE RELYING UPON THE
15 HEARSAY EXCEPTION OF THE STATEMENT OF A COCONSPIRATOR,
16 HERE THE STATEMENT THEY ARE TRYING TO INTRODUCE IS THE
17 STATEMENT FROM LARRY OWEN TO SHANE SMITH. I HAVE NEVER
18 HEARD IN THIS CASE AND THAT MR. SMITH IS ALLEGED TO BE AN
19 UNINDICTED COCONSPIRATOR. NO CLAIM TO MY KNOWLEDGE UNLESS
20 SOMETHING HAS CHANGED THAT HE WAS CRIMINALLY INVOLVED IN
21 ANY CONDUCT. AND IN FACT THE GRAND JURY ISSUED A REPORT
22 SAYING THAT THEY WERE CLOSING THEIR INVESTIGATION BECAUSE
23 THERE WAS NO PROBABLE CAUSE TO BELIEVE ANYBODY ELSE
24 COMMITTED ANY CRIMES. SO, ANY STATEMENT THAT LARRY OWEN
25 MADE TO SHANE SMITH CANNOT BE IN FURTHERANCE OF ANY

1 CONSPIRACY. AND THAT IS THE SUM AND SUBSTANCE OF MY
2 ARGUMENT. I WOULD ADD SOMETHING ELSE AS TO HOW IT
3 FURTHERS THE CONSPIRACY AS WELL BUT I DON'T THINK YOU CAN
4 GET TO THAT POINT ONCE YOU INCLUDE MR. SMITH.

5 THE COURT: MS. PORTER.

6 MS. PORTER: YOUR HONOR, I THINK THE RULE SAYS IT IS
7 A STATEMENT BY A COCONSPIRATOR, I DON'T THINK IT REQUIRES
8 IT TO BE MADE TO ANOTHER COCONSPIRATOR. THE CONCERNS AND
9 THE STATEMENTS ARE MADE FROM LARRY OWEN WHO HAS PLEAD
10 GUILTY TO CONSPIRACY. AND IN ADDITION WE HAD NUMEROUS
11 PIECES OF TESTIMONY THROUGH RANK AND GREGORY AND PAT EVETT
12 ESTABLISHING THE CONSPIRACY AND THAT MR. OWEN WAS IN IT.
13 IT IS NOT MR. SMITH'S STATEMENTS, IT IS MR. OWEN'S
14 STATEMENT. WE DON'T HAVE TO ALLEGE THAT MR. SMITH IN THE
15 CONSPIRACY, SIMPLY THE INDIVIDUAL MAKING THE STATEMENT.

16 THE COURT: LET ME HEAR TO WHAT HE IS GOING TO
17 TESTIFY TO BEFORE I MAKE A RULING ON THAT. IF YOU WILL
18 ASK THE QUESTION, MS. PORTER, LET ME SEE. BECAUSE, IN
19 LOOKING AT THE RULE I DON'T KNOW IF IT HAS TO BE MADE TO A
20 COCONSPIRATOR BUT IT WOULD HAVE TO BE IN FURTHERANCE OF
21 THE CONSPIRACY. I AM NOT MAKING THAT RULING YET BUT I
22 NEED TO HEAR THE TESTIMONY.

23 Q I BELIEVE THE LAST QUESTION WAS, DID YOU NOTICE A
24 PATTERN OR TREND AS TO WHEN MR. OWEN WOULD CALL YOU.

25 A YES.

1 Q AND WHAT WAS THAT PATTERN OR TREND?

2 A HE CALLED ME EVERY QUARTER END OF HOMEGOLD
3 INCORPORATED OPERATIONS.

4 Q AND WHAT WERE THE CONCERNS THAT HE EXPRESSED TO YOU
5 WHEN HE CALLED?

6 A HOW WELL HOMEGOLD WAS DOING, WAS IT GOING TO MAKE
7 MONEY, WHAT WAS THE PRESS RELEASE GOING TO BE.

8 Q DID YOU BECOME AWARE OF HOW HOMEGOLD MANAGEMENT FELT
9 ABOUT MR. OWEN?

10 A YES.

11 Q HOW DID YOU BECOME AWARE OF THAT?

12 A ON A COUPLE OF OCCASIONS I OVERHEARD CONVERSATIONS.

13 Q BETWEEN WHO?

14 A MR. FERRELL ON THE TELEPHONE WITH MR. SHEPPARD AND
15 MR. FERRELL THEN INSTRUCTED TO GET LARRY OWEN TO STOP
16 PESTERING ME. AND ANOTHER TIME WAS TO GET LARRY OWEN, TO
17 HELP THEM BUY A CAR FOR EARLE MORRIS.

18 Q AND THESE WERE STATEMENTS MADE BY THE DEFENDANT?

19 A YES.

20 MS. PORTER: YOUR HONOR, THAT IS WHERE I AM HEADED
21 WITH THIS.

22 MR. GRIFFIN: MULTIPLE STATEMENTS GOING BACK TO MR.
23 OWEN'S CONCERNS, I THINK IT IS ESTABLISHED HOW HIS
24 CONCERNS, I DON'T SEE HOW THAT WOULD BE IN FURTHERANCE OF
25 THE CONSPIRACY. THESE OTHER STATEMENTS, I AM NOT SURE IF

1 THIS WITNESS SAYS HE SAID HE HEARD CONVERSATIONS VIA
2 TELEPHONE CONVERSATION WITH MR. FERRELL. I DON'T KNOW
3 WHAT END OF THAT CALL HE IS SITTING, IS HE SITTING WITH
4 MR. FERRELL, DID MR. FERRELL RELAY INFORMATION THAT HE
5 RECEIVED FROM MR. SHEPPARD ON THE PHONE, APPARENTLY. THE
6 FIRST QUESTION OF WHAT MR. OWEN'S CONCERNS WERE.

7 THE COURT: LET ME START BY OVERRULING THE OBJECTION
8 AS TO THE CONVERSATION THAT THIS WITNESS HAD WITH MR.
9 OWEN. NOW, HE HAS TESTIFIED TO OTHER CONVERSATIONS AND IN
10 PARTICULAR PHONE CONVERSATIONS THAT HAVE BEEN DESCRIBED AS
11 BETWEEN FERRELL AND THE DEFENDANT. AND HE IS TESTIFYING
12 TO AS TO WHAT HE HEARD FERRELL TELLING. THAT IS ALMOST
13 GETTING TO DOUBLE HEARSAY AND I DON'T THINK IT WOULD BE
14 APPROPRIATE TO GO THERE. I THEN OVERRULE TO THE
15 OBJECTION, TO THE LAST QUESTION THAT WAS ASKED. BRING THE
16 JURY IN, PLEASE.

17 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
18 APPROXIMATELY 11:45 A.M.)

19 Q MR. SMITH, WE WERE TALKING ABOUT YOUR CONTACTS WITH
20 MR. OWEN NEAR THE QUARTER END REGARDING THE FINANCIALS.
21 WHAT WERE THE CONCERNS THAT HE EXPRESSED TO YOU?

22 A HE WAS CONCERNED ABOUT WHETHER OR NOT THAT PARTICULAR
23 QUARTER ENDS IS PROBABLE FOR HOMEGOLD, INCORPORATED.

24 Q AT SOME POINT DID YOU BECOME AWARE OF HOW THE
25 DEFENDANT FELT ABOUT MR. OWEN?

1 A YES.

2 Q HOW DID YOU BECOME AWARE OF THE DEFENDANT'S FEELINGS
3 ABOUT MR. OWEN?

4 A THERE WAS A COUPLE OF OCCASIONS. ONE OCCASION WAS I
5 HEARD MR. SHEPPARD IN FRONT OF ME SAY, ON HIS PHONE, TO GO
6 HELP LARRY OWEN, TO HELP HIM GO BUY EARLE MORRIS A CAR AND
7 HE WANTED THAT TO HAPPEN SO AS TO STOP PESTERING HIM.

8 Q DID YOU EVER HEAR THE DEFENDANT SPEAK TO MR. FERRELL
9 REGARDING MR. OWEN?

10 A MR. FERRELL BRAGGED TO ME--

11 MR. GRIFFIN: YOUR HONOR.

12 THE COURT: SUSTAINED.

13 Q DID YOU EVER HEAR THE DEFENDANT SPEAK ABOUT MR. OWEN
14 REGARDING MR. OWEN'S CONCERNS?

15 A MR. SHEPPARD KNEW THAT LARRY OWEN CALLED AND ASKED
16 QUESTIONS ABOUT THE COMPANIES OPERATIONS.

17 Q HOW DID THE DEFENDANT KNOW ABOUT THAT?

18 A NO INFORMATION WENT OUT OF THE ACCOUNTING AREA UNTIL
19 HE HAD A CHANCE TO REVIEW IT WITH THE ACCOUNTING STAFF AND
20 OTHER EXECUTIVES.

21 Q YOU KNOW OF A WOMAN BY THE NAME OF MS. PAT EVETT?

22 A YES, I DO.

23 Q WHAT WAS HER POSITION AT HOMEGOLD?

24 A SHE WAS AN ACCOUNTANT.

25 Q AND IN JULY OF 2001 DID HOMEGOLD MOVE ITS

1 HEADQUARTERS?

2 A YES, IT DID.

3 Q DID MS. EVETT MAKE THE MOVE WITH HOMEGOLD?

4 A NO, SHE DID NOT.

5 Q OUT OF WHAT OFFICE DID SHE BEGIN TO WORK AFTER
6 HOMEGOLD MOVED ITS HEADQUARTERS?

7 A IT WAS THE PICKENS OFFICE OF CAROLINA INVESTORS.

8 Q ARE YOU AWARE OF HOW MR. OWEN FELT ABOUT MS. EVETT
9 WORKING OUT OF THAT OFFICE?

10 A YES.

11 Q AND HOW DID HE FEEL ABOUT THAT?

12 MR. GRIFFIN: OBJECTION, YOUR HONOR, HEARSAY.

13 THE COURT: SUSTAINED. YOU ASKED HIM HOW MR. OWEN
14 FELT ABOUT THAT?

15 MS. PORTER: YES, SIR.

16 THE COURT: I SUSTAIN.

17 Q JANUARY OF 2001, CAN YOU PLEASE DESCRIBE THE
18 ATMOSPHERE IN THE ACCOUNTING DEPARTMENT, IN JANUARY WHEN
19 YOU FIRST BEGAN?

20 A IN 2001?

21 Q YES.

22 A WE WERE UNDERSTAFFED, OVER WORKED AND WHEN WE FOUND
23 OUT ABOUT THE MOVE TO LEXINGTON THERE WERE A FEW PEOPLE
24 THAT DIDN'T WANT TO MOVE, A LOT OF PEOPLE LOST THEIR JOBS.

25 Q WHEN YOU BEGAN WHO WAS THE CEO OF HOMEGOLD?

1 A THE CEO WAS RONNIE SHEPPARD.

2 Q AND FOR THE SEVEN MONTHS FROM JANUARY TO JULY IN 2001
3 WHEN YOU WORKED, THE HEADQUARTER WERE IN GREENVILLE, HOW
4 OFTEN WOULD YOU SEE THE DEFENDANT?

5 A I HAD MET HIM ONE TIME IN THAT TIME PERIOD.

6 Q AND WHO WAS THE CFO DURING THAT TIME?

7 A FIRST IT WAS RHONDA JOHNSON.

8 Q DID SHE HIRE YOU?

9 A YES.

10 Q AND DID YOU HAVE SUBSTANTIAL DEALINGS WITH MS.
11 JOHNSON?

12 A YES, I DID.

13 Q DID SHE HAVE AN ACCOUNTING BACKGROUND?

14 A YES.

15 Q AND WHEN YOU BEGAN UNDER MS. JOHNSON IN JANUARY OF
16 2001 WHAT WERE YOU WORKING ON?

17 A BEGINNING TO WORK ON CLOSING DOWN THE YEAR, FISCAL
18 YEAR OF 2000 WHICH WOULD OF BEEN DECEMBER 31ST OF 2000,
19 BOOKS AND RECORDS.

20 Q AND WERE YOU AWARE OF MS. JOHNSON TRANSFERRING SOME
21 OF THE DEBT OWED TO CAROLINA INVESTORS FROM THE RETAIL
22 MORTGAGE DIVISION?

23 A YES, MA'AM.

24 Q AND CAN YOU PLEASE EXPLAIN TO THE JURY WHERE THAT
25 DEBT WAS TRANSFERRED?

1 A THE DEBT THAT HGI OWED TO CAROLINA INVESTORS WAS
2 TRANSFERRED TO THE PARENT COMPANY, HOMEGOLD FINANCIAL,
3 INC. SO, THE PARENT BASICALLY STEPPED IN AND TOOK THE IOU
4 TO CAROLINA INVESTORS AND THAT LEFT NO IOU ON THE
5 INCORPORATED OR THE RETAIL MORTGAGE DIVISION.

6 Q SO, IN ESSENCE THEY TOOK THIS NOTE, IS THAT CORRECT?

7 A YES.

8 Q AND MOVED IT OVER HERE, IS THAT CORRECT?

9 A YES.

10 Q AND THIS STARTED AT ZERO FOR THE YEAR OF 2000?

11 A YEAREND 2000.

12 Q PRIOR TO THIS MANEUVER WHAT WAS HOMEGOLD
13 INCORPORATED, THE RETAIL MORTGAGE DIVISION, WHAT WAS THEIR
14 NET WORTH?

15 A THEY HAD DEFICIT OR NEGATIVE NET WORTH.

16 Q WITH THAT NEGATIVE NET WORTH WOULD THEY HAD BEEN ABLE
17 TO RENEW ALL OF THEIR LICENSES ALLOWING THEM TO ORIGINATE
18 LOANS?

19 MR. GRIFFIN: OBJECTION, YOUR HONOR, I AM SURE THIS
20 WITNESS CAN TESTIFY, THEY CERTAINLY SHOULD HAVE SOME BASIS
21 FOR HIS KNOWLEDGE.

22 THE COURT: JUST LAY SOME BASIS FOR THE KNOWLEDGE.

23 Q BASED ON YOUR WORKING WITH THE FINANCES, WERE YOU
24 AWARE OF THE REQUIREMENTS TO OBTAIN LICENSING THROUGHOUT
25 THE STATE FOR THE MORTGAGE DIVISION?

1 A ON SEVERAL OCCASIONS, DIFFERENT TIMES DURING THE
2 YEAR, BECAUSE DIFFERENT STATES DO IT DIFFERENTLY, THE
3 LEGAL DEPARTMENT OF THE COMPANY WOULD REQUEST FROM THE
4 ACCOUNTING DEPARTMENT FINANCIAL STATEMENTS TO PROVIDE TO
5 THE STATE TO GAIN MORTGAGE ORIGINATION LICENSING.

6 Q AND DID YOU HAVE SEVERAL CONVERSATIONS WITH THE LEGAL
7 DEPARTMENT REGARDING THIS ISSUE?

8 A YES, THERE, I WAS TOLD BY THE LEGAL DEPARTMENT THAT--
9 MR. GRIFFIN: GETTING BACK TO HEARSAY.

10 Q WITHOUT SAYING WHAT THEY SAID, DID YOU HAVE
11 CONVERSATIONS ABOUT THAT?

12 A YES AND WE WERE REQUIRED, IN 2001 WE BEGAN PROVIDING
13 FINANCIAL STATEMENTS FROM HOMEGOLD, INC., AS WELL AS
14 FINANCIAL STATEMENTS OF THE CONSOLIDATED PARENT TO THE
15 LEGAL DEPARTMENT AND THEY WOULD DISTRIBUTE THEM TO THE
16 APPROPRIATE STATES.

17 Q IS IT YOUR UNDERSTANDING OR WHAT IS YOUR
18 UNDERSTANDING OF WHAT IS REQUIRED FINANCIALLY FOR THE
19 MORTGAGE DIVISION TO OBTAIN LICENSES.

20 MR. GRIFFIN: YOUR HONOR, SAME OBJECTION.

21 THE COURT: YOU CAN ANSWER THAT QUESTION, OVERRULED.

22 A DIFFERENT STATES HAVE DIFFERENT REQUIREMENTS, SOME
23 ARE EQUITY REQUIREMENTS IN OTHER STATES. GOING INTO 2001,
24 HOMEGOLD, INC., WOULD NOT HAVE BEEN ABLE TO GAIN LICENSES
25 BECAUSE OF THE DEFICIT EQUITY.

1 Q AFTER THIS MANEUVER WHAT WAS THE NET WORTH OF THE
2 RETAIL MORTGAGE DIVISION, HOMEGOLD, INC.

3 A THE EXACT NUMBERS I DON'T RECALL. BUT IT WAS A
4 POSITIVE EQUITY.

5 Q WHAT EFFECT DID THIS TRANSFER DEBT HAVE ON CAROLINA
6 INVESTORS?

7 A IT REALLY DID NOT AFFECT THEM, THEY STILL WERE HELD
8 AN IOU FROM HOMEGOLD.

9 Q THE IOU WAS NEITHER LESS SECURE NOR MORE SECURE?

10 A THAT IS CORRECT, THE SAME SECURITIES WOULD CROSS
11 COLLATERAL LINES BETWEEN HOMEGOLD FINANCIAL, INC. AND THE
12 RETAIL MORTGAGE DIVISION.

13 Q SO, IN ESSENCE THIS IS SIMPLY A PAPER--

14 A THAT IS CORRECT.

15 Q WAS THIS DONE REPEATEDLY FROM HERE ON OUT YEAREND?

16 A YES.

17 Q NOW, IN MARCH OF 2001 DID MS. JOHNSON RESIGN AS CFO?

18 A YES.

19 Q AND ARE YOU AWARE OF WHY?

20 A SHE CAME INTO MY OFFICE AND TOLD ME--

21 MR. GRIFFIN: OBJECTION, YOUR HONOR, HEARSAY.

22 Q WITHOUT SAYING WHAT SHE SAID ARE YOU AWARE?

23 A ACCOUNTING ISSUES.

24 Q WHO BECAME THE CFO AFTER MS. JOHNSON?

25 A KEVIN MARTIN.

1 Q AND WAS HE PROMOTED FROM WITHIN OR WAS HE A NEW HIRE?

2 A HE WAS FROM WITHIN.

3 Q WHAT WAS HIS PREVIOUS POSITION BEFORE HE BECAME CFO?

4 A HE WAS THE VICE-PRESIDENT OF FINANCE.

5 Q AND DO YOU REMEMBER WHEN HE WAS PROMOTED?

6 A IT WAS SOMETIME IN MAY OF 2001.

7 Q AND THE SAME TIME DID YOU RECEIVE A PROMOTION?

8 A YES, I DID.

9 Q AND WHAT WAS THAT?

10 A TO THE POSITION VACATED, VICE-PRESIDENT OF FINANCE.

11 Q GENERALLY WHAT WERE YOUR DUTIES AS VICE-PRESIDENT OF
12 FINANCE?

13 A GENERALLY IT WAS TO THE LIQUIDITY, SITUATION OF THE
14 PARENT AND THE SUBSIDIARIES.

15 Q WOULD YOU GENERATE LIQUIDITY REPORTS?

16 A YES, ME AND MY STAFF DID, YES.

17 Q HOW OFTEN?

18 A DAILY.

19 Q IS IT FAIR TO STATE THAT AFTER YOU BECAME PROMOTED
20 YOU BECAME MORE AWARE OF THE FINANCIAL CONDITIONS OF THE
21 COMPANY?

22 A YES, I DID.

23 Q I KNOW WE SAID BRIEFLY THAT THE HEADQUARTERS MOVED.
24 THE HEADQUARTERS FOR HOMEGOLD WAS IN GREENVILLE, IS THAT
25 CORRECT?

1 A YES.

2 Q AND WHEN DID THEY MOVE?

3 A I THINK THE LEGAL DATE OF THE HEADQUARTERS MOVING IS
4 IN MAY OF 2001.

5 Q WHERE DID THEY MOVE?

6 A THEY MOVED TO REED AVENUE HERE IN LEXINGTON.

7 Q AND WHAT COUNTY IS THAT?

8 A LEXINGTON.

9 Q RIGHT BEFORE THE MOVE OR RIGHT AFTER THE MOVE WERE
10 YOU AWARE OF A NEW HIRE FOR THE ACCOUNTS PAYABLE
11 DEPARTMENT?

12 A YES.

13 Q AND AT THIS TIME IS THE ACCOUNTS PAYABLE DEPARTMENT
14 ANSWERING TO YOU?

15 A YES.

16 Q AND WHO IS THAT NEW HIRE?

17 A TONYA BRAZELL.

18 Q AND WHAT POSITION DID SHE HOLD?

19 A SHE WAS THE ACCOUNTS PAYABLE MANAGER.

20 Q WAS SHE THE HEAD OF THE DEPARTMENT?

21 A YES.

22 Q IS SHE RELATED TO THE DEFENDANT?

23 A SHE IS.

24 Q WAS SHE QUALIFIED FOR THAT POSITION?

25 A AFTER A FEW MONTHS OF HER RUNNING THE DEPARTMENT IT

1 BECAME APPARENT TO ME THAT SHE WAS NOT.

2 Q DID YOU INTERVIEW ANYBODY FOR THAT POSITION?

3 A I INTERVIEWED ONE PERSON.

4 Q WAS THAT YOUR DECISION TO HIRE HER?

5 A NO.

6 Q WHOSE DECISION WAS IT?

7 A MR. SHEPPARD'S.

8 Q BASED UPON, AFTER MS. BRAZEL WAS PLACED IN CHARGE OF
9 THE ACCOUNTS PAYABLE DIVISION DID ANOTHER INDIVIDUAL AT
10 HOMEGOLD BECOME INVOLVED IN THE ACCOUNTING DEPARTMENT?

11 A YES, MS. KAREN MILLER.

12 Q AND IN WHAT TYPE OF POSITION DID SHE BECOME INVOLVED
13 IN THE ACCOUNTING DEPARTMENT?

14 A SHE TECHNICALLY DID NOT HAVE A TITLE OR A POSITION IN
15 THE ACCOUNTING DEPARTMENT.

16 Q WHAT AREA WAS SHE INVOLVED?

17 A SHE BEGAN INSTRUCTING THE ACCOUNTS PAYABLE FOLKS ON
18 HOW TO CHARGE CERTAIN INVOICES.

19 Q YOU MENTIONED A MOMENT AGO THAT AFTER A FEW MONTHS IT
20 WAS EVIDENT THAT MS. BRAZEL WAS NOT QUALIFIED TO RUN THE
21 ACCOUNTS PAYABLE DEPARTMENT. WHY DO YOU BELIEVE THAT?

22 A WE WERE EXPERIENCING THE DOUBLE PAYMENTS OF INVOICES,
23 COMPLAINTS FROM VENDORS, MAKING IT ALL THE WAY UP THE
24 LADDER ABOUT THE ACCOUNTS PAYABLE DEPARTMENT, DISARRAY,
25 PERSONALITY CONFLICTS, A LOT OF REASONS.

1 Q NOW, THAT THE HEADQUARTERS ARE IN LEXINGTON, WHAT
2 EFFECT DID THAT HAVE ON THE ACCOUNTING DEPARTMENT?

3 A THERE WAS MORE DAY TO DAY ACTION IN EXECUTIVE
4 MANAGEMENT.

5 Q AND SPECIFICALLY WHO IN EXECUTIVE MANAGEMENT?

6 A MR. SHEPPARD WAS AROUND EVERY DAY.

7 Q DID YOU HAVE SUBSTANTIAL DEALINGS WITH MR. SHEPPARD
8 ONCE YOU ALL MOVED TO LEXINGTON?

9 A A LOT MORE FREQUENT DEALINGS WITH MR. SHEPPARD THAN
10 WHEN I WAS IN GREENVILLE.

11 Q WOULD YOU PLEASE DESCRIBE TO THE JURY HIS MANAGEMENT
12 STYLE?

13 A VERY CONDESCENDING, INTIMIDATING, THREATENING.

14 Q BASED UPON YOUR NEW INTERACTION WITH THE DEFENDANT
15 AND YOUR WORK ON THE FINANCIALS, SPECIFICALLY WITH REGARD
16 TO THE RETAIL MORTGAGE DIVISION, WERE YOU AWARE OF A PLAN
17 OR STRATEGY THAT THE DEFENDANT HAD TO TURN THE COMPANY
18 AROUND?

19 A YES.

20 Q AND WHAT WAS THAT PLAN OR STRATEGY?

21 A MR. SHEPPARD'S PLAN WAS TO OPEN A LOT OF BRANCHES ALL
22 OVER THE COUNTRY AND TO TRY TO MAKE A WHOLE LOT OF MONEY
23 TO PAY BACK THE DEBT.

24 Q WITH REGARDS TO THIS STRATEGY DID YOU AND THE
25 ACCOUNTING DEPARTMENT DEVELOPE ANY MODELS OR FOOTPRINTS ON

1 HOW TO OPEN A NEW BRANCH?

2 A THE ACCOUNTING MANAGERS WORKED WITH THE EXECUTIVES
3 AND COMING OUT WITH A BUSINESS MODEL OR WHAT YOU COULD
4 CALL A FOOTPRINT OF WHAT A PERFECT BRANCH IN A PERFECT
5 WORLD SHOULD LOOK LIKE TO MAKE MONEY.

6 Q AND SPECIFICALLY, YOU SAID SOME OF THE EXECUTIVE
7 MANAGERS?

8 A MR. FERRELL, MR. SHEPPARD, MS. MILLER.

9 Q MR. MARTIN?

10 A MR. MARTIN.

11 Q AND YOU SAID THE DEFENDANT WAS AWARE OF THIS MODEL?

12 A ABSOLUTELY.

13 Q WHILE YOU WERE WORKING AT HOMEGOLD DID THE DEFENDANT
14 EVER IMPLEMENT THIS MODEL OR FOOTPRINT?

15 A THE PERFECT SCENARIO NEVER PLAYED OUT IN ANY BRANCH.

16 Q THIS PLAN TO GROW THE BUSINESS, WAS HE DOING IT
17 SLOWLY, MODERATELY FAST, QUICKLY?

18 A QUICKLY.

19 Q DOES THE ACCOUNTING DEPARTMENT AGREE WITH THIS
20 STRATEGY?

21 A NO.

22 Q WHAT HAPPENS WHEN YOU OPEN BRANCHES QUICKLY?

23 A THESE ARE BRANCHES THAT CONTAIN 40 TO 50 PEOPLE ALL
24 OVER THE COUNTRY, IT IS A HUGE LOGISTICAL NIGHTMARE, YOU
25 BEGIN SPENDING MONEY ON TOP OF MONEY TO OPEN UP COST

1 CENTERS THAT AREN'T GENERATING ANY REVENUE AT ALL. AND IT
2 IS EASY TO CREATE A SITUATION THAT WAS OUT OF CONTROL.

3 Q DID ANYONE OUT OF THE ACCOUNTING DEPARTMENT EVER
4 APPROACH THE DEFENDANT AND SAY--

5 A YES.

6 Q DID THE DEFENDANT LISTEN?

7 MR. GRIFFIN: OBJECTION, YOUR HONOR, HEARSAY.

8 THE COURT: SUSTAINED TO THE FORM OF THE LAST
9 QUESTION.

10 Q WHO WAS MAKING, BASED ON YOUR WORK IN THE FINANCE AND
11 THE ACCOUNTING DEPARTMENT WHO WAS MAKING THE DECISIONS
12 REGARDING THE EXPANSION OF THE RETAIL MORTGAGE DIVISION?

13 A MR. FERRELL AND MR. SHEPPARD.

14 Q AND OF THOSE TWO WHO WOULD YOU SAY WAS IN CONTROL?

15 A MR. SHEPPARD.

16 Q WAS THE ACCOUNTING DIVISION CONSULTED ON THE FRONT
17 END OR THE BACK END OF MAKING DECISIONS REGARDING THE
18 RETAIL MORTGAGE DIVISION?

19 A WE VERY RARELY HEARD OF ANYTHING, WE WERE ALWAYS
20 REACTING.

21 Q DURING THIS TIME FRAME, THE SUMMER OF 2001 HOW WAS
22 CAROLINA INVESTORS DOING?

23 A CAROLINA INVESTORS BEGAN RAISING, SELLING MORE
24 DEBENTURES AND THAT MEANT MORE CASH COMING INTO CAROLINA
25 INVESTORS.

1 Q WHAT HAPPENED TO THAT CASH?

2 A THAT CASH WAS SUBSEQUENTLY USED TO OPEN UP BRANCHES
3 FOR HOMEGOLD, INC.

4 Q A MOMENT AGO YOU SAID YOU THAT YOU WERE PRODUCING OR
5 AT LEAST YOUR DEPARTMENT WAS PRODUCING DAILY LIQUIDITY
6 REPORTS, IS THAT CORRECT?

7 A YES.

8 Q WHAT EXACTLY ARE THOSE?

9 A THOSE ARE A QUICK AND DIRTY RECONCILIATION OF CASH
10 FROM THE NIGHT BEFORE IN THE BANK ACCOUNTS, WHAT WE EXPECT
11 TO CLEAR IN THE NEXT DAY. AND IT ALSO HAD, WE HAD
12 WAREHOUSE LINES OF CREDIT WHICH ARE JUST LINES OF CREDIT,
13 THE AVAILABILITY ON THOSE LINES ADDED TO THE LIQUIDITY,
14 THE CASH NUMBER. SO, IT SHOWED A TOTAL POSITION OF
15 LIQUIDITY THAT THE COMPANY HAD ON THAT PARTICULAR DAY.

16 Q WHAT DID YOU DO WITH THOSE REPORTS?

17 A THEY WERE CREATED EVERY DAY AND DISTRIBUTED EVERY
18 DAY.

19 Q AND WHO ARE THEY DISTRIBUTED TO?

20 A IN GENERAL THE EXECUTIVE MANAGEMENT TEAM.

21 Q WHO DID THAT INCLUDE?

22 A MR. SHEPPARD, MR. FERRELL, MR. MARTIN, MS. MILLER,
23 JACK STERLING.

24 Q AROUND THIS TIME FRAME, DURING THIS RAPID EXPANSION
25 OF THE BUSINESS DID THE DEFENDANT ASK YOU TO REMOVE AN

1 INDIVIDUAL FROM THAT DISTRIBUTION LIST?

2 A YES, HE DID.

3 Q WHO DID HE ASK YOU TO REMOVE?

4 A HE ASK ME TO REMOVE JACK STERLING.

5 Q AND DID HE TELL YOU WHY HE WANTED JACK STERLING OFF
6 THE LIST?

7 A YES, HE TOLD ME THAT JACK DIDN'T AGREE WITH GROWING
8 THESE BRANCHES AS FAST AS WE ARE SO HE DOESN'T NEED TO
9 KNOW, HE ASKED TOO MANY QUESTIONS.

10 Q AROUND THIS SAME TIME FRAME HOW IS THE RETAIL
11 MORTGAGE DIVISION DOING?

12 A IT HAS BEEN OPENING ALL OF THESE BRANCHES AND
13 SPENDING A LOT OF MONEY SO IT IS LOSING A LOT OF MONEY.

14 Q DID YOU BEGIN TO NOTICE A TREND REGARDING THE
15 PROJECTIONS VERSUS AN ACTUAL LOAN PRODUCTION?

16 A YES.

17 Q AND WHAT WAS THAT?

18 A IT SEEMED THAT ALL OF THE ACTUAL RESULTS WOULD ALWAYS
19 BE THIRTY TO FORTY PERCENT SHORT ON WHAT IT WAS SUPPOSE TO
20 BE.

21 Q WHAT EFFECT DID THIS RAPID EXPANSION HAVE ON THE
22 INTER-COMPANY LOAN?

23 A THIS RAPID EXPANSION REQUIRED EXPENSES TO BE PAID TO
24 OPEN OTHER BRANCHES AND SO THE MONEY WAS MOVED, LIKE WE
25 LOOKED AT EARLIER AND THE INTER-COMPANY DEBT WENT UP.

1 Q AND DID THIS CONCERN YOU?

2 A YES.

3 Q DID YOU SPEAK WITH ANYONE ABOUT YOUR CONCERNS?

4 A YES.

5 Q WHO DID YOU SPEAK WITH?

6 A I SPOKE TO ALL OF THE SUPERVISORS.

7 Q SPECIFICALLY DID YOU AND MR. MARTIN MAKE A PLAN?

8 A YES, AT THAT TIME MR. MARTIN WAS MY SUPERVISOR. WE
9 DISCUSSED DIFFERENT STRATEGIES IN THE RAPID EXPANSION.

10 Q AND WHAT STRATEGY WAS THAT?

11 A IT WAS A STRATEGY OF SHUTTING EVERYTHING DOWN EXCEPT
12 A COUPLE OF BRANCHES AND RUNNING THOSE COUPLE OF BRANCHES
13 FOR AN EXTENDED PERIOD OF TIME TO MAKE SURE WE HAD THE
14 RIGHT BUSINESS MODEL.

15 Q WAS THAT PLAN PRESENTED TO THE DEFENDANT?

16 A YES.

17 Q BY WHOM?

18 A MR. MARTIN.

19 Q DID YOU AND MR. MARTIN EVER IMPLEMENT THAT PLAN?

20 A NO.

21 Q I WANT TO TAKE YOU TO OCTOBER OF 2001. THAT IS THE
22 BEGINNING OF THE FORTH QUARTER, IS THAT CORRECT?

23 A YES, MA'AM.

24 Q AND DID YOU CONTACT CY BURGESS AT ELLIOTT DAVIS?

25 A YES, I DID.

1 Q WHY DID YOU CONTACT HIM?

2 A TO TRY TO LINE UP A MEETING OR WANTED TO LINE UP A
3 MEETING WITH HIM TO DISCUSS THE YEAREND AUDIT, THE
4 LOGISTICS OF HOW WE WERE GOING TO WORK THROUGH THE
5 AUDITORS COMING IN AND GETTING OUT AND DOING THE THINGS
6 THAT AUDITORS DO.

7 Q IS THAT FAIRLY TYPICAL, WHAT YOU DO AT THE END OF THE
8 FORTH QUARTER?

9 A YES.

10 Q WAS THERE A MEETING ON OCTOBER THE 4TH OF 2001?

11 A YES.

12 Q AND DID YOU ATTEND?

13 A YES, I DID.

14 Q WHERE WAS THE MEETING HELD?

15 A AT REED AVENUE IN LEXINGTON.

16 Q AND WHO ELSE WAS THERE?

17 A FROM ELLIOTT DAVIS IT WAS GARRY RANK AND CY BURGESS.
18 FROM HOMEGOLD IT WAS JACK STERLING, RONNIE SHEPPARD,
19 FORREST FERRELL, KAREN MILLER, KEVIN MARTIN AND MYSELF.

20 Q AND WHAT TIME DID IT BEGIN?

21 A IT WAS AROUND 8:30 OR 9:00 O'CLOCK, I DON'T RECALL
22 THE TIME.

23 Q WHAT WAS DISCUSSED AT THAT MEETING?

24 A IT STARTED OUT WITH THE SIMPLE LOGISTICS OF THE AUDIT
25 AND THAT WAS THE FIRST COUPLE OF THINGS THAT ELLIOTT DAVIS

1 WANTED TO TALK ABOUT AND DISCUSS, THE INTER-COMPANY DEBT
2 BETWEEN HOMEGOLD, INCORPORATED AND CAROLINA INVESTORS,
3 INCORPORATED.

4 Q DURING THAT MEETING DID ELLIOTT DAVIS ASK HOMEGOLD TO
5 PREPARE ANY TYPE OF PLAN?

6 A YES, THEY WANTED US TO PREPARE A 24 OR 36 MONTH PLAN
7 TO SHOW HOW HOMEGOLD, INCORPORATED WAS GOING TO IMPLEMENT
8 THIS GROWTH TO BECOME PROFITABLE IN ORDER TO PAY BACK THE
9 INTER-COMPANY LOAN.

10 Q WAS THERE A POWERPOINT PRESENTATION?

11 A YES, THERE WAS.

12 Q AND WHO GAVE THAT?

13 A IT WAS PRESENTED BY ELLIOTT DAVIS, CY BURGESS I THINK
14 WAS DRIVING, SO TO SPEAK.

15 Q WHAT WAS THE DEFENDANT'S DEemeanOR DURING THIS
16 PRESENTATION?

17 A ON THE LOGISTICAL STUFF HE DIDN'T SEEM TO CARE ABOUT
18 THAT. BUT WHEN IT GOT TO CAROLINA INVESTORS DEBT HE WAS
19 VERY NONCHALANT AND ALMOST FLIPPING ABOUT THEM TALKING
20 ABOUT THAT THEN.

21 Q WAS THE DEFENDANT ASKED A DIRECT QUESTION AND DON'T
22 SAY WHAT THE QUESTION WAS, WAS HE ASKED A DIRECT QUESTION
23 REGARDING THE INTER-COMPANY DEBT?

24 A YES.

25 Q WHAT WAS HIS RESPONSE TO THAT QUESTION?

1 A HIS RESPONSE WAS, WE ARE GOING TO CUT AND RUN, I AM
2 FOLLOWING CHAPTER 13 BABY.

3 Q WHAT WAS HIS Demeanor WHEN HE SAID THAT?

4 A HE LAUGHED WHEN HE SAID IT AND IT IS LIKE HE COULDN'T
5 BELIEVE THAT THE QUESTION WAS EVEN ASKED.

6 Q WHAT WAS THE ATMOSPHERE IN THE ROOM AT THAT POINT
7 AFTER THE DEFENDANT MADE THAT COMMENT?

8 A IT WAS COMPLETELY SILENT, IT WAS A SHOCK.

9 Q HOW DID YOU REACT TO THAT COMMENT?

10 A I COULD NOT BELIEVE IT.

11 Q DID HE FOLLOW IT UP WITH ANY OTHER COMMENTS?

12 A AFTER NO ONE SEEMED TO RESPOND TO HIS FIRST COMMENT
13 HE POINTED OUT THAT, HE SAID, I HAVE GOT \$5 MILLION
14 DOLLARS IN THAT BANK OVER THERE. THEY WILL NEVER WANT TO
15 GET THAT MONEY OUT AT THE SAME TIME THAT EVERYBODY ELSE
16 DOES. NO ONE IS GOING TO WANT ALL THEIR MONEY AT ONE TIME
17 MEANING A COMPANY, A COMPANY LIKE CAROLINA INVESTORS WAS,
18 THOSE PEOPLE WOULDN'T WANT ALL OF THEIR MONEY AT THE SAME
19 TIME.

20 Q AFTER THE CUT AND RUN, CHAPTER 13 COMMENT, WHAT
21 HAPPENED AT THE MEETING?

22 A IT WAS VERY AWKWARD. SOMEONE SAID, LET'S GO TO LUNCH
23 AND THE MEETING ROUGHLY ENDED.

24 Q DID YOU GO TO LUNCH WITH EVERYBODY?

25 A NO, MA'AM.

1 Q DID THE MEETING RECONVENE AFTER LUNCH?

2 A I AM AWARE THAT EVERYONE CAME BACK FROM LUNCH AND
3 THAT ELLIOTT DAVIS WAS STILL ON THE PREMISES.

4 Q BUT YOU WEREN'T PRESENT AFTER LUNCH?

5 A NO.

6 Q WHY NOT?

7 A I WAS BASICALLY MORE CONCERNED ABOUT THE LOGISTICS
8 THAT HAD BEEN COVERED AND I WAS TOLD TO JUST GO BACK TO MY
9 OFFICE AND WORK ON THE LOGISTICS OF THE AUDIT.

10 Q LATER ON THAT AFTERNOON DID THE MEETING ADJOURN AND
11 ELLIOTT DAVIS DID LEAVE?

12 A YES.

13 Q AFTER THEY LEFT DID YOU SEE THE DEFENDANT?

14 A YES, I DID.

15 Q WHAT DID YOU DO WHEN YOU SAW HIM?

16 A I MADE A POINT TO GO FIND HIM AND TELL HIM THAT OUR
17 AUDITORS WERE TRYING TO GIVE US A HINT ABOUT WHAT THEY
18 CALL GOING CONCERN AND THAT WE NEEDED TO TAKE IT
19 SERIOUSLY.

20 Q DID YOU SAY ANYTHING ELSE TO HIM?

21 A I SAID IT IS NOT, THIS ISN'T LIKE YOU HAVING A SMALL
22 PRIVATE COMPANY, THIS IS A PUBLICLY TRADED COMPANY AND YOU
23 HAVE A RESPONSIBILITY TO THE INVESTORS AND THE
24 SHAREHOLDERS.

25 Q WHAT WAS THE DEFENDANT'S REACTION?

1 A HE ACTED LIKE HE DIDN'T CARE, HE TOLD ME TO GO TO
2 WORK ON THE STUFF THAT CY BURGESS HAS TOLD ME TO WORK ON
3 AND THAT HE WOULD TAKE CARE OF IT.

4 Q AFTER THIS MEETING, AFTER OCTOBER 4TH OF 2001 DID THE
5 ATMOSPHERE AMONG THE ACCOUNTING MANAGERS CHANGE?

6 A YES.

7 Q HOW?

8 A ALL OF A SUDDEN THERE SEEMED TO BE A HEIGHTENED
9 AWARENESS OF THIS INTER-COMPANY DEBT WITH CAROLINA
10 INVESTORS. EXECUTIVE MANAGEMENT, THEY WERE REQUESTING A
11 LOT OF DIFFERENT THINGS RELATED TO THAT SUBJECT MATTER.

12 Q DID EXECUTIVE MANAGEMENT ASK YOU TO DO ANYTHING WITH
13 REGARDS TO CAROLINA INVESTORS FINANCES?

14 A THEIR QUESTION HAD TO DO WITH HOW CAN WE DO SOME
15 ACCOUNTING ENTRIES TO MAKE CAROLINA INVESTORS LOOK BETTER.

16 Q AND WHO WAS PUSHING THIS THE MOST?

17 A MR. SHEPPARD.

18 Q AND MOVING FORWARD TO MARCH OF 2002, A FEW MONTHS
19 LATER. WERE YOU AWARE OF A MEETING THAT OCCURRED ON MARCH
20 14TH, AT THE WYCHE LAW FIRM?

21 A YES, I AM AWARE THAT TOOK PLACE.

22 Q DID YOU ATTEND THAT MEETING?

23 A NO, I DID NOT.

24 Q AFTER THAT MEETING DID THE EXECUTIVE MANAGEMENT ASK
25 YOU TO GET SOME FIGURES TOGETHER?

1 A YES.

2 Q AND WERE YOU TOLD WHY THEY WANTED THE FIGURES?

3 A YES.

4 Q BASED UPON THAT REQUEST WHAT DID YOU DO?

5 A I BEGAN PULLING TOGETHER THE INFORMATION THAT I WAS
6 REQUESTED.

7 Q AND WHAT WAS THAT INFORMATION ON?

8 A IT HAD TO DO WITH RESPONDING TO GOING CONCERN
9 QUESTION THAT WOULD BE IN OUR OPINION LETTER FROM
10 AUDITORS.

11 Q AND DID YOU UNDERSTAND WHY THEY WANTED THIS
12 INFORMATION?

13 A YES, THE WAY GOING CONCERN WORKS IS, THE AUDITORS
14 GIVE YOU AN OPINION LETTER FOR YOUR COMPANY TO SAY, WE
15 DON'T THINK YOUR COMPANY IS GOING TO MAKE IT. AND THE
16 ACCOUNTING RULES SAY THAT THE COMPANY HAS AN OPPORTUNITY
17 TO PREPARE RESPONSES TO THE SPECIFICS OF THAT. AND SO THE
18 REQUEST THAT CAME TO ME WERE SPECIFIC REQUEST TO THIS
19 GOING CONCERN BROUGHT OUT BY ELLIOTT DAVIS.

20 Q AND AT THIS TIME ARE YOU AWARE IF THE INDIVIDUALS AT
21 CAROLINA INVESTORS KNEW ABOUT THE GOING CONCERN LANGUAGE?

22 MR. GRIFFIN: YOUR HONOR, OBJECTION.

23 THE COURT: SUSTAINED AS TO THE LAST QUESTION.

24 Q DID YOU TELL ANYBODY ABOUT THIS GOING CONCERN
25 LANGUAGE WITHIN THE COMPANY?

1 A AFTER WE GATHERED THE DATA AND BEGIN WORKING
2 RESPONSES TO THE GOING CONCERN, QUESTIONS, WE WERE TOLD
3 NOT TO TALK ABOUT IT.

4 Q WHO TOLD YOU NOT TO TALK ABOUT IT?

5 A MR. SHEPPARD TOLD US NOT TO TALK ABOUT IT.

6 Q AND DID HE TELL YOU SPECIFICALLY WHO NOT TO TELL?

7 A HE SAID ESPECIALLY CAROLINA INVESTORS.

8 Q DO YOU REMEMBER GIVING AN INTERVIEW ON OCTOBER 3RD OF
9 2003?

10 A YES.

11 Q IS THERE AN INCONSISTENT STATEMENT TO HOW YOU JUST
12 TESTIFIED TO THAT INTERVIEW?

13 A I THINK THERE IS.

14 Q CAN YOU EXPLAIN, PLEASE, TO THE JURY?

15 A YES. THAT PARTICULAR STATEMENT GIVEN TO A SLED
16 AGENT, AN FBI AGENT, I BELIEVE, TALKS ABOUT THE VERY
17 BEGINNING STAGES OF THE RESEARCH OF GOING CONCERN. AND I
18 DID STATE IN THERE AT FIRST NO ONE SAID ANYTHING THAT WE
19 COULDN'T TALK ABOUT IT. BUT IT IS JUST PROFESSIONAL
20 ETHICS NOT TO TALK ABOUT IT. LATER AFTER WE RESPONDED TO
21 THE GOING CONCERN QUESTIONS IS WHEN THE STATEMENT WAS MADE
22 TO ME.

23 Q ARE YOU AWARE OF A MEETING THAT OCCURRED ON MARCH
24 25TH OF 2002 WITH ELLIOTT DAVIS?

25 A I AM AWARE OF IT, YES.

1 Q AFTER THAT MEETING WHAT HAPPENED WITH REGARDS TO THE
2 INTER-COMPANY LOAN?

3 A ELLIOTT DAVIS HAD INFORMED MANAGEMENT THAT THERE WAS
4 GOING TO BE AN IMPAIRMENT ON THE INTER-COMPANY LOAN.

5 Q AROUND THIS TIME PERIOD OF MARCH OF 2002 ARE YOU
6 BEGINNING TO WORK ON THE PROSPECTUS FOR CAROLINA
7 INVESTORS?

8 A YES.

9 Q DID YOU RECEIVE A PHONE CALL SOMETIME IN MARCH OR
10 APRIL OF 2002 FROM LARRY OWEN REGARDING THE PROSPECTUS?

11 A YES, I DID.

12 Q WITHOUT SAYING WHAT HE SAID, BASED ON THAT
13 CONVERSATION, WHAT DID YOU DO?

14 A I LOOKED IN THE DRAFT OF THE PROSPECTUS THAT WAS
15 GETTING READY TO GO OUT TO THE INVESTORS AND VERIFIED
16 THAT, THE LIST OF AFFILIATES THAT HAD MONEY AT CAROLINA
17 INVESTORS, IN OTHER WORDS, EMPLOYEES, ANY AFFILIATE THAT
18 HAD MONEY AT CAROLINA INVESTORS. I WAS SUPPOSE TO VERIFY
19 THE NAMES ON THAT LIST.

20 Q AND WAS THE DEFENDANT'S NAME ON THAT LIST?

21 A YES.

22 Q AND HOW MUCH HAD HE INVESTED?

23 A \$200 THOUSAND.

24 Q BASED UPON YOUR INVOLVEMENT IN THE OCTOBER 4TH OF
25 2001 MEETING, DID THAT INVESTMENT SURPRISE YOU?

1 A YES, IT DID.

2 Q WHY?

3 A HE SAID HE WAS GOING TO CUT AND RUN, I DIDN'T KNOW
4 WHY HE HAD HIS OWN MONEY IN IT.

5 Q I AM GOING TO HAND YOU WHAT HAS BEEN MARKED FOR
6 STATE'S IDENTIFICATION NUMBER 65, CAN YOU IDENTIFY THAT?

7 A YES, THIS IS A--

8 Q DON'T SAY WHAT IT IS, CAN YOU IDENTIFY IT?

9 A YES.

10 Q HOW DO YOU RECOGNIZE IT?

11 A IT IS AN INTERNAL CHECK REQUEST FROM HOMEGOLD, INC.

12 Q AND AT THE TIME THAT THIS CHECK REQUEST WAS MADE WERE
13 YOU OVER ACCOUNTS PAYABLE?

14 A YES.

15 Q AND DO YOU KEEP THESE TYPES OF REQUEST AND COPIES IN
16 THE REGULAR COURSE OF BUSINESS?

17 A YES, THEY ARE FILED THAT WAY.

18 MS. PORTER: AT THIS TIME, YOUR HONOR, I WOULD LIKE
19 TO ENTER INTO EVIDENCE, STATE'S NUMBER 65.

20 THE COURT: ANY OBJECTION.

21 MR. GRIFFIN: NO, YOUR HONOR.

22 THE COURT: STATE'S 65 IS ADMITTED.

23 (WHEREUPON, STATE'S EXHIBIT NO. 65 WAS ADMITTED INTO
24 EVIDENCE.)

25 MS. PORTER: PERMISSION TO PUBLISH THIS, YOUR HONOR.

1 THE COURT: SURE.

2 Q AND WILL YOU PLEASE TELL THE JURY WHAT THIS IS?

3 A THAT IS A CHECK REQUEST MADE WHERE SOMEONE REQUESTED
4 A CHECK BE MADE TO MR. SHEPPARD.

5 Q AND WHO REQUESTED IT?

6 A MR. FERRELL REQUESTED IT AND I SIGNED IT AS MY ROLE
7 IS IN THE ACCOUNTING AREA AT THAT TIME.

8 Q AND AFTER THE REQUEST IS MADE, WHAT HAPPENS, IF IT IS
9 APPROVED?

10 A THEN A CHECK WOULD BE CREATED BY THE ACCOUNTING STAFF
11 AND DELIVERED.

12 Q AND IS THAT THE CHECK THAT WAS CREATED UPON THAT
13 REQUEST?

14 A YES.

15 Q AND WHAT AMOUNT IS THAT CHECK FOR?

16 A \$200 THOUSAND DOLLARS.

17 Q AND WHAT IS THE DATE OF THAT CHECK?

18 A APRIL 18TH OF 2002.

19 Q ARE YOU AWARE OF WHAT WAS SECURED, IF THAT WAS A LOAN
20 OR PAYMENT OR BONUS?

21 A IT WAS ACCOUNTED FOR AS AN ADVANCE WITH COLLATERAL.

22 Q AND IS THIS THE COLLATERAL?

23 A THAT ALONG WITH AN ACTUAL DEBENTURE FROM CAROLINA
24 INVESTORS.

25 Q SO, MR. SHEPPARD INVESTED \$200 THOUSAND DOLLARS OF

1 HIS OWN MONEY, IS THAT CORRECT?

2 A PREVIOUS TO THIS, YES.

3 Q AND THEN HE IS GIVEN \$200 THOUSANDS DOLLARS BY
4 HOMEGOLD, IS THAT CORRECT?

5 A THAT IS CORRECT.

6 Q AND IT IS SECURED BY HIS ORIGINAL INVESTMENT?

7 A YES.

8 Q YOU MENTIONED THE NAME, KAREN MILLER?

9 A YES.

10 Q HOW DO YOU KNOW HER?

11 A WHEN I WENT ^{TO} TO WORK WITH THE COMPANY SHE WAS THE
12 CHIEF TECHNOLOGY OFFICER.

13 Q AND WHAT WAS HER POSITION AT HOMEGOLD?

14 A SHE HAD A COUPLE OF TITLES AT THE TIME. THE CHIEF
15 TECHNOLOGY OFFICER, ADMINISTRATIVE OFFICER AND SHE ENDED
16 UP BEING CFO.

17 Q DID YOU HAVE SUBSTANTIAL DEALINGS WITH MS. MILLER?

18 A YES, I DID.

19 Q AND AROUND THIS TIME FRAME WE ARE STILL AT THE END OF
20 2001, DID MS. MILLER BECOME INVOLVED IN THE ACCOUNTING
21 DIVISION, END OF 2001?

22 A YES.

23 Q DID MS. MILLER HAVE AN ACCOUNTING BACKGROUND?

24 A NO.

25 Q WHAT WAS HER MANAGEMENT STYLE?

1 A SHE WAS NOT A VERY NICE PERSON.

2 Q WAS SHE DEMANDING?

3 A YES.

4 Q WAS SHE APPROACHABLE?

5 A ON THE SURFACE BUT YOU WOULD NEVER GET ANY OF YOUR
6 REQUEST, IF IT WASN'T HER REQUEST THEN IT WASN'T GOING TO
7 HAPPEN. SHE WAS APPROACHABLE BUT IT DIDN'T MEAN ANYTHING.

8 Q WHAT WAS HER RELATIONSHIP WITH THE DEFENDANT?

9 A SHE WAS AN EXECUTIVE THAT MOVED DOWN TO LEXINGTON
10 FROM GREENVILLE AND IN SIMPLE TERMS BECAME A YES PERSON TO
11 HIM.

12 Q SPECIFICALLY WHAT DID MS. MILLER DO FOR THE DEFENDANT
13 REGARDING THE ACCOUNTING DIVISION?

14 A MS. MILLER WOULD RUN REPORTS AND THINGS AND DELIVER
15 THEM TO THE DEFENDANT OR TO MR. SHEPPARD WITHOUT
16 CONSULTING THE ACCOUNTING DEPARTMENT, SHE WOULD INSTRUCT
17 THE ACCOUNTS PAYABLE DEPARTMENT WHAT SHE THOUGHT, CERTAIN
18 THINGS THAT WOULD BE CHANGED ON THE BOOKS AND RECORDS.

19 Q BUT YOU ARE THE HEAD OF THE ACCOUNTANTS PAYABLE
20 DEPARTMENT, CORRECT?

21 A IT REPORTS OUT TO ME, YES.

22 Q I WANT TO MOVE NOW TO AUGUST OF 2002. MS. MILLER IS
23 INVOLVED FROM THE END OF 2001, NOW WE ARE IN AUGUST OF
24 2002. IS THERE A SIGNIFICANT WEEK IN THAT MONTH?

25 A THE LAST FULL WEEK IN AUGUST.

1 Q WHY IS THAT WEEK SIGNIFICANT?

2 A DURING THAT WEEK THE COMPANIES CHIEF COUNSEL, LEGAL
3 COUNSEL, THE COMPANIES ATTORNEY AND THE COMPANIES CFO
4 RESIGNED.

5 Q AND WHO WERE THEY?

6 A DAVID GAFFNEY WAS THE COMPANIES LEGAL COUNSEL,
7 INTERNAL LEGAL COUNSEL. AND KEVIN MARTIN WAS THE
8 COMPANIES CFO.

9 Q ARE YOU AWARE OF WHY MR. GAFFNEY RESIGNED?

10 A I REALLY DO NOT KNOW.

11 Q ARE YOU AWARE OF WHY MR. MARTIN RESIGNED?

12 A HE WAS FED UP WITH THE FINDING OF WHAT WE WERE
13 FINDING.

14 Q ON THE DAY THAT MR. MARTIN RESIGNED, DID YOU HAVE A
15 MEETING WITH KAREN MILLER?

16 A YES, I WAS IN TWO MEETINGS WITH HER THAT DAY.

17 Q THE FIRST MEETING, WHO WAS PRESENT?

18 A IT WAS MYSELF, SUSANNE CAUGHMAN AND ALLISON SMITH, I
19 BELIEVE.

20 Q AND WHAT DID MS. MILLER TELL YA'LL DURING THIS
21 MEETING?

22 MR. GRIFFIN: OBJECTION, YOUR HONOR.

23 MS. PORTER: STATEMENT OF THE COCONSPIRATOR.

24 THE COURT: IS THAT THE SAME LEGAL ARGUMENT I HEARD A
25 WHILE AGO?

1 MS. PORTER: YES, YOUR HONOR.

2 THE COURT: OVERRULED.

3 Q WHAT DID MS. MILLER SAY DURING THIS MEETING?

4 A SHE TOLD US THAT KEVIN MARTIN HAD RESIGNED AND SHE
5 INDICATED THAT IT WAS GETTING LIKE WE WERE GOING TO FIRE
6 HIM.

7 Q DID SHE INDICATE ANYTHING ABOUT HOW THE ACCOUNTING
8 DEPARTMENT WOULD BE RUN AT THAT POINT?

9 A IN THAT FIRST MEETING, IT WAS A BRIEF MEETING. AND
10 WE SCHEDULED A MEETING LATER THAT DAY.

11 Q LATER ON THAT DAY WHO WAS IN THE SECOND MEETING?

12 A CHAD BARRETT WHO WORKED FOR ME, SUSANNE CAUGHMAN,
13 KAREN MILLER, FORREST FERRELL AND RONNIE SHEPPARD.

14 Q WHERE WAS THE MEETING?

15 A THAT MEETING WAS IN A DIFFERENT LOCATION THAN I WAS
16 WORKING AT THE TIME. IT WAS BACK HERE IN LEXINGTON, TO
17 ANOTHER OFFICE THAT THE COMPANY HAD, SOMEWHERE IN THERE.

18 Q WHO RAN THAT MEETING?

19 A MR. SHEPPARD.

20 Q AND WHAT DID HE SAY?

21 A HE SAID A LOT OF THINGS BUT HE TOLD US THE SAME
22 THING, THAT KEVIN QUIT BUT WE WERE GOING TO FIRE HIM, HE
23 WASN'T GOOD. THAT WHAT HE DID, IT WAS A VERY INTIMIDATING
24 MEETING, WE BEGIN TO TALK ABOUT OTHER ACCOUNTING
25 TREATMENTS, THAT MAYBE WE COULD DO. AND UPON PROCEEDING,

1 FEEDBACK FROM THE ACCOUNTING MANAGEMENT THAT WAS PRESENT,
2 BASICALLY DID TELL US THAT, I WILL FIND SOMEONE TO DO
3 ACCOUNTING MY WAY. IF YOU ARE NOT GOING TO DO IT I AM
4 GOING TO FIND SOMEONE TO DO ACCOUNTING MY WAY THE WAY I
5 USED TO DO IT AT MY OLD COMPANY.

6 Q HOW DID THAT MAKE YOU FEEL?

7 A I HAD NEVER BEEN IN A MEETING LIKE THAT IN MY LIFE, I
8 WAS SCARED AND SCARED FOR MY JOB.

9 Q WHAT DO YOU MEAN BY SCARED FOR YOUR JOB?

10 A LITERALLY THOUGHT THAT THEY WERE GOING TO FIRE US IF
11 WE DID NOT MAKE CERTAIN ENTRIES CERTAIN WAYS TO THE BOOKS
12 AND RECORDS.

13 Q AFTER THIS MEETING DID YOU FEEL AS IF MANAGEMENT WAS
14 APPROACHABLE WITH REGARDING TO ACCOUNTING ENTRIES?

15 A NO.

16 Q YOU TESTIFIED THAT FROM OCTOBER 4TH OF 2001 ON
17 MANAGEMENT IS ENCOURAGING YOU TO MAKE THE BOOKS LOOK
18 BETTER. IS THAT CORRECT?

19 A YES.

20 Q HOW DID YA'LL BEGIN TO DO THIS?

21 A ONE OF THE FIRST THINGS THAT WE DID WAS TO MAKE SOME
22 NON-CASH PAYMENTS ON THE INTER-COMPANY DEBT.

23 Q WHAT DO YOU MEAN BY NON-CASH PAYMENTS?

24 A IT WAS SOME FIXED ASSETS THAT WERE ON THE BOOKS OF
25 HOMEGOLD, INC. THAT WHEN HOMEGOLD, INC. WAS AN AFFILIATE

1 OF THE PARENT COMPANY AND THAT WE WERE GOING TO SELL THOSE
2 ASSETS TO CAROLINA INVESTORS. AND WHAT THAT WOULD DO ON
3 PAPER ENTRIES, ACCOUNTING ENTRIES TO MAINLY REDUCE THE
4 DEBT. WE WOULD GIVE THAT ASSET INSTEAD OF CASH.

5 Q CAN YOU GIVE THE JURY AN EXAMPLE OF A FIXED ASSET
6 THAT YOU ARE TALKING ABOUT?

7 A IT WOULD OF BEEN OFFICE FURNITURE, COMPANY VEHICLES,
8 MAINFRAME SYSTEMS.

9 Q WHEN YOU SELL SOMETHING YOU NO LONGER HAVE POSSESSION
10 OF IT, IS THAT TRUE WITH REGARD TO THIS TRANSFER OF FIXED
11 ASSETS?

12 A NO, IT ISN'T.

13 Q SO, YOU SOLD THESE ASSETS TO CAROLINA INVESTORS WHEN
14 YOU REDUCED THE DEBT BUT YOU NEVER TRANSFERRED THEM?

15 A THEY PHYSICALLY DIDN'T CHANGE WHERE THEY WERE SENT.

16 Q WHAT EFFECT DID THAT HAVE ON HOMEGOLD'S BOOKS?

17 A HOMEGOLD'S BOOKS, THE IOU TO CAROLINA INVESTORS WENT
18 DOWN A LITTLE BIT.

19 Q SO, IT MADE IT LOOK BETTER?

20 A YES.

21 Q HOW DID YOU MAKE IT LOOK BETTER?

22 A THERE WAS SOME RESTRICTED CASH THAT WE HAD ON THE
23 BOOKS AND RECORDS OF HOMEGOLD, INC.

24 Q AND WILL YOU EXPLAIN TO THE JURY WHAT RESTRICTED CASH
25 IS IN THIS CIRCUMSTANCE AND WHAT IT WAS USED FOR?

1 A IT IS JUST LIKE MAKING A DEPOSIT ON A HOUSE AND YOU
2 ARE MAKING A DEPOSIT FOR A SPECIFIC TRANSACTION AND THAT
3 DEPOSIT IS NOT GOING TO BE USED FOR ANYTHING ELSE BUT THAT
4 ONE TRANSACTION. WE KEPT THOSE TYPES OF DEPOSITS THAT WE
5 HAD MADE TO OTHER COMPANIES FROM WAREHOUSE LINES OF CREDIT
6 THAT THEY REQUIRED US TO PUT UP X MILLIONS OF DOLLARS TO
7 GIVE US THIS LINE OF CREDIT. AND IT WAS THEIR COLLATERAL,
8 SOMETHING THAT THEY COULD FALL BACK ON, DURING THE
9 ORDINARY COURSE OF BUSINESS.

10 Q AND YOU TOOK THIS RESTRICTED CASH AND WHAT DID YOU DO
11 WITH IT?

12 A IT WAS MOVED TO CAROLINA INVESTORS BOOKS FROM
13 HOMEGOLD, INC.'S BOOKS. THESE ARE OTHER BOOKS THROUGHOUT
14 THE COUNTRY AND WE COULDN'T REALLY USE THAT CASH, IT WAS
15 AN ASSET THAT WE GAVE TO CAROLINA INVESTORS TO REDUCE THE
16 INTER-COMPANY DEBT.

17 Q BUT CAROLINA INVESTORS COULDN'T USE THIS CASH?

18 A NOT WITHOUT PROPER PAPERWORK BEING IN PLACE FROM THE
19 LENDER WHO HAD A RESTRICTION ON IT, THE RESTRICTION COULD
20 BE LIFTED AND IT COULD BE TRANSFERRED, ASSIGNED
21 TECHNICALLY BUT IT DID NOT CONSTITUTE ANY USABLE CASH AT
22 CAROLINA INVESTORS.

23 Q WHAT ELSE DID YA'LL DO?

24 A WE WERE SEEMED TO BE IN AN ARGUMENT ABOUT LOAN FEE
25 INCOME AND THE RECOGNITION OF CERTAIN TYPES OF MONIES

1 COMING OFF OF MORTGAGE LOANS.

2 Q AND CAN YOU BOIL THAT DOWN TO SIMPLER TERMS FOR ME.

3 A WE WOULD MAKE A LOAN AND SELL A LOAN. WHEN WE CLOSED
4 THE LOAN AND MADE IT WE CAN RECORD THAT INCOME AND WE DID.
5 WE COULD SELL THE LOAN FOR A LITTLE BIT OF PROFIT TO
6 SOMEBODY WHO WANTS TO BUY IT. WE WERE PRESSURED BY
7 EXECUTIVE MANAGEMENT TO RECORD THAT INCOME ON A SELL, THE
8 SECOND PART BEFORE THE TRANSACTION WAS GOING TO TAKE
9 PLACE.

10 Q AND WHEN YOU SAY EXECUTIVE MANAGEMENT, SPECIFICALLY
11 WHO PRESSURED YOU TO DO THAT?

12 A IT WAS MR. SHEPPARD.

13 Q AND IS THAT AN APPROPRIATE ACCOUNTING ENTRY?

14 A NO, IT ISN'T.

15 Q ARE YOU FAMILIAR WITH THE PREPAID MARKETING EXPENSES?

16 A YES, I AM.

17 Q WERE THOSE USED TO MAKE THE BOOKS LOOK BETTER?

18 A YES.

19 Q HOW?

20 A IN SHORT THE AMOUNT OF TIME THAT WE WOULD CHARGE
21 THESE MARKETING EXPENSES OVER AND OVER, A LEAD, WE WOULD
22 PAY FOR A LEAD AND IT WOULD, THE PERSON MAY NOT CLOSE ON
23 THE LOAN FOR THREE OR FOUR MONTHS, MAYBE WE WOULD CALL
24 THEM IN A YEAR AND THEY CLOSE THEN. THERE WAS SOME SORT
25 OF LIFE TO THIS. MARKETING EXPENSE BESIDES JUST THE ONE

1 POINT AND TIME YOU ACTUALLY SPENT THE MONEY, WE CHANGED
2 THE AMOUNT AT THE TIME THAT WE SAID THE LEAD WAS GOOD FOR.
3 AND WITH THAT THAT WOULD REDUCE THE AMOUNT OF EXPENSE
4 SHOWING UP ON THE CURRENT BOOKS AND RECORDS.

5 Q WHEN YOU SAY YOU MAY INCREASE THE AMOUNT OF TIME,
6 BEFORE YOU INCREASED IT HOW LONG WAS IT ON THE BOOKS?

7 A SIX MONTHS.

8 Q AND WHAT DID YOU INCREASE IT TO?

9 A I DON'T REALLY REMEMBER, IT WAS 18 OR 24 BUT IT WAS
10 ONE OF THOSE TWO. I DON'T REMEMBER, IT WAS DISCUSSED OVER
11 AND OVER AND OVER AGAIN AND ARGUED AND FOUGHT ABOUT. AND
12 THAT IS WHY I DON'T REMEMBER.

13 Q WAS THIS PARTICULAR MANEUVER DONE IN THE THIRD
14 QUARTER 10Q OF 2001?

15 A YES.

16 Q AND WOULD A COPY OF THAT 10Q HELP REFRESH YOUR
17 MEMORY?

18 A YES, IT WOULD.

19 Q I AM GOING TO HAND YOU WHAT HAS BEEN MARKED AS
20 STATE'S EXHIBIT NUMBER 16. IS THAT THE 10Q THAT YOU ARE
21 REFERRING TO?

22 A YES.

23 Q DO YOU KNOW HOW FAR IT WAS EXTENDED OUT IN THAT 10Q
24 FROM SIX MONTHS TO--

25 A IT WAS TWENTY-FOUR MONTHS.

1 Q AND WHERE IN THE 10Q IS THAT NOTED?

2 A IT IS WHAT IS CALLED A FOOTNOTE DISCLOSURE.

3 Q WHAT AFFECT DID THAT HAVE ON THE BOOKS, EXTENDING
4 FROM SIX MONTHS TO TWENTY-FOUR MONTHS. LET ME ASK YOU
5 THIS QUESTION, DID YOU SHOW A PROFIT FOR THAT QUARTER?

6 A YES, I KNOW IT WAS POSITIVE INCOME THAT QUARTER.

7 Q IS THAT REVERSED?

8 A THE LENGTH OF TIME WAS CHANGED FROM TWENTY-FOUR
9 MONTHS TO TWELVE MONTHS LATER.

10 Q ALL OF THESE ACCOUNTING MANEUVERS THAT WE HAVE JUST
11 GONE OVER, WOULD YOU CHARACTERIZE THOSE AS AGGRESSIVE OR
12 CONSERVATIVE?

13 A AGGRESSIVE.

14 Q AND IN AUGUST OF 2002, AFTER THIS MEETING REGARDING
15 KEVIN MARTIN'S RESIGNATION, WHAT IS THE ATMOSPHERE IN THE
16 ACCOUNTING DEPARTMENT?

17 A ACCOUNTING MANAGEMENT, I WAS BEGINNING TO REALIZE IT
18 WAS THE BEGINNING OF THE END. QUESTION HOW LONG THIS
19 COULD GO ON AND IT BECAME SOMEWHAT CYNICAL TO THOSE IN
20 MANAGEMENT, THOSE THAT HAD JOBS THAT RELATED TO KNOWING
21 EXACTLY WHAT THE CASH ISSUE WAS OF THE COMPANY, THE
22 BUDGET.

23 MS. PORTER: YOUR HONOR, MAY I APPROACH.

24 THE COURT: YES.

25

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

4 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
5 IT IS A GOOD POINT TO BREAK. LUNCH WILL BE HERE SHORTLY,
6 DON'T DISCUSS THE CASE. WE WILL TAKE OUR LUNCH BREAK, WE
7 WILL SEE YOU BACK AT 1:45. YOU ARE EXCUSED, EVERYONE ELSE
8 STAY SEATED, PLEASE.

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

11 THE COURT: WE WILL TAKE A LUNCH BREAK.

12 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

13 THE COURT: MS. PORTER.

14 MS. PORTER: YES, YOUR HONOR. THERE ARE STATEMENTS
15 WHEN MR. FERRELL WAS, COMMENTS FROM MR. FERRELL CAME UP,
16 INSTEAD OF TAKING THE TIME AT THAT POINT TO EXCUSE THE
17 JURY AND ARGUE AGAIN. I DIDN'T THINK IT WAS OF AN
18 IMPORTANCE TO DO THAT. HOWEVER, I THINK THERE ARE SOME
19 WITNESSES COMING DOWN THE ROAD WHERE MR. FERRELL COMMENTS
20 MAY BECOME MORE SIGNIFICANT AND WE WOULD SIMPLY ASK THE
21 COURT TO RECONSIDER ITS RULING ON THE BASIS THAT THROUGH
22 OTHER WITNESSES, ESPECIALLY I THINK, I BELIEVE SHANE SMITH
23 HAS BEGAN TO ALLEGE IT AND LAY A FOUNDATION THAT MR.
24 FERRELL CERTAINLY WAS A COCONSPIRATOR IN THIS COURSE OF
25 BUSINESS TO COMMIT SECURITIES FRAUD. HE IS DECEASED NOW

1 WHICH IS THE ONLY REASON THERE HAVE NOT BEEN CHARGES
2 PURSUED AGAINST HIM. I BELIEVE HE DIED IN THE COURSE OF
3 THIS INVESTIGATION FROM CANCER. SO, WE WOULD ASK THE
4 COURT TO RECONSIDER THAT ON THE SAME ARGUMENTS MADE
5 PREVIOUSLY.

6 THE COURT: MR. GRIFFIN.

7 MR. GRIFFIN: YOUR HONOR, FOR THEM JUST TO SAY IT AND
8 I HAVEN'T HEARD ANYTHING IN THE RECORD THUS FAR TO
9 ESTABLISH THAT. I THINK WHEN IT COMES UP, OBVIOUSLY, YOU
10 HAVE TO HAVE IT IN THE RECORD. AT THIS POINT WE HAVEN'T
11 HEARD AS TO WHAT THE STATEMENT IS, IT IS WHAT IT IS SO WE
12 WOULD OBJECT. AND I THINK THE PROPER WAY TO DO IT WOULD
13 TO BE ADDRESS IT AS IT COMES UP.

14 THE COURT: MS. PORTER, ANY RESPONSE?

15 MS. PORTER: I THINK MR. GRIFFIN, I DON'T INTEND TO
16 ELICIT ANY OF MR. FERRELL'S COMMENTS THROUGH THIS WITNESS.

17 THE COURT: LET'S DON'T WORRY ABOUT IT NOW. LET'S
18 WAIT UNTIL WE HAVE TO WORRY ABOUT IT.

19 MR. GRIFFIN: RIGHT BEFORE YOU CAME IN, YOUR HONOR, I
20 WAS ABLE TO REVIEW THE EXHIBITS AND THEY HAVE AND THEY DO
21 INTEND TO INTRODUCE THROUGH THIS WITNESS A NUMBER OF
22 EXHIBITS THAT WAS COVERED IN MY MOTION IN LIMINE. AND
23 THAT IS THAT THEY HAVE AND I DIDN'T ADD IT UP, A NUMBER OF
24 CHARGE OF AIRFARE EXPENSES AND A STACK OF MULTIPLE EXPENSE
25 PAYMENTS FOR CHARTER AIR SERVICES. THERE IS A STACK FOR

1 PAYMENT FOR A PERSONAL TRAINER AND I DON'T KNOW WHAT THAT
2 TOTAL AMOUNT IS. AND IN THOSE TWO, YOUR HONOR, THEY ARE
3 JUST NOT RELATIVE TO THE CASE. THE ONLY REASON THEY ARE
4 BEING INTRODUCED IS SOLELY TO, THEY ARE NOT RELATIVE TO
5 ANYTHING IN THIS CASE. SO, I WOULD ASK THAT THEY BE
6 EXCLUDED. I AM NOT REALLY ARGUING ABOUT THE AUTHENTICITY
7 OF THE DOCUMENTS OF THIS WITNESS BUT JUST RELEVANCE.

8 THE COURT: LET ME HEAR THE STATE'S POSITION ON THAT,
9 MS. PORTER.

10 MS. EVANS: YOUR HONOR, I BELIEVE I ARGUED THAT ONE
11 PRETRIAL AND I THOUGHT THE JUDGE, THE COURT HAD MADE A
12 RULING THAT WOULD BE ADMISSIBLE BECAUSE IT WAS ALLEGED IN
13 THE COURSE OF BUSINESS. THIS WAS ADDRESSED IN THE ONE IN
14 WHICH WE ALREADY ADDRESSED, THE LEAPHART ROAD WHERE YOUR
15 HONOR SAID THAT WOULD BE ADMISSIBLE. WE WENT THROUGH THE
16 MORTGAGE, THE ALLEGATIONS AND SOME PEOPLES STATEMENTS
17 ABOUT MORTGAGE FRAUD IN WHICH WE SAID WE DID NOT INTEND TO
18 INTRODUCE THAT. AND THERE WAS A FIRST ARGUMENT, I DON'T
19 HAVE THEM WITH ME, ONE OF THE THEM WAS I THOUGHT WE SAID
20 WE ARE NOT GOING TO BE GOING INTO BUT THE SECOND PART WAS
21 THE FINANCIAL. AND I DO BELIEVE THAT YOUR HONOR HAD
22 ALREADY RULED THAT WOULD BE ADMISSIBLE AS A COURSE OF
23 BUSINESS, IF WE ESTABLISH THE SPENDING AS A COURSE OF
24 BUSINESS, YOUR HONOR.

25 THE COURT: MR. GRIFFIN, ANYTHING ELSE?

1 MR. GRIFFIN: WELL, YOUR HONOR, OBVIOUSLY IT WAS, WE
2 HAVE HAD A WEEK OF TRIAL AND THEY HAVE YET TO PUT IN ANY
3 EVIDENCE TO ESTABLISH ANY LINK HOW HE RECEIVED MONEY WOULD
4 BE IN THE COURSE OF BUSINESS RELATED TO ANY WAY TO THE
5 SCHEME AND ARTIFICE TO DEFRAUD THESE CAROLINA INVESTORS.
6 AND WHEN THIS WITNESS SAYS THIS IS WHAT THEY ARE, I DON'T
7 THINK WE ARE ANY FURTHER DOWN THAT ROAD AS TO HOW THEY
8 WERE PAID IN THE ORDINARY COURSE OF BUSINESS BUT DOES, HOW
9 DOES IT RELATE TO ANY FORM OR FASHION TO FRAUD, SECURITIES
10 FRAUD, YOUR HONOR.

11 THE COURT: I AM NOT SURE I HAD MADE A RULING
12 PREVIOUSLY BUT I WOULD RULE THAT, THAT INFORMATION, THAT
13 TESTIMONY IS ADMISSIBLE. I OVERRULE THE OBJECTION UNDER
14 THE STATE'S ALLEGATIONS OF SECURITIES FRAUD THROUGH A
15 COURSE OF BUSINESS AND I WILL PERMIT THAT TO COME IN IF
16 THE PROPER FOUNDATION IS ESTABLISHED. BRING THE JURY IN,
17 PLEASE.

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

20 THE COURT: COME BACK UP, PLEASE, MR. SMITH. MS.
21 PORTER, YOU MAY CONTINUE.

22 CONTINUE DIRECT EXAMINATION

23 BY MS. PORTER:

24 Q MR. SMITH, PRIOR TO LUNCH WE WERE DISCUSSING THE
25 ACCOUNTING DEPARTMENT'S ATMOSPHERE IN THE ACCOUNTING

1 DEPARTMENT AFTER AUGUST OF 2002. CAN YOU PLEASE DESCRIBE
2 THAT ATMOSPHERE AGAIN FOR THE JURY?

3 A BY THAT TIME IT HAD GOTTEN TO BE ALMOST A DOOMSDAY
4 ENVIRONMENT, WE WERE WONDERING HOW LONG THIS COULD GO ON.
5 IT WAS HARD TO KEEP PEOPLE HIRED. IT WAS A LOT OF WORK TO
6 DO AND NOT A LOT OF PEOPLE TO DO IT, IT WAS A VERY
7 STRESSFUL ATMOSPHERE.

8 Q I WILL HAND YOU WHAT HAS BEEN MARKED FOR
9 IDENTIFICATION PURPOSES AS STATE'S EXHIBIT NUMBER 77.
10 WITHOUT SAYING WHAT IT IS CAN YOU IDENTIFY IT?

11 A YES, I CAN.

12 Q HOW DO YOU RECOGNIZE IT?

13 A IT HAS GOT MY NAME ON IT.

14 Q WHAT IS IT, IS IT AN EMAIL?

15 A YES, EMAIL.

16 MS. PORTER: YOUR HONOR, I WOULD LIKE TO ENTER IN
17 STATE'S EXHIBIT NUMBER 77.

18 THE COURT: ANY OBJECTION?

19 MR. GRIFFIN: THIS IS DIFFERENT, I DO OBJECT, I DON'T
20 WANT TO THE, AUTHENTICITY, IT SAYS DIALOGUE. IT IS
21 COMMUNICATION BETWEEN HIM AND SOMEONE ELSE IN THE COMPANY,
22 IT IS JUST HEARSAY, THERE IS A DOCUMENT, THERE IS NO
23 EXCEPTION TO THE HEARSAY--

24 THE COURT: LET ME TAKE A LOOK AT THE DOCUMENT. HE
25 CAN TESTIFY TO THE EMAIL. I DON'T KNOW ABOUT COMING IN

1 UNLESS IT IS SOME OTHER FOR IT COMING IN. THIS GOES
2 BEYOND THAT, DOES IT NOT?

3 MS. PORTER: IT DOES, YOUR HONOR.

4 THE COURT: ALL RIGHT. AT THIS POINT AND TIME,
5 UNLESS THERE IS SOME OTHER BASIS ESTABLISHED I WOULD
6 SUSTAIN THE OBJECTION TO ANYTHING OTHER THAN THIS
7 WITNESSES TO SOMEONE ELSE.

8 MS. PORTER: WELL, YOUR HONOR, IF I MAY RESPOND
9 BRIEFLY. I DON'T BELIEVE IT IS HEARSAY, WE ARE NOT
10 OFFERING IT TO PROVE THE TRUTH OF THE MATTER ASSERTED
11 THEREIN. IT IS JUST TO SUPPORT THE ATMOSPHERE HE IS JUST
12 DESCRIBING.

13 THE COURT: COME UP.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
15 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE
16 JURY.)

17 Q MR. SMITH, ARE EMAILS SUCH AS THESE KEPT IN THE
18 ORDINARY COURSE OF BUSINESS?

19 A YES.

20 MS. PORTER: AT THIS TIME, YOUR HONOR, I WOULD LIKE
21 TO ENTER IN STATE'S EXHIBIT NUMBER 77.

22 MR. GRIFFIN: THE SAME OBJECTION.

23 THE COURT: OVERRULED. IT WILL BE ADMITTED AS
24 STATE'S 77.

25

1 (WHEREUPON, STATE'S EXHIBIT NO. 77 WAS ADMITTED INTO
2 EVIDENCE.)

3 Q WILL YOU PLEASE EXPLAIN THE CONTEXT OF THAT EMAIL?

4 A THIS WAS DURING THE TIME THAT I MENTIONED EARLIER,
5 THE TIME IN THE ACCOUNTING DEPARTMENT THAT WE WERE SEEING,
6 MONTH AFTER MONTH, QUARTER AFTER QUARTER OF OPERATIONS,
7 THERE WAS NOT ENOUGH REVENUE COMING IN FROM THE BRANCHES
8 BEING OPENED TO GENERATE CASH FOR ITSELF.

9 MS. PORTER: YOUR HONOR, I WOULD LIKE TO PUBLISH.

10 THE COURT: ALL RIGHT.

11 Q WHO IS GENE VAN?

12 A GENE VAN WAS THE ACCOUNTANT THAT WORKED FOR ME.

13 Q HOW DID YOU INTERPRET THAT FIRST EMAIL TO YOU?

14 A HAVING TO WORK WITH MR. VAN IN THAT PARTICULAR
15 ENVIRONMENT AT THAT POINT AND TIME, I TOOK IT AS HIM JUST
16 STATING THE OBVIOUS, THAT WE WERE GOING TO RUN OUT OF
17 CASH. AND HE SARCASTICALLY SAYS, WE ARE DOING BETTER THAN
18 WHEN WE WERE WHEN WE STARTED, WE HAD SEVEN MONTHS THEN AND
19 NOW WE ONLY HAVE TWO. SO, KIND OF GOING BACKWARDS, HE WAS
20 OBVIOUSLY BEING SARCASTIC TO ME.

21 Q AND WHAT IS YOUR RESPONSE?

22 A MY RESPONSE WAS, NO FEAR MY FRIENDS, CII, CAROLINA
23 INVESTORS WILL PUMP \$5 MILLION IN AUGUST.

24 Q AND NOVEMBER OF THAT YEAR OF 2002, DOES THE DEFENDANT
25 RESIGN FROM HOMEGOLD?

- 1 A YES, HE DID.
- 2 Q AND DID HE, WHERE DID HE GO?
- 3 A HE ACCEPTED A POSITION IN CHARLESTON, SOUTH CAROLINA
- 4 WITH A MEDICAL COMPANY.
- 5 Q I AM SORRY, I AM TALKING ABOUT THE DEFENDANT.
- 6 A THE DEFENDANT.
- 7 Q YES. IN NOVEMBER OF 2002 DID HE LEAVE HOMEGOLD?
- 8 A YES, HE DID.
- 9 Q AND WHERE DID HE GO?
- 10 A HE WENT TO, UP IN ANOTHER COMPANY.
- 11 Q AND WHAT WAS THE NAME OF THAT COMPANY?
- 12 A EMMCO.
- 13 Q AND WAS EMMCO STILL TIED TO HOMEGOLD?
- 14 A YES.
- 15 Q FROM ITS INCEPTION THROUGH TO WHEN HOMEGOLD DECLARED
- 16 BANKRUPTCY?
- 17 A YES.
- 18 Q I AM GOING TO HAND YOU WHAT HAS BEEN MARKED AS
- 19 STATE'S EXHIBIT NUMBER 84, DO YOU RECOGNIZE THAT?
- 20 A YES.
- 21 Q WHAT IS THAT?
- 22 A IT IS AN EMAIL.
- 23 Q ARE YOU INCLUDED IN ON THAT EMAIL?
- 24 A YES, I AM.
- 25 Q AND ARE EMAILS KEPT IN THE ORDINARY COURSE OF

1 BUSINESS?

2 A YES, THEY ARE.

3 MS. PORTER: AT THIS TIME, YOUR HONOR, I WOULD LIKE
4 TO ENTER STATE'S EXHIBIT NUMBER 84 INTO EVIDENCE.

5 THE COURT: ANY OBJECTION?

6 MR. GRIFFIN: NO OBJECTION.

7 THE COURT: WITHOUT OBJECTION, STATE'S 84 IS
8 ADMITTED.

9 (WHEREUPON, STATE'S EXHIBIT NO. 84 WAS ADMITTED INTO
10 EVIDENCE.)

11 MS. PORTER: AT THIS TIME I WOULD LIKE TO PUBLISH
12 THIS TO THE JURY.

13 THE COURT: ALL RIGHT.

14 Q AT THE TOP, THIS EMAIL IS REFERENCING AN RV, ARE YOU
15 FAMILIAR WITH THE RV THAT IS REFERENCED?

16 A YES, MA'AM.

17 Q AND WHAT TYPE OF RV IS IT?

18 A THIS WAS A GREY HOUND BUS RECREATIONAL MOBILE HOME.

19 Q BASED UPON YOUR WORK AT THE FINANCIAL ACCOUNTING
20 DEPARTMENT ARE YOU AWARE OF HOW MUCH THAT BUS WAS WORTH,
21 ROUGHLY?

22 A YES. A LITTLE OVER A MILLION DOLLARS.

23 Q WHO USED THIS BUS?

24 A MR. SHEPPARD.

25 Q AND IN THIS PORTION OF THE EMAIL, WHAT ARE YA'LL

1 DISCUSSING WITH REGARDS TO THIS BUS?

2 A THE LEGAL DEPARTMENT IS DISCUSSING WITH ACCOUNTING ON
3 HOW TO PAY SOME REGISTRATION FEES AND LICENSING FEES FOR
4 THIS PARTICULAR BUS.

5 Q HOW DID THE BUS COME TO BE OWNED BY HOMEGOLD
6 FINANCIAL?

7 A THE HOMEGOLD/HOMESENSE MERGER IN 2000, HOMESENSE HAD
8 A VEHICLE OF THIS TYPE ON ITS BOOKS AND RECORDS. IT CAME
9 OVER THROUGH ACQUISITION.

10 Q AND THIS SERIES OF EMAILS, WHAT ARE YA'LL TRYING TO
11 DO WITH THE BUS?

12 A THE COMPANY, IT IS AN ATTEMPT TO REMOVE THE BUS OR
13 THE RV FROM THE BOOKS AND RECORDS OF THE FIXED ASSET.

14 Q AND HOW WERE YA'LL ATTEMPTING TO DO THAT?

15 A THE LEGAL DEPARTMENT WAS TRYING TO SET UP, ACCORDING
16 TO THAT EMAIL, AN LLC IN THE STATE OF MONTANA WHERE THE
17 BUS WOULD BE TITLED IN BY MR. SHEPPARD AND HOMEGOLD
18 JOINTLY. AND THERE WAS A LOAN ON THE BOOKS AND RECORDS
19 FOR PART OF THE VALUE OF THE BUS, THAT IN THIS TRANSACTION
20 THAT LOAN WOULD BE PAID OFF.

21 Q WHO WOULD MAKE THE PAYMENTS ON THE SUBSEQUENT LOAN?

22 A THE NEW LOAN, HOMEGOLD, INC. WAS GOING TO MAKE THE
23 MONTHLY PAYMENTS ON THE LOAN.

24 Q I AM CONFUSED, YOU WANT IT OFF THE BOOKS BUT YOU ARE
25 STILL PAYING FOR THE BUS.

1 MR. GRIFFIN: OBJECTION, LEADING.

2 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.
3 DISREGARD THE LAST QUESTION, REPHRASE YOUR QUESTION,
4 COUNSEL.

5 Q WHAT BENEFIT DOES THIS HAVE FOR HOMEGOLD FINANCIAL?

6 A THE ACCOUNTING MANAGEMENT HAD BEEN, ACTUALLY
7 REQUESTING MR. SHEPPARD TO BUY THE BUS BACK, GET IT OFF
8 THE BOOKS, IT WAS LISTED AS FIXED ASSETS OF THE COMPANY
9 AND IN A SET OF FINANCIAL STATEMENTS YOU HAVE TO DESCRIBE
10 THE FIXED ASSETS AND WE WERE TIRED OF EXPLAINING WHY THIS
11 COMPANY, IN THE STATE THAT IT IS, HAS A MILLION DOLLAR
12 RECREATIONAL VEHICLE. WE THOUGHT IT WAS IN THE BEST
13 INTEREST OF THE COMPANY TO GET IT OFF OF THE BOOKS,
14 HOWEVER THERE WAS, PART OF MR. SHEPPARD'S, FROM THE
15 CONTRACT OF THE 2000 MERGER, THE COMPANY PROVIDE HIM A
16 RECREATIONAL VEHICLE. SO, BECAUSE OF THAT WE WERE
17 OBLIGATED BECAUSE OF THAT AGREEMENT TO PAY THE MONTHLY
18 PAYMENT ON THE LOAN BUT THIS TRANSACTION DID ALLOW US TO
19 REMOVE THE LOAN FROM OUR BOOKS AND ALSO THE ASSETS FROM
20 OUR BOOKS.

21 Q A MOMENT AGO YOU SAID THAT THIS BUS WAS BROUGHT WITH
22 THE MERGER OF THE TWO COMPANIES, HOMESENSE AND HOMEGOLD.
23 IS THAT THE SPECIFIC BUS THAT WAS BROUGHT?

24 A NO, MA'AM.

25 Q WHICH BUS WAS THIS?

1 A I THINK THIS IS THE SECOND OR THIRD BUS FROM THAT
2 ORIGINAL ONE THAT CAME OVER FROM THE MERGER.

3 Q DO YOU KNOW TIME WISE WHEN THIS LAST BUS WAS
4 OBTAINED?

5 A I DON'T KNOW IF I RECALL EXACTLY WHEN BUT THE END OF
6 2001 THERE WAS AN UPGRADE. I BELIEVE THERE WAS A
7 SUBSEQUENT UPGRADE FOR THE EARLY PART OF 2002.

8 Q SO, AFTER THE OCTOBER THE 4TH, 2001 MEETING?

9 A YES.

10 Q I AM GOING TO HAND YOU WHAT HAS BEEN MARKED AS
11 STATE'S EXHIBIT 82 FOR IDENTIFICATION PURPOSES. DO YOU
12 RECOGNIZE THAT?

13 A YES.

14 Q HOW DO YOU RECOGNIZE IT?

15 A IT IS AN EMAIL AND A INTERNAL DOCUMENT OF THE
16 COMPANY.

17 Q IS IT KEPT IN THE NORMAL COURSE OF BUSINESS?

18 A YES.

19 MS. PORTER: AT THIS TIME, YOUR HONOR, I WOULD LIKE
20 TO OFFER STATE'S EXHIBIT NUMBER 82 INTO EVIDENCE.

21 MR. GRIFFIN: NO OBJECTION.

22 THE COURT: WITHOUT OBJECTION, STATE'S 82 IS
23 ADMITTED.

24 (WHEREUPON, STATE'S EXHIBIT NO. 82 WAS ADMITTED INTO
25 EVIDENCE.)

1 Q AND WHAT IS THIS REGARDING?

2 A THIS IS A EMAIL REQUESTING THAT A PAYMENT BE MADE TO
3 THIS ATTORNEY IN GREENVILLE.

4 Q DO YOU KNOW THE PURPOSE OF THAT PAYMENT?

5 A IT STATES RIGHT HERE, IT SAYS RETAINER PAYMENT FOR
6 REVIEW OF COMPANY STRUCTURE, PERSONNEL OPERATIONS.

7 Q WHEN YOU SAID HOMEGOLD WAS MAKING THE PAYMENTS ON THE
8 RV, DID THEY PAY OFF THE WHOLE, DID HOMEGOLD MAKE A
9 MILLION DOLLAR, CUT A MILLION DOLLAR CHECK?

10 A NO, THE BUS CAME OVER WITH \$4 OR \$500 THOUSAND DOLLAR
11 VALUE AND ACQUISITION, IT WAS TRADED UP TWO OR THREE TIMES
12 AND IT ENDED UP BEING A MILLION DOLLAR VALUE. BUT THE
13 LOAN WAS A LOT LESS THAN THAT AND THE PAYMENTS WERE AROUND
14 \$6 THOUSAND DOLLARS A MONTH.

15 Q SO, HOMEGOLD JUST MADE PAYMENTS?

16 A MADE PAYMENTS.

17 Q LET ME HAND YOU WHAT HAS BEEN MARKED AS STATE'S
18 EXHIBIT NUMBER 85. CAN YOU IDENTIFY WHAT THAT IS?

19 A YES.

20 Q AND WHAT ARE THOSE?

21 A THESE ARE COPIES OF CHECKS THAT THE COMPANY MADE TO
22 PAY.

23 Q WERE THEY KEPT IN THE ORDINARY COURSE OF BUSINESS?

24 A YES, THEY WERE.

25 MS. PORTER: AT THIS TIME, YOUR HONOR, I WOULD LIKE

1 TO ENTER IN STATE'S EXHIBIT NUMBER 85.

2 MR. GRIFFIN: YOUR HONOR, PREVIOUS AS TO RELEVANCE.

3 THE COURT: THAT OBJECTION HAS BEEN OVERRULED,
4 STATE'S 85 IS ADMITTED.

5 (WHEREUPON, STATE'S EXHIBIT NO. 85 WAS ADMITTED INTO
6 EVIDENCE.)

7 Q AND WHO WERE YOU PAYING WITH THESE CHECKS?

8 A EAGLE AVIATION, A COMPANY HERE IN COLUMBIA.

9 Q AND WHY WOULD YOU CONTACT EAGLE AVIATION?

10 A EAGLE AVIATION PROVIDES A PRIVATE JET SERVICES TO
11 INDIVIDUALS AND I GUESS A LOT OF OTHER THINGS. MR.
12 SHEPPARD WOULD TRAVEL TO LOCATIONS THROUGHOUT THE COUNTRY
13 ON THESE PRIVATE JETS.

14 Q I WILL HAND YOU WHAT HAS BEEN MARKED AS STATE'S
15 EXHIBIT NUMBER 86, CAN YOU IDENTIFY THIS?

16 A YES, I CAN.

17 Q AND WHAT ARE THEY?

18 A THESE ARE CHECKS THAT THE COMPANY PAID.

19 Q WERE THEY KEPT IN THE ORDINARY COURSE OF BUSINESS?

20 A YES.

21 MS. PORTER: AT THIS TIME, YOUR HONOR, I WOULD LIKE
22 TO ENTER INTO EVIDENCE STATE'S EXHIBIT 86.

23 THE COURT: SAME OBJECTION?

24 MR. GRIFFIN: YES, TO RELEVANCY.

25 THE COURT: OVERRULED, STATE'S 86 IS ADMITTED.

1 (WHEREUPON, STATE'S EXHIBIT NO. 86 WAS ADMITTED INTO
2 EVIDENCE.)

3 Q AND WHO WERE THOSE CHECKS MADE OUT TO?

4 A THEY ARE MADE PAYABLE TO A LADY NAMED OPHE CASEY.

5 Q AND HOW WAS SHE EMPLOYED WITH HOMEGOLD?

6 A IT IS MY UNDERSTANDING THAT SHE WAS A CONTRACTING
7 EMPLOYEE AND SHE WAS A PERSONAL TRAINER.

8 Q AND WHO DID SHE TRAIN?

9 A MR. SHEPPARD.

10 Q I WILL HAND YOU WHAT HAS BEEN MARKED AS STATE'S
11 EXHIBIT NUMBER 87 FOR IDENTIFICATION PURPOSES. CAN YOU
12 IDENTIFY IT.

13 A YES.

14 Q WHAT ARE THEY?

15 A CHECKS THAT WERE WRITTEN IN THE ORDINARY COURSE OF
16 BUSINESS.

17 MS. PORTER: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
18 ENTER IN STATE'S EXHIBIT NUMBER 87 INTO EVIDENCE.

19 THE COURT: ANY OBJECTION?

20 MR. GRIFFIN: NO OBJECTION.

21 THE COURT: WITHOUT OBJECTION, STATE'S 87 IS
22 ADMITTED.

23 (WHEREUPON, STATE'S EXHIBIT NO. 87 WAS ADMITTED INTO
24 EVIDENCE.)

25 Q AND EXACTLY WHAT ARE THOSE?

- 1 A THESE ARE CHECKS MADE PAYABLE TO RONALD J. SHEPPARD.
- 2 Q WHAT IS THIS FIRST CHECK?
- 3 A THAT IS A REPRESENTATION OF AN INTERNAL CHECK REQUEST
- 4 OF THE COMPANY TO PAY MR. SHEPPARD \$85 THOUSAND DOLLARS
- 5 FOR A BONUS.
- 6 Q AND IN WHAT QUARTER IS THAT REQUESTED FOR?
- 7 A IT SAYS FIRST QUARTER OF 2002.
- 8 Q AND WHAT WAS THE DATE THAT THIS WAS REQUESTED?
- 9 A IT LOOKS LIKE MARCH 28TH OF 2002.
- 10 Q AGAIN, AFTER THE OCTOBER 4TH MEETING?
- 11 A YES.
- 12 Q AND THIS A CHECK THAT WAS PAID TO THE DEFENDANT?
- 13 A YES, IT IS.
- 14 Q AND WHAT IS THE DATE ON THAT CHECK?
- 15 A MARCH 28TH OF 2002.
- 16 Q AND THE NEXT ONE?
- 17 A IT IS THE SAME TYPE OF REPRESENTATION FOR A BONUS
- 18 CHECK TO MR. SHEPPARD.
- 19 Q AND WHAT DATE WAS THIS REQUESTED ON?
- 20 A IT APPEARS TO BE MARCH 28TH OF 2002.
- 21 Q AND WAS A CHECK SUBSEQUENTLY GIVEN TO THE DEFENDANT?
- 22 A YES, IT WAS.
- 23 Q AND WHAT WAS THE DATE IT WAS GIVEN TO HIM?
- 24 A APRIL 1ST OF 2002.
- 25 Q AND THE NEXT CHECK, WAS IT THAT FOR?

1 A THAT IS A CHECK FOR THE SAME QUARTERLY BONUS TO MR.
2 SHEPPARD FOR THE THIRD QUARTER OF 2002.

3 Q AND WHAT IS THE DATE OF THAT CHECK?

4 A JUNE 14TH OF 2002.

5 Q AND FINALLY THE NEXT CHECK?

6 A THE SAME QUARTERLY BONUS BUT FOR THE FORTH QUARTER OF
7 2002.

8 Q AND WHAT IS THE DATE ON THAT CHECK?

9 A OCTOBER 15TH OF 2002.

10 Q A MOMENT AGO YOU TESTIFIED THAT HE LEFT OR RESIGNED
11 IN NOVEMBER OF 2002, IS THAT CORRECT?

12 A YES, IT IS.

13 Q SO, HE GOT A CHECK FOR THE FORTH QUARTER?

14 A YES, HE DID.

15 Q LET ME GIVE YOU WHAT HAS BEEN MARKED AS STATE'S
16 EXHIBIT NUMBER 64. CAN YOU IDENTIFY THAT.

17 A YES, I CAN.

18 Q AND IS THAT, ARE THOSE RECORDS KEPT IN THE ORDINARY
19 COURSE OF BUSINESS?

20 A YES, THEY ARE.

21 Q AT THIS TIME, YOUR HONOR, I WOULD LIKE TO ENTER IN
22 STATE'S EXHIBIT NUMBER 64 INTO EVIDENCE.

23 MR. GRIFFIN: THE SAME OBJECTION OF RELEVANCE.

24 THE COURT: THAT IS OVERRULED, STATE'S 64 IS
25 ADMITTED.

1 (WHEREUPON, STATE'S EXHIBIT NO. 64 WAS ADMITTED INTO
2 EVIDENCE.)

3 Q CAN YOU PLEASE TELL THE JURY WHAT EXHIBIT 64 IS?

4 A THAT IS A REPRESENTATION OF A CHECK THAT THE COMPANY
5 MADE PAYABLE TO RONNIE SHEPPARD FOR A \$200 THOUSAND DOLLAR
6 LOAN THAT THE COMPANY MADE HIM.

7 Q IT SAYS SECURED LOAN, WHAT WAS IT SECURED BY?

8 A IT WAS SECURED BY A PROMISSORY NOTE OFFERING UP HIS
9 COMMON STOCK OF HOMEGOLD FINANCIAL, INCORPORATED.

10 Q IS THAT THE PROMISSORY NOTE?

11 A YES.

12 Q AND WHAT IS THE DATE OF THIS TRANSACTION?

13 A IT IS JULY 29TH OF 2002.

14 Q LET ME HAND YOU WHAT HAS BEEN MARKED AS STATE'S
15 EXHIBIT NUMBER 66 FOR IDENTIFICATION PURPOSES. DO YOU
16 RECOGNIZE IT?

17 A YES.

18 Q IS THAT KEPT IN THE ORDINARY COURSE OF BUSINESS?

19 A YES.

20 MS. PORTER: AT THIS TIME, YOUR HONOR, I WOULD LIKE
21 TO ENTER STATE'S NUMBER 66 INTO EVIDENCE.

22 MR. GRIFFIN: NO OBJECTION.

23 THE COURT: WITHOUT OBJECTION STATE'S 66 IS ADMITTED.

24 (WHEREUPON, STATE'S EXHIBIT NO. 66 WAS ADMITTED INTO
25 EVIDENCE.)

1 Q CAN YOU READ THE DATE OF THIS CHECK?

2 A APRIL 1ST OF 2002.

3 Q AND ARE YOU AWARE OF WHAT THAT WAS ISSUED FOR?

4 A IT IS REIMBURSEMENT OF BUSINESS TRAVEL EXPENSES.

5 Q MILEAGE?

6 A MILEAGE.

7 Q AND IS THIS THE SHEET THAT WAS ISSUED REQUESTING THE
8 MILEAGE?

9 A YES.

10 Q AND ON THE BOTTOM, THE MILEAGE, WHEN WAS IT INCURRED?

11 A IT WAS INCURRED FROM JANUARY OF 2000 TO APRIL OF
12 2000.

13 Q HE WAS REQUESTING FUNDS OVER A YEAR AFTER THEY
14 OCCURRED?

15 A YES.

16 Q I AM GOING TO HAND YOU WHAT HAS BEEN MARKED AS
17 STATE'S EXHIBIT NUMBER 67. CAN YOU IDENTIFY THAT?

18 A YES.

19 Q IS IT KEPT IN THE ORDINARY COURSE OF BUSINESS?

20 A YES.

21 MS. PORTER: YOUR HONOR, I WOULD LIKE TO INTRODUCE
22 STATE'S NUMBER 67 INTO EVIDENCE.

23 MR. GRIFFIN: NO OBJECTION.

24 THE COURT: WITHOUT OBJECTION, STATE'S 67 IS
25 ADMITTED.

1 (WHEREUPON, STATE'S EXHIBIT NO. 67 WAS ADMITTED INTO
2 EVIDENCE.)

3 Q I WILL HAND YOU WHAT HAS BEEN MARKED AS STATE'S 68,
4 CAN YOU IDENTIFY THAT?

5 A YES.

6 Q IS IT KEPT IN THE ORDINARY COURSE OF BUSINESS?

7 A YES.

8 MS. PORTER: YOUR HONOR, I WOULD LIKE TO ENTER IN
9 STATE'S EXHIBIT NUMBER 68 INTO EVIDENCE.

10 MR. GRIFFIN: NO OBJECTION.

11 THE COURT: STATE'S 68 IS ADMITTED.

12 (WHEREUPON, STATE'S EXHIBIT NO. 68 WAS ADMITTED INTO
13 EVIDENCE.)

14 Q LET'S GO BACK TO STATE'S EXHIBIT NUMBER 67, WHAT IS
15 THE DATE OF THAT CHECK?

16 A THAT CHECK IS DATED JANUARY 31ST OF 2002.

17 Q WHAT WAS THE AMOUNT?

18 A \$9,291.61.

19 Q AND WHAT IS IT FOR?

20 A THAT IS REIMBURSING MR. SHEPPARD FOR SOME OFFICE
21 FURNITURE.

22 Q AND STATE'S 68, WHAT WAS THAT REQUEST MADE FOR?

23 A THAT IS TO REPAY MR. SHEPPARD FOR WALLPAPER HE USED
24 AT REED AVENUE.

25 Q AND WAS THE DATE OF THAT INVOICE?

1 A MARCH 29TH OF 2002.

2 Q HOW MUCH WAS THAT CHECK FOR?

3 A \$17,380.00.

4 Q MR. SMITH, YOU WENT THROUGH SOME BONUSES, WAS THE
5 DEFENDANT ENTITLED TO THOSE BONUSES IN 2002?

6 A ACCORDING TO HIS PURCHASE AGREEMENT, YES, I MEAN HIS
7 EMPLOYMENT AGREEMENT.

8 Q I HAVE NOTHING FURTHER.

9 MR. GRIFFIN: YOUR HONOR, MAY WE APPROACH FOR JUST
10 ONE MINUTE?

11 THE COURT: SURE.

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

15 THE COURT: MR. GRIFFIN.

16 CROSS-EXAMINATION

17 BY MR. GRIFFIN:

18 Q GOOD AFTERNOON, MR. SMITH.

19 A GOOD AFTERNOON.

20 Q IN JANUARY OF 2003 YOU WERE STILL WORKING AT
21 HOMEGOLD, CORRECT?

22 A YES.

23 Q MR. SHEPPARD HAD LEFT AND WAS WORKING AT EMMCO?

24 A YES.

25 Q YOUR POSITION AT HOMEGOLD IN JANUARY OF 2003 WAS

- 1 WHAT?
- 2 A VICE-PRESIDENT OF FINANCE.
- 3 Q AND AT THAT POINT AND TIME WHO WAS CFO?
- 4 A KAREN MILLER.
- 5 Q AND WHO WAS PRESIDENT OF THE COMPANY?
- 6 A FORREST FERRELL.
- 7 Q AND ON THE BOARD OF THE COMPANY WAS MR. STERLING?
- 8 A MR. STERLING AND MR. FERRELL.
- 9 Q AND MR. PHILPOTT?
- 10 A I DON'T KNOW, IF I CAN REMEMBER ALL OF THEM, BOB
- 11 PHILPOTT, TEE HOOPER.
- 12 Q AND AS PART OF YOUR JOB IN JANUARY OF 2003 AS VP OF
- 13 FINANCE, YOU WERE STILL DOING THE DAILY LIQUIDITY REPORTS,
- 14 RIGHT?
- 15 A YES.
- 16 Q AND YOU WERE WATCHING TO SEE IF THERE WAS, HOW MUCH
- 17 MONEY WAS AVAILABLE TO BE USED BY HOMEGOLD, RIGHT?
- 18 A YES.
- 19 Q AND IN JANUARY OF 2003 YOU TRANSFERRED \$250 THOUSAND
- 20 DOLLARS IN CAROLINA INVESTORS BANK OF AMERICA ACCOUNT OVER
- 21 TO HOMEGOLD, DID YOU NOT?
- 22 A I DON'T DENY THAT.
- 23 Q AND DO YOU NOT DENY THAT BEFORE THAT DATE YOU WERE
- 24 INSTRUCTED NOT TO TRANSFER ANY MORE MONEY FROM CAROLINA
- 25 INVESTORS OVER TO HOMEGOLD?

1 A I DON'T REMEMBER THAT.

2 Q DO YOU REMEMBER BEING INSTRUCTED TO PUT THE MONEY
3 BACK?

4 A I REMEMBER US TRYING TO NOT MOVE MONEY UNLESS IT WAS
5 ABSOLUTELY NECESSARY.

6 Q YOU DON'T RECALL ANY, THAT HOMEGOLD STOP ACCEPTING
7 MONEY FROM CAROLINA INVESTORS IN 2003.

8 A I DON'T UNDERSTAND YOUR QUESTION.

9 Q DO YOU RECALL THERE BEING A REQUIREMENT, A REQUEST ON
10 HOMEGOLD TO STOP TAKING MONEY FROM CAROLINA INVESTORS IN
11 2003?

12 A NO, I DON'T REMEMBER THAT.

13 Q NOW, YOU ARE STILL WORKING AT SOME CAPACITY FOR THE
14 BANKRUPTCY TRUSTEE, IS THAT CORRECT?

15 A YES.

16 Q SO, THE BANKRUPTCY WAS FILED IN MARCH OF 2003?

17 A YES.

18 Q AND THEN IN SOME POINT AND TIME THE TRUSTEE WAS
19 APPOINTED TO TAKE OVER THE OPERATIONS AND TO LIQUIDATE THE
20 COMPANY, RIGHT?

21 A YES.

22 Q AND YOU STAYED ON AND YOU WERE EMPLOYED FOR THE
23 BANKRUPTCY TRUSTEE, CORRECT?

24 A YES.

25 Q AND THEN I THINK, YOU ARE STILL DOING SOME

1 CONTRACTUAL WORK?

2 A EVERY ONCE IN A WHILE.

3 Q AND DOING THE WORK THROUGH HOMEGOLD BUT HOMEGOLD IS
4 BEING RUN BY A BANKRUPTCY TRUSTEE AT THAT POINT AND TIME,
5 WAS IT NOT?

6 A YES.

7 Q AND THAT IS WHO YOU REPORTED TO, THE PEOPLE WHO
8 WORKED FOR THE TRUSTEE, DO YOU REPORT TO THE TRUST?

9 A OR TO ONE OF HIS ATTORNEYS.

10 Q AND IN WORKING FOR THE ATTORNEYS FOR THE TRUSTEE AND
11 THE TRUSTEE DID YOU ASSIST IN A LAWSUIT IN THE TRUSTEE
12 FILE AGAINST MR. SHEPPARD GATHERING INFORMATION?

13 A I ANSWERED A LOT OF QUESTIONS FROM A LOT OF ATTORNEYS
14 AND A LOT OF INVESTIGATORS.

15 Q AND YOU ARE STILL WORKING IN SOME CAPACITY WITH THE
16 TRUSTEE?

17 A WHENEVER THEY HAVE A QUESTION ABOUT RECOVERING MONEY
18 FROM ANY ASSETS THEY CALL ME TO CLARIFY A FEW THINGS.

19 Q WHAT I WOULD LIKE TO ADDRESS WITH YOU, A NUMBER OF
20 THINGS THAT WE HAVE TALKED ABOUT HERE. ONCE YOU STARTED
21 AT HOMEGOLD IN JANUARY OF 2001, THAT IS WHEN YOU STARTED,
22 CORRECT?

23 A YES.

24 Q AND ONE OF HE FIRST MEETINGS YOU WENT TO WAS WITH
25 RHONDA JOHNSON, BILL LONG AND CY BURGESS FROM ELLIOTT

1 DAVIS TO DISCUSS THIS INTER-COMPANY DEBT BETWEEN CAROLINA
2 INVESTORS AND HOMEGOLD, RIGHT?

3 A ONE OF THE FIRST MEETINGS THAT I MET ANYONE AT
4 ELLIOTT DAVIS, YES.

5 Q NOW, YOU WERE SHOWN THIS DOCUMENT IN YOUR DIRECT
6 EXAMINATION WHERE THERE WAS AN ARRANGEMENT, AN AGREEMENT
7 WRITTEN UP WHERE THE NOTE THAT WAS DUE FROM HOMEGOLD TO
8 CAROLINA INVESTORS WAS ASSUMED BY HOMEGOLD FINANCIAL,
9 CORRECT, DO YOU REMEMBER THAT?

10 A CAN YOU REPEAT THAT AGAIN.

11 Q DO YOU REMEMBER SEEING THIS DOCUMENT?

12 A YES, I DO.

13 Q AND HERE IS THE QUESTION THAT I HAVE FOR YOU. THIS
14 TRANSACTION WHICH IS CALLED AN ASSUMPTION AGREEMENT, WAS
15 IT NOT?

16 A TO ME THAT REPRESENTS THE BASIC AGREEMENT, THE BLUE
17 LINE, I THINK COULD BE CALLED ASSUMPTION.

18 Q AND THAT IS WHAT WAS DISCUSSED WITH MR. BURGESS AND
19 MR. LONG AND MS. JOHNSON IN THAT MEETING IN EARLY 2001,
20 CORRECT?

21 A YES, THAT WAS ONE OF THE TOPICS.

22 Q OKAY. AND THE PURPOSE AND ELLIOTT DAVIS, THAT IS WHO
23 MR. BURGESS WORKS FOR, IS THAT CORRECT?

24 A THAT IS CORRECT.

25 Q AND MS. JOHNSON AND MR. LONG WAS DISCUSSING WITH HIM

1 WHETHER HOMEGOLD COULD ENTER INTO SUCH AN AGREEMENT, TO
2 ASSUME THE DEBT FROM HOMEGOLD, INC., THE RETAIL MORTGAGE
3 DIVISION, CORRECT?

4 A YES.

5 Q AND IN FACT THE LAW FIRM, THE WYCHE, BURGESS LAW FIRM
6 DRAFTED ASSUMPTION AGREEMENTS AND GUARANTEES TO DOCUMENT
7 THAT TRANSACTION, CORRECT?

8 A THAT IS CORRECT.

9 Q AND THAT TRANSACTION, ASSUMING THE DEBT OFF THE BOOKS
10 OFF OF HOMEGOLD, INC., STILL THOUGH HOMEGOLD, INC.
11 GUARANTEED THE REPAYMENT OF THE DEBT?

12 A THAT IS CORRECT.

13 Q AND IN ACCORDANCE WITH THE GENERALLY ACCEPTED
14 ACCOUNTING PRINCIPLES, THE LIABILITY MOVED OFF OF THE
15 BOOKS ON THE BALANCE SHEET OF HOMEGOLD, INC. UP TO THE
16 PARENT CORPORATION BUT IT WAS STILL DISCLOSED ON THE
17 FOOTNOTE, WAS IT NOT?

18 A THAT IS CORRECT.

19 Q AND ALL OF THAT WAS IN ACCORDANCE WITH GENERALLY
20 ACCEPTED ACCOUNTING PRINCIPLES AND APPROVED BY THE OUTSIDE
21 AUDIT FIRM, WAS IT NOT?

22 A YES.

23 Q AND THE OUTSIDE LAW FIRM?

24 A YES.

25 Q AND THAT INFORMATION WAS DISCLOSED IN THE 10K'S THAT

1 YOU ASSISTED IN PREPARING, RIGHT?

2 A YES.

3 Q NOW, THIS LOAN ASSUMPTION AGREEMENT WAS RENEWED AGAIN
4 IN 2002, WAS IT NOT?

5 A FOR 2001, YEAREND, YES.

6 Q AND YOU WORKED ON THE PROSPECTUS FOR BOTH 2001 AND
7 2002, FOR CAROLINA INVESTORS, RIGHT?

8 A MY ROLE IN 2001 WAS VERY SMALL, BUT YES.

9 Q AND IN 2002 IT WAS, YOU HAD BEEN THERE LONGER?

10 A YES.

11 Q AND DO YOU RECALL THAT THIS ASSUMPTION AGREEMENT AND
12 THIS DOCUMENTATION WAS FILED WITH THE ATTORNEY GENERALS
13 OFFICE IN CONJUNCTION WITH THE REGISTRATION STATEMENT?

14 A CAN YOU REPEAT THAT.

15 Q THE ASSUMPTION AGREEMENT, DO YOU RECALL AS PART OF
16 THE FILINGS OF THE PROSPECTUS WITH THE REGISTRATION
17 STATEMENT THAT THIS ASSUMPTION AGREEMENT WAS FILED WITH
18 THE ATTORNEY GENERALS OFFICE, THE SECURITIES DIVISION?

19 A I AM FAMILIAR WITH IT BEING DISCLOSED IN A FOOTNOTE
20 TO THE FINANCIAL STATEMENTS THAT GO WITH THE PROSPECTUS.
21 I DON'T UNDERSTAND YOUR QUESTION.

22 Q YOU DON'T KNOW WHETHER THE ASSUMPTION AGREEMENT, THE
23 DOCUMENTS WERE FILED WITH THE SECURITIES DIVISION, AS PART
24 OF THE REGISTRATION PROCESS?

25 A I DO NOT KNOW THAT.

1 Q NOW, THERE IS ANOTHER ACCOUNTING THAT WE TALKED ABOUT
2 AS THE TREATMENT OF THESE PREPAID MARKETING EXPENSES,
3 RIGHT?

4 A YES.

5 Q NOW, AND THAT TREATMENT SHOWS UP, THE CHANGE IN THE
6 ACCOUNTING FUNCTION SHOWS UP IN THE 10Q FOR 2001, THAT IS
7 WHAT YOU WERE SHOWING EARLIER?

8 A THE 10Q FOR A PARTICULAR QUARTER, THIRD QUARTER OF
9 2001.

10 Q THE THIRD QUARTER OF 2001, THE STRUCTURE OF THE
11 ACCOUNTING DEPARTMENT AT HOMEGOLD, YOU ARE THE
12 VICE-PRESIDENT OF FINANCE?

13 A YES.

14 Q AND DO YOU HAVE A CPA?

15 A NO.

16 Q YOU REPORT TO THE CFO WHO IS KEVIN MARTIN?

17 A YES.

18 Q HE HAS A CPA, HE IS A CPA?

19 A YES.

20 Q AND IN FACT YOU AND MR. MARTIN WENT TO BOB JONES
21 UNIVERSITY?

22 A NOT AT THE SAME TIME.

23 Q YOU TOOK CLASSES FROM HIS FATHER?

24 A THAT IS CORRECT.

25 Q BUT HE WAS A COMPETENT QUALIFIED CPA?

1 A YES.

2 Q AND YOU AND HE INVESTIGATED TOGETHER WHETHER THESE
3 MARKETING EXPENSES COULD BE TREATED SOMEWHAT DIFFERENTLY
4 THAN THEY HAD BEEN TREATED IN THE PAST FOR THE FINANCIAL
5 STATEMENTS OF HOMEGOLD, CORRECT?

6 A YES, THAT IS CORRECT.

7 Q AND WE TALKED ABOUT, I GUESS, A LEAD DATABASE?

8 A RIGHT, THAT IS WHAT IT WAS CALLED.

9 Q THIS LEAD DATABASE WAS A LIST THAT THE COMPANY WOULD
10 BUY AND THEN THEY WOULD STORE IT AND DEVELOPE IT AND USE
11 IT FOR LEADS IN THE FUTURE BEYOND THE MONTH THAT THEY
12 PURCHASED THE LEAD, RIGHT?

13 A IT HAD THOSE TYPES OF LEADS AND OTHER LEADS THAT WERE
14 GENERATED IN OTHER METHODS.

15 Q AND THIS IS NOT SOMETHING THAT YA'LL WENT OUT HALF
16 HAZARDLEY AND I THINK YOU CONSULTED A HAZARDOUS GROUP?

17 A THAT SOUNDS FAMILIAR. THE MARKETING DEPARTMENT WORKS
18 WITH THEM REGULARLY BUT THAT IS WHAT I REMEMBER THE NAME
19 OF THE GROUP THAT CAME IN, YES.

20 Q SO, THE HAZARDOUS GROUP CAME IN AND THEY STUDIED THIS
21 LEADS DATABASE BEFORE YOU AND MR. MARTIN JUST DECIDED?

22 A THAT IS CORRECT.

23 Q SO, YOU HAD AN OUTSIDE CONSULTANT COME IN AND YOU AND
24 MR. MARTIN STUDIED IT AND YOU CAME UP THAT IT HAD A LIFE
25 BEYOND THE SIX MONTHS THAT ELLIOTT DAVIS HAD BEEN

1 RECOGNIZING PREVIOUSLY, CORRECT?

2 A YES.

3 Q AND SO THAT YOU COULD STRETCH THAT EXPENSE OUT FOR
4 MORE THAN SIX MONTHS. AND IN FACT THE NUMBER THAT YOU AND
5 MR. MARTIN SETTLED UPON WAS TWENTY-FOUR MONTHS?

6 A I DID NOT SETTLE UPON TWENTY-FOUR MONTHS.

7 Q DID YOU SETTLE ON ANY OF THEM?

8 A I WAS MORE COMFORTABLE WITH TWELVE.

9 Q DID MR. MARTIN SETTLE ON TWENTY-FOUR?

10 A THE EXECUTIVE MANAGEMENT ALLOWED TWENTY-FOUR MONTHS
11 TO BE BOOKED.

12 Q AND YOU AND MR. MARTIN WORKED ON A POSITION PAPER FOR
13 ELLIOTT DAVIS SUPPORTING THAT, EXTENDING THE LIFE OF THAT
14 ASSET?

15 A YES.

16 Q AND IT HAS SUPPORT FOR IT IN THE GENERAL ACCEPTING
17 ACCOUNTING PRINCIPLE?

18 A IT SHOWS THAT THE LEADS HAD A LIFE LONGER THAN SIX
19 MONTHS.

20 Q AND ELLIOTT DAVIS' ISSUE IS, THERE HAD NOT BEEN
21 ENOUGH HISTORICAL SUPPORT FOR IT, DO YOU RECALL?

22 A I REALLY DON'T REMEMBER EXACTLY WHAT THAT PARTICULAR
23 ISSUE WAS BUT WE WERE MOVING FROM ONE TYPE OF ACCOUNTING
24 TO ANOTHER AND THEY DIDN'T LIKE THAT.

25 Q BUT YOU BELIEVE THAT THE END OF THE DAY ADJUSTMENT

1 WAS EXPANDING THE LIFE OF THAT ASSET FROM SIX MONTHS TO
2 TWELVE MONTHS BUT NOT GOING AS FAR AS TWENTY-FOUR MONTHS?

3 A THAT WAS MY PERSONAL OPINION, YES.

4 Q DO YOU RECALL WHAT THE OUTCOME WAS AFTER ELLIOTT
5 DAVIS DID THE YEAREND AUDIT?

6 A THE YEAREND AUDIT CONTAINED NUMBERS THAT THE QUARTER
7 END UNAUDITED STATEMENTS, THE YEAREND AUDIT CONTAINED
8 NUMBERS EXTENDED TWELVE MONTHS.

9 Q AND THE QUARTERLY STATEMENT WENT TO TWENTY-FOUR
10 MONTHS?

11 A THAT IS CORRECT.

12 Q AND THAT WAS SIGNED BY THE CFO, MR. MARTIN?

13 A I ASSUME IT WAS.

14 Q YOU ALSO WERE ASKED QUESTIONS ABOUT TRANSFERRING
15 ASSETS FROM THE BOOKS OF HOMEGOLD, INC. OVER TO CAROLINA
16 INVESTORS TO REDUCE THE DEBT ON THE CAROLINA INVESTORS
17 SIDE?

18 A YES.

19 Q AND YOU MENTIONED THIS RESTRICTED CASH, ONE THING
20 THAT WAS TRANSFERRED?

21 A THAT'S CORRECT.

22 Q NOW, AND THAT YOU ALSO SAID THAT IN SOME OF THESE
23 ASSETS THAT THEY WERE STILL MONITORED OR UNDER THE CONTROL
24 SOMEWHAT OF HOMEGOLD EVEN AFTER THE TRANSFER?

25 A MEANING THAT IS ON THE FIXED ASSETS.

1 Q FIXED ASSETS. WELL, NOW, ISN'T IT TRUE THAT BEFORE
2 YOU GOT THERE BUT AS YOU WERE LOOKING AT THE ACCOUNTING
3 RECORDS OF THE COMPANY AND AS YOU ARE DOING THE ACCOUNTING
4 WORK OF THE COMPANY THAT IN, THAT IT SHOWS IN MAY, JUNE OF
5 1999 THAT HOMEGOLD TRANSFERRED SOME \$56 MILLION DOLLARS
6 WORTH OF SECURITIZATION POOL ASSET FROM ITS BOOKS TO
7 CAROLINA INVESTORS?

8 A THAT IS CORRECT.

9 Q AND THAT REDUCED, IN 1999 BEFORE YOU GET THERE, FAIR?

10 A YES.

11 Q BEFORE MR. SHEPPARD GETS THERE, CORRECT?

12 A THAT'S CORRECT.

13 Q AND THAT TRANSFER OF ASSETS REDUCED THE CAROLINA
14 INVESTORS NOTE, ROUGHLY, \$56 MILLION DOLLARS?

15 A YES.

16 Q NOW, MOVING FORWARD TO WHEN YOU ARE IN THE ACCOUNTING
17 DEPARTMENT AND YOU ARE ASKED TO TRANSFER ASSETS, WE HAVE
18 GOT THIS RESTRICTED CASH AND YOU EXPLAIN IT AS SORT OF
19 LIKE A DEPOSIT THAT IS BEING HELD, ALTHOUGH IT IS IN YOUR
20 ACCOUNT, IT IS BEING FROZEN AND IT IS AVAILABLE FOR
21 SOMEONE YOU OWE MONEY TO, RIGHT?

22 A YES.

23 Q AND IN THIS INSTANCE IT IS WAREHOUSE MONEY MEANING
24 THE BIG LENDERS THAT HOMEGOLD BORROWS FROM TO LOAN OUT
25 \$60, \$70, \$50 MILLION DOLLARS A MONTH TO EVERY DAY

1 CITIZEN?

2 A TO THE BEST OF MY RECOLLECTION NOW IT WAS RELATED TO
3 WAREHOUSE LOANS.

4 Q AND THE ISSUE THAT YOU WERE CONCERNED ABOUT WAS THAT
5 THE MONEY WAS RESTRICTED AND COULD NOT BE ASSIGNED TO
6 TRANSFER TO CAROLINA INVESTORS?

7 A NOT WITHOUT COMMUNICATING IT TO THE WAREHOUSE LOANS.

8 Q AND YOU ALSO RECALL IN THIS MEETING WHERE YOU WERE
9 ASKED TO TRANSFER THESE FUNDS THAT MR. SHEPPARD INSTRUCTED
10 MR. FERRELL TO GET IT CLEARED TO THE WAREHOUSE COMPANIES,
11 CORRECT?

12 A THAT IS CORRECT.

13 MS. PORTER: YOUR HONOR, WE WOULD OBJECT TO THAT LAST
14 STATEMENT, SELF SERVING HEARSAY AND ASK THAT IT BE
15 STRICKEN FROM THE RECORD.

16 THE COURT: WHAT WAS THE BASIS, I DID NOT HEAR YOU,
17 MS. PORTER.

18 MS. PORTER: SELF SERVING HEARSAY, WE ASK THAT IT BE
19 STRICKEN FROM THE RECORD.

20 THE COURT: OVERRULED.

21 Q NOW, AS TO THESE OTHERS, THESE FIXED ASSETS THAT WE
22 ARE TALKING ABOUT, YOU ARE IN A MEETING WHERE THERE IS A
23 DISCUSSION ABOUT TRANSFERRING THOSE OVER TO THE BOOKS OF
24 CAROLINA INVESTORS?

25 A YES.

1 Q AND YOU WERE ASKED, YOU WERE INSTRUCTED, WERE YOU
2 NOT, TO GET WITH THE WYCHE LAW FIRM TO DRAFT LEASES AND
3 LEGAL DOCUMENTS THAT WOULD MAKE THAT TRANSACTION LEGAL,
4 WERE YOU NOT?

5 A I DON'T REMEMBER.

6 Q LET ME SEE IF I CAN HELP YOU. I WILL COME BACK TO
7 THAT IN A MINUTE. YOU DON'T RECALL WHETHER YOU WERE
8 INSTRUCTED?

9 A I DON'T RECALL MYSELF BEING PERSONALLY INSTRUCTED BUT
10 MORE OR LESS THE ACCOUNTING MANAGEMENT GROUP. THAT
11 SOMEBODY NEEDED TO TALK TO THE WYCHE LAW FIRM AND HELP
12 THEM DRAW UP A DOCUMENT OR REQUEST THAT THEY DRAW UP THE
13 DOCUMENT.

14 Q BUT THE LAWYERS DRAFT LEASE AGREEMENTS?

15 A RIGHT.

16 Q AND THAT REQUEST CAME FROM MR. SHEPPARD TO CONTACT
17 THE LAWYERS TO GET IT?

18 A I REALLY DON'T REMEMBER WHO REQUESTED THAT.

19 Q NOW, WITH REGARD TO THE PROSPECTUS, THE PROSPECTUS
20 WAS DRAFTED AND THIS IS WHAT WAS FILED WITH THE SECURITIES
21 COMMISSION OF THE ATTORNEY GENERALS OFFICE, YOU DRAFTED,
22 HAD A LITTLE BIT OF ROLE IN 2001 AND DID A LOT OF IT FOR
23 THE FINANCIAL END OF IT IN 2002, RIGHT?

24 A YES.

25 Q AND YOU CIRCULATED DRAFTS OF THE PROSPECTUS, RIGHT?

1 A YES.

2 Q AND YOU GOT NO FEEDBACK WHATSOEVER FROM MR. SHEPPARD
3 FROM THAT DRAFT PROCESS?

4 A NO.

5 Q NONE WHATSOEVER, CORRECT?

6 A NO.

7 Q EXHIBIT 77, WHERE YOU SAID, NO FEAR MY FRIENDS, CII
8 WILL PUMP \$5 MILLION DOLLARS, WHAT DO YOU MEAN BY THAT?

9 A STATING THE FACT WHAT HAD BEEN HAPPENING AND WHAT WAS
10 GOING TO HAPPEN AGAIN.

11 Q SO, THAT THERE WOULD BE SUFFICIENT LIQUIDITY THERE?

12 A I DIDN'T KNOW THAT, IF THAT IS WHAT EXECUTIVE
13 MANAGEMENT IS GOING TO DO.

14 Q AND YOU ALSO INTRODUCED SOME OF THESE EAGLE AVIATION
15 EXPENSES. AND FRANKLY THE FIRST ONE ON HERE, STATE'S 65,
16 IT HAS GOT MARK S., SHANE SMITH, ST. PETERSBURG, FLORIDA.
17 IS THAT YOU?

18 A THAT'S CORRECT.

19 Q AND THE PURPOSE OF THAT TRIP WAS, WHAT, SIR?

20 A THE ONLY TIME MR. SHEPPARD HAD ME GO WITH HIM WAS TO
21 VISIT A MORTGAGE COMPANY IN FLORIDA THAT WE WERE THINKING
22 ABOUT BUYING.

23 Q IT WAS A BUSINESS TRIP?

24 A YES.

25 Q CHECKS TO OPHE CASEY, A TRAINER, THAT THERE WAS A GYM

1 DOWNSTAIRS IN THE REED AVENUE FACILITY, WAS IT NOT?

2 A I UNDERSTAND THAT, I NEVER SAW IT.

3 Q DO YOU UNDERSTAND IT WAS AVAILABLE TO OTHER PERSONS
4 THAN JUST MR. SHEPPARD?

5 A I AM NOT AWARE OF IT, I DON'T DENY THAT BUT I AM NOT
6 AWARE OF IT.

7 Q LET ME ASK YOU THIS, MR. SMITH, YOU HAD THIS MEETING
8 WITH ELLIOTT DAVIS FOLKS IN OCTOBER OF 2001, IS THAT WHEN
9 IT WAS?

10 A YES, THERE WAS A MEETING IN OCTOBER.

11 Q AND I THINK YOU SAID THAT THIS LANGUAGE THAT MR.
12 SHEPPARD USED, CUT AND RUN, HE SAID THAT IN THE MEETING?

13 A YES, HE DID.

14 Q AND WAS THIS THE MEETING THAT MR. RANK WAS PRESENT?

15 A HE WAS IN THE MEETING, YES.

16 Q AND MR. CY BURGESS WAS PRESENT?

17 A YES.

18 Q AND YOU WERE PRESENT?

19 A YES.

20 Q AND YOU MENTIONED SOME OTHER PEOPLE, CHAD BARRETT?

21 A I DON'T KNOW IF CHAD WAS THERE AT THAT TIME.

22 Q KEVIN MARTIN?

23 A YES.

24 Q KAREN MILLER?

25 A KAREN MILLER AND FORREST FERRELL.

1 Q NOW, YOUR RECOLLECTION OF THE STATEMENT WAS THAT
2 ELLIOTT DAVIS ASKED MR. SHEPPARD, WHAT ARE YOU GOING TO
3 DO--

4 MS. PORTER: YOUR HONOR, MAY WE APPROACH.

5 THE COURT: SURE.

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

9 Q NOW, YOUR RECOLLECTION OF THIS CONVERSATION OR THIS
10 MEETING, MR. SMITH, IS THAT IN THE MEETING MR. RANK LOOKED
11 AT MR. SHEPPARD AND SAID, WAS ASKING WHAT ARE YOU GOING TO
12 DO IF YOU CAN'T PAY BACK CAROLINA INVESTORS. AND IN
13 RESPONSE TO THAT QUESTION MR. SHEPPARD JOKINGLY SAID, I
14 WILL FILE CHAPTER 13, BABY, I WILL CUT AND RUN. ISN'T
15 THAT YOUR RECOLLECTION?

16 A THERE WAS A LONG DRAWN OUT CONVERSATION ABOUT THE
17 DEBT TO CAROLINA INVESTORS AND SOMEWHERE IN THAT
18 CONVERSATION ELLIOTT DAVIS DIRECTLY AND SERIOUSLY ASKED,
19 WELL, WHAT ARE YOU GOING TO DO TO PAY THEM BACK. AND THAT
20 IS THE RESPONSE THAT MR. SHEPPARD, THAT YOU JUST READ.

21 Q AND HE SAID JOKINGLY?

22 A HE LAUGHED WHEN HE SAID IT.

23 Q AND THAT LAUGH FELL ON DEAF EARS, OBVIOUSLY?

24 A YES.

25 Q NOW, ARE YOU SURE IT WASN'T THE OTHER WAY AROUND AND

1 MR. SHEPPARD ACCUSED ELLIOTT DAVIS OF CUTTING AND RUNNING?

2 A NO, I AM POSITIVE ABOUT WHAT I HEARD.

3 Q YOU UNDERSTAND IN THAT MEETING ELLIOTT DAVIS WAS
4 BRINGING UP THE IMPAIRMENT OF THE DEBT, RIGHT?

5 A THAT ONE OF MANY ISSUES DURING THAT MEETING.

6 Q AND THE IMPAIRMENT OF THE DEBT WAS THE DEBT BETWEEN
7 CAROLINA INVESTORS AND HOMEGOLD, AND THE IMPAIRMENT MEANS
8 THAT ON THE FINANCIAL STATEMENT, THAT WOULD BE WRITTEN
9 DOWN TO SHOW IT IS NOT COLLECTIBLE, CORRECT?

10 A YES.

11 Q AND THAT WAS A VERY SERIOUS CONVERSATION TO YOU AND
12 IN YOUR POSITION AND IN YOUR SITUATION, CORRECT?

13 A YES.

14 Q AND YOU BEING AN ACCOUNTANT AND ALL, MR. SMITH, IF
15 HOMEGOLD OR CAROLINA INVESTORS COULD NOT REPAY THE DEBT,
16 THEY RAN OUT OF MONEY, BANKRUPTCY WOULD BE ONE OF THE FEW
17 OPTIONS REMAINING, WOULD IT NOT?

18 A YES.

19 Q MR. SHEPPARD JUST DIDN'T VOLUNTEER THAT HE HAD PLANS
20 TO CUT AND RUN, IT WAS ONLY IN RESPONSE TO A QUESTION,
21 WHAT ARE YOU GOING TO DO IF YOU CAN'T PAY THE PEOPLE BACK
22 AS YOU RECALL THE CONVERSATION?

23 A I RECALL THE STATEMENT BEING EARLIER IN THE MEETING,
24 WHILE WE WERE TALKING ABOUT, ELLIOTT DAVIS WAS ASKING US
25 QUESTIONS ABOUT OUR BUSINESS PLAN AND HOW OPERATIONS WERE

1 GOING. I REMEMBER THE QUESTION COMING OUT OF THAT PART OF
2 THE MEETING, NOT LATER DURING THE IMPAIRMENT DISCUSSIONS.

3 Q BUT IN RESPONSE, IF YOU CAN'T PAY THEM BACK WHAT ARE
4 YOU GOING TO DO?

5 A THE QUESTION, I REMEMBER THE QUESTION BEING ALONG THE
6 LINES OF WHAT IS THE COMPANY GOING TO DO.

7 Q DID YOU RECALL MR. RANK SAYING, WELL, WHAT ARE YOU
8 GOING TO DO IF YOU CAN'T PAY IT BACK?

9 A YES AND HE MEANT THE COMPANY.

10 Q NOT MR. SHEPPARD?

11 A YES.

12 Q WHAT IS THE COMPANY GOING TO DO IF YOU CAN'T PAY IT
13 BACK, CORRECT?

14 A THAT IS CORRECT.

15 Q AND THE RESPONSE TO THAT QUESTION WAS FILE BANKRUPTCY
16 IF YOU CAN'T PAY IT BACK?

17 A CUT AND RUN, FILE CHAPTER 13, I AM NOT SURE IF HE IS
18 TALKING ABOUT PERSONAL BANKRUPTCY OR CORPORATE, 13 IS
19 PERSONAL.

20 Q CHAPTER 13. NOW, AT THIS POINT AND TIME WE ARE AT,
21 IN 2001, AT THE END OF THE YEAR OF 2001, OCTOBER OF 2001?

22 A YES.

23 Q AND AT THE END OF THE YEAR OF 2001, THE BEGINNING OF
24 THE SPRING OF 2002 THAT IS WHEN ELLIOTT DAVIS GOES AND
25 THERE IS THIS MARCH 14TH MEETING THAT YOU DID NOT ATTEND,

1 CORRECT?

2 A YES.

3 Q AND AT THAT, FOR THE FINANCIALS THAT WERE
4 SUBSEQUENTLY FILED, THE 10K THAT YOU ASSISTED AND THAT
5 THEY HAD THIS GOING CONCERN QUALIFICATION, RIGHT?

6 A THAT IS CORRECT.

7 Q AND THIS, IN THAT YOU ALSO ASSISTED IN DRAFTING THIS
8 PROSPECTUS AND THAT WAS IN APRIL IN 2002?

9 A YES.

10 Q AND IN THAT DOCUMENT YOU ASSISTED, YOU WORKED WITH
11 THE LANGUAGE IN WHAT IS CALLED NOTE TWO ON PAGE F11 WHICH
12 IS MANAGEMENTS RESPONSE TO THE GOING CONCERN?

13 A I WORKED ON THE RESPONSE TO THE GOING CONCERN, YES.

14 Q IT IS IN EVIDENCE, MR. SMITH, WENT IN LAST WEEK,
15 NUMBER 50 AND I AM GOING TO TURN TO PAGE F11. IS THAT THE
16 NOTE TWO UP THERE?

17 A IT APPEARS TO BE, YES.

18 Q THIS WASN'T YOUR HANDY WORK, WAS IT, AND THAT WENT
19 THROUGH NUMEROUS REVISIONS WITH THE LAWYERS, DID IT NOT?

20 A THAT IS CORRECT.

21 Q AND IT WENT THROUGH BACK AND FORTH WITH ELLIOTT
22 DAVIS, DID IT NOT?

23 A THAT IS CORRECT.

24 Q AND IN THIS BACK AND FORTH, I THINK YOU SAID EARLIER
25 MR. SHEPPARD HAD NO COMMENTS ON THIS DOCUMENT GIVEN TO YOU

1 AT LEAST?

2 A THIS IS PART OF THE AUDIT IN THE PROSPECTUS. I NEVER
3 GOT COMMENTS BACK FROM MR. SHEPPARD ON THE PROSPECTUS
4 DOCUMENT REQUIRED BY THE SECURITIES DIVISION. THIS IS IN
5 BOUND WITH THE PROSPECTUS BUT IT IS NOT THE PROSPECTUS.
6 IT IS MY UNDERSTANDING AND I MAY BE WRONG BUT IT IS FILED
7 WITH THE PROSPECTUS BECAUSE THE PROSPECTUS REQUIRES
8 AUDITED FINANCIAL STATEMENTS. THIS IS A NOTE IN THE
9 AUDIT. EVERYBODY CALLS IT THE PROSPECTUS BECAUSE IT IS
10 BOUND TOGETHER BUT TECHNICALLY THEY ARE TWO DIFFERENT
11 DOCUMENTS.

12 Q THE LANGUAGE, MANAGERMENTS RESPONSE IN THIS DOCUMENT,
13 THAT IS WHAT WAS CIRCULATED AMONGST THE LAWYERS, WAS IT
14 NOT, TURN TO PAGE F11, TOWARDS THE END AND SEE IF THAT
15 REFRESHES YOUR RECOLLECTION?

16 A THIS IS PART OF THE FINANCIAL AUDIT FOR HOMEGOLD
17 FINANCIAL, INCORPORATED.

18 Q AND MR. SHEPPARD, TO YOUR RECOLLECTION, HAD NO
19 COMMENTS ON THAT LANGUAGE AS THESE DRAFTS WERE CIRCULATED?

20 A HE COMMENTED A LOT ON THE GOING CONCERN LANGUAGE BUT
21 HE NEVER RESPONDED TO ANY OF THE EMAIL BLAST THAT WENT TO
22 EXECUTIVE MANAGEMENT.

23 Q AND THESE EMAIL BLAST ALSO WENT TO LAWYERS?

24 A LATER IN THE PROCESS, YES.

25 Q AND THEY ALSO, DRAFTS WENT TO THE ACCOUNTING FIRM,

1 CORRECT?

2 A YES.

3 Q NOW, THIS PROSPECTUS WAS, IT WAS UPDATED ONCE AGAIN
4 IN AUGUST 22ND OF 2002, DID YOU ASSIST IN THE PREPARATION
5 OF THAT SUPPLEMENT TO THE PROSPECTUS?

6 A I DON'T RECALL WORKING ON THIS.

7 Q LET ME ASK YOU ABOUT THE NEXT EXHIBIT, 52, WHICH IS
8 YET ANOTHER SUPPLEMENT DATED NOVEMBER 25TH OF 2002 TO THAT
9 SAME PROSPECTUS. DO YOU RECALL WORKING ON THAT ONE?

10 A I HAVE A QUESTION.

11 Q YOU DON'T GET AN OPPORTUNITY UNDER OUR RULES UNLESS--
12 THE COURT: YOU CAN ASK COUNSEL A QUESTION IF IT IS
13 NEEDED TO CLARIFY WHAT HE IS ASKING YOU, WHETHER HE
14 CHOOSES TO ASK THAT QUESTION, YOU CAN ASK HIM A QUESTION.

15 A I HAVE NOT SEEN THIS BEFORE SO MY QUESTION, I AM
16 ASSUMING IT IS PART OF THE EVIDENCE THAT HAS BEEN VERIFIED
17 AND DOCUMENTED THAT IT IS.

18 Q IT IS IN EVIDENCE.

19 A YOU ARE TELLING ME THAT IT IS FILED WITH THE STATE
20 ATTORNEY GENERALS OFFICE.

21 Q IT HAS BEEN INTRODUCED IN THE STATE'S CASE IN
22 EVIDENCE. YOU NEVER SEEN THAT DOCUMENT?

23 A I DON'T RECALL WORKING ON THIS AT ALL.

24 Q EXHIBIT 53 WHICH IS ALSO IN EVIDENCE WHICH IS THE
25 THIRD SUPPLEMENT TO THE PROSPECTUS DATED DECEMBER 31 OF

1 2002. HAVE YOU EVER SEEN THAT?

2 A I HAVE NEVER SEEN THIS DOCUMENT.

3 Q THANK YOU. NOW, BACK TO SOME OF THESE BONUS CHECKS,
4 MR. SMITH, I THINK YOU MENTIONED BEFORE THAT THE BONUS
5 CHECKS, THEY WERE PART OF MR. SHEPPARD'S COMPENSATION
6 PACKAGE, IF YOU WILL, WHEN HE AGREED TO MERGER THIS
7 COMPANY, HOMEGOLD/HOMESENSE, CORRECT?

8 A THAT IS MY UNDERSTANDING, YES.

9 Q IS IT YOUR UNDERSTANDING THAT THE QUARTERLY BONUS
10 THAT HE WAS DUE WAS \$200 THOUSAND DOLLARS A QUARTER,
11 CORRECT?

12 A THERE WERE LOTS OF DIFFERENT PARTS TO HIS EMPLOYMENT
13 AGREEMENT AND I GET THAT PIECE CONFUSED OF DIVIDENDS THAT
14 HE WAS SUPPOSE TO GET, THAT \$200 THOUSAND SOUNDS SOMEWHAT
15 FAMILIAR.

16 Q AND THAT WAS THE DEAL THAT HOMEGOLD STRUCK WITH HIM
17 IN, BEFORE YOU GOT THERE, MAY OF 2000?

18 A THAT IS CORRECT.

19 Q AND THAT THIS BONUS CHECK THAT HE WAS DUE THAT, IN
20 THESE EXHIBITS WHICH IS IN EVIDENCE AS STATE'S EXHIBIT 87
21 THE AMOUNT OF THE CHECK IS \$85 THOUSAND DOLLARS. DO YOU
22 SEE THAT?

23 A YES.

24 Q THE REASON FOR THAT REDUCTION, MR. SMITH, ISN'T THE
25 REASON FOR THE REDUCTION IS BECAUSE \$115 THOUSAND DOLLARS

1 WAS BEING APPLIED TO THIS PROMISSORY NOTE AS PAYMENT OF
2 INTEREST?

3 A YES.

4 Q NOW, SOME OF THESE EXPENSE REIMBURSEMENTS, THE LOANS,
5 YOU DON'T KNOW WHAT THE PURPOSE OF THE LOANS, DO YOU?

6 A NO.

7 Q YOU WERE NOT INVOLVED IN THOSE DISCUSSIONS?

8 A NO.

9 Q THE QUARTERLY BONUS, YOU ARE SHOWING UP AS THE
10 REQUESTOR FOR THOSE, RIGHT?

11 A THAT IS NOT MY WRITING.

12 Q THAT IS NOT YOUR WRITING?

13 A NO.

14 Q DO YOU KNOW WHOSE WRITING THAT IS?

15 A I BELIEVE IT IS MEREDITH CASTEEN'S WRITING BUT I AM
16 NOT SURE. MY WRITING IS SIGNATORY ON THE CHECKS, ONLY A
17 FEW OF US HAVE THE ABILITY TO SIGN CHECKS.

18 Q DO YOU KNOW WHOSE HANDWRITING THAT IS?

19 A THAT IS MY SIGNATURE THERE.

20 Q SO YOU APPROVED?

21 A I APPROVED THE CHECK TO GO OUT THE DOOR.

22 Q AND YOU APPROVED THIS CHECK TO GO OUT THE DOOR?

23 A YES.

24 Q THE NEXT CHECK, THE SECOND QUARTER CHECK?

25 A YES.

1 Q DO YOU KNOW IF YOU APPROVED THE THIRD QUARTER CHECK?

2 A AS FAR AS THE CHECK BEING CUT, I APPROVE ALL OF THOSE
3 TYPES OF CHECKS FOR THE COMPANY.

4 Q THE WALLPAPER, YOU UNDERSTAND THAT THE WALLPAPER WAS
5 FOR, NOT MR. SHEPPARD'S OFFICE BUT IT WAS FOR THE REED
6 AVENUE STORE, THE BUSINESS, CORRECT, THE SECOND FLOOR FOR
7 THE ACCOUNTING DEPARTMENT?

8 A THAT IS WHAT I UNDERSTAND, YES.

9 Q AND THIS CHECK WAS OKAYED, IS THAT YOUR SIGNATURE
10 THERE.

11 A THAT IS MY SIGNATURE FOR THE STAMP THAT IS PUT THERE
12 BY THE AP DEPARTMENT, ACCOUNTS PAYABLE DEPARTMENT. KAREN
13 MILLER AT THE BOTTOM IS APPROVING THAT.

14 Q THAT IS YOU RIGHT THERE?

15 A THAT IS ME APPROVING THE CREATION OF THE CHECK.

16 Q AND THAT IS MS. MILLER, OK, RIGHT THERE?

17 A YES.

18 Q WHOSE IS THAT?

19 A THAT IS ME THERE.

20 Q SO, YOU APPROVED THIS TWICE?

21 A THAT WAS THE FIRST TIME.

22 Q THERE?

23 A THAT IS SOME OF MY STAFF, I DON'T KNOW WHO THAT IS.

24 I AM THE ONE THAT STARTS WITH A D, MY FIRST NAME STARTS

25 WITH A D.

1 Q SO, YOU APPROVED THAT. THEN THE MILEAGE
2 REIMBURSEMENT, NOW THAT HAS GOT YOUR NAME DOWN THERE, IS
3 THAT YOUR WRITING?

4 A THAT IS NOT MY WRITING.

5 Q DID YOU APPROVE THIS ONE, THAT SAYS--

6 A THAT IS KAREN MILLER RIGHT THERE, THAT IS MR.
7 SHEPPARD'S SIGNATURE TO THE LEFT.

8 Q ARE YOU UP IN THERE SOMEWHERE?

9 A NO. THERE WERE OTHER PEOPLE WHO COULD SIGN CHECKS.

10 Q AND THESE CHECKS WERE WRITTEN IN MARCH OF 2002?

11 A YES. MARCH AND APRIL.

12 Q AND THAT WAS BEFORE, AFTER THIS MEETING AFTER KEVIN
13 SMITH LEFT WHERE WE ARE GOING TO GET TO IN A MINUTE BUT
14 KEVIN MARTIN LEFT. WHEN DID KEVIN MARTIN LEAVE?

15 A AUGUST OF 2002.

16 Q SO, THESE EXPENSE APPROVALS BY YOU WERE MADE PRIOR TO
17 MR. MARTIN LEAVING AND THE MEETING THAT WE ARE GOING TO
18 TALK ABOUT SHORTLY?

19 A THOSE CHECKS WERE CUT BEFORE THAT, YES.

20 Q AND THESE QUARTERLY BONUS CHECKS WERE CUT BEFORE THAT
21 MEETING EXCEPT FOR THE LAST ONE?

22 A THAT IS CORRECT.

23 Q NOW, YOU STAYED ON AT HOMEGOLD THROUGH SOME PRETTY
24 TOUGH TIMES, DID YOU NOT?

25 A I HAD BETTER DAYS.

1 Q AND YOU WERE WORKING IN A PRETTY TOUGH ENVIRONMENT?

2 A THAT'S CORRECT.

3 Q YOU WERE UNDERSTAFFED AND OVERWORKED?

4 A YES.

5 Q AND IN COMPANIES IN GENERAL, IT IS NOT THE FIRST TIME
6 YOU HAVE WORKED FOR A LARGE CORPORATION, IS IT, YOU WORKED
7 AT BANKS PREVIOUSLY?

8 A THAT'S CORRECT.

9 Q AND JUST IN THE INDUSTRY, IN GENERAL ACCOUNTING
10 BUSINESS, GENERALLY AND THE ACCOUNTING DEPARTMENT IS A
11 NON-REVENUE GENERATING DEPARTMENT OF ANY COMPANY, CORRECT?

12 A UNLESS YOU ARE IN AN ACCOUNTING FIRM, BUT YES.

13 Q AND SO WITH REGARD TO, IT IS NOT UNCOMMON THAT THE
14 ACCOUNTING DEPARTMENT DOESN'T GET AS MUCH SUPPORT AS THE
15 ACCOUNTING DEPARTMENT WISHES IN A LOT OF BUSINESSES?

16 A I HAVE SEEN THAT, YES.

17 Q AND IT WAS CLEARLY, YOU SAW IT HERE AT HOMEGOLD?

18 A YES.

19 Q AND THAT THERE WERE ISSUES WITH REGARD, BECAUSE YOU
20 WERE UNDERSTAFFED, THERE WERE ISSUES WITH REGARD TO
21 GETTING THE MONTHLY NUMBERS OUT QUICK ENOUGH. NUMBERS
22 MEANING PRODUCTION NUMBERS, EXPENSE NUMBERS SO THAT
23 MANAGEMENT COULD TAKE THAT INFORMATION AND MAKE SMART
24 DECISIONS?

25 A WE COULD OF TURNED IT AROUND QUICKER IF WE HAD OF HAD

1 MORE PEOPLE WORKING WITH US.

2 Q BUT THERE WAS A MONTH, SIX WEEK DELAY SOMETIMES?

3 A I DON'T KNOW IF I REMEMBER IT BEING THAT LONG, A
4 COUPLE OF WEEKS.

5 Q AND THEN I THINK YOU TALKED EARLIER ABOUT THAT AS
6 THESE QUARTERS WERE COMING UP THAT MR. LARRY OWEN WOULD
7 CALL AND WOULD WANT INFORMATION ABOUT WHAT WAS COMING OUT
8 OR HOW THE QUARTER WAS. DO YOU RECALL TESTIMONY ABOUT
9 THAT?

10 A YES.

11 Q AND THAT MR. SHEPPARD AND MAYBE OTHER SENIOR
12 MANAGEMENT, EXECUTIVE MANAGEMENT DID NOT WANT YOU TO
13 RELEASE THE INFORMATION UNTIL IT HAD ALL BEEN FINALIZED,
14 RIGHT, TO ANYONE?

15 A THAT'S CORRECT.

16 Q AND TO MR. OWEN, CORRECT?

17 A THAT'S CORRECT.

18 Q AND THERE IS NOTHING UNUSUAL ABOUT THAT IN AND OF
19 ITSELF, KEEPING THE FINANCIAL INFORMATION CONFIDENTIAL
20 UNTIL THE NUMBERS ARE FINAL FOR ANY COMPANY, IS IT?

21 A THEY WERE INTERNAL DOCUMENTS, INTERNAL UNAUDITED
22 STATEMENTS AT SOME POINT CAN GO OUT, I HAVE SEEN THEM GO
23 OUT BEFORE THE FINAL REVIEW.

24 Q THERE IS NOTHING WRONG WANTING TO SEE THE FINAL
25 NUMBERS BEFORE ANYONE GETS THEM ON THE OUTSIDE, IS IT?

1 A THAT IS A TRUE STATEMENT.

2 Q I THINK YOUR STATEMENT WAS THAT IS NOT ALL THAT
3 UNUSUAL, IT IS NOT UNUSUAL FOR THAT TO OCCUR?

4 A NOT FOR FOUR TO SIX WEEKS AS YOU MENTIONED.

5 Q I AM NOT TALKING ABOUT FOUR TO SIX WEEKS, BUT UNTIL
6 THE NUMBERS ARE FINAL, THAT THE ACCOUNTING DEPARTMENT NOT
7 RELEASE NUMBERS TO ANYONE ON THE OUTSIDE?

8 A NOT OUTSIDE OF THE COMPANY.

9 Q RIGHT. NOW, THIS MEETING THAT WAS HELD RIGHT AFTER
10 MR. MARTIN HAD BEEN, HAD RESIGNED, THAT WAS IN AUGUST,
11 SEPTEMBER OF 2002?

12 A IT WAS THE LAST WEEK OF AUGUST 2002.

13 Q LAST WEEK OF AUGUST OF 2002 AND THE, YOU HAD LEARNED
14 THAT MR. MARTIN WAS ABOUT TO BE FIRED, WAS HE NOT?

15 A AFTER HE HAD QUIT THAT IS WHAT WE WERE TOLD.

16 Q BY MS. MILLER?

17 A YES.

18 Q AND BEFORE HE HAD QUIT YOU HAD LEARNED THAT THERE WAS
19 A CONCERN THAT MONIES, LOAN COMMISSIONS WERE NOT BEING
20 ACCOUNTED FOR, CORRECT?

21 A COMMISSIONS?

22 Q INCOME FROM LOANS MADE BY HOMEGOLD LOAN BROKERS?

23 A YES.

24 Q THAT MONEY WAS NOT BEING PROPERLY ACCOUNTED FOR OR
25 TRACKED?

1 A I WAS AWARE OF THAT BEING SOME QUESTIONS ABOUT THAT,
2 YES.

3 Q SO, PEOPLE WERE INVESTIGATING THAT PRIOR TO MR.
4 MARTIN RESIGNING, CORRECT?

5 A CORRECT.

6 Q AND MS. MILLER HEADED THAT EFFORT UP, DID SHE NOT?

7 A SHE ASKED ME A LOT OF QUESTIONS ABOUT IT.

8 Q AND WHAT WE ARE TALKING ABOUT HERE IS, IS THAT
9 HOMEGOLD'S LOAN BROKERS, WHEN THEY MAKE A LOAN THEY WOULD
10 NOT NECESSARILY HAVE THE MONEY AVAILABLE FOR THESE
11 WAREHOUSE LINES TO FUND SO THEY WOULD BROKER IT OUT TO A
12 THIRD PARTY MORTGAGE COMPANY, CORRECT?

13 A IN GENERAL, WHEN THEY COULDN'T GET IT CLOSED ON ANY
14 OF OUR WAREHOUSE, THAT WAS NOT BECAUSE OF AVAILABILITY, IT
15 WAS BECAUSE OF THE TERMS OF THE WAREHOUSE LOANS.

16 Q BUT THERE WAS INCOME EARNED FROM THOSE BROKER LOANS
17 THAT CAME BACK TO HOMEGOLD, RIGHT?

18 A THAT'S CORRECT.

19 Q AND THE CONCERN WHETHER THAT MONEY WAS BEING TRACKED
20 PROPERLY, RIGHT?

21 A THAT'S CORRECT.

22 Q AND AT THE TIME MR. MARTIN LEFT THERE WAS A BELIEF
23 THAT THERE WERE MILLIONS OF DOLLARS MISSING?

24 A I DIDN'T BELIEVE THAT.

25 Q WELL, THAT WAS AN INVESTIGATION TO DETERMINE IF THE

1 SCOPE OF THE UNACCOUNTED FOR MONEY WAS IN THE MILLIONS,
2 RIGHT?

3 A THAT IS CORRECT.

4 Q AND THAT WAS ONE OF THE ISSUES THAT WAS BROUGHT UP AT
5 THIS MEETING AFTER MR. MARTIN, LEFT, CORRECT?

6 A YES.

7 Q AND THAT WE ARE GOING TO CHANGE HOW WE TRACK MONEY TO
8 BE SURE THAT NO MORE MONEY IS MISSING OR UNACCOUNTED FOR,
9 RIGHT?

10 A I DON'T REMEMBER THAT THAT WAY.

11 Q WELL, DO YOU REMEMBER THE STATEMENT, THAT WE ARE
12 GOING TO GET BRENDAN CARPENTER IN HERE TO SEE WHERE ALL OF
13 THIS MONEY WENT, OR WORDS TO THAT EFFECT?

14 A I DO REMEMBER BRENDAN CARPENTER BEING ASKED TO GO AND
15 LOOK AT LOTS OF DIFFERENT THINGS IN THE DEPARTMENT. I
16 DON'T REMEMBER HIM BEING SPECIFICALLY ASKED IN THAT
17 MEETING TO LOOK AT THE INCOME.

18 Q YOU DESCRIBED THE GREENVILLE PEOPLE AND THE RONNIE
19 PEOPLE IN THE COMPANY, THERE WAS A CULTURE CLASH?

20 A LIKE I HAVE SEEN IN MANY MERGERS, YES.

21 Q AND IT WAS PRETTY PROMINENT IN THIS MERGER?

22 A IT WAS THERE, I DON'T KNOW IF IT WAS PROMINENT.

23 Q MR. CARPENTER IS WHO, HE CAME OVER FROM ADVANCE
24 AMERICAN?

25 A I THINK SO, YES.

1 Q AND HE HAD, DO YOU KNOW IF HE HAD FORMERLY BEEN THE
2 CHIEF FINANCIAL OFFICER AT ADVANCE AMERICA?

3 A I BELIEVE THAT IS CORRECT, THAT IS MY UNDERSTANDING,
4 YES.

5 Q AND YOU RECALL THAT IN THIS MEETING THAT MR. SHEPPARD
6 SAYING WE ARE GOING TO GET BRENDAN IN HERE TO COME IN AND
7 LOOK AT THE BOOKS AND RECORDS, RIGHT?

8 A YES.

9 Q AND THEN THERE WAS ANOTHER ISSUE THAT KEPT COMING UP
10 OVER AND OVER AND OVER AGAIN, THAT IS THE RECOGNITION FROM
11 THESE LOANS, LOAN COMMISSIONS ON THE FRONT END, OR LOAN
12 PROCEEDS ON THE FRONT END AND THEN MONEY YOU EARN WHEN YOU
13 SELL THE LOAN, CORRECT?

14 A YES.

15 Q AND THAT WAS AN ISSUE THAT MR. SHEPPARD HAD WITH THE
16 ACCOUNTING DEPARTMENT FOR QUITE SOME TIME, CORRECT?

17 A IT WAS A FREQUENT TOPIC OF DISCUSSION.

18 Q AND THE QUESTION, THE TYPE OF DISCUSSION THERE WAS
19 THAT, MR. SHEPPARD IN THE HOMESENSE DAYS, WHEN HE WOULD
20 CLOSE A LOAN HE WOULD RECOGNIZE THE FRONT END MONEY AND
21 TREAT THE BACK END MONEY THAT HE WOULD RECEIVE AS DEFERRED
22 INCOME OR RECOGNIZE IT AS INCOME ON THE DAILY CLOSING?

23 A HE SAID HE DID THAT.

24 Q WELL, NOW, IN THE PART OF YOUR WORK WITH THE
25 BANKRUPTCY TRUSTEE, YOU WENT BACK AND YOU LOOKED AT THE

1 HOMESENSE RECORDS AND YOU SAW WHERE THAT WAS THE CASE, DID
2 YOU NOT?

3 A I PERSONALLY DIDN'T LOOK AT BOOKS AND THE NUMBERS, I
4 JUST READ REPORTS THAT OTHER ACCOUNTANTS HAD DONE.

5 Q AND THE ACCOUNTING FIRM PREVIOUSLY, J.W. HUNT CHECKED
6 OFF ON THAT?

7 A J.W. HUNT ISSUED A STATEMENT IN A LETTER ABOUT THE
8 ACCOUNTING PRACTICES AT HOMESENSE THAT THEY PRESENTED
9 FAIRLY IN ALL PRACTICAL PURPOSES EXCEPT FOR THE
10 RECOGNITION OF LOAN INCOME.

11 Q BUT CLEARLY, SO BEFORE IN THE HOMESENSE DAYS, THAT IS
12 HOW THE INCOME WAS BEING RECOGNIZED?

13 A HE HAD OBVIOUSLY BEEN TRYING TO DO THAT FOR YEARS IN
14 MY OPINION.

15 Q AND THAT HE WANTED TO DO IT THERE AT HOMEGOLD AS
16 WELL, RIGHT?

17 A THAT IS CLEAR, YES.

18 Q AND MONTHLY OR QUARTERLY, BUTTING HEADS OVER THAT
19 SAME ISSUE, CORRECT?

20 A CORRECT.

21 Q BUT THE ISSUE WE ARE TALKING ABOUT IS JUST ONE MONTHS
22 WORTH OF INCOME, PRETTY MUCH, CORRECT?

23 A THAT'S CORRECT.

24 Q AND IT GOES TO SUCH A POINT BUTTING HEADS OVER THAT
25 ISSUE THAT YOU, MR. SMITH, BEGAN TO QUESTION MR.

1 SHEPPARD'S LEVEL OF INTELLIGENCE, ISN'T THAT RIGHT?

2 A THERE WERE TIMES THAT I DIDN'T UNDERSTAND HOW YOU
3 JUST COULDN'T SEE THAT IT WAS A ONE MONTH PICKUP.

4 Q I BELIEVE YOU EVEN TOLD THE LAWYERS AT THE SEC THAT
5 YOU QUESTIONED WHETHER HE COULD WALK AND CHEW GUM AT THE
6 SAME TIME?

7 A I DON'T, I PROBABLY SAID THAT.

8 Q DO YOU WANT TO REFRESH YOUR RECOLLECTION?

9 A IF YOU HAVE SOMETHING THERE, YES.

10 Q I WILL ASK YOU TO READ TO YOURSELF, PAGE 59, LINES 19
11 THROUGH 22, TO REFRESH YOUR RECOLLECTION.

12 A I HAVE READ IT.

13 Q NOW, DOES THAT REFRESH YOUR RECOLLECTION AS TO
14 WHETHER YOU TOLD THE ATTORNEYS FROM THE SEC THAT MR.
15 SHEPPARD, QUESTIONED THE INTELLIGENCE TO SUCH A DEGREE
16 THAT HE CAN'T WALK AND CHEW GUM AT THE SAME TIME?

17 A EARLY ON GETTING TO KNOW HIM, YES.

18 Q NOW, YOU TOLD THIS IN APRIL OF 2005, CORRECT?

19 A THAT IS CORRECT.

20 Q NOW, THIS MEETING IN 2002 WHEN MR. SHEPPARD SAYS, HE
21 IS GOING TO BRING BRENDAN IN AND HE ALSO SAYS HE IS GOING
22 TO FIND OUT WHAT YOU ARE DOING WITH MY LOAN FEE INCOME.

23 ISN'T THAT WHAT HE SAID?

24 A I RECALL THAT, YES.

25 Q AND THE LOAN FEE INCOME GOES BACK TO THE SAME ISSUE--

1 MS. PORTER: 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 I HAVE A MATTER TO TAKE UP, STEP BACK TO YOUR JURY ROOM,
8 DON'T DISCUSS THE CASE. EVERYONE ELSE STAY SEATED,
9 PLEASE.

10 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT.)

11 THE COURT: LET'S GET YOUR OBJECTION ON THE RECORD,
12 COUNSEL.

13 MS. EVANS: YOUR HONOR, I WILL PUT THE OBJECTION ON
14 THE RECORD.

15 THE COURT: GO AHEAD.

16 MS. EVANS: YOUR HONOR, HE IS SITTING HERE GOING
17 THROUGH THE MEETING. MR. SMITH TESTIFIED IN CROSS THAT IT
18 WAS CONDUCTED BY THE DEFENDANT, MR. SHEPPARD. AND THAT
19 MR. SHEPPARD IS SAYING ALL OF THIS AND THAT MR. SHEPPARD
20 IS THE ONE THAT IS SAYING HE IS BRINGING IN BRENDAN
21 CARPENTER, MR. SHEPPARD IS SAYING THAT. WHAT HE IS
22 GETTING IN IN A ROUND ABOUT WAY IS SELF SERVING HEARSAY.
23 THE STATEMENTS OF THE DEFENDANT CANNOT COME IN BY MR.
24 GRIFFIN'S CROSS-EXAMINATION OF IT. HE IS CLEARLY, AND MR.
25 SMITH HAS SAID, YES, THAT IS WHAT MR. SHEPPARD HAS SAID.

1 THIS IS ALL CLEARLY SELF SERVING HEARSAY AND I DON'T KNOW
2 IF ANY EXCEPTION THAT MR. GRIFFIN CAN COME UP TO GET IN,
3 IT WAS CLEARLY DESCRIBED THAT MR. SHEPPARD CONDUCTED THE
4 MEETING, MR. SHEPPARD SAID EVERYTHING THAT WAS GOING TO
5 CHANGE AT THE MEETING. AND NOW HE IS GOING INTO THAT IT
6 WAS BROUGHT UP THAT BRENDAN CARPENTER WAS BRINGING IN. IT
7 WAS BROUGHT OUT BECAUSE MR. SHEPPARD SAID THAT. UNLESS
8 THERE IS A HEARSAY EXCEPTION, IT IS A ROUND ABOUT WAY OF
9 GETTING IN HEARSAY.

10 THE COURT: MR. GRIFFIN.

11 MR. GRIFFIN: YOUR HONOR, THERE ARE TWO POINTS. ONE
12 IS IT IS ADDRESSING AND PROTECTING HIS STATEMENT OF WHAT
13 HE SAYS ON DIRECT MR. SHEPPARD SAYS, FROM HERE ON OUT WE
14 ARE GOING TO DO ACCOUNTING MY SAY. BUT WITHOUT PUTTING
15 THAT STATEMENT IN CONTEXT WHICH IS WHAT I AM DOING, HIS
16 WAY ABOUT WHAT AND THAT IS WHAT I AM ADDRESSING. SO, IN
17 THE RULES IS COMPLETE, NUMBER ONE, WHAT ABOUT ACCOUNTING
18 ARE YOU GOING TO DO MY WAY. SO, I AM ENTITLED TO COMPLETE
19 TO WHAT WAS SAID AND THEY CAN'T CUT AND PASTE AND USE
20 WORDS OUT OF CONTEXT. AND THEN SECONDLY, TO THE EXTENT
21 THAT HE TESTIFIED UNDER OATH PREVIOUSLY, INCONSISTENT TO
22 WHAT HE SAID AT TRIAL AND I AM CROSS-EXAMINING HIM ABOUT
23 THAT. BUT PRETTY MUCH PUTTING IT IN CONTEXT, YOUR HONOR,
24 FOR COMPLETION PURPOSES IS WHY IT IS ADMISSIBLE.

25 THE COURT: MS. EVANS, ANY RESPONSE?

1 MS. EVANS: WELL, COMPLETENESS IS NORMALLY WHEN YOU
2 ARE TALKING ADOPTING, ONE PARAGRAPH AT A TIME TEXT. HE
3 SAT HERE AND SAID MR. SHEPPARD CONDUCTED A MEETING AND TO
4 SIT HERE TO SAY THAT EVERYTHING THAT MR. SHEPPARD DID AND
5 SAID AT THAT MEETING IS HEARSAY. IF HE SAYS, WHAT DID YOU
6 UNDERSTAND AT THE END OF THE MEETING. BUT TO GO THROUGH,
7 WASN'T IT ALSO SAID THIS. WASN'T IT ALSO BROUGHT OUT
8 THIS. THAT IS WHERE THE SELF SERVING HEARSAY IS COMING
9 IN. HE CAN EXPLAIN, HE CAN ASK THE QUESTION, AT THE END
10 OF THE DAY, WHAT WAS YOUR UNDERSTANDING EXCEPT FOR GOING
11 THROUGH WASN'T IT TRUE THAT IT WAS TOLD, SAID OR WHATEVER
12 ADJECTIVE HE USED, THAT IS A ROUND ABOUT WAY OF WHAT MR.
13 SHEPPARD SAID AT THE MEETING.

14 THE COURT: NO QUESTION THAT THE STATE, WITHOUT
15 OBJECTION, HAS BEEN ABLE TO PUT IN STATEMENTS MADE BY THE
16 DEFENDANT.

17 MS. EVANS: CLEARLY IN THE RULES, WE CAN DO THAT,
18 YOUR HONOR.

19 THE COURT: HE SAID THIS AND YOU STOP HERE AND HE IS
20 NOW ASKING ABOUT THE NEXT STATEMENT THAT THE DEFENDANT
21 MADE, THAT IS WHAT YOU ARE OBJECTING TO.

22 MS. EVANS: WE ASKED IN GENERAL TERMS ABOUT WHAT WAS
23 THE NATURE OF THE--

24 THE COURT: WELL, YOU ASKED SPECIFICALLY ALSO, WHAT
25 DID MR. SHEPPARD SAY.

1 MS. EVANS: CLEARLY WE DID.

2 THE COURT: I WILL RULE BEFORE WE START BACK. YOU
3 CAN STEP DOWN, DON'T DISCUSS YOUR TESTIMONY DURING THE
4 BREAK. WE WILL TAKE ABOUT TEN MINUTES.

5 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

6 THE COURT: ANY FURTHER ARGUMENTS BEFORE I RULE ON
7 THE ARGUMENT RIGHT BEFORE WE BROKE.

8 MR. GRIFFIN: JUST BRIEFLY, YOUR HONOR, THE POINT,
9 WHAT I ASKED WAS THAT MR. SHEPPARD STATED THAT WE ARE
10 GOING TO FIND OUT WHERE THIS LOAN FEE IS. AND THAT IS THE
11 EXTENT, THERE ARE QUESTIONS ASKED IN THIS INTERVIEW IN
12 QUESTION, FROM MY UNDERSTANDING, WAS NEVER HEARSAY, IT IS
13 A QUESTION AND IT IS NOT OFFERED FOR THE TRUTH OF THE
14 MATTER ASSERTED.

15 THE COURT: ANY RESPONSE TO THAT?

16 MS. EVANS: I WOULD STILL SAY THAT IT IS HEARSAY,
17 DEPENDING UPON THE QUESTION COULD EITHER BE A STATEMENT OR
18 NOT A STATEMENT.

19 THE COURT: I AM GOING TO PERMIT IT. THIS RULE IS
20 NOT EXACTLY ON POINT. IT GETS, I THINK GETS, INTO THE
21 COMPLETE ARGUMENT THAT MR. GRIFFIN IS MAKING. BUT RULE
22 106 IS WHEN A WRITING OR RECORDED STATEMENT, OF COURSE,
23 THAT IS NOT WHAT WE HAVE AT THIS POINT AND TIME, ARE PART
24 THEREOF IS INTRODUCED BY A PARTY, AN ADVERSE PARTY MAY
25 REQUIRE THE INTRODUCTION AT THAT TIME OF ANY OTHER PART OR

1 ANY OTHER WRITING OR RECORDED STATEMENT IN FAIRNESS COULD
2 BE CONSIDERED CONTEMPORANEOUSLY WITH IT. NOW, THAT IS NOT
3 THE SITUATION THAT WE HAVE BUT IF YOU LOOK IN THE NOTE,
4 THE VERY LAST SENTENCE SAYS THIS RULE DOES NOT CHANGE THE
5 ORDER OF PROOF AS TO THE REMAINDER OF AN UNRECORDED
6 CONVERSATION. THAT IS WHAT WE HAVE, THE PARTIES SEEKING
7 TO BRING, THE REMAINDER MUST DO SO DURING
8 CROSS-EXAMINATION OR DURING THAT PARTIES CASE. I THINK
9 UNDER THE COMPLETENESS OR THE FAIRNESS DOCTRINE, THE
10 ENTIRE CONVERSATION SHOULD BE GONE IN TO. I WOULD ALSO
11 POINT OUT THAT TECHNICALLY, I KNOW OBJECTIONS HAVE BEEN
12 MADE AND I HAVE RULED ON STATEMENTS MADE BY ALLEGED
13 COCONSPIRATORS, I HAVE PERMITTED THOSE TO COME IN. I WILL
14 NOTE THAT UNDER THE DEFINITION OF HEARSAY THOSE STATEMENTS
15 ARE NOT HEARSAY SO IT IS NOT AN EXCEPTION TO THE HEARSAY
16 RULE. THE ADMISSIBILITY OF THOSE STATEMENTS HAVE BEEN
17 MADE BY THE COURT, IT IS A CONDITIONAL ACCEPTANCE OF THAT
18 EVIDENCE, IT STILL MUST BE SHOWN THAT IN FACT CONSPIRACY
19 EXISTED AND THAT ANY SUCH STATEMENTS WERE MADE TO FURTHER
20 THE CONSPIRACY. IF THAT IS NOT SHOWN THEN I WILL HAVE TO
21 DEAL WITH THAT AT THE APPROPRIATE TIME. BRING THE JURY
22 BACK IN.

23 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
24 APPROXIMATELY 4:20 P.M.)

25 THE COURT: MR. GRIFFIN, YOU MAY CONTINUE ON

1 CROSS-EXAMINATION.

2 CONTINUE CROSS-EXAMINATION

3 BY MR. GRIFFIN:

4 Q MR. SMITH, RIGHT BEFORE WE BROKE, I WAS ASKING YOU
5 MORE ABOUT THIS MEETING WITH MR. SHEPPARD FOLLOWING KEVIN
6 MARTIN'S DEPARTURE. AND SPECIFICALLY WHAT I WAS ASKING
7 YOU IS DURING THE MEETING MR. SHEPPARD ALSO INSTRUCTED OR
8 SAID DIRECTLY THAT WE ARE GOING TO FIND OUT WHAT YOU ALL
9 HAVE BEEN DOING WITH MY LOAN FEE INCOME. THAT WAS AN
10 ISSUE THAT HE HAD RAISED AT THE MEETING AS WELL, CORRECT?

11 A THAT IS CORRECT.

12 Q AND IT WAS IN THE CONTEXT OF MISSING BROKERAGE FEES
13 AND THIS LOAN FEE ISSUE THAT MR. SHEPPARD SAID THAT WE ARE
14 GOING TO START DOING ACCOUNTING MY WAY, ISN'T THAT
15 CORRECT?

16 A THAT WAS THE CONTEXT, A CONTEXT OF THE MEETING, I CAN
17 SAY THAT. I TOOK IT AS WE ARE GOING TO DO EVERYTHING MY
18 WAY OR THE HIGHWAY.

19 Q YOU DIDN'T THROW YOUR ETHICS OUT THE WINDOW AFTER
20 THAT MEETING, CORRECT?

21 A NO.

22 Q AND YOU STILL APPLY THE GENERALLY ACCEPTING
23 ACCOUNTING PRINCIPLES AS YOU KNEW THEM IN YOUR DAILY WORK?

24 A THAT'S CORRECT.

25 Q AND NO FINANCIAL STATEMENTS WENT OUT THERE, WENT OUT

1 UNLESS IT WAS APPLIED TO THE GENERALLY ACCEPTED ACCOUNTING
2 PRINCIPLES EVEN AFTER THAT DAY, CORRECT?

3 A WE FOLLOWED ENOUGH WITH THE SEC BUT WAS NOT ACCORDING
4 TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

5 Q AND THERE WERE TIMES WHEN YOU STOOD UP AND YOU DIDN'T
6 GET FIRED, CORRECT, YOU SAID WE CAN'T DO IT THIS WAY AND
7 IT WASN'T DONE THAT WAY. DIDN'T THAT HAPPEN EVEN AFTER
8 THIS MEETING?

9 A ON OCCASIONS WITH MS. MILLER.

10 Q NOTHING GOT FILED, IN YOUR VIEW WHILE YOU WERE IN THE
11 ACCOUNTING DEPARTMENT AS CHIEF FINANCIAL OFFICER, NO
12 FINANCIALS WENT OUT THAT DID NOT COMPLY WITH THE GENERALLY
13 ACCEPTING ACCOUNTING PRINCIPLES, CORRECT?

14 A IN MY ROLE OF THE VICE-PRESIDENT OF WHATEVER,
15 ACCOUNTING AND FINANCE, THAT IS MY POSITION.

16 Q NOW, GOING BACK TO THIS RECOGNITION OF LOAN FEES AND
17 I AM BEATING A DEAD HORSE A LITTLE BIT. BUT THE BACK END
18 MONEY, DURING THESE DISCUSSIONS FOLLOWING MR. MARTIN'S
19 DEPARTURE WASN'T THERE AN EFFORT TO GET THE INVESTORS,
20 IMPAC AND THESE OTHER COMPANIES THAT WERE BUYING THE PAPER
21 FROM HOMEGOLD TO EXECUTE PRETTY MUCH A PURCHASE AGREEMENT
22 THAT WOULD ALLOW FOR THE RECOGNITION OF THE INCOME UPON
23 THE CLOSING OF THE LOAN?

24 A THAT IS CORRECT.

25 Q NOW, SO THAT EFFORT WAS UNDER WAY?

1 A YES.

2 Q BUT THE EMMCO DEAL HAPPENED AND THAT NEVER CAME
3 THROUGH?

4 A THAT IS CORRECT.

5 Q BUT THERE WAS A WAY TO RECOGNIZE THIS BACK END INCOME
6 ON THE, WHEN YOU CLOSE A LOAN THROUGH AGREEMENTS WITH THE
7 INVESTORS, RIGHT?

8 A IF SOMEONE WOULD AGREE TO BUY, SO MANY MILLIONS OF
9 DOLLARS OF LOANS A MONTH THEN IT BECOMES THE FRONT END AND
10 THE BACK END BECOMES THAT?

11 Q AND MR. FERRELL WAS WORKING ON IT?

12 A THAT IS MY UNDERSTANDING, YES.

13 Q NOW, THIS RESTRICTED CASH THAT YOU MENTIONED THAT WAS
14 MOVED OVER TO THE CAROLINA INVESTORS BOOKS, THIS IS CASH
15 THAT IS ON THE WAREHOUSE LOAN, DEPOSITS, RIGHT?

16 A THERE WERE THREE OR FOUR DIFFERENT THINGS THAT MADE
17 IT RESTRICTED CASH. A LOT OF IT WAS FROM THE WAREHOUSE
18 LOANS, I THINK SOME OF IT WAS ON CD'S THAT HAD BEEN PUT UP
19 TO SECURE LEASES FOR A LOT OF THESE OFFICERS THAT WERE
20 CREATED ACROSS THE COUNTRY.

21 Q YOU CERTAINLY KNOW AS TO THE WAREHOUSE DEPOSITS, THE
22 MONEY ON THE WAREHOUSE AGREEMENTS, THE LINES OF CREDIT TO
23 HOMEGOLD, MR. SHEPPARD PERSONALLY GUARANTEED THOSE
24 WAREHOUSE LINES OF CREDIT?

25 A I WAS TOLD THAT, I AM, I WASN'T A PARTY TO THAT BUT

1 THAT IS WHAT I WAS TOLD HAPPENED.

2 Q THE BUS PAYMENTS AND THE BONUSES, THAT WAS PART OF
3 THE DEAL THAT MR. SHEPPARD STUCK ON THE FRONT END?

4 A YES.

5 Q THE TRAINER, THE EXPENSES, THAT WAS ALSO FROM THE
6 SAME PERSON THAT CAME OVER FROM HOMESENSE, CORRECT?

7 A THE TRAINER WAS THE SAME, YES, HE HAD THE SAME
8 TRAINER AT HOMESENSE.

9 Q THESE OTHER EXPENSES THAT WE TALKED ABOUT, YOU DID
10 APPROVE?

11 A I SIGNED THE CHECKS, YES.

12 Q THIS ASSUMPTION AGREEMENT WAS CLEAR WITH THE LAWYERS
13 AND THE ACCOUNTANTS?

14 A THAT'S CORRECT.

15 Q THIS TAX TREATMENT, THE ACCOUNTING TREATMENT OF
16 PREPAID MARKETING EXPENSES, THAT WAS DONE AFTER YOU AND
17 KEVIN MARTIN HAD A CONSULTING GROUP COME IN AND EACH OF
18 YOU DECIDED BY THE GENERALLY ACCEPTED ACCOUNTING
19 PRINCIPLES, CORRECT?

20 A NOT THE WAY IT WAS BOOKED, BUT YES.

21 Q THE WAY IT WAS BOOKED WAS TWENTY-FOUR MONTHS?

22 A I DISAGREED WITH IT BEING BOOKED TWENTY-FOUR MONTHS.

23 Q DID YOU AGREE WITH MR. MARTIN?

24 A MR. MARTIN, YES, I DID.

25 Q MR. MARTIN IS A CPA?

1 A YES.

2 Q AND YOU ARE NOT?

3 A CORRECT.

4 Q THAT IS ALL.

5 THE COURT: MS. PORTER, YOU MAY REDIRECT.

6 MS. PORTER: THANK YOU, VERY BRIEFLY, YOUR HONOR.

7 REDIRECT EXAMINATION

8 BY MS. PORTER:

9 Q DID ELLIOTT DAVIS ALSO DISAGREE WITH MR. MARTIN ON
10 THE PREPAID MARKETING EXPENSES?

11 A YES.

12 Q DID YOU FEEL THAT YOU WERE IN A POSITION TO REFUSE TO
13 CUT THOSE CHECKS?

14 A NO.

15 Q LET'S TALK ABOUT THESE BROKERAGE FEES, THIS IS
16 ANOTHER ONE OF THOSE GRAY AREAS OF ACCOUNTING?

17 A IT CAN BE, YES.

18 Q YOU CAN BE EITHER CONSERVATIVE OR AGGRESSIVE?

19 A YES.

20 Q WAS THE MONEY SIMPLY MISSING OR WAS IT JUST MAYBE NOT
21 REALIZED IN AN AGGRESSIVE MANNER?

22 A I DON'T UNDERSTAND.

23 Q ON BROKERAGE FEE, WHAT YOU ARE DOING IS WAITING UNTIL
24 THE MORTGAGE IS SOLD TO REALIZE THAT BACK END FEE, IS THAT
25 CORRECT?

1 A A BROKER LOAN, YOU ARE NOT CLOSING ON YOUR WAREHOUSE,
2 YOU ARE GIVING IT TO ANOTHER COMPANY AND THEY PAY YOU A
3 FEE FOR GETTING THE LOAN.

4 Q SO, YOU HAVE GOT TO SELL IT TO ANOTHER COMPANY TO GET
5 THAT FEE?

6 A JUST ONE TIME FEE.

7 Q ONCE YOU SELL THE LOAN?

8 A THAT IS CORRECT.

9 Q UNTIL THAT LOAN HAS BEEN ACTUALLY SOLD CAN YOU
10 REALIZE THE INCOME OR IS THERE SOME GRAY AREA IN THERE?

11 A ON BROKER ^{LOANS} YOU PAY A FEE FOR SELLING THE LOAN OR
12 THE BROKER GETTING THE LOAN, YOU MAKE YOUR FEES ON THE
13 FRONT END AND THE BROKER PAYS YOU SOME FEES, AND WHEN YOU
14 BROKER IT YOU SOLD IT. THAT IS DIFFERENT THAN THE
15 PERPETUAL ARGUMENT WE HAD ABOUT LOAN FEE INCOME WITH MR.
16 SHEPPARD THAT I TESTIFIED TO EARLIER. THOSE ARE NOT,
17 THOSE PERPETUAL ARGUMENTS WERE NOT FOR BROKERAGE LOANS,
18 THOSE WERE FOR REGULAR PROCESS OF LOANS.

19 Q I AM TALKING ABOUT OR WANT TO TALK ABOUT THE BROKER
20 FEE INCOME THAT THE DEFENSE HAS ALLEGED THAT MR. MARTIN
21 WAS FIRED FOR.

22 A OKAY.

23 Q IS THIS A GRAY AREA OF ACCOUNTING WHERE YOU CAN
24 REALIZE THAT INCOME AGGRESSIVELY OR CONSERVATIVELY?

25 A YOU CAN ACCRUE THE INCOME BEFORE IT CAME IN AND IN MY

1 OPINION THAT CAN BE CONSTRUED AS AGGRESSIVE OR YOU CAN
2 WAIT UNTIL A CHECK COMES IN AND RECORD IT THEN.

3 Q MR. MARTIN'S METHOD OF REPORTING IT, WAS IT WAITING
4 FOR THE CHECK TO COME IN OR RECEIVING THE CHECK?

5 A BECAUSE WE DID NOT INTEND TO GROW THE BROKER BUSINESS
6 WE, AT FIRST, JUST WAITED ON THE CHECKS TO SHOW UP AND
7 RECORDED THEM ON A CASH BUSINESS WHICH WAS THE MOST
8 CONSERVATIVE METHOD.

9 Q SO, MR. MARTIN IS NOT STEALING ANY MONEY, HE IS JUST
10 WAITING FOR YOU TO GET THE MONEY?

11 A THAT IS CORRECT.

12 Q DID YOU EVER STAND UP TO THE DEFENDANT?

13 A YES, I DID.

14 Q WAS THAT AN EASY THING TO DO?

15 A NO, MA'AM.

16 Q DID YOU FEEL WHEN YOU STOOD UP TO HIM THAT YOUR JOB
17 WAS IN JEOPARDY?

18 A I DID AND HE WOULD REPEATEDLY TELL ME TO STOP TELLING
19 ME THINGS THAT I CAN'T DO, TELL ME SOMETHING THAT I CAN
20 DO.

21 Q AND LASTLY, WHEN YOU TALK ABOUT SENDING AUDITS TO THE
22 SEC FOR FILING, YOU HAVE EXTERNAL AUDITORS THAT REVIEW
23 THOSE YEAREND FINANCIALS?

24 A YES, THE YEARENDS IS AUDITED AND THE EXTERNAL
25 AUDITORS LOOK AT THOSE.

1 Q AND ON OCCASION THOSE EXTERNAL AUDITORS ASK HOMEGOLD
2 TO REVERSE ENTRIES BECAUSE THEY WERE NOT IN ACCORDANCE
3 WITH GAAP?

4 A IN THEIR OPINION, YES, THEY DID DO THAT.

5 Q THANK YOU.

6 THE COURT: ANYTHING FURTHER?

7 MR. GRIFFIN: NO, YOUR HONOR.

8 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
9 WITNESS, PLEASE.

10 MS. PORTER: THE STATE CALLS SUSANNE CAUGHMAN TO THE
11 STAND.

12 SUSANNE CAUGHMAN, AFTER BEING DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MS. PORTER:

16 Q WILL YOU PLEASE GIVE A LITTLE BIT OF YOUR EDUCATIONAL
17 BACKGROUND TO THE JURY.

18 A YES, I HAVE AN ACCOUNTING DEGREE FROM THE UNIVERSITY
19 OF SOUTH CAROLINA FROM DECEMBER OF 1980.

20 Q AND WILL YOU PLEASE GIVE A LITTLE BIT OF YOUR
21 BACKGROUND IN THE WORK FORCE?

22 A YES, 20 YEARS I HAD DONE PRIMARILY FINANCIAL
23 REPORTING WORK. FOR FIVE YEARS I WORKED FOR BANKERS TRUST
24 OF SOUTH CAROLINA. FOR SIX AT SOUTH CAROLINA FEDERAL,
25 SEVEN AT COLONIAL LIFE AND THEN A LITTLE OVER A YEAR AT

1 SELECTRON. IN JANUARY OF 2002 I WENT TO WORK AT HOMEGOLD,
2 I WAS THERE UNTIL DECEMBER 4TH 2002. AND THEN SINCE
3 JANUARY OF 2003 I WORKED FOR MBI FINANCIAL STAFF.

4 Q AND WHY DID YOU CEASE TO WORK FOR HOMEGOLD FINANCIAL
5 IN DECEMBER OF 2002?

6 A WELL, IT IS A LONG STORY BUT THERE WAS A SERIES OF
7 EVENTS WHERE THAT ONCE KEVIN MARTIN RESIGNED THERE WERE A
8 NUMBER OF THINGS THAT I DISAGREED WITH, A NUMBER OF
9 ACCOUNTING TREATMENTS, HAD A NUMBER OF DISCUSSIONS WITH
10 KAREN MILLER. THERE WAS A MANAGEMENT REPRESENTATION
11 LETTER WHICH IS A PART OF EVERY AUDIT. IT STATES THAT THE
12 FINANCIAL STATEMENTS ARE MANAGEMENT'S RESPONSIBILITY. AND
13 THAT EVERYTHING IS DONE PROPERLY AND EVERYTHING IS THERE,
14 I TOLD THE AUDITORS THAT I COULD NOT SIGN THAT LETTER.

15 Q DID YOU LEAVE VOLUNTARILY OR WERE YOU TERMINATED?

16 A I WAS TERMINATED.

17 Q BASED UPON YOUR EDUCATION AND YOUR WORK EXPERIENCE,
18 ARE YOU FAMILIAR WITH THE ACCOUNTING TERM, GAAP?

19 A YES.

20 Q WHAT DOES THAT STAND FOR?

21 A IT IS GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

22 Q AND WHEN YOU WORKED FOR HOMEGOLD, WHAT POSITION DID
23 YOU WORK?

24 A I WAS CONTROLLER.

25 Q AND GENERALLY WHAT WAS YOUR DUTIES AS HOMEGOLD'S

1 CONTROLLER?

2 A I WAS OVER THE GENERAL ACCOUNTING AREA, THE FINANCIAL
3 REPORTING AREA AND THE TAX ACCOUNTING AREA.

4 Q WHO WAS THE CFO WHEN YOU BEGAN WORKING FOR HOMEGOLD?

5 A KEVIN MARTIN.

6 Q AND DID YOU HAVE SUBSTANTIAL DEALINGS WITH KEVIN
7 MARTIN?

8 A YES.

9 Q WHAT WAS HE LIKE AS A BOSS?

10 A HE WAS VERY PLEASANT, VERY EASY TO GET ALONG WITH, I
11 DIDN'T THINK HE WAS A VERY GOOD COMMUNICATOR.

12 Q BASED UPON THAT LAST STATEMENT, DO YOU FEEL YOU WERE
13 GIVEN ENOUGH INFORMATION TO ACCURATELY PERFORM YOUR JOB?

14 A I DIDN'T THINK SO, NO.

15 Q WHO ELSE WAS IN THE ACCOUNTING DEPARTMENT WITH YOU
16 WHILE YOU WERE THE CONTROLLER?

17 A SHANE SMITH WAS OVER THE CASH MANAGEMENT AREA AND THE
18 ACCOUNTS PAYABLE. CHAD BARRETT WAS OVER FINANCIAL
19 REPORTING AND ANALYSIS, PLANNING ANALYSIS, I AM SORRY.

20 Q WHAT WAS THE ATMOSPHERE IN THAT DEPARTMENT WHILE YOU
21 WORKED THERE?

22 A WHEN I FIRST GOT THERE IN JANUARY I THOUGHT IT WAS
23 VERY PLEASANT BUT TOWARDS THE END I CAN ONLY DESCRIBE IT
24 AS VERY TENSE.

25 Q AS A PART OF YOUR DUTIES AS CONTROLLER DID YOU HELP

1 PREPARE THE SEC FILINGS WITH THE 10Q'S, 10K'S, 8K'S?

2 A YES.

3 Q DID YOU PREPARE ANY OTHER FINANCIAL DOCUMENTS?

4 A WE PREPARED MONTHLY INTERNAL FINANCIAL STATEMENTS
5 THAT WERE DISTRIBUTED TO MANAGEMENT.

6 Q WERE THOSE CONSOLIDATED STATEMENTS OR STATEMENTS FOR
7 EACH SUBSIDIARY OR BOTH?

8 A BOTH.

9 Q AND WHEN YOU SAID THEY WERE DISTRIBUTED TO
10 MANAGEMENT, SPECIFICALLY WHO IN MANAGEMENT WERE THEY
11 DISTRIBUTED TO?

12 A THEY WOULD OF BEEN DISTRIBUTED THOSE TO THE CFO AND
13 TO ALL OF THE EXECUTIVE MANAGEMENT.

14 Q EACH SUBSIDIARY, DID THEY RECEIVE A CONSOLIDATED
15 STATEMENT, THEIR STATEMENTS, BOTH?

16 A WE SENT CAROLINA INVESTORS VIA EMAIL A SET OF
17 CAROLINA INVESTORS STATEMENTS.

18 Q AS A PART OF YOUR DUTIES AS CONTROLLER DID YOU BECOME
19 FAMILIAR WITH THE FINANCIAL CONDITIONS OF HOMEGOLD AND ITS
20 SUBSIDIARIES?

21 A YES.

22 Q SPECIFICALLY DID YOU BECOME FAMILIAR WITH THE
23 RELATIONSHIP BETWEEN THE RETAIL MORTGAGE DIVISION,
24 HOMEGOLD, INCORPORATED AND CAROLINA INVESTORS?

25 A YES.

1 Q WHAT WAS CAROLINA INVESTORS PRIMARY BUSINESS IN
2 JANUARY OF 2002?

3 A THEY SOLD NOTES AND DEBENTURES TO THE GENERAL PUBLIC.

4 Q DID THEY HAVE ANY OTHER TYPE OF INCOME GENERATING OUT
5 OF OPERATIONS?

6 A NO.

7 Q AND FROM JANUARY OF 2002 UNTIL YOU WERE TERMINATED IN
8 DECEMBER OF 2002, WHAT HAPPENED TO THE MONEY THAT WAS
9 TAKEN IN FROM THESE NOTES AND DEBENTURES?

10 A THAT MONEY WAS TRANSFERRED THROUGH AN INTER-COMPANY
11 NOTE TO HOMEGOLD, THAT HOMEGOLD USED THAT MONEY FOR
12 OPERATING EXPENSES.

13 Q AND WHEN YOU SAY HOMEGOLD, ARE YOU REFERRING TO THE
14 RETAIL MORTGAGE DIVISION?

15 A YES.

16 Q WHAT WAS THE FINANCIAL CONDITION OF THE RETAIL
17 MORTGAGE DIVISION WHILE YOU WORKED AT HOMEGOLD?

18 A IT WAS VERY POOR, WE HAD LOSSES EVERY MONTH.

19 Q IS IT FAIR TO SAY THAT THEY WERE SPENDING MORE MONEY
20 THAN THEY WERE GENERATING?

21 A YES.

22 Q IF YOU ARE SPENDING MORE MONEY THAN YOU ARE
23 GENERATING, WHAT HAPPENS TO THAT INTER-COMPANY DEBT?

24 A IT INCREASES.

25 Q DID YOU HAVE CONCERNS ABOUT THE DEBT AND THE

1 INCREASING AMOUNT THAT HOMEGOLD WAS BORROWING FROM
2 CAROLINA INVESTORS?

3 A I DID.

4 Q AND DID YOU DISCUSS THAT WITH ANYONE IN THE
5 ACCOUNTING DEPARTMENT?

6 A YES, PRIOR TO KEVIN MARTIN LEAVING, KEVIN AND I AND
7 SHANE SMITH AND I, CHAD BARRETT AND I ALL SPOKE ABOUT
8 THAT.

9 Q BASED UPON YOUR EXPERIENCE WORKING ON THOSE
10 FINANCIALS, WHAT WOULD OF HAPPENED IF CAROLINA INVESTORS
11 STOPPED LENDING MONEY TO HOMEGOLD?

12 A HOMEGOLD WOULD OF NO LONGER BEEN ABLE TO CONTINUE TO
13 OPERATE.

14 Q WHEN YOU FIRST ARRIVED AT HOMEGOLD IN JANUARY OF 2002
15 WHAT SPECIFICALLY DID YOU BEGIN WORKING ON?

16 A I WORKED ON THE NARRATIVE SECTIONS OF THE 10K ANNUAL
17 REPORT TO THE SEC. THE FINANCIAL STATEMENTS HAD ALREADY
18 BEEN PREPARED, OR AT LEAST A DRAFT OF THOSE AT THE TIME
19 THAT I GOT THERE.

20 Q IS THERE ANYTHING SPECIFIC ABOUT THAT 10K THAT
21 CONCERNED YOU?

22 A IN THE VERY END, YES, THAT IS WHEN THE GOING CONCERN
23 LANGUAGE WAS ADDED.

24 Q AND VERY BRIEFLY, WHAT IS YOUR UNDERSTANDING OF GOING
25 CONCERN?

1 A GOING CONCERN INDICATES THAT THE AUDITORS DON'T
2 BELIEVE THAT, THEY BELIEVE THAT THERE IS SUBSTANTIAL DOUBT
3 THAT THE COMPANY WILL BE IN EXISTENCE TWELVE MONTHS FROM
4 THE DATE OF THE STATEMENTS.

5 Q WHILE YOU WERE WORKING ON THIS 10K, DID YOU ALSO WORK
6 ON OBTAINING A VALUATION OF THE RETAIL MORTGAGE DIVISION?

7 A I DID HELP PROVIDE INFORMATION TO CBIZ, YES.

8 Q WERE YOU THE PRIMARY ACCOUNTANT WORKING ON THAT?

9 A NO.

10 Q WHO WAS THAT?

11 A KEVIN MARTIN.

12 Q AND WHAT WAS THE PURPOSE OF THAT VALUATION?

13 A MY UNDERSTANDING WAS TO OBTAIN A VALUE FOR THE
14 MORTGAGE DIVISION SO THAT THE AUDITORS COULD DETERMINE
15 WHETHER OR NOT THE COMPANY WOULD BE ABLE TO PAY BACK THAT
16 INTER-COMPANY NOTE IN FULL.

17 Q AFTER YOU FINISHED WORKING ON THIS FINANCIAL
18 INFORMATION FOR THE VALUATION AND THE 10K WAS FILED, WHAT
19 DID YOU BEGIN WORKING ON?

20 A THE PROSPECTUS FOR CAROLINA INVESTORS.

21 Q AND WHAT PART OF THE PROSPECTUS DID YOU WORK ON?

22 A THE NARRATIVE SECTIONS. AGAIN, THE FINANCIAL
23 STATEMENTS HAD ALREADY, A DRAFT OF THOSE HAD ALREADY BEEN
24 PREPARED AND WE WORKED ON ADDING THE SECTION ON RISK AND
25 THE REST OF THE NARRATIVE SECTIONS.

1 Q BASED ON YOUR WORK ON THE 2002 PROSPECTUS AND YOUR
2 MONTHLY FINANCIALS, DID YOU COME IN CONTACT WITH LARRY
3 OWEN?

4 A YES.

5 Q AND DID YOU HAVE SUBSTANTIAL DEALINGS WITH MR. OWEN?

6 A I WOULDN'T SAY SUBSTANTIAL, I WOULD SEND HIM
7 FINANCIAL STATEMENTS MONTHLY VIA EMAIL. AND THE FIRST
8 TIME THAT I PREPARED THOSE ON MY OWN HE CALLED AND SAID
9 THEY WERE INCORRECT, THAT CAROLINA INVESTORS WAS
10 GUARANTEED A CERTAIN AMOUNT OF INCOME.

11 Q DO YOU KNOW WHAT TYPE AGREEMENT WAS IN PLACE THAT
12 GUARANTEED THIS INCOME?

13 A THERE WAS AN INTER-COMPANY AGREEMENT CALLED, THAT
14 THEY CALLED AN INDEMNIFICATION AGREEMENT THAT GUARANTEED
15 THAT INCOME.

16 Q WHAT AFFECT DID THIS GUARANTEED INCOME HAVE ON THE
17 FINANCIALS OF BOTH COMPANIES?

18 A IT WOULD OF INCREASED THE INCOME FOR CAROLINA
19 INVESTORS, CAROLINA INVESTORS WOULD HAVE INCREASED THE
20 INTER-COMPANY RECEIVABLE FROM HOMEGOLD. NOW, HOMEGOLD'S
21 BOOKS WOULD OF INCREASED EXPENSE AND INCREASED
22 INTER-COMPANY PAYABLE.

23 Q DID THAT MAKE ONE OR THE OTHER LOOK BETTER?

24 A IT MADE CAROLINA INVESTORS LOOK BETTER, YES.

25 Q YOU WERE STILL WORKING IN AUGUST OF 2002, IS THAT

1 CORRECT?

2 A YES.

3 Q IS THAT A SIGNIFICANT MONTH FOR HOMEGOLD?

4 A ABSOLUTELY.

5 Q WHY IS THAT?

6 A ON A MONDAY IN AUGUST DAVID GAFFNEY, OUR GENERAL
7 COUNSEL RESIGNED WITH NO NOTICE. THE SAME WEEK KEVIN
8 MARTIN, THE CFO AND MY BOSS RESIGNED WITH NO NOTICE. ALSO
9 I THINK THAT WAS THE MONTH IN WHICH ELLIOTT DAVIS RESIGNED
10 AS AUDITORS FOR HOMEGOLD.

11 Q ARE YOU AWARE WHY DAVID GAFFNEY RESIGNED?

12 A NO.

13 Q ARE YOU AWARE OF WHY KEVIN MARTIN RESIGNED?

14 A NO.

15 Q ARE YOU UNAWARE OF WHY ELLIOTT DAVIS RESIGNED?

16 A I WAS TOLD IT WAS A MUTUAL DECISION.

17 Q THE MORNING THAT KEVIN MARTIN RESIGNED WERE YOU
18 CALLED TO A MEETING?

19 A YES.

20 Q AND WHO CALLED THE MEETING?

21 A KAREN MILLER.

22 Q WHO ATTENDED THE MEETING?

23 A SHANE SMITH, CHAD BARRETT AND I CAME IN, FOR THE MOST
24 PART IT WAS SHANE, CHAD AND I AND KAREN.

25 Q THIS IS THE FIRST TIME YOU HAVE MENTIONED MS.

1 MILLER'S NAME.

2 A YES.

3 Q AND YOU KNOW MS. MILLER?

4 A YES.

5 Q AND HOW DO YOU KNOW MS. MILLER?

6 A SHE STEPPED INTO THE ROLE OF CFO AFTER KEVIN MARTIN
7 LEFT. PRIOR TO THAT TIME I HAD ONLY HAD THREE MEETINGS
8 WITH HER, THAT WAS THE FIRST REAL MEETING THAT I HAD WITH
9 HER ON THE DAY THAT KEVIN RESIGNED.

10 Q WHAT WAS THE ATMOSPHERE IN THAT ROOM DURING THIS
11 MEETING WITH KAREN MILLER?

12 A WE WERE ALL VERY SURPRISED OR AT LEAST I WAS, I HAD
13 NO IDEA THAT KEVIN WAS LEAVING UNTIL SUDDENLY HE WAS GONE,
14 SHOCKED MAYBE, SOMEWHAT. I AM NOT SURE THAT MAY BE TOO
15 STRONG A WORD BUT IT WAS, AGAIN, VERY UNCOMFORTABLE FOR
16 ME.

17 Q DID MS. MILLER CONVEY IN THAT MEETING WHY MR. MARTIN
18 LEFT?

19 A AS BEST AS I CAN RECALL, SHE SAID THAT THEY WERE
20 GOING TO FIRE KEVIN, HE DIDN'T KNOW WHAT HE WAS DOING.
21 AND THAT SHE WOULD BE STEPPING INTO THAT ROLE, WE WOULD BE
22 REPORTING TO HER.

23 Q MS. MILLER, DID SHE HAVE AN ACCOUNTING BACKGROUND?

24 A NO.

25 Q WAS SHE THE HEAD OF THE I.T. DEPARTMENT?

1 A YES.

2 Q LATER ON THAT AFTERNOON WERE YOU CALLED INTO A SECOND
3 MEETING?

4 A YES.

5 Q AND WHERE WAS THAT?

6 A THAT WAS IN LEXINGTON IN THE REED STREET BUILDING
7 WHERE RONNIE SHEPPARD'S OFFICE WAS.

8 Q AND WHO WAS PRESENT?

9 A SHANE SMITH, CHAD BARRETT AND I, KAREN MILLER, RONNIE
10 SHEPPARD, FORREST FERRELL AND I THINK MAYBE PAUL BANNINGER
11 WAS THERE FOR PART OF THE TIME.

12 Q WHO RAN THE MEETING?

13 A RONNIE SHEPPARD.

14 Q AND WHAT DID HE SAY DURING THAT MEETING?

15 A HE SAID THAT KEVIN MARTIN, THEY WERE GOING TO FIRE
16 HIM AND KEVIN DIDN'T KNOW WHAT HE WAS DOING. THAT WE
17 DIDN'T KNOW WHAT WE WERE DOING. AND IF WE DIDN'T DO THE
18 ACCOUNTING THE WAY HE TOLD US TO DO HE WOULD HIRE
19 ACCOUNTANTS WHO WOULD. IN THE MEANTIME HIS ADMIN PERSON
20 CAME IN AND TOLD HIM THAT HIS NEW VEHICLE HAD BEEN
21 DELIVERED. HE STEPPED OUT FOR A WHILE, TOOK DELIVERY OF
22 HIS NEW VEHICLE AND CAME BACK IN AND CONTINUED THE
23 MEETING.

24 Q WHAT WAS THE ATMOSPHERE INSIDE THAT OFFICE?

25 A TOTAL SHOCK. I HAD WORKED FOR PUBLIC COMPANIES FOR

1 20 YEARS AND HAD NEVER HEARD A HEAD OF A PUBLIC COMPANY
2 SAY ANYTHING REMOTELY SIMILAR TO THAT. I WAS IN SHOCK TO
3 THE POINT OF BEING IN TEARS.

4 Q HAD YOU EVER MET THE DEFENDANT BEFORE THAT MEETING?

5 A ONLY BRIEFLY, I HAD NEVER BEEN IN A MEETING WITH HIM.

6 Q DID YOU EVER HAVE ANY CONTACT WITH THE DEFENDANT
7 AFTER THAT MEETING?

8 A NO.

9 Q BASED UPON WHAT WAS SAID AT THAT MEETING, DID YOU
10 FEEL THAT YOUR JOB WAS IN JEOPARDY?

11 A ABSOLUTELY.

12 Q AND WHY WOULD YOUR JOB BE IN JEOPARDY?

13 A BECAUSE I KNEW THAT I WAS NOT GOING TO DO, PREPARE
14 ANY ENTRIES THAT WEREN'T CORRECT AND PROPER ACCORDING TO
15 GAAP AND I FELT HE WAS TELLING ME THAT I HAD TO DO
16 WHATEVER HE TOLD ME TO DO REGARDLESS OF WHETHER THEY WERE
17 CORRECT OR NOT.

18 Q AFTER THIS MEETING YOU REFERENCED MS. MILLER STEPPED
19 INTO THE CFO POSITION?

20 A YES.

21 Q FROM THAT DAY ON DID YOU HAVE SUBSTANTIAL DEALINGS
22 WITH MS. MILLER?

23 A YES.

24 Q WHAT WAS HER RELATIONSHIP TO THE DEFENDANT?

25 A I WOULD DESCRIBE HER AS HIS RIGHT HAND PERSON.

1 Q DID YOU FEEL THAT SHE GAVE YOU ENOUGH INFORMATION TO
2 ADEQUATELY PERFORM YOUR JOB?

3 A NO.

4 Q WHY DO YOU FEEL THAT WAY?

5 A BECAUSE I THINK SHE TOLD ME ONLY ENOUGH SO THAT I
6 WOULD DO THE THINGS THAT SHE WANTED ME TO DO. SHE
7 REVIEWED EVERYTHING IN DETAIL, SHE SIGNED OFF ON EVERY
8 ACCOUNTS PAYABLE INVOICE. AFTER WE PREPARED WHAT WE
9 THOUGHT WERE THE CORRECT ACCOUNTING ENTRIES AT THE END OF
10 EVERY MONTH, SHE WOULD REVIEW THE TRANSACTION, DETAIL AND
11 MAKE ADDITIONAL ENTRIES. AND THEN SHE RESEARCHED ISSUES
12 AS THEY AROSE BUT I THOUGHT SHE SLANTED THEM IN THE
13 DIRECTION THAT SHE WANTED THEM TO GO SO THAT THE FINANCIAL
14 STATEMENTS APPEARED MORE FAVORABLE THAN THEY ACTUALLY
15 WERE.

16 Q CAN YOU GIVE THIS JURY SOME SPECIFIC EXAMPLES OF
17 THESE ACCOUNTING ENTRIES THAT SHE ASKED YOU TO IMPLEMENT.

18 A THE FIRST ONE THAT COMES TO MIND, WE HAD A BUILDING
19 IN GREENVILLE ON PELHAM ROAD THAT AT THE END OF THE YEAR
20 BEFORE WE HAD WRITTEN IT DOWN BY \$1.5 MILLION BECAUSE THE
21 FAIR VALUE WAS LESS THAN WHAT WE HAD ON OUR BOOKS. KAREN
22 INSISTED THAT WE WRITE THAT BACK UP AND TAKE THAT \$1.5
23 MILLION BACK IN TO INCOME AND I STRONGLY DISAGREED WITH
24 HER ON THAT.

25 Q WHAT AFFECT DID THAT HAVE ON THE BUILDING, I AM

1 SORRY, ON THE BOOKS?

2 A IT WOULD OF INCREASED NET INCOME.

3 Q AND WHY DID YOU DISAGREE WITH HER?

4 A BECAUSE THE ACCOUNTING LITERATURE SAYS THAT YOU ARE
5 NOT ALLOWED TO DO THAT, YOU CAN'T HAVE AN ASSET THAT ON
6 YOUR BOOKS THAT IS WORTH MORE THAN YOU CAN SELL IT FOR.

7 Q ANOTHER EXAMPLE, RECOGNITION OF LOAN FEES. WHY IS
8 THAT IMPORTANT?

9 A MY UNDERSTANDING WAS THAT MANAGEMENT WANTED US TO
10 RECOGNIZE THOSE FEES SOONER THAN THE ACCOUNTING LITERATURE
11 ALLOWS YOU TO DO THAT.

12 Q AND WHEN YOU SAY MANAGEMENT, SPECIFICALLY WHO ARE YOU
13 REFERENCING?

14 A KAREN MILLER AND MR. SHEPPARD.

15 Q WILL YOU PLEASE TELL THIS JURY WHAT CAPITALIZATION OF
16 EXPENSES IS, BRIEFLY?

17 A WHEN AN ITEM IS PURCHASED YOU HAVE TWO CHOICES, YOU
18 CAN RECORD THE ITEM AS AN EXPENSE AND IT REDUCED NET
19 INCOME OR IF THERE IS FUTURE VALUE ASSOCIATED WITH THAT
20 ITEM AND IT HAS A USEFUL LIFE AND YOU WILL BE USING IT
21 OVER A PERIOD OF TIME THEN YOU CAN RECORD THAT ITEM AS AN
22 ASSET. AND IT DOESN'T IMMEDIATELY REDUCE THE INCOME.

23 Q AND THIS IN ACCORDANCE WITH GAAP?

24 A CORRECT.

25 Q IS THERE A THRESHOLD AMOUNT?

1 A GAAP TALKS ABOUT MATERIALITY SO THAT YOU SHOULDN'T,
2 YOU SHOULDN'T CAPITALIZE THE SMALLEST OF ITEMS. IT
3 DOESN'T SPECIFY AN AMOUNT BUT IN PRACTICAL TERMS MOST
4 COMPANIES DO, THEY SET A POLICY SO THAT YOU DON'T
5 CAPITALIZE ITEMS UNDER \$200 HUNDRED DOLLARS, \$1 THOUSAND
6 DOLLARS.

7 Q DID HOMEGOLD HAVE A THRESHOLD AMOUNT?

8 A NO.

9 Q IF YOU DIDN'T CAPITALIZE AN ITEM HOW WOULD IT AFFECT
10 THE BOOKS?

11 A IT WOULD REDUCE NET INCOME, YOU SHOULD RECORD IT AS
12 AN EXPENSE IF YOU DIDN'T CAPITALIZE IT.

13 Q SO, THE MORE YOU CAN CAPITALIZE THE BETTER YOUR BOOKS
14 LOOK?

15 A CORRECT, HOW YOUR NET INCOME LOOKS, YES.

16 Q FIXED ASSETS. HOW WERE THEY RECORDED ON THE BOOKS?

17 A IN TERMS OF?

18 Q WERE THEY ON CAROLINA INVESTORS BOOKS OR WERE THEY ON
19 THE PARENT COMPANIES BOOKS OR WERE THEY ON THE RETAIL
20 MORTGAGE DIVISION BOOKS. WHERE WERE THE FIXED ASSETS AND
21 WHERE WERE THEY RECORDED?

22 A INITIALLY THEY WERE REPORTED ON HOMEGOLD'S BOOKS BUT
23 THEN THEY WERE TRANSFERRED TO CAROLINA INVESTORS WITH A
24 BOOK ENTRY ONLY TO REDUCE THAT INTER-COMPANY DEBT.

25 Q A BOOK ENTRY ONLY, WHAT DOES THAT MEAN?

1 A MEANING THAT THEY DIDN'T PHYSICALLY MOVE AND I AM NOT
2 AWARE OF ANY LEGAL DOCUMENTS THAT WERE PUT IN PLACE TO
3 TRANSFER TITLE.

4 Q SO, FOR INSTANCE, LET'S SAY THE PELHAM ROAD BUILDING
5 IS A FIXED ASSET. THERE WAS NO LEGAL TITLE THAT
6 TRANSFERRED THE DEED FROM PELHAM ROAD FROM HOMEGOLD TO
7 CAROLINA INVESTORS?

8 A NOT THAT I AM AWARE OF.

9 Q BUT IF YOU LOOK AT THE FINANCIALS OF CAROLINA
10 INVESTORS THERE IS THE PELHAM ROAD BUILDING?

11 A CORRECT.

12 Q WERE THESE AGGRESSIVE ACCOUNTING PRINCIPLES IN
13 COMPLIANCE WITH GAAP?

14 A NO.

15 Q DID YOU EVER CONVEY THESE CONCERNS TO MANAGEMENT?

16 A I DID.

17 Q AND WHO DID YOU CONVEY THEM TO?

18 A KAREN MILLER.

19 Q AND WHAT WAS HER REACTION?

20 A SHE TOLD ME I WAS BEING INSUBORDINATE, THAT SHE COULD
21 FIRE ME FOR THAT AND SHE WAS TRYING TO SAVE THE COMPANY
22 AND I WAS WORKING AGAINST HER.

23 Q WAS THAT TYPICAL BEHAVIOR OF ACCOUNTING MANAGERS TO
24 STAND UP TO THE MANAGEMENT?

25 A I HAD NEVER WORKED FOR A COMPANY WHERE THE MANAGERS

1 DIDN'T TRY TO DO THE PROPER ACCOUNTING ENTRIES. SO, I
2 THOUGHT IT WAS MY DUTY TO MAKE SURE I CONVEYED TO HER WHAT
3 I THOUGHT WAS PROPER.

4 Q DO YOU FEEL THAT SHE LISTENED TO YOU AND TOOK INTO
5 ACCOUNT YOUR ADVICE?

6 A I AM NOT SURE THAT SHE DID. IF SHE DID SHE FOUND A
7 WAY TO JUSTIFY WHAT SHE WAS DOING BY SLANTING THE RULES
8 HER WAY.

9 Q HAVE YOU COMPARED THE NET INCOME FROM WHEN KEVIN
10 MARTIN WAS CFO TO WHEN KAREN MILLER WAS CFO?

11 A YES.

12 Q AND IS THERE A DIFFERENCE?

13 A THERE IS A SIGNIFICANT IMPROVEMENT ONCE KAREN MILLER
14 BECAME CFO.

15 Q AND IN NOVEMBER OF 2002 DID YOUR OUTSIDE AUDITORS ASK
16 YOU TO DO SOMETHING?

17 A YES.

18 Q WHAT DID THEY ASK YOU TO DO?

19 A THAT IS WHEN THEY ASKED ME TO SIGN A MANAGEMENT
20 REPRESENTATION LETTER. AND, AGAIN, WHAT THAT IS IS IT IS
21 A LETTER THAT MANAGEMENT PROVIDES TO THE AUDITORS. IS
22 PART OF EVERY AUDIT, IT SAYS THAT THE FINANCIAL STATEMENTS
23 ARE MANagements RESPONSIBILITY AND THAT EVERYTHING HAD
24 BEEN ACCOUNTED FOR PROPERLY, THAT NOTHING HAS BEEN LEFT
25 OUT.

1 Q DID YOU SIGN IT?

2 A NO.

3 Q WHY NOT?

4 A I DIDN'T BELIEVE THINGS WERE RECORDED PROPERLY.

5 Q WHEN YOU REFUSED TO SIGN THE LETTER WHAT HAPPENED?

6 A THE AUDITORS SAID, WE WILL ASK MS. MILLER TO SIGN IT.
7 AND THEN ABOUT TWO WEEKS LATER I GOT A CALL FROM KAREN
8 MILLER, IT WAS DECEMBER 4TH, IT WAS AN ICY DAY AND SHE
9 SAID YOU NEED TO COME BY MY OFFICE IN LEXINGTON, WE WERE
10 WORKING OFF OF BROAD RIVER ROAD. AND JUST PLAN TO GO ON
11 HOME AFTER WE ARE DONE. AND WHEN I GOT THERE SHE SAID,
12 MERRY CHRISTMAS, I HAVE A SEVERANCE FOR YOU, YOUR JOB HAS
13 BEEN ELIMINATED.

14 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
15 STATE'S EXHIBIT NUMBER 88 FOR IDENTIFICATION PURPOSES. DO
16 YOU RECOGNIZE THAT?

17 A I DO.

18 Q HOW DO YOU RECOGNIZE THAT?

19 A IT IS A LIST OF ADJUSTMENTS THAT I PREPARED THAT,
20 WHEN KEVIN LEFT HE LEFT IN AUGUST BUT AT THAT TIME WE HAD
21 A DATE OF THE JULY MONTH-END FINANCIAL STATEMENTS. BUT
22 KAREN HAD US GO BACK AND MAKE ADDITIONAL ADJUSTMENTS TO
23 THOSE STATEMENTS AND THAT IS WHAT THESE ARE.

24 Q SO, THOSE ARE YOUR NOTES?

25 A YES.

1 Q ARE THEY, HAVE THEY BEEN ALTERED IN ANY WAY SHAPE OR
2 FORM SINCE YOU HAVE MADE THEM?

3 A NO. THERE IS A LIST ALSO FOR AUGUST AND SEPTEMBER.

4 MS. PORTER: AT THIS TIME I WOULD LIKE TO ENTER IN
5 STATE'S EXHIBIT NUMBER 88 INTO EVIDENCE.

6 THE COURT: ANY OBJECTION?

7 MR. GRIFFIN: NO, YOUR HONOR.

8 THE COURT: STATE'S 88 IS ADMITTED.

9 (WHEREUPON, STATE'S EXHIBIT NO. 88 WAS ADMITTED INTO
10 EVIDENCE.)

11 Q SO, THESE ADJUSTMENTS, THESE LISTS THAT YOU HAVE
12 MADE, THESE WERE NOT INSTRUCTED BY KEVIN MARTIN FOR YOU TO
13 MAKE?

14 A THAT'S CORRECT.

15 Q SO, IN JULY MS. MILLER CAME UP WITH EIGHT THINGS YOU
16 HAD DONE WRONG?

17 A YES.

18 Q DID YOU AGREE WITH ALL OF THOSE?

19 A NO.

20 Q AND IN AUGUST SHE CAME UP WITH SIXTEEN THINGS?

21 A YES.

22 Q AND WHAT ARE THOSE BOTTOM FOUR?

23 A THE FOUR AT THE BOTTOM WERE ENTRIES THAT I FELT
24 NEEDED TO BE MADE AND SHE WOULDN'T ALLOW ME TO MAKE.

25 Q WHAT WOULD THE AFFECT OF THOSE FOUR ENTRIES DO TO THE

1 BOOKS?

2 A THOSE FOUR WOULD OF REDUCED NET INCOME.

3 Q FINALLY SEPTEMBER, AGAIN, THE TOP FOURTEEN ARE ONES
4 THAT MS. MILLER WISHED YOU TO MAKE?

5 A YES.

6 Q AND THE BOTTOM TWO?

7 A THOSE ARE ENTRIES THAT I WANTED TO MAKE BUT SHE
8 WOULDN'T ALLOW US TO MAKE.

9 Q AND WHAT AFFECT WOULD THOSE LAST TWO OF HAD ON THE
10 BOOKS?

11 A THEY WOULD OF REDUCED NET INCOME.

12 Q NO FURTHER QUESTIONS.

13 THE COURT: MR. GRIFFIN.

14 CROSS-EXAMINATION

15 BY MR. GRIFFIN:

16 Q GOOD AFTERNOON.

17 A GOOD AFTERNOON.

18 Q MS. CAUGHMAN, YOU BEGAN WORK IN JANUARY OF 2002 FOR
19 HOMEGOLD?

20 A YES, SIR.

21 Q AND YOU WORKED WITH OTHER PUBLIC COMPANIES BEFORE?

22 A YES, SIR.

23 Q AND WHAT OTHER PUBLIC COMPANIES HAD YOU WORKED FOR?

24 A I WORKED FOR BANKERS TRUST OF SOUTH CAROLINA, FOR
25 SOUTH CAROLINA FEDERAL, COLONIAL LIFE.

1 Q AND HAD YOU EVER BEEN INVOLVED IN PREPARING
2 NARRATIVES FOR 10K'S?

3 A YES, SIR.

4 Q IS THAT WHAT YOU WERE HIRED TO DO, ONE OF YOUR
5 PRIMARILY DUTIES?

6 A THAT WAS ONE OF OUR DUTIES, YES SIR.

7 Q AND YOU WORKED ON THE 10K'S FOR HOMEGOLD?

8 A HOMEGOLD, THE FINANCIAL SEGMENTS HAD ALREADY BEEN
9 PREPARED AND A DRAFT OF THOSE WHEN I GOT THERE. SO, I
10 SPENT A LOT OF TIME PROOFING, EDITING, WORKING ON A
11 NARRATIVE AND ADDITIONAL DISCLOSURES IN THE NARRATIVE.

12 Q AND WHEN YOU WERE WORKING AND PROOFING AND WORKING ON
13 NARRATIVES FOR THE 10K, WHO WERE YOU WORKING WITH?

14 A I WORKED WITH SHANE SMITH, CHAD BARRETT, KEVIN
15 MARTIN, THE AUDITORS, ELLIOTT DAVIS. IT IS A JOINT
16 EFFORT, IT IS A PRETTY INTENSIVE DOCUMENT WITH A 90 DAY
17 DEADLINE.

18 Q DID YOU ALSO WORK WITH THE LAW FIRM?

19 A YES.

20 Q AND WHO AT THE LAW FIRM DID YOU WORK WITH?

21 A ERIC GRABEN AT THE WYCHE FIRM.

22 Q AND DID YOU HAVE OCCASION TO WORK WITH CARY HALL OR
23 BILL KEHL?

24 A I RECALL WORKING WITH BILL LATER ON, I AM NOT SURE
25 THAT I EVER WORKED WITH CARY HALL.

1 Q AND DO YOU REMEMBER THERE BEING A LOT OF DIFFERENT
2 ITERATIONS OF THE GOING CONCERN LANGUAGE?

3 A YES.

4 Q THAT IS CORRECT?

5 A THAT IS CORRECT.

6 Q AND DID, WAS THAT, WAS THERE A GIVE AND TAKE BETWEEN
7 ACCOUNTING STAFF OF HOMEGOLD, YOU AND THE LAWYERS AND THE
8 ACCOUNTANTS?

9 A THERE ALWAYS IS, THAT IS ALWAYS A PART OF THAT
10 PROCESS.

11 Q AND AT THE END OF THAT PROCESS DID THE LAW FIRM CHECK
12 OFF ON THE LANGUAGE TO BE USED?

13 A YES.

14 Q DID THE ACCOUNTING FIRM CHECK OFF ON THE LANGUAGE TO
15 BE USED?

16 A YES.

17 Q WAS THERE ANYTHING ABOUT THAT PROCESS THAT YOU FELT
18 WAS KEPT FROM THE LAWYERS OF THE ACCOUNTANTS, ANY
19 INFORMATION KEPT FROM THE LAWYERS AND THE ACCOUNTANTS?

20 A I WAS SO NEW AT THAT POINT I REALLY CAN'T ADDRESS
21 THAT QUESTION FOR YOU.

22 Q DID YOU ALSO WORK WITH THE PROSPECTUS?

23 A YES.

24 Q LANGUAGE IN THE PROSPECTUS?

25 A CORRECT.

1 Q AND THAT WOULD OF BEEN IN THE SPRING OF 2002?

2 A WOULD OF BEEN IN APRIL, YES SIR.

3 Q AND ONCE AGAIN, DID YOU WORK WITH THE SAME FOLKS, THE
4 ACCOUNTANTS?

5 A YES, SIR.

6 Q AND WHO DID YOU WORK WITH AT ELLIOTT DAVIS, CY
7 BURGESS?

8 A CY BURGESS WAS ONE.

9 Q GARRY RANK?

10 A I DON'T THINK I EVER HAD MANY DEALINGS WITH GARRY, I
11 WORKED WITH CY, I WORKED WITH THE STAFF ACCOUNTANTS.

12 Q DID YOU ALSO WORK WITH THE SAME LAWYERS AT THE WYCHE
13 FIRM?

14 A YES.

15 Q AND ONCE AGAIN, AT THE END OF THE DAY, DID THE
16 LAWYERS AND THE ACCOUNTANTS CHECK OFF FOR THE LANGUAGE
17 USED IN THE PROSPECTUS?

18 A YES.

19 Q AND ONCE AGAIN, ALTHOUGH YOU WERE NEW ON THE JOB, DID
20 YOU FEEL LIKE THERE WAS AN EFFORT TO KEEP ANY INFORMATION
21 FROM THE ACCOUNTANTS AND LAWYERS?

22 A AT THAT POINT I WASN'T AWARE OF ANY EFFORT TO KEEP
23 INFORMATION FROM THEM.

24 Q DURING THAT GIVE AND TAKE, THAT COLLABORATE PROCESS,
25 DID YOU EVER GET ANY DIRECT INPUT FROM MR. SHEPPARD INTO

1 THOSE DOCUMENTS, 10K OR THE PROSPECTUS?

2 A I PERSONALLY DID NOT.

3 Q DID YOU EVER GET AN EMAIL FROM MR. SHEPPARD?

4 A NOT DURING THE 2001 10K.

5 Q DID YOU EVER GET A FAX OR HANDWRITTEN CHANGES TO THE
6 DOCUMENT THAT WAS GENERATED FOR MR. SHEPPARD?

7 A NOT THAT I RECALL.

8 Q DID YOU GET A FAX WITH OR EMAIL WITH SUGGESTED
9 CHANGES FROM MR. STERLING?

10 A I DON'T RECALL SPECIFICALLY BUT THEN THERE WERE
11 GROUPS WHO WOULD GET TOGETHER AND PUT CHANGES ALL IN ONE
12 PLACE, THE ATTORNEYS ON OCCASION WOULD COORDINATE SOME OF
13 THOSE CHANGES. MR. STERLING WAS IN GREENVILLE, I NEVER
14 MET MR. STERLING.

15 Q YOU NEVER TALKED TO HIM DURING THAT PROCESS?

16 A NO, SIR.

17 Q YOU MENTIONED THAT THE ONLY TIME YOU HAD ANY MEETINGS
18 DIRECTLY WITH MR. SHEPPARD WAS AFTER MR. MARTIN LEFT?

19 A THAT'S CORRECT.

20 Q AND THAT WAS TROUBLESOME AND YOU STARTED CRYING IN
21 THAT MEETING?

22 A YES.

23 Q AND THEN FROM THAT POINT FORWARD YOU DIDN'T HAVE ANY
24 FURTHER INTERACTION DIRECTLY WITH MR. SHEPPARD?

25 A MINE ARE ACTUALLY WITH KAREN MILLER.

1 Q AND WHEN YOU MENTIONED THAT THERE WAS SOME
2 ADJUSTMENTS AND THIS DOCUMENT THAT HAS BEEN INTRODUCED
3 INTO EVIDENCE. AND YOU SAY JULY ADJUSTMENTS, WERE THESE,
4 WHEN WERE YOU PROVIDED THIS INFORMATION, IT WASN'T DURING
5 THE MONTH OF JULY?

6 A NO, WELL THE MONTH IN CLOSEOUT NEVER HAPPENS UNTIL
7 THE MONTH IS COMPLETE. SO YOU DON'T BEGIN JULY UNTIL THE
8 FIRST OF AUGUST. AND THEN WE HAD PREPARED A DRAFT OF
9 FINANCIAL STATEMENTS. AFTER KEVIN LEFT THESE WERE
10 ADJUSTMENTS THAT CAME ABOUT AFTER KEVIN LEFT, WE WENT BACK
11 INTO THE JULY MONTH-END CLOSEOUT AND REVISED THOSE
12 STATEMENTS.

13 Q AND THIS WAS THROUGH YOUR DEALINGS WITH MR. MARTIN,
14 MS. MILLER?

15 A CORRECT.

16 Q DO YOU KNOW WHO IS WORKING WITH HER TO COME UP WITH
17 THESE ADJUSTMENTS?

18 A I BELIEVE MR. SHEPPARD HAD MENTIONED A FEW OF THOSE
19 IN THE MEETING, AFTER HIS INITIAL COMMENT THAT IF WE
20 DIDN'T DO THE ACCOUNTING HIS WAY THEN THAT HE WOULD HIRE
21 ACCOUNTANTS WHO WOULD.

22 Q NOW, THE BROKER FEES, THAT BROKER FEES, NUMBER ONE
23 THERE. WHAT ARE WE TALKING ABOUT, FULLY RESERVED?

24 A THAT MEANS THAT IT REALLY DID NOT IMPACT NET INCOME,
25 WE RECORDED INCOME AND THEN WE RECORDED AN ALLOWANCE FOR

1 LOSS BY EQUAL AMOUNT.

2 Q SO THAT IS A COMPLETE WASH?

3 A THE \$1,646,000.00 IS, FOR 2002 THE \$1,163,000.00 WITH
4 A \$400 THOUSAND DOLLAR RESERVE, THAT WAS A \$763 THOUSAND
5 DOLLAR INCREASE IN NET INCOME.

6 Q AND THESE BROKER FEES, THAT IS WHAT THE ISSUE WAS
7 WITH REGARD TO, BROKERING LOANS, NOT FUNDING THEM
8 YOURSELVES AND GETTING INCOME FROM THE, WHATEVER COMPANY
9 YOU WENT THROUGH?

10 A CORRECT.

11 Q AND THERE WAS CONCERN THAT THAT MONEY NEVER MADE IT
12 TO THE BOTTOM LINE IN EARLIER YEARS OR FOR 2001 AT
13 HOMEGOLD, IT WASN'T PROPERLY BEING TRACKED?

14 A THAT IS WHAT MR. SHEPPARD THOUGHT.

15 Q WELL, IN FACT, WASN'T THERE A RECOGNITION THAT THAT
16 WAS THE CASE.

17 A I THINK IT HAD MORE TO DO WITH COLLECTIBILITY. IF
18 THERE IS EVER A CONCERN, YOU ARE NOT GOING TO COLLECT THE
19 MONIES THEN YOU SHOULDN'T RECORD THEM AS REVENUE UNTIL YOU
20 ARE CERTAIN IT WILL BE REALIZED.

21 Q WE TALKED, THE DIFFERENCE BETWEEN CASH ACCOUNTING AND
22 ACCRUAL ACCOUNTING, CASH ACCOUNTING IS YOU BOOK IT WHEN
23 THE MONEY HITS YOUR CHECKING ACCOUNT, RIGHT?

24 A THAT IS TRUE.

25 Q AND NOW HOMEGOLD WAS ON AN ACCRUAL ACCOUNTING BASIS?

1 A THAT IS CORRECT.

2 Q SO, THEY WERE BOOKING MONEY BEFORE THE MONEY HIT THE
3 CHECKBOOK?

4 A THAT IS RIGHT.

5 Q AND THAT IS PROPER?

6 A THAT IS PROPER BUT AT THE SAME TIME THERE IS AN
7 ASSUMPTION THAT THERE, THAT YOU WILL BE REASONABLY, BE
8 ABLE TO COLLECT THAT MONEY.

9 Q AND APPARENTLY UNDER MR. MARTIN, THOSE BROKER FEES
10 ARE BEING ACCOUNTED FOR WHEN THE CASH HITS THE BANK UNDER
11 CASH ACCOUNTING METHODS?

12 A THAT IS MY UNDERSTANDING, YES.

13 Q AND EVERYTHING ELSE IN THE COMPANY IS ON ACCRUAL
14 BASIS, RIGHT?

15 A YES.

16 Q SO, THAT IS WHAT THIS NUMBER ONE STATES?

17 A CORRECT.

18 Q NOW, THIS NUMBER ONE ON THE PELHAM ROAD BUILDING,
19 REVERSE PELHAM ROAD, RESERVE FOR IMPAIRMENT?

20 A YES.

21 Q I GUESS THIS DOCUMENT IS SOMETHING THAT YOU CREATED
22 OR SOMETHING THAT SHE DELIVERED TO YOU?

23 A SOMETHING THAT I CREATED BASED ON ENTRIES THAT, ALL
24 OF THE ACCOUNTING DEPARTMENT WAS REQUIRED TO MAKE, KAREN
25 INSTRUCTED US TO MAKE.

1 Q AND THERE WAS A RESERVE IMPAIRMENT ON THAT BUILDING
2 OF \$1.5 MILLION DOLLARS?

3 A CORRECT, THERE WAS.

4 Q AND THAT, DO YOU KNOW WHETHER SHE HAD CONSULTED WITH
5 THE NEW ACCOUNTING FIRM TO SEE IF SHE COULD REVERSE THAT?

6 A I DON'T KNOW WHETHER SHE DID OR NOT, I DON'T BELIEVE
7 SHE DID.

8 Q BUT SHE HAD REQUESTED THAT THIS RESERVE BE--

9 A REVERSED AND INCREASING THE NET INCOME, YES.

10 Q TO \$1.5 MILLION DOLLARS.

11 A YES.

12 Q NOW, THERE IS A REVERSE INTEREST IN INCOME WHICH
13 WOULD CUT INTO HOMEGOLD'S EXPENSES, INCOME UNDER NUMBER
14 TWO, RIGHT?

15 A REVERSE OR ACCRUAL.

16 Q INTEREST INCOME ACCRUAL?

17 A IS AN INCOME, THAT ONE IS AN INCOME REDUCTION AND I
18 BELIEVE THAT WAS BASED ON ACCOUNT RECONCILIATIONS WHERE WE
19 FOUND ITEMS THAT NEEDED TO BE REPORTED.

20 Q SO, SHE IS GIVING YOU INFORMATION THAT HELPS THE
21 BOTTOM LINE AND HURTS THE BOTTOM LINE, RIGHT?

22 A I FEEL THAT THOSE WERE CORRECT FOR THE MOST PART.

23 Q AND, YOU MENTIONED THAT YOU REFUSED TO SIGN A
24 MANAGEMENT REPRESENTATION LETTER?

25 A YES, SIR.

1 Q AND WHEN WERE YOU ASKED TO SIGN THE MANAGEMENT
2 REPRESENTATION LETTER?

3 A IT WAS IN NOVEMBER OF 2002.

4 Q WAS IT BEFORE OR AFTER THE 10Q WAS FILED?

5 A I AM TRYING TO REMEMBER THE DATE, WE FILED EXTENSIONS
6 FOR JUST ABOUT EVERY SEC FILING THAT WE DID. THE 10Q FOR
7 SEPTEMBER 30TH WAS PAST THE 45 DAY DEADLINE. I BELIEVE IT
8 WAS BEFORE IT WAS FILED BUT I CAN'T SAY WITH CERTAINTY
9 WITHOUT LOOKING AT THE DOCUMENT ITSELF.

10 Q AND WERE YOU FIRED IMMEDIATELY AFTER THAT?

11 A IT WAS A MATTER OF A COUPLE OF WEEKS.

12 Q A COUPLE WEEKS AFTER THAT YOU WERE INVITED DOWN AND
13 GIVEN A MERRY CHRISTMAS AND A SEVERANCE CHECK?

14 A THAT'S CORRECT.

15 Q AND THAT WAS IN DECEMBER?

16 A DECEMBER 4TH, YES SIR.

17 Q AND MR. SHEPPARD NO LONGER HAD A POSITION AT
18 HOMEGOLD, IS THAT CORRECT? HE HAD ALREADY LEFT AND
19 STARTED EMMCO, CORRECT?

20 A TECHNICALLY THAT IS PROBABLY TRUE, I WOULD HAVE TO
21 LOOK BACK AT THE DOCUMENTS TO SEE THE DATES, IT ALL
22 HAPPENED AROUND THE SAME TIME.

23 Q AND DO YOU REMEMBER WHO WAS THE PRESIDENT OF THE
24 COMPANY WHEN YOU WERE ASKED TO LEAVE?

25 A I BELIEVE IT WAS FORREST FERRELL TECHNICALLY.

1 Q AND MS. MILLER, AT THE TIME WAS?

2 A CFO.

3 Q AND HAD SHE ALSO BEEN ELEVATED TO THE BOARD OF
4 HOMEGOLD AT THE TIME?

5 A I WOULD HAVE TO CHECK DOCUMENTS. I BELIEVE THAT IS
6 TRUE BUT I WOULD HAVE TO CHECK, I CAN'T SAY FOR CERTAINTY.

7 Q DO YOU KNOW WHETHER MR. SHEPPARD HAD RESIGNED AS
8 SEATED FROM THE BOARD IN EARLY NOVEMBER?

9 A THAT IS SOME INFORMATION THAT I GOT BITS AND PIECES
10 OF, I WASN'T PROVIDED WITH COMPLETE INFORMATION ON ALL OF
11 THOSE TRANSACTIONS.

12 Q MS. MILLER, SHE WAS A DIFFICULT PERSON TO WORK WITH?

13 A EXTREMELY.

14 Q AND MR. SHEPPARD DIDN'T FIRE YOU, CORRECT?

15 A NO SIR, KAREN MILLER DID.

16 Q AND TO YOUR KNOWLEDGE YOU DON'T EVEN KNOW WHETHER HE
17 WAS WITH HER OR NOT AT THE COMPANY AT THAT POINT AND TIME
18 WHEN YOU WERE FIRED, RIGHT?

19 A I HAD VERY LITTLE DIRECT DEALINGS WITH MR. SHEPPARD
20 EXCEPT THE ONE MEETING, THAT WAS ENOUGH THOUGH.

21 Q THANK YOU.

22 THE COURT: REDIRECT?

23 REDIRECT EXAMINATION

24 BY MS. PORTER:

25 Q WHEN MS. MILLER WAS TELLING YOU TO MAKE THESE

1 ACCOUNTING ENTRIES, DID SHE EVER TELL YOU WHO TOLD HER TO
2 TELL YOU TO DO IT?

3 A SHE TOLD ME SHE WANTED TO KEEP RONNIE HAPPY.

4 Q NOTHING FURTHER. THANK YOU.

5 THE COURT: ANY RECROSS:

6 MR. GRIFFIN: NO, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN. YA'LL STEP UP FOR A
8 SECOND.

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

12 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
13 WE WILL RESUME FOR THE DAY, I HAVE SOME MATTERS TO TAKE
14 UP. PLEASE DON'T DISCUSS THE CASE AND WE WILL START BACK
15 AT 9:30 IN THE MORNING. BE BACK IN YOUR JURY ROOM AT 9:30
16 IN THE MORNING, LEAVE YOUR PADS IN YOUR CHAIRS. EVERYONE
17 ELSE REMAIN SEATED, PLEASE.

18 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
19 THE DAY.)

20 THE COURT: LET'S DEAL WITH THE MATTER THAT WAS
21 ADDRESSED HERE AT THE BENCH AND THEN WE CAN BREAK FOR THE
22 DAY.

23 MS. EVANS: I WILL START, THIS IS ACTUALLY MR.
24 MYRICK'S WITNESS. BUT AS WE WERE TALKING IN CHAMBERS
25 YESTERDAY, THERE WAS AN OBJECTION MADE AS TO STATEMENTS

1 MADE BY MR. SHEPPARD TO MR. PHIL WILSON, MR. PHIL WILSON
2 IS SOME SORT OF CLERGY WITH THE JEHOVAH'S WITNESS CHURCH.
3 WE MADE IT CLEAR IN CHAMBERS TO YOUR HONOR THAT WE HAD NO
4 INTENTION OF GOING INTO ANY CONVERSATIONS BETWEEN MR.
5 SHEPPARD AND MR. WILSON AS A CLERGY MEMBER OF A CHURCH IN
6 ANY WAY WHATSOEVER. YOUR HONOR, PRETRIAL WE WERE ALLOWED
7 TO GET INTO THE LEAPHART ROAD PROPERTY AS THE COURSE OF
8 BUSINESS. MR. WILSON IS THE ONE THAT DID AN, DID AN
9 APPRAISAL ON BEHALF OF MR. SHEPPARD REGARDING THE LEAPHART
10 ROAD PROPERTY. THERE WAS AN ORIGINALLY 11 ACRES, 4 WAS
11 DONATED TO THE JEHOVAH'S WITNESS CHURCH IN EXCHANGE FOR
12 THEIR CURRENT CHURCH WHICH HAPPENED BACK IN 1998. THE
13 STATE SAID WE HAD NO INTENTION OF GOING BACK INTO THAT
14 FIELD, ALLEGING THAT HE MAY OF CROPPED UP ON THAT DEAL OR
15 ANYTHING ABOUT THAT TRANSACTION THAT HAPPENED IN 1998. WE
16 JUST WERE GOING TO TALK ABOUT THE TRANSACTION THAT
17 HAPPENED IN 2001. WE WOULD AND I TOLD MR. GRIFFIN AND TO
18 STIPULATE THAT MR. WILSON HAS PREVIOUS KNOWLEDGE BECAUSE
19 OF HIS DEALINGS BACK IN 1998 THAT MR. SHEPPARD, HE FELT
20 WAS THE OWNER OF THE PROPERTY. AT THE TIME HE MADE IT HAD
21 NO IDEA IT HAD BEEN GIVEN TO HOMEGOLD AND HIS TESTIMONY
22 WILL SPEAK FOR ITSELF. HOWEVER, THE ISSUE CAME UP AND I
23 WAS NOT SURE IF MR. GRIFFIN SENT US LAST WEEK SOME
24 CHARITABLE CONTRIBUTION THAT MR. SHEPPARD HAD MADE IN THE
25 PAST TO THE JEHOVAH'S WITNESS CHURCH. MY CONCERN WAS, IF

1 HE DID THAT THAT WOULD BRING UP CHARACTER INTO EVIDENCE
2 AND IF CHARACTER CAME UP THERE WERE SOME ISSUES THAT WE
3 WOULD GO INTO. NO ISSUES AT ALL BETWEEN ANY CONVERSATION
4 BETWEEN MR. SHEPPARD AND MR. WILSON BUT SOME OTHER ISSUES
5 THAT HAVE COME TO OUR ATTENTION. MR. GRIFFIN TELLS ME
6 THAT HE DOES NOT PLAN ON BRINGING THE CHARITABLE
7 CONTRIBUTIONS UP WHICH OBVIOUSLY IT WOULD BE UP TO THE
8 COURT WHETHER OR NOT THAT WOULD RAISE, YOU KNOW, 404 ISSUE
9 AND CHARACTER OF A DEFENDANT. BUT I WANT TO MAKE IT CLEAR
10 BECAUSE I THINK IT WOULD BE SOME CONCERN ON BEHALF OF THE
11 CHURCH, A FOLLOW UP QUESTION OF INFORMATION THAT WE ARE
12 AWARE OF HIS STATUS AND I THINK THAT MR. GRIFFIN AND I
13 HAVE CLEARED THAT ALL UP. THAT HIS ONLY POINT IS THAT HIS
14 KNOWLEDGE CAME WHEN HE WAS A MINISTER OF A CHURCH, THAT
15 GOT THE FOUR ACRES IN EXCHANGE FOR THE OLD CHURCH
16 LOCATION. AND AS LONG AS THAT IS WHERE WE ARE GOING I
17 DON'T THINK THERE IS ANY ISSUES. I JUST WANTED TO MAKE
18 SURE, WE ARE NOT CALLING THESE WITNESSES TOMORROW BUT I
19 KNOW MR. WILSON AND HIS ATTORNEY HAVE COME SEVERAL TIMES
20 AND THEY WILL BE COMING, THEY ARE LOCAL ONES THAT WE MIGHT
21 NEED TO FEEL IN BECAUSE MOST OF OUR PEOPLE ARE FROM
22 OUT-OF-STATE, GREENVILLE AND OTHER PLACES. SO, WHILE THEY
23 ARE BOTH HERE I WANTED TO MAKE SURE IF THAT IS MY
24 UNDERSTANDING OF WHAT MR. GRIFFIN IS GOING TO DO AND THAT
25 IS MR. GRIFFIN'S UNDERSTANDING. IF NOT, I THINK WE HAVE

1 BIGGER ISSUES THAT THIS COURT MAY NEED TO ADDRESS, WE
2 MIGHT NEED TO PROFFER SOME TESTIMONY.

3 THE COURT: MR. GRIFFIN.

4 MR. GRIFFIN: YOUR HONOR, I WILL ADDRESS THE FIRST
5 POINT, MY CROSS-EXAMINATION OF THIS WITNESS WOULD SIMPLY
6 BE THAT, TO BRING OUT THAT THE CHURCH, HE IS IN THE REAL
7 ESTATE BUSINESS AND HE IS THE PASTOR OF HIS CHURCH. THAT
8 THEY WERE LOOKING FOR A NEW PLACE TO BUILD A NEW
9 SANCTUARY. MR. SHEPPARD LOCATED PROPERTY, BOUGHT THE
10 PROPERTY, MADE THREE ACRES OFF OF THAT PROPERTY TO THE
11 CHURCH, THEN IN EXCHANGE HE GOT SWAPPED FROM THEIR OLD
12 CHURCH PROPERTY, ONCE THE NEW ONE WAS BUILT. THAT WOULD
13 BE, SHOW THAT, THAT THE PERSON, THIS MR. WILSON HAS
14 KNOWLEDGE ABOUT THIS PROPERTY AND HE IS THE ONE THAT DID
15 A, SORT OF A QUICK AND DIRTY FAIR MARKET ASSESSMENT OF THE
16 PROPERTY AND THAT WOULD BE THE ONLY, I BRING IT OUT TO
17 SHOW THAT HIS KNOWLEDGE OF THE PROPERTY. AS TO CHARACTER
18 THE ONLY REASON THIS IS COMING IN, YOUR HONOR, IS TO PROVE
19 MR. SHEPPARD IS A BAD PERSON. AND I WOULD ASK TO REVISIT
20 THE STATE V. LYLES AND 404 ARGUMENT, THE EVIDENCE IS THAT
21 MR. SHEPPARD BOUGHT THIS PROPERTY, SPLIT OFF AND GAVE A
22 THIRD TO THE CHURCH. AND AT THE TIME OF THE MERGER THE
23 PROPERTY WAS SUCKED UP INTO HOMEGOLD. AT SOME POINT AND
24 TIME, A REAL ESTATE AGENT SAID, DO YOU STILL OWN THIS
25 PROPERTY, I HAVE GOT A PURCHASER. THERE WAS AN ATTEMPTED

1 CONTRACT GRAFTED, MR. SHEPPARD SIGNED IT. IT WAS FOR
2 GREATER THAN THE PROPERTY WAS ON THE BOOKS AT HOMEGOLD.
3 AND THAT MR. SHEPPARD WENT TO HOMEGOLD AND PURCHASED THE
4 PROPERTY FROM HOMEGOLD AT ITS BOOK VALUE. AND THAT WAS
5 SUPPORTED BY THIS FAIR MARKET ASSESSMENT. AND IT WAS
6 APPROVED BY THE BOARD MEMBERS OF HOMEGOLD. BUT THE
7 REASONS COMING INTO EVIDENCE IS NOT TO SHOW THAT ANY
8 INVESTOR AT CAROLINA INVESTORS WAS MISLEAD ABOUT THE
9 PROPERTY, IT DOESN'T SHOW UP ON ANY OF THE BOOKS, ANY OF
10 THE RECORDS. AND THE PURCHASE PRICE WAS THE BOOK VALUE,
11 YOUR HONOR, WHICH WOULD MEAN THAT THERE WOULD BE EFFECT ON
12 THE BOTTOM LINE ON THESE FINANCIALS THAT WE HAVE SPENT A
13 WEEK AND A DAY GOING OVER. SO, WHAT IT IS TO BEING
14 INTRODUCED FOR IS TO SHOW THAT MR. SHEPPARD IS A BAD
15 PERSON, THAT HE BOUGHT THE PROPERTY FROM A COMPANY AT
16 PRICE A, WHEN HE HAD THE CONTRACT TO SELL IT TO ANOTHER
17 PERSON FOR PRICE B. AND THAT IS NOT, IT IS NOT A PART OF
18 A COMMON SCHEME OR PLAN, IT IS NOT, IT DOESN'T MAKE IT
19 MORE LIKELY THAN NOT WHEN THESE INVESTORS WERE DEFRAUDED.
20 THERE HAS BEEN NOTHING IN THE FINANCIALS TO RELAY THIS
21 PIECE OF PROPERTY TO ANYTHING. AND I WOULD REQUEST THAT
22 UNTIL THEY CAN SHOW SOME IMPACT ON THIS TRANSACTION TO THE
23 BOTTOM LINE AND HOW IT COULD CONCEIVABLY AFFECT INVESTORS
24 ON WHAT THEY SAW AND WHAT THEY RELIED UPON, IT IS TO THE
25 ISSUE OF A CLERICAL COMMUNICATION.

1 THE COURT: MS. EVANS, DO YOU WANT TO RESPOND.

2 MS. EVANS: I THOUGHT, I COULD BE WRONG, BUT YOUR
3 HONOR HAS ALREADY RULED THAT WE COULD GET INTO THE
4 LEAPHART ROAD PROPERTY.

5 THE COURT: THAT IN EFFECT WAS A MOTION FOR ME TO
6 RECONSIDER THAT, I THOUGHT THAT IS WHAT IT WAS.

7 MS. EVANS: I WOULD LIKE TO RESPOND. IT IS NOT AS
8 MR. GRIFFIN DESCRIBES IT. HE JUST GOES TO A COMPANY, HE
9 GOES TO THE COMPANY WHERE HE IS CEO, WHERE HE SITS THERE
10 AND TELLS THE JURY AT THE BEGINNING OF THE DAY THAT MR.
11 SHEPPARD HAD THE BEST INTEREST OF HOMEGOLD AND CAROLINA
12 INVESTORS IN MAKING SURE THAT HOMEGOLD AND CAROLINA
13 INVESTORS GOT PAID BACK THEIR MONEY AND THE WHOLE TIME HE
14 GOES OUT, KNOWING THAT HE CAN SELL THE PROPERTY FOR \$100
15 THOUSAND DOLLARS MORE THAN IT IS ACTUALLY BOOKED AT. AND
16 GOES AND SHOWS THE BOARD THE ONLY, ONLY THE ONE DOCUMENT
17 WHICH SHOWS IT FOR, I AM ESTIMATING HERE, \$308 THOUSAND
18 DOLLARS WHEN HE HAS GOT A CONTRACT TO SELL IT FOR OVER
19 \$100 THOUSAND DOLLARS MORE. HE IS CEO, HE HAD THE
20 FIDUCIARY DUTY TO THE BEST INTEREST OF CAROLINA INVESTORS.
21 HE SAT HERE ALL DAY AND HIS DEFENSE IS, AS HE WAS DOING
22 HIS BEST TO MAKE THE COMPANY TURN ITSELF AROUND WHEN HE IS
23 GOING BEHIND, HE MAKES IT SOUND LIKE HE WENT TO THE BOARD
24 WITH FULL KNOWLEDGE. HE GOES TO THE BOARD HIDING BEHIND
25 HIS BACK THIS CONTRACT THAT HE HAS TO SEE FOR OVER \$400

1 THOUSAND AND SAYS LOOK, I WILL PAY YOU \$308 THOUSAND. IT
2 IS VERY MUCH THE COURSE OF BUSINESS HERE THAT HIS WHOLE
3 DEFENSE IS I AM DOING MY BEST TO TURN THIS COMPANY AROUND
4 AND I AM TURNING IT AROUND AND I AM MAKING \$100 THOUSAND
5 DOLLARS BEHIND THEIR BACK WITHOUT YOU KNOWING.
6 ADDITIONALLY IT IS NOT TRUE THAT IT IS NOT REPORTED
7 ANYWHERE. IT IS REPORTED IN STATE'S EXHIBIT 101, PAGE 12,
8 IT IS REPORTED THAT THIS PROPERTY WAS SOLD FOR THE PRICE
9 OF \$308 THOUSAND DOLLARS. SO, IT IS OUT THERE TO THE
10 PUBLIC. NO WHERE DOES MR. SHEPPARD EVER DISCLOSE THAT HE
11 HAD A CONTRACT FOR \$100 THOUSAND DOLLARS MORE AND ACTUALLY
12 GOT A CHECK MADE OUT TO HIMSELF FOR \$60 THOUSAND DOLLARS
13 WHEN HE HAS A CLEAR LEGAL FIDUCIARY DUTY TO ONLY ACT IN
14 THE BEST INTEREST OF CEO. AND HE STOOD UP HERE AND HIS
15 LAWYER SAID TIME AND TIME AGAIN THAT IS WHAT HE WAS DOING.
16 AND THIS ACTION CLEARLY SHOWS THE COURSE OF BUSINESS THAT
17 HE HAS, RONNIE SHEPPARD'S BEST INTEREST IN MIND AND NOT
18 HOMEGOLD AND CAROLINA INVESTORS. IT IS CLEARLY RELEVANT
19 TO A COURSE OF BUSINESS THAT WE ALLEGED IN COUNT ONE OF
20 THE INDICTMENT.

21 THE COURT: ESSENTIALLY WHAT I HAVE HEARD IS CLOSING
22 ARGUMENTS. I AM GOING TO PERMIT THE TESTIMONY, IT GOES TO
23 THAT COUNT IN THE INDICTMENT. I HAVE MADE THE ANALYSIS
24 UNDER BOTH 403 AND 404. THE WHOLE ISSUE OF THE GENTLEMAN
25 THAT IS GOING TO BE CALLED TO TESTIFY WHENEVER AND THE

1 PRIEST-PENITENT PRIVILEGE WAS BROUGHT BY THAT GENTLEMAN'S
2 ATTORNEY, A MOTION TO QUASH ANY INFORMATION IN TESTIMONY
3 THAT WOULD BE ELICITING TESTIMONY OR STATEMENTS GIVEN THAT
4 WERE COVERED BY THAT PRIVILEGE. THERE IS NOTHING THAT I
5 HAVE HEARD AND WE HAD DISCUSSIONS IN CHAMBERS WHERE ANYONE
6 IS INTENDING TO GO INTO ANY DISCUSSION BETWEEN THE
7 DEFENDANT AND THAT WITNESS THAT WOULD BE COVERED BY THAT
8 PRIVILEGE, THE TESTIMONY WILL BE LIMITED TO THE REAL
9 ESTATE MATTERS THAT YOU FOLKS HAVE TALKED ABOUT HERE. AND
10 I HAVE INDICATED, MR. GRIFFIN, HE CAN ESTABLISH THE BASIS
11 FOR THE WITNESS'S KNOWLEDGE OF THE PROPERTY AND DETAILS OF
12 ANY PRIOR TRANSACTION WILL BE IRRELEVANT BUT YOU CAN
13 CERTAINLY GO INTO HOW HE KNOWS THE PROPERTY AND THE
14 HISTORY OF IT. WE WILL START AT 9:30 IN THE MORNING.

15 MS. EVANS: THANK YOU, YOUR HONOR.

16 (WHEREUPON, THE TRIAL WILL RESUME THE NEXT MORNING AT
17 9:30 A.M.)

18 THE COURT: IS THE STATE READY?

19 MS. EVANS: YES, YOUR HONOR.

20 THE COURT: THE DEFENSE READY?

21 MR. GRIFFIN: YES, SIR.

22 THE COURT: GET THE JURY IN, PLEASE.

23 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
24 APPROXIMATELY 9:30 A.M.)

25 THE COURT: GOOD MORNING, HOPE YOU ALL HAD A GOOD

1 EVENING, WE WILL CONTINUE. CALL YOUR NEXT WITNESS,
2 PLEASE.

3 MS. EVANS: THANK YOU, YOUR HONOR, THE STATE CALLS
4 KEVIN MAST.

5 KEVIN MAST, AFTER BEING DULY SWORN, TESTIFIED AS
6 FOLLOWS:

7 DIRECT EXAMINATION

8 BY MS. EVANS:

9 Q MR. MAST, WOULD YOU PLEASE TELL THE JURY A LITTLE BIT
10 ABOUT YOURSELF, YOUR EDUCATIONAL BACKGROUND AND YOUR WORK
11 BACKGROUND.

12 A I ATTENDED KANSAS STATE UNIVERSITY, GOT MY BACHELORS
13 DEGREE IN ACCOUNTING AND GOT MY CPA CERTIFICATE. UPON
14 GRADUATING FROM COLLEGE, SPENT ABOUT NINE YEARS WITH ERNST
15 AND YOUNG WHICH IS A LARGE PUBLIC ACCOUNTING FIRM. BEEN A
16 CFO FOR COMPANIES FOR ABOUT 20 YEARS NOW.

17 Q AND WHERE ARE YOU CURRENTLY EMPLOYED?

18 A CURRENTLY EMPLOYED IN CHARLOTTE, NORTH CAROLINA WITH
19 A COMPANY CALLED MOUNTAIN FUNDING.

20 Q AND DID YOU JUST FLY BACK IN LAST NIGHT?

21 A I DID, GOT BACK INTO CHARLOTTE AT ABOUT 11:30 LAST
22 NIGHT.

23 Q AND YOU ARE CURRENTLY LIVING IN CHARLOTTE?

24 A CURRENTLY LIVING IN CHARLOTTE.

25 Q WERE YOU PREVIOUSLY EMPLOYED AT A COMPANY THAT

1 EVENTUALLY BECAME KNOWN AS HOMEGOLD?

2 A YES.

3 Q WOULD YOU PLEASE TELL THE JURY, WHEN DID YOU FIRST
4 BECOME EMPLOYED WITH THAT COMPANY?

5 A IN APRIL OF 1991, I BELIEVE IT WAS, OR 1992. BECAME
6 THE CHIEF FINANCIAL OFFICER OF A SUBSIDIARY EMERGENT
7 BUSINESS CAPITAL.

8 Q DID EMERGENT EVENTUALLY, AND WE WILL GET TO THAT,
9 CHANGE ITS NAME TO HOMEGOLD FINANCIAL AND HOMEGOLD
10 INCORPORATED?

11 A YES.

12 Q ALL RIGHT. AND PLEASE EXPLAIN THE ROLE OF A CFO OF
13 THE COMPANY WHEN IT WAS EMERGENT OR HOMEGOLD.

14 A THE ROLE OF THE CFO IS TO INSURE THE ACCURACY OF THE
15 FINANCIAL STATEMENTS THAT ARE PRESENTED, HAS CERTAIN
16 FIDUCIARY DUTIES IN TERMS OF MAKING SURE, IF IT IS A
17 PUBLIC COMPANY THAT THE PUBLIC IS INFORMED FULLY IN EACH
18 QUARTER OF THE FINANCIAL OPERATIONS OF THE COMPANY AND IN
19 KEEPING MANAGEMENT AND THE BOARD INFORMED.

20 Q AND PRIOR TO YOUR EMPLOYMENT, EMERGENT, WAS HOMEGOLD
21 A SEPARATE COMPANY THAT WAS BOUGHT BY EMERGENT?

22 A NO, HOMEGOLD WAS NOT--

23 Q EXCUSE ME, CAROLINA INVESTORS, I APOLOGIZE. WAS
24 CAROLINA INVESTORS A PRIVATE COMPANY THAT WAS BOUGHT BY
25 EMERGENT?

1 A YES. EMERGENT GROUP BOUGHT CAROLINA INVESTORS, I
2 BELIEVE, IN 1990 OR 1991, PRIOR TO MY ARRIVAL.

3 Q AND WHEN YOU ARRIVED WAS CAROLINA INVESTORS A
4 SUBSIDIARY OF THE COMPANY THAT YOU WERE THE CFO?

5 A IT WAS A SISTER COMPANY, WE WERE BOTH SUBSIDIARIES OF
6 EMERGENT GROUP.

7 Q AND AT THAT POINT WHAT DID CAROLINA INVESTORS DO?

8 A CAROLINA INVESTORS DID DIFFERENT TYPES OF LENDING,
9 MORTGAGE LENDING AND RAISED CAPITAL THROUGH THE SELL OF
10 DEBENTURES.

11 Q AND AT SOME POINT DID THE OPERATION OR FUNCTION OF
12 CAROLINA INVESTORS SEASE TO DO THAT AND AT SOME POINT
13 HOMEGOLD OR EMERGENT TAKE OVER THAT?

14 A THEY CONTINUED THE ROLE OF SELLING DEBENTURES BUT
15 DISCONTINUED THE ORIGINATION OF LOANS AS ANOTHER ARM, A
16 SISTER COMPANY DID ALL THE ORIGINATIONS ON THE MORTGAGE
17 SIDE.

18 Q AND APPROXIMATELY WHEN WAS THAT THAT THEY STOPPED
19 ORIGINATING THEIR OWN MORTGAGE LOANS?

20 A I THINK THAT WAS IN 1995.

21 Q OKAY. AND WAS IT TOTALLY ELIMINATED AT SOME POINT?

22 A I THINK THEY CONTINUED TO DO SMALL AMOUNTS BUT FOR
23 THE MOST PART IT WAS ELIMINATED.

24 Q AND WHAT HAPPENED AFTER THEY QUIT SELLING, DOING
25 MORTGAGES, WHAT HAPPENED WITH THE MONEY THAT CAROLINA

1 INVESTORS WAS RAISING?

2 A FUNDS WERE CENTRALLY MANAGED, THEY WOULD GO INTO A
3 CAROLINA INVESTORS CASH ACCOUNT WITH FIRST UNION. BUT WE
4 WOULD HAVE INTER-COMPANY TRANSACTIONS TO FUND THE
5 OPERATIONS WHERE IT WAS NEEDED BUT WE HAD LINES OF CREDIT
6 IN PLACE BETWEEN CAROLINA INVESTORS AND THE DIFFERENT
7 SUBSIDIARIES.

8 Q AND BASED UPON YOUR DEALING AS A CFO WHY WAS THAT
9 DECISION MADE TO SEASE LENDING AT CAROLINA INVESTORS AND
10 BRING IT ALL UP TO EMERGENT WHICH BECAME HOMEGOLD?

11 A MY UNDERSTANDING IS THAT IT HELPED FACILITATE
12 EFFICIENT OPERATIONS. IT ENABLED, YOU KNOW, ALL
13 PRODUCTION ARMS TO COME FROM ONE PLACE. IT MADE SELLING
14 THE LOANS EASIER BECAUSE THEY WERE ALL BEING ORIGINATED
15 UNDER ONE NAME RATHER THAN TWO. AND IT JUST WAS A MORE
16 EFFICIENT OPERATION TO DO IT THAT WAY.

17 Q AND DID CAROLINA INVESTORS CONTINUE TO SELL THE NOTES
18 AND DEBENTURES?

19 A YES.

20 Q AND I THINK JUST BRIEFLY, TOUCH UPON, WHEN THEY WOULD
21 SELL THE NOTES AND DEBENTURES WHERE WOULD THAT MONEY GO
22 AFTER CAROLINA INVESTORS BROUGHT IN MONEY?

23 A IT WOULD BE CONTROLLED CORPORATELY.

24 Q AND CORPORATELY, YOU MEAN?

25 A MEANING HOMEGOLD PARENT UMBRELLA.

1 Q AT SOME POINT WHERE WAS THERE A PROBLEM, WHAT
2 BUSINESS WAS EMERGENT AND EVENTUALLY HOMEGOLD, WHAT
3 BUSINESS WERE YA'LL INVOLVED IN?

4 A EMERGENT WAS INVOLVED IN THE LENDING BUSINESS AT
5 SEVERAL SUBSIDIARIES THAT HAD TWO SUBSIDIARIES THAT DID
6 SUB-PRIME AUTO LENDING. IT HAD FOUR SUBSIDIARIES THAT DID
7 COMMERCIAL LENDING, SMALL BUSINESS LENDING, ASSET LENDING
8 IN TERMS OF RECEIVABLES, ETCETERA. AND IT ALSO DID
9 MORTGAGE LENDING, ALL OF ITS BUSINESS UNITS CONCENTRATED,
10 THOUGH, IN MORE OF THE SUB-PRIME LENDING THAT IS A RISKIER
11 TYPE OF LENDING THAN WHAT A TYPICAL BANK MIGHT DO.

12 Q AND AT SOME POINT WAS THERE A PROBLEM IN SUB-PRIME
13 LENDING MARKET?

14 A THERE WAS, IN 1998 THE INDUSTRY AS A WHOLE
15 EXPERIENCED A SIGNIFICANT DOWNTURN. A NUMBER OF PUBLIC
16 COMPANIES THAT WERE COMPETITORS AND IN THAT LINE OF
17 BUSINESS FILED FOR BANKRUPTCY IN '98, '99 AND A NUMBER OF
18 THEM WENT OUT OF BUSINESS. SOME SURVIVED BUT A NUMBER OF
19 THEM WENT OUT OF BUSINESS AS A RESULT OF THE DOWNTURN.

20 Q AND WHO WAS IN CHARGE WHEN THIS HAPPENED AT HOMEGOLD?

21 A JACK STERLING WAS CEO AND KEITH GIDDENS WAS
22 PRESIDENT.

23 Q AND YOU WERE CHIEF FINANCIAL OFFICER?

24 A I WAS CHIEF FINANCIAL OFFICER.

25 Q AND WHAT DID YA'LL, BESIDES THE SUB-PRIME LENDING

1 MARKET, WAS THERE ANOTHER PROBLEM THAT HOMEGOLD
2 EXPERIENCED IN PRODUCTIVITY?

3 A YES, WE HAD BOTH RETAIL ORIGINATIONS AND WHOLESALE
4 ORIGINATIONS IN THE MORTGAGE BUSINESS. AND THE RETAIL
5 ORIGINATIONS WERE HEADED UP BY JOHN MCSHANE, HE LEFT THE
6 COMPANY AND A PART OF HIS TEAM LEFT THE COMPANY. SO, THAT
7 CONTRIBUTED TO SOME OF THE REDUCTION IN THE PRODUCTION
8 LEVELS TOO ON THE RETAIL SIDE.

9 Q AND WHAT DID YA'LL DO BASED UPON THE FINANCIAL LOSSES
10 OF HOMEGOLD IN 1998?

11 A WE BEGAN TO SCALE BACK OPERATIONS. WE HAD MORTGAGE
12 OFFICES IN INDIANAPOLIS AND PHOENIX AND HOUSTON AS WELL AS
13 GREENVILLE, SOUTH CAROLINA. WE CLOSED ALL OF THE OFFICES
14 OUTSIDE OF GREENVILLE, BROUGHT A NUMBER OF THE PEOPLE BACK
15 TO GREENVILLE WITH THE IDEA THAT RATHER THAN HAVING
16 OVERHEAD STRUCTURE FOR FOUR OFFICES THAT WERE DOING RETAIL
17 WE COULD GENERATE ALL OF THE LOANS OUT OF ONE LOCATION AND
18 SAVE COST. A LOT OF THE ORIGATION METHOD THEY DID WAS
19 DIRECT MAIL SO YOU DID DIRECT MAIL SOLICITATIONS AND DEALT
20 WITH THE BORROWERS ON THE PHONE. SO, THERE WASN'T A NEED
21 TO HAVE A PHYSICAL PRESENCE AS MUST AS THERE IS ON A TRUE
22 STOREFRONT RETAIL OPERATION.

23 Q OKAY.

24 A SO, IN ADDITION TO SCALING BACK IN TERMS OF CUTTING
25 COST WE ALSO BEGAN TO LOOK AT SUBSIDIARIES TO SELL OFF.

1 AND WE IDENTIFIED THE TWO SUB-PRIME AUTO COMPANIES AS A
2 CANDIDATE TO SELL AND RAISE ADDITIONAL CAPITAL. WE SOLD
3 BOTH OF THOSE OFF, PRETTY CLOSE TO BOOK VALUE. WE ALSO
4 IDENTIFIED THE COMMERCIAL LENDING OPERATIONS AS BEING
5 FAIRLY HIGH, CAPITAL INTENSIVE OPERATIONS. SO, DECIDED TO
6 SELL THOSE EVEN THOUGH THEY WERE PROFITABLE OPERATIONS AND
7 RAISED SIGNIFICANT AMOUNT OF MONEY THROUGH THE SELL OF
8 THOSE SUBSIDIARY COMPANIES.

9 Q AT YEAR END OF 1998 WAS THERE AN ISSUE OF GOING
10 CONCERN THAT CAME UP REGARDING THE LOSSES OF THE COMPANY?

11 A ANY TIME YOU ISSUE A SET OF FINANCIAL STATEMENTS
12 UNDER GAP YOU HAVE TO EVALUATE GOING CONCERN. BECAUSE OF
13 THE LOSSES IT GENERATED THE NEED TO ACTUALLY EXAMINE A
14 LITTLE CLOSER AND GOING INTO MORE DETAIL IN TERMS OF SOME
15 OF THE POSITIVES AND SOME OF THE NEGATIVES THAT EXISTED.
16 AND THEN LOOK AT THE OVERALL POSITIVES AND NEGATIVES AND
17 MAKE SOME CONCLUSION.

18 Q OKAY. I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
19 STATE'S EXHIBIT 91, CAN YOU IDENTIFY THAT?

20 A THAT IS THE GOING CONCERN MEMO THAT I PREPARED IN
21 JANUARY OF 1999 FOR THE YEAREND '98.

22 MS. EVANS: YOUR HONOR, AT THIS TIME WE WOULD LIKE TO
23 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 91.

24 MR. GRIFFIN: NO OBJECTION.

25 THE COURT: WITHOUT OBJECTION STATE'S 91 IS ADMITTED.

1 (WHEREUPON, STATE'S EXHIBIT NO. 91 WAS ADMITTED INTO
2 EVIDENCE.)

3 Q AND WITHOUT GOING INTO ANY GREAT DETAIL, BECAUSE WE
4 HAVE HEARD A LOT ABOUT GOING CONCERN. IN ESSENCE WHAT DID
5 YOU PUT IN THAT MEMO THAT YOU PREPARED REGARDING YEAREND,
6 DECEMBER 31ST OF 1998. FIRST OF ALL, WHEN WAS THAT
7 PREPARED?

8 A IN JANUARY 20TH OF 1999.

9 Q AND DID YOU DISCUSS SOME OF THE NEGATIVE TRENDS THAT
10 YOU WERE EXPERIENCING WITH HOMEGOLD?

11 A I DID, TALKED ABOUT NEGATIVE TRENDS FROM A FINANCIAL
12 STANDPOINT, WENT INTO SOME DETAILS ON THOSE THINGS.

13 BASICALLY THE ACCOUNTING STANDARD FOR GOING CONCERN GIVES
14 YOU AN OUTLINE OF WHAT THINGS TO CONSIDER WHEN YOU ARE
15 EVALUATING IT. SO, THE MEMO KIND OF FOLLOWS THAT OUTLINE
16 THAT IS PROVIDED IN THE ACCOUNTING LITERATURE.

17 Q AND BASED UPON YOUR REVIEW OF WHAT THE COMPANY WAS
18 DOING TO TURN ITSELF AROUND AND OTHER THINGS THAT YOU JUST
19 DESCRIBED, WHAT WAS YOUR CONCLUSION OF WHETHER OR NOT THE
20 GOING CONCERN LANGUAGE SHOULD BE PUT IN THE YEAREND AUDIT,
21 DECEMBER 31ST OF 1998?

22 A THE CONCLUSION WAS THAT AT THE END OF 1998 THERE WAS
23 NOT A REASON TO INCLUDE A GOING CONCERN CLAUSE IN THE
24 AUDIT OPINION.

25 Q AND DID YOU SHARE THAT MEMO WITH YOUR INDEPENDENT

1 AUDITOR?

2 A I DID, AND OBVIOUSLY THAT IS THE CONCLUSION, THAT IS
3 THEIR DECISION, NOT MANagements, IN TERMS OF WHAT TO PUT
4 IN THEIR OPINION. BUT THIS WAS, WE OFTEN PREPARED WORK
5 PAPERS TO HELP THEM THROUGH THEIR AUDIT AND THEY USED THIS
6 AS A GUIDE IN COMING TO THAT CONCLUSION.

7 Q OKAY. AND I GUESS IN SIMPLE TERMS THEY CAN EITHER
8 ACCEPT THE COMPANIES DECISION OR REJECT THE COMPANIES
9 DECISION?

10 A THAT IS RIGHT. AND TYPICALLY IS WHAT YOU DO IS YOU
11 START OUT WITH THE COMPANIES DECISION INITIALLY AS YOUR
12 BASE STARTING POINT TO START EVALUATING. AND THEN AS AN
13 INDEPENDENT AUDITOR YOU MAKE YOUR OWN ASSESSMENT AND
14 DECISIONS IN TERMS OF WHETHER OR NOT YOU AGREE WITH
15 MANagements CONCLUSION.

16 Q AND WHO WERE YOUR INDEPENDENT AUDITORS, I DON'T KNOW
17 IF I ASKED YOU THAT.

18 A IT WAS ELLIOTT DAVIS.

19 Q AND WHO PRIMARILY DID YOU DEAL WITH AT ELLIOTT DAVIS
20 AT THIS TIME FRAME?

21 A GARRY RANK WAS PARTNER AND CY BURGESS WAS SENIOR
22 MANAGER.

23 Q OKAY. AND IF THEY DECIDE TO ACCEPT THIS THEN THAT
24 BECOMES MANagements POSITIONS AND IT GETS FILED IN PUBLIC
25 FILING, IS THAT CORRECT?

1 A RIGHT.

2 Q IF THEY DECIDE TO REJECT IT WHAT OPTIONS DOES THE
3 COMPANY HAVE AT THAT POINT?

4 A THE ONLY OPTIONS I BELIEVE, I DON'T THINK THE COMPANY
5 HAS ANY OPTIONS AT THAT POINT BECAUSE IT IS THE AUDITORS
6 OPINION THAT WOULD NEED TO GO INTO THE FINANCIAL
7 STATEMENTS IT'S FILED.

8 Q COULD YOU FIRE THE INDEPENDENT AUDITORS AND REQUEST
9 ANOTHER INDEPENDENT AUDITOR EXAMINE THAT IF YOU DISAGREE
10 WITH THEIR DECISION?

11 A PROBABLY COULD, IT WOULD REQUIRE YOU TO FILE WITH THE
12 SEC A NOTICE OF DISAGREEMENT WITH THE AUDITORS.

13 Q DID THEY ACCEPT NOT PUTTING GOING CONCERN AND THE
14 YEAREND BOARD, DECEMBER 31ST OF 1998?

15 A THEY DID, THEY AGREED WITH THE CONCLUSION.

16 Q ALL RIGHT. WHAT DID YOU DO AFTER THAT 1998 AND 1999
17 TO START TURNING THE COMPANY AROUND?

18 A AS I MENTIONED, BEGAN CUTTING COST, HAD A NUMBER OF
19 LAYOFFS WHERE WE HAD TO REDUCE THE WORKFORCE, REDUCE THE
20 NUMBER OF PEOPLE, TRIED TO LOOK AT CHANGING OPERATIONS TO
21 STREAMLINE IT MORE, BECOME MORE EFFICIENT, CLOSING THE
22 OTHER OFFICES, TRY TO BRING EVERYTHING INTO ONE OFFICE AND
23 SELLING SOME OF THE SUBSIDIARIES TO REDUCE THE CAPITAL
24 REQUIREMENTS.

25 Q YOU ARE TALKING ABOUT SELLING SUBSIDIARIES, DID YOU

1 KEEP CAROLINA INVESTORS AS ONE OF THE SUBSIDIARIES?

2 A WE DID.

3 Q AND WHY DID YOU DO THAT?

4 A CAROLINA INVESTORS DID NOT, WAS NOT A CAPITAL
5 INTENSIVE BUSINESS, UNLIKE THE COMMERCIAL BUSINESS WHICH
6 REQUIRED A LOT OF CAPITAL TO ORIGINATE THE LOANS.
7 CAROLINA INVESTORS WAS ACTUALLY A CAPITAL PROVIDER.

8 Q AND WHEN THERE WAS THE FINANCIAL DOWNTURN IN 1998,
9 DID THAT CAUSE AN IMPACT AT CAROLINA INVESTORS?

10 A I BELIEVE IT MAY HAVE. I THINK THAT THE, IF I
11 RECALL, THE LEVEL OF INVESTMENTS THERE REMAINED FAIRLY
12 FLAT FOR A COUPLE OF YEARS, MAYBE TOOK A LITTLE BIT OF A
13 DOWNTURN.

14 Q WHILE YOU WERE CFO OF HOMEGOLD DID YOU ALSO ATTEND
15 CAROLINA INVESTORS BOARD MEETINGS?

16 A YES, I DID.

17 Q AND WHY DID YOU ATTEND THOSE BOARD MEETINGS?

18 A ONE OF THE REASONS THAT I ATTENDED, WE PREPARED, OUR
19 ACCOUNTING STAFF PREPARED EACH MONTH A VERY THOROUGH
20 FINANCIAL PACKAGE WHICH INCLUDED A COMPLETE BALANCE SHEET
21 OF EACH COMPANY AND COMPLETE INCOME STATEMENT FOR THE
22 PERIOD, A LOT OF DETAILS IN TERMS OF LOAN DELINQUENCIES,
23 HOW PAST DUES WERE PERFORMING, A LOT OF OPERATIONS DATA IN
24 TERMS OF HOW THE COMPANY WAS PERFORMING. AND IT WAS
25 IMPORTANT FOR US TO DISCLOSE TO THE PUBLIC IN OUR PUBLIC

1 FILINGS HOW THE COMPANY WAS PERFORMING. AND IT WAS ALSO
2 IMPORTANT FOR US TO GO OVER THOSE RESULTS WITH MANAGEMENT
3 AT CAROLINA INVESTORS TO MAKE SURE THAT THEY WERE FULLY
4 INFORMED OF HOW THE COMPANY WAS OPERATING SO THEY COULD IN
5 TURN COULD ADDRESS QUESTIONS WITH THEIR INVESTORS.

6 Q AND THAT INCLUDED BOTH THE GOOD AND THE BAD?

7 A RIGHT.

8 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
9 STATE'S EXHIBIT NUMBER 92, CAN YOU IDENTIFY THAT, WHOSE
10 SIGNATURE IS ON THE BACK?

11 A THAT IS MY SIGNATURE.

12 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
13 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 92.

14 MR. GRIFFIN: NO OBJECTION.

15 THE COURT: WITHOUT OBJECTION STATE'S 92 IS ADMITTED.
16 (WHEREUPON, STATE'S EXHIBIT NO. 92 WAS ADMITTED INTO
17 EVIDENCE.)

18 Q PLEASE TELL THE JURORS WHAT THAT IS.

19 A THIS IS THE JANUARY 15, 1999 MINUTES FROM THE BOARD
20 OF DIRECTORS MEETING AT CAROLINA INVESTORS.

21 Q AND ARE THOSE MINUTES A SYNOPSIS OF WHAT HAPPENED, IT
22 IS NOT A VERBATIM, WORD FOR WORD, LIKE THE COURT REPORTER.

23 A RIGHT, IT IS NOT A TRANSCRIPT BUT YOU TRY TO CAPTURE
24 THE OVERALL POINTS THAT WERE DISCUSSED AT THE MEETING.

25 Q AND AGAIN DID YOU, AND THAT WOULD OF BEEN RIGHT

1 AFTER, WHAT WAS THE DATE ON THAT ONE, I AM SORRY.

2 A JANUARY 15, 1999.

3 Q SO, AT THAT POINT WOULD THE BOOKS HAVE BEEN CLOSED
4 FOR YEAREND, 1998?

5 A AT THAT POINT THE BOOKS WOULD HAVE BEEN CLOSED BUT
6 NOT AUDITED, THE AUDIT OF THE FINANCIAL STATEMENTS
7 WOULDN'T TAKE PLACE UNTIL PROBABLY MARCH.

8 Q IT WOULD BE FAIR TO SAY THAT YOU WOULD OF BEEN ABLE
9 TO ADDRESS WHAT WOULD OF BEEN ISSUED IN THE PREVIOUS 10Q
10 WHERE IT SHOWED THAT HOMEGOLD HAD EXPERIENCED LOSS EVEN
11 THOUGH YOU DIDN'T HAVE THE 10K READY AT THAT POINT?

12 A THAT IS RIGHT, WE HAD OUR INTERNAL FINANCIAL
13 STATEMENTS AND WE NEVER HAD ANY AUDIT ADJUSTMENTS FROM OUR
14 INTERNAL FINANCIAL STATEMENTS.

15 Q AND, AGAIN, AFTER EACH QUARTERLY STATEMENT DID YOU
16 CONTINUE TO GO UP AND REPORT EVERYTHING THAT WAS GOING ON
17 AT HOMEGOLD TO THE CAROLINA INVESTORS BOARD?

18 A I AM SORRY, REPEAT THAT AGAIN.

19 Q DID YOU CONTINUE,--

20 A AFTER THE MERGER?

21 Q NO, I AM TALKING ABOUT AFTER YEAREND 1998, DID YOU
22 CONTINUE TO REPORT?

23 A SURE, YES.

24 Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS STATE'S
25 EXHIBIT NUMBER 93. CAN YOU IDENTIFY THAT?

1 A YES, THIS IS THE APRIL 13TH BOARD OF DIRECTORS
2 MINUTES FROM THE CAROLINA INVESTORS BOARD MEETING. SO,
3 THAT WOULD OF BEEN WHERE WE REVIEWED THE FIRST QUARTER
4 RESULTS FROM 1999.

5 MS. EVANS: AT THIS TIME I WOULD LIKE TO MOVE INTO
6 EVIDENCE STATE'S EXHIBIT NUMBER 93.

7 MR. GRIFFIN: NO OBJECTION.

8 THE COURT: WITHOUT OBJECTION STATE'S 93 IS ADMITTED.
9 (WHEREUPON, STATE'S EXHIBIT NO. 93 WAS ADMITTED INTO
10 EVIDENCE.)

11 Q AND, AGAIN, WITHOUT GOING THROUGH EVERYTHING, DID YOU
12 BRING THOSE SAME BOOKS UP THERE AND EXPLAIN THE FINANCIAL
13 CONDITION OF WHAT IS GOING ON AT HOMEGOLD?

14 A WE DID.

15 Q AND WHY DO YOU DO THAT?

16 A AGAIN, IT IS TO MAKE SURE THAT MANAGEMENT IS FULLY
17 INFORMED OF THE OPERATIONS OF THE COMPANY AND HOW IT IS
18 PERFORMING AS WELL AS ANY PLANS GOING FORWARD.

19 Q AND IT IS ALSO AN OPPORTUNITY FOR CAROLINA INVESTORS
20 TO EXPLAIN TO YOU WHAT IS GOING ON WITH THEIR BUSINESS?

21 A YES, THEY HAVE THE OPPORTUNITY THEN ALSO TO TALK
22 ABOUT THEIR RESULTS FROM AN OPERATIONS STANDPOINT.

23 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
24 STATE'S EXHIBIT NUMBER 94 AND 95. ARE THESE THE SAME
25 THINGS MR. MAST?

1 A YES, THEY ARE.

2 Q MINUTES?

3 A THEY ARE MINUTES OF THE CAROLINA INVESTOR BOARD
4 MEETINGS. ONE FROM JULY 13TH, '99 AND ONE FROM MAY 2ND OF
5 2000.

6 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
7 MOVE IN STATE'S EXHIBIT 94 AND 95.

8 MR. GRIFFIN: NO OBJECTION.

9 THE COURT: WITHOUT OBJECTION THOSE EXHIBITS ARE
10 ADMITTED, 94 AND 95.

11 (WHEREUPON, STATE'S EXHIBIT NOS. 94 AND 95 WERE
12 ADMITTED INTO EVIDENCE.)

13 Q WITHOUT BELABORING THE POINT, THOSE ARE THE THINGS,
14 IT IS A ROUGH SKETCH OF WHAT IS DISCUSSED THERE, CAROLINA
15 INVESTORS REPORTS TO YOU, YOU DISCUSS YOUR FINANCIALS TO
16 THEM AND YOU COME UP THERE WITH FINANCIALS PREPARED?

17 A THAT'S RIGHT, WE HAVE A COMPLETE FINANCIAL PACKAGE
18 BOOK THAT WE HAVE GIVEN THEM EACH QUARTER.

19 Q OKAY. AND I AM GOING TO DRAW YOUR ATTENTION,
20 SPECIFICALLY, TO STATE'S EXHIBIT NUMBER 95. AND SO THIS
21 IS SOMETHING THAT IS DONE WHEN YOU GET YOUR AUDITED
22 FINANCIALS WHETHER IT BE A 10Q, 10K, YOU GO UP AND YOU SIT
23 DOWN AND YOU FULLY DISCLOSE AND DISCUSS WITH THE BOARD OF
24 CAROLINA INVESTORS WHAT IS GOING ON FINANCIALLY WITH THE
25 COMPANY?

1 A THAT IS RIGHT.

2 Q AND TO HOMEGOLD?

3 A RIGHT.

4 Q AND YOU PRESENT EVERYTHING THAT IS GOING ON, BOTH
5 GOOD?

6 A THAT'S RIGHT, POSITIVES, NEGATIVES, WHAT THE TRENDS
7 ARE AND WHAT THE FINISHED RESULTS ARE.

8 Q AND WHY IS THAT IMPORTANT TO YOU TO MAKE SURE THEY
9 HAVE A FULL UNDERSTANDING OF WHAT IS GOING ON AT HOMEGOLD
10 FINANCIAL WHEN YOU WERE CFO?

11 A IT IS IMPORTANT FROM THE STANDPOINT OF MAKING SURE
12 THAT WE ARE COMMUNICATING ACCURATELY, THE STATUS OF THE
13 COMPANY AND THE FINANCIAL RESULTS.

14 Q AND WHY IS THAT?

15 A AS A PUBLIC COMPANY YOU ARE, YOU HAVE THE FIDUCIARY
16 DUTY TO KEEP YOUR SHAREHOLDERS INVOLVED IN HOW THE COMPANY
17 IS DOING.

18 Q AND WHO ARE SOME OF THOSE PEOPLE, IF YOU CAN LOOK AT
19 ONE OF THEM, WHO ARE SOME OF THE PEOPLE THAT ARE THERE AT
20 THE CAROLINA INVESTORS BOARD?

21 A AT THIS MEETING IN MAY THERE WAS DON BOBO, JACK
22 STERLING, EARLE MORRIS, DANNY SHARPE, LARRY OWEN. AND
23 MYSELF AND BILL LONG ATTENDED TO THIS MEETING EVEN THOUGH
24 WE WEREN'T MEMBERS OF THE BOARD.

25 Q BUT YOU WEREN'T A MEMBER OF THE BOARD OF CAROLINA

1 INVESTORS BUT YOU WENT UP THERE TO REPORT THE FINANCIAL
2 CONDITION?

3 A RIGHT.

4 Q AND ARE SOME OF THOSE MEMBERS OF THE BOARD OFFICERS
5 AND DIRECTORS OF CAROLINA INVESTORS?

6 A YES, EARLE MORRIS AND LARRY OWEN WOULD BE OFFICERS
7 AND DIRECTORS. AND THE OTHERS WOULD BE DIRECTORS OF
8 CAROLINA INVESTORS.

9 Q AND AS OFFICERS AND DIRECTORS OF A COMPANY, ARE THEY
10 ALSO TALKING TO INDIVIDUALS THAT ARE BUYING THE NOTES AND
11 DEBENTURES?

12 A YES, I KNOW EARLE AND LARRY HAD A LOT OF
13 COMMUNICATION WITH INVESTORS.

14 Q IS THAT ANOTHER REASON WHY YOU ARE SIGNIFICANT TO
15 HELP THEM UNDERSTAND THE TRUE FINANCIAL CONDITION OF
16 HOMEGOLD FINANCIAL?

17 A DEFINITELY, YOU WOULD WANT TO MAKE SURE THAT THEY ARE
18 INFORMED SO THAT AS THEY COMMUNICATE OUT TO INVESTORS THAT
19 THEY ARE, THAT THEY KNOW HOW THE COMPANY IS DOING SO THEY
20 CAN ACCURATELY PORTRAY TO THOSE INVESTORS.

21 Q OKAY. LET'S GO BACK. YOU WERE TALKING ABOUT THINGS
22 THAT HOMEGOLD DID TO START TURNING IT AROUND AS TO THE
23 LOSS IN 1999 AND 1998. DID YOU START LOOKING FOR A
24 MERGER?

25 A THE COMPANY HAD HIRED RAYMOND JAMES AS A INVESTMENT

1 BANKER TO ADVISE ON POTENTIAL MERGER POSSIBILITIES, EITHER
2 THROUGH SELLING THE ENTIRE COMPANY OR THROUGH LOOKING AT
3 MERGER PARTNERS TO BUY.

4 Q AND WHO SPECIFICALLY DO YOU REMEMBER THAT YOU WERE
5 DEALING WITH FROM RAYMOND JAMES?

6 A JAN SIROTA.

7 Q OKAY. AND I KNOW I AM STEPPING AHEAD, WAS ULTIMATELY
8 AFTER THE HOMEGOLD/HOMESENSE MERGER THEN, WAS JAN SIROTA
9 FROM YOUR KNOWLEDGE PLACED ON THE BOARD OF DIRECTORS OF
10 HOMEGOLD?

11 A HE WAS.

12 Q AND WHO PLACED HIM ON THE BOARD OF DIRECTORS?

13 A THE MERGER AGREEMENT SPECIFIED AT THE TIME OF THE
14 MERGER THAT JACK WOULD DESIGNATE TWO PEOPLE PLUS HIMSELF,
15 RONNIE WOULD DESIGNATE TWO PEOPLE PLUS HIMSELF. AND THAT
16 THERE WOULD BE A, ONE ADDITIONAL BOARD MEMBER THAT WOULD
17 BE CONSIDERED INDEPENDENT OF EITHER RONNIE OR JACK AND
18 BOTH RONNIE AND JACK AGREED AND THE MERGER DOCUMENTS THAT
19 THAT INDIVIDUAL WOULD BE JAN SIROTA.

20 Q BUT AT THIS POINT AND TIME JAN SIROTA IS GOING OUT
21 AND LOOKING FOR POTENTIAL MERGER PARTNERS. DO YOU
22 REMEMBER THE FIRST MERGER PARTNER THEY BROUGHT TO YOUR
23 ATTENTION?

24 A I BELIEVE THAT WAS WESTMARK OUT OF FLORIDA.

25 Q AND WHO WENT TO WESTMARK TO LOOK AND TO SEE IF THERE

1 WAS A GOOD POTENTIAL MERGER PARTNER?

2 A I AM NOT SURE IF ANYONE WENT DOWN THERE. I BELIEVE
3 WE HAD THEIR CEO AND CFO COME UP. WE LOOKED AT SOME OF
4 THEIR INFORMATION THAT WAS AVAILABLE OFF OF THEIR WEBSITE
5 AND SOME OF THEIR PUBLIC FILINGS AND LOOKED, THEY BROUGHT
6 UP SOME OF THE FINANCIAL INFORMATION INTO THE BOARD ROOM
7 AND IN DISCUSSING WITH THEM AND TALKING ABOUT THEIR
8 FINANCIAL SITUATION, THEIR LIQUIDITY, THEIR NET WORTH, WE
9 DETERMINED THAT THEY WERE NOT A GOOD MERGER PARTNER. THEY
10 DID NOT HAVE, YOU KNOW, STRONG ENOUGH OPERATIONS AND NET
11 WORTH.

12 Q OKAY. AND SO DID YOU EVEN START DUE DILIGENCE WITH
13 WESTMARK?

14 A WE DID NOT, WE CONCLUDED AT THAT MEETING THAT, WE
15 DIDN'T BELIEVE IT WAS A GOOD PARTNER.

16 Q AND WHEN YOU SAY, WE, WHO SPECIFICALLY WAS DEALING
17 WITH WESTMARK?

18 A IT WOULD OF BEEN JACK STERLING AND KEITH GIDDENS.

19 Q AND WAS THERE A SECOND COMPANY THAT WAS BROUGHT TO
20 YA'LL'S ATTENTION?

21 A THE SECOND COMPANY WAS G&P, GOODRICH AND PENNINGTON
22 MORTGAGE OUT OF CALIFORNIA. AND WE TOOK A TEAM OF ABOUT
23 SIX PEOPLE OUT ON A DUE DILIGENCE TRIP TO THEIR
24 OPERATIONS. THEY, AGAIN, WE CAME TO THE CONCLUSION THAT
25 THEY DID NOT HAVE THE LIQUIDITY, THEY DID NOT HAVE STRONG

1 OPERATIONS AND WE DID NOT FEEL LIKE THEY WERE A GOOD
2 MERGER PARTNER.

3 Q AND PRIMARILY WHAT WAS HOMEGOLD LOOKING FOR IN A
4 MERGER PARTNER?

5 A HOMEGOLD HAD SET UP A VERY STRONG INFRASTRUCTURE AND
6 SYSTEMS, I.T. AREA, ACCOUNTING, HAD A VERY STRONG
7 INFRASTRUCTURE. BUT WHAT THEY WERE LACKING IS PRODUCTION
8 ARM, THEY NEEDED TO INCREASE THE AMOUNT OF PRODUCTION SO
9 THAT YOU HAD MORE LOANS COMING ON THE BOOKS, MORE VOLUME,
10 MORE SALES. AND THAT IS THE PIECE THAT WE WERE TRYING TO
11 FIND IN A MERGER PARTNER TO RETAIN THE INFRASTRUCTURE BUT
12 BRING ON MORE PRODUCTION CAPABILITIES.

13 Q AND DID YOU, BASED UPON YOUR REVIEW, THE SECOND, DID
14 THEY HAVE THAT PRODUCTIVITY, INFRASTRUCTURE, GOODRICH?

15 A WE CONCLUDED THAT THEY DID NOT, BECAUSE OF THEIR
16 LIQUIDITY ISSUES AND BECAUSE OF THEIR DIFFICULTIES THAT
17 THEY WERE EXPERIENCING THEY HAD DWINDLED DOWN TO A POINT
18 THAT WE DIDN'T FEEL LIKE THEIR PRODUCTION ARM WAS CAPABLE
19 OF BRINGING IN THE PRODUCTION THAT WAS NECESSARY.

20 Q AND WHO REPORTED THIS BACK TO MR. STERLING?

21 A I WROTE UP THE CONCLUSIONS INTO A DUE DILIGENCE
22 REPORT THAT ALL SIX MEMBERS OF THE DUE DILIGENCE TEAM WERE
23 IN AGREEMENT WITH. AND WE PRESENTED IT TO THE MANAGEMENT
24 COMMITTEE IN THE BOARD ROOM TO JACK.

25 Q AND WHAT WAS HIS REACTION?

1 A HIS REACTION WAS, HE BECAME UPSET WITH THE RESULTS OF
2 THAT. HE LEFT THE MEETING IN THE MIDDLE OF THE
3 PRESENTATION AND BASICALLY SAID THAT, YOU KNOW, YOU GUYS
4 ARE NEVER GOING TO FIND SOMEBODY THAT WE, YOU KNOW, THAT
5 YOU WOULD BE HAPPY WITH MERGING AND LEFT.

6 Q AT THAT POINT DID RAYMOND JAMES TALK ABOUT A COMPANY
7 HERE IN LEXINGTON, SOUTH CAROLINA CALLED HOMESENSE?

8 A SUBSEQUENT TO THAT, YES.

9 Q SUBSEQUENT TO THAT?

10 A RIGHT.

11 Q AND WERE YOU ORIGINALLY INVOLVED IN THAT MERGER?

12 A I WAS NOT.

13 Q AND DID YOU SUBSEQUENTLY BECOME INVOLVED. WHO WAS
14 ORIGINALLY INVOLVED IN THOSE MERGER TALKS?

15 A ORIGINALLY JACK STERLING AND JAN SIROTA AND RONNIE.

16 Q AND WHO?

17 A RONNIE.

18 Q RONNIE SHEPPARD, THE DEFENDANT?

19 A RIGHT.

20 Q AT SOME POINT DID YOU BECOME INVOLVED IN THE DEAL?

21 A YES.

22 Q AND WHAT DID YOU DO REGARDING THIS MERGER?

23 A I WAS INVOLVED IN SOME OF THE DISCUSSIONS, I WAS
24 INVOLVED IN SOME OF THE, LOOKING AT THE MERGER DOCUMENTS,
25 I WAS INVOLVED IN PROVIDING THE DUE DILIGENCE REQUESTED BY

1 THE HOMESENSE TEAM, HOMESENSE HAD HIRED A LEGAL FIRM, I
2 BELIEVE IT WAS NEXSEN PRUET OUT OF COLUMBIA, IF I AM NOT
3 MISTAKEN. AND SENT TO US A VERY EXTENSIVE REQUEST FOR DUE
4 DILIGENCE ITEMS THAT WE RESPONDED TO AND PROVIDED, MADE
5 COPIES AND PROVIDED ALL OF THE INFORMATION THAT WAS
6 REQUESTED.

7 Q AT FIRST GLANCE DID YOU THINK HOMESENSE WAS A GOOD
8 MERGER?

9 A YES, IN LOOKING AT THE FINANCIAL STATEMENTS THAT WERE
10 PROVIDED TO US, THEY HAD A COUPLE OF MILLION DOLLARS,
11 THREE OR FOUR MILLION DOLLARS OF NET WORTH REPORTED ON
12 THEIR BALANCE SHEET, THEY HAD SHOWN A GOOD TREND OF
13 INCOME, THEY SHOWED A GOOD INCOME IN THE PAST TWO YEARS.
14 SO, FROM THE SURFACE IN LOOKING AT THE FINANCIAL
15 STATEMENTS THAT WERE PROVIDED TO US AND THEY SHOWED GOOD
16 PRODUCTION TRENDS, GOOD STEADY MONTHLY PRODUCTION. IT
17 APPEARED THAT THEY WOULD BE ABLE TO BRING THE PRODUCTION
18 ARM THAT WAS MISSING FROM HOMEGOLD.

19 Q AT SOME POINT DID YOU START LOOKING AT THE BOOKS OF
20 HOMESENSE?

21 A I DID. I BEGAN LOOKING CLOSER BEHIND THE DETAILS OF
22 SOME OF THE FINANCIAL STATEMENTS THAT WERE PROVIDED TO US
23 AND BEGAN TO SEE SOME PROBLEMS WITH THOSE FINANCIAL
24 STATEMENTS.

25 Q AND JUST EXPLAIN IN GENERAL TERMS SOME PRELIMINARY

1 PROBLEMS THAT YOU SAW WITH THOSE FINANCIAL STATEMENTS OF
2 HOMESENSE.

3 A ONE OF THE THINGS IDENTIFIED WAS THAT THEY WERE
4 RECORDING INCOME ON THE LOANS THAT WERE ORIGINATED PRIOR
5 TO SELLING THE LOANS AND WERE NOT DEFERRING THAT INCOME
6 UNTIL THE TIME OF THE SELL. SO, IN OTHER WORDS, IT
7 ACCELERATED THE INCOME WHICH WAS NOT IN ACCORDANCE WITH
8 GAP AND HAD THE FINANCIALS PROPERLY STATED THAT IT WOULD
9 OF REDUCED THEIR NET INCOME AND NET WORTH BY ABOUT \$2.4
10 MILLION DOLLARS.

11 Q AND DO PRIVATE COMPANIES STILL NEED TO COMPLY WITH
12 GAP?

13 A THEY DO AND HOMESENSE IN PARTICULAR HAD LINES OF
14 CREDIT WITH SEVERAL BANKS AND FINANCIAL INSTITUTIONS AND
15 THEIR CREDIT AGREEMENTS REQUIRED THAT THEY PROVIDE AUDITED
16 FINANCIAL STATEMENTS IN ACCORDANCE WITH GAP. AND IT WAS
17 ALSO, I BELIEVE, A REQUIREMENT OF OUR MERGER.

18 Q OKAY. AND YOU SAID LOOKING AT SOME OF THOSE
19 IRREGULARITIES WAS THE DOWNWARD DEPARTURE OF \$2.4 MILLION
20 DOLLARS.

21 A RIGHT.

22 Q AND WHAT DID YOU NOTICE ABOUT THE EXPENSES AT
23 HOMESENSE?

24 A I AM NOT SURE, WHAT TIME FRAME ARE YOU REFERRING TO?

25 Q LET'S SAY AT PREMERGER AT THIS POINT, WHEN YOU WERE

1 DOING THIS DUE DILIGENCE DID YOU DISCUSS SOME OF THESE,
2 WHAT YOU SAY WERE NOT COMPLIED WITH GAP WITH THE DEFENDANT
3 ABOUT THE BOOKS OF HOMESENSE?

4 A YES.

5 Q OKAY. AND WHAT WAS HIS REACTION?

6 A HIS REACTION WAS THAT THEY WERE PROPERLY ACCOUNTED
7 FOR AND THAT THERE WAS NOT AN ISSUE.

8 Q AND DID YOU REPORT THIS BACK TO HOMEGOLD?

9 A I DID.

10 Q DID YOU THINK THIS WAS A MAJOR PROBLEM WHEN IT CAME
11 TO WHETHER OR NOT THEY SHOULD GO FORWARD WITH THE MERGER
12 AT THAT POINT?

13 A YES, TO ME IT WAS A SIGNIFICANT AMOUNT THAT, OF A
14 CHANGE TO BOTH THEIR NET WORTH AND THEIR HISTORICAL
15 INCOME. SO, THAT IT WOULD REALLY CHANGE HOW GOOD OF A
16 MERGER PARTNER THEY WOULD BE, IT WOULD CHANGE THE OPINION
17 ON THAT.

18 Q AT THE TIME THAT YOU WERE DOING THIS WAS THERE A
19 MUTUAL INDEMNITY AGREEMENT AS FAR AS YOU KNOW?

20 A AS PART OF THE MERGER DOCUMENTS A MUTUAL INDEMNITY
21 AGREEMENT WAS PUT INTO PLACE WHICH REQUIRED THAT, YOU
22 KNOW, AT THE TIME THE MERGER WAS AGREED TO THERE WAS A
23 CERTAIN NET WORTH THAT HOMESENSE INDICATED THAT IT HAD.
24 AND WHAT THE MUTUAL INDEMNITY AGREEMENT SAID IS, IF YOU
25 COME AT THE DATE OF THE MERGER WITH HIGHER NET WORTH THAN

1 THAT THEN YOU GET THAT EXCESS PAID TO YOU AT THE TIME OF
2 THE MERGER. IF YOU COME TO THE TABLE WITH LESS NET WORTH
3 THEN IT IS REQUIRED THAT YOU HAVE TO ACTUALLY PUT MORE
4 MONEY IN TO MAKE UP THAT SHORTFALL. SO, IT WAS A WAY OF
5 SAYING THAT THE AGREEMENT WAS REACHED BASED ON THIS LEVEL
6 OF NET WORTH AND IF YOU COME WITH LESS THAN THAT YOU NEED
7 TO PUT MORE IN TO MAKE THAT UP.

8 Q YOU PREVIOUSLY TESTIFIED THAT YOU FELT THAT HOMEGOLD
9 HAD ADEQUATE INFRASTRUCTURE, DID YOU THINK THAT
10 INFRASTRUCTURE WOULD SOMEHOW HELP ON COMPLETION OF THE
11 HOMESENSE/HOMEGOLD MERGER?

12 A YES, BECAUSE THE PLAN WOULD BE THAT HOMESENSE WOULD
13 BE FOCUSED ON PRODUCTION, ALL OF THE INFRASTRUCTURE
14 ACCOUNTING WHICH WOULD STILL BE MAINTAINED UNDER THE
15 INFRASTRUCTURE OF HOMEGOLD.

16 Q YOU PREVIOUSLY SAID YOU PROVIDED ALL OF THE FINANCIAL
17 RECORDS TO THE HOMESENSE DUE DILIGENCE TEAM?

18 A RIGHT.

19 Q AND YOU PROVIDED ADEQUATE RECORDS THAT YOU KEPT AT
20 HOMEGOLD?

21 A WE DID, WE PROVIDED AND COMPLETE DUE DILIGENCE
22 DISCLOSURES.

23 Q AND DURING THE MERGER DID YOU HAVE DISCUSSIONS WITH
24 THE DEFENDANT ABOUT WHY HE WANTED TO MERGE WITH HOMEGOLD?

25 A YES, ONE OF THE REASONS IS THAT HE WAS INTERESTED IN

1 TAKING HIS COMPANY PUBLIC. HE WAS A PRIVATE COMPANY AT
2 THE TIME AND IF YOU GO THROUGH THE NORMAL PROCESS OF
3 TAKING A COMPANY PUBLIC YOU HAVE TO FILE AN, YOU HAVE TO
4 GO THROUGH THE IPO PROCESS, IT IS A VERY EXPENSIVE AND
5 TIME CONSUMING PROCESS. AND HE VIEWED THIS MERGER AS A
6 MEANS OF GETTING HIS COMPANY PUBLIC WITHOUT GOING THROUGH
7 THAT PROCESS.

8 Q AND BASED UPON, SO EVEN AFTER YOUR DISAGREEMENT WITH
9 THE DEFENDANT DID HE STILL WANT TO GO FORWARD WITH THE
10 MERGER BASED UPON YOUR CONVERSATIONS WITH HIM?

11 A YES.

12 Q AND WHAT ABOUT YOUR REPORT BACK TO MR. STERLING ABOUT
13 THE PROBLEMS THAT YOU FOUND FINANCIALLY OF HOMESENSE, DID
14 YOU STILL WANT TO GO FORWARD WITH THE MERGER?

15 A YES, AND JACK'S REASONING FOR THAT IS THAT WHILE I
16 FOUND THESE PROBLEMS OR INDICATIONS OF WORSE FINANCIAL
17 CONDITION THAN WE WERE LOOKING AT, BECAUSE THE MUTUAL
18 INDEMNITY AGREEMENT REQUIRED HIM TO PUT UP ADDITIONAL CASH
19 AT THE TIME OF THE MERGER AND BE MADE WHOLE, THAT ENABLED
20 THE MERGER TO GO FORWARD UNDER THE SAME BASIS.

21 Q AND WHILE YOU ARE DOING THIS, THIS DUE DILIGENCE WENT
22 ON FOR A COUPLE OF MONTHS?

23 A RIGHT.

24 Q AND WHEN DID THE MERGER TAKE PLACE?

25 A THE MERGER TOOK PLACE ON MAY 9TH OF 2000.

1 Q AND WERE YOU STILL, AT THAT TIME OF THE MERGER, STILL
2 TRYING TO RECONCILE THE HOMESENSE AND HOMEGOLD BOOKS AND
3 MERGER THEM INTO ONE, I GUESS, SET OF FINANCIALS?

4 A RIGHT, AT THE TIME OF THE MERGER, FROM THAT POINT
5 FORWARD IT BECOMES ONE COMPANY SO YOU HAVE TO TAKE ALL OF
6 THE BALANCE SHEET INFORMATION AND FINANCIAL INFORMATION
7 FROM HOMESENSE AND PUT IT ON THE BOOKS OF HOMEGOLD. SO,
8 TO DO THAT YOU HAVE GOT TO DRILL DOWN TO THE DETAIL AND
9 MAKE SURE THE INFORMATION THAT YOU ARE GETTING FROM
10 HOMESENSE IS ACCURATE INFORMATION TO PUT ON THE BOOKS.

11 Q ON YOUR REVIEW OF THOSE DOCUMENTS, WERE YOU WORRIED
12 ABOUT THE INTERNAL CONTROL OF THE DEFENDANT EXERCISED OVER
13 THE ACCOUNTING WHILE HE WAS IN CHARGE AT HOMESENSE?

14 A VERY MUCH SO. WE HAD A VERY DIFFICULT TIME GETTING
15 ACCURATE INFORMATION, THE INFORMATION THAT WE WOULD GET WE
16 WOULD REVIEW AND FIND PROBLEMS WITH, WE WOULD HAVE TO GO
17 BACK AND GET IT CORRECTED. AND SO WE WANTED TO MAKE SURE
18 THAT GOING FORWARD ALL OF THE INFRASTRUCTURE, ALL OF THE
19 ACCOUNTING, ALL OF THE FINANCE TOOK PLACE UNDER THE
20 HOMEGOLD STRUCTURE.

21 Q IS THAT ONE THING THAT MADE YOU FEEL A LITTLE BIT
22 MORE COMFORTABLE GOING THROUGH THE HOMEGOLD, WOULD BE
23 DOING THE FINANCIALS?

24 A RIGHT.

25 Q AND AFTER THE MERGER TOOK PLACE WHO WAS IN CHARGE OF

1 THE COMPANY, WHO WAS CEO?

2 A RONNIE SHEPPARD BECAME CEO AT THE TIME OF THE MERGER.

3 Q AND WHAT ROLE DID JACK STERLING TAKE AFTER THE
4 MERGER?

5 A HE KEPT HIS OFFICE THERE AND HE WAS STILL THERE BUT
6 MADE IT CLEAR THAT RONNIE WAS CEO.

7 Q AND WE ARE SAYING THERE, HOMEGOLD IS OUT OF
8 GREENVILLE AND HOMESENSE IS OUT OF LEXINGTON?

9 A RIGHT.

10 Q THE DEFENDANT STAYED HERE IN LEXINGTON AND KIND OF
11 PERIODICALLY GO UP TO HOMEGOLD, FROM WHAT YOU SAW HOW
12 OFTEN DID YOU SEE THE DEFENDANT WHILE YOU WERE THERE AT
13 THE MERGER?

14 MR. GRIFFIN: OBJECTION, YOUR HONOR, I OBJECT TO THE
15 QUESTION AS TO THERE.

16 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

17 Q HOW MANY DAYS A WEEK WOULD YOU SEE THE DEFENDANT IN
18 GREENVILLE?

19 A ABOUT ONE DAY A WEEK.

20 Q WHERE WAS THE HOMESENSE OR THE HOMEGOLD, AFTER THE
21 MERGER, ONCE HOMESENSE BECAME HOMEGOLD, CORRECT?

22 A RIGHT, IT WAS ONE COMPANY. EVEN THOUGH IT WAS TWO
23 LOCATIONS IT BECAME ONE COMPANY AT THE DATE OF THE MERGER.

24 Q AFTER THE MERGER DID YOU DISCOVER MORE FINANCIAL
25 PROBLEMS REGARDING HOMESENSE?

1 A YES, THE FIRST WEEK AFTER THE MERGER WE WERE FLOODED
2 WITH INVOICES, UNPAID, PAST DUE INVOICES FROM HOMESENSE
3 THAT THEY SENT UP WHICH WAS OVER A MILLION DOLLARS WORTH
4 OF INVOICES. THEY WERE NOT SHOWING UP AS TRUE LIABILITIES
5 ON THEIR BOOKS SO IT HAD NOT BEEN EXPENSED BY THEM, IT HAD
6 BEEN SAVED UP TO PAY BY US AFTER THE MERGER. WE FOUND
7 WHERE SOME OF THE LOANS THAT WERE ON THE BOOKS WERE STILL
8 ON THE BOOKS EVEN THOUGH WE FOUND OTHER RECORDS THAT
9 SHOWED THE SAME LOANS HAD BEEN SOLD. WE FOUND LOANS WHERE
10 THEY WERE SERVING AS COLLATERAL UNDER LINE A AND WERE ALSO
11 SUBMITTED AS COLLATERAL UNDER LINE B BY TWO DIFFERENT
12 FINANCIAL INSTITUTIONS. SO, THEY WERE TAKING THE SAME
13 LOAN AND BORROWING AGAINST IT TWICE. SO, THE COLLATERAL
14 RECORDS, THE WAREHOUSE LINE RECORDS, WE WERE TRYING TO
15 SORT THROUGH ALL OF THAT BECAUSE IT WAS VERY MESSY AND
16 APPEARED TO BE A LOT OF ERRORS IN IT.

17 Q AND DID YOU TALK TO THE DEFENDANT ABOUT WHAT YOU
18 FOUND FROM THE ACCOUNTING STANDPOINT?

19 A I DID, HE WAS REALLY DISMISSIVE, YOU KNOW, GENERALLY
20 POINTED ME IN THE DIRECTION OF TALKING WITH HIS ACCOUNTING
21 STAFF. IN TALKING WITH HIS ACCOUNTING STAFF THE REACTION
22 WAS PRETTY MUCH THEY JUST DID WHAT RONNIE TOLD THEM TO DO.

23 Q AND DURING THE MERGER NEGOTIATIONS THAT YOU
24 PREVIOUSLY TESTIFIED TO THAT GIDDENS WAS IN CHARGE, WAS
25 THERE A DECISION MADE BY THE DEFENDANT ABOUT MR. GIDDENS?

1 A YES, AS PART OF THE MERGER RONNIE MADE IT CLEAR THAT
2 HE DID NOT WANT KEITH GIDDENS TO PLAY ANY ROLE IN THE
3 COMPANY GOING FORWARD AND THAT WAS PART OF WHAT HE WANTED
4 IN TERMS OF THE MERGER IS TO HAVE KEITH GIDDENS GONE FROM
5 THE COMPANY.

6 Q AND I WANT TO DRAW YOUR ATTENTION TO WHAT IS IN FRONT
7 OF YOU, I WANT TO DRAW YOUR ATTENTION, THESE ARE THE BOARD
8 OF DIRECTOR MEETINGS. WHAT IS THE DAY OF THEM?

9 A MAY 2ND, 2000.

10 Q AND CAN YOU JUST PLEASE READ TO THE JURORS THE LAST
11 PARAGRAPH OF THAT?

12 A THE LAST PARAGRAPH STATES, THE FOLLOWING RESOLUTION
13 WAS DISCUSSED AND ADOPTED BY THE BOARD WHEREAS KEITH B.
14 GIDDENS HAS RESIGNED AS A DIRECTOR OF CAROLINA INVESTORS,
15 INC., THE COMPANY. THE BOARD OF DIRECTORS OF THE COMPANY,
16 THE BOARD BELIEVES THAT IT IS IN THE BEST INTEREST OF THE
17 COMPANY AND AS SOLE SHAREHOLDER TO APPOINT KEVIN J. MAST
18 TO FILL THE VACANCY ON THE BOARD RESULTING FROM MR.
19 GIDDENS' RESIGNATION.

20 Q SO, AS A RESULT OF THE TERMS OF THE MERGER MR.
21 GIDDENS LEAVING HOMEGOLD, HE HAD TO STEP OFF THE CAROLINA
22 INVESTORS BOARD?

23 A RIGHT.

24 Q AND AT THAT POINT YOU WERE PUT ON THE CAROLINA
25 INVESTORS BOARD?

1 A RIGHT.

2 Q ABOUT HOW LONG DID THAT LAST?

3 A ONE MONTH.

4 Q AFTER THE MERGER WERE THERE SEVERAL INDIVIDUALS THAT
5 THE DEFENDANT GOT RID OF AT HOMEGOLD?

6 A YES, PART OF THE NEGOTIATIONS ON THE MERGER WERE TO
7 PUT EMPLOYMENT AGREEMENTS IN PLACE WITH KEY MANAGEMENT
8 PERSONNEL TO INSURE THAT THE INFRASTRUCTURE THAT I
9 MENTIONED STAYED IN PLACE. WE DID NOT WANT KEY PEOPLE
10 LEAVING AND AT THE TIME OF THE MERGER, THE FIRST WEEK OF
11 THE MERGER RONNIE^S CAME UP AND DISMISSED LAIRD MINOR, WHO
12 WAS OUR EBT OF STRUCTURED FINANCE ON THE LOAN SELLS FOR
13 US. HE DISMISSED KIM BULLARD WHO WAS HEAD OF PORTFOLIO
14 MANAGEMENT AND SERVICING OPERATIONS. WE HAD, JENNIFER
15 CHAMPAGNE HAD LEFT THE MONTH BEFORE. SO THERE WAS A LOT
16 OF MANAGEMENT TURNOVER AND RONNIE PUT HIS OWN MANAGEMENT
17 PEOPLE IN PLACE FROM HOMESENSE TO HEAD UP ALL OF THESE
18 AREAS AND DEPARTMENTS.

19 Q APPROXIMATELY HOW MANY HOMESENSE EMPLOYEES STAYED ON
20 AND BECAME HOMEGOLD EMPLOYEES?

21 A AS FAR AS I KNOW, ALL OF THE HOMESENSE EMPLOYEES
22 STAYED ON, THE PEOPLE THAT WERE LET GO WERE THE HOMEGOLD
23 PEOPLE THAT RAN THOSE DEPARTMENTS.

24 Q AND WHEN YOU STARTED SEEING ALL OF THESE BILLS THAT
25 WERE COMING IN, AGAIN, DID YOU CONFRONT THE DEFENDANT

1 ABOUT THE FACT THAT ALL OF THESE BILLS PREMERGER WERE
2 BEING NOW BILLED TO HOMEGOLD?

3 A YES AND HE SAID IT WAS ONE COMPANY, IT DIDN'T MAKE A
4 DIFFERENCE, JUST PAY THE BILLS.

5 Q AND GENERALLY WHAT WERE YOUR DEALINGS LIKE WITH THE
6 DEFENDANT?

7 A HE TOOK THE POSITION THAT, HE MANDATED WHAT HE WANTED
8 DONE AND YOU EITHER NEEDED TO DO WHAT HE SAID OR YOU WOULD
9 BE REPLACED BY SOMEBODY THAT WOULD DO WHAT HE SAID.

10 Q AND DID YOU DO AS HE SAID?

11 A I DID NOT.

12 Q AND DID YOU HAVE A SEVERANCE PACKAGE WITH HOMEGOLD?

13 A YES, I DID.

14 Q AND HOW LONG WAS THAT SEVERANCE PACKAGE ORIGINALLY
15 SUPPOSE TO BE FOR?

16 A IT WAS FOR A TWO YEAR.

17 Q AND AT SOME POINT DID THAT SEVERANCE PACKAGE GET
18 NEGOTIATED BACK TO BE LESS THAN THAT?

19 A YES.

20 Q AND CAN YOU PLEASE EXPLAIN TO THE JURY, IF YOU HAD A
21 SEVERANCE PACKAGE FOR TWO YEARS, WELL, I AM GOING TO SHOW
22 YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT 90. CAN YOU
23 IDENTIFY THAT?

24 A THIS IS MY W-2 STATEMENT FROM 2000.

25 Q AND WHAT ULTIMATELY WAS YOUR SEVERANCE PACKAGE WHEN

1 YOU WERE ASKED TO LEAVE HOMEGOLD?

2 A IT WAS REDUCED FROM TWO YEARS TO ONE YEAR.

3 Q AND PLEASE EXPLAIN TO THE JURY HOW MUCH TOTAL YOU GOT
4 FROM YOUR ONE YEAR SEVERANCE PACKAGE?

5 A I BELIEVE IT WAS ABOUT \$200 THOUSAND FROM THE ONE
6 YEAR SEVERANCE PACKAGE WHICH WAS ABOUT EQUAL TO MY ANNUAL
7 PAY.

8 Q AND WHAT WAS YOUR ANNUAL PAY?

9 A I BELIEVE IT WAS \$185 THOUSAND A YEAR.

10 Q AND DID YOU ALSO GET A VACATION THAT YOU HAD ACCRUED?

11 A I BELIEVE IT WAS FIVE WEEKS ACCRUED VACATION THAT I
12 RECEIVED.

13 Q OKAY. AND WHILE THAT ONE YEAR SEVERANCE PACKAGE, DID
14 YOU ALSO HAVE HEALTH INSURANCE FOR YOUR FAMILY?

15 A YES.

16 Q WHY IF YOU HAD A TWO YEAR SEVERANCE PACKAGE DID YOU
17 AGREE TO TAKE THIS ONE YEAR SEVERANCE PACKAGE WHEN YOU HAD
18 A CONTRACT FOR A TWO YEAR SEVERANCE PACKAGE?

19 A I WAS WILLING TO GIVE UP ALL OF THAT MONEY TO LEAVE
20 THAT ENVIRONMENT THAT WAS CREATED OF CONTINUALLY BEING
21 TOLD TO DO THINGS THAT I DIDN'T FEEL WAS APPROPRIATE TO
22 DO. AND IT WAS WORTH WHILE TO ME TO FORGO THAT SEVERANCE
23 AND LEAVE.

24 Q SO, PLEASE EXPLAIN THE INTERNAL INFRASTRUCTURE AT
25 HOMEGOLD PRIOR TO THE MERGER, WHAT IS THAT ACCOUNTING

1 INFRASTRUCTURE LIKE SHORTLY AFTER THE MERGER?

2 A IT CHANGES AFTER THE MERGER. FIRST, BECAUSE ALL OF
3 THE HEADS OF THE DEPARTMENTS THAT WERE AT HOMEGOLD WERE
4 LET GO AND REPLACED BY HOMESENSE PERSONNEL. SECOND,
5 BECAUSE THE HEAD OF IT WHICH WAS KAREN MILLER AT THE TIME
6 GRANTED ACCESS TO OUR ACCOUNTING SYSTEM TO THE FOLKS AT
7 HOMESENSE IN LEXINGTON WITHOUT MY KNOWLEDGE OR CONSENT.
8 AND THIRD, KAREN MILLER GOT ACCESS TO OUR CHECK STOCK AND
9 PROVIDED HOMESENSE DOWN IN LEXINGTON WITH OUR CHECK STOCK.
10 SO, THE CONTROLS THAT WERE IN PLACE IN GREENVILLE AT THE
11 TIME OF THE MERGER WERE QUICKLY DISMANTLED.

12 Q LET'S JUST BRIEFLY, WHO IS KAREN MILLER AT THE TIME?

13 A KAREN MILLER WAS THE HEAD OF INFORMATION TECHNOLOGY.

14 Q AND THE RELATIONSHIP BETWEEN KAREN MILLER AND RONNIE
15 SHEPPARD?

16 A I KNOW THAT SHE EVENTUALLY WENT ON TO BE CFO FOR HIM.
17 I THINK SHE, I DON'T REALLY KNOW THE RELATIONSHIP BETWEEN
18 THE TWO.

19 Q BUT AT WORK SHE IS THE ONE THAT CAME TO YOU AND TOLD
20 YOU THAT THIS WAS GOING TO BE DONE?

21 A I FOUND OUT AFTER THE FACT THAT IT WAS DONE. SHE DID
22 NOT TELL ME, SHE REPORTED TO ME BUT RONNIE REQUESTED HER
23 TO DO THIS AND SHE DID IT AND SHE DIDN'T COME AND TELL ME
24 THAT SHE WAS GOING TO DO IT OR ASK MY PERMISSION TO DO IT.

25 Q AND DID YOU PREVIOUSLY HAVE DISCUSSIONS WITH THE

1 DEFENDANT ABOUT DOING THIS?

2 A YES, HE HAD MENTIONED THAT IS SOMETHING THAT HE
3 WANTED AND I ARGUED AGAINST IT THAT IT WAS NOT SOMETHING
4 THAT I WANTED TO DO.

5 Q AND WHY DID YOU NOT WANT THAT TO HAPPEN?

6 A AS I MENTIONED THE INFRASTRUCTURE, THE INTERNAL
7 CONTROLS THAT WERE SET OUT WAS AN IMPORTANT PART OF
8 HOMEGOLD AND IT WAS AN IMPORTANT PART OF WHAT HOMEGOLD
9 BROUGHT TO THE TABLES. AND IF YOU DISMANTLED THAT YOU
10 LOSE A LOT OF BENEFITS THAT YOU HAD FROM HOMEGOLD AS A
11 MERGER PARTNER.

12 Q AND ONE LAST THING, IT HAS ALREADY BEEN MARKED IN
13 EVIDENCE AS STATE'S EXHIBIT 40, WAS THERE AN 8K FILED WHEN
14 YOU LEFT HOMEGOLD?

15 A YES, THERE WAS.

16 Q AND WITHOUT GOING THROUGH THE STACK, CAN YOU PLEASE
17 BRIEFLY EXPLAIN, DID YOU REQUEST THAT TO BE DONE?

18 A I DID. I THINK THAT IT IS AN IMPORTANT THING FOR
19 SHAREHOLDERS TO KNOW IF A CFO LEAVES THE COMPANY. I THINK
20 IT IS AN IMPORTANT DISCLOSURE THAT NEEDS TO BE MADE.

21 Q AND I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
22 STATE'S EXHIBIT NUMBER 89. CAN YOU IDENTIFY WHAT THAT IS?

23 A THIS IS A RESIGNATION LETTER.

24 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
25 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 89.

1 MR. GRIFFIN: NO OBJECTION.

2 THE COURT: WITHOUT OBJECTION STATE'S 89 IS ADMITTED.
3 (WHEREUPON, STATE'S EXHIBIT NO. 89 WAS ADMITTED INTO
4 EVIDENCE.)

5 Q AND WHOSE RESIGNATION LETTER IS THAT?

6 A IT IS A RESIGNATION LETTER FROM ME.

7 Q WHO DID YOU SEND IT TO?

8 A IT IS ADDRESSED TO WILLIAM LONG WHO IS THE EBP AND
9 GENERAL COUNSEL.

10 Q AND DID YOU RESIGN ALL OF YOUR POSITIONS WITH
11 HOMEGOLD AND CAROLINA INVESTORS PURSUANT TO THAT LETTER?

12 A I DID.

13 MS. EVANS: BEG THE COURT'S INDULGENCE FOR ONE
14 MINUTE. YOUR HONOR, I SHOWED HIM THE SEVERANCE PACKAGE, I
15 WANTED TO MOVE STATE'S EXHIBIT NUMBER 90 INTO EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. GRIFFIN: NO, YOUR HONOR.

18 THE COURT: STATE'S 90 IS ADMITTED.

19 (WHEREUPON, STATE'S EXHIBIT NO. 90 WAS ADMITTED INTO
20 EVIDENCE.)

21 MS. EVANS: YOUR HONOR, MAY WE APPROACH FOR ONE QUICK
22 SECOND.

23 THE COURT: YES.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
25 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE

1 JURY.)

2 Q I AM GOING TO SHOW YOU WHAT HAS BEEN PREVIOUSLY
3 MARKED AS STATE'S EXHIBIT NUMBER 54, ACTUALLY 54 AND 55.
4 CAN YOU IDENTIFY THESE TWO?

5 A NUMBER 54 IS THE LETTER OF INTENT IN CONNECTION WITH
6 THE MERGER BETWEEN HOMESENSE AND HOMEGOLD FINANCIAL. AND
7 EXHIBIT 55 IS THE MERGER AGREEMENT BETWEEN HOMEGOLD AND
8 HOMESENSE.

9 Q AND I AM ALSO GOING TO SHOW YOU STATE'S EXHIBIT
10 NUMBER 56 MARKED FOR IDENTIFICATION PURPOSES ONLY. CAN
11 YOU IDENTIFY THAT?

12 A EXHIBIT 56 IS THE MUTUAL INDEMNITY AGREEMENT THAT WAS
13 A PART OF THE MERGER DOCUMENTS.

14 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
15 MOVE INTO EVIDENCE STATE'S 54, 55 AND 56.

16 THE COURT: ANY OBJECTION?

17 MR. GRIFFIN: NO, YOUR HONOR.

18 THE COURT: THOSE THREE EXHIBITS, STATE'S 54, 55 AND
19 56 ARE ADMITTED.

20 (WHEREUPON, STATE'S EXHIBIT NOS. 54, 55 AND 56 WERE
21 ADMITTED INTO EVIDENCE.)

22 Q PURSUANT TO THIS MERGER DID YOU ALSO PREPARE A PROXY
23 STATEMENT REGARDING THE HOMESENSE/HOMEGOLD MERGER?

24 A YES, WE DID.

25 Q AND I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED FOR

1 IDENTIFICATION PURPOSES AS STATE'S NUMBER 58, IS THAT THE
2 PROXY STATEMENT THAT YOU ARE TALKING ABOUT?

3 A YES, IT IS.

4 MS. EVANS: YOUR HONOR, AT THIS TIME THE STATE WOULD
5 LIKE TO MOVE INTO EVIDENCE STATE'S NUMBER 58.

6 MR. GRIFFIN: NO OBJECTION.

7 THE COURT: WITHOUT OBJECTION STATE'S 58 IS ADMITTED.
8 (WHEREUPON, STATE'S EXHIBIT NO. 58 WAS ADMITTED INTO
9 EVIDENCE.)

10 MS. EVANS: THOSE ARE ALL THE QUESTIONS I HAVE FOR
11 MR. MAST.

12 THE COURT: MR. GRIFFIN.

13 CROSS-EXAMINATION

14 BY MR. GRIFFIN:

15 Q GOOD MORNING, MR. MAST.

16 A GOOD MORNING.

17 Q LET'S GO BACK, YOU STARTED WORKING FOR HOMEGOLD WHEN
18 IT WAS CALLED EMERGENT BACK IN THE EARLY 90'S, IS THAT
19 CORRECT?

20 A THAT'S RIGHT.

21 Q WHAT YEAR WAS THAT?

22 A IT WAS APRIL OF 1992, I BELIEVE.

23 Q 1992 AND THEN YOU STAYED UP THROUGH JULY OF 2000?

24 A RIGHT.

25 Q AND THEN IT WAS CALLED HOMEGOLD AT THAT POINT AND

1 TIME?

2 A THAT'S RIGHT.

3 Q AND I THINK YOU TESTIFIED THAT CAROLINA INVESTORS AT
4 ONE POINT AND TIME WAS A SISTER COMPANY OF EMERGENT WHICH
5 IS THE COMPANY THAT YOU WORKED FOR, RIGHT?

6 A WHEN I FIRST JOINED, I WAS CFO OF EMERGENT BUSINESS
7 CAPITAL WHICH WAS THE SBA LENDING BUSINESS WHICH WAS A
8 SUBSIDIARY OF EMERGENT GROUP AND A SISTER COMPANY TO
9 CAROLINA INVESTORS.

10 Q AND CAROLINA INVESTORS HAD ALREADY BEEN ACQUIRED BY
11 THE PARENT CORPORATION OF YOUR COMPANY?

12 A THAT IS RIGHT, IT HAD ALREADY BEEN ACQUIRED BEFORE I
13 JOINED.

14 Q AND THE INDIVIDUAL PLAYERS IN YOUR COMPANY, I WANT TO
15 GO THROUGH THAT STARTING, SAY, 1991, '92. THE BOARD OF
16 THE, YOUR COMPANY WAS EMERGENT BUSINESS CAPITAL, THE SBA
17 BUSINESS.

18 A RIGHT.

19 Q AND THEN IT WAS, IT HAD A PARENT CORPORATION I TAKE
20 IT?

21 A IT DID HAVE A PARENT CORPORATION, EMERGENT GROUP,
22 INC.

23 Q WAS THAT JUST A HOLDING COMPANY?

24 A YES.

25 Q SIMILAR TO HOMEGOLD FINANCIAL, INC.

1 A EMERGENT GROUP, INC. IS THE SAME AS HOMEGOLD
2 FINANCIAL, INC.

3 Q NOW THE BOARD OF THAT PARENT COMPANY BACK WHEN YOU
4 STARTED CONSISTED OF MR. STERLING, IS THAT CORRECT?

5 A YES.

6 Q WAS MR. PHILPOTT ON THE BOARD AT THAT TIME?

7 A I DON'T RECALL WHETHER HE WAS AT THAT TIME BUT I KNOW
8 THAT HE WAS ON THE BOARD FOR A NUMBER OF YEARS.

9 Q WHAT ABOUT MR. TEE HOOPER, WAS HE ON THE BOARD?

10 A TEE HOOPER WAS.

11 Q AND MR. TOMMY WYCHE, WAS HE THE SECRETARY OF THE
12 PARENT CORPORATION?

13 A YES.

14 Q THAT IS AN OFFICER, ISN'T IT, THE SECRETARY IS THE
15 POSITION OF AN OFFICER OF THE COMPANY?

16 A YES.

17 Q AND MR. THOMAS WYCHE IS ALSO A PARTNER WITH THE WYCHE
18 LAW FIRM?

19 A RIGHT.

20 Q AND THE WYCHE LAW FIRM WAS DOING THE LEGAL WORK FOR
21 THE EMERGENT BUSINESSES BACK IN 1992?

22 A RIGHT.

23 Q AND FRANKLY THEY CONTINUED TO DO THE LEGAL WORK FOR
24 EMERGENT AND CAROLINA INVESTORS AND THESE OTHER ENTITIES
25 ALL THE WAY UP THROUGH THE DATE OF YOUR DEPARTURE,

1 CORRECT?

2 A THAT IS CORRECT.

3 Q NOW, ON THE ACCOUNTING END OF IT, WAS EMERGENT A
4 PUBLICLY TRADED COMPANY WHEN YOU STARTED?

5 A EMERGENT GROUP WAS A PUBLICLY TRADED COMPANY BUT IT
6 WAS LISTED IN THE PINK SHEETS, MEANING IT WAS TRADED OVER
7 THE BULLETIN BOARD SO IT WAS NOT ACTIVELY TRADED AND WAS
8 NOT LISTED ON ANY SECURITIES MARKETS LIKE NASDAQ OR NEW
9 YORK STOCK EXCHANGE.

10 Q AND WAS THERE AN IPO AT SOME POINT IN TIME?

11 A THERE WAS, IN 1996.

12 Q AN IPO IS WHAT?

13 A IT IS AN INITIAL PUBLIC OFFERING.

14 Q AN OFFERING MEANING SELLING STOCK OF YOUR COMPANY TO
15 THE PUBLIC?

16 A THAT'S RIGHT.

17 Q AND WHAT COMPANY DID AN IPO IN 1996?

18 A IT WAS EMERGENT GROUP, INC.

19 Q WHICH IS THE HOMEGOLD FINANCIAL?

20 A WHICH IS THE HOMEGOLD FINANCIAL, INC. CURRENT
21 COMPANY.

22 Q AND HOW MUCH MONEY WAS RAISED IN THAT IPO IN 1996?

23 A IF I REMEMBER CORRECTLY IT WAS ABOUT \$38 MILLION.

24 Q \$38 MILLION DOLLARS, AND THAT WAS PEOPLE WHO HAD
25 PURCHASED STOCK THAT WAS BEING SOLD TO THE PUBLIC AND THAT

1 MONEY CAME INTO THE COMPANY?

2 A THAT'S RIGHT.

3 Q NOW, THAT STOCK, AFTER THAT DATE, WAS TRADED ON THE
4 NASDAQ.

5 A THAT'S RIGHT.

6 Q NOW, THERE IS A DIFFERENCE BETWEEN THE NEW YORK STOCK
7 EXCHANGE AND THE NASDAQ WHERE THEY ARE BOTH IN THE
8 NEWSPAPER, YOU CAN PICK IT UP AND READ IT AND SEE WHAT THE
9 STOCK IS TRADING?

10 A THAT'S RIGHT.

11 Q AND AT THE TIME THAT HOMEGOLD, WELL, EMERGENT, WHEN
12 IT WENT IN THE IPO MARKET AT WHAT PRICE DID IT GO IN?

13 A IF I RECALL IT WAS AROUND \$14 DOLLARS.

14 Q AND AT THAT POINT, WHAT WAS THE HIGHEST STOCK PRICE
15 THAT THAT STOCK TRADED?

16 A IT PROBABLY WENT INTO THE RANGE OF \$20, I DON'T
17 RECALL SPECIFICALLY BUT THE TABLE OF STOCK PRICES WOULD
18 ALL BE IN THE PREVIOUS SEC FILE.

19 Q AND THEN I BELIEVE APPROXIMATELY ONE MONTH BEFORE THE
20 MERGER WAS CONSUMMATED WITH HOMESENSE NASDAQ DELISTED THE
21 STOCK, THE HOMEGOLD STOCK FROM ITS MARKETS, DID IT NOT?

22 A IT DID, THERE IS SEPARATE LISTING REQUIREMENTS FOR AN
23 EXISTING COMPANY VERSUS A NEW COMPANY. SO, WHEN YOU ARE
24 FIRST DOING AN IPO THERE IS DIFFERENT LISTING REQUIREMENTS
25 AND IF YOU ARE A CONTINUING COMPANY ON NASDAQ.

1 Q AT THE TIME OF THE PREMERGER THE STOCK PRICE WAS
2 TRADING BELOW \$2 DOLLARS A SHARE?

3 A THAT'S RIGHT.

4 Q AND THEN, BUT IT WAS STILL A PUBLICLY TRADED COMPANY,
5 HAD TO DO ALL OF THE SEC FILINGS?

6 A THAT'S RIGHT.

7 Q AND YOU SAID DURING THE IPO YOU RAISED \$30 SOMETHING
8 MILLION DOLLARS?

9 A CORRECT.

10 Q DO YOU REMEMBER HOW MUCH?

11 A I THINK IT WAS ABOUT \$38 MILLION BUT I DON'T RECALL
12 SPECIFICALLY.

13 Q AND WAS THE RAYMOND JAMES FIRM INVOLVED IN THE IPO?

14 A YES, THEY WERE, WHEAT FIRST AND RAYMOND JAMES WERE
15 INVOLVED IN THE IPO.

16 Q AND RAYMOND JAMES IS A SECURITIES INVESTMENT
17 BROKERAGE HOUSE?

18 A YES, THEY ARE AN INVESTMENT BANKING FIRM.

19 Q AND SO THEY ASSISTED AND ACTUALLY SOLD THE STOCK
20 DURING THE INITIAL PUBLIC, ALONG WITH ANOTHER, WHEAT
21 FIRST?

22 A RIGHT, WHEAT FIRST WAS INVOLVED TOO.

23 Q AND THEY RECEIVED COMMISSIONS FROM THAT TRANSACTION?

24 A YES.

25 Q THEN SUBSEQUENTLY THERE WAS ANOTHER PUBLIC OFFERING

1 OF BONDS, RIGHT?

2 A CORRECT.

3 Q WHAT YEAR WAS THAT?

4 A I BELIEVE IT WAS IN 1997.

5 Q AND THAT BOND OFFERING WAS FOR \$125 MILLION DOLLARS?

6 A CORRECT.

7 Q SO, IN 1996 YOU RAISED \$38 MILLION AND IN 1997 YOU
8 RAISED \$125 MILLION?

9 A RIGHT.

10 Q SO, THOSE TWO YEARS YOU HAD RAISED \$163 MILLION
11 DOLLARS, IF MY MATH IS CORRECT?

12 A CORRECT.

13 Q AND IN 1997 HOMEGOLD DREW OPERATIONS, YOU RECALL THEY
14 LOST ROUGHLY A MILLION DOLLARS, JUST THEIR OPERATING,
15 THEIR OPERATING LOSS WAS ROUGHLY A MILLION DOLLARS?

16 A I REMEMBER THAT WE HAD LOST MONEY, IT WAS MORE THAN A
17 MILLION DOLLARS.

18 Q I AM ASKING IN '97?

19 A IN 1997?

20 Q YES.

21 A IN 1997, IF I RECALL, WE MADE \$11 MILLION DOLLARS.

22 Q FROM OPERATIONS?

23 A I WOULD NEED TO LOOK BACK AT THE SPECIFICS.

24 Q THAT'S OKAY, THE NUMBERS WILL SPEAK FOR THEMSELVES,
25 IT IS NOT TO TEST YOUR MEMORY AND I APOLOGIZE. BUT AND

1 THEN IN 1998 THERE WAS A BIG LOSS FROM OPERATIONS?

2 A CORRECT.

3 Q ROUGHLY, BEFORE ADJUSTMENTS WERE ONE TIME GAINS WAS
4 ROUGHLY \$100 MILLION DOLLARS, CORRECT?

5 A THAT SOUNDS CORRECT.

6 Q AND YOU ATTRIBUTED THAT BIG LOSS TO THE DOWNTURN IN
7 THE SUB-PRIME MARKET, RIGHT?

8 A THAT'S IS CORRECT.

9 Q AND THEN THERE WAS SOME INTERNAL ISSUES WITH MR.
10 MCSHANE LEAVING WITH HIS RETAIL TEAM?

11 A CORRECT.

12 Q AND AS A RESULT FROM THAT THE HOMEGOLD HAD TO PAIR
13 BACK AND STARTED CLOSING ITS THREE SATELLITE OFFICES, IF
14 YOU WILL?

15 A CORRECT.

16 Q AND CUTTING DOWN EXPENSES BUT STILL IN 1999 THE
17 COMPANY, BEFORE ADJUSTMENTS AND WHATNOT, LOST ROUGHLY
18 ANOTHER \$35 MILLION DOLLARS FROM OPERATIONS?

19 A RIGHT, WHICH IS A SUBSTANTIAL IMPROVEMENT FROM THE
20 PRIOR YEAR.

21 Q FROM \$100 MILLION?

22 A FROM \$100 MILLION DOLLARS.

23 Q AND IN ORDER TO RAISE CAPITAL HOMEGOLD SOLD THIS,
24 WHAT IS CALLED THIS SBA BUSINESS, CORRECT?

25 A RIGHT.

1 Q SOLD SOME OTHER BUSINESSES AS WELL?

2 A CORRECT.

3 Q THE SBA BUSINESS, HOW MUCH WAS THAT SOLD FOR?

4 A IF I RECALL IT WAS BETWEEN \$50 AND \$80 MILLION
5 DOLLARS, I DON'T RECALL EXACTLY THE AMOUNT BUT IT WAS
6 BETWEEN \$50 AND \$80 I BELIEVE.

7 Q WHAT ABOUT THESE OTHER ENTITIES, DO YOU RECALL HOW
8 MUCH THOSE WERE SOLD FOR?

9 A THE SUB-PRIME AUTO WAS JUST A FEW MILLION DOLLARS, IT
10 WAS PRETTY SMALL.

11 Q WAS THAT, DID YOU SELL ANY OTHER BUSINESSES?

12 A WE SOLD THE COMMERCIAL BUSINESSES AS A PACKAGE SO IT
13 INCLUDED SEVERAL PIECES OF THE COMMERCIAL SITE. I DON'T
14 THINK THAT THERE WERE ANY OTHER BUSINESSES THAT I REMEMBER
15 BEING SOLD SEPARATELY.

16 Q SO, THAT WAS JUST A FEW MILLION FROM THE AUTO END OF
17 THE DEAL?

18 A AS I RECALL, YES.

19 Q AND SO SOMEWHERE BETWEEN \$50 AND \$80 MILLION FOR THIS
20 SBA BUSINESS. AND IF WE ADD THAT TO THE \$163 MILLION, WE
21 ARE SOMEWHERE NORTH OF \$210 MILLION DOLLARS OF MONEY THAT
22 WAS RAISED THROUGH SELLING ASSETS OR IPO OR BOND
23 OFFERINGS, CORRECT?

24 A CORRECT.

25 Q NOW, THE MONEY THAT YOU RAISED THROUGH SELLING THE

1 SBA BUSINESS, AND WHAT YEAR WAS THAT?

2 A 1998, I BELIEVE.

3 Q THAT IS THE YEAR YOU SOLD THE SBA BUSINESS, IN 1998?

4 A I BELIEVE SO.

5 Q AND YOU TOOK A LOT OF THAT MONEY, UP UNTIL 1998
6 HOMEGOLD HAD BEEN BORROWING MONEY FOR, I GUESS, WHAT DID
7 YOU CALL HOMEGOLD IN '98, WHEN DID THE NAME CHANGE?

8 A THE NAMED CHANGED, I THINK, IN JULY OF '98.

9 Q WHY DID YOU CHANGE THE NAME?

10 A WITH THE RETAIL OPERATIONS, THE MORTGAGE BUSINESS WAS
11 GOING UNDER THE NAME OF HOMEGOLD WHILE THE WHOLESALE
12 OPERATIONS OPERATED UNDER THE NAME OF EMERGENT MORTGAGE
13 CORP. THE PARENT COMPANY NAME, EMERGENT GROUP HAD A
14 NUMBER OF DIFFERENT TYPES OF BUSINESSES UNDERNEATH IT,
15 COMMERCIAL MORTGAGE, AUTO. WHEN THE OTHER BUSINESSES WERE
16 SOLD OFF IT REALLY JUST LEFT THE MORTGAGE BUSINESS. AND
17 SO TO IDENTIFY WITH THE RETAIL BRAND NAME THE NAME WAS
18 CHANGED TO HOMEGOLD TO REFLECT THAT.

19 Q AND IN 1998 THERE WAS AN INTER-COMPANY DEBT THAT HAD
20 REACHED, THE NUMBERS WILL SPEAK FOR THEMSELVES, BUT
21 ROUGHLY \$60 MILLION DOLLARS?

22 A THAT SOUNDS ABOUT RIGHT.

23 Q AND IN THE, THAT WAS MONEY THAT WAS BORROWED FROM
24 CAROLINA INVESTORS?

25 A THE INTER-COMPANY DEBT, RIGHT.

1 Q THAT IS NOT SOMETHING THAT JUST STARTED IN 1998, IT
2 STARTED, IT HAD BEEN HAPPENING SINCE IT STARTED BACK IN
3 1992, CORRECT?

4 A THAT'S RIGHT. THERE WERE LINES OF CREDIT IN PLACE,
5 CAROLINA INVESTORS LOANED MONEY TO THE OTHER SUBSIDIARIES,
6 EARNED PRIME PLUS TWO ON THOSE FUNDS.

7 Q AND THAT INTER-COMPANY DEBT STARTED OUT, I GUESS THE
8 FIRST ONE WAS, I DON'T KNOW, \$15 MILLION DOLLARS, WAS
9 THERE, DOES THAT SEEM RIGHT OR MUCH SMALLER THAN THAT?

10 A I DON'T RECALL.

11 Q BUT ANYWAY, IT KEPT GROWING AND GROWING AND GROWING,
12 DID IT NOT, THE INTER-COMPANY DEBT?

13 A IT GREW SOME, YES.

14 Q THEN IN 1998 YOU RAISED SOMEWHERE BETWEEN \$50 AND \$80
15 MILLION DOLLARS OF COLD HARD CASH FROM SELLING THE SBA
16 BUSINESS, RIGHT?

17 A RIGHT.

18 Q AND YOU TOOK THAT COLD HARD CASH AND DID YOU PAY DOWN
19 THAT CAROLINA INVESTORS NOTE WITH THE COLD HARD CASH?

20 A IF I RECALL SOME OF IT WAS PAID DOWN, SOME OF IT WAS
21 PAID DOWN TO ELIMINATE SOME OF THE BONDS THAT WERE OUT ON
22 THE MARKET AS WELL.

23 Q SO, A SUBSTANTIAL PORTION WAS PAID TO THE BOND
24 HOLDERS, CORRECT?

25 A CORRECT, IT WAS TRADING AT A SIGNIFICANT DISCOUNT ON

1 THE MARKET.

2 Q SO, YOU TOOK THE COLD HARD CASH FROM THE SBA BUSINESS
3 AND YOU WENT OUT ON THE OPEN MARKET AND YOU WERE ABLE TO
4 REPURCHASE THESE BONDS THAT WERE TRADING AT WHAT, .50
5 CENTS ON THE DOLLAR?

6 A THAT IS PROBABLY ABOUT RIGHT.

7 Q AND BY TAKING THIS MONEY AND GIVING IT OR
8 REPURCHASING THESE BONDS, THAT ENABLED THE COMPANY TO
9 REPORT PROFIT FROM THOSE TRANSACTIONS, CORRECT?

10 A THERE WERE GAINS ON THE EXTINGUISHMENT OF DEBT IN
11 ACCORDANCE WITH ^{*}THE GENERAL ACCEPTANCE ACCOUNTING
12 PRINCIPLES WHICH WE DISCLOSED IN DETAIL.

13 Q AND JUST SO WE UNDERSTAND, YOU TOOK \$50 TO \$80
14 MILLION, NOT ALL OF IT BUT A LARGE PERCENTAGE OF \$50 TO
15 \$80 MILLION DOLLARS AND YOU REPAID PEOPLE WHO HAD LOANED
16 YOU \$125 MILLION DOLLARS, A LOT OF PEOPLE OR CONSOLIDATED
17 GROUP. BUT YOU WERE ABLE TO BUY IT BACK AT A DISCOUNT,
18 THAT IS WHAT WE ARE TALKING ABOUT, CORRECT?

19 A THAT'S CORRECT.

20 Q AND THAT DISCOUNT THAT YOU WERE ABLE TO BUY IT BACK,
21 THAT REPRESENTED INCOME IN ACCORDANCE WITH THE GENERAL
22 ACCEPTANCE ACCOUNTING PRINCIPLES TO THE COMPANY, HOMEGOLD?

23 A CORRECT.

24 Q AND IT IMPROVED THE FINANCIAL BOTTOM LINE OF THE
25 COMPANY, HOMEGOLD?

1 A YES, IT DID.

2 Q ALL THE WHILE WAS THE INTEREST RATE FROM THE MONEY
3 BEING LOANED FROM CAROLINA INVESTORS OVER TO HOMEGOLD, IT
4 STAYED ROUGHLY ABOUT THE SAME, PRIME PLUS TWO?

5 A I BELIEVE SO.

6 Q THERE WAS NOT A SIMILAR ADJUSTMENT TO THE CREDIT RISK
7 INTEREST RATE, INTER-COMPANY AS THERE WAS IN THIS OPEN
8 MARKET, CORRECT?

9 A THAT IS CORRECT. THE PRICE ON THE BONDS WERE
10 DICTATED BY PUBLICLY TRADED MARKET AND WAS NOT DICTATED BY
11 INTERNAL.

12 Q NOW, LET'S TALK ABOUT THESE CAROLINA INVESTORS BOARD
13 MEETINGS AND THESE WERE QUARTERLY?

14 A YES.

15 Q AND AT THE END OF EVERY QUARTER YOU WOULD BRING THE
16 FINANCIALS FOR THAT QUARTER OF EMERGENT, THE EMERGENT
17 ENTITY AND THEN IT BECAME HOMEGOLD AND HOMEGOLD ENTITY,
18 CORRECT?

19 A THAT IS CORRECT, WE WOULD BRING ONE PACKAGE FOR THE
20 FINANCIAL STATEMENTS OF THE PARENT AND ALL OF THE
21 CONSOLIDATING SCHEDULES OF EACH OF THE SUBSIDIARIES AND
22 THEN WE HAD ANOTHER BOOK THAT WAS CAROLINA INVESTORS BOOK.

23 Q NOW, AND IN THESE MEETINGS, LET'S JUST START FROM,
24 FROM 1997 FORWARD, IN '97 YOU MAY OF MADE SOME MONEY,
25 MAYBE NOT. '98 WAS REALLY A BAD YEAR, '99 WAS ANOTHER

1 LOSS YEAR. DURING THOSE YEARS THE BOARD OF CAROLINA
2 INVESTORS CONSISTED OF MR. STERLING, CORRECT?

3 A RIGHT.

4 Q MR. EARLE MORRIS, CORRECT?

5 A CORRECT.

6 Q I GUESS MR. GIDDENS WAS ON THE BOARD?

7 A YES.

8 Q MR. DON BOBO?

9 A RIGHT.

10 Q MR. DANNY SHARPE?

11 A RIGHT.

12 Q WERE THERE ANY OTHERS ON THE BOARD THAT YOU REMEMBER?

13 A I BELIEVE PHIL COX MAY OF BEEN ON THE BOARD DURING
14 SOME PERIODS AND I BELIEVE DENNIS CANNUP WAS ON THE BOARD
15 DURING SOME PERIODS.

16 Q NOW, YOU DESCRIBED, WHEN YOU WOULD BRING THESE
17 FINANCIALS YOU BRING IT IN A BOOK, SOME KIND OF NOTEBOOK?

18 A I CALLED IT THE MONTHLY FINANCIAL STATEMENT PACKAGE,
19 IT WAS A BOUND BOOK THAT HAD ALL OF THE FINANCIAL
20 INFORMATION IN IT.

21 Q BUT IT WAS GENERATED THROUGH THIS RHINO SYSTEM?

22 A NO.

23 Q NO IT WASN'T?

24 A NO.

25 Q WAS THERE A RHINO SYSTEM?

1 A RHINO TRACK WAS THE LOAN SOFTWARE THAT WAS DEVELOPED
2 TO TRACK LOAN ORIGINATIONS. THE FINANCIAL STATEMENTS WERE
3 PREPARED OUT OF THE ACCOUNTING SOFTWARE WHICH WAS, I
4 FORGET THE NAME OF THE SOFTWARE.

5 Q NOW, SO AT THE END OF THE QUARTER YOU WOULD GO AND
6 YOU WOULD PRESENT THE FINANCIAL RESULTS TO THE CAROLINA
7 INVESTORS BOARD OF HOMEGOLD OR EMERGENT OPERATIONS,
8 CORRECT?

9 A CORRECT.

10 Q AND I THINK YOU DESCRIBED THE FULL BOARD AS BEING AN
11 ACTIVE BOARD, THEY WERE INTERESTED AND INFORMED?

12 A YES.

13 Q INCLUDING MR. SHARPE?

14 A YES.

15 Q INCLUDING MR. BOBO?

16 A YES.

17 Q AND THEY ASKED QUESTIONS AND THEY GOT THE FINANCIAL
18 INFORMATION THAT THEY ASKED FOR, CORRECT?

19 A RIGHT.

20 THE COURT: MR. GRIFFIN, ARE YOU AT A GOOD BREAKING
21 POINT?

22 MR. GRIFFIN: YES, SIR.

23 THE COURT: LADIES AND GENTLEMEN, WE WILL TAKE A
24 BREAK RIGHT NOW, ABOUT TEN OR FIFTEEN MINUTES, DON'T
25 DISCUSS THE CASE AND WE WILL START BACK AFTER THAT PERIOD.

1 YOU ARE EXCUSED, EVERYONE ELSE STAY SEATED, PLEASE.

2 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
3 A BREAK.)

4 THE COURT: YOU CAN STEP DOWN DURING THE BREAK, DON'T
5 DISCUSS YOUR TESTIMONY. WE WILL START BACK IN TEN
6 MINUTES.

7 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

8 THE COURT: IS THE DEFENSE READY?

9 MR. GRIFFIN: YES, YOUR HONOR.

10 THE COURT: THE STATE?

11 MS. EVANS: YES, YOUR HONOR.

12 THE COURT: BRING THE JURY IN.

13 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
14 APPROXIMATELY 11:20 A.M.)

15 THE COURT: MR. GRIFFIN, YOU MAY CONTINUE WITH YOUR
16 CROSS-EXAMINATION.

17 MR. GRIFFIN: THANK YOU, YOUR HONOR.

18 CONTINUE CROSS-EXAMINATION

19 BY MR. GRIFFIN:

20 Q MR. MAST, I WANT TO SHOW YOU WHAT IS IN EVIDENCE AS
21 STATE'S EXHIBIT 24 AND IT IS THE 10K FOR THE YEAR OF 2000.
22 I AM JUST SHOWING YOU PAGE 16 OF THAT WHICH HAS HISTORICAL
23 FINANCIAL INFORMATION AND I ASKED YOU SOME QUESTIONS
24 BEFORE THE BREAK AND YOU DIDN'T HAVE THE INFORMATION IN
25 FRONT OF YOU. AND THE QUESTION IS, IN '97 BASICALLY THE

1 INCOME THAT, THE INCOME OR LOSS FROM OPERATIONS, CAN YOU
2 TELL FROM THAT DOCUMENT.

3 A INCOME OR LOSS FROM OPERATIONS IS NOT A GAP TERM, BUT
4 YOU HAVE GOT NET INCOME WHICH WAS A LOSS, I MEAN IN 1997
5 IT WAS A GAIN OF \$11.2 MILLION. YOU ALSO HAVE CERTAIN
6 LINE ITEMS DISCLOSED.

7 Q IN '97, THERE WAS ONE TIME GAINS IN '97?

8 A I AM SORRY, I JUST DON'T RECALL.

9 Q OKAY. AND THE REVENUES, THE GROSS REVENUES IN '97
10 WERE WHAT, SIR?

11 A GROSS REVENUES IN '97 WERE \$127 MILLION.

12 Q WHEN WE SAY GROSS REVENUES, WE ARE TALKING ABOUT NOT
13 THE TOTAL AMOUNT OF LOANS ARE WE, THAT THE COMPANY
14 ORIGINATED BUT THE MONEY THEY BROUGHT IN FROM THE
15 SETTLEMENT OF LOANS?

16 A RIGHT, THE TOTAL INCOME OFF OF LOANS, INTEREST AND
17 FEES.

18 Q SO, IN '97 IT IS \$127 MILLION AND IN 1998 WAS WHAT?

19 A TOTAL REVENUES WERE \$92 MILLION IN '98.

20 Q IN 1999?

21 A \$29 MILLION, I WAS GONE BY THE TIME THIS WAS FILED IN
22 2000 BUT I AM GOING BY WHAT THE NUMBERS ARE HERE.

23 Q AND IF THE NUMBERS ARE CORRECT, IF WE ADD TO THAT
24 \$200 AND THOSE GROSS REVENUES TO THE OTHER \$163 MILLION
25 DOLLARS THAT WE TALKED ABOUT EARLIER ABOUT RAISING THROUGH

1 THE BOND SALES AND THE IPO AND THE SALE OF THE SBA
2 BUSINESS ON TOP OF THE MONEY BORROWED FROM CAROLINA
3 INVESTORS AS OF THE END OF 1999, HOMEGOLD WAS GOING
4 THROUGH WELL IN EXCESS OF \$400 MILLION DOLLARS. IS THAT
5 FAIR?

6 A WELL, YOU CAN'T REALLY LOOK AT THE REVENUES WITHOUT
7 LOOKING AT EXPENSES. IT TAKES, IT COST MONEY TO OBTAIN
8 REVENUES SO YOU CAN'T REALLY JUST LOOK AT GROSS REVENUES
9 WITHOUT LOOKING AT THE COST AS WELL.

10 Q LET ME ASK YOU THIS, IN THE SUMMER OF 2000 IF
11 CAROLINA INVESTORS HAD NOT BEEN AVAILABLE FOR A SOURCE OF
12 CAPITAL TO HOMEGOLD THEY WOULD OF BEEN OUT OF BUSINESS?

13 A IT STILL HAD POSITIVE NET WORTH WHEN I LEFT, IT STILL
14 HAD LIQUIDITY, APPROXIMATELY \$24 MILLION OF LIQUIDITY, IF
15 I RECALL.

16 Q AT THE TIME YOU LEFT YOU RECALL \$24 MILLION OF
17 LIQUIDITY?

18 A RIGHT.

19 Q AND THAT MEANS?

20 A LIQUIDITY MEANS A COMBINATION OF CASH IN THE BANK AS
21 WELL AS AVAILABLE FUNDS WHEN THE LINES OF CREDIT, WE HAD A
22 LINE OF CREDIT IN PLACE WITH CIT FINANCIAL WHICH ALLOWED
23 US TO BORROW MONEY IN LINE TO FUND OPERATIONS.

24 Q AND SO WHEN YOU ARE TALKING LIQUIDITY YOU ARE
25 INCLUDING THE ABILITY TO BORROW MONEY FROM SOURCES OTHER

1 THAN CAROLINA INVESTORS?

2 A RIGHT.

3 Q NOW, YOU REFER TO CAROLINA INVESTORS IN YOUR DIRECT
4 TESTIMONY AS, "CAPITAL PROVIDER", YOU RECALL THAT
5 TESTIMONY?

6 A YES.

7 Q TELL THE JURY A LITTLE BIT MORE, WHAT IS A CAPITAL
8 PROVIDER?

9 A IF YOU ORIGINATE A LOAN THEN THAT IS A USE OF FUNDS
10 BECAUSE YOU ARE LOANING MONEY TO SOMEONE ELSE. SO, IF YOU
11 HAVE A BUSINESS LIKE A COMMERCIAL BUSINESS WHERE YOU LEND
12 MONEY TO SOME BUSINESS, SAY AT A TERM OF 10 YEARS AND 25
13 YEARS IT REQUIRES A LOT OF CAPITAL BECAUSE YOU PUT THAT
14 MONEY OUT AND IT IS GOING TO TAKE YOU 25 YEARS TO GET THE
15 MONEY BACK THROUGH REPAYMENTS. UNDER THE MORTGAGE
16 BUSINESS THERE WAS SOME VERY ACTIVE SECONDARY MARKET. SO,
17 BECAUSE OF THAT YOU CAN ORIGINATE A LOAN TODAY, SELL IT IN
18 30 DAYS ON THE CAPITAL MARKETS, GET A RETURN OF YOUR
19 PRINCIPLE, YOU DIDN'T HAVE TO WAIT THE 30 YEARS TO GET
20 YOUR MONEY BACK FROM LOANING THE MONEY BECAUSE YOU
21 ORIGINATED IT AND SOLD IT ON THE SECONDARY MARKET. A VERY
22 CAPITAL INTENSIVE BUSINESS IS ONE WHERE YOU ARE LENDING
23 MONEY AND YOUR ORIGINATIONS REQUIRE FUNDING. A CAPITAL
24 PROVIDER IS MORE WHERE FUNDS COMING IN EXCEED THE REQUIRED
25 INVESTMENT ACTIVITY.

1 Q AND YOUR EXPLANATION OF CAROLINA INVESTORS BEING A
2 CAPITAL PROVIDER, IT IS CASH COMING IN EXCEEDS THEIR CASH
3 NEEDS?

4 A CORRECT.

5 Q THEY HAVE EXCESS CASH TO USE FOR INVESTMENT PURPOSES
6 OR OTHER PURPOSES?

7 A THEY USE THAT INVESTMENT FUNDS TO FUND ITS
8 ORIGINATION OPERATIONS OF THE SISTER COMPANIES FOR CAPITAL
9 TO ORIGINATE THOSE LOANS.

10 Q THE ORIGINATION FUNCTION OF CAROLINA INVESTORS, WHEN
11 I USE THE TERM, ORIGINATION, ARE WE TALKING ABOUT, WHAT DO
12 YOU MEAN BY THE TERM, ORIGINATION OF LOANS?

13 A ORIGINATION OF LOANS IS WHEN YOU ENTER INTO AN
14 AGREEMENT WITH A BORROWER TO LOAN FUNDS TO THEM.

15 Q AND IN THAT BUSINESS CAROLINA INVESTORS HAD STOPPED
16 THAT TYPE OF LENDING ACTIVITY IN 1998, PERHAPS?

17 A I BELIEVE IT WAS 1995, I MIGHT BE WRONG BUT I THINK
18 IT WAS 1995.

19 Q FOR SOME PERIOD OF TIME BEFORE MR. SHEPPARD EVER
20 ARRIVED?

21 A IN TERMS OF THEM DOING DIRECT ORIGINATIONS, THAT'S
22 RIGHT.

23 Q NOW, WE TALKED ABOUT WHAT HOMEGOLD DID WITH COLD HARD
24 CASH AND YOU SAID A LOT OF IT WAS USED TO REPURCHASE BONDS
25 SO THEY CAN USE THESE TO PAY DOWN CAROLINA INVESTORS DEBT,

1 CORRECT?

2 A CORRECT.

3 Q IN ADDITION TO COLD HARD CASH, IN 1999 HOMEGOLD
4 TRANSFERRED \$50 SOMETHING MILLION DOLLARS WORTH OF
5 MORTGAGE, SECURITIZATION POOLS OVER TO CAROLINA INVESTORS,
6 IS THAT CORRECT?

7 A I DON'T RECALL THAT NUMBER EXACTLY BUT THERE WERE
8 RESIDUALS RETAINED IN CONNECTION WITH THE SECURITIZATION
9 TRANSACTIONS AND THOSE WERE SOLD TO CAROLINA INVESTORS AND
10 IN TURN REDUCED THE INTER-COMPANY DEBT.

11 Q HOW WERE THEY SOLD TO CAROLINA INVESTORS, I GUESS,
12 LET'S MOVE BACK. WHAT ARE THESE RESIDUAL POOLS, EXPLAIN
13 THAT?

14 A A RESIDUAL POOL IN A SECURITIZATION IS, IT IS A VERY
15 COMPLEX SUBJECT, BUT YOU TAKE A POOL OF MORTGAGES AND YOU
16 SECURITIZE THEM AND SELL BONDS ON WALL STREET TO RAISE
17 CAPITAL WITH A SUBORDINATE PIECE RETAINED. SO, PERSONS
18 BUYING INTO THE SECURITIZATION POOL WOULD GET A LOWER
19 YIELD THAN WHAT THE MORTGAGE IS PAYING BECAUSE THEY HAVE
20 LESS RISK, THEY HAVE A PRIOR FIRST POSITION AND THEY GET
21 THE FIRST CASH FLOWS OUT OF THE CASH FLOW STREAM. A
22 RESIDUAL POSITION HAS THE CASH FLOW STREAM THAT IS
23 SUBORDINATE TO THAT INITIAL PIECE.

24 Q AND THAT RESIDUAL PIECE, THAT HAS VALUE TO THE OWNER,
25 I TAKE IT?

1 A YES.

2 Q AND IT WAS ON THE BOOKS OF HOMEGOLD IN 1999 AND YOU
3 SAID HOMEGOLD SOLD IT TO CAROLINA INVESTORS?

4 A CORRECT.

5 Q NOW, WAS THAT AN ARMS LENGTH TRANSACTION, WERE THERE
6 NEGOTIATIONS OVER THAT SELL OR TELL THE JURY HOW THAT
7 HAPPENED?

8 A IT WAS SOLD AT ITS BOOK VALUE.

9 Q WHAT DOES THAT MEAN?

10 A THE AMOUNT THAT IT WAS CARRIED ON THE BOOKS WHICH WAS
11 THE FAIR MARKET VALUE WAS USED TO DETERMINE THE PRICE AND
12 SO CAROLINA INVESTORS PAID VIA REDUCTION OF THE
13 INTER-COMPANY DEBT IN RECEIPT OF THE ASSETS.

14 Q SO, TOOK THE ASSET AND WAS IT PHYSICALLY MOVED OVER
15 TO PICKENS OR WAS STILL WORK REQUIRED OF THAT ASSET.

16 A IT IS AN INTANGIBLE ASSET LIKE A RECEIVABLE SO YOU
17 CAN'T PHYSICALLY MOVE IT, IT IS AN INTANGIBLE, IT IS A
18 RECEIVABLE IN THE CASH FLOW STREAM.

19 Q NOW, SO WHEN THE CASH COMES IN AFTER IT WAS
20 TRANSFERRED OVER TO CAROLINA INVESTORS, DID THAT CASH GO
21 INTO THE CAROLINA INVESTORS BANK OF AMERICA BANK ACCOUNT?

22 A FIRST UNION.

23 Q IT WENT TO A FIRST UNION ACCOUNT?

24 A ALL OF THE ACCOUNTS WERE FIRST UNION.

25 Q YOU AREN'T FAMILIAR WITH A CAROLINA INVESTORS BANK OF

1 AMERICA ACCOUNT?

2 A NO.

3 Q SO, THEN THE MONEY COMES INTO THE FIRST UNION ACCOUNT
4 FROM THESE, THE SECURITIZATION?

5 A AND KEEP IN MIND, THINGS MAY OF CHANGED A LOT AFTER I
6 LEFT, WHEN I WAS THERE IT WAS FIRST UNION.

7 Q THAT IS WHAT HAPPENED WHEN YOU WERE THERE. SO, WHEN
8 THIS INCOME STREAM WOULD COME IN, AFTER THE ASSET HAD BEEN
9 SOLD TO CAROLINA INVESTORS WHERE DID THE INCOME STREAM GO?

10 A THE INCOME STREAM WOULD GO TO CAROLINA INVESTORS.

11 Q AND THE MONEY WAS USED FOR WHAT?

12 A THE MONEY COULD BE REUSED FOR INTER-COMPANY LENDING,
13 IT COULD BE, THERE WAS NO RESTRICTIONS ON WHAT THE MONEY
14 WAS TO BE USED FOR.

15 Q NOW, AS PART OF THIS INCOME STREAM, WASN'T THERE SOME
16 INDEMNITY AGREEMENT WHERE CAROLINA INVESTORS WAS SUPPOSE
17 TO GET A GUARANTEE OF \$300 THOUSAND DOLLARS A MONTH FROM
18 IT?

19 A I AM NOT SURE ABOUT THE MINIMUM, I THINK THERE WAS A
20 INDEMNITY AGREEMENT THAT WOULD KEEP CAROLINA INVESTORS
21 FROM INCURRING SIGNIFICANT LOSS ON THOSE LOANS TO HELP
22 INSURE THAT THE ASSET THAT WAS PROVIDED WAS A GOOD ASSET
23 AT A GOOD VALUE.

24 Q WAS THERE A \$300 THOUSAND DOLLAR A MONTH ENTRY BOOKED
25 ON INCOME TO CAROLINA INVESTORS FROM SOME WAY RELATED TO

1 THIS TRANSACTION IN EXPENSE ON THE HOMEGOLD BOOKS?

2 A NOT THAT I AM AWARE OF, THAT MAY OF TAKEN PLACE AFTER
3 I WAS GONE. I MEAN, WHEN I WAS THERE THE RESIDUAL INCOME
4 ON THE RESIDUAL ASSET WAS BOOKED TO CAROLINA INVESTORS
5 BOOKS.

6 Q WHAT ABOUT \$2 THOUSAND DOLLARS A MONTH RELATED TO
7 THIS \$125 MILLION BOND.

8 A ABOUT WHAT?

9 Q WAS THERE A \$2 THOUSAND DOLLAR A MONTH TRANSFER OVER
10 TO CAROLINA INVESTORS SOMEHOW RELATED TO THIS \$125 MILLION
11 BOND OFFERING?

12 A I DON'T RECALL THAT SPECIFICALLY BUT THERE MAY HAVE
13 BEEN A FEE PAID TO CAROLINA INVESTORS FOR THEIR GUARANTEE
14 OF THOSE BONDS IN CONNECTION WITH THAT BOND OFFERING. ALL
15 OF THE SUBSIDIARIES PROVIDED A GUARANTEE ON THE DEBT.

16 Q OKAY. NOW, THE, BACK BEFORE 2000 ANOTHER ACCOUNTING
17 TREATMENT THAT YOU WERE INVOLVED IN FOR THE BOOKS OF
18 HOMEGOLD WAS TO RECOGNIZE VALUE FROM SOMETHING THAT WE
19 HAVE HEARD ABOUT, THE DEFERRED TAX ASSET, ISN'T THAT
20 CORRECT?

21 A THE DEFERRED TAX ASSET IS BOOKED WHEN IT IS
22 DETERMINED THAT IT IS MORE LIKELY THAN NOT THAT IT WOULD
23 BE RECEIVED.

24 Q AND A \$12 MILLION DOLLAR DEFERRED TAX ASSET WAS
25 BOOKED ON THE FINANCIAL STATEMENT OF HOMEGOLD?

1 A CORRECT, AT THE END OF 1999 WE HAD DEFERRED TAX
2 ASSET, I THINK THE CARRIED FORWARDS WERE WELL IN EXCESS OF
3 THAT AT THE TIME.

4 Q AND THAT WAS ALL IN ACCORDANCE WITH THE GENERALLY
5 ACCEPTANCE ACCOUNTING PRINCIPLES?

6 A THAT IS CORRECT, WE HAD AUDITED FINANCIAL STATEMENTS.

7 Q AND IN 1998, AND AGAIN IN 1999 THERE WAS A GOING
8 CONCERN ANALYSIS?

9 A CORRECT.

10 Q OF THE HOMEGOLD FINANCIAL, THE WHOLE AND ALL OF THE
11 SUBSIDIARIES CONDUCTED BY THE INTERNALLY AND AUDITED BY
12 THE ACCOUNTING FIRM, ELLIOTT DAVIS?

13 A I ASSUME THERE WOULD BE, I DON'T RECALL SPECIFICALLY.

14 Q DO YOU RECALL AT THE END OF 1999 RECEIVING A LETTER
15 FROM THE ATTORNEY GENERALS OFFICE ASKING ABOUT THE
16 FINANCIAL CONDITION OF HOMEGOLD?

17 A NO.

18 Q DO YOU RECALL ANY RESPONSE, DO YOU RECALL ANY EFFORT
19 TO WRITE A LETTER TO THE ATTORNEY GENERALS OFFICE
20 REGARDING THE FINANCIAL CONDITION OF HOMEGOLD?

21 A NO, I DON'T RECALL THAT.

22 Q THE, SO AT THE END OF 1999 THERE WAS DISASTER, THE
23 DISASTER WAS IN '98, ROUGHLY A \$100 MILLION DOLLARS. THE
24 DOCUMENTS ARE THERE IN FRONT OF YOU FOR '99, THE OPERATING
25 LOSS WAS ROUGHLY \$35 MILLION DOLLARS?

1 A THAT'S RIGHT, AND THE KEY THING IS REPORTING THE LOSS
2 AS ACCURATELY AND APPROPRIATELY. SO, WE LOST MONEY BUT WE
3 TOLD EVERYBODY WE LOST MONEY.

4 Q IF YOU ARE ABLE TO SHOW A NET GAIN IN '99 OF ABOUT A
5 MILLION BUCKS THROUGH THESE FINANCIAL TRANSACTIONS THAT WE
6 JUST WENT THROUGH, CORRECT?

7 A WE HAD TO STATE OUR FINANCIAL STATEMENTS IN
8 ACCORDANCE WITH THE GENERALLY ACCEPTED ACCOUNTING
9 PRINCIPLES AND ONE OF THOSE ACCOUNTING PRINCIPLES IS FASB
10 109 WHICH DEALS WITH INCOME TAXES.

11 Q YOU REPORTED THE GAIN FOR 1999, FOR THE YEAR?

12 A UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

13 Q AND WHAT WAS IT THAT WAS BEING REPORTED UNDER
14 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES THAT TOOK THE \$35
15 MILLION DOLLAR OPERATING LOSS AND TURNED IT INTO A MILLION
16 DOLLAR NET GAIN FOR TAX PURPOSES, WHAT TRANSACTIONS?

17 A THERE WAS AN \$8 MILLION DOLLAR, I BELIEVE, \$7 AND A
18 HALF MILLION, SOMETHING LIKE THAT, INCREASE IN DEFERRED
19 TAX ASSET WHICH, YOU KNOW, REFLECTS HERE YOU SEE THE TAX
20 PROVISION IN 1998 WAS A BENEFIT OF \$3 MILLION.

21 Q I AM ASKING ABOUT THE YEAR OF 1999.

22 A IN 1999 THERE WAS, I AM SORRY, IN 1998 THERE WAS A
23 PROVISION OF \$3 MILLION, IN 1999 THERE WAS A \$7.4 MILLION
24 BENEFIT RECORDED FOR TAXES.

25 Q SO, THAT TAKES THE \$35 MILLION DOLLARS, REDUCES IT

1 SOME \$7 MILLION DOLLARS, HOW DO WE MAKE UP THE OTHER \$20
2 SOMETHING MILLION DOLLARS?

3 A THERE IS \$29 AND A HALF MILLION REPORTED AS A
4 SEPARATE LINE ITEM FOR GAIN ON EXTINGUISHMENT OF DEBT.

5 Q THAT IS BUYING BACK THESE BONDS THAT WE TALKED ABOUT?

6 A THAT IS CORRECT.

7 Q NOW, GOING INTO TO 2000, EXECUTIVE MANAGEMENT OF
8 HOMEGOLD, MR. SHEPPARD, EXCUSE ME, MR. STERLING AND OTHERS
9 PERHAPS WERE LOOKING FOR MERGER OPPORTUNITIES TO INCREASE
10 THE PRODUCTION, CORRECT?

11 A CORRECT.

12 Q AND THE FIRST EVALUATION WAS A COMPANY DOWN IN
13 FLORIDA CALLED WESTMARK?

14 A RIGHT.

15 Q AND YOU WENT DOWN WITH MR. GIDDENS?

16 A NO, WE HAD CEO AND CFO COME UP TO OUR OFFICES IN
17 GREENVILLE FOR A DISCUSSION WITH JACK AND KEITH AND I.

18 Q SO, YOU WERE INVOLVED IN THAT AND YOU REVIEWED SOME
19 FINANCIALS FROM THAT COMPANY?

20 A YES.

21 Q AND THEN YOU AND MR. GIDDENS RECOMMENDED TO MR.
22 STERLING THAT HOMEGOLD SHOULD NOT PURSUE THIS OPPORTUNITY
23 ANY FURTHER, CORRECT?

24 A CORRECT.

25 Q AND HE WAS ANGRY AT THAT POINT, WAS HE NOT?

1 A I DON'T RECALL SPECIFICALLY.

2 Q THEN WE GO TO THE SECOND MERGER WITH PENNINGTON OUT
3 OF CALIFORNIA, CORRECT?

4 A RIGHT.

5 Q NOW, DURING THOSE DISCUSSIONS HOMEGOLD LOANED THE
6 PENNINGTON GROUP A MILLION DOLLARS JUST DURING THE PART OF
7 THE WHOLE DISCUSSION PROCESS, CORRECT?

8 A CORRECT, THAT WAS SOMETHING THAT JACK HAD DONE.

9 Q JACK STERLING HAD CREATED A LOAN FOR A MILLION
10 DOLLARS FOR THE PENNINGTON GROUP, RIGHT?

11 A CORRECT.

12 Q AND THEN THERE WAS SOME DUE DILIGENCE GOING BACK AND
13 FORTH, DID YOU GO TO CALIFORNIA?

14 A I DID.

15 Q AND OTHERS WENT TO CALIFORNIA?

16 A RIGHT.

17 Q AND SOME OF PENNINGTON'S GROUPS CAME TO SOUTH
18 CAROLINA?

19 A I AM NOT SURE, I DON'T RECALL THAT.

20 Q AND THE, BUT YOU AND MR. GIDDENS WROTE A CRITICAL
21 ANALYSIS OF THAT MERGER AND IT DIDN'T GO THROUGH?

22 A CORRECT.

23 Q AND THERE YOU TESTIFIED THAT MR. STERLING GOT ANGRY?

24 A RIGHT.

25 Q AND ACCUSATORY THAT YOU AND MR. GIDDENS WERE, I

1 GUESS, PROTECTING YOUR TURF, IS THAT FAIR?

2 A THAT MAY OF BEEN THE UNDERLYING.

3 Q WOULD IT APPEAR THAT MR. STERLING WAS DESPERATE TO
4 FIND A MERGER PARTNER?

5 A I AM NOT SURE, YOU WOULD HAVE TO ASK HIM THAT.

6 Q WELL, SO THE THIRD ENTITY THAT WAS IDENTIFIED WAS
7 HOMESENSE, MR. SHEPPARD'S COMPANY, CORRECT?

8 A RIGHT.

9 Q AND YOU AND MR. GIDDENS WERE EXCLUDED FROM THE
10 NEGOTIATIONS WHICH LEAD TO, I GUESS, A TURN SHEET BY MR.
11 STERLING, CORRECT?

12 A CORRECT.

13 Q AND YOUR INVOLVEMENT DID NOT COME IN, YOU DID NOT
14 BECOME INVOLVED UNTIL AFTER THERE WAS ESSENTIALLY AN
15 AGREEMENT ALREADY REACHED BETWEEN MR. SHEPPARD AND MR.
16 SIROTA AND MR. STERLING, CORRECT?

17 A CORRECT.

18 Q AND YOUR TASK AT THAT POINT AND TIME WAS TO DO A DUE
19 DILIGENCE INVESTIGATION FOR PURPOSES OF THIS MERGER?

20 A RIGHT, MY TEAM WAS INVOLVED IN DUE DILIGENCE, I
21 DIDN'T ACTUALLY GO DOWN WITH THEM ON THAT TO PARTICIPATE
22 BUT I WAS INVOLVED IN HELPING TO PUT TOGETHER THE DUE
23 DILIGENCE REQUEST FROM HOMESENSE.

24 Q AND AS PART OF THAT YOU DISCOVERED THAT, WELL, YOU
25 DETERMINED THAT THERE WAS SERIOUS INTERNAL CONTROLS

1 LACKING THAT OF HOMESENSE?

2 A THAT IS CORRECT.

3 Q ALTHOUGH IT WAS A LITTLE DISCONCERNING YOU FELT THAT,
4 BECAUSE HOMEGOLD HAD PRETTY MUCH AIRTIGHT CONTROLS THAT IS
5 ONE, THAT IS WHAT MADE THIS MARRIAGE LOOK LIKE IT COULD BE
6 ATTRACTIVE, CORRECT?

7 A THAT'S CORRECT.

8 Q THEN AND HOMESENSE HAD NOT OPERATED IN THE STRICT
9 COMPLIANCE IN ENVIRONMENT OF PUBLIC COMPANY PREVIOUSLY AS
10 YOU HAD BELIEVED HOMEGOLD, CORRECT?

11 A CORRECT.

12 Q THEN YOU ALSO AS PART OF THE DUE DILIGENCE EXAMINED
13 HOW THE INCOME AND THE INCOME STATEMENT OR THE INCOME WAS
14 BEING REPORTED AND THE BALANCE SHEET OF HOMESENSE AND THAT
15 IS WHERE YOU WERE CONCERNED OF THE TIMING OF THE
16 RECOGNITION OF INCOME FOR HOMESENSE, RIGHT?

17 A YES.

18 Q AND YOU RAISED THOSE ISSUES AND YOU FELT THAT DID NOT
19 COMPORT WITH GAP, CORRECT?

20 A THAT'S CORRECT.

21 Q AND YOU POINTED THAT OUT TO MR. STERLING AND OTHERS,
22 CORRECT?

23 A YES.

24 Q AND YOU SAW IF YOU MADE THE TIMING ADJUSTMENTS IN
25 ACCORDANCE WITH GAP THAT IT WOULD REDUCE THE NET EQUITY

1 THAT MR. SHEPPARD'S COMPANY WOULD BRING TO THE DEAL,
2 DRAMATICALLY, ABOUT \$2 MILLION DOLLARS, RIGHT?

3 A CORRECT.

4 Q AND YOU MENTIONED THAT TO MR. SHEPPARD AND HE WAS
5 UPSET WITH THAT STATEMENT FROM YOU, CORRECT?

6 A I BELIEVE SO.

7 Q AND THESE CONVERSATIONS WERE WELL PREMERGER IN
8 FEBRUARY AND MARCH OF 2002, CORRECT?

9 A I BELIEVE THAT IS CORRECT.

10 Q AND SO THERE WAS A PERIOD OF TIME WHERE THIS ISSUE
11 WAS ON THE TABLE, DISCUSSIONS BACK AND FORTH AND AT TIMES
12 MR. SHEPPARD WOULD SAY, OKAY, WE HAVE NO DEAL. HE WOULD
13 CALL THE DEAL OFF ON MULTIPLE OCCASIONS, DID HE NOT?

14 A THERE WERE SOME TIMES WHEN HE CALLED THE DEAL OFF BUT
15 I DON'T RECALL WHAT THE ISSUES WERE.

16 Q SO, THIS WAS NOT, THIS WAS A GIVE AND TAKE
17 NEGOTIATIONS, MR. SHEPPARD ON ONE SIDE OF THE TABLE AND IT
18 WAS MR. STERLING ON THE OTHER SIDE?

19 A YES.

20 Q AND YOU REPORTED TO MR. STERLING, CORRECT?

21 A MR. GIDDENS AND MR. STERLING, CORRECT.

22 Q AND NOW, MR. GIDDENS DURING THIS PROCESS KNEW AND HAD
23 FRANKLY OFFERED TO RESIGN WELL AHEAD OF THE MERGER WHEN
24 THE COMPANY WAS GOING TO BE TAKEN OVER BY ANOTHER PERSON
25 AND THERE WOULD BE NO ROOM FOR HIM, ISN'T THAT RIGHT?

1 A NO, MY UNDERSTANDING IS THAT RONNIE SPECIFICALLY DID
2 NOT WANT KEITH INVOLVED GOING FORWARD AFTER THIS MERGER.

3 Q DURING THESE DISCUSSIONS, I WANT TO SHOW YOU TWO
4 DOCUMENTS. MR. MAST, I WANT TO SHOW YOU WHAT IS MARKED
5 FOR IDENTIFICATION AS EXHIBIT NUMBER 7, DEFENDANT'S, DO
6 YOU RECOGNIZE THAT DOCUMENT, I WILL GIVE YOU A CHANCE TO
7 REVIEW IT.

8 A IT APPEARS TO BE AN EMAIL FROM MS. TURNAGE WHICH WAS
9 RONNIE'S CONTROLLER TO ME ON FEBRUARY THE 3RD AND THEN AN
10 EMAIL BACK FROM ME TO, FORWARDED ON TO KEITH, JACK AND JAN
11 SIROTA.

12 MR. GRIFFIN: YOUR HONOR, I WOULD LIKE TO INTRODUCE
13 EXHIBIT 7.

14 THE COURT: ANY OBJECTION.

15 MS. EVANS: NO OBJECTION, YOUR HONOR.

16 THE COURT: DEFENDANT'S 7 IS ADMITTED.

17 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 7 WAS ADMITTED
18 INTO EVIDENCE.)

19 Q I WANT TO SHOW YOU DEFENDANT'S EXHIBIT 8 AND ASK IF
20 YOU CAN IDENTIFY THAT DOCUMENT ALSO?

21 A YES, THIS IS AN EMAIL FROM MS. TURNAGE TO ME ON
22 FEBRUARY THE 15TH TALKING ABOUT ADJUSTMENTS THAT THEY MADE
23 TO THE FINANCIAL STATEMENTS AS A RESULT OF OUR QUESTIONS
24 AND THEN FORWARDED THE EMAIL TO JAN SIROTA AND KEITH
25 GIDDENS, JACK STERLING, BILL LONG AND CARY HALL.

1 MR. GRIFFIN: I WOULD LIKE TO INTRODUCE NUMBER 8 INTO
2 EVIDENCE.

3 THE COURT: ANY OBJECTION?

4 MS. EVANS: NO OBJECTION, YOUR HONOR.

5 THE COURT: DEFENDANT'S 8 IS ADMITTED.

6 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 8 WAS ADMITTED
7 INTO EVIDENCE.)

8 Q MR. MAST, I WOULD ASK YOU TO, GOING BACK TO NUMBER 7,
9 IF YOU DON'T MIND, JUST, YOU MENTIONED TO THE JURY THAT IS
10 AN EMAIL FROM MS. TURNAGE BACK TO YOU AND YOU FORWARDED IT
11 ON?

12 A CORRECT.

13 Q AND THAT IS PART OF THE DEAL, DEAL AND NEGOTIATIONS.
14 AND THERE ARE ITEMS ON THERE THAT MR. SHEPPARD WANTS AS
15 PART OF THE DEAL, CORRECT?

16 A THESE ARE THINGS THAT WE FOUND THAT WERE PROBLEMS
17 WITH FINANCIAL STATEMENTS. IN OTHER WORDS THE FINANCIAL
18 STATEMENTS THAT WE WERE PRESENTED WITH HAD A MILLION
19 DOLLAR CD ON THE FINANCIAL STATEMENTS. WE FOUND OUT THE
20 CD WAS ACTUALLY IN THE NAME OF DANA SHEPPARD WHICH WAS
21 RONNIE'S WIFE. SO, IT WASN'T AN ASSET THAT WAS OWNED BY
22 THE COMPANY AND YET IT WAS INCLUDED IN THE NET WORTH IN
23 CASH OF THE FINANCIAL STATEMENTS THAT WERE PROVIDED TO US
24 WHEN WE WERE LOOKING AT AND EVALUATING THE COMPANY. SO,
25 IF THAT MILLION DOLLAR CD REALLY DID NOT BELONG TO THE

1 COMPANY THAT IS A MILLION DOLLARS LESS EQUITY RIGHT THERE
2 THAN WHAT SHOULD OF BEEN IN THERE.

3 Q AND THEN IN THAT, MR. SHEPPARD, IN THAT EMAIL MR.
4 SHEPPARD IS, MS. TURNAGE IS SAYING MR. SHEPPARD WANTS, HOW
5 DOES HE WANT THAT?

6 A IT LOOKS LIKE HE WANTS THAT RELEASED TO HIM SO THAT
7 HE CAN JUST KEEP IT PERSONALLY AND OUT OF BUSINESS.

8 Q AND THAT WAS SOMETHING THAT WAS ADDRESSED ON THE
9 FRONT END?

10 A NOT NECESSARILY THE FRONT END. FEBRUARY IS THE TIME
11 FRAME, I BELIEVE THE LETTER OF INTENT, YOU CAN CHECK THE
12 RECORDS AND THE LETTER OF INTENT WOULD BE WHERE THE PRICE
13 IS NEGOTIATED. SO, THESE TYPES OF SURPRISES THAT COME UP,
14 YOU KNOW, SHOULD IMPACT THE PRICE.

15 Q AND ITEM NUMBER FOUR ON THAT LIST IS SOMETHING
16 REGARDING MR. SHEPPARD'S MOTOR HOME, IS THAT CORRECT. CAN
17 YOU PLEASE READ THAT TO THE JURY?

18 A IT IS SAYING THAT ONE OF THE THINGS THAT MS. TURNAGE
19 IS ASKING FOR, OR WHAT RONNIE HAS REQUESTED IS FOR
20 HOMEGOLD TO CONTINUE TO PAY PERSONAL VAN AND MOTOR HOME
21 THAT HOMESENSE HAD BEEN PAYING FOR DIFFERENT FROM
22 PURCHASING A NEW MOTOR HOME.

23 Q THAT IS SOMETHING THAT THE MOTOR HOME, THAT IS
24 SOMETHING THAT YOU DISCOVERED IN THE AUDIT AS WELL?

25 A THAT THERE WAS A MOTOR HOME BEING--

1 Q BEING PAID FOR.

2 A YES, I BELIEVE THAT JUST PRIOR TO THE MERGER TAKING
3 PLACE, YOU MAY CHECK THE RECORDS TO BE SURE, BUT I BELIEVE
4 A NEW MOTOR HOME WAS PURCHASED, NOT THE EXISTING, JUST
5 MAKING PAYMENTS OF THE EXISTING.

6 Q THEN ON EXHIBIT NUMBER 8 IS ANOTHER DOCUMENT, AN
7 EMAIL FROM MS. TURNAGE BACK TO YOU AND THEN YOU, REGARDING
8 ANOTHER YEAREND ADJUSTMENT THAT HOMESENSE IS MAKING OF
9 ROUGHLY \$350 THOUSAND DOLLARS ESSENTIALLY BASED ON
10 CONVERSATIONS SHE HAD WITH YOU?

11 A THAT IS CORRECT. ONE OF THE THINGS THAT WE FOUND WAS
12 THAT THERE WERE INAPPROPRIATE PREPAIDS UNDER FINANCIAL
13 STATEMENTS THAT SHOULDN'T HAVE BEEN THERE. SO THERE IS
14 \$350 THOUSAND OF ASSETS THAT SHOULD OF BEEN EXPENSED. AND
15 THIS EMAIL IS WHERE SHE IS GOING AHEAD AND WRITING OFF
16 THOSE INAPPROPRIATE PREPAIDS, THEY WERE ITEMS THAT WERE
17 RELATED TO APRIL OF '99 TO DECEMBER OF '99, SO THEY SHOULD
18 NOT OF BEEN A PREPAID AT 12/31/99.

19 Q AND ONCE AGAIN IN THAT DOCUMENT, YOU ARE FORWARDING
20 IT ON TO KEITH GIDDENS?

21 A KEITH, JACK, BILL LONG, CARY HALL AND JAN SIROTA.

22 Q CARY HALL IS WITH THE WYCHE LAW FIRM?

23 A CORRECT.

24 Q BILL LONG IS THE IN-HOUSE COUNSEL?

25 A CORRECT.

1 Q JAN SIROTA IS THE RAYMOND JAMES ACCOUNTANT?

2 A CORRECT.

3 Q AND IN THIS DOCUMENT YOU RAISED ONCE AGAIN THE ISSUE
4 OF TIMING OF THIS RECOGNITION OF INCOME, DO YOU NOT?

5 A THAT IS CORRECT. AND NOT EXPENSING THE THINGS THAT
6 SHOULD OF BEEN EXPENSED. AGAIN, HAS A NEGATIVE IMPACT ON
7 THEIR NET WORTH.

8 Q AND YOU PUT, WHAT IS THE DOLLAR AMOUNT YOU SAY THE
9 IMPACT OF THIS ADJUSTMENT WOULD BE IN YOUR MEMO, YOUR
10 EMAIL?

11 A \$350 THOUSAND DUE TO THE PREPAIDS, A MILLION DOLLARS
12 DUE TO THE CD. THERE WAS ALSO A NO RECEIVABLE FROM RONNIE
13 AT \$1.7 MILLION IN WHICH I QUESTIONED THE REPAYMENT PLAN
14 ON. AND THERE WAS ALSO THE \$2.4 MILLION ADJUSTMENT
15 RELATED TO THE GAIN ON SALE OF LOANS, THE TIMING OF THE
16 GAIN ON SALE OF LOANS.

17 Q THAT WAS \$2.1 MILLION?

18 A YOU HAVE TO ADD IT ALL UP, IT IS \$350 THOUSAND, A
19 MILLION, \$1.7 MILLION AND \$2.4.

20 Q AND THE ADJUSTMENT OF LOANS WAS ITSELF WAS \$2.4
21 MILLION?

22 A RIGHT.

23 Q AND THIS IS STILL, THE DEAL IS NOT FINAL, THERE ARE
24 NEGOTIATIONS, CORRECT, AS TO HOW TO DEAL WITH THESE
25 ISSUES?

1 A THIS IS IN THE MIDDLE OF FEBRUARY, SO I THINK YOU
2 HAVE TO LOOK AT THE TIMING, I THINK THAT THE, I AM NOT
3 CERTAIN OF THE TIMING OF IT.

4 Q AND ONE THING THAT WAS ADJUSTED WAS THE AMOUNT OF
5 DEFERRED STOCK THAT MR. SHEPPARD WAS TO RECEIVE. WE WENT
6 FROM \$11 MILLION TO \$10 MILLION IN THESE CONVERSATIONS,
7 RIGHT?

8 A THAT'S CORRECT.

9 Q THAT THIS IS BEFORE THE MERGER TRANSACTION WAS SENT
10 OUT TO THE SHAREHOLDERS, CORRECT?

11 A I BELIEVE THAT IS CORRECT, I AM NOT ONE-HUNDRED
12 PERCENT SURE.

13 Q SO, THESE ISSUES CAME UP AND MR. SHEPPARD GAVE UP A
14 MILLION SHARES OF PREFERRED STOCK?

15 A CORRECT.

16 Q YET YOU AND MR. STERLING ARE TALKING ABOUT, WELL WE
17 WILL HAVE IN THIS INDEMNITY AGREEMENT, WE WILL MAKE IT
18 WHERE IF HE CAN'T PRODUCE ONCE WE DO OUR AUDIT THEN THAT
19 \$2 POINT SOMETHING MILLION DOLLARS OF NET WORTH, THAT HE
20 WILL HAVE TO COME BACK AND GIVE IT BACK TO US. THOSE WERE
21 THE DISCUSSIONS THAT YOU AND MR. STERLING HAD, CORRECT?

22 A THAT IS WHAT THE DOCUMENTS, THE CLOSING MERGER
23 DOCUMENTS INDICATED AND IF THERE WAS DIFFERENT DISCUSSIONS
24 SAYING THAT THE FINANCIALS DIDN'T NEED TO BE ACCORDANCE
25 WITH GAP THAT SHOULD OF BEEN A PART OF THE MERGER

1 DOCUMENTS. BUT THE MERGER DOCUMENTS THAT WERE SIGNED AND
2 CLOSED INDICATED THAT HE WAS REQUIRED TO HAVE THAT MINIMUM
3 NET WORTH AND THE FACT IS HE CAME WITHOUT THAT NET WORTH.

4 Q AND AS PART OF THE MERGER, THAT MERGER HAD TO BE
5 VOTED UPON BY THE SHAREHOLDERS OF, NOT CAROLINA INVESTORS,
6 BUT HOMEGOLD FINANCIAL, A PUBLICLY TRADED COMPANY,
7 CORRECT?

8 A CORRECT.

9 Q AND AS PART OF THAT A PROXY STATEMENT GOES OUT TO ALL
10 THE SHAREHOLDERS, DOES IT NOT?

11 A YES.

12 Q AND THE PROXY STATEMENT THAT WENT OUT, THAT IS
13 ALREADY IN EVIDENCE AS EXHIBIT 58 THAT WAS SHOWN TO YOU
14 EARLIER AND YOU ASSISTED IN THE PREPARATION OF THIS PROXY
15 STATEMENT, DID YOU NOT?

16 A YES.

17 Q AND AS PART OF THIS PROXY STATEMENT THE HOMESENSE
18 CONSOLIDATED FINANCIALS ARE PRESENTED, ARE THEY NOT?

19 A WE PRESENTED BASED ON REPRESENTATIONS FROM RONNIE OF
20 WHAT HIS NUMBERS WERE, BASED ON TO OUR KNOWLEDGE WHAT THE
21 NUMBERS WERE.

22 Q AND THESE FINANCIAL STATEMENTS WERE AUDITED BY A FIRM
23 CALLED J.W. HUNT AND COMPANY, L.L.P. LOCATED IN COLUMBIA,
24 SOUTH CAROLINA, CORRECT?

25 A THAT IS CORRECT. WHAT YEARS THEY WERE FOR.

1 Q I AM GOING TO ASK YOU, ARE THESE FINANCIALS UP TO AND
2 THE YEAR OF MARCH OF 1999 THAT WERE SENT TO THE
3 SHAREHOLDERS, CORRECT?

4 A YES. IN MARCH OF 1999 KEEP IN MIND A LOT OF THESE
5 PROBLEMS WE ARE FINDING WAS FROM DECEMBER OF 1999, HE HAD
6 A YEAREND OF MARCH 31 SO THERE WAS, YOU KNOW, NINE MONTHS
7 WORTH OF UNAUDITED INFORMATION. THE LATEST AUDITED
8 FINANCIAL STATEMENTS THAT WERE AVAILABLE FROM THE AUDITORS
9 WAS MARCH 31 OF 1999. WE WERE FINDING ISSUES WITH THE
10 DECEMBER 31 FINANCIAL STATEMENTS.

11 Q WELL, THE ISSUE WITH REGARDING TIMING OF RECOGNITION
12 OF INCOME WAS IN 1999 AS WELL, WAS IT NOT?

13 A YES.

14 Q IT WAS IN 1998, WAS IT NOT?

15 A I BELIEVE WE INCLUDED A FOOTNOTE THAT INDICATED THAT
16 ISSUE WITH REGARD TO THE \$2.4 MILLION AND WHAT IT WOULD BE
17 WITHOUT THAT ITEM.

18 Q I AM GOING TO ASK YOU, THE AUDITED FINANCIALS FOR THE
19 YEAREND MARCH OF 1999 BY J.W. HUNT, AS PART OF THEIR
20 AUDIT, THEY ADDRESS THIS REVENUE RECOGNITION ISSUE, DID
21 THEY NOT, IN A FOOTNOTE?

22 A YES.

23 Q WOULD YOU PLEASE READ THAT REVENUE RECOGNITION
24 FOOTNOTE TO THE JURY.

25 A GAIN ON SALE OF LOANS IS RECOGNIZED AS ONE DELIVERY

1 AND ACCEPTANCE OF LOANS BY A WHOLE LOAN INVESTORS. GAINS
2 FROM SALES OF WHOLE LOANS ARE CALCULATED BASED UPON THE
3 DIFFERENCES BETWEEN THE NET SALES PROCEEDS AND THE NET
4 CARRYING AMOUNT OF LOANS SOLD. LOAN ORIGATION COST OR
5 EXPENSE AS INCURRED, AND THAT IS ONE OF THE THINGS THAT WE
6 FOUND IS THAT THERE WERE EXPENSES CAPITALIZED VERSUS BEING
7 EXPENSED AND INCURRED. SINCE LOAN ORIGATION FEES
8 APPROXIMATE THE DIRECT COST OF THE ORIGATION AND
9 ACQUISITION AND SINCE LOANS ARE SOLD TO PERMANENT
10 INVESTORS WITHIN A RELATIVITY SHORT PERIOD OF TIME AFTER
11 ORIGATION IMMEDIATE RECOGNITION OF ORIGATION FEES AND
12 COST DOES NOT MATERIALLY DIFFER FROM THOSE USING A
13 DEFERRED METHOD.

14 Q STOP, STOP--

15 A WHAT THEY ARE SAYING IS THEY HAVE NOT APPLIED FASB 91
16 AND THEY ARE SAYING IT CLEARLY HERE, WE ARE NOT IN
17 COMPLIANCE WITH FASB 91 FOR THE DEFERRAL OF LOAN FEES BUT
18 WE DON'T DEEM IT TO BE A MATERIAL DIFFERENCE. AT THE END
19 OF DECEMBER IT APPEARED TO BE A MATERIAL DIFFERENCE.

20 Q AND THAT WAS AN UNQUALIFIED OPINION GIVEN BY ANOTHER
21 ACCOUNTING FIRM ON THESE FINANCIALS, CORRECT?

22 A IT WAS AND I WOULD BE INTERESTED IN SEEING THE SEC'S
23 VIEW ON THAT.

24 Q AND THEN AFTER THE MERGER WAS CONSUMMATED THIS
25 REVENUE RECOGNITION ISSUE CAME UP AGAIN, IT WAS STILL ON

1 THE TABLE I GUESS AT THE TIME YOU LEFT, CORRECT?

2 A CORRECT. THERE WERE A NUMBER OF ISSUES FROM THOSE
3 TYPES OF DIFFERENCES THAT WERE FOUND. AND A LOT OF THE
4 DIFFERENCES LIKE THE PREPAID EXPENSES THAT WERE
5 CAPITALIZED, A MILLION DOLLARS IN PAYABLES THAT WEREN'T
6 RECOGNIZED, THOSE WERE CLEAR AND OBVIOUS DIFFERENCES THAT
7 WERE NOT IN ACCORDANCE WITH GAP. AND THERE WAS NOT A
8 DISPUTE ON THE FACT THAT THOSE WERE JUST INCORRECT ITEMS.

9 Q NOW, AT THE, AFTER THE MERGER TAKES PLACE MR. GIDDENS
10 LEAVES AND HE GETS A YEAR'S SEVERANCE PACKAGE, CORRECT?

11 A CORRECT.

12 Q AND THEN YOU STAY FOR THE MERGER, THE MERGER HAPPENED
13 IN EARLY MAY, YOU STAYED THROUGH, I GUESS TWO MONTHS?

14 A CORRECT.

15 Q AND YOU LEFT, YOU VOLUNTARILY RESIGNED, YOU WERE NOT
16 FIRED, WERE YOU?

17 A IT WAS A MUTUAL AGREEMENT TO LEAVE, I SPENT ALL
18 WEEKEND, THE WEEKEND OF JULY 2ND AND 3RD TRYING TO SORT
19 THROUGH ALL OF THE MESS THAT WE HAD INHERITED. AND I WAS
20 CALLED IN FIRST THING ON MONDAY WITH JACK AND BILL LONG
21 AND TOLD THAT RONNIE, YOU KNOW, DESIRED ME TO NOT BE
22 THERE.

23 Q AND EVEN AFTER THE MERGER, RONNIE IS CEO, YOU ARE
24 STILL REPORTING DIRECTLY DAY-TO-DAY TO JACK, CORRECT?

25 A I DON'T KNOW, I MEAN, I WAS THERE FOR TWO MONTHS AND

1 JACK WAS THERE DAILY, I REPORTED TO RONNIE BUT HE WAS NOT
2 THERE DAILY.

3 Q AND YOU DESCRIBED THIS ISSUE WITH REGARDING MR.
4 SHEPPARD GETTING ACCESS TO THE ACCOUNT INFORMATION,
5 ACCOUNTING INFORMATION AS WELL AS CHECK WRITING AUTHORITY
6 FROM DOWN HERE IN COLUMBIA. DID THAT CAUSE YOU GREAT
7 CONCERN?

8 A IT WAS NOT GETTING ACCESS TO THE INFORMATION, WE WERE
9 GLADLY PROVIDING WHATEVER INFORMATION HE WANTED. THE
10 PROBLEM WAS GRANTING ACCESS TO MAKE CHANGES TO THAT
11 INFORMATION. THAT IS WHAT I HAD A PROBLEM WITH AND
12 ISSUING CHECKS FROM DOWN THERE RATHER THAN HAVING A
13 CONTROL, ALL OF THE CHECKS BEING ISSUED OUT OF GREENVILLE.

14 Q DOWN THERE, YOU MEAN DOWN HERE?

15 A I AM SORRY, DOWN IN LEXINGTON.

16 Q AND YOU VOICED THOSE, AND YOU GOT THAT REQUEST FROM
17 KAREN MILLER, CORRECT?

18 A I DID NOT GET THE REQUEST FROM KAREN MILLER, THE
19 CHANGE WAS MADE WITHOUT MY KNOWLEDGE OR APPROVAL.

20 Q THROUGH HER I.T. DEPARTMENT?

21 A THROUGH HER I.T. DEPARTMENT.

22 Q AND THEN YOU RAISED YOUR COMPLAINT WITH HER?

23 A I RAISED IT WITH JACK STERLING, I RAISED IT WITH HER,
24 I RAISED IT WITH RONNIE, I BELIEVE.

25 Q AND THEN AT THE END OF THE DAY DID JACK AUTHORIZE

1 THIS TRANSFER, CORRECT?

2 A JACK INDICATED THAT RONNIE WAS THE CEO AND WHAT
3 RONNIE WANTED WE SHOULD PROVIDE TO HIM.

4 Q AND AT THAT POINT AND TIME YOU DECIDED OR PREFERRED
5 TO RESIGN?

6 A RIGHT.

7 Q AND NEGOTIATED INSTEAD OF A TWO YEAR SEVERANCE
8 PACKAGE YOU GOT A ONE YEAR SEVERANCE PACKAGE?

9 A CORRECT.

10 Q AND BY REDUCING IT ONE YEAR YOU ALSO REDUCE YOUR
11 NON-COMPETE AGREEMENT BY A SIMILAR AMOUNT, CORRECT?

12 A YES, I THINK SO, I CAN'T RECALL FOR SURE.

13 Q THAT IS ALL.

14 THE COURT: ANY REDIRECT?

15 MS. EVANS: YES, YOUR HONOR, BRIEFLY.

16 REDIRECT EXAMINATION

17 BY MS. EVANS:

18 Q MR. MAST, MR. GRIFFIN ASKED YOU THAT YOU DID DECREASE
19 YOUR SEVERANCE PACKAGE, DID YOU DECREASE THAT SEVERANCE
20 PACKAGE SO YOU COULD GO OUT AND COMPETE EARLIER THAN THE
21 TWO YEARS ORIGINALLY?

22 A NO, I DID NOT.

23 Q WHAT WAS THE PRIMARY PURPOSE OF YOU GETTING THAT
24 SEVERANCE PACKAGE?

25 A PRIMARY REASONING FOR ME TO AGREE TO A ONE YEAR AS

1 OPPOSED TO TWO YEAR IS BECAUSE I NO LONGER WANTED TO BE A
2 PART OF A COMPANY THAT WAS DOING, WAS HEADING IN THE
3 DIRECTION OF DOING THINGS LIKE WHAT RONNIE DICTATED AND
4 MANDATED. AND HE WAS NOT THE KIND OF PERSON THAT YOU
5 COULD GO TO AND SAY THESE ARE THE RULES. HE WOULD SAY, I
6 DON'T CARE ABOUT THE RULES, I WANT IT DONE THIS WAY. AND
7 YOU WOULD TRY TO EXPLAIN, YOU CAN'T DO IT THAT WAY, HE
8 DIDN'T WANT TO HEAR THAT, HE WANTED IT DONE HIS WAY AND HE
9 WANTED SOMEBODY THERE THAT WOULD DO IT HIS WAY. AND I DID
10 NOT WANT TO BE A PART OF THAT.

11 Q OKAY. AND GOING BACK TO THE PROXY, MR. GRIFFIN WAS
12 TRYING TO SAY THAT THOSE WERE AUDITED STATEMENTS FROM J.W.
13 HUNT, WERE THEY SAYING THAT THEY WEREN'T IN COMPLIANCE
14 WITH GAP BUT IT JUST WASN'T MATERIAL AT THAT TIME THAT
15 THEY REPORTED?

16 A THAT'S CORRECT. IF YOU READ THE FOOTNOTE THAT IS
17 EXACTLY WHAT IT SAYS. IT SAYS THAT THEY DON'T DEEM THE
18 DIFFERENCE TO BE MATERIAL.

19 Q AT SOME POINT WHEN YOU KEEP ON DOING SOMETHING THAT
20 IS NOT IN COMPLIANCE WITH GAP CAN THAT THEN BECOME
21 MATERIAL THAT IT WOULD HAVE TO BE CHANGED?

22 A CERTAINLY.

23 Q AND IS THAT WHAT HAPPENED HERE, AND PLEASE EXPLAIN TO
24 THE JURY.

25 A WELL, THE \$2.4 MILLION DOLLAR DIFFERENCE, WHEN YOU

1 ARE TALKING ABOUT, YOU KNOW, \$3 TO \$4 MILLION DOLLAR NET
2 EQUITY, TO ME IS MATERIAL. I MEAN, THAT IS A MATERIAL
3 NUMBER TO THOSE FINANCIAL STATEMENTS.

4 Q AND MR GRIFFIN, I BELIEVE THIS WAS EXHIBIT NUMBER,
5 DEFENSE EXHIBIT NUMBER 7, YOU ALL WERE NEGOTIATING AND
6 THIS WAS IN FEBRUARY OF '02. MR. SHEPPARD IS NEGOTIATING
7 DIFFERENT PARTS OF THE MERGER AND WHAT HE WANTS AS PART OF
8 THE MERGER, CORRECT?

9 A WELL, LET ME SAY ONE THING, YOU WILL SEE THE TITLE IN
10 HERE, IT SAYS DUE DILIGENCE.

11 Q OKAY.

12 A THIS WAS NOT A PART OF THE NEGOTIATIONS, WHAT THIS
13 WAS IS, YOU KNOW, WE WERE DOING OUR DUE DILIGENCE, WE
14 FOUND WHERE THE CD WAS IN THE NAME OF DANA SHEPPARD
15 INSTEAD OF THE COMPANY. IT WAS REPRESENTED TO US THAT IT
16 WAS A COMPANY CD, WE FOUND IN OUR DUE DILIGENCE THAT IT
17 WAS NOT. WHAT THIS COMES BACK AND SAYS IS WELL, OKAY, IT
18 IS NOT, YOU ARE RIGHT, YOU CAUGHT THAT BUT LET'S HAVE IT
19 ANYWAY.

20 Q SO, WHEN THEY SAY, WHEN YOU SAY LET US HAVE IT, IS
21 THAT RONNIE SHEPPARD HAVE THAT MILLION DOLLARS?

22 A THAT WAS RONNIE SHEPPARD WANTED TO KEEP THE MILLION
23 DOLLARS EVEN THOUGH IT WAS REPRESENTED TO BE COMPANY
24 MONEY.

25 Q MR. GRIFFIN ALSO DREW YOUR ATTENTION TO THE PROXY

1 STATEMENTS WHICH IS STATE'S EXHIBIT NUMBER 58. DID MR.
2 SHEPPARD AS PART OF HIS, AS PART OF HIS MERGER WITH
3 HOMEGOLD NEGOTIATE A \$5.7 MILLION DOLLAR NONRECOURSE LOAN?

4 A YES.

5 Q AND PLEASE EXPLAIN TO THE JURY WHAT A NONRECOURSE
6 LOAN IS?

7 A A NONRECOURSE LOAN MEANS YOU OWE THE MONEY BUT YOU
8 DON'T HAVE IT SECURED WITH ANY OF YOUR ASSETS. SO, IF YOU
9 DON'T PAY THE NOTE SOMEONE CAN'T GO AFTER YOUR HOUSE OR
10 AFTER OTHER ASSETS THAT YOU HAVE GOT.

11 Q AND THAT WAS^u SOMETHING THAT WAS NEGOTIATED DIRECTLY,
12 THAT RONNIE SHEPPARD WANTED IT TO BE STRUCTURED THAT WAY?

13 A YES.

14 Q AND AS IT BEING A NONRECOURSE LOAN, WAS THAT THE
15 DIFFERENCE BETWEEN THAT BEING A PURCHASE PRICE?

16 A AS A PURCHASE PRICE HE WOULD BE, IT WOULD BE PART OF
17 THE PURCHASE OF THE STOCK WHICH WOULD BE PROCEEDS FROM THE
18 SELL OF STOCK TO HIM AND BE TAXABLE. IF YOU ARE LOANED
19 MONEY IT IS ONLY TAXABLE TO YOU, YOU KNOW, IF YOU DON'T
20 PAY IT BACK AND THEN IT WOULD BE FORGIVENESS OF DEBT
21 INCOME TO YOUR DEBT POINT.

22 Q AND THAT IS PERFECTLY FINE FOR IT TO BE A NONRECOURSE
23 LOAN?

24 A CORRECT.

25 Q I HAVE NO FURTHER QUESTIONS.

1 THE COURT: MR. GRIFFIN.

2 MR. GRIFFIN: JUST BRIEFLY.

3 RECROSS-EXAMINATION

4 BY MR. GRIFFIN:

5 Q MR. MAST, THAT RAISED AN ISSUE ABOUT THAT LOAN
6 ACCOUNTING FOR ON THE FINANCIAL STATEMENT OF HOMESENSE FOR
7 THE PROXY THAT WENT OUT. AND YOU REMEMBER CONTACTING THE
8 SEC TO BE SURE THAT HOMEGOLD ACCOUNTED FOR PROPERLY?

9 A THAT IS CORRECT. THERE WAS SOME QUESTION IN TERMS OF
10 WHETHER OR NOT THAT RECEIVABLE COULD BE SHOWN AS AN ASSET
11 ON THE BOOKS OR ~~WH~~ WHETHER IT NEEDED TO BE NETTED OUT OF
12 EQUITY.

13 Q THAT IS HOMEGOLD?

14 A ON HOMEGOLD'S BOOKS. AND THE ANSWER WAS NOT CLEAR,
15 IT WAS A GRAY AREA, THE AUDITORS WERE NOT SURE AND SO WE
16 WROTE A LETTER TO THE SEC ASKING THEM, HERE ARE THE FACTS
17 OF THE SITUATION, HOW SHOULD IT BE ACCOUNTED FOR. THE SEC
18 CALLED BACK AND TOLD US THAT IT NEEDED TO BE NETTED OUT OF
19 EQUITY. SO, GOING FORWARD IT WAS NETTED OUT EQUITY.

20 Q YOU FOLLOWED THEIR INSTRUCTIONS?

21 A RIGHT.

22 Q THANK YOU.

23 THE COURT: ANYTHING ELSE?

24 MS. EVANS: NOTHING FURTHER.

25 THE COURT: YOU MAY STEP DOWN.

1 MS. EVANS: CAN THIS WITNESS BE EXCUSED?

2 THE COURT: ANY OBJECTION?

3 MR. GRIFFIN: NO, YOUR HONOR.

4 THE COURT: HE IS EXCUSED. CALL YOUR NEXT WITNESS,
5 PLEASE.

6 MS. EVANS: THE STATE CALLS LARRY GOSNELL TO THE
7 STAND.

8 LARRY GOSNELL, AFTER BEING DULY SWORN, TESTIFIED
9 AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MS. EVANS:

12 Q PLEASE JUST GIVE US A LITTLE BIT OF YOUR BACKGROUND.

13 A I HAVE A MASTERS IN FINANCIAL MANAGEMENT, ALSO A
14 MASTERS IN BUSINESS ADMINISTRATION. I WAS EMPLOYED IN THE
15 BANKING INDUSTRY FOR APPROXIMATELY SIX YEARS. AFTER THAT
16 I WORKED FOR A RESTAURANT HOLDING COMPANY, A VERY LARGE
17 COMPANY WITH SEVERAL MILLIONS IN REVENUES. AND I WAS
18 EMPLOYED IN FINANCIAL PLANNING, BUDGETING AND INVESTOR
19 RELATIONS.

20 Q AND AT SOME POINT DID YOU BECOME EMPLOYED AT
21 HOMEGOLD?

22 A YES, IN SEPTEMBER OF 2000.

23 Q FOR HOW LONG?

24 A I WAS THERE APPROXIMATELY EIGHT WEEKS.

25 Q WHAT WAS YOUR TITLE?

1 A I WAS CHIEF FINANCIAL OFFICER AND TREASURER.

2 Q AND DID YOU KNOW THE DEFENDANT BEFORE YOU WENT TO
3 WORK FOR HOMEGOLD FOR EIGHT WEEKS?

4 A NO, I DID NOT.

5 Q AND QUICKLY TELL THE JURY ABOUT WHO OFFERED YOU THE
6 POSITION AT HOMEGOLD, DID YOU HAVE INTERVIEWS.

7 A I HAD INTERVIEWS OVER A COUPLE OF DAYS. AND THE
8 POSITION WAS ACTUALLY OFFERED TO ME OVER THE TELEPHONE BY
9 MR. SHEPPARD.

10 Q AND WHO WERE THE INTERVIEWS WITH THAT YOU HAD?

11 A JACK STERLING, RONNIE SHEPPARD AND BILL LONG.

12 Q AND HOW QUICKLY DID THEY CALL YOU BACK AND OFFER YOU
13 THE POSITION?

14 A I WAS THERE ON WEDNESDAY, AND A FRIDAY AND I WAS
15 ACTUALLY CALLED BY MR. SHEPPARD VERY LATE IN THE AFTERNOON
16 OR EARLY EVENING THAT FRIDAY.

17 Q AND WHO WAS IN CHARGE WITH THE COMPANY WHEN YOU WENT
18 TO WORK AT HOMEGOLD?

19 A RONNIE SHEPPARD WAS AS CHIEF EXECUTIVE OFFICER.

20 Q WHERE DID YOU GO WORK AND WHAT OFFICE DID YOU
21 PHYSICALLY WORK?

22 A I WAS IN THE GREENVILLE OFFICE.

23 Q AND APPROXIMATELY HOW OFTEN DID YOU SEE THE DEFENDANT
24 WHILE YOU WERE IN THE GREENVILLE OFFICE?

25 A HE WAS THERE APPROXIMATELY ONE DAY PER WEEK.

1 Q WAS MR. STERLING ALSO AT HOMEGOLD AT THE TIME YOU
2 WERE EMPLOYED THERE?

3 A YES, HE WAS. HE WAS THERE APPROXIMATELY FOUR DAYS A
4 WEEK.

5 Q AND APPROXIMATELY EIGHT WEEKS THAT YOU WERE EMPLOYED
6 AS CFO OF HOMEGOLD CAN YOU GO OVER SOME ISSUES THAT YOU
7 DEALT WITH, FINANCIALLY THAT YOU SAW GOING ON AT HOMEGOLD
8 AS CFO?

9 A THERE WERE, WELL THE FIRST THING, THEY WERE ROUGHLY
10 ONE TO TWO MONTHS BEHIND IN CLOSING THEIR ACCOUNTING
11 BOOKS. I WAS THERE IN SEPTEMBER AND I DON'T BELIEVE THAT
12 THEY HAD YET CLOSED THE JULY AND AUGUST BOOKS. THERE WERE
13 STILL SOME UNRESOLVED ISSUES FROM THE MERGER. AND THERE
14 WERE SOME VALUES ON THE, SOME ASSET VALUES ON THE BOOKS
15 THAT SENIOR MANAGEMENT WOULD OF EVALUATED.

16 Q AND WHAT WAS THE FIRST ORDER OF BUSINESS THAT YOU
17 STARTED DOING WHEN YOU GOT THERE?

18 A FOR THE MOST PART WORKING WITH THE CONTROLLERS TO GET
19 THE BOOKS CLOSED FROM JULY.

20 Q AND DO YOU REMEMBER DOING, DEALING WITH SOMETHING
21 THAT IS REFERRED TO, WITHOUT GOING INTO GREAT DETAIL,
22 ABOUT THE SECURITIZATION OF LOAN POOLS?

23 A YES, I DID.

24 Q AND WHO DID YOU WORK WITH ON THOSE ISSUES?

25 A PRIMARILY WITH JACK STERLING.

1 Q DID YOU HAVE CONVERSATIONS WITH THE DEFENDANT, MR.
2 SHEPPARD, ABOUT ACCOUNTING ISSUES?

3 A THERE WERE SOME THAT WERE MORE HIGH LEVEL, JUST
4 GENERAL CONVERSATIONS, NOTHING IN REAL SPECIFIC DETAIL.

5 Q AND IN GENERAL TERMS WHAT WAS THE DANGER OF WHAT HE
6 WAS TELLING YOU TO DO FROM AN ACCOUNTING STANDPOINT?

7 A WELL, HE WAS CONCERNED ABOUT THE NET WORTH OF THE
8 COMPANY. AND WANTED TO MAKE SURE THAT WE LOOKED AT SOME
9 OF THE ASSET ITEMS IN QUESTION AND THAT BEING THE RESIDUAL
10 LOAN POOLS AND ALSO THE DEFERRED TAX ASSET.

11 Q AND DO YOU REMEMBER DEALING WITH A DEFERRED TAX ASSET
12 ISSUE?

13 A YES, I DO.

14 Q AND PLEASE EXPLAIN VERY BRIEFLY WHAT YOUR INVOLVEMENT
15 WAS WITH THE DEFERRED TAX ASSET ISSUE?

16 A WELL, THE DEFERRED TAX ASSET WAS, PART OF IT EXISTED
17 ON THE BALANCE SHEET AND I BELIEVE THERE WAS A VALUE OF
18 \$12 MILLION DOLLARS, \$10 TO \$12 MILLION DOLLARS. AND THE
19 SENIOR MANAGEMENT, THAT WOULD BE MR. STERLING AND MR.
20 SHEPPARD WANTED TO LOOK AT THE POSSIBILITY OF INCREASING
21 THAT VALUE WHICH WOULD HAVE THE EFFECT OF INCREASING THE
22 NET WORTH OF THE COMPANY.

23 Q AND WHAT DID YOU THINK ABOUT THAT?

24 A WELL, I MEAN I DIDN'T HAVE ANY KIND OF BIASED ONE WAY
25 OR THE OTHER FROM THE START. BUT I WANTED TO BE THOROUGH

1 IN LOOKING AT EVERYTHING TO MAKE SURE IT WAS APPROPRIATE
2 TO DO SUCH.

3 Q AND IN YOUR INITIAL REVIEW AND I KNOW YOUR SMALL
4 TENURE THERE, DID YOU NOTICE, DID YOU START QUESTIONING
5 ABOUT WHETHER OR NOT HOMEGOLD FINANCIAL COULD BECOME
6 PROFITABLE?

7 A YES, I DID HAVE, I HAD SOME DOUBTS BUT IT WAS NOT OUT
8 OF THE REALM OF POSSIBILITY.

9 Q OKAY. DID YOU EVER HAVE ANY CONCERNS ABOUT THE
10 EXPENSES AT HOMEGOLD?

11 A YES, I DID...

12 Q AND PLEASE TELL THE JURY SPECIFICALLY ABOUT SOME
13 EXPENSES, SPECIFICALLY AS IT RELATES TO THE DEFENDANT THAT
14 YOU HAD CONCERNS ABOUT?

15 A THERE WERE SOME REDUNDANT, IN LEXINGTON AND
16 GREENVILLE, REDUNDANCIES IN ACCOUNTING, LEGAL, SALARIES
17 THAT NEEDED TO BE LOOKED AT.

18 Q SALARIES OF WHOM?

19 A ACTUALLY, WELL WE HAD ACCOUNTING FUNCTIONS AND THERE
20 WERE TWO DIFFERENT ATTORNEYS, I DIDN'T THINK WE NEEDED TWO
21 ATTORNEYS. THAT IS JUST SOME SPECIFIC EXAMPLES.

22 Q IS THAT SOMETHING THAT YOU WOULD THINK WOULD
23 SOMETIMES BE NORMAL RIGHT AFTER A MERGER?

24 A YES, ON A TEMPORARY BASIS, YES.

25 Q AND WAS THERE AN INDIVIDUAL BY THE NAME OF FORREST

1 FERRELL?

2 A YES, THERE WAS.

3 Q AND WHO WAS FORREST FERRELL?

4 A FORREST, FROM MY RECOLLECTION WAS IN CHARGE OF LOAN
5 SERVICING. HE WAS LATER NAMED PRESIDENT OF THE COMPANY,
6 JUST A FEW WEEKS AFTER I JOINED.

7 Q AND WHERE WAS FORREST FERRELL'S OFFICE?

8 A FORREST WAS LOCATED IN GREENVILLE.

9 Q AND WERE YOU AWARE OF WHEN MR. FERRELL BEGAN
10 EMPLOYMENT, DO YOU KNOW IF IT WAS PREMERGER OR POST
11 MERGER?

12 A THAT I DO NOT KNOW.

13 Q DID YOU AT ANY POINT START HAVING CONCERNS ABOUT AN
14 INTER-COMPANY DEBT TO CAROLINA INVESTORS?

15 A YES, I DID.

16 Q AND PLEASE TELL THE JURY ABOUT YOUR CONCERNS?

17 A I DIDN'T THINK THAT THE COMPANY SHOULD RELY ON THAT
18 AS A SOURCE OF CAPITAL.

19 Q AND DID YOU HAVE DISCUSSIONS WITH THE DEFENDANT ABOUT
20 THAT?

21 A I HAD, WHEN I HAD THOSE, ONE OF THOSE CONCERNS I HAD
22 DIRECT CONVERSATIONS WITH FORREST FERRELL ABOUT THAT AND
23 SOME WITH JACK STERLING. I MAY HAVE HAD WITH MR. SHEPPARD
24 BUT I CAN'T RECALL A SPECIFIC INSTANCE OF THAT.

25 Q AND WHO DID FORREST FERRELL REPORT DIRECTLY TO?

1 A MR. SHEPPARD.

2 Q PLEASE JUST GENERALLY, IN A SNAPSHOT THAT YOU GOT,
3 EXPLAIN THE FINANCIAL CONDITION OF THE COMPANY AND WHAT
4 YOU SAW IN YOUR APPROXIMATELY TWO MONTH EMPLOYMENT THERE.

5 A WELL, WHEN I JOINED THERE I KNEW THE COMPANY HAD LOST
6 MONEY, BUT THE LOSSES, THEY HAD NARROWED THE LOSSES IN THE
7 QUARTERS PRIOR TO ME GOING THERE. SO, THEY WEREN'T LOSING
8 AS MUCH MONEY AS THEY HAD IN THE PAST. WHEN I GOT THERE,
9 QUICKLY FOUND OUT, THEY DID HAVE WAREHOUSE LINES OF CREDIT
10 AND OTHER FINANCIAL SERVICES COMPANIES THAT WE WERE
11 DEALING WITH. AND QUICKLY FOUND OUT AT LEAST ONE OF THOSE
12 INSTITUTIONS HAD CONCERNS ABOUT THE FINANCIAL STABILITY OF
13 THE COMPANY AND ACTUALLY HAD NOTIFIED US THAT THEY WERE
14 GOING TO WORK THE COMMITMENT DOWN FOR A PERIOD OF TWO OR
15 THREE MONTHS. SO, IN OTHER WORDS, IT WOULD REDUCE THE
16 LINE OF CREDIT AVAILABLE TO THE COMPANY.

17 Q DO YOU REMEMBER THE NAME OF THAT WAREHOUSE LINE OF
18 CREDIT?

19 A RMST, I BELIEVE.

20 Q CAN YOU DESCRIBE IN GENERAL TERMS, YOU SAID THAT YOU
21 HAD DEALINGS WITH FORREST FERRELL AND MR. SHEPPARD AND MR.
22 STERLING, IN GENERAL TERMS, WHAT WOULD YOU DESCRIBE AS
23 THEIR ACCOUNTING METHOD AT HOMEGOLD ABOUT ACCOUNTING
24 PROCESSES?

25 A WELL, I BELIEVE HISTORICALLY IT SEEMED LIKE THINGS

1 WERE VERY THOROUGH. BUT WHEN I JOINED THERE THERE SEEMED
2 TO BE A SENSE OF A LOT OF FOCUS ON WANTING TO REEVALUATE
3 EVERYTHING ON THE BALANCE SHEET AND MAYBE TO BE SOMEWHAT
4 AGGRESSIVE ON SOME OF THE TREATMENT.

5 Q AND IN GENERAL TERMS, AT THE TIME YOU WERE THERE,
6 WOULD YOU SAY THE FINANCIAL CONDITION WAS GOOD OR BAD?

7 A I WOULD SAY IT WAS NOT STABLE AND IT WAS, THEY WERE
8 IN A WEAK FINANCIAL CONDITION.

9 Q WERE THERE NUMEROUS DISCUSSIONS IN AND AROUND
10 HOMEGOLD ABOUT TRYING TO, AS YOU WERE SAYING, I THINK YOU
11 SAID ABOUT NET WORTH THAT MR. SHEPPARD SAID AND OTHER
12 THINGS ABOUT AGGRESSIVE ACCOUNTING. WAS THAT SOMETHING
13 THAT YOU EXPERIENCED ON A DAILY BASIS?

14 A I DID GET SOME DIRECTION FROM SENIOR MANAGEMENT THAT
15 WE NEEDED TO LOOK AT A COUPLE OF THESE MAJOR ASSETS, THE
16 DEFERRED TAX ASSET AND ALSO THE RESIDUAL LOAN POOLS. AND
17 I KNOW MR. SHEPPARD WAS VERY CONCERNED ABOUT THE NET WORTH
18 THAT WE HAD AT THE COMPANY. AND ONE OF THE LINES OF
19 CREDIT THAT WE HAD ACTUALLY HAD A COVENANT WHICH SAID YOU
20 NEED TO MAINTAIN A NET WORTH OF SO MANY DOLLARS. I DON'T
21 RECALL EXACTLY WHAT THOSE DOLLARS WAS BUT IT WAS IMPORTANT
22 TO MAINTAIN A CERTAIN LEVEL OF NET WORTH TO KEEP YOUR LINE
23 OF CREDIT PROVIDERS.

24 Q AND DID YOU ALSO RECALL THE NAME OF SOMEONE NAMED
25 KAREN MILLER?

1 A YES, I DID.

2 Q AND WHO WAS KAREN MILLER?

3 A SHE WAS IN CHARGE OF INFORMATION TECHNOLOGY.

4 Q DID SHE SEEM TO PLAY ANY ROLE IN THE ACCOUNTING
5 DEPARTMENT?

6 A I WOULD SAY MAYBE A SMALL ROLE, THE ACCOUNTING SYSTEM
7 WOULD RUN, REQUIRES THE INFORMATION TECHNOLOGY TO RUN THE
8 SYSTEMS.

9 Q AND DESCRIBE THE WORKING RELATIONSHIP THAT YOU SAW
10 BETWEEN KAREN MILLER AND THE DEFENDANT, MR. SHEPPARD.

11 A FROM WHAT I COULD TELL IT WAS A FAIRLY CLOSE
12 RELATIONSHIP BUT OF COURSE MR. SHEPPARD WAS NOT IN THE
13 GREENVILLE OFFICE BUT TYPICALLY ONE DAY A WEEK. SO, I
14 DIDN'T SEE THE TWO OF THEM OR INTERACT WITH THE TWO OF
15 THEM TOGETHER AT THE SAME TIME VERY MUCH.

16 Q SO, IF HE IS THERE ONE DAY A WEEK AND YOU ARE THERE
17 APPROXIMATELY EIGHT WEEKS, AT BEST YOU MIGHT OF SEEN THE
18 DEFENDANT EIGHT TIMES?

19 A THAT IS A PRETTY FAIR ASSUMPTION.

20 Q SO, YOU ARE TALKING ABOUT THE FINANCIAL CONDITION OF
21 HOMEGOLD AT THIS POINT. THERE IS PROBLEMS WITH THE
22 WAREHOUSE LINES OF CREDIT, THEY ARE TRYING TO GET A
23 POSITIVE NET WORTH, THEY ARE WORKING ON THE SECURITIZED
24 POOLS AND A DEFERRED TAX ASSET. DID YOU HAVE THE
25 OPPORTUNITY TO ACCOMPANY THE DEFENDANT AND MR. STERLING TO

1 A CAROLINA INVESTORS BOARD MEETING?

2 A YES, I DID.

3 Q WOULD YOU PLEASE EXPLAIN TO THE JURY THE FINANCIAL
4 CONDITION THAT WAS DESCRIBED TO THE CAROLING BOARD MEETING
5 COMPARED TO WHAT YOU ACTUALLY SAW AT HOMEGOLD?

6 A I DO REMEMBER THAT THE FINANCIAL STATEMENTS WERE
7 HANDED TO THE CAROLINA INVESTORS BOARD MEMBERS, I CAN'T
8 REMEMBER EXACTLY WHAT WAS DISCUSSED IN TERMS OF FINANCIAL
9 NUMBERS. I DO REMEMBER THAT MR. STERLING AND MR. SHEPPARD
10 SEEMED FAIRLY BULLISH ON THE BUSINESS PROSPECTS OF THE
11 COMPANY GOING FORWARD.

12 Q AND WHAT DO YOU MEAN BY BULLISH?

13 A IN TERMS OF LOAN PRODUCTION, THE VOLUME OF LOAN
14 PRODUCTION, OPENING UP NEW OFFICES TO REALLY SUPPORT THAT.

15 Q AND DO YOU REMEMBER GIVING AN INTERVIEW TO SLED ON
16 MARCH 5TH OF 2004?

17 A YES, I DO.

18 Q AND I AM GOING TO SHOW YOU PAGE NINE OF THAT, DON'T
19 READ IT OUT LOUD. I DRAW YOUR ATTENTION TO THAT, CAN YOU
20 PLEASE READ THAT?

21 A OKAY.

22 Q DOES THAT REFRESH YOUR MEMORY OF HOW YOU DETERMINE,
23 HOW THE FINANCIAL CONDITION OF HOMEGOLD TO CAROLINA
24 INVESTORS, AT THAT ONE MEETING?

25 A YES.

1 Q AND HOW DID YOU DESCRIBE IT?

2 A I FELT LIKE THAT MR. STERLING AND MR. SHEPPARD REALLY
3 PAINTED A ROSY PICTURE OF THE PROSPECTS OF THE COMPANY.

4 Q THAT IS THE ONLY CAROLINA INVESTORS BOARD MEETING YOU
5 ATTENDED?

6 A THAT IS CORRECT.

7 Q BUT YOU AT ONE POINT WERE OFFERED THE CEO OF CAROLINA
8 INVESTORS?

9 A THAT WAS NEVER DISCUSSED WITH ME.

10 Q WAS IT EVER BROUGHT UP OR ANYTHING?

11 A BILL LONG, WHO WAS THE GENERAL COUNSEL, ONCE MADE A
12 STATEMENT THAT I WAS GOING TO BE NAMED TO THE CAROLINA
13 INVESTORS AS EITHER AN OFFICER OR A BOARD MEMBER, I CAN'T
14 REMEMBER EITHER ONE. BUT I TOLD HIM I HAD NO INTEREST IN
15 THAT AND EVIDENTLY IT WAS DONE ANYWAY.

16 Q SO, EVEN THOUGH YOU TOLD HIM NO YOU EVIDENTLY BECAME
17 SOMEHOW INVOLVED IN CAROLINA INVESTORS?

18 A EVIDENTLY SO.

19 Q LET'S GO BACK TO THIS DEFERRED TAX ASSET. WHOSE IDEA
20 WAS IT TO DECREASE THE DEFERRED TAX ASSET AGAIN?

21 A MR. STERLING WAS PRIMARILY INVOLVED IN THAT PROJECT.

22 Q AND WAS ALSO MR. SHEPPARD AT ANY POINT INVOLVED IN
23 ANY OF THOSE NEGOTIATIONS WITH ELLIOTT DAVIS?

24 A I CAN'T RECALL ANY SPECIFICS ABOUT THAT.

25 Q I WANT TO SHOW YOU WHAT HAS BEEN MARKED AS STATE'S

1 EXHIBIT NUMBER 96, DO YOU RECOGNIZE THAT?

2 A YES, I DO.

3 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
4 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 96.

5 MR. GRIFFIN: NO OBJECTION.

6 THE COURT: WITHOUT OBJECTION STATE'S 96 IS ADMITTED.
7 (WHEREUPON, STATE'S EXHIBIT NO. 96 WAS ADMITTED INTO
8 EVIDENCE.)

9 Q MR. GOSNELL, WHO PREPARED THAT MEMO?

10 A IT WAS WRITTEN BY ME.

11 Q AND WHAT IS THE DATE OF THAT MEMO?

12 A NOVEMBER 16TH OF 2000.

13 Q CAN YOU REVIEW THAT AND SEE IF IT REFRESHES YOUR
14 MEMORY ABOUT YOUR CONVERSATIONS AND WHAT WAS GOING ON WITH
15 THE DEFERRED TAX ASSET.

16 A OKAY.

17 Q AND THAT WAS WRITTEN BY YOU, YOU SAID?

18 A YES.

19 Q AND WHO WAS IT WRITTEN TO?

20 A IT WAS WRITTEN TO BILL LONG.

21 Q AND WHO IS BILL LONG?

22 A BILL LONG WAS GENERAL COUNSEL, HE HAD SERVED AS
23 TEMPORARY CHIEF FINANCIAL OFFICER PRIOR TO ME JOINING
24 THERE AND THEN IT WAS MY UNDERSTANDING THAT HE WAS GOING
25 TO RESUME THAT TEMPORARY POSITION OF, IMMEDIATELY AFTER I

1 LEFT.

2 Q LET ME DRAW YOUR ATTENTION TO THE SECOND PARAGRAPH OF
3 THAT. COULD YOU READ THE FIRST TWO SENTENCES?

4 A READ IT OUT LOUD?

5 Q YES, PLEASE.

6 A IT IS MY UNDERSTANDING THAT THIS TOPIC HAS BEEN
7 DISCUSSED PERIODICALLY WITH ELLIOTT DAVIS OVER THE PAST
8 TWO YEARS. IN A GENERAL UPDATE MEETING WITH GARRY RANK
9 AND CY BURGESS OF ELLIOTT DAVIS ON SEPTEMBER 19TH, THE
10 TOPIC WAS BROUGHT UP BY JACK STERLING AND MR. SHEPPARD.

11 Q GOING ON DOWN TO THE THIRD PARAGRAPH, CAN YOU READ
12 THAT FIRST LINE OF THAT THIRD PARAGRAPH TO THE JURY.

13 A A SUBSEQUENT MEETING WAS HELD ON OCTOBER 23RD BETWEEN
14 GARRY RANK, JACK STERLING, RONNIE SHEPPARD AND MYSELF.

15 Q KEEP ON READING THAT PARAGRAPH.

16 A THE DEFERRED TAX ASSET SUBJECT WAS DISCUSSED AGAIN.
17 JACK AND RONNIE DISCUSSED THE POSITIVE TRENDS THAT WERE
18 OCCURRING IN THE BUSINESS SINCE THE MERGER. GARRY
19 INDICATED THAT THE COMPANY SHOULD UPDATE THE DEFERRED TAX
20 ANALYSIS AND TO CONTACT ELLIOTT DAVIS WHEN COMPLETED.

21 Q AND READ THE NEXT PARAGRAPH TO THE JURY.

22 A SUBSEQUENT TO JACK STERLING LED THE UPDATING EFFORT
23 FOR THE DEFERRED TAX ANALYSIS AND RECEIVED HELP WITH
24 VARIOUS SECTIONS FROM NANCY DRUMMOND, KEVIN MARTIN, YOU
25 AND ME WITH YOU BEING BILL LONG.

1 Q AND THEN THE THIRD PARAGRAPH, WAS THERE A SUBSEQUENT
2 MEETING, I AM SORRY--

3 A FORTH.

4 Q FIFTH PARAGRAPH ACTUALLY.

5 A ON NOVEMBER 2ND GARRY RANK AND CY BURGESS MET WITH
6 JACK STERLING, RONNIE SHEPPARD, FORREST FERRELL AND MYSELF
7 TO SPECIFICALLY TO DISCUSS THE COMPLETED ANALYSIS.

8 Q OKAY. SO, RIGHT THERE IS THREE DIFFERENT MEETINGS
9 YOU HAD WITH JACK STERLING AND THE DEFENDANT, MR.
10 SHEPPARD, REGARDING, AND MEMBERS OF ELLIOTT DAVIS
11 REGARDING THE DEFERRED TAX ASSET?

12 A THAT'S CORRECT.

13 Q AND THEN THE NEXT PARAGRAPH, CAN YOU READ THAT?

14 A SUBSEQUENTLY JACK STERLING, RONNIE SHEPPARD AND
15 FORREST FERRELL INDICATED TO ME THAT THEY WANTED TO TAKE
16 THE FULL \$32.7 MILLION DOLLAR VALUE, (WITH NO RESERVE
17 ALLOWANCE).

18 Q SO, THAT IS THE FORTH CONVERSATION THAT YOU HAD WITH
19 THE DEFENDANT NOW ABOUT THE DEFERRED TAX ASSET. AND IN
20 GENERAL TERMS DID YOU AGREE, BASED UPON WHAT YOU SAW AT
21 THE COMPANY ABOUT INCREASING THAT DEFERRED TAX ASSET?

22 A IN THE FINAL ANALYSIS, I DID NOT.

23 Q AND WHY DID YOU NOT AGREE WITH THAT?

24 A I DIDN'T FEEL COMFORTABLE WITH THERE BEING A GREATER
25 LIKELIHOOD OF ACHIEVING PROFITABILITY, GREATER THAN FIFTY

1 PERCENT LIKELIHOOD TO ACHIEVE PROFITABILITY AND BEING ABLE
2 TO HAVE SUFFICIENT PROFITS TO RECOUP THAT CREDIT.

3 Q AND SIMPLE TERMS IT IS A TWO STEP APPROACH, ARE YOU
4 EXPERIENCING LOSSES WHICH HOMEGOLD WAS, CORRECT?

5 A CORRECT.

6 Q AND DO YOU EXPECT TO REALIZE THE FUTURE INCOME TO
7 INCREASE THE DEFERRED TAX ASSET?

8 A CORRECT.

9 Q WHICH PART OF THAT TWO STEP PRONG DID YOU NOT AGREE
10 WITH?

11 A I HAD DOUBTS ABOUT THE COMPANY RETURNING TO
12 PROFITABILITY AND WAS NOT OUT OF THE REALM OF POSSIBILITY
13 BUT I DID HAVE SUFFICIENT DOUBTS ABOUT THAT.

14 Q BASED UPON THE ACCOUNTING STANDARDS THAT YOU WERE
15 UPON?

16 A NOT SPECIFICALLY, MY DOUBTS ABOUT THE PROSPECTS FOR
17 FUTURE PROFITABILITY WERE BASED UPON, I DIDN'T SEE THAT
18 THE COMPANY OR THAT LEADERSHIP OF THE COMPANY WAS SERIOUS
19 ABOUT CUTTING COST FOR THE MOST PART. AND IT WAS GOING TO
20 TAKE A SIGNIFICANT JUMP IN LOAN PRODUCTION VOLUME REALLY
21 TO, FOR THE REVENUES TO SEE THE EXPENSES.

22 Q AND IN THOSE, AT LEAST FOUR MEETINGS THAT YA'LL
23 DISCUSSED, WHO IS GIVING THE PROJECTIONS TO ELLIOTT DAVIS
24 ABOUT WHAT THEY EXPECT THEIR FUTURE EARNINGS TO BE IN
25 GENERAL TERMS, DID HOMEGOLD MANAGEMENT GIVE THOSE

1 PROJECTIONS?

2 A HOMEGOLD MANAGEMENT.

3 Q AND THAT WOULD INCLUDE IN THOSE MEETINGS, JACK
4 STERLING, RONNIE SHEPPARD--

5 MR. GRIFFIN: OBJECTION, YOUR HONOR, SHE IS LEADING.

6 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

7 Q FROM WHAT YOU JUST READ THAT REFRESHED YOUR MEMORY
8 WHO WAS UPPER MANAGEMENT IN GIVING THOSE PROJECTIONS TO
9 ELLIOTT DAVIS?

10 A MR. STERLING AND MR. SHEPPARD WOULD OF BEEN LEADING
11 THAT CONVERSATION ON BEHALF OF HOMEGOLD.

12 Q AND BASED UPON THAT WHAT WAS, WAS THERE A DIFFERENCE
13 OF OPINION AT ELLIOTT DAVIS?

14 A YES, THERE WAS.

15 Q AND IS THAT CONTAINED IN THIS MEMO ALSO?

16 A I BELIEVE IT IS.

17 Q AND JUST BRIEFLY EXPLAIN FROM THE MEMO WHAT THE
18 DIFFERENCE OF OPINION AT ELLIOTT DAVIS WAS REGARDING
19 INCREASE OF THE DEFERRED TAX ASSET?

20 A THERE WAS ACTUALLY A DIFFERENCE OF OPINION WITHIN
21 ELLIOTT DAVIS, GARRY RANK, A PARTNER WHO BECAME
22 COMFORTABLE WITH INCREASING THE DEFERRED TAX ASSET BY \$10
23 MILLION DOLLARS WHEREAS THE MANAGER, WHO WORKED ON THE
24 HOMEGOLD ACCOUNT DAY-TO-DAY WAS NOT COMFORTABLE WITH
25 INCREASING IT AT ALL.

1 Q AND WHO WAS THAT?

2 A CY BURGESS.

3 Q AND I THINK YOU SAID, IN THAT ONE PARAGRAPH, READ THE
4 SIXTH PARAGRAPH WITH SUBSEQUENTLY.

5 A SUBSEQUENTLY JACK STERLING, RONNIE SHEPPARD AND
6 FORREST FERRELL INDICATED TO ME THAT THEY WANTED TO TAKE A
7 FULL \$32.7 MILLION DOLLAR VALUE WITH NO RESERVE.

8 Q AND THE NEXT LINE, WHO TOLD GARRY RANK ABOUT THAT?

9 A I THEN INFORMED GARRY RANK MANAGER'S DECISION.

10 Q AND JUST GO ON, WHAT WAS GARRY RANK'S ULTIMATE
11 DECISION, READING FROM THAT MEMO.

12 A ON NOVEMBER 10TH CALLED ME AND INDICATED THAT HE HAD
13 SPOKEN WITH AN SEC EXPERT WITH AN AFFILIATE ACCOUNTING
14 FIRM. THAT PERSON SAID THAT THE CURRENT NET DEFERRED TAX
15 ASSET LEVEL OF \$12 MILLION WOULD BE HARD TO DEFEND. GARRY
16 INDICATED THAT THE FULL \$32.7 MILLION DOLLAR VALUE WOULD
17 BE DIFFICULT TO DEFEND. HE SAID HE FELT COMFORTABLE
18 WITHIN APPROXIMATE FIGURE OF \$22 MILLION AS ORIGINALLY
19 PROPOSED.

20 Q AND THAT SECOND LINE OF TEXT COMES FROM PROJECTIONS
21 OF HOMEGOLD MANAGEMENT?

22 A PARDON?

23 Q THE SECOND PRONG OF WHETHER OR NOT WE ARE GOING TO
24 REALIZE LOANS, WHERE DOES THAT INFORMATION COME FROM?

25 A FROM HOMEGOLD.

1 Q AND WHEN THE DECISION WAS MADE TO INCREASE THE
2 DEFERRED TAX ASSET, WHAT DID YOU DO?

3 A WELL, THE QUARTERLY FILING, THE 10K FILING WITH THE
4 SEC WAS DUE AROUND THE 14TH OF NOVEMBER AND I HAD, I WAS
5 UNCOMFORTABLE WITH INCREASING THE DEFERRED TAX ASSET AT
6 ALL. AND I HAD A CONVERSATION WITH CY BURGESS, THE
7 MANAGER WITH ELLIOTT DAVIS AND HE REALLY HELPED ME SUBMIT
8 THAT FAULT THAT I HAD THAT I DIDN'T WANT TO INCREASE THAT
9 VALUE.

10 Q THE 10Q IS A STATEMENT OF WHOM?

11 A HOMEGOLD.

12 Q STATE'S EXHIBIT NUMBER 13, IS THAT THE 10Q THAT YOU
13 ARE REFERRING TO?

14 A YES, THIS IS THE 10Q FOR THE QUARTERLY PERIOD ENDED
15 SEPTEMBER 30 OF 2000.

16 Q AND AT THE TIME WHO WOULD NORMALLY SIGN THAT?

17 A THE CHIEF EXECUTIVE OFFICER AND THE CHIEF FINANCIAL
18 OFFICER.

19 Q AND WHO WAS CHIEF FINANCIAL OFFICER AT THAT TIME?

20 A I WAS THE CHIEF FINANCIAL OFFICER PRIOR TO THIS BEING
21 FILED.

22 Q AND DID YOU SIGN THIS 10Q?

23 A NO, I DID NOT.

24 Q WHO DID SIGN THAT 10Q?

25 A IT WAS SIGNED BY RONALD J. SHEPPARD AND WILLIAM E.

1 LONG, JR.

2 Q AND BASED UPON YOU NOT WANTED TO SIGN THIS 10Q WHAT
3 DID YOU DO?

4 A I MADE A DECISION THE DAY OR THE NIGHT PRIOR TO THE
5 DEADLINE THAT IT WAS DUE THAT I WAS GOING TO RESIGN, NOT
6 JUST OVER THE MATTER, I JUST WAS NOT COMFORTABLE WITH
7 WORKING WITH THE COMPANY.

8 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
9 STATE'S EXHIBIT NUMBER 97, DO YOU RECOGNIZE THAT?

10 A YES, I DO.

11 MS. EVANS: AT THIS TIME I WOULD LIKE TO MOVE INTO
12 EVIDENCE STATE'S EXHIBIT NUMBER 97.

13 MR. GRIFFIN: NO OBJECTION.

14 THE COURT: WITHOUT OBJECTION STATE'S 97 IS ADMITTED.
15 (WHEREUPON, STATE'S EXHIBIT NO. 97 WAS ADMITTED INTO
16 EVIDENCE.)

17 Q AND TELL THE JURY WHAT THAT IS?

18 A IT IS A LETTER DATED NOVEMBER 14TH OF 2000 TO WILLIAM
19 LONG WHO IS THE EXECUTIVE VICE-PRESIDENT AND GENERAL
20 COUNSEL OF HOMEGOLD. IT IS A LETTER FROM ME TO MR. LONG
21 TENDERING MY RESIGNATION.

22 Q YOU JUST STATED ONE OF THE REASONS WAS YOU DID NOT
23 WANT TO SIGN THAT 10Q, WHAT WERE SOME OF THE OTHER REASONS
24 WHY YOU RESIGNED AT THAT TIME?

25 A THE OVERALL FINANCIAL STABILITY OF THE COMPANY WAS

1 WORSE THAN I HAD ANTICIPATED. I FELT LIKE THERE WOULD BE
2 ALSO CONSTANT PRESSURE FROM MANAGEMENT TO BE LESS THAN
3 CONSERVATIVE WITH SOME OF THE ACCOUNTING STANDARDS.

4 Q AND DID YOU HAVE A SUBSEQUENT CONVERSATION WITH THE
5 DEFENDANT AFTER YOUR RESIGNATION?

6 A YES, HE CALLED ME ON THE TELEPHONE.

7 Q AND WHAT DID HE SAY TO YOU AND WHAT MANNER DID HE SAY
8 IT TO YOU IN?

9 A I KNOW HE SOMEWHAT JOKED ABOUT ME NOT WANTING ME TO
10 INCREASE THE DEFERRED TAX ASSET, I MEAN HE WAS CORDIAL TO
11 ME BUT HE DID SOMEWHAT JOKE ABOUT THAT.

12 Q DO YOU REMEMBER ANY TERMS THAT HE USED ABOUT THE
13 ACCOUNTING METHOD?

14 A I CAN'T SPECIFICALLY REMEMBER ANY.

15 Q MR. GOSNELL, WHEN YOU FIRST WERE APPROACHED ABOUT
16 COOPERATING WITH THIS INVESTIGATION DID YOU HAVE AN
17 ATTORNEY?

18 A YES, I DID.

19 Q AND WHO WAS THAT INDIVIDUAL?

20 A MOFFATT MCDONALD.

21 Q AND DID YOU ENTER INTO WHAT IS KNOWN AS A PROFFER
22 AGREEMENT WITH THE STATE?

23 A YES, I DID.

24 Q AND WITHOUT GOING INTO ANY SPECIFICS, IN GENERAL
25 TERMS PLEASE EXPLAIN TO THE JURY WHAT YOU UNDERSTAND THAT

1 TO MEAN?

2 A I REALLY DON'T FEEL LIKE I AM QUALIFIED TO ELABORATE
3 ON THAT.

4 Q I AM GOING TO SHOW YOU SOMETHING, IF YOU WILL JUST
5 GLANCE OVER THIS IN GENERAL TERMS.

6 A OKAY.

7 Q IS IT AN AGREEMENT TO COOPERATE?

8 A YES, IT IS.

9 Q AND IS IT ALSO AN AGREEMENT TO COOPERATE AND TELL THE
10 TRUTH?

11 A YES, IT IS.

12 Q IT IS ALSO AN AGREEMENT THAT ANYTHING THAT YOU SAID
13 DURING YOUR COOPERATION WOULD NOT BE USED AGAINST YOU?

14 A YES IT IS, TO MY KNOWLEDGE.

15 Q I DON'T HAVE ANY FURTHER QUESTIONS.

16 THE COURT: WE WILL BREAK FOR LUNCH, PLEASE DON'T
17 DISCUSS THE CASE. WE WILL TAKE ABOUT AN HOUR FOR LUNCH,
18 YOU ARE EXCUSED TO YOUR JURY ROOM. EVERYONE STAY SEATED,
19 PLEASE.

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

22 THE COURT: WE WILL BREAK FOR AN HOUR, YOU CAN STEP
23 DOWN AND DON'T DISCUSS YOUR TESTIMONY DURING THE BREAK.

24 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

25 THE COURT: BRING THE JURY IN, PLEASE.

1 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
2 APPROXIMATELY 1:50 P.M.)

3 THE COURT: MR. GRIFFIN, CROSS-EXAMINATION.

4 CROSS-EXAMINATION

5 BY MR. GRIFFIN:

6 Q GOOD AFTERNOON.

7 A GOOD AFTERNOON.

8 Q YOU STARTED AT HOMEGOLD IN JULY OR AUGUST?

9 A SEPTEMBER OF 2000.

10 Q AND YOU RESIGNED EIGHT WEEKS LATER IN NOVEMBER OF
11 2000?

12 A CORRECT.

13 Q YOU WERE THERE, SIR, IN SEPTEMBER. ISN'T IT TRUE
14 THAT THE CASH FLOW GOT REALLY TIGHT AT THE COMPANY?

15 A WELL, IT WAS ALREADY TIGHT.

16 Q THERE WAS VERY LITTLE?

17 A BUT IT WAS TIGHT.

18 Q AND BILLS HAD TO BE HELD BACK AND NOT BE PAID UNTIL
19 THE MONEY CAME IN?

20 A THERE WAS SOME OCCASION OF THAT.

21 Q SOME OCCASION YOU HAD TO HOLD BILLS BECAUSE THERE
22 WASN'T ENOUGH MONEY IN THE BANK TO PAY THEM UNTIL OTHER
23 MONIES CAME IN THE DOORS?

24 A I BELIEVE THERE WAS SOME INSTANCE OF THAT.

25 Q AND YOU WERE HIRED AS A CFO AFTER BEING INTERVIEWED

1 BY MR. STERLING AND MR. SHEPPARD?

2 A CORRECT.

3 Q AND ARE YOU A CPA?

4 A NO, I AM NOT.

5 Q YOU ARE A--

6 A CERTIFIED TREASURY PROFESSIONAL AND I HAVE GOT SOME
7 SUBSTANTIAL ACCOUNTING COURSE WORK AND ACCOUNTING
8 EXPERIENCE AS WELL.

9 Q AND YOU CURRENTLY WORKED FOR--

10 A I AM A TREASURER WITH THE HEALTH CASE SYSTEM IN THE
11 UPSTATE.

12 Q HOSPITAL?

13 A YES.

14 Q AND IN FACT YOU TOOK, YOU HAD THAT JOB OFFER ON THE
15 SAME DAY THAT YOU LEFT HOMEGOLD?

16 A I DID, I DID ACTUALLY RECEIVE THE JOB OFFER THE SAME
17 DAY.

18 Q AND YOUR CONVERSATIONS WITH MR. SHEPPARD, YOUR EIGHT
19 WEEKS AND ADDED UP SOME MEETINGS, BUT I THINK YOU
20 INDICATED THAT THERE WAS STRESS FROM THE WAREHOUSE
21 LENDERS, IS THAT CORRECT?

22 A YES, THERE WAS SOME PRESSURE FROM THE WAREHOUSE
23 LENDERS.

24 Q AND THE ISSUE WAS COVENANTS FROM THESE LINES OF
25 CREDIT TO HOMEGOLD, THE COVENANTS BY THE WAREHOUSE LENDERS

1 THAT HOMEGOLD HAD TO MEET SOME NET EQUITY REQUIREMENT?

2 A AT LEAST ONE OF THE WAREHOUSE LINES DID HAVE A NET
3 WORTH COVENANTS.

4 Q AND THESE WAREHOUSE LINES WERE THE, THAT WAS A SOURCE
5 OF LIQUIDITY OR MONEY THAT HOMEGOLD WAS USING TO MAKE ALL
6 OF THESE MORTGAGES.

7 A THAT WAS THE PRIMARY SOURCE OF FUNDING FOR THE
8 MORTGAGES.

9 Q AND IF THESE WAREHOUSE LENDERS WERE NOT, THESE
10 WAREHOUSE AGREEMENTS WERE NOT CONTINUED THEN THAT SOURCE
11 OF MONEY WOULD DRY UP?

12 A YES, IT WOULD HAVE.

13 Q AND IN THE CONTEXT, THAT IS WHAT MR. SHEPPARD IS
14 ASKING YOU, HAVE YOU FOUND ME ANY NET WORTH OR LOOKING FOR
15 NET WORTH?

16 A YES.

17 Q AND I GUESS IT IS FAIR TO SAY THAT YOU ARE WORKING
18 WITH THE THINGS THAT YOU ARE LOOKING AT TO SORT OF VALUE
19 THE BALANCE SHEET ASSETS, ONE IS THIS DEFERRED TAX ASSET,
20 CORRECT?

21 A CORRECT.

22 Q THE OTHER WAS THIS VALUE OF THESE RESIDUAL LOAN
23 POOLS?

24 A YES.

25 Q AND THE RESIDUAL LOAN POOLS WERE INCREASED, I THINK

1 ROUGHLY A MILLION DOLLARS?

2 A I THINK THAT IS CORRECT.

3 Q THAT THERE WAS NO QUALMS OR CONCERNS ABOUT THAT
4 INCREASE ON YOUR BEHALF?

5 A NO, WE HAD SOME POSITIVE TRENDS REGARDING THE
6 DELINQUENCY RATES IN THE MORTGAGE POOLS AND THAT WAS THE
7 MAIN ASSUMPTION THAT WAS CHANGED IN THE MODELS OF THE
8 VALUES OF THESE POOLS.

9 Q AND THE NOL, THE DEFERRED TAX ASSET, THAT IS THE
10 ISSUE THAT YOU FELT UNCOMFORTABLE WITH?

11 A CORRECT.

12 Q AND YOU ARE CONSERVATIVE BY NATURE?

13 A YES.

14 Q AND THIS WAS AN AGGRESSIVE ACCOUNTING TREATMENT,
15 CORRECT?

16 A I WOULD CHARACTERIZE IT AS AGGRESSIVE, WELL, STILL IT
17 IS A SUBJECTIVE ISSUE.

18 Q AND A SUBJECTIVE ISSUE IN WHICH WE SAW A MEMO THAT
19 THE OUTSIDE AUDITORS WERE INVOLVED AS WELL?

20 A CORRECT.

21 Q AND I THINK YOU, EVEN AT ELLIOTT DAVIS THERE APPEARED
22 TO BE SOME DISAGREEMENT BETWEEN THE MANAGING PART, MR.
23 RANK AND THE MANAGER, MR. CY BURGESS OVER THIS ISSUE?

24 A THAT IS CORRECT.

25 Q AND YOU PREPARED A MEMO IN EVIDENCE, NUMBER 96, AND

1 THIS DOCUMENT IS THE MEMO THAT YOU PREPARED TO MR. LONG
2 FROM YOU, CORRECT?

3 A YES.

4 Q AND MR. LONG AT THE TIME WAS GENERAL COUNSEL OF
5 HOME GOLD?

6 A AT THE TIME, HE WOULD OF ALREADY ASSUMED THE INTERIM
7 CFO DUTIES.

8 Q SO, YOU HAD ALREADY RESIGNED?

9 A I HAD ALREADY RESIGNED IN MY CAPACITY AS CFO.

10 Q AND THE PURPOSE OF THIS MEMO IS TO EXPLAIN TO HIM
11 EVERYTHING THAT YOU KNEW AND HAD TRANSPIRED REGARDING THE
12 VALUATION AND TREATMENT OF THIS DEFERRED TAX ASSET?

13 A YES.

14 Q AND YOU WANTED HIM TO HAVE FULL BENEFIT OF EVERYTHING
15 THAT HAD TRANSPIRED?

16 A YES.

17 Q AND THAT, THIS MEMO PRETTY MUCH OUTLINES YOUR
18 RECOLLECTION IN SUMMARY FORM OF WHAT DID TRANSPIRE,
19 CORRECT?

20 A YES.

21 Q AND YOU WERE ASKED TO READ SOME PARTS OF IT EARLIER
22 BUT YOU DIDN'T READ ALL OF IT BECAUSE YOU WERE NOT ASKED
23 TO, CORRECT?

24 A CORRECT.

25 Q IN THE MIDDLE HERE, CAN YOU SEE THAT FROM HERE?

1 A I CANNOT READ THAT.

2 Q HERE IS A COPY FOR YOU, IF YOU WILL JUST READ THE
3 PARAGRAPH RIGHT ABOVE NOVEMBER THE 2ND?

4 A SUBSEQUENTLY JACK STERLING LED THE UPDATING EFFORT
5 FOR THE DEFERRED TAX ANALYSIS AND RECEIVED HELP WITH
6 VARIOUS SECTIONS FROM NANCY DRUMMOND, KEVIN MARTIN, YOU
7 AND ME.

8 Q THE HELP THAT HE RECEIVED, WOULD THESE BE SOME
9 PROJECTIONS AND OTHER INFORMATION?

10 A THERE WOULD OF BEEN SOME TECHNICAL ISSUES REGARDING
11 THE TAX STATUS OF THE HOMEGOLD WHICH NANCY DRUMMOND WOULD
12 OF HELPED WITH. THERE WOULD OF BEEN SOME PROJECTIONS--

13 Q WHO DID THE PROJECTIONS?

14 A KEVIN MARTIN WAS PRIMARILY INVOLVED IN PREPARING THE
15 FINANCIAL PROJECTIONS.

16 Q AND WHAT DID MR. LONG DO?

17 A MR. LONG WOULD OF WORKED ON SOME OF THE LEGAL
18 CONTINGENCIES THAT WOULD OF BEEN LISTED IN THE ANALYSIS.

19 Q AND WHAT DID MR. STERLING DO?

20 A HE BASICALLY DIRECTED THE PROCESS.

21 Q AND THIS PROCESS WAS TAKING PLACE IN GREENVILLE?

22 A YES.

23 Q AND WAS THE ACCOUNTING DEPARTMENT IN GREENVILLE?

24 A YES.

25 Q AND THIS WAS THE SAME OFFICE WHERE MR. SHEPPARD WOULD

1 APPEAR ONCE A WEEK?

2 A CORRECT.

3 Q WHAT DID YOU DO?

4 A I DID A LITTLE BIT OF INDUSTRY ANALYSIS, HISTORICAL
5 ASPECTS OF THE INDUSTRY, COMPETITION IN THE FUTURE
6 PROSPECTS OF THE INDUSTRY.

7 Q AND THEN YOU TALKED IN THE NEXT PARAGRAPH ABOUT A
8 MEETING ON NOVEMBER 2ND AND THEN THE SECOND SENTENCE OF
9 THAT PARAGRAPH, IF YOU DON'T MIND READING THAT FOR THE
10 JURY?

11 A GARRY ASKED THAT SOME MINOR INDUSTRY INFORMATION BE
12 ADDED TO THE ANALYSIS.

13 Q IS THAT SOMETHING THAT YOU WORKED ON?

14 A I WORKED ON THAT, PROBABLY RECEIVED A LITTLE BIT OF
15 HELP FROM JACK STERLING ON THAT ASPECT AS WELL.

16 Q NOW, GARRY, IN THIS SENTENCE SAYS GARRY RANK?

17 A GARRY RANK.

18 Q AND THEN THE NEXT SENTENCE SAYS, THE COMPANY PROPOSED
19 INCREASING THE NET DEFERRED TAX ASSET BALANCE FROM \$12
20 MILLION DOLLARS TO \$22 MILLION DOLLARS. DID I READ THAT
21 CORRECT?

22 A CORRECT.

23 Q NOW, THAT WAS THE POSITION THAT AS OF NOVEMBER 2ND
24 THAT YOU AND MR. STERLING AND MR. MARTIN AND OTHERS HAD,
25 THE CONSENSUS THAT YOU HAD REACHED WAS TO GO TO \$22

1 MILLION DOLLARS, CORRECT?

2 A IT WASN'T A FINAL DECISION, IT IS A NUMBER THAT WE
3 WERE WORKING WITH AT THE TIME.

4 Q WELL, IT SAYS THE COMPANY PROPOSED INCREASES FROM \$12
5 TO \$22 MILLION?

6 A IT IS A NUMBER THAT WE DID, ASKED FOR FEEDBACK FROM
7 ELLIOTT DAVIS.

8 Q AND MR. RANK SUGGESTED, AS YOU DOCUMENTED IN THIS
9 MEMO, GARRY SUGGESTED THE COMPANY MIGHT WANT TO CONSIDER
10 TAKING MORE THAN THE \$22 MILLION, ISN'T THAT CORRECT?

11 A YES, IF IT WAS APPROPRIATE.

12 Q THAT IS GARRY RANK, THE PARTNER AT ELLIOTT DAVIS?

13 A CORRECT.

14 Q AND THEN SUBSEQUENTLY, AND THEN SUBSEQUENT TO ALL OF
15 THAT, IN THE NEXT PARAGRAPH YOU INDICATED THAT JACK
16 STERLING, RONNIE SHEPPARD, FORREST FERRELL INDICATED TO
17 YOU THAT THEY WANTED TO TAKE THE FULL \$32.7 MILLION
18 DOLLARS?

19 A I BELIEVE THERE WAS A CHANGE IN POSITION AND THEY
20 WANTED TO BE A LITTLE MORE AGGRESSIVE WITH IT.

21 Q AND THAT CHANGE OCCURRED AFTER GARRY RANK SUGGESTED
22 THE COMPANY MAY WANT TO TAKE MORE THAN THE \$22 MILLION?

23 A THAT IS MY RECOLLECTION.

24 Q JUST BRIEFLY, GOING BACK TO THE CAROLINA INVESTORS
25 MEETING THAT YOU ATTENDED, THIS WAS A QUARTERLY, WAS IT A

1 BOARD MEETING?

2 A YES, IT WAS.

3 Q AND YOU RECALL WHO ALL THE PARTICIPANTS WERE?

4 A I RECALL THAT MR. STERLING, MR. SHEPPARD, MR. MORRIS
5 AND ALSO MR. OWEN WERE THERE ALONG WITH AT LEAST ONE OTHER
6 BOARD MEMBER.

7 Q AND WAS IT EITHER MR. BOBO OR MR. SHARPE?

8 A PERHAPS IT COULD OF BEEN BUT THAT WOULD OF BEEN THE
9 FIRST TIME I WOULD OF EVER MET EITHER ONE OF THOSE
10 INDIVIDUALS.

11 Q AND I BELIEVE YOU TESTIFIED THAT THE FINANCIAL
12 STATEMENTS WERE HANDED OUT TO THE BOARD MEMBERS?

13 A CORRECT.

14 Q THE FINANCIAL STATEMENTS THAT HAD BEEN PREPARED IN
15 YOUR DEPARTMENT?

16 A CORRECT, THIS WOULD OF BEEN THE MOST RECENT MONTH AT
17 THE TIME.

18 Q AND THESE FINANCIAL STATEMENTS THAT WERE DISSEMINATED
19 TO THE BOARD MEMBERS, THESE WERE THE MOST CURRENT
20 FINANCIAL STATEMENTS?

21 A AT THAT TIME, YES.

22 Q THESE FINANCIAL STATEMENTS WERE DISSEMINATED BEFORE
23 THE 10Q HAD BEEN FILED?

24 A YES.

25 Q AND YOU SAID THAT MR. SHEPPARD, AT FIRST YOU SAID

1 OPERATIONS AND WE DID NOT FEEL LIKE THEY WERE A GOOD
2 MERGER PARTNER.

3 Q AND PRIMARILY WHAT WAS HOMEGOLD LOOKING FOR IN A
4 MERGER PARTNER?

5 A HOMEGOLD HAD SET UP A VERY STRONG INFRASTRUCTURE AND
6 SYSTEMS, I.T. AREA, ACCOUNTING, HAD A VERY STRONG
7 INFRASTRUCTURE. BUT WHAT THEY WERE LACKING IS PRODUCTION
8 ARM, THEY NEEDED TO INCREASE THE AMOUNT OF PRODUCTION SO
9 THAT YOU HAD MORE LOANS COMING ON THE BOOKS, MORE VOLUME,
10 MORE SALES. AND THAT IS THE PIECE THAT WE WERE TRYING TO
11 FIND IN A MERGER PARTNER TO RETAIN THE INFRASTRUCTURE BUT
12 BRING ON MORE PRODUCTION CAPABILITIES.

13 Q AND DID YOU, BASED UPON YOUR REVIEW, THE SECOND, DID
14 THEY HAVE THAT PRODUCTIVITY, INFRASTRUCTURE, GOODRICH?

15 A WE CONCLUDED THAT THEY DID NOT, BECAUSE OF THEIR
16 LIQUIDITY ISSUES AND BECAUSE OF THEIR DIFFICULTIES THAT
17 THEY WERE EXPERIENCING THEY HAD DWINDLED DOWN TO A POINT
18 THAT WE DIDN'T FEEL LIKE THEIR PRODUCTION ARM WAS CAPABLE
19 OF BRINGING IN THE PRODUCTION THAT WAS NECESSARY.

20 Q AND WHO REPORTED THIS BACK TO MR. STERLING?

21 A I WROTE UP THE CONCLUSIONS INTO A DUE DILIGENCE
22 REPORT THAT ALL SIX MEMBERS OF THE DUE DILIGENCE TEAM WERE
23 IN AGREEMENT WITH. AND WE PRESENTED IT TO THE MANAGEMENT
24 COMMITTEE IN THE BOARD ROOM TO JACK.

25 Q AND WHAT WAS HIS REACTION?

1 A HIS REACTION WAS, HE BECAME UPSET WITH THE RESULTS OF
2 THAT. HE LEFT THE MEETING IN THE MIDDLE OF THE
3 PRESENTATION AND BASICALLY SAID THAT, YOU KNOW, YOU GUYS
4 ARE NEVER GOING TO FIND SOMEBODY THAT WE, YOU KNOW, THAT
5 YOU WOULD BE HAPPY WITH MERGING AND LEFT.

6 Q AT THAT POINT DID RAYMOND JAMES TALK ABOUT A COMPANY
7 HERE IN LEXINGTON, SOUTH CAROLINA CALLED HOMESENSE?

8 A SUBSEQUENT TO THAT, YES.

9 Q SUBSEQUENT TO THAT?

10 A RIGHT.

11 Q AND WERE YOU^{RE} ORIGINALLY INVOLVED IN THAT MERGER?

12 A I WAS NOT.

13 Q AND DID YOU SUBSEQUENTLY BECOME INVOLVED. WHO WAS
14 ORIGINALLY INVOLVED IN THOSE MERGER TALKS?

15 A ORIGINALLY JACK STERLING AND JAN SIROTA AND RONNIE.

16 Q AND WHO?

17 A RONNIE.

18 Q RONNIE SHEPPARD, THE DEFENDANT?

19 A RIGHT.

20 Q AT SOME POINT DID YOU BECOME INVOLVED IN THE DEAL?

21 A YES.

22 Q AND WHAT DID YOU DO REGARDING THIS MERGER?

23 A I WAS INVOLVED IN SOME OF THE DISCUSSIONS, I WAS
24 INVOLVED IN SOME OF THE, LOOKING AT THE MERGER DOCUMENTS,
25 I WAS INVOLVED IN PROVIDING THE DUE DILIGENCE REQUESTED BY

1 THAT YOU CHARACTERIZED THAT HIS TALK WITH THE BOARD WAS
2 THAT HE WAS BULLISH ON THE COMPANY, ON THE PROSPECTS?

3 A CORRECT.

4 Q AND THEN AFTER YOUR INTERVIEW WITH SOMEBODY YOU USED
5 THE TERM PAINTED A ROSY PICTURE OR SOMETHING LIKE THAT?

6 A YES.

7 Q BUT THESE WERE FORWARD PROJECTING STATEMENTS, HE WAS
8 SAYING THIS IS WHAT WE PLAN TO DO IN THE FUTURE?

9 A RIGHT, I WOULD SAY THEY WERE PROBABLY MORE
10 QUALITATIVE THAN QUANTITATIVE.

11 Q WHAT DO YOU MEAN BY QUALITATIVE AND QUANTITATIVE?

12 A JUST THAT HE FELT GOOD ABOUT, THERE WEREN'T SPECIFIC
13 NUMBERS ATTACHED TO THIS, TO THE STATEMENTS THAT HE MADE
14 AT THE MEETING.

15 Q AND DO YOU KNOW HOW LONG HE HAD BEEN WITH THIS
16 COMPANY AT THAT POINT AND TIME?

17 A JUST A FEW MONTHS.

18 Q A LITTLE BIT LONGER THAN YOU?

19 A CORRECT.

20 Q YOU WERE NOT ASKED TO LEAVE IN ANY FORM OR FASHION?

21 A NO, I WAS NOT.

22 Q AND WHEN YOU LEFT YOU SPOKE TO MR. SHEPPARD AND YOU
23 CHARACTERIZED YOUR CONTACT WITH HIM AS CORDIAL?

24 A YES.

25 Q AND THROUGHOUT YOUR WORK WITH HOMEGOLD AND UNDER MR.

1 SHEPPARD WAS IT A CORDIAL RELATIONSHIP?

2 A YES, IT WAS.

3 Q THAT IS ALL I HAVE.

4 THE COURT: REDIRECT.

5 REDIRECT EXAMINATION

6 BY MR. EVANS:

7 Q MR. GOSNELL, YOU TESTIFIED THAT YOU ONLY SAW THE
8 DEFENDANT ONCE A WEEK. WHEN I FIRST ASKED YOU WHO WAS IN
9 CHARGE WHEN YOU TOOK OVER YOU ANSWERED RONNIE SHEPPARD WAS
10 IN CHARGE OF THE COMPANY.

11 MR. GRIFFIN'S OBJECTION, LEADING, YOUR HONOR.

12 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

13 Q WHO WAS IN CHARGE OF THE COMPANY WHEN YOU TOOK OVER?

14 A RONNIE SHEPPARD WAS.

15 Q AND WHERE WAS RONNIE SHEPPARD WHILE HE WAS IN CHARGE
16 OF THE COMPANY?

17 A HE WAS IN LEXINGTON TO MY KNOWLEDGE FOUR DAYS A WEEK
18 AND IN GREENVILLE ONE DAY A WEEK, APPROXIMATELY.

19 Q OKAY. AND THAT MEMO, MR. STERLING WAS THE ONE THAT
20 LED THE IDEA OF THE DEFERRED TAX ASSET, CORRECT?

21 A YES.

22 Q HOWEVER, IN THAT YOU AT LEAST ACKNOWLEDGE, AT LEAST
23 FOUR MEETINGS INVOLVING THE DEFENDANT AND THE DEFERRED TAX
24 ASSET?

25 A I WOULD SAY AT LEAST THREE MEETINGS THEN THE NEXT TO

1 THE LAST PARAGRAPH ON THE FIRST PAGE, I DON'T RECALL IF
2 THAT WAS A MEETING OR IF THAT WAS JUST--

3 Q I AM GOING TO DRAW YOUR ATTENTION TO PARAGRAPH NUMBER
4 3, OCTOBER 23RD, IF YOU WILL READ THAT.

5 A A SUBSEQUENT MEETING WAS HELD ON OCTOBER 23RD BETWEEN
6 GARRY RANK, JACK STERLING, RONNIE SHEPPARD AND MYSELF.

7 Q AND THE PARAGRAPH THAT WE JUST TALKED ABOUT, ABOUT
8 THAT JACK STERLING PUSHING IT. THE FOLLOWING PARAGRAPH,
9 PLEASE READ THAT, THE FIRST LINE?

10 A ON NOVEMBER 2ND GARRY RANK AND CY BURGESS MET WITH
11 JACK STERLING, RONNIE SHEPPARD, FORREST FERRELL AND
12 MYSELF.

13 Q AND THEN THE NEXT PARAGRAPH?

14 A SUBSEQUENTLY JACK STERLING, RONNIE SHEPPARD AND
15 FORREST FERRELL INDICATED TO ME THAT THEY WANTED TO TAKE
16 THE FULL \$32.7 MILLION DOLLAR VALUE.

17 Q SO, SUBSEQUENTLY MEANS AFTER THE NOVEMBER 2ND?

18 A YES.

19 Q SO, THAT IS THE THREE RIGHT THERE?

20 A I CANNOT RECALL IF THAT SUBSEQUENT PARAGRAPH, I
21 CANNOT RECALL A SPECIFIC MEETING.

22 Q HOW ABOUT WE SAY A DISCUSSION?

23 A A DISCUSSION.

24 Q OKAY. AND THEN THE LAST PARAGRAPH OF THAT MEMO?

25 A ON NOVEMBER 14TH I TOLD JACK STERLING, FORREST

1 FERRELL AND RONNIE SHEPPARD THAT I WAS NOT IN FAVOR OF
2 RECOGNIZING ANY ADDITIONAL VALUE BEYOND THE CURRENT \$12
3 MILLION, THAT WAS NOT A MEETING, THAT WOULD OF BEEN AN
4 INDIVIDUAL CONVERSATION.

5 Q SO, BETWEEN MEETINGS AND DISCUSSIONS THERE IS FIVE
6 TOTAL WITH THE DEFENDANT WHEN IT CAME TO THE DEFERRED TAX
7 ASSET. WHETHER YOU WANT TO CALL IT MEETING OR DISCUSSION.

8 A CORRECT.

9 Q AND YOU PREVIOUSLY GAVE YOUR REASONS FOR LEAVING THE
10 COMPANY AND I AM GOING TO DRAW YOUR ATTENTION TO THE SAME
11 INTERVIEW, MARCH 5TH OF 2002, PAGE EIGHT AND IF YOU COULD
12 READ TO YOURSELF THE UNDERLINED PARAGRAPH, UNDERLINED
13 SENTENCE.

14 A OKAY.

15 Q DOES THAT REFRESH YOUR MEMORY OF WHO YOU WERE
16 UNCOMFORTABLE WITH REGARDING YOUR EMPLOYMENT AT HOMEGOLD?

17 A YES, IT DOES.

18 Q AND WHO WAS THAT?

19 A RONNIE SHEPPARD.

20 Q AND MR. GRIFFIN ASKED YOU DID YOU HAPPEN TO GET A JOB
21 OFFER THE SAME DAY, HOW MUCH LESS WAS THAT JOB OFFER THAT
22 YOU TOOK THE DAY AFTER YOU RESIGNED?

23 A PROBABLY 25 TO 30 PERCENT LESS IN SALARY.

24 Q I DON'T HAVE ANYTHING ELSE.

25 THE COURT: ANY RECROSS?

1 MR. GRIFFIN: NO, YOUR HONOR.

2 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
3 WITNESS.

4 MS. EVANS: THE STATE CALLS RHONDA JOHNSON TO THE
5 STAND.

6 RHONDA JOHNSON, AFTER BEING DULY SWORN,
7 TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MS. EVANS:

10 Q GOOD AFTERNOON, MS. JOHNSON.

11 A GOOD AFTERNOON.

12 Q COULD YOU PLEASE TELL THE JURY A LITTLE BIT ABOUT
13 YOUR BACKGROUND AND YOUR EDUCATION.

14 A OKAY. I HAVE A BACHELOR OF SCIENCE IN ACCOUNTING
15 FROM CLEMSON UNIVERSITY. I HAVE ABOUT 17 OR 18 YEARS IN
16 ACCOUNTING PRACTICES.

17 Q AND TELL THE JURY ABOUT YOUR EMPLOYMENT EXPERIENCE.

18 A I HAVE ABOUT TEN YEARS IN BANKING IN FINANCE WHERE I
19 WORKED IN MEDIUM TO HIGH LEVEL MANAGEMENT OF ACCOUNTING
20 DEPARTMENTS AND FINANCIAL LEADERSHIP. AND THEN I HAVE
21 ANOTHER EIGHT YEARS IN CORPORATE ACCOUNTING.

22 Q AND AT SOME POINT DID YOU BECOME EMPLOYED WITH A
23 COMPANY CALLED HOMEGOLD?

24 A YES, I DID.

25 Q PLEASE TELL THE JURY WHEN THAT WAS.

1 A THAT WAS IN JULY OF 2000.

2 Q AND WHO HIRED YOU?

3 A BILL LONG.

4 Q AND IN WHAT CAPACITY WERE YOU HIRED?

5 A I WAS HIRED AS THE VP OR VICE-PRESIDENT OF
6 ACCOUNTING.

7 Q MS. JOHNSON, ARE YOU TESTIFYING HERE, COOPERATING
8 WITH THE STATE PURSUANT TO A PROFFER?

9 A YES, I AM.

10 Q AND DID YOU REQUEST THAT PROFFER?

11 A YES, I DID.

12 Q COULD YOU PLEASE TELL THE JURY WHY YOU REQUESTED THAT
13 PROFFER?

14 A I AM AN ACCOUNTANT, NOT AN ATTORNEY AND WHEN I
15 RECEIVED AN ORIGINAL CALL FROM INVESTIGATORS, OF COURSE MY
16 FIRST THOUGHT WAS I NEEDED SOMEONE TO LEAD ME THROUGH A
17 VERY COMPLICATED LEGAL PROCESS. SO I RETAINED AN ATTORNEY
18 AND AS PART OF MY ATTORNEYS JOB HE NEGOTIATED A PROFFER
19 LETTER.

20 Q AND IN BASIC TERMS, I WILL JUST SHOW YOU, DID YOU
21 AGREE TO COOPERATE WITH THE STATE?

22 A YES, I DID.

23 Q AND AS PART OF THAT COOPERATION DID YOU AGREE TO TELL
24 THE TRUTH?

25 A YES, I DID.

1 Q AND AS PART OF THAT COOPERATION AND YOUR AGREEMENT TO
2 TELL THE TRUTH WERE YOU PROMISED THAT ANYTHING YOU SAID
3 DURING THE COURSE OF THE INVESTIGATION WOULDN'T BE USED
4 AGAINST YOU?

5 A THAT IS CORRECT.

6 Q WHO DID YOU REPORT TO?

7 A BILL LONG.

8 Q AND WHO WAS HE?

9 A AT THE TIME HE WAS THE INTERIM CHIEF FINANCIAL
10 OFFICER AND LEGAL COUNSEL FOR HOMEGOLD?

11 Q AND WHO WAS [#]CFO WHEN YOU FIRST STARTED?

12 A BILL LONG WAS INTERIM CFO.

13 Q AND PLEASE TAKE US THROUGH YOUR EMPLOYMENT HISTORY AT
14 HOMEGOLD IN THE FINANCE DEPARTMENT. WHEN YOU FIRST
15 STARTED WHAT WERE YOUR DAY-TO-DAY RESPONSIBILITIES.

16 A WHEN I STARTED IN JULY OF 2000 HOMEGOLD HAD JUST GONE
17 THROUGH A MERGER A FEW MONTHS EARLIER, HAD LOST NUMEROUS
18 ACCOUNTING PERSONNEL AND THE DAY-TO-DAY ACCOUNTING
19 FUNCTION HAD BEGAN TO UNRAVEL IN THAT IT WASN'T BEING
20 MAINTAINED, IT WASN'T STAYING CURRENT. THE BOOKS OF THE
21 COMPANY WERE SEVERAL MONTHS BEHIND, THERE WAS A LOT OF
22 CRITICAL ACCOUNTING FUNCTIONS THAT HAD NOT BEEN PERFORMED
23 SINCE MAY.

24 Q AND AT THIS TIME OR SHORTLY AFTER THE MERGER WERE YOU
25 STILL WORKING ON THE MERGER OF THE HOMESENSE/HOMEGOLD

1 BOOKS?

2 A YES, THE LAST MONTH, WHEN I STARTED IN JULY I LOOKED
3 BACK TO SEE WHAT THE LAST MONTH END CLOSEOUT HAD BEEN DONE
4 AND THAT WAS APRIL. SO, THE MONTH OF MAY WHICH WOULD OF
5 CONTAINED THE MERGER HAD NOT BEEN CLOSED.

6 Q AND DID YOU WORK ON THAT HOMESENSE/HOMEGOLD MERGER
7 DOCUMENTS, TRYING TO MERGE THE DOCUMENTS TO TRY TO MERGE
8 THE COMPANIES TOGETHER?

9 A I DID, A LOT OF THE WORK OR MOST OF THE WORK HAD
10 ALREADY BEEN COMPLETED BUT THERE WAS SOME UNRESOLVED ITEMS
11 THAT HAD BEEN LEFT UNRESOLVED THAT WERE HOLDING UP THE
12 CLOSING OF THE BOOKS.

13 Q AND COULD YOU PLEASE EXPLAIN TO THE JURY WHAT THOSE
14 ITEMS WERE?

15 A THE MAJOR ITEM WAS THE MERGING OF THE LOANS ON TO THE
16 BOOKS. I THINK THE AMOUNT WAS ABOUT \$30 MILLION DOLLARS
17 THAT HAD BEEN LISTED ON HOMESENSE FINANCIAL STATEMENTS BUT
18 WHEN THE ACTUAL LOANS WERE LOADED INTO HOMEGOLD'S
19 ACCOUNTING SYSTEM ONLY \$23 MILLION DOLLARS COULD BE
20 ACCOUNTED FOR.

21 Q AND DID YOU TRY TO RECONCILE THE DIFFERENCES IN THE
22 LOANS BETWEEN WHAT HOMESENSE REPORTED AND WHAT YOU SAW ON
23 THE HOMEGOLD BOOKS?

24 A I DID. THERE WAS APPROXIMATELY \$7 MILLION DOLLARS OF
25 UNACCOUNTED FOR LOANS THAT I SPENT A NUMBER OF HOURS

1 RESEARCHING TRYING TO IDENTIFY WHERE OR WHAT THAT
2 DIFFERENCE THAT MIGHT CONSIST OF.

3 Q AND DID YOU HAVE ACCESS TO THE HOMEGOLD BOOKS?

4 A I DID NOT.

5 Q AND DID YOU, WHAT DID YOU DO TO TRY TO GET ACCESS?

6 A I WOULD CALL MERIDETH CASTEEN WHO WAS A HOMEGOLD
7 ACCOUNTANT AND ASK HER FOR INFORMATION.

8 Q AND DID YOU GET THAT INFORMATION?

9 A I GOT SOME INFORMATION.

10 Q WHO IS IN CHARGE OF THE COMPANY WHEN YOU START?

11 A AS CEO?

12 Q CEO.

13 A RONNIE SHEPPARD.

14 Q AND WHO WAS IN CHARGE OF HOMESENSE?

15 A RONNIE SHEPPARD.

16 Q DID YOU EVER GO TO RONNIE SHEPPARD AND TRY TO GET THE
17 BOOKS TO DO THIS ACCOUNTING?

18 A I HAD APPROACHED HIM AT LEAST ONE OCCASION TO MENTION
19 TO HIM THAT THE REASON FOR THE HOLDUP OF MAY WAS THAT WE
20 COULD NOT CLOSE THE ACCOUNTING ON THE MERGER, THAT WE HAD
21 SOME DISCREPANCIES THAT WERE BEING RESEARCHED AND NEEDED
22 TO BE RESOLVED.

23 Q AND WERE YOU EVER ABLE TO CLOSE OUT OR FIGURE OUT
24 THOSE TRANSACTIONS?

25 A WE DID END UP CLOSING THE MONTH OF MAY BUT WE DID IT

1 IN AN UNRESOLVED FASHION, WE NEVER COULD IDENTIFY THE \$7
2 MILLION DOLLARS AND ENDED UP ADDING IT TO GOODWILL.

3 Q AND WOULD YOU PLEASE EXPLAIN TO THE JURY WHAT THAT
4 MEANS IN EVERY DAY TERMS?

5 A IF I CAN THINK OF AN EXAMPLE. IF YOU BUY A CAR AND
6 YOU PAY \$20 THOUSAND DOLLARS FOR THE CAR BUT YOU COULD GO
7 DOWN THE STREET AND BUY THAT SAME CAR FOR \$15 THOUSAND
8 DOLLARS THE DEALERSHIP THAT YOU BOUGHT THE CAR WOULD
9 PROBABLY PITCH TO YOU THAT EXTRA \$5 THOUSAND DOLLARS YOU
10 PAY BECAUSE YOU BOUGHT IT FROM THE DEALERSHIP THAT WAS
11 FRIENDLIER, MAYBE OFFERED FREE CAR WASHES OR TO ROTATE
12 YOUR TIRES AT YOUR CONVENIENCE, THAT WOULD BE CONSIDERED
13 GOODWILL. THAT THEY WOULD BE DOING SOMETHING FOR YOU, IT
14 IS AN INTANGIBLE THAT YOU COULDN'T NECESSARILY PUT A
15 DOLLAR VALUE ON THE GO BUY SOMEWHERE.

16 Q WERE YOU EVER ABLE TO FIND THOSE LOANS?

17 A NO.

18 Q DID YOU EVER GO BACK AND ASK THE DEFENDANT ABOUT
19 THOSE LOANS?

20 A I DON'T RECALL EVER ASKING HIM SPECIFICALLY WHERE IS
21 \$7 MILLION DOLLARS WORTH OF LOANS BUT I DID HAVE
22 SUBSEQUENT CONVERSATIONS TO LET HIM KNOW WHAT I HAD FOUND
23 OF MY RESEARCH.

24 Q AND WHAT DID THE DEFENDANT TELL YOU?

25 A HE DIDN'T HAVE AN ANSWER, A LOT OF THE BLAME WAS

1 ASSIGNED TO THE I.T. DEPARTMENT.

2 Q AND WHO WAS IN CHARGE OF THE I.T., WHICH I.T.
3 DEPARTMENT?

4 A HOMEGOLD.

5 Q WHO WAS IN CHARGE OF THE I.T. DEPARTMENT WHEN YOU
6 STARTED?

7 A KAREN MILLER.

8 Q AND WHAT ROLE DID SHE PLAY IN THE ACCOUNTING
9 FUNCTION?

10 A SH WASN'T PART OF THE ACCOUNTING DEPARTMENT, SHE DID
11 HAVE CONTROL OVER THE ACCOUNTING SYSTEMS IN THAT SHE COULD
12 MAKE CHANGES OR CHANGE HOW THINGS CALCULATED, CHANGE HOW
13 THINGS POSTED, THAT ULTIMATELY HAD AN AFFECT ON THE
14 ACCOUNTING RECORD.

15 Q SO, FROM AN ACCOUNTING STANDPOINT WHY DID YOU JUST
16 DECIDE NOT TO KEEP ON LOOKING FOR THOSE LOANS AND CHANGE
17 IT OVER TO GOODWILL, WERE YOU UNDER A TIME CONSTRAINT?

18 A YES, WE WERE.

19 Q AND PLEASE EXPLAIN TO THE JURY WHAT THAT WAS?

20 A THE TIME CONSTRAINT WAS AUGUST THE 15TH, WE HAD A 10Q
21 WHICH IS A QUARTERLY FILING WITH THE SEC DUE. AND THAT
22 QUARTERLY FILING HAD TO ACCOUNT FOR THE SECOND QUARTER
23 WHICH WERE FOR THE MONTHS OF APRIL, MAY AND JUNE.

24 Q AND DID YOU HELP PREPARE THAT 10Q?

25 A YES, I DID.

1 Q DID YOU SIGN THAT 10Q?

2 A NO, I DID NOT.

3 Q HAD YOU SUBSEQUENTLY SEEN THAT 10Q?

4 A YES.

5 Q AND WHOSE SIGNATURE APPEARS ON IT?

6 A I BELIEVE IT IS BILL LONG AND RONNIE SHEPPARD.

7 Q BUT YOU HELPED PREPARE THAT ONE?

8 A YES.

9 Q WERE YOU EVER ABLE, AFTER THAT 10Q, WERE YOU ABLE TO
10 FIGURE OUT THOSE LOANS THAT YOU LOOKED FOR AT HOMEGOLD?

11 A NO.

12 Q AND AT ONE POINT, DID YOU STOP AND KEEP IT AS
13 GOODWILL?

14 A I THINK I LOOKED FOR THAT ON INTO THE FALL BECAUSE
15 BETWEEN THE TIME THAT I STARTED IN JULY AND THE 10Q FILING
16 OF AUGUST THE 15TH I SPENT SOME TIME ON IT, MY PRIMARY
17 TIME I SPENT ON IT WAS AFTER THE FILING. WHILE WE BOOKED
18 IT TO GOODWILL FOR THAT FILING WE HAD ANOTHER FILING DUE
19 LATER IN THE FALL WHICH WAS THE NOVEMBER 15TH FILING.

20 Q OKAY. AND WAS THERE ALSO AN 8K THAT WAS FILED AROUND
21 THIS TIME, AS FAR AS THE HOMEGOLD/HOMESENSE MERGER?

22 A I AM NOT SURE.

23 Q ARE WE SPEAKING OF THE MARCH 2001 8K?

24 A YES.

25 Q DO YOU REMEMBER EVER SEEING THAT 8K THAT WAS FILED?

1 A I DON'T RECALL SEEING IT WHILE I WAS EMPLOYED AT
2 HOMEGOLD.

3 Q DID YOU ULTIMATELY SEE THAT?

4 A I DID.

5 Q WHOSE NAME APPEARED ON THAT?

6 A MY NAME IS ON IT.

7 Q DID YOU EVER SIGN THAT 8K OR HAVE ANYTHING TO DO WITH
8 THAT 8K?

9 A NOT TO MY KNOWLEDGE.

10 Q WAS THAT ALSO 8K, WHO WAS THAT PREPARED BY?

11 A IT WOULD OF⁵BEEN PREPARED BY HOMEGOLD'S EXTERNAL
12 COUNSEL.

13 Q AND WHO WAS THAT?

14 A THE WYCHE FIRM.

15 Q AND WHO WAS OUTSIDE INDEPENDENT AUDITORS?

16 A ELLIOTT DAVIS.

17 Q AT SOME POINT IN YOUR EMPLOYMENT DID THEY HIRE
18 SOMEONE FROM, AN INTERIM CFO TO A CFO?

19 A LARRY GOSNELL.

20 Q IS THAT WHO THE FIRST CFO, ACTING AS A CFO?

21 A YES.

22 Q AND HOW LONG WAS HE THERE?

23 A EIGHT WEEKS.

24 Q AND AFTER MR. GOSNELL LEFT WHO BECAME CFO?

25 A BILL LONG WAS AGAIN NAMED INTERIM CFO.

1 Q AND AT SOME POINT WHO WAS THE NEXT OFFICIAL CFO?

2 A I WAS.

3 Q AND APPROXIMATELY WHEN WAS THAT?

4 A LATE NOVEMBER OF 2000.

5 Q AND ONCE YOU TOOK THE ROLE AS CFO WHAT WERE YOUR
6 DAY-TO-DAY RESPONSIBILITIES?

7 A I CONTINUED TO OVERSEE THE ACCOUNTING DEPARTMENT, I
8 BECAME MORE INVOLVED IN THE FINANCE DEPARTMENT AND AS TIME
9 PROCEEDED ON WE HAD ADDITIONAL FILINGS TO BE CONCERNED
10 WITH AS A PUBLIC COMPANY.

11 Q WERE YOU AWARE OF THE REASON WHY MR. GOSNELL LEFT?

12 A NOT WHILE I WAS EMPLOYED AT HOMEGOLD.

13 Q DID YOU TOO DEAL WITH THE DEFERRED TAX ASSET ONCE YOU
14 BECAME CFO?

15 A I DID.

16 Q AND PLEASE TELL THE JURY YOUR INVOLVEMENT WITH THAT
17 DEFERRED TAX ASSET.

18 A WHEN I WAS OFFERED THE POSITION OF CFO I ADDRESSED
19 WITH MR. STERLING AND MR. FERRELL WHO WERE THE TWO
20 INDIVIDUALS THAT APPROACHED ME, I ADDRESSED MY CONCERNS
21 WITH THEM AT THE TIME THEY CAME TO ME TO INDICATE THAT
22 THEY WANTED ME TO TAKE THAT POSITION. JUST BECAUSE, UP
23 UNTIL THAT POINT, THE DEFERRED TAX ASSET WASN'T REALLY IN
24 MY AREA RESPONSIBILITY SO I WANTED TO SPECIFICALLY VOICE
25 MY CONCERNS TO THEM DIRECTLY THAT I HAD WITH THE

1 ADJUSTMENT, THE \$10 MILLION DOLLARS ADJUSTMENT THAT HAD
2 BEEN MADE THE PREVIOUS QUARTER.

3 Q AND WHO AT HOMEGOLD DID YOU DEAL WITH REGARDING
4 HOMEGOLD'S DECISION TO INCREASE THAT DEFERRED TAX ASSET?

5 A JACK STERLING WAS THE ONE OR THE INDIVIDUAL I GUESS
6 THAT WAS KIND OF LEADING THE ADJUSTMENT.

7 Q AND YOU WERE UP IN THE GREENVILLE OFFICE?

8 A THAT'S CORRECT.

9 Q AND WHERE WAS THE DEFENDANT WHO WAS CEO OF THE
10 COMPANY AT THE TIME?

11 A HE OPERATED OUT OF THE LEXINGTON OFFICE.

12 Q AND ABOUT HOW OFTEN WOULD YOU SEE HIM?

13 A ONE TO TWO DAYS A WEEK.

14 Q AND HOW MUCH INTERACTION DID YOU HAVE WITH MR.
15 SHEPPARD?

16 A I DID NOT NECESSARILY HAVE ANY CONVERSATIONS WITH HIM
17 ON EVERY VISIT HE MADE TO THE GREENVILLE OFFICE.

18 Q AND WHO PRIMARILY DID YOU HAVE YOUR DIRECT
19 CORRESPONDENCE WITH FROM AN UPPER MANAGEMENT LEVEL?

20 A JACK STERLING AND BILL LONG.

21 Q AND THEY WERE THERE AT THE GREENVILLE OFFICE WITH
22 YOU?

23 A CORRECT.

24 Q LET'S TALK ABOUT THE DEFERRED TAX ASSET GOING, DURING
25 YEAREND 2000 BUT WHEN ARE YOU ACTUALLY DOING YEAREND 2000?

1 A WE WERE DOING YEAREND 2000, THE FILING IS DUE MARCH
2 THE 31ST BUT WE ARE WORKING ON IT IN FEBRUARY AND MARCH OF
3 2001.

4 Q AND DID YOU HAVE DISCUSSIONS WITH THE OUTSIDE
5 AUDITORS REGARDING THE DEFERRED TAX ASSET?

6 A I DID.

7 Q AND PLEASE TELL THE JURORS WHAT YOUR CONCERNS WERE
8 ABOUT THE DEFERRED TAX ASSET BEING INCREASED?

9 A I HAD TWO CONCERNS. ONE CONCERN WAS THE MATERIAL
10 AFFECT THAT IT HAD ON THE COMPANIES BOOKS. WHEN THE \$10
11 MILLION DOLLAR ADJUSTMENT WAS MADE IT TOOK THE COMPANY
12 FROM A NEGATIVE NET WORTH POSITION TO A POSITIVE NET WORTH
13 POSITION WHICH DEFINITELY CHANGES THE COMPOSITION OR THE
14 ABILITY OF THE COMPANY TO PRESENT ITS FINANCIALS. THE
15 SECOND CONCERN I HAD WAS THE FACT THAT THE COMPANY WAS
16 CARRYING WHICH WAS WHAT WAS NOW A \$22 MILLION DOLLAR ASSET
17 ON ITS BOOKS THAT I DID NOT BELIEVE WAS APPROPRIATE.

18 Q AND DID YOU VOICE YOUR OPINION ON WHAT WOULD HAPPEN
19 IF THAT WAS NOT REVERSED?

20 A YES, I DID.

21 Q AND WHAT WAS YOUR OPINION IF THAT WAS NOT REVERSED?

22 A MY OPINION WAS THAT THE FINANCIAL STATEMENTS WOULD BE
23 MISLEADING.

24 Q AND DID YOU, WHO DID YOU VOICE THAT OPINION TO?

25 A MR. SHEPPARD, MR. STERLING, MR. LONG, KAREN MILLER,

1 FORREST FERRELL, MEMBERS OF MY STAFF, MEMBERS OF ELLIOTT
2 DAVIS.

3 Q WAS IT YOUR UNDERSTANDING IF YOU SIGNED OFF ON THAT,
4 WHOSE STATEMENT WAS THAT INCREASING THE DEFERRED TAX
5 ASSET?

6 A COULD YOU REPEAT THAT AGAIN.

7 Q WHOSE STATEMENT, YOU HAD SIGNED THAT 10K, WHOSE
8 STATEMENT IS THAT 10K?

9 A THE STATEMENT IS HOMEGOLD'S BUT IT WOULD BE MY
10 SIGNATURE ON THAT STATEMENT.

11 Q ALTHOUGH YOU CONSULTED TO INDEPENDENT AUDITORS, WHO
12 DID THEY INFORM YOU, WHO HAD TO MAKE A DECISION AT THE END
13 OF THE DAY WHETHER OR NOT TO SIGN THAT 10K?

14 A I HAD TO MAKE THE DECISION.

15 Q AND DID YOU, WHAT WAS YOUR DECISION?

16 A MY DECISION WAS TO NOT SIGN THAT 10K.

17 Q AND DID YOU, WHEN YOU DID NOT SIGN THAT 10K, WHAT DID
18 YOU DO?

19 A I RESIGNED FROM THE COMPANY.

20 Q LET'S GO BACK IN TIME A LITTLE BIT. APPROXIMATELY
21 HOW LONG WERE YOU THERE?

22 A FROM JULY OF 2000 TO, I RESIGNED AT THE END OF MARCH
23 OF 2001 AND THEN WAS THERE FOR ABOUT SIX WEEKS AFTER THAT
24 IN A CONSULTING CAPACITY.

25 Q IS THIS THE 10K THAT WE WERE REFERRING TO, STATE'S

1 EXHIBIT 24?

2 A YES.

3 Q THAT IS THE 10K FOR WHAT YEAREND?

4 A THIS WAS FOR THE DECEMBER 31ST 2000 YEAREND.

5 Q AND WHO ULTIMATELY SIGNED THAT?

6 A THE BOARD OF DIRECTORS SIGNED AS WELL AS RONNIE
7 SHEPPARD AS CEO.

8 Q AND THE BOARD OF DIRECTORS OF WHAT COMPANY?

9 A HOMEGOLD.

10 Q LET'S GO BACK IN TIME A LITTLE BIT. BEFORE YOU
11 RESIGNED DID YOU HAVE AN OPPORTUNITY AS CFO TO GO TO A
12 CAROLINA INVESTORS BOARD MEETING?

13 A I DID.

14 Q AND DO YOU KNOW APPROXIMATELY WHEN THAT WAS?

15 A JANUARY OF 2001.

16 Q AND CAN YOU PLEASE EXPLAIN TO THE JURORS WHO WAS AT
17 THAT BOARD MEETING?

18 A IT WAS JACK STERLING, RONNIE SHEPPARD, FORREST
19 FERRELL, MYSELF, BILL LONG, EARLE MORRIS, LARRY OWEN, AND
20 MAYBE ANOTHER INDIVIDUAL BUT I DON'T RECALL WHO.

21 Q AND DO YOU REMEMBER IF THERE WAS PRESENTATIONS OF
22 HOMEGOLD FINANCIALS AT THAT BOARD MEETING?

23 A THE MATERIAL HAD BEEN ALREADY SENT TO THE MEMBERS
24 PRIOR TO THE MEETING.

25 Q WAS THERE ANY MAJOR DISCUSSION ABOUT THEM THERE?

1 A ABOUT HOMEGOLD'S FINANCIALS?

2 Q YES.

3 A THERE WAS SOME, A SMALL AMOUNT OF DISCUSSION.

4 Q OKAY. DID THE DEFENDANT LEAD A DISCUSSION AT THE
5 CAROLINA INVESTORS BOARD MEETING?

6 A YES.

7 Q AND CAN YOU JUST EXPLAIN IN GENERAL TERMS WHAT HE
8 SAID ABOUT THE FINANCIAL CONDITION OF THE COMPANY?

9 A HIS PRESENTATION ADDRESSED THE PROJECTIONS AND THE
10 EXPECTED LOAN PRODUCTION VOLUMES FOR THE UPCOMING YEAR.

11 Q DID HE ALSO TALK ABOUT THE CURRENT FINANCIAL
12 CONDITION OF THE COMPANY?

13 A HE DID, HE, AGAIN WE VERY BRIEFLY DISCUSSED THE
14 CURRENT FINANCIALS. BUT MOST OF THE DISCUSSION WAS
15 DIRECTED TOWARDS FUTURE EXPECTATIONS.

16 Q AND IN GENERAL TERMS, FROM THE TME THAT YOU STARTED
17 IN THE FINANCE DEPARTMENT DID HOMEGOLD MEET THE
18 PROJECTIONS GIVEN BY THE DEFENDANT?

19 A NO.

20 Q AND IN GENERAL TERMS AT THAT MEETING WHAT DID YOU
21 THINK ABOUT WHAT THE INFORMATION THAT THE DEFENDANT WAS
22 RELAYING TO THE HOMEGOLD BOARD?

23 A THAT IF WHAT HE WAS SAYING COULD COME TRUE THEN
24 DEFINITELY THE RESULTS OF OPERATIONS WOULD BE MUCH
25 DIFFERENT THAN THE PAST PERFORMANCE.

1 Q BUT THE PAST PERFORMANCE HAD BEEN MEETING THOSE
2 PROJECTIONS?

3 A NO.

4 Q DO YOU KNOW HOW HE CAME UP WITH THOSE PROJECTIONS?

5 A NO.

6 Q AND YOU SAID THAT YOU RESIGNED, I AM GOING TO SHOW
7 YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT NUMBER 98, DO
8 YOU RECOGNIZE THAT?

9 A YES, I DO.

10 MS. EVANS: YOUR HONOR, AT THIS TIME WE WOULD LIKE TO
11 MARK INTO EVIDENCE STATE'S EXHIBIT NUMBER 98.

12 THE COURT: ANY OBJECTION?

13 MR. GRIFFIN: NO, YOUR HONOR.

14 THE COURT: STATE'S 98 IS ADMITTED.

15 (WHEREUPON, STATE'S EXHIBIT NO. 98 WAS ADMITTED INTO
16 EVIDENCE.)

17 Q COULD YOU PLEASE TELL THE JURY WHAT THAT IS?

18 A IT IS A MEMO THAT I HAD ISSUED TENDERING MY
19 RESIGNATION.

20 Q AND I THINK YOU JUST SAID THAT YOU RESIGNED AS CFO,
21 DID YOU STAY ON IN SOME CAPACITY?

22 A I STAYED ON AS A CONSULTANT.

23 Q AND HOW LONG DID YOU STAY ON AS A CONSULTANT?

24 A ABOUT SIX WEEKS.

25 Q AND AS A CONSULTANT WHAT DID YOU DO FOR THE COMPANY?

1 A I PARTICIPATED IN THE DAY-TO-DAY ACCOUNTING
2 OPERATIONS.

3 Q OKAY. AND TELL THE JURORS WHO WERE SOME OF THE
4 PEOPLE THAT YOU WORKED WITH DURING YOUR TIME FRAME,
5 WHETHER BEFORE YOUR RESIGNATION OR WHEN YOU WENT BACK, WHO
6 WERE SOME OF THE INDIVIDUALS THAT YOU WORKED WITH IN THE
7 HOMEGOLD ACCOUNTING DEPARTMENT?

8 A ARE YOU REFERRING TO STAFF?

9 Q JUST STAFF AND GENERAL PEOPLE THAT WERE WORKING
10 AROUND YOU.

11 A KEVIN MARTIN, NANCY DRUMMOND, SHANE SMITH, KIMBERLY
12 WHIT, HOLLY WILLIS, THOSE WERE STAFF MEMBERS. OTHER
13 MANAGEMENT WOULD OF BEEN BILL LONG, KAREN MILLER, JACK
14 STERLING, RONNIE SHEPPARD, TONY PARK.

15 Q AND LET'S TALK ABOUT KAREN MILLER, WHAT WAS HER ROLE
16 IN THE COMPANY?

17 A SHE WAS IN THE INFORMATION TECHNOLOGY.

18 Q AND DID SHE HAVE DEALINGS WITH THE ACCOUNTANTS AND
19 THE ACCOUNTING STAFF?

20 A YES, SHE DID.

21 Q IN GENERAL TERMS EXPLAIN HER DEALINGS THAT SHE HAD
22 WITH YOU AND THE ACCOUNTING STAFF?

23 A SHE WAS, SHE HAD CONTROL OVER THE ACCOUNTING SYSTEMS.
24 SO, WHEN CHANGES WERE MADE TO HOW THINGS OPERATED SHE WAS
25 USUALLY THE ONE WHO MADE THAT CHANGE FROM A TECHNOLOGY

1 STANDPOINT.

2 Q AND SO SHE DIDN'T HAVE MUCH TO DO WITH THE DAY-TO-DAY
3 ACCOUNTING BUT MORE OF INTEGRATING THE COMPUTER SYSTEM
4 WITH THE ACCOUNTING?

5 A YES.

6 Q AT SOME POINT WERE YOU AWARE WHEN YOU WENT BACK THAT
7 THEY WERE MOVING THE ACCOUNTING DOWN TO LEXINGTON?

8 A WHEN, THE DAY THAT I RESIGNED AND MOVED FROM THE CFO
9 INTO A CONSULTING CAPACITY MR. SHEPPARD INDICATED TO ME
10 THAT HIS INTENTION WAS TO MOVE THE ACCOUNTING.

11 Q MOVE THE ACCOUNTING TO WHERE?

12 A TO LEXINGTON.

13 Q WHO IS FORREST FERRELL?

14 A HE WAS THE, I GUESS, VICE-PRESIDENT OF SERVICING AND
15 THEN ULTIMATELY BECAME THE PRESIDENT OF THE COMPANY.

16 Q AND WHO DID BOTH KAREN MILLER AND FORREST FERRELL
17 REPORT TO?

18 A RONNIE.

19 Q AND DID MS. MILLER EVER MAKE ANY COMMENTS TO YOU
20 ABOUT THE WAY THINGS SHOULD BE DONE AND WHO WANTED IT DONE
21 THAT WAY?

22 A MOST OF THE CONVERSATIONS I HAD WITH HER USUALLY
23 STARTED OFF WITH, RONNIE SAID OR RONNIE WANTS.

24 Q AND WHAT ABOUT YOUR DISCUSSIONS, DID YOU HAVE
25 DISCUSSIONS WITH FORREST FERRELL ABOUT YOUR PROBLEMS WITH

1 THIS DEFERRED TAX ASSET?

2 A YES, I DID.

3 Q AND HOW WOULD THAT DEFERRED TAX ASSET RELATE TO THE
4 CAROLINA INVESTORS PROSPECTUS?

5 A WELL, THE INFORMATION OF HOMEGOLD WAS REFERENCED IN
6 THE CAROLINA INVESTORS PROSPECTUS.

7 Q SO, AND IF IT STAYED ON THE BOOKS AT HOMEGOLD, IT
8 WOULD GO INTO THE CAROLINA INVESTORS PROSPECTUS.

9 MR. GRIFFIN: OBJECTION, YOUR HONOR, LEADING.

10 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

11 Q EXPLAIN THE IMPACT OF SOMETHING BEING ON THE BOOKS OF
12 HOMEGOLD AND THE CAROLINA INVESTORS PROSPECTUS.

13 A I DON'T RECALL SPECIFICALLY IF THE PRINTED MATERIAL
14 OF THE HOMEGOLD FINANCIAL STATEMENT WAS INCLUDED IN THE
15 PROSPECTUS. BUT IF NOT IT WAS CERTAINLY REFERENCED
16 MEANING IT, THERE WOULD BE A SENTENCE OR A LINE ITEM THAT
17 BASICALLY SAYS, ALSO SEE AND IT WOULD DESCRIBE WHATEVER
18 DOCUMENT IT WAS IN. SUCH AS IT WOULD SAY, ALSO SEE ANNUAL
19 REPORT OF HOMEGOLD FINANCIAL OR SOMETHING ALONG THOSE
20 LINES.

21 Q AND AFTER YOU WENT BACK ON YOUR INTERIM BASIS WHO WAS
22 THE ONE THAT ASKED YOU TO LEAVE?

23 A KEVIN MARTIN.

24 Q AND HE WAS ONE OF THE PEOPLE THAT WORKED IN THE
25 ACCOUNTING DEPARTMENT WITH YOU?

1 A YES.

2 Q AND IN THE TIME AFTER YOU WERE CFO AND YOU WENT BACK,
3 DID ANYTHING CHANGE THAT YOU SAW IN THAT SHORT PERIOD OF
4 TIME ABOUT THE PROJECTIONS OF THE COMPANY?

5 A AT THE POINT THAT I RESIGNED I REALLY BECAME DETACHED
6 FROM THAT PART OF THE COMPANY IN THAT I WAS NOT INCLUDED
7 IN THE MANAGEMENT DISCUSSIONS OR REALLY INVOLVED IN THAT
8 PIECE OF IT, THE ROLE THAT I PLAYED WAS BASICALLY JUST AN
9 ACCOUNTANT TRYING TO KEEP THE COMPANY PROGRESSING AS FAR
10 AS THE PROCESSING OF THEIR WORK. AGAIN, THEY HAD BEEN
11 SEVERAL MONTHS BEHIND, WE HAD WORKED REALLY HARD TO KIND
12 OF GET CAUGHT UP AND I CONTINUED TO PERFORM FUNCTIONS TO
13 KEEP THE BOOKS CAUGHT UP.

14 Q AND YOU PREVIOUSLY TALKED ABOUT KAREN MILLER AND
15 FORREST FERRELL, HOW WOULD YOU DESCRIBE THEIR ROLES AND
16 WHAT THEY DID AT HOMEGOLD?

17 A THEY WERE BOTH EXECUTIVE MANAGERS WHO EXECUTED
18 RONNIE'S FOLLOWINGS OR EXECUTED HIS COMMANDS.

19 Q WHILE YOU WERE CFO OF HOMEGOLD WAS THERE A
20 TRANSACTION REGARDING A TRANSFER OF THE DEBT OF CAROLINA
21 INVESTORS?

22 A I KNOW THAT THERE WAS DISCUSSION OF IT BUT I DON'T
23 RECALL IF IT WAS DONE, ACTUALLY DONE.

24 Q AND CAN YOU PLEASE TELL THE JURY WHAT THE DISCUSSION
25 WAS ABOUT THE TRANSFER OF THE DEBT?

1 A THE INTEREST BY RONNIE WAS TO HAVE HOMEGOLD, INC.
2 WHICH IS A SUBSIDIARY COMPANY TO HAVE FINANCIAL STATEMENTS
3 THAT DID NOT HAVE CAROLINA INVESTORS DEBT ON IT. AND A
4 WAY TO ACCOMPLISH THAT WAS TO TRANSFER THE DEBT FROM ONE
5 COMPANY TO ANOTHER.

6 Q AND WHAT WAS THE PLAN TO DO THAT?

7 A AGAIN IT WAS DISCUSSED, I DON'T RECALL IF IT EVER WAS
8 DONE, IF IT WAS DONE WHEN I WAS THERE OR NOT THERE.

9 Q WHERE WAS THAT TO BE TRANSFERRED?

10 A TO THE PARENT COMPANY.

11 Q WHICH WAS WHAT?

12 A HOMEGOLD FINANCIAL.

13 Q AND WHAT WAS HOMEGOLD FINANCIAL?

14 A IT WAS A PARENT COMPANY THAT OWNED SEVERAL
15 SUBSIDIARIES WHICH THOSE SUBSIDIARIES WERE HOMEGOLD, INC.
16 AND CAROLINA INVESTORS.

17 Q WAS IT, DID IT HAVE ANY DAY-TO-DAY FUNTION?

18 A NO, IT WAS JUST A SHELL COMPANY OR A PARENT COMPANY
19 WITH NON-OPERATIONS.

20 Q AND WHO DID YOU SAY WANTED TO TRANSFER THAT DEBT FROM
21 HOMEGOLD, INCORPORATED, HGI AND IS THAT ALL KNOWN AS THE
22 RETAIL MORTGAGE DIVISION?

23 A YES.

24 Q AND WHERE WAS THAT TRANSFERRED TO?

25 A THE DISCUSSION WAS TO TRANSFER IT TO THE PARENT

1 COMPANY, HOMEGOLD FINANCIAL.

2 Q AND WHILE YOU WERE THERE CAN YOU REMEMBER WHEN YOU
3 LEFT, APPROXIMATELY HOW WAS THE DEBT FROM CAROLINA
4 INVESTORS TO EITHER HOMEGOLD, INCORPORATED OR HOMEGOLD
5 FINANCIAL AND WHEN IT WAS EVENTUALLY TRANSFERRED?

6 A I THINK IT WAS AROUND \$100 MILLION.

7 Q AND DID YOU HAVE ANY MORE INVOLVEMENT THAN JUST
8 DISCUSSIONS ABOUT IT?

9 A I DON'T RECALL.

10 Q AND AFTER YOU LEFT THE SECOND TIME MR. SHEPPARD ASK
11 YOU, DID YOU HAD ANY MORE DEALINGS WITH HOMEGOLD OR
12 HOMEGOLD, INCORPORATED OR ANYTHING TO DO WITH THE, WHEN IT
13 MOVED DOWN HERE TO LEXINGTON?

14 A NO.

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

18 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
19 WE WILL TAKE A BRIEF BREAK AT THIS TIME. PLEASE DON'T
20 DISCUSS THE CASE, STEP BACK TO YOUR JURY ROOM. EVERYONE
21 REMAIN 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 ABOUT FIVE MINUTES. MA'AM,
25 YOU CAN STEP DOWN, DON'T DISCUSS YOUR TESTIMONY DURING THE

1 BREAK.

2 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

3 THE COURT: IS THE STATE READY?

4 MS. EVANS: YES, YOUR HONOR.

5 THE COURT: THE DEFENSE?

6 MR. GRIFFIN: YES, SIR.

7 THE COURT: BRING THE JURY IN, PLEASE.

8 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
9 APPROXIMATELY 3:15 P.M.)

10 THE COURT: MS. EVANS, YOU MAY CONTINUE.

11 CONTINUE DIRECT EXAMINATION

12 BY MS. EVANS:

13 Q YOU WERE TALKING EARLIER ABOUT THE DEFERRED TAX ASSET
14 IN THE PROSPECTUS. AND I DRAW YOUR ATTENTION, THIS IS AN
15 INTERVIEW THAT YOU GAVE TO SLED ON OCTOBER 1ST OF 2003. I
16 DRAW YOUR ATTENTION TO PAGE NINE, IF YOU COULD READ THAT
17 ONE LINE RIGHT THERE, READ IT TO YOURSELF.

18 A OKAY.

19 Q DOES THAT REFRESH YOUR MEMORY ABOUT WHAT THE
20 DEFENDANT SAID REGARDING THE DEFERRED TAX ASSET IN THE
21 PROSPECTUS FOR CAROLINA INVESTORS?

22 A YES.

23 Q AND CAN YOU PLEASE TELL THE JURORS WHAT HE TOLD YOU?

24 A THAT IF THE DEFERRED TAX ASSET WAS NOT ON THE BOOKS
25 THEN THE CAROLINA INVESTORS PROSPECTUS WOULD NOT BE

1 RENEWED.

2 Q THAT IS ALL THE QUESTIONS THAT I HAVE.

3 THE COURT: MR. GRIFFIN, CROSS-EXAMINE.

4 CROSS-EXAMINATION

5 BY MR. GRIFFIN:

6 Q MS. JOHNSON, YOU WERE HIRED IN JULY OF 2000?

7 A RIGHT.

8 Q AND YOU RESIGNED FROM YOUR POSITION IN MARCH OF 2001?

9 A CORRECT.

10 Q AND SO YOU WERE THERE FOR SIX OR EIGHT MONTHS?

11 A NINE MONTHS.

12 Q AND THEN YOU WERE CFO FOR HOW MANY WEEKS?

13 A FROM THE END OF NOVEMBER TO THE END OF MARCH.

14 Q AND PRIOR TO BECOMING CFO YOU WORKED JUST GENERALLY
15 IN THE ACCOUNTING DEPARTMENT?

16 A I WAS THE VP OF ACCOUNTING WAS MY TITLE.

17 Q AND IN CONJUNCTION WITH THAT POSITION YOU ASSISTED
18 WITH TRYING TO CLOSE OUT THE BOOKS OF HOMESENSE?

19 A NO.

20 Q NO?

21 A NOT HOMESENSE.

22 Q WHAT WERE YOU TRYING, WERE YOU RECONCILING THE BOOKS
23 AT HOMESENSE?

24 A I DIDN'T HAVE ANYTHING TO DO WITH THE BOOKS AT
25 HOMESENSE.

1 Q BUT WHEN YOU WERE TALKING ABOUT THIS \$7 MILLION
2 DOLLARS MISSING LOANS THAT CAME OVER FROM HOMESENSE THAT
3 THEY COULDN'T FIND, WHAT WERE YOU DOING?

4 A THAT WAS THE MERGER TRANSACTION, THAT WAS A SPECIFIC
5 ACCOUNTING TRANSACTION.

6 Q AND YOU WERE TRYING TO CLOSE OUT THE BOOKS ON THAT
7 MERGER?

8 A I WAS TRYING TO POST THAT TRANSACTION.

9 Q AND TO BE CLEAR, THE \$7 MILLION IN LOANS, THESE WERE
10 LOANS THAT YOU UNDERSTOOD, LOAN TRANSACTIONS. NOT
11 NECESSARILY THE \$⁵7 MILLION IN CASH BUT THEY WERE LOANS
12 THAT HAD BEEN MADE TO CUSTOMERS?

13 A THE REPRESENTATION, IT IS MY UNDERSTANDING THE
14 REPRESENTATION WAS \$30 MILLION DOLLARS ON THE BALANCE
15 SHEET OF HOMESENSE IN THE LOANS. BUT WHEN THEY WERE
16 TRANSFERRED TO HOMEGOLD, \$23 MILLION DOLLARS TRANSFERRED.

17 Q AND PART OF YOUR EFFORT WAS TO TRY TO FIND OUT WHAT
18 THE REASON FOR THAT DISCREPANCY?

19 A CORRECT.

20 Q AND AS YOU ARE WORKING THROUGH THAT YOU WERE, YOU HAD
21 ONE CONVERSATION WITH MR. SHEPPARD, I THINK YOU SAID I.T.
22 IS AN I.T. PROBLEM OR A COMPUTER MERGING ISSUE. I.T.,
23 THAT MEANS INFORMATION TECHNOLOGY, I.T., THAT IS WHAT THAT
24 MEANS?

25 A CORRECT.

1 Q AND WITH REGARD TO THE MERGER, THE FINANCIAL
2 INFORMATION AND THE INVENTORY LOAN INFORMATION, HOMESENSE
3 COMPUTERS, THEY WERE MERGED OVER TO THE HOMEGOLD
4 COMPUTERS, CORRECT?

5 A THAT WAS MY UNDERSTANDING.

6 Q AND YOU FINALIZED THAT TRANSACTION BY BOOKING THE
7 DIFFERENCE TO GOODWILL?

8 A CORRECT.

9 Q AND I THINK YOU SAID DURING THAT PERIOD OF TIME, YOU
10 REPORTED TO JACK STERLING AND BILL LONG, RIGHT?

11 A BILL LONG WAS MY SUPERVISOR.

12 Q AND THEN JACK STERLING WAS THERE IN THE GREENVILLE
13 OFFICE?

14 A CORRECT.

15 Q THAT IS WHERE YOU ARE DOING ALL OF THIS WORK?

16 A CORRECT.

17 Q AND YOU BOOKED THAT \$7 MILLION DOLLAR DIFFERENCE TO
18 GOODWILL WITH THE APPROVAL OF YOUR SUPERVISOR?

19 A YES.

20 Q BILL LONG AND JACK STERLING?

21 A YES.

22 Q AND SUBSEQUENTLY NOTHING EVER CAME UP ABOUT THAT
23 AGAIN?

24 A THAT TRANSACTION WAS NEVER REVERSED. THE SUBJECT DID
25 COME UP AGAIN BUT THE TRANSACTION WAS NOT REVERSED.

1 Q I THINK YOUR STATEMENT THAT NO ONE WAS INTERESTED IN
2 GOING BACK AND TRYING TO DO IT?

3 A LATER IN THE YEAR.

4 Q YOU TESTIFIED EARLIER ABOUT GOING TO A CAROLINA
5 INVESTORS BOARD MEETING?

6 A YES.

7 Q AND THIS BOARD MEETING WAS IN JANUARY OF 2001?

8 A YES.

9 Q YOU WERE CFO AT THE TIME?

10 A YES.

11 Q BEFORE THE BOARD MEETING YOU HAD, WELL HOMEGOLD
12 FINANCIAL STAFF HAD PREPARED FINANCIAL STATEMENTS OF
13 HOMEGOLD'S PERFORMANCE?

14 A CORRECT.

15 Q FOR THE LAST QUARTER, RIGHT?

16 A I DON'T RECALL IF IT WAS A QUARTER BUT THERE WERE
17 FINANCIAL STATEMENTS.

18 Q QUARTER AND YEAREND?

19 A IF THE MEETING WAS IN JANUARY, IN GENERAL, THEY WERE
20 TWO MONTHS BEHIND SO MOST LIKELY WAS AN OCTOBER FINANCIAL
21 STATEMENT.

22 Q MOST RECENT?

23 A IT WOULD OF BEEN THE MOST RECENTLY PREPARED FINANCIAL
24 STATEMENT.

25 Q AND THAT INFORMATION WAS IN BOOKLET FORM FOR EACH

1 BOARD MEMBER AHEAD OF TIME?

2 A WHEN I ORIGINALLY WAS EMPLOYED BY HOMEGOLD THEY HAD
3 PREVIOUSLY BEEN ISSUING BOOKS BUT AS TIME WENT ON AND THE
4 STAFF DIMINISHED THE BOOKS TURNED INTO PAGES STAPLED
5 TOGETHER. SO, I DON'T RECALL THE FORM BUT INFORMATION WAS
6 DISTRIBUTED.

7 Q AND IT WAS THE MOST CURRENT FINANCIAL INFORMATION OF
8 HOMEGOLD?

9 A OF THE FINANCIAL STATEMENTS.

10 Q IN THE FINANCIALS?

11 A IN THE FINANCIALS.

12 Q AND THAT INFORMATION WAS, AND YOU WENT TO THE BOARD
13 MEETING IN CASE THERE WERE QUESTIONS, MEANING BOARD
14 MEMBERS WHO HAD THE MATERIAL AVAILABLE FOR THEM TO REVIEW
15 ABOUT THE FINANCIALS?

16 A I WAS TOLD BY BILL LONG THAT I WAS GOING TO THE BOARD
17 MEETING TO PRESENT THE CAROLINA INVESTORS PORTION OF THE
18 FINANCIAL STATEMENTS.

19 Q BUT THE FINANCIALS THAT WERE PROVIDED TO THE BOARD
20 WERE MORE THAN JUST CAROLINA INVESTORS?

21 A YES.

22 Q CONSOLIDATED COMPANIES?

23 A CORRECT.

24 Q BUT NO ONE ON THE BOARD REALLY DIDN'T ASK ANY
25 QUESTIONS ABOUT THOSE MATERIALS?

- 1 A NO.
- 2 Q AND IN THOSE MATERIALS DID IT SHOW CONTINUED LOSSES?
- 3 A YES.
- 4 Q AND IN THOSE MATERIALS THE, I GUESS AT THE
- 5 OPERATIONAL, THE LOSSES FROM OPERATIONS?
- 6 A YES.
- 7 Q AND IS THAT WHAT IT WAS, WAS IT THE FINANCIALS, WAS
- 8 IT THE INCOME STATEMENT AND THE FINANCIALS OR WAS IT ALSO
- 9 THE BALANCE SHEET WHICH WOULD OF INCLUDED AT THIS POINT
- 10 AND TIME THE \$22 MILLION DOLLAR DEFERRED TAX ASSET?
- 11 A WELL, THE FINANCIAL STATEMENTS WOULD OF INCLUDED A
- 12 BALANCE SHEET AND INCOME STATEMENT AND A STATEMENT OF CASH
- 13 FLOWS.
- 14 Q AND ON THAT BALANCE SHEET IT WOULD OF SHOWN, I GUESS
- 15 THE DEFERRED ASSET OF ROUGHLY, AT THIS POINT AND TIME \$22
- 16 MILLION DOLLARS THAT WE HEARD FROM MR. GOSNELL, EARLIER?
- 17 A YES.
- 18 Q AND YOU, AFTER HE LEFT YOU BECAME CFO UPON THE
- 19 INVITATION OF MR. SHEPPARD AND MR. FERRELL?
- 20 A CORRECT.
- 21 Q AND THEN AFTER BECOMING CFO, AS I UNDERSTAND YOU
- 22 COULD NOT GET COMFORTABLE, YOURSELF, WITH THE \$22 MILLION
- 23 DOLLARS DEFERRED TAX ASSET ON THE BOOKS?
- 24 A THAT'S CORRECT.
- 25 Q BUT YOU DID HAVE CONVERSATIONS WITH ELLIOTT DAVIS

1 ACCOUNTANTS ABOUT THAT ASSET ON THE BOOKS, DID YOU NOT?

2 A I DID.

3 Q AND YOU WERE SHOWN THAT YOUR 10K, I BELIEVE, WHERE
4 THAT ASSET IS ON THE BOOKS OF 2000?

5 A YES.

6 Q AND THAT 10K HAS FINANCIALS THAT ARE AUDITED BY THE
7 PUBLIC ACCOUNTING FIRM OF ELLIOTT DAVIS?

8 A THAT IS CORRECT.

9 Q THEY GAVE AN UNQUALIFIED AUDIT OPINION?

10 A THAT'S CORRECT.

11 Q AND YOU UNDERSTOOD THAT MR. RANK WAS FULLY AWARE OF
12 THE TREATMENT OF THE DEFERRED TAX ASSET?

13 A THAT IS CORRECT.

14 Q AND THAT HE AND THE EXECUTIVE MANAGEMENT AT ELLIOTT
15 DAVIS HAD AGREED TO GIVE THAT UNQUALIFIED OPINION IN THEIR
16 AUDITED LETTER?

17 A YES, THAT WAS MY UNDERSTANDING.

18 Q AND YOU DISAGREED WITH THAT DECISION?

19 A I DID.

20 Q AND YOU DID NOT WANT TO PUT YOUR NAME ON THOSE FILING
21 FINANCIALS BECAUSE YOU DIDN'T AGREE WITH THE POSITION OF
22 ELLIOTT DAVIS, CORRECT?

23 A I DID NOT WANT TO PUT MY NAME ON THOSE FINANCIALS.

24 Q AND HAVING ELLIOTT DAVIS SAYING IN THEIR OPINION, IT
25 MEANT THAT GAAP DID NOT GIVE YOU ENOUGH COMFORT ZONE?

1 A THAT WAS THEIR OPINION, MY OPINION DIFFERED.

2 Q HAD YOU EVER BEEN IN A POSITION OF A CFO OF A PUBLIC
3 COMPANY?

4 A I HAD BEEN IN A POSITION OF CFO AND I HAD BEEN THE
5 ASSISTANT CFO OF A PUBLICLY TRADED COMPANY THAT WAS ABOUT
6 THE SAME SIZE OF HOMEGOLD.

7 Q HAD YOU EVER BEEN IN A POSITION OF SIGNING FINANCIALS
8 WITH THE SEC?

9 A NO.

10 Q THIS WOULD OF BEEN YOUR FIRST ONE?

11 A I HAD MANY YEARS OF EXPERIENCE IN PREPARING THOSE AS
12 THE ASSISTANT CFO OR ASSISTANT FINANCIAL OFFICER.

13 Q AND AS I UNDERSTAND, YOU ARE NOT A CPA?

14 A THAT'S CORRECT.

15 Q YOU HAVE A BACHELORS DEGREE IN ACCOUNTING FROM
16 CLEMSON?

17 A CORRECT.

18 Q AND YOU HAVE 18 YEARS OR SO OF WORK EXPERIENCE IN THE
19 FIELD?

20 A CORRECT.

21 Q AND DURING THIS ENTIRE PERIOD OF TIME, FROM THE DATE
22 OF YOUR RESIGNATION, YOU WERE WORKING IN THE GRENVILLE
23 OFFICE, CORRECT?

24 A YES.

25 Q AND YOU WERE WORKING, DID YOU CONTINUE TO REPORT TO

1 BILL LONG AND JACK STERLING EVEN AS CFO?

2 A NOT BILL LONG, BUT JACK STERLING AND RONNIE SHEPPARD.

3 Q WHO WOULD YOU SAY, YOUR DAILY ACTIVITIES, WAS IT MORE
4 WITH MR. SHEPPARD OR WAS IT MORE WITH MR. STERLING?

5 A MR. STERLING.

6 Q AND ON ANY GIVEN WEEK, HOW FREQUENTLY WOULD YOU TALK
7 TO MR. SHEPPARD?

8 A MAYBE ONCE OR TWICE A WEEK, MAYBE ONCE A WEEK IN
9 PERSON AND OCCASIONALLY BY PHONE.

10 Q AND THE, NOW YOU MENTIONED IN THIS FIVE MONTHS THAT
11 YOU CAME TO THE CONCLUSION THAT KAREN MILLER AND FORREST
12 FERRELL WOULD ESSENTIALLY, THEY DID, THEY EXECUTED MR.
13 SHEPPARD'S COMMANDS?

14 A CORRECT.

15 Q AND YOU REACHED THAT CONCLUSION BY DEALING WITH MS.
16 MILLER ON A DAILY BASIS?

17 A YES.

18 Q AND YOU DEALT WITH HER ON A DAILY BASIS?

19 A YES.

20 Q AND SHE WAS IN CHARGE OF THE I.T. DEPARTMENT?

21 A CORRECT.

22 Q AND THEN YOU DEALT WITH MR. FERRELL FREQUENTLY OR
23 INFREQUENTLY?

24 A FREQUENTLY.

25 Q HE WAS IN THE GREENVILLE OFFICE?

1 A CORRECT.

2 Q AND THEN WHEN YOU RESIGNED FROM YOUR POSITION YOU
3 WERE STILL REQUESTED TO STAY ON TO CONTINUE WORKING AS AN
4 ACCOUNT AT THAT FIRM?

5 A THAT'S CORRECT.

6 Q AT HOMEGOLD, RIGHT?

7 A THAT'S CORRECT.

8 Q AT THE REQUEST OF MR. SHEPPARD?

9 A YES.

10 Q AND YOU UNDERSTOOD THAT HE WAS ATTEMPTING TO GET THE
11 ACCOUNTING DEPARTMENT MOVED DOWN TO COLUMBIA OR LEXINGTON?

12 A THAT IS WHAT HE RELAYED TO ME.

13 Q AND HE REQUESTED YOUR ASSISTANCE WITH THAT EFFORT?

14 A NOT WITH THE EFFORT TO MOVE IT BUT MY EFFORTS TO
15 CONTINUE TO PERFORM ACCOUNTING SERVICES IN THE GREENVILLE
16 OFFICE.

17 Q AND WHEN YOU GOT THERE IN JULY OF 2000 THE ACCOUNTING
18 DEPARTMENT WAS IN DISARRAY?

19 A YES.

20 Q AND MR. MAST HAD JUST LEFT?

21 A I DID NOT KNOW HE HAD JUST LEFT BUT HE HAD JUST LEFT.

22 Q AND MS. CHAMPAGNE HAD JUST LEFT BUT YOU DIDN'T KNOW
23 THAT AS WELL?

24 A NO.

25 Q AND THE COMPANY WAS BEHIND IN GETTING THEIR

1 FINANCIALS RECORDED?

2 A CORRECT.

3 Q AND IN THE SEPTEMBER, OCTOBER TIME FRAME WERE YOU
4 AWARE THAT THE COMPANY ALSO HAD A DIFFICULT TIME PAYING
5 THEIR BILLS?

6 A I DON'T KNOW WHAT TIME FRAME I CAME TO KNOW THAT BUT
7 I EVENTUALLY CAME TO KNOW THAT.

8 Q AND NOW WITH REGARD TO WORKING WITH MR. GOSNELL, YOU
9 WORKED UNDER HIM?

10 A THAT'S CORRECT.

11 Q AND YOU MENTIONED THAT YOU ATTENDED A MEETING WITH
12 BILL LONG AND TO DISCUSS THE ASSUMPTION AGREEMENT OR WHERE
13 HOMEGOLD FINANCIAL WOULD ASSUME THE DEBT OF HOMEGOLD,
14 INC., DO YOU RECALL THAT TESTIMONY?

15 A YES.

16 Q AND YOU WERE AT THAT MEETING WITH NOT JUST MR. LONG
17 BUT MR. RANK AND MR. BURGESS, I BELIEVE, FROM ELLIOTT
18 DAVIS?

19 A I DON'T KNOW ABOUT MR. RANK BUT I KNOW MR. BURGESS
20 WAS THERE.

21 Q AND DO YOU RECALL, MR. LONG IS A LAWYER, IS HE NOT?

22 A YES.

23 Q AND DO YOU RECALL IF THERE WERE ANY OTHER LAWYERS
24 PRESENT FROM THE WYCHE LAW FIRM?

25 A NOT THE MEETING THAT I RECALL.

1 Q IT WAS MR. BURGESS AND YOU AND MR. LONG?

2 A AND SHANE SMITH.

3 Q AND MR. SMITH. AND WHEN YOU BECAME A CFO, AT THAT
4 POINT YOU WERE THE THIRD CFO THAT HAD BEEN AT HOMEGOLD
5 SINCE THE MERGER TOOK PLACE?

6 A THAT WOULD BE CORRECT.

7 Q SO, WE HAD MR. MAST WHO LEFT A FEW MONTHS AFTERWARDS,
8 CORRECT?

9 A CORRECT.

10 Q AND WE HAD MR. GOSNELL WHO LEFT EIGHT WEEKS ON THE
11 JOB, CORRECT?

12 A THAT'S CORRECT.

13 Q AND THEN YOU LEFT AFTER FIVE MONTHS AS CFO?

14 A CORRECT.

15 Q AND THE REASON YOU LEFT IS YOU COULD NOT GET
16 COMFORTABLE SIGNING THE 10K WHICH HAD THE DEFERRED TAX
17 ASSET ON IT, RIGHT?

18 A THAT'S CORRECT.

19 Q THANK YOU. THAT IS ALL I HAVE.

20 THE COURT: REDIRECT.

21 REDIRECT EXAMINATION

22 BY MS. EVANS:

23 Q MS. JOHNSON, WAS YOUR DECISION, AFTER SPEAKING WITH
24 ELLIOTT DAVIS AND THEY EXPLAINED TO YOU THAT WAS YOUR
25 SIGNATURE ON HOMEGOLD'S DECISION AND THEY SAID IT WOULD BE

1 DEFENSIBLE ABOUT SIGNING THAT 10K?

2 A COULD YOU REPEAT THAT?

3 Q YOU TALKED ABOUT THE FACT THAT THAT 10K IS A
4 STATEMENT BY MANAGEMENT?

5 A THAT IS CORRECT.

6 Q AND WHEN THEY EXPLAINED THAT TO YOU IS THAT WHEN YOU
7 WERE UNCOMFORTABLE ABOUT SIGNING THAT BECAUSE THAT YOU AS
8 MANAGEMENT OF HOMEGOLD DECIDING TO INCREASE THE DEFERRED
9 TAX ASSET, ELLIOTT DAVIS JUST REVIEWS THAT DECISION TO SEE
10 IF IT IS DEFENSIBLE.

11 MR. GRIFFIN: OBJECTION, LEADING, YOUR HONOR.

12 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

13 Q WHAT WAS YOUR UNDERSTANDING ABOUT SIGNING THAT 10K?

14 A MY UNDERSTANDING WAS THAT I WAS REPRESENTING THAT
15 THOSE FINANCIAL STATEMENTS CONFORMED WITH GAAP.

16 Q AND WHAT WAS YOUR BELIEF?

17 A MY BELIEF WAS THAT THEY DID NOT CONFORM WITH GAAP.

18 Q THAT WOULD BE HOMEGOLD'S FINANCIAL STATEMENTS?

19 A CORRECT.

20 Q THAT IS ALL I HAVE.

21 THE COURT: ANY RECROSS?

22 MR. GRIFFIN: NO, YOUR HONOR.

23 THE COURT: YOU MAY STEP DOWN. YA'LL STEP UP FOR
24 JUST A MINUTE.

25

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

4 THE COURT: MADAM FORELADY AND LADIES AND GENTLEMEN,
5 WE WILL TAKE A BREAK AT THIS TIME. DON'T DISCUSS THE
6 CASE, YOU ARE EXCUSED TO YOUR JURY ROOM. EVERYONE REMAIN
7 SEATED WHILE THE JURY IS EXCUSED.

8 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
9 A BREAK.)

10 THE COURT: WE WILL TAKE ABOUT A TEN OR FIFTEEN
11 MINUTE BREAK.

12 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

13 THE COURT: IS THE STATE READY?

14 MS. EVANS: YES, SIR.

15 THE COURT: THE DEFENSE?

16 MR. GRIFFIN: YES, YOUR HONOR.

17 THE COURT: BRING THE JURY IN, PLEASE.

18 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
19 APPROXIMATELY 4:05 P.M.)

20 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

21 MR. MYRICK: THE STATE CALLS BEN KELLY TO THE STAND.

22 BEN KELLY, AFTER BEING DULY SWORN, TESTIFIED AS
23 FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. MYRICK:

1 Q MR. KELLY, TELL US A LITTLE BIT ABOUT YOURSELF.

2 A I AM A COMMERCIAL REAL ESTATE BROKER HERE IN
3 COLUMBIA, SOUTH CAROLINA.

4 Q WHAT IS THE NATURE OF YOUR BUSINESS, WHAT DO YOU AS A
5 BROKER DAY-TO-DAY?

6 A WE SELL LEASE AND DEVELOPE COMMERCIAL REAL ESTATE.

7 Q DO YOU HAVE TO HAVE A LICENSE TO DO THAT?

8 A YOU DO.

9 Q ARE YOU LICENSED?

10 A I AM.

11 Q BY WHOM?

12 A BY REAL ESTATE COMMISSION HERE IN COLUMBIA.

13 Q DO YOU KNOW THE DEFENDANT?

14 A I DO.

15 Q HOW LONG HAVE YOU KNOWN HIM?

16 A I WOULD HAVE TO LOOK BACK, I BELIEVE MY FILES
17 INDICATE '97, '98.

18 Q AND IS IT A BUSINESS RELATIONSHIP OR A SOCIAL
19 RELATIONSHIP?

20 A BUSINESS RELATIONSHIP.

21 Q ARE YOU FAMILIAR WITH THE 7.3 ACRE PLOT OF LAND ON
22 LEAPHART ROAD THAT YOU SOLD?

23 A I AM, I HAVE SOLD THAT PIECE FOUR TIMES.

24 Q FOUR OR FIVE TIMES?

25 A FOUR.

1 Q I AM GOING TO HAND YOU SOMETHING, MR. KELLY, DO YOU
2 RECOGNIZE THAT?

3 A I DO.

4 Q WHAT IS IT?

5 A THAT IS AN EXCLUSIVE LISTING AGREEMENT.

6 MR. MYRICK: YOUR HONOR, THE STATE WOULD LIKE TO
7 OFFER 122 INTO EVIDENCE.

8 THE COURT: ANY OBJECTION.

9 MR. GRIFFIN: YOUR HONOR, I DON'T HAVE AN OBJECTION
10 TO THE AUTHENTICITY BUT I DO OBJECT TO THE DOCUMENT ON ITS
11 RELEVANCE, STATE V. LYLES.

12 THE COURT: YOUR ARGUMENTS AS PREVIOUS?

13 MR. GRIFFIN: CHARACTER EVIDENCE, YES SIR.

14 THE COURT: THOSE OBJECTIONS ARE OVERRULED, STATE'S
15 122 IS ADMITTED.

16 (WHEREUPON, STATE'S EXHIBIT NO. 122 WAS ADMITTED INTO
17 EVIDENCE.)

18 Q THE LISTING AGREEMENT THAT I HAVE HANDED TO YOU, WHO
19 IS IT BETWEEN?

20 A IT IS BETWEEN EDENS AND AVANT REALTY AND DCS REAL
21 ESTATE, LLC.

22 Q AND WHO SIGNED ON BEHALF OF EDENS AND AVANT?

23 A I DID.

24 Q THAT IS YOUR SIGNATURE AT THE BOTTOM?

25 A IT IS.

1 Q AND WHO SIGNED ON BEHALF OF DCS REAL ESTATE?

2 A RONALD J. SHEPPARD'S SIGNATURE IS THERE.

3 Q DO YOU RECOGNIZE THAT SIGNATURE?

4 A IT APPEARS TO BE RONALD J. SHEPPARD'S SIGNATURE. IT
5 WAS NOT WITNESSED SO I AM ASSUMING THAT IT IS.

6 Q DID YOU DEVELOPE A FAMILIARITY OF THIS SIGNATURE OVER
7 THE COURSE OF YOUR DEALINGS WITH HIM?

8 A I HAVE SEEN IT MANY TIMES.

9 Q AND THAT LOOKS LIKE HIS SIGNATURE TO YOU?

10 A IT DOES.

11 Q AND WHAT IS THE AGREEMENT FOR?

12 A THE AGREEMENT ALLOWS ME TO SELL THE PROPERTY AT A
13 STATED PRICE.

14 Q AND WHAT PRICE WERE YOU GOING TO SELL THE PROPERTY
15 FOR?

16 A THE PRICE STATED IS \$474,500.

17 Q AND DOES THE LISTING AGREEMENT CONTAIN A DESCRIPTION
18 OF THE PROPERTY?

19 A IT DOES.

20 Q AND WHAT DOES IT SAY?

21 A APPROXIMATELY 7.3 ACRES, LEXINGTON COUNTY, TAX MAP
22 NUMBER 45960430.

23 Q SO, YOU LISTED THE PROPERTY, WHAT DATE DID YOU LIST
24 THAT PROPERTY?

25 A THE DATE OF THE DOCUMENT IS MAY 30TH.

1 Q IS THAT THE DAY IT WAS SIGNED?

2 A I HAVE NO WAY OF KNOWING THAT IT WAS SIGNED ON THAT
3 DATE OR NOT, IT WAS PROBABLY DROPPED OFF FOR SIGNATURE AND
4 PICKED BACK UP.

5 Q WHEN DID YOU LIST IT?

6 A IT BECAME AFFECTIVE ON MAY 30TH.

7 Q AND WHAT, IF ANYTHING, DID YOU BRING WITH YOU TO
8 COURT TODAY?

9 A I BROUGHT MY FILE ON THAT PROPERTY.

10 Q DO YOU HAVE ANY OTHER DOCUMENTS IN YOUR FILE THAT
11 WOULD INDICATE THAT MIGHT HELP YOU TO REFRESH YOUR MEMORY
12 AS TO WHEN YOU ACTUALLY PUT THAT PROPERTY UP FOR SALE?

13 A NO, WE DID NOT PUT THAT PROPERTY UP FOR SALE UNTIL
14 THIS LISTING.

15 Q IS THERE A SIGN ORDER?

16 A YES.

17 Q WITHOUT READING FROM IT, CAN YOU REFRESH YOUR MEMORY
18 AS TO WHEN YOU ORDERED THE SIGNS TO BE PUT UP?

19 A THE SIGN ORDER APPEARS TO BE DATED 5/30 WITH THE DATE
20 LISTED, I DON'T SEE A DATE WHEN IT WAS TURNED IN BUT IT
21 WOULD OF BEEN IMMEDIATELY WITH THE LISTING.

22 Q SO, IS IT SAFE TO SAY THAT YOU LISTED IT IN MAY OF
23 2001?

24 A YES.

25 MR. MYRICK: YOUR HONOR, I BELIEVE THE DEFENSE HAS A

1 STANDING OBJECTION TO ALL OF THE DOCUMENTS RELATED TO THIS
2 WITNESS. I AM GOING TO GO AHEAD AND PROFFER IT INTO
3 EVIDENCE, STATE'S 123.

4 Q I AM GOING TO HAND YOU SOMETHING, MR. KELLY, DO YOU
5 RECOGNIZE THAT?

6 A YES.

7 Q WHAT IS IT?

8 A CONTRACT OF SALE.

9 Q FOR WHAT PROPERTY?

10 A FOR THE SAME PROPERTY.

11 Q FOR THE PROPERTY THAT THEY HAVE LISTED?

12 A CORRECT.

13 Q THE COPY THAT I HAVE HANDED YOU, IS IT IDENTICAL TO
14 THE ONE THAT YOU HAVE IN YOUR FILE?

15 A IT APPEARS TO BE, YES.

16 Q WHO SIGNED IT AS THE SELLER?

17 MR. GRIFFIN: YOUR HONOR, HE HASN'T MOVED IT INTO
18 EVIDENCE.

19 THE COURT: I WAS GOING TO ASK THE SAME QUESTION, I
20 KNOW YOU INDICATED THAT YOU PROFFERED THOSE BUT YOU ARE
21 MOVING THAT INTO EVIDENCE AT THIS TIME?

22 MR. MYRICK: I AM, YOUR HONOR.

23 THE COURT: AND THE SAME OBJECTION THAT HAS BEEN
24 ARGUED PREVIOUSLY, IS THAT RIGHT?

25 MR. GRIFFIN: THAT IS CORRECT.

1 THE COURT: OVERRULED, STATE'S 123 IS ADMITTED.
2 (WHEREUPON, STATE'S EXHIBIT NO. 123 WAS ADMITTED INTO
3 EVIDENCE.)

4 Q IF YOU WOULD, MR. KELLY, DO YOU REMEMBER THE
5 QUESTION?

6 A PLEASE REPEAT IT.

7 Q WHO SIGNED THE CONTRACT AS THE SELLER?

8 A IT APPEARS TO BE RONALD J. SHEPPARD.

9 Q IS THAT THE SIGNATURE THAT YOU RECOGNIZE?

10 A YES.

11 Q WHEN WAS THIS CONTRACT SIGNED BY THE DEFENDANT?

12 A IT IS DATED 6/6/01 WHICH WOULD OF BEEN IN THE FINAL
13 AGREEMENT OR MEETING OF THE MINDS THROUGH NEGOTIATION
14 PERIOD.

15 Q AND HOW MUCH DID HE SELL IT FOR?

16 A THE CONTRACT PRICE IS \$438 THOUSAND.

17 Q I WOULD LIKE TO DIRECT YOUR ATTENTION TO SECTION 1B,
18 ON THE FIRST PAGE OF THAT CONTRACT?

19 A YES.

20 Q DOES IT SAY ON THERE HOW MUCH?

21 A IT SAYS BASED ON \$60 THOUSAND DOLLARS PER ACRES.

22 Q AND THIS IS THE SAME PROPERTY THAT YOU LISTED
23 PREVIOUSLY?

24 A YES.

25 Q DOES THIS SAY A CLOSE?

1 A IT DID.

2 MR. MYRICK: YOUR HONOR, THE STATE WOULD LIKE TO
3 ENTER STATE'S NUMBER 124 INTO EVIDENCE, IT IS A
4 SELF-AUTHENTICATED PUBLIC DOCUMENT, YOUR HONOR, IT IS A
5 CERTIFIED COPY OF A DEED.

6 THE COURT: ANY OBJECTION?

7 MR. GRIFFIN: I DON'T OBJECT TO THE AUTHENTICITY
8 GROUNDS, BUT THE SAME RELEVANCE OF THE OTHER OBJECTION.

9 THE COURT: THE OBJECTION IS OVERRULED, STATE 124 IS
10 ADMITTED.

11 (WHEREUPON, STATE'S EXHIBIT NO. 124 WAS ADMITTED INTO
12 EVIDENCE.)

13 Q I AM GOING TO HAND YOU WHAT HAS BEEN MARKED AS
14 STATE'S 124. YOU WORK WITH DEEDS OFTEN, MR. KELLY?

15 A DO I WORK WITH DEEDS?

16 Q ARE YOU FAMILIAR WITH DEEDS?

17 A I AM, I VERY RARELY HAVE THE RIGHT OR THE NEED TO
18 APPROVE THEM, THAT IS UP TO THE ATTORNEYS BUT I DO SEE
19 THEM.

20 Q I THINK YOU HAVE SEEN THIS DEED BEFORE, IF YOU WILL
21 LOOK AT PAGE 3 OF WHAT I HANDED YOU?

22 A YES.

23 Q IS THAT YOUR SIGNATURE?

24 A IT IS.

25 Q DOES IT SAY ON THE FIRST COPY WHO IS SELLING THIS, ON

1 THE FIRST PAGE OF WHAT I AM HANDING YOU, WHO IS SELLING
2 THIS PROPERTY?

3 A IT DOES.

4 Q WHO IS THAT?

5 A RONALD J. SHEPPARD.

6 Q AND IS THE DEED CLOSING THE DEAL THAT YOU NEGOTIATED
7 ON BEHALF OF THE DEFENDANT?

8 A IT IS.

9 Q THE SAME 7.3 ACRES?

10 A IT IS.

11 Q AND IT IS FOR THE PRICE THAT IT WAS CONTRACTED FOR?

12 A IT IS.

13 Q YOU SIGNED THAT THIRD PAGE?

14 A I DID.

15 Q AND IN WHAT CAPACITY?

16 A AS A WITNESS TO THE DEED WHICH WAS PREPARED BY AN
17 ATTORNEY FOR CLOSING.

18 Q WOULD YOU DO ME A FAVOR, MR. KELLY, WOULD YOU LOOK AT
19 THE VERY BOTTOM OF THAT FIRST PAGE, THE LAST FULL
20 SENTENCE?

21 A OKAY.

22 Q WOULD YOU READ THAT OUT LOUD?

23 A THIS BEING THE SAME PROPERTY CONVEYED TO RONALD J.
24 SHEPPARD BY DEED OF HOMEGOLD DATED JUNE 22ND, '01 AND
25 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR

1 LEXINGTON COUNTY BOOK R6495 AT PAGE 275.

2 Q SO THE DEFENDANT GOT IT ON JUNE 22ND, IS THAT HOW YOU
3 UNDERSTAND THAT?

4 A THAT IS CORRECT.

5 Q AND HE LISTED IT WITH YOU WHEN?

6 A MAY 30TH.

7 Q AND HE SIGNED THE CONTRACT AS THE SELLER WHEN?

8 A JUNE THE 6TH OF 2001.

9 MR. MYRICK: YOUR HONOR, THE STATE OFFERS STATE'S 125
10 INTO EVIDENCE AS A DEED TO REAL ESTATE, IT IS CERTIFIED BY
11 THE REGISTER OF DEEDS FOR LEXINGTON COUNTY AS A
12 SELF-AUTHENTICATED PUBLIC DOCUMENT.

13 THE COURT: SAME OBJECTION?

14 MR. GRIFFIN: YES, YOUR HONOR.

15 THE COURT: ANY OTHER OBJECTIONS?

16 MR. GRIFFIN: NO, SIR.

17 THE COURT: THOSE ARE OVERRULED, STATE'S 125 IS
18 ADMITTED.

19 (WHEREUPON, STATE'S EXHIBIT NO. 125 WAS ADMITTED INTO
20 EVIDENCE.)

21 Q MR. KELLY, YOU MAY OF NEVER SEEN THIS BUT DO YOU
22 RECOGNIZE WHAT IT IS?

23 A IT IS A DEED TO REAL ESTATE.

24 Q WOULD YOU LOOK AT THE LEGAL DESCRIPTION OF THAT PIECE
25 OF PROPERTY THAT THAT DEED PERTAINS TO?

- 1 A YES.
- 2 Q DO YOU RECOGNIZE THAT DESCRIPTION?
- 3 A YES, SAME PARCEL.
- 4 Q AND IT IS REFERRING TO THE SAME 7.3 ACRES OFF OF
5 LEAPHART ROAD?
- 6 A IT IS.
- 7 Q THE SAME ONE YOU SOLD?
- 8 A CORRECT.
- 9 Q FOR THE DEFENDANT?
- 10 A IT APPEARS TO BE, YES.
- 11 Q IF I MIGHT HAVE IT BACK. ON PAGE TWO IT SAYS IT WAS
12 SOLD ON THE 22ND OF JUNE, YOU HAD A CONTRACT ON THAT
13 PROPERTY, DIDN'T YOU?
- 14 A YES.
- 15 Q AND ON PAGE ONE, THIS IS THE SAME PIECE OF PROPERTY
16 THAT YOU SOLD?
- 17 A CORRECT.
- 18 Q AND IT WAS SOLD FOR \$380 THOUSAND DOLLARS AND YOU HAD
19 A CONTRACT ON IT FOR HOW MUCH?
- 20 A \$438 THOUSAND.
- 21 Q YOU SEE ON HERE, MR. KELLY, WHO CONVEYED IT TO THE
22 DEFENDANT, DID YOU?
- 23 A HOMEGOLD AND A MERGER TO HOMESENSE.
- 24 Q YOU WORK ON COMMISSION?
- 25 A I DO.

1 Q DID YOU GET A COMMISSION ON THIS PROPERTY?

2 A I DID.

3 Q DOES EDENS AND AVANT GET A COMMISSION?

4 A THEY DID.

5 Q HOW MUCH IS EDENS AND AVANT COMMISSION?

6 A THE TOTAL COMMISSION WAS TEN PERCENT OF THE PURCHASE
7 PRICE WHICH WAS DIVIDED BETWEEN SEVERAL BROKERS AND EDENS
8 AND AVANT.

9 Q AND AT CLOSING, IS THERE A BROKER THERE?

10 A I DON'T THINK WE HAD A SIT DOWN CLOSING PER SE, I
11 THINK DOCUMENTS WERE JUST HANDLED BY THE ATTORNEYS. BUT
12 THERE WERE TWO REAL ESTATE BROKERS AND REPRESENTING BOTH
13 PARTIES, ONE REPRESENTING EACH PARTY. WELL EXCUSE ME,
14 THERE WERE TWO BROKERS, I AM NOT SURE WHO REPRESENTED
15 WHOM.

16 Q THAT IS ALL I HAVE FOR YOU, MR. KELLY.

17 THE COURT: CROSS-EXAMINE, MR. KELLY.

18 CROSS-EXAMINATION

19 BY MR. GRIFFIN:

20 Q YOU SOLD THIS PROPERTY MULTIPLE TIMES, IS THAT
21 CORRECT?

22 A I SOLD IT FOUR TIMES, YES.

23 Q I AM GOING TO ASK YOU TO LOOK, THIS IS EXHIBIT 125
24 WHICH IS THE DEED OF WHAT THE PROPERTY APPARENTLY WAS
25 CONVEYED BY HOMESENSE TO MR. SHEPPARD AND THIS PARAGRAPH,

1 IT SAYS THIS BEING THE IDENTICAL PROPERTY CONVEYED TO
2 HOMESENSE FINANCIAL BY DEED OF DCS REAL ESTATE, LLC DATED
3 APRIL THE 30TH OF 2000 AND RECORDED MAY 1 OF 2000. DO YOU
4 SEE THE LANGUAGE THAT I AM READING?

5 A YES.

6 Q WHAT IS DCS REAL ESTATE, LLC?

7 A THAT IS THE ENTITY, I BELIEVE TO WHICH IT WAS SOLD,
8 THAT WAS A LIMITED LIABILITY COMPANY OWNED BY MR.
9 SHEPPARD.

10 Q AND DID YOU, WERE YOU THE BROKER ON THE ORIGINAL
11 TRANSACTION WHEN THE PROPERTY WAS CONVEYED TO DCS REAL
12 ESTATE?

13 A YES, I REPRESENTED THE SELLER WHICH WAS A DARNELL
14 BOYD WHO SOLD IT TO, I BELIEVE, DCS OR SUNSET REAL ESTATE
15 CORPORATION.

16 Q AND WHAT IS SUNSET REAL ESTATE CORPORATION?

17 A IT IS ANOTHER ENTITY OWNED BY MR. SHEPPARD, I
18 BELIEVE. THE REASON I SAY THAT IS THAT THE SURVEY SHOWS
19 SUNSET ON THE SURVEY.

20 Q SO, PRIOR TO APRIL 30TH OF 2000 DID YOU AT SOME POINT
21 AND TIME WAS BROKER TO THE TRANSACTION WHERE MR. SHEPPARD
22 PURCHASED THE PROPERTY THROUGH EITHER DCS REAL ESTATE OR
23 SUNSET, CORRECT?

24 A CORRECT.

25 Q DO YOU RECALL JUST ABOUT WHEN THAT WAS?

1 A I BELIEVE IT WAS IN '98.

2 Q AND THEN SUBSEQUENTLY YOU WERE, THE INFORMATION YOU
3 WERE ASKED ABOUT HERE TODAY IS YOU, YOU WERE BROKER WHEN
4 THE CONTRACT WAS EXECUTED AGAIN BY, IT SAYS RONALD
5 SHEPPARD OR DCS REAL ESTATE, LLC?

6 A CORRECT.

7 Q AND THAT IS THE SAME ENTITY THAT DCS REAL ESTATE, LLC
8 THAT WE JUST PREVIOUSLY TALKED ABOUT?

9 A CORRECT.

10 Q NOW, THIS IS THE CONTRACT ITSELF AND IT IS DATED, I
11 GUESS 6/6 SIGNED BY WHAT APPEARS TO BE MR. SHEPPARD,
12 CORRECT?

13 A CORRECT.

14 Q NOW, THIS CONTRACT, YOU WORK WITH THESE TYPE
15 CONTRACTS FREQUENTLY, DO YOU NOT?

16 A I DO.

17 Q AND DOES THIS CONTRACT HAVE A CONTINGENCY IN IT?

18 A IT DOES, PARAGRAPH 1E IS A 60 DAY INSPECTION PERIOD
19 WHICH FUNCTIONS AS A CONTINGENCY. FOR ANY REASON OR NO
20 REASON YOU CAN DROP THE CONTRACT IF YOU ARE NOT SATISFIED
21 WITH THE CONDITION OF THE PROPERTY.

22 Q NOW, YOU ARE FAMILIAR WITH THIS PROPERTY, CORRECT?

23 A VERY MUCH SO.

24 Q IS THERE ANY ISSUES WITH THIS PROPERTY ABOUT MISUSE
25 IN DEVELOPMENT?

1 A THIS PARCEL WAS A REMANENT OF A LARGER SUBDIVISION
2 DEVELOPED IN THE '60'S AND '70'S. THERE WAS SOME
3 PROBLEMS, THERE WAS A LARGE ABOVE GROUND WATER TANK ON A
4 PORTION OF THE PROPERTY WHICH WAS OWNED BY CAROLINA WATER
5 AND SERVICE, HAD CERTAIN EASEMENTS ON IT, FUNCTIONS AS A
6 WATER HOLDING TANK FOR THE NEIGHBORHOOD. THE PROPERTY DID
7 NOT HAVE SANITARY SEWER TO IT WHICH MADE IT PROBLEMATIC TO
8 DEVELOPE. YOU OBVIOUSLY HAVE TO HAVE SEWER TO GET HIGHEST
9 AND BEST USE FOR YOUR PROPERTY. AND THEN THERE WAS SOME
10 ISSUES ABOUT STORM WATER DRAINAGE AND HOW TO DISCHARGE
11 THAT DRAINAGE OFF OF THE PROPERTY. AS YOU HAD A
12 NEIGHBORHOOD BEHIND IT AND MULTIPLE HOUSES IT BECAME
13 PROBLEMATIC DEALING WITH THE VARIOUS HOMEOWNERS.

14 Q AS A BROKER ON THIS TRANSACTION AND KNOWING THE
15 PROPERTY AND THIS INSPECTION PERIOD CONTINGENCY, WAS IT A
16 GUARANTEE RESULT THAT WITHIN SIXTY DAYS THERE WOULD BE A
17 CLOSING ON THIS DEAL WITH SOME \$400 THOUSAND DOLLARS?

18 A NO.

19 Q AND IN YOUR EXPERIENCE IN INSPECTION CONTINGENCIES
20 SUCH AS THIS HOW FREQUENTLY DO THE TRANSACTIONS NOT CLOSE?

21 A EVERY CONTRACT I TURN IN DRAWS MY SALES MANGER CRAZY
22 BECAUSE I PUT FIFTY PERCENT ON EVERY CONTRACT. AND HE
23 SAYS I MIGHT AS WELL FLIP A COIN AND I SAY, WELL, I SHOULD
24 ALSO. MY CLOSING RATIO IS MUCH HIGHER THAN THAT ON ANY
25 PARTICULAR DEAL IS YOU DON'T KNOW. I MEAN, YOU HAVE A LOT

1 OF ISSUES TO DEAL WITH ON COMMERCIAL PROPERTIES SO UNTIL
2 THE LAWYERS AND ENGINEERS DEAL WITH THEM YOU DON'T KNOW
3 WHAT THE CLOSING PERCENTAGE WILL BE.

4 Q I AM GOING TO SHOW YOU WHAT IS MARKED AS DEFENDANT'S
5 EXHIBIT NUMBER 9 AND DO YOU RECOGNIZE THAT DOCUMENT?

6 A YES, I DO.

7 Q AND IS IT PART OF THIS CONTRACT?

8 A IT IS.

9 MR. GRIFFIN: YOUR HONOR, I WOULD MOVE DEFENDANT'S
10 EXHIBIT NUMBER 9 IN.

11 THE COURT: ANY OBJECTION?

12 MR. MYRICK: NO, SIR.

13 THE COURT: DEFENDANT'S 9 IS ADMITTED.

14 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 9 WAS ADMITTED
15 INTO EVIDENCE.)

16 Q WILL YOU TELL THE JURY WHAT DEFENDANT'S 9 IS?

17 A IT IS AN EXTENSION AGREEMENT.

18 Q AND WHAT DOES IT EXTEND?

19 A IT EXTENDS THE DUE DILIGENCE PERIOD FROM 60 DAYS TO
20 75 DAYS.

21 Q AND THE DUE DILIGENCE, THAT IS WHERE I AM POINTING
22 THERE?

23 A YES.

24 Q AND SO YOU EXTENDED THE CLOSING DATE TO AUGUST 21 OF
25 2001, CORRECT?

1 A CORRECT.

2 Q AND THIS EXTENSION WAS SIGNED AUGUST 3RD OF 2001,
3 CORRECT?

4 A CORRECT.

5 Q AND DO YOU RECALL THE REASON FOR THE EXTENSION?

6 A I DO NOT.

7 Q AND I THINK YOU SAID EARLIER THAT THE CONTRACT
8 ULTIMATELY CLOSED?

9 A IT DID.

10 Q AND THERE WERE REAL ESTATE COMMISSIONS OF ROUGHLY TEN
11 PERCENT?

12 A YES, THE REAL ESTATE COMMISSION WAS TEN PERCENT.

13 Q AND THAT WAS HOW MUCH MONEY?

14 A \$43,800.00.

15 Q ON A CONTRACT PRICE OF?

16 A \$438 THOUSAND.

17 Q SO, THAT BROUGHT IT BELOW \$400 THOUSAND AND THEN,
18 THERE WOULD OF BEEN TAXES, REAL ESTATE TAXES AND OTHER
19 COST ASSOCIATED WITH THE CLOSINGS?

20 A CORRECT.

21 Q THAT IS ALL THAT I HAVE.

22 THE COURT: ANY REDIRECT?

23 MR. MYRICK: NO, SIR.

24 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT

25 WITNESS, PLEASE.

1 MR. MYRICK: THE STATE CALLS PHIL WILSON.

2 PHIL WILSON, AFTER BEING DULY SWORN, TESTIFIED
3 AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY MR. MYRICK:

6 Q MR. WILSON, WHERE DO YOU LIVE?

7 A WEST COLUMBIA ON CONTINENTAL DRIVE.

8 Q HOW ARE YOU EMPLOYED?

9 A I OPERATE A REAL ESTATE COMPANY.

10 Q ARE YOU LICENSED?

11 A YES, LICENSED REAL ESTATE BROKER IN CHARGE.

12 Q LICENSED AS A BROKER?

13 A YES.

14 Q DO YOU KNOW THE DEFENDANT?

15 A YES, I DO.

16 Q HAVE YOU HAD PROFESSIONAL DEALINGS WITH HIM?

17 A YES.

18 Q ARE YOU FAMILIAR WITH THE SEVEN ACRE PLOT OF LAND OFF
19 OF LEAPHART ROAD IN LEXINGTON COUNTY THAT THE DEFENDANT
20 ONCE OWNED?

21 A I AM.

22 Q I WOULD LIKE TO DRAW YOUR ATTENTION TO JUNE OF 2001,
23 DID YOU HEAR FROM THE DEFENDANT AROUND THAT TIME?

24 A I HEARD FROM HIS SECRETARY.

25 Q WHO IS THAT?

1 A MERIDETH CASTEEN.

2 Q AND WHAT WAS IT REGARDING?

3 A MERIDETH CALLED AND ASKED ME WOULD I PUT TOGETHER
4 SOMETHING THAT WOULD REPRESENT A VALUE ON THAT SEVEN ACRES
5 AND I PREPARED IT.

6 MR. MYRICK: YOUR HONOR, WE HAVE CALLED THIS WITNESS
7 OUT OF ORDER, I WOULD LIKE TO GO AHEAD AND GET A STATE'S
8 EXHIBIT MARKED WITH THE NEXT CONSECUTIVE NUMBER, IF I
9 COULD.

10 THE COURT: WHAT IS THE NUMBER?

11 COURT REPORTER: 126.

12 Q I AM GOING TO HAND YOU WHAT HAS BEEN MARKED AS
13 STATE'S NUMBER 126, MR. WILSON. WITHOUT SAYING WHAT IT
14 IS, DO YOU RECOGNIZE IT?

15 A YES.

16 Q WHO SIGNED IT?

17 A I DID.

18 Q DO YOU NORMALLY CREATE THOSE DOCUMENTS IN YOUR COURSE
19 OF BUSINESS?

20 A YES.

21 Q AND WAS THAT CREATED IN YOUR COURSE OF BUSINESS?

22 A IT WAS.

23 Q AND THE COPY THAT I HANDED YOU, IS IT A TRUE AND
24 CORRECT COPY?

25 A IT SEEMS TO BE, YES SIR.

1 MR. MYRICK: YOUR HONOR, WE WOULD LIKE TO GO AHEAD
2 AND OFFER STATE'S 126 INTO EVIDENCE.

3 THE COURT: SAME OBJECTIONS?

4 MR. GRIFFIN: YES, SIR.

5 THE COURT: THOSE OBJECTIONS ARE OVERRULED, STATE'S
6 126 IS ADMITTED.

7 (WHEREUPON, STATE'S EXHIBIT NO. 126 WAS ADMITTED INTO
8 EVIDENCE.)

9 Q AND WHAT IS IT, MR. WILSON, THAT I HAVE HANDED YOU.

10 A IT IS A COMPARABLE MARKET ANALYSIS, A CMA, THE
11 ACRONYM FOR THAT. IT IS SIMPLY AN OPINION OF THE FAIR
12 MARKET VALUE OF THE LAND.

13 Q OF WHAT LAND?

14 A THE SEVEN ACRES ON THE SOUTH SIDE OF THE 3600 BLOCK
15 OF LEAPHART ROAD.

16 Q AND HOW DID YOU CONDUCT YOUR ANALYSIS?

17 A I PULLED THE INFORMATION FROM THE CML, THE
18 CONSOLIDATED MULTIPLE LISTING DATA BASE AS WELL AS
19 COMBINED THAT WITH THE KNOWLEDGE THAT I HAD A COUPLE OF
20 YEARS EARLIER OF WHAT THE PROPERTY SOLD FOR TO DETERMINE
21 ITS VALUE.

22 Q SO, YOU SAID YOU USED ACCOUNTS AND YOUR PREVIOUS
23 KNOWLEDGE?

24 A YES.

25 Q AND HOW MUCH DID YOU SAY THE PROPERTY WAS WORTH?

1 YOU OF PROVIDED IT?

2 A WELL, I WOULD OF SUGGESTED THAT AN APPRAISAL WAS
3 PROBABLY IN ORDER, NOT JUST A MARKET ANALYSIS.

4 Q THAT IS ALL I HAVE.

5 THE COURT: MR. GRIFFIN, CROSS-EXAMINE.

6 CROSS-EXAMINATION

7 BY MR. GRIFFIN:

8 Q YOU WEREN'T GIVEN ANY SUGGESTION AS TO WHAT YOUR
9 MARKET ANALYSIS SHOULD END UP AS, WERE YOU?

10 A NO, SIR.

11 Q AND IT WAS YOUR INDEPENDENT ANALYSIS, CORRECT?

12 A YES, SIR.

13 Q AND THE DOCUMENT THAT YOU PREPARED IS ON A COVER
14 LETTER, IT CLEARLY SHOWS THAT YOU ARE A REAL ESTATE AGENT,
15 DOES IT NOT?

16 A YES, SIR.

17 Q YOU ARE NOT HOLDING YOURSELF OUT AS A CERTIFIED
18 APPRAISER, ARE YOU?

19 A NO, SIR.

20 Q THAT IS ALL I HAVE.

21 THE COURT: ANY REDIRECT?

22 MR. MYRICK: NO, SIR.

23 THE COURT: YOU MAY STEP DOWN, SIR. CALL YOUR NEXT
24 WITNESS, PLEASE.

25 MR. MYRICK: THE STATE CALLS ALLEN WISE TO THE STAND.

1 ALLEN WISE, AFTER BEING DULY SWORN, TESTIFIED AS
2 FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. MYRICK:

5 Q WHAT IS YOUR PROFESSION, MR. WISE?

6 A I AM AN ATTORNEY.

7 Q AND WHAT IS THE SCOPE OF YOUR PRACTICE?

8 A PRETTY MUCH TRANSACTIONAL LAW, REAL ESTATE, CLOSINGS,
9 PROBATE AND CORPORATE WORK.

10 Q I AM GOING TO HAND YOU WHAT IS IN EVIDENCE AS STATE'S
11 EXHIBIT NUMBER 124. ARE YOU FAMILIAR WITH THAT PIECE OF
12 PROPERTY?

13 A YES, I AM.

14 Q HOW DID YOU BECOME FAMILIAR WITH IT?

15 A I REPRESENTED TWO TIGERS, LLC, THE PURCHASE IN THIS
16 TRANSACTION THAT THIS DEED WAS CONVEYED TO.

17 Q SO, YOU WERE THE LAWYER AT THE CLOSING?

18 A I WAS.

19 Q HOW MUCH WAS IT SOLD FOR, MR. WISE?

20 A IT WAS SOLD FOR \$438 THOUSAND DOLLARS.

21 Q IN A TRANSACTION LIKE THAT, WOULD YOU TELL THE JURY
22 WHO ALL GETS PAID IN THE TRANSACTION?

23 A IN A TRANSACTION LIKE THIS, IF THERE WAS A MORTGAGE
24 WE WOULD OF PAID OFF THE MORTGAGE. WE WOULD OF PAID THE
25 REALTORS THAT HANDLED THE TRANSACTION. WE WOULD OF PAID

1 Q WHO HAD THE MORTGAGE?

2 A IT WAS TO BB&T.

3 Q AND YOU, AS PART OF REAL ESTATE CLOSINGS, YOU DID A
4 TITLE SEARCH?

5 A WE DID.

6 Q AND YOU SAW THAT LIEN WAS PLACED ON THE PROPERTY IN
7 RELATION TO A TRANSACTION WHERE MR. SHEPPARD OR DCS REALTY
8 PURCHASED THE PROPERTY?

9 A YES, IT WAS PLACED ON IT AT THE TIME IT WAS
10 PURCHASED.

11 Q AND THAT HOMEGOLD ACTUALLY RECEIVED \$300 AND SOME ODD
12 THOUSAND DOLLARS BASED ON THE TITLE?

13 A BASED UPON THE DEED OF RECORD THAT WAS SALES PRICE
14 AND TO MR. SHEPPARD WAS \$308,593, I BELIEVE.

15 Q AND IT LOOKED LIKE, FROM YOUR TITLE SEARCH THAT BB&T
16 PROVIDED THE MONEY THAT WENT FOR THAT TRANSACTION?

17 A YES, SIR.

18 Q AND THE DATE OF THAT TRANSFER WAS WHAT?

19 A THE BB&T MORTGAGE WAS DATED JUNE 22ND OF 2001.

20 Q AND I THINK THE DEED IS IN EVIDENCE WHICH WOULD HAVE
21 THE DATE OF THE PROPERTY.

22 A IT WAS DATED JUNE 22ND ALSO SO THIS WOULD OF BEEN A
23 PURCHASE MONEY MORTGAGE.

24 Q SO, THE BB&T MORTGAGE WAS FILED AT THE SAME TIME THE
25 TRANSFER OF THE PROPERTY FROM HOMEGOLD TO MR. SHEPPARD?

1 A THAT'S CORRECT.

2 Q AND THEN THIS CLOSING THAT YOU DID TOOK PLACE WHAT
3 DATE?

4 A I BELIEVE IT WAS SEPTEMBER 20TH BUT LET ME JUST
5 CHECK, SEPTEMBER 20TH.

6 Q SO, AND THIS CONTRACT THAT WE SAW EARLIER, THE DEAL
7 CLOSED SOME, ALMOST, MORE THAN 30 DAYS AFTER THE
8 EXPIRATION OF THE INSPECTION PERIOD?

9 A THAT'S CORRECT, THAT WOULD OF BEEN THE TYPICAL TERMS
10 WITHOUT LOOKING IT UP, EDENS AND AVANT CONTRACT AT THE
11 TIME.

12 Q AND TWO TIGERS, LLC WAS YOUR CLIENT?

13 A THAT'S CORRECT.

14 Q SO, WE HAD MONEY GOING TO HOMEGOLD IN JUNE OF 2001
15 AND THEN THIS CHECK AND THE CLOSING WAS SOMETIME IN
16 SEPTEMBER OF 2001?

17 A THAT WOULD MATCH THE DOCUMENTS, YES SIR.

18 Q THAT IS ALL I HAVE.

19 THE COURT: ANY REDIRECT?

20 MR. MYRICK: NO, SIR.

21 THE COURT: YOU MAY STEP DOWN. YA'LL COME UP,
22 PLEASE.

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

1 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, WE
2 WILL ADJOURN FOR THE DAY. WE WILL START BACK AT 9:30
3 TOMORROW MORNING. PLEASE DON'T TALK ABOUT THE CASE OR
4 READ OR WATCH OR LISTEN TO ANYTHING ABOUT THE CASE. YOU
5 ARE EXCUSED AND EVERYONE ELSE STAY SEATED, PLEASE.

6 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
7 THE DAY.)

8 THE COURT: WE WILL STAND IN RECESS UNTIL 9:30.

9 (WHEREUPON, THE TRIAL WILL RESUME THE NEXT MORNING AT
10 9:30 A.M.)

11 THE COURT: ARE YA'LL READY TO PROCEED?

12 MS. EVANS: YES, YOUR HONOR.

13 THE COURT: THE DEFENSE READY?

14 MR. GRIFFIN: YES, YOUR HONOR.

15 THE COURT: LET'S GET THE JURY IN, PLEASE.

16 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
17 APPROXIMATELY 9:40 A.M.)

18 THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

19 MS. EVANS: THE STATE CALLS KEVIN MARTIN, YOUR HONOR.

20 KEVIN MARTIN, AFTER BEING DULY SWORN, TESTIFIED
21 AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. EVANS:

24 Q MR. MARTIN, PLEASE TELL THE JURY A LITTLE BIT ABOUT
25 YOURSELF, YOUR EDUCATIONAL BACKGROUND.

1 A I HAVE A BACHELOR OF SCIENCE DEGREE IN ACCOUNTING
2 FROM BOB JONES UNIVERSITY. AFTER GRADUATING FROM THERE I
3 WORKED IN AUDITING FOR ABOUT FIVE YEARS, BOTH WITH A
4 PUBLIC ACCOUNTING FIRM AND WITH A LARGE CONSTRUCTION
5 COMPANY UP IN GREENVILLE. DURING THAT TIME I GOT MY
6 CERTIFICATION AS A CPA. SINCE THEN I HAVE BEEN PRIMARILY
7 IN CORPORATE FINANCE ACCOUNTING INCLUDING A FEW CFO'S OF
8 CORPORATIONS.

9 Q AND WHERE ARE YOU CURRENTLY EMPLOYED?

10 A I AM CURRENTLY EMPLOYED WITH A COMPANY CALLED GWP,
11 INC. WHICH IS A NON-PROFIT PUBLISHING COMPANY.

12 Q AND WERE YOU PREVIOUSLY EMPLOYED AT A COMPANY CALLED
13 HOMEGOLD?

14 A I WAS, BEGINNING IN AUGUST OF 2000.

15 Q AND IN WHAT CAPACITY WERE YOU EMPLOYED AT HOMEGOLD?

16 A I WAS HIRED AS EP OF FINANCE AND IN MAY OF 2001 I WAS
17 PROMOTED TO CHIEF FINANCIAL OFFICER.

18 Q AND WHERE WAS THE COMPANY LOCATED WHEN YOU FIRST WENT
19 TO GO WORK FOR THE COMPANY?

20 A IT WAS LOCATED IN GREENVILLE, SOUTH CAROLINA.

21 Q AND AT SOME POINT DID THE COMPANY MOVE DOWN HERE OR
22 THE ACCOUNTING DIVISION MOVED DOWN HERE TO LEXINGTON?

23 A YES, THE CORPORATE HEADQUARTERS MOVED HERE AT THE
24 SAME TIME THAT I BECAME CFO IN APPROXIMATELY LATE MAY OR
25 EARLY JUNE OF 2001.

1 Q GOING BACK TO YOUR INITIAL JOB OF THE EP, I AM SORRY,
2 EP OF MARKETING?

3 A FINANCE.

4 Q FINANCE. WHAT WERE YOUR DAY-TO-DAY DUTIES AS THE EP
5 OF FINANCE?

6 A ONE OF MY PRIMARY RESPONSIBILITIES WAS BEING IN
7 CHARGE OF THE WIRE ROOM WHICH IS WHERE MONEY WAS
8 TRANSFERRED IN AND OUT TO FUND ALL OF THE MORTGAGE LOANS
9 THAT WE FUNDED AND JUST MANAGING THE CASH FLOW COMING IN
10 AND OUT OF THE COMPANY PRIMARILY FOR THESE MORTGAGES. AND
11 THEN ALSO I WAS RESPONSIBLE FOR PUTTING TOGETHER BUDGETS
12 FOR THE COMPANY AND FORECASTS.

13 Q AND WHO WAS IN CHARGE OF THE COMPANY WHEN YOU WENT TO
14 GO WORK THERE?

15 A RONNIE SHEPPARD.

16 Q WHEN THE COMPANY AND THE ACCOUNTING DIVISION WAS
17 LOCATED UP IN GREENVILLE HOW MUCH, HOW OFTEN WOULD YOU SEE
18 HIM?

19 A I DIDN'T SEE HIM VERY OFTEN ESPECIALLY BEFORE I
20 BECAME CFO. I WOULD SAY THAT I SAW HIM ONCE A WEEK OR
21 LESS IN THE EARLY DAYS.

22 Q YOU JUST TESTIFIED THAT YOU WERE IN CHARGE OF
23 PREPARING THE BUDGET AND PROJECTIONS. WHO WOULD GIVE YOU
24 THOSE FIGURES THAT YOU WOULD USE TO PREPARE THE BUDGETS
25 AND THE PROJECTIONS?

1 A WE STARTED WITH THE FORECAST OF THE ACTUAL LOAN
2 MORTGAGE SELLS, PRODUCTION, THE LENDING OF THE MONEY. AND
3 WE WOULD GET THAT FORECAST FROM RONNIE AND FROM TONY PARK
4 WHO WAS A PRODUCTION MANAGER. AND THEN WE WOULD TAKE
5 THOSE NUMBERS AND USE THE HISTORICAL COST FIGURES THAT WE
6 WOULD, THAT WE HAD ON HAND TO DEVELOPE A BUDGET.

7 Q AND DID YOU EVER ENCOUNTER A PROBLEM WITH SOME OF THE
8 PROJECTIONS?

9 A WELL, WE NEVER HIT THE PROJECTIONS. AND, YES, THAT
10 IS A PROBLEM. I MEAN, EARLY ON I REALIZED AFTER THE FIRST
11 MONTH I WAS THERE AND I SAW WHERE THE FIRST MONTH
12 PROJECTIONS WERE AND WHERE WE ACTUALLY CAME IN, I NOTICED
13 OBVIOUSLY WE WERE SHORT. AND SOMETIMES HE MISSED
14 PROJECTIONS AND THAT IS UNDERSTANDABLE BUT AS TIME WENT ON
15 I NOTICED THAT, YOU KNOW, WE WERE NEVER COMING CLOSE TO
16 THE PROJECTIONS THAT WE WERE GETTING ON THE MORTGAGE
17 PRODUCTION SIDE.

18 Q DID YOU EVER HAVE A CONVERSATION WITH THE DEFENDANT
19 ABOUT THE PROJECTIONS?

20 A YES. AS TIME WENT ON, AFTER THE FIRST FEW MONTHS AND
21 I BEGAN TO SEE THIS PATTERN WE TALKED BOTH WITH MR.
22 SHEPPARD AND WITH TONY PARK ABOUT THE PROJECTIONS, ABOUT
23 HOW AGGRESSIVE THEY WERE AND INQUIRING AS TO HOW THEY WERE
24 COMING WITH UP THE FORECAST. AND, YOU KNOW, WHETHER THEY
25 WERE REASONABLE. YES, I HAD THAT DISCUSSION WITH HIM ON A

1 COUPLE OF OCCASIONS.

2 Q AND WHAT WAS THE DEFENDANT'S REACTION WHEN YOU WOULD
3 TALK TO HIM ABOUT THESE PROJECTIONS?

4 A USUALLY HE WOULD BE DEFENSIVE ABOUT THE PROJECTIONS,
5 HE HAD REASONS TO BELIEVE THAT THOSE PROJECTIONS WERE
6 GOING TO BE MET. HE WOULD TELL ME ABOUT WHAT WAS GOING ON
7 IN THE OFFICES THAT LEAD HIM TO BELIEVE THAT THOSE
8 PROJECTIONS WOULD BE MET. THERE WERE ONE OR TWO OCCASIONS
9 WHEN HE WOULD ADDRESS THE PROJECTIONS LOWER TO SATISFY ME
10 OR BECAUSE HISTORY WAS TELLING HIM THAT WAS THE CASE. I
11 WOULD SAY HE WAS ⁴FAIRLY DEFENSIVE OF HIS PROJECTIONS.

12 Q OKAY. DID YOU COME TO REALIZE HOW HE WAS CALCULATING
13 THESE PROJECTIONS?

14 A WELL, I NEVER GOT A REAL GOOD HANDLE ON HOW HE WAS
15 COMING UP WITH THE PROJECTIONS. I NOTICED SOMETIMES HE
16 WAS TAKING THE VERY BEST PERFORMING PRODUCTION UNITS AND
17 KIND OF TAKING THAT AND MULTIPLYING IT OUT TIMES THE WHOLE
18 COMPANY ASSUMING THAT EVERYBODY WOULD BE ABLE TO PERFORM
19 AT THAT LEVEL. AND THAT WASN'T THE CASE. BUT BEYOND THAT
20 I WAS VERY VAGUE ABOUT HOW THE PROJECTIONS WERE ARRIVED
21 AT.

22 Q AND WHAT WAS THE ACTUAL REVENUES VERSUS THE
23 PROJECTIONS THAT YOU WERE GETTING?

24 A IN MY TIME AT HOMEGOLD WE, THE REVENUES WERE NEVER
25 REACHING THE PROJECTIONS. THE REVENUES ALWAYS FELL SHORT

1 OF THE PROJECTIONS. I CAN'T REMEMBER A SINGLE MONTH WHEN
2 WE HIT THE PROJECTION. I WOULD SAY AS A RULE THEY WERE 20
3 TO 30 OR MORE PERCENT LOW AGAINST THE PROJECTIONS.

4 Q IN GENERAL TERMS HOW WOULD YOU DESCRIBE THE
5 DEFENDANT'S MANAGEMENT STYLE ESPECIALLY WHEN IT CAME TO
6 THE ACCOUNTING DIVISION?

7 A I WOULD SAY HE WAS VERY INVOLVED ESPECIALLY AFTER WE
8 MOVED TO LEXINGTON, VERY INVOLVED IN THE MANAGEMENT OF THE
9 ACCOUNTING FUNCTION. HE DICTATED WHAT HE WANTED US TO DO
10 IN THE ACCOUNTING FUNTION. NOW, I DID NOT NOTICE THAT SO
11 MUCH WHEN I WAS IN GREENVILLE, OBVIOUSLY I WASN'T CFO SO
12 THERE WERE SOME LAYERS OF MANAGEMENT BETWEEN MYSELF AND
13 RONNIE. BUT IT BECAME CLEAR AFTER I MOVED TO LEXINGTON
14 THAT HE WAS CALLING THE SHOTS AS FAR AS ACCOUNTING WENT.
15 AND HE WAS VERY INVOLVED IN HANDS-ON ON IN THAT REGARD.

16 Q OKAY. LET'S TALK A LITTLE BIT ABOUT EXPENSES WHILE
17 YOU WERE EMPLOYED, EXECUTIVE VICE-PRESIDENT OF FINANCE OR
18 EVENTUALLY CFO, WHAT WERE SOME OF THESE EXPENSES THAT YOU
19 NOTICED WHILE YOU WERE EMPLOYED THERE?

20 A WELL, IN GENERAL I WOULD SAY WE WERE VERY POOR AT
21 CONTROLLING COST. BOTH WITH REGARD TO OUR PRODUCTION
22 COMPENSATION WHERE WE WOULD PAY PEOPLE FOR POOR
23 PERFORMANCE AND NOT BASED ON ANY ESTABLISHED GUIDELINES AS
24 FAR AS PAY PAYMENTS. IN OTHER WORDS, IF THEY HIT A
25 CERTAIN TARGET THEY WOULD GET A COMMISSION, THAT IS WHAT

1 YOU WOULD EXPECT. BUT WHAT I FOUND IS THAT REGARDLESS OF
2 WHETHER THEY HIT TARGETS OR NOT OFTEN PEOPLE WOULD BE PAID
3 LARGE BONUSES. AND THEN WITH REGARDS WITH JUST OTHER
4 EXPENSES WE HAD NO, WE HAD NO CONTROL ON COST. WE SPENT
5 MONEY AS IF WE HAD A LOT OF MONEY. AND WE REALLY DID HAVE
6 A LOT OF MONEY BECAUSE CAROLINA INVESTORS WAS PROVIDING A
7 LOT OF MONEY. BUT FOR EXAMPLE, RATHER THAN TAKING A
8 FLIGHT ON A COMMERCIAL AIRLINE WE WOULD CHARTER A JET TO
9 TAKE.

10 Q LET ME SHOW YOU AN EXHIBIT. EXHIBIT, STATE'S EXHIBIT
11 NUMBER 85, CAN YOU IN GENERAL TERMS TALK ABOUT SOME OF
12 THOSE EXPENSES ON THE CHARTER FLIGHTS?

13 A YES, THESE ARE INVOICES FROM EAGLE AVIATION WHICH WAS
14 THE MAIN VENDOR WE USED FOR CHARTERING THESE FLIGHTS. AND
15 FOR EXAMPLE, I DON'T KNOW, I CAN'T TELL BY LOOKING AT THIS
16 WHERE WE TOOK THIS FLIGHT. AND, OKAY, THIS ONE IS TO ST.
17 PETERSBURG, FLORIDA. THE CHARTERED FLIGHT ITSELF WAS JUST
18 OVER \$16 THOUSAND DOLLARS FOR TWO PEOPLE.

19 Q \$16 THOUSAND DOLLARS TO ST. PETERSBURG, FLORIDA?

20 A RIGHT AND THAT DOESN'T INCLUDE THE TAXES AND THE
21 CATERING THAT WAS INVOLVED ON THESE FLIGHTS, WE CATERED
22 SANDWICHES AND FRUIT AND GOOD STUFF TO EAT THE WHOLE WAY
23 DOWN. SO, THAT IS AN EXAMPLE OF THE SPENDING, THE KIND OF
24 SPENDING THAT WE WERE DOING.

25 Q WILL YOU LOOK THROUGH, LOOK THROUGH OTHERS, WHAT IS

1 THE AVERAGE OF SOME OF THOSE CHARTER FLIGHTS?

2 A HERE IS A \$9 THOUSAND DOLLAR FLIGHT, I AM TRYING TO
3 FIGURE OUT WHERE IT WAS GOING, I CAN'T SEE WHERE IT WAS
4 GOING. HERE IS ANOTHER \$9 THOUSAND DOLLAR FLIGHT, IT MAY
5 BE THE SAME ONE.

6 Q DO YOU REMEMBER A FLIGHT THAT YOU ACTUALLY TOOK OUT
7 TO CALIFORNIA?

8 A YES.

9 Q HOW MANY PEOPLE WENT OUT ON THAT FLIGHT?

10 A THERE WERE THREE OR FOUR OF US ON THAT FLIGHT. AND I
11 BELIEVE THAT ENDED UP COSTING OVER \$40 THOUSAND DOLLARS.
12 AND IT WAS, IT WAS A NICE PLANE, A GULF STREAM FOUR.

13 Q TELL WHAT IT LOOKED LIKE TO THE JURY.

14 A IT LOOKED LIKE A SMALL, A SMALLER VERSION OF A 727 OR
15 SOMETHING, IT IS A LARGE PLANE, LEATHER SEATS, LARGE SEATS
16 THAT LOOKED LIKE LAZY BOYS, THEY HAD A TABLE IN FRONT OF
17 EVERY SEAT SO YOU COULD EAT. THEY HAD THE CATERED MEALS
18 IN THE BACK OF THE PLANE. I THINK THE PLANE WOULD
19 PROBABLY SEAT AT FULL CAPACITY 12 OR 15 PEOPLE IN THESE
20 BIG CHAIRS AND THE CHAIRS SWIVELED. IT WAS A NICE RIDE.

21 Q DO YOU REMEMBER FLIGHTS THAT THE DEFENDANT TOOK GOING
22 DOWN TO FLORIDA WITH HIS, HOMEGOLD'S BUS, THAT WAS
23 PURCHASED IN 2002. DID HE ALSO CHARTER FLIGHTS TO DO DOWN
24 TO THAT?

25 A I DON'T RECALL.

1 Q DID YOU DISCUSS SOME OF THE FLIGHTS AND SOME OF THE
2 OTHER EXPENSES, DID YOU DISCUSS THE EXPENSES WITH THE
3 DEFENDANT?

4 A YES, ON A FEW OCCASIONS I DID. IT WAS DIFFICULT TO
5 DISCUSS THINGS LIKE THAT WITH RONNIE BECAUSE YOU KNEW HE
6 WAS GOING TO GET ANGRY WITH YOU IF YOU BROUGHT IT UP. I
7 DID BRING IT UP A FEW TIMES AND HIS RESPONSE WAS USUALLY,
8 YOU KNOW, I CAN DO WHAT I WANT, I AM IN CHARGE OF THIS
9 COMPANY, I AM NOT MAKING AS MUCH HERE AS I WAS WHEN I WAS
10 AT MY OLD COMPANY SO I DESERVE THIS. I THINK HE FELT THAT
11 HE DESERVED WHATEVER HE GOT AT HOMEGOLD.

12 Q LET ME JUST ASK YOU, THAT FLIGHT THAT YOU TOOK TO
13 CALIFORNIA, THAT WAS WORK RELATED?

14 A YES, IT WAS.

15 Q AND THAT FLIGHT THAT YOU TALKED ABOUT, TO ST.
16 PETERSBURG, FLORIDA. WHO DOES IT SAY WENT TO ST.
17 PETERSBURG, FLORIDA?

18 A IT SAYS RJS AND SHANE SMITH.

19 Q OKAY. SO, THEY WERE WORK RELATED?

20 A I BELIEVE SO, YES.

21 Q BUT WHAT WAS YOUR PROBLEM WITH THAT ALTHOUGH THEY
22 WERE WORK RELATED, AN ISSUE?

23 A WELL, ON ONE HAND WE WERE LOSING MILLIONS OF DOLLARS
24 AN WE WERE MAKING THE CLAIM THAT WE WERE WORKING HARD TO
25 EARN THIS MONEY BACK AND PAY BACK CAROLINA INVESTORS. AND

1 ON THE OTHER HAND WE WERE SPENDING LIKE WE HAD ALL OF THIS
2 MONEY TO SPEND, LIKE THERE WAS NO TOMORROW. IT WAS ALMOST
3 LIKE WE WERE TRYING TO COME UP WITH WAYS TO SPEND MONEY.

4 Q I MEANT TO ASK YOU THIS, WHEN YOU WERE TALKING ABOUT
5 THE PROJECTIONS, DID MR. SHEPPARD OFTEN TALK ABOUT THOSE
6 PROJECTIONS, DID HE TALK ABOUT THOSE PROJECTIONS, WHETHER
7 IT BE THE PRESS RELEASES OR OTHER SITUATIONS?

8 A YES, IN OUR PRESS RELEASES WE USUALLY DID NOT PUT
9 SPECIFIC NUMBERS, WE WOULD TALK ABOUT THE FACT THAT WE
10 WERE INCREASING THE NUMBER OF PRODUCTION SITES. WE WERE,
11 YOU KNOW, WE INCREASED THE NUMBER OF LOAN OFFICERS AND WE
12 WOULD SAY SOMETHING LIKE, WELL, WE HOPE THIS ENDS UP
13 INCREASING PRODUCTION. I CAN'T REMEMBER WHETHER WE NAMED
14 NUMBERS IN THOSE PROJECTIONS OR IF WE JUST SAID IN GENERAL
15 WE HOPE THAT THIS INCREASES PRODUCTION.

16 Q AND I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
17 STATE'S EXHIBIT NUMBER 100. CAN YOU JUST LOOK AT THAT, IS
18 THAT AN EXAMPLE OF WHAT YOU ARE REFERRING TO?

19 A YES, I MEAN HERE IS A STATEMENT, YES, EXACTLY.
20 HOMEGOLD HAS OPENED 11 NEW PRODUCTION CENTERS JANUARY 1ST
21 AND PLANS TO OPEN 4 ADDITIONAL CENTERS IN THE NEXT
22 QUARTER. IT GOES ON TO SAY WHEN ITS EXPANSION IS
23 COMPLETED, EXPECTS TO BE OPERATING 20 CENTERS IN 15 STATES
24 AND EMPLOYEE OVER 500 LOAN OFFICERS. IT IS NOT SPECIFIC
25 NUMBERS, IT IS JUST IN GENERAL WE ARE EXPECTING TO

1 INCREASE PRODUCTION.

2 Q DID YOU PREVIOUSLY HAVE DISCUSSIONS ABOUT THE
3 PROJECTIONS?

4 A YES, BY THAT TIME I HAD CERTAINLY HAD DISCUSSIONS,
5 YES.

6 Q DID HE ALSO TALK ABOUT THOSE PROJECTIONS AT, DID YOU
7 ATTEND CAROLINA INVESTORS BOARD MEETINGS?

8 A I DID ON SEVERAL OCCASIONS, YES.

9 Q DID HE ALSO TALK ABOUT THOSE THERE?

10 A AT THOSE BOARD MEETINGS HE OFTEN REFERRED TO SPECIFIC
11 NUMBERS AND I THINK IN CONVERSATIONS WITH INSIDERS AND
12 PEOPLE AT CAROLINA INVESTORS AND WITH SOME OF THE BANKS WE
13 WERE VISITING HE WOULD DISCUSS SPECIFIC NUMBERS AS FAR AS
14 WHAT HIS PROJECTIONS WERE.

15 Q AND IS THAT AFTER YOU HAD ALREADY HAD DISCUSSIONS
16 WITH HIM ABOUT THE WAY HE WAS CALCULATING, WHATEVER YOUR
17 TERM WAS ABOUT THEM?

18 A WELL, THEY WERE UNREALISTIC, THEY WERE OPTIMISTIC, I
19 WOULD SAY. AND UNREALISTICALLY OPTIMISTIC. I MEAN, YES,
20 THAT WAS AFTER THOSE DISCUSSIONS.

21 Q AND WHO WAS THE CFO WHEN YOU FIRST STARTED AT
22 HOMEGOLD?

23 A I BELIEVE WHEN I FIRST GOT THERE BILL LONG WAS THE
24 ACTING CFO IN GENERAL COUNSEL.

25 Q AND THEN WAS SOMEONE NAMED ACTUAL CFO?

1 A YES, IN, I CAN'T REMEMBER THE EXACT TIME FRAME BUT
2 LARRY GOSNELL CAME IN TO TAKE OVER THE CFO ROLE, HE DIDN'T
3 LAST VERY LONG.

4 Q AND WHO WAS THE NEXT CFO?

5 A THERE WAS A BRIEF PERIOD OF TIME WHEN I THINK BILL
6 LONG WAS THE CFO AGAIN BUT THEN PRETTY QUICKLY RHONDA
7 JOHNSON WAS NAMED CFO.

8 Q AND DID RHONDA JOHNSON START ABOUT THE SAME TIME THAT
9 YOU DID?

10 A YES, SHE STARTED A FEW WEEKS OR A MONTH BEFORE ME.

11 Q WHO HIRED YOU, I AM SORRY, I FORGET TO ASK YOU THAT.

12 A BILL LONG WAS THE ONE WHO INTERVIEWED ME AND WHO GAVE
13 ME THE OFFER.

14 Q OKAY. AND WHEN DID RHONDA JOHNSON LEAVE?

15 A SHE LEFT IN THE SPRING OF 2001, MARCH OR APRIL I WANT
16 TO SAY.

17 Q AND DID HER LEAVING CONCERN YOU IN ANY WAY?

18 A YES, IT CONCERNED ME. SHE LEFT BECAUSE AND SHE TOLD
19 US THIS, SHE LEFT BECAUSE SHE COULDN'T SIGN THE Q, OR NO,
20 THE 10K, THE YEAREND AUDITED STATEMENTS. AND THAT IS WHY
21 SHE RESIGNED HER ROLE AS CFO. NOW, SHE ENDED UP LEAVING
22 HER CONSULTING CAPACITY BECAUSE, BASICALLY WE, I BELIEVE
23 RONNIE FELT LIKE HE DIDN'T HAVE ANY MORE NEED FOR HER AT
24 THAT POINT.

25 Q AND WHO OFFICIALLY INFORMED HER THAT SHE WAS--

1 A I DID.

2 Q AND WHO TOLD YOU TO TELL HER THAT?

3 A RONNIE.

4 Q AND IS THAT ABOUT THE SAME TIME YOU ARE GETTING READY
5 TO MOVE DOWN THERE?

6 A YES, IT WAS BEFORE THEY HAD ANY DISCUSSIONS WITH ME
7 ABOUT BECOMING THE NEXT CFO SO I DIDN'T KNOW IF I WOULD BE
8 MOVING OR NOT. IN FACT, I AM NOT SURE AT THAT TIME I WAS
9 AWARE THAT WAS THE PLAN FOR THE COMPANY. SO, I CAN'T
10 RECALL THE EXACT SEQUENCE OF EVENTS THERE.

11 Q IN GENERAL TERMS, HOW WOULD YOU DESCRIBE THE
12 ACCOUNTING THAT WAS GOING ON AT HOMEGOLD?

13 A WELL, I WOULD SAY AT FIRST IT WAS WHAT YOU WOULD
14 EXPECT FROM A COMPANY TO BE, TRYING TO BE IN ACCORDANCE
15 WITH GAP, GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THERE
16 WAS NOTHING WHEN I GOT THERE ON THE BALANCE SHEET THAT
17 ALARMED ME THAT IT MIGHT BE OUTSIDE OF THE BOUNDARIES OF
18 WHAT GAP WOULD ALLOW. AS TIME WENT ON AND MORE AFTER I
19 BECAME CFO WHEN I WAS INVOLVED IN THE DISCUSSIONS ABOUT
20 HOW WE WERE GOING TO PRESENT THINGS IT BECAME CLEAR TO ME
21 THAT OUR APPROACH WAS GOING TO BE, IF POSSIBLE, TO IGNORE
22 THE BOUNDARIES OF GAP BUT CERTAINLY TO PUSH THE BOUNDARIES
23 OF GAP. I THINK, IF IT WEREN'T FOR THE THREE CFO'S THAT
24 WERE BEFORE ME AND THEN MY TENURE I THINK WE WOULD OF
25 IGNORED THE BOUNDARIES OF GAP AND I THINK ALL OF US AS

1 CFO'S REALLY TRIED OUR BEST TO KEEP US WITHIN THE
2 BOUNDARIES OF GAP.

3 Q AND DID YOU HAVE DISCUSSIONS WITH THE DEFENDANT ABOUT
4 THIS ACCOUNTING, BOUNDARIES OF GAP, THINGS LIKE THAT?

5 A WELL, OVER THE COURSE OF MY TENURE THERE I DID. MY
6 FIRST CONVERSATION WITH HIM ABOUT THAT WAS WHEN HE ASKED
7 ME TO BE THE CFO. AND I, I MEAN, I WAS CONCERNED BECAUSE
8 THREE CFO'S HAD LEFT WITHIN A VERY SHORT AMOUNT OF TIME.
9 THAT DOESN'T HAPPEN UNLESS THERE IS ISSUES WITH THEIR, WHO
10 THEY ARE REPORTING TO. IT DOESN'T HAPPEN UNLESS THERE ARE
11 ISSUES WITH THE ACCOUNTING. AND, SO I WAS CONCERNED. SO,
12 WHEN RONNIE ASKED ME TO BE CFO I SAID, LOOK, IF I AM GOING
13 TO BE CFO I HAVE GOT TO BE SURE THAT YOU ARE GOING TO LET
14 ME KEEP US WITHIN THE BOUNDARIES OF GAP, THAT I SAW AS MY
15 RESPONSIBILITY. EVEN IF I DIDN'T HAVE ANY RESPONSIBILITY
16 FOR HOW THE BUSINESS WAS RUN, WHICH OFTEN THE CFO HAS SOME
17 INPUT INTO THAT, I FELT MY RESPONSIBILITY AS A CFO OF A
18 PUBLICLY TRADED COMPANY WERE TO MAKE SURE OUR STATEMENTS
19 WERE WITHIN GAP. AND HE ASSURED ME THAT WOULD BE, THAT
20 WOULD NOT BE AN ISSUE DURING MY TENURE.

21 Q AND WE ARE GOING TO SPECIFICS LATER BUT WAS THAT AN
22 ISSUE DURING YOUR TENURE?

23 A YES, I WOULD SAY, THE CULTURE REMAINED THE SAME WHERE
24 IF I WOULD LET THEM AND IF THE AUDITORS WOULD LET THEM AND
25 IF WE DIDN'T PUSH BACK TOO HARD THEY WOULD OF IGNORED GAP

1 ALL TOGETHER. THERE DIDN'T SEEM TO BE ANY INTEREST IN
2 PAYING ATTENTION TO THE REGULATIONS OF ACCOUNTING AND HOW
3 WE WERE REPORTING TO THE INVESTORS AND TO THE PUBLIC. AND
4 SO IT DIDN'T CHANGE.

5 Q AND THESE ACCOUNTING THINGS AND IGNORING GAP
6 ULTIMATELY WHAT EFFECT DID, IGNORING OR PUSHING THE
7 BOUNDARIES, I THINK YOU SAID OF GAP. WHAT EFFECT DID THEY
8 HAVE AT THE BOTTOM LINE?

9 A WELL, IT WAS ALWAYS POSITIVE. YOU KNOW, WE HAD SOME
10 QUARTERS WHERE WE WERE ABLE TO REPORT INCOME AND BUT
11 CERTAINLY EVERY QUARTER THAT WE REPORTED, BECAUSE OF THE
12 STANCE WE TOOK ON SOME OF THE ACCOUNTING ISSUES, EVERY
13 QUARTER SHOWED BETTER RESULTS THAN THEY WOULD OF IF WE HAD
14 TAKEN A MORE CONSIDERABLE APPROACH ON THE ACCOUNTING.

15 Q WOULD YOU EXPLAIN THE ACCOUNTING THINGS WHEN YOU FILE
16 THOSE PUBLIC DOCUMENTS?

17 A YES, ABSOLUTELY. IT WASN'T AN ISSUE, HONESTLY IT
18 WASN'T AN ISSUE OF EXPLAINING TO PEOPLE WHO DIDN'T
19 UNDERSTAND WHAT THEY WERE DOING, I MEAN, USUALLY LONG
20 BEFORE WE FILED A PUBLIC DOCUMENT WE WERE HAVING BATTLES
21 ABOUT HOW WE WERE GOING TO PRESENT THINGS. AND ON ONE
22 SIDE OF THE BATTLE WAS, YOU KNOW, RONNIE AND KAREN AND
23 FORREST, USUALLY THOSE THREE WERE INVOLVED. AND ON THE
24 OTHER SIDE OF THE BATTLE WERE PEOPLE LIKE ME AND MY
25 ACCOUNTING TEAM, SHANE SMITH, SUSANNE CAUGHMAN, CHAD

1 BARRETT, AND THEN THE AUDITORS WERE USUALLY KIND OF ON OUR
2 SIDE TOO. SO, IT WAS ALWAYS, LONG BEFORE WE GOT TO THE
3 POINT OF FILING, MONTH AFTER MONTH WE HAD, I WOULDN'T SAY
4 ARGUMENTS, AT SOME POINTS THEY WOULD BECOME ARGUMENTS
5 ABOUT HOW WE WERE GOING TO PRESENT THE FINANCIALS.

6 Q BUT YOU WOULD EXPLAIN IT IN YOUR FILES?

7 A EXPLAIN--

8 Q IF FOR EXAMPLE YOU DECIDED TO DO SOMETHING DIFFERENT
9 WITH THE ACCOUNTING YOU WOULD GIVE AN EXPLANATION IN YOUR
10 PUBLIC FILINGS?

11 A YES, WE TRY TO DISCLOSE AS MUCH AS POSSIBLE HOW WE
12 WERE ACCOUNTING FOR THINGS.

13 Q AND YOU MENTIONED, BRIEFLY, WHO WERE YOUR ACCOUNTING
14 STAFF?

15 A WELL, MY PRIMARY ACCOUNTING STAFF WAS SHANE SMITH AND
16 SUSANNE CAUGHMAN. AND THEN OF COURSE THEY HAD STAFF THAT
17 REPORTED TO THEM. BUT FOR MATTERS OF HOW WE REPORTED,
18 THOSE TWO I COUNTED ON FOR ADVICE A LOT.

19 Q ALL RIGHT. AND YOU MENTIONED, WHO WERE THE OUTSIDE
20 AUDITORS WHILE YOU WERE THERE?

21 A DURING MY ENTIRE TENURE ELLIOTT DAVIS WAS THE OUTSIDE
22 AUDITOR.

23 Q AND WHEN YOU BECAME CFO WHO WERE YOU REPORTING TO?

24 A AT FIRST I REPORTED TO RONNIE DIRECTLY. AT SOME
25 POINT DURING MY TENURE AND I CAN'T RECALL WHEN, I THINK IT

1 WAS PROBABLY AROUND THE BEGINNING OF 2002 I WAS TOLD THAT
2 KAREN MILLER WOULD BE MY NEW BOSS AND SHE WAS, I THINK,
3 PROMOTED TO CHIEF ADMINISTRATIVE OFFICER AT THAT TIME.

4 Q AND SO AT SOME POINT DURING YOUR TENURE AS CFO YOU
5 STARTED REPORTING TO KAREN MILLER?

6 A CORRECT.

7 Q LET'S TALK A SECOND ABOUT GOING CONCERN. WHILE YOU
8 WERE CFO, YEAREND 2000, WAS THE ISSUE OF GOING CONCERN
9 SOMETHING THAT CAME UP?

10 A YES, RHONDA ASKED ME AT THE END OF 2000, PROBABLY THE
11 BEGINNING OF 2001 TO PREPARE AN ANALYSIS OF GOING CONCERN.
12 I THINK I HEARD KEVIN MAST REFER TO AN ANALYSIS THAT HE
13 HAD PREPARED YESTERDAY. IT WAS PROBABLY THE SAME
14 ANALYSIS, HE GOT THE INFORMATION AND I DID FROM THE
15 ACCOUNTING LITERATURE, WHAT YOU HAVE TO LOOK AT TO
16 DETERMINE WHETHER YOUR BUSINESS IS A GOING CONCERN. SHE
17 ASKED ME TO PREPARE TWO SEPARATE ANALYSES, ONE SUPPORTING
18 THE IDEA THAT WE WOULD BE AN ONGOING CONCERN, A BUSINESS
19 THAT WOULD CONTINUE. THEN SHE ASKED ME TO PREPARE ONE
20 THAT WAS MUCH MORE CONSERVATIVE FROM AN ACCOUNTING
21 STANDPOINT THAT WOULD SHOW THAT WE SHOULD NOT BE A GOING
22 CONCERN. SO, I DID THAT, I DID IT BOTH WAYS. THE REASON
23 SHE WANTED ME TO DO THAT IS SO SHE COULD ANALYZE BOTH
24 SIDES AND COME TO A CONCLUSION AS TO WHETHER WE SHOULD BE
25 CONSIDERED A GOING CONCERN. AND AS I RECALL MY ANALYSIS

1 WAS THAT WE, AT THAT POINT AND TIME WE SHOULD NOT BE A
2 GOING CONCERN RISK, THAT WE SHOULD NOT HAVE THAT STATEMENT
3 INCLUDED IN OUR AUDITED FINANCIALS. AND I TOLD HER THAT.
4 AND I BELIEVE SHE HAD CONCLUDED THE SAME THING.

5 Q AND WHAT DID YOU BASE THAT UPON?

6 A I BASED IT UPON PRIMARILY THE MERGER, THE FACT THAT
7 WE HAD SOMEBODY IN, RONNIE THAT WAS KNOWN FOR BEING ABLE
8 TO PRODUCE A LOT OF MORTGAGE PRODUCTION. AND THAT WE HAD
9 THINGS IN PLACE THAT WERE GOING TO ALLOW US TO ACHIEVE
10 THAT PRODUCTION. WE HAD THE WAREHOUSE LOANS, WE HAD
11 CAROLINA INVESTORS[#] SUPPLYING SOME MONEY, ALL OF THOSE WERE
12 PARTS OF THAT EQUATION THAT PLAYED INTO MY ANALYSIS. LET
13 ME JUST SAY THAT THE DECISION ON WHETHER TO PUT A GOING
14 CONCERN PARAGRAPH IN THE AUDIT REPORT IS NOT OURS, IT IS
15 NOT THE COMPANIES, THAT IS STRICTLY THE AUDITORS, THAT IS
16 THE ONE PIECE OF THE FINANCIAL STATEMENT THAT THE AUDITORS
17 HAVE CONTROL OVER. EVERYTHING ELSE IS MANAGEMENTS AND SO
18 WE WERE SIMPLY PROVIDING THAT TO LET THE AUDITORS KNOW
19 THAT WE WERE LOOKING AT IT TOO. THEY, OF COURSE, WERE
20 GOING TO DO THEIR OWN ANALYSIS WHICH THEY CONCLUDED THE
21 SAME THING FOR THAT YEAR. SO, I DID ANALYZE GOING CONCERN
22 THAT YEAR.

23 Q THE ISSUE CAME UP AGAIN YEAREND 2001?

24 A WELL, YES. IN OCTOBER OF 2001 WE HAD A MEETING WITH
25 THE AUDITORS WHERE THEY RAISED THE ISSUE OF GOING CONCERN.

1 AND THEY RAISED A HAND FULL OF OTHER ISSUES TOO. WE
2 TYPICALLY, IN THE FALL OF THE YEAR, WE HAD A MEETING WITH
3 THE AUDITORS WHERE THEY TALK ABOUT, THESE ARE THE ISSUES
4 THAT WE WANT TO BE ABLE TO ADDRESS AS WE DO OUR AUDIT.
5 SOMETIMES THEY ARE VERY SIGNIFICANT, LIKE GOING CONCERN OR
6 THE TAX ASSET THAT WE TALKED ABOUT. AND SOMETIMES THEY
7 ARE NOT THAT SIGNIFICANT. IT HAPPENED THAT IN OCTOBER OF
8 2001 IN THIS MEETING THEY BROUGHT UP TWO OR THREE VERY
9 SIGNIFICANT ISSUES, ONE OF THEM WAS GOING CONCERN.

10 Q YOUR GOING CONCERN ANALYSIS, ELLIOTT DAVIS AGREED AT
11 THE END OF THE YEAR OF 2000, THEY AGREED WITH YOUR
12 ANALYSIS ABOUT GOING CONCERN?

13 A YEAH, I MEAN I THINK ULTIMATELY RHONDA AGREED WITH MY
14 ANALYSIS AND ELLIOTT DAVIS, FOR GOING CONCERN AND THAT IS
15 ABOUT THE ONLY THING THEY COME TO THEIR OWN CONCLUSION ON.
16 BUT FOR GOING CONCERN THEY DID THEIR OWN ANALYSIS AND THEY
17 ENDED UP AT THE SAME PLACE. NOW, WHETHER THEY USED THE
18 SAME FACTS THAT I USED, I DON'T KNOW. I SUSPECT THAT THEY
19 LOOKED AT MY ANALYSIS AND AT LEAST CONCURRED WITH MOST OF
20 THE POINTS I WAS MAKING IN MY ANALYSIS.

21 Q AND YOU SAY THAT IS THE ONE ISSUE THEY, BEING ELLIOTT
22 DAVIS AS INDEPENDENT AUDITORS, MAKE A DECISION. DOES
23 HOMEGOLD HAVE TO GO ALONG WITH THEIR DECISION?

24 A WELL, OUR OPTIONS ARE PRETTY LIMITED.

25 Q TELL WHAT THE OPTIONS WOULD BE IF THEY DIDN'T AGREE?

1 A IF WE WERE TOLD NEAR THE FILING DATE THAT THERE WAS
2 GOING TO BE A GOING CONCERN IN OUR AUDIT REPORT OUR
3 OPTIONS WOULD BE THAT WE WOULD ACCEPT THE GOING CONCERN
4 PARAGRAPH OR WE COULD FIRE OUR AUDITORS, QUICKLY FIND NEW
5 AUDITORS THAT WOULD DO THE AUDIT. IF WE ARE CLOSE TO THE
6 FILING DATE THAT IS HARDLY AN OPTION. WHAT MOST LIKELY, I
7 DON'T EVEN KNOW WHAT WOULD BE INVOLVED IF WE FIRED OUR
8 AUDITORS, IT WOULD BE A VERY DIFFICULT PROPOSITION. IT
9 WOULD ALSO BE A VERY PUBLIC PROPOSITION BECAUSE IF YOU
10 FIRE YOUR AUDITOR YOU HAVE TO FILE AN 8K, YOU HAVE TO TELL
11 WHY. THE AUDITORS HAVE TO CONSENT TO YOUR REASON WHY. IF
12 WE SAID, WE ARE FIRING OUR AUDITORS BECAUSE WE, YOU KNOW,
13 BECAUSE THEY ARE UNETHICAL, THEY WOULD HAVE TO CONSENT TO
14 THAT. AND, OBVIOUSLY, THEY WOULD SAY, NO, THAT IS NOT THE
15 REASON. THE REASON WAS WE WANTED TO PUT A GOING CONCERN
16 AND YOU DIDN'T WANT US TO SO YOU FIRED US. THAT HAS TO BE
17 FILED.

18 Q WOULD THAT CAUSE MORE OR LESS ATTENTION TO A GOING
19 CONCERN?

20 A THAT WOULD CAUSE WAY MORE CONCERN BY THE INVESTORS
21 AND AMONG PEOPLE READING THE FINANCIALS. SO, OUR OPTIONS
22 ARE REALLY LIMITED AND REALLY THE ONLY OPTION, THE ONLY
23 REALISTIC OPTION IS FOR US TO ACCEPT IT AND THEN TRY TO
24 DEAL WITH IT.

25 Q AND WE WILL GET TO YEAREND 2000 IN A SECOND. I THINK

1 THAT YOU HAVE ALREADY TALKED ABOUT KAREN MILLER AND WHO
2 WAS FORREST FERRELL?

3 A WELL, DURING MY TENURE AS CFO FORREST WAS PRESIDENT
4 IN AREAS OF THE MORTGAGE LOANS.

5 Q AND WHO DID FORREST FERRELL AND KAREN MILLER REPORT
6 TO?

7 A THEY REPORTED DIRECTLY TO RONNIE.

8 Q EXPLAIN ABOUT THE MOVE WHEN YOU MOVED THE ACCOUNTING
9 DIVISION DOWN HERE TO LEXINGTON, WHEN WAS THAT?

10 A IT TOOK PLACE OVER A PERIOD OF WEEKS, I THINK AT THE
11 END OF MAY, BEGINNING OF JUNE OF 2001.

12 Q AND WERE YOU ALSO IN CHARGE OF DOING MONTHLY REPORTS?

13 A YES, WE PUT OUT MONTHLY REPORTS THAT WERE NOT FILED
14 WITH THE SEC, THAT WERE PRIMARILY FOR INTERNAL USE. WE
15 DID THAT EVERY MONTH.

16 Q OKAY. AND WHO WOULD YOU PREPARE AND DISCUSS THOSE
17 MONTHLY REPORTS WITH?

18 A WITH RONNIE AND WITH KAREN AND WITH FORREST.
19 SOMETIMES LATER PAUL BANNIGER WOULD BE INVOLVED IN THAT
20 MEETING. BUT CERTAINLY THE THREE, RONNIE, FORREST AND
21 KAREN.

22 Q AND SOMETIMES IN PREPARING MONTHLY REPORTS, DID YOU
23 HAVE ANY DISCUSSIONS WITH THE DEFENDANT ABOUT THE WAY YOU
24 PREPARED YOUR MONTHLY REPORTS?

25 A YEAH, EVERY MONTH WE HAD DISCUSSIONS ABOUT HOW I WAS

1 PREPARING THEM. FOR EXAMPLE, THE RECOGNITION OF LOAN
2 FEES, THE MORTGAGE FEES, EVERY MONTH. I MEAN, THERE MAY
3 OF BEEN--

4 Q EXPLAIN THAT TO THE JURY, WHAT ISSUES YOU HAD WITH
5 THAT?

6 A OKAY. LOAN FEES ARE TO BE RECOGNIZED AFTER THE LOANS
7 ARE SOLD. WE WOULD FUND A MORTGAGE LOAN FOR SOMEBODY, WE
8 WOULD HANG ON THAT FOR 30 DAYS, 60 DAYS, HOWEVER LONG IT
9 TOOK US TO TURN AROUND AND SELL IT TO THAT BANK WHO WOULD
10 THEN KEEP THESE HUGE POOLS OF MORTGAGE LOANS. SO, WE DID
11 NOT RETAIN MANY MORTGAGE LOANS OURSELVES. IN THE SHORT
12 INTERVENING PERIOD THAT WE KEPT THEM WE WOULD SOMETIMES
13 TAKE PAYMENTS. BUT FOR THE MOST PART WE WOULD TURN THEM
14 AROUND AND SELL THEM TO A BIGGER BANK BEFORE, OFTEN BEFORE
15 WE EVEN TOOK THE FIRST PAYMENT. BUT THE ACCOUNTING
16 LITERATURE REQUIRES THAT YOU WAIT UNTIL THE LOAN IS SOLD
17 TO RECOGNIZE THE FEES ON THAT LOAN. AND EVERY MONTH WE
18 WERE PRESSURED, WE, BEING THE ACCOUNTING STAFF WERE
19 PRESSURED TO RECOGNIZE ALL OF THOSE FEES PRIOR TO THE SELL
20 AND IN SOME CASES RECOGNIZING THOSE FEES PRIOR TO THE
21 LOAN'S CLOSING. SO, FOR EXAMPLE, IF A LOAN WAS SCHEDULED
22 TO CLOSE ON THE 30TH OF THE MONTH AND FOR SOME REASON THE
23 CLOSING ATTORNEY COULDN'T MAKE THE MEETING OR SOME OF THE
24 PAPERWORK WASN'T AVAILABLE FOR THE LOAN TO CLOSE, FOR SOME
25 REASON THEY HAD TO MOVE THAT LOAN CLOSE DATE TO THE FIRST

1 OF THE NEXT MONTH. WE WOULD BE PRESSURED TO RECOG
2 FEES ON THOSE LOANS DURING THE MONTH EVEN THOUGH T
3 HAVEN'T CLOSED YET MUCH LESS SOLD. AND THE ACCOUN
4 LITERATURE REQUIRES THAT NOT ONLY MUST BE CLOSED BU
5 HAVE TO BE SOLD TO BE RECOGNIZED IN OUR BUSINESS.

6 Q I THINK YOU JUST SAID RECOGNIZED THE FEES ON T
7 ACCOUNTS, WAS IT THE FEES THAT HE WANTED YOU TO REC
8 OR THE INCOME.

9 A HE WANTED US TO RECOGNIZE THE FEES AS INCOME,
10 THAT WAS OUR INCOME. ORIGINATION FEES WERE A MAIN :
11 OF OUR INCOME. AND THE OTHER MAIN SOURCE OF OUR INC
12 WAS THE PREMIUM WE GOT WHEN WE SOLD THE LOAN. SO, W
13 FUNDED A LOAN FOR \$100 THOUSAND DOLLARS, WE MAY TURN
14 AROUND AND SELL IT FOR \$103 THOUSAND DOLLARS TO A BA
15 THE BANK IS WILLING TO PAY THAT BECAUSE THEY HAVE GO
16 INCOME STREAM ON THAT LOAN THAT OVER THE NEXT 30 YEA
17 GOING TO BE A COUPLE OF HUNDRED THOUSAND DOLLARS, THI
18 WILLING TO PAY THAT SMALL PREMIUM AND THAT WAS THE TV
19 MAIN SOURCES OF OUR INCOME.

20 Q SO, ARE FEES, FEES ARE YOUR INCOME?

21 A FEES ARE OUR INCOME, THAT IS OUR REVENUE.

22 Q AND DID YOU DISCUSS THIS ISSUE WITH THE DEFENDAN

23 A EVERY MONTH WE DISCUSSED IT, YES.

24 Q WHAT DID YOU TELL HIM ABOUT WHAT WAS REQUIRED?

25 A HE KNEW THE GAP REQUIREMENTS. BUT WE TALKED ABOU

1 ANYWAY. WE TOLD HIM WHAT WAS REQUIRED. HE RESPONDED ON
2 SEVERAL OCCASIONS THAT WHEN WE WAS AT HOMESENSE THAT THEY
3 DIDN'T DO IT THAT WAY AND THEIR AUDITORS LET HIM DO IT
4 THAT WAY. THEY RECOGNIZED THE FEES AND THE MONTH THAT
5 THEY ORIGINATED THE LOANS, THE AUDITORS WERE FINE WITH IT.
6 AND BACK THEN WHEN THEY WERE DOING ACCOUNTING HIS WAY THEY
7 WERE MAKING MONEY EVERY MONTH. AND NOW WE ARE DOING
8 ACCOUNTING YOUR WAY AND WE ARE LOSING MONEY EVERY MONTH.
9 AND SO WE HAD THAT DISCUSSION EVERY MONTH, IT WAS EVERY
10 MONTH WE TALKED ABOUT IT, WE HAD THAT DISCUSSION.

11 Q AND DID THAT INCREASE AFTER YOU MOVED DOWN TO
12 LEXINGTON?

13 A YES, IN FACT, YOU KNOW WHEN I SAY EVERY MONTH, I MEAN
14 EVERY MONTH AFTER I WAS CFO. I DON'T KNOW IF HE HAD THAT
15 DISCUSSION WITH CFO'S BEFORE ME. I WASN'T INVOLVED IN
16 THAT KIND OF DISCUSSION BEFORE I WAS CFO. BUT, YES, WHEN
17 I BECAME CFO I MOVED TO LEXINGTON AND THEN THAT WAS THE
18 KIND OF DISCUSSION WE HAD EVERY MONTH.

19 Q IN GENERAL TERMS WHAT WAS HIS REACTION WHEN YOU WOULD
20 ADVISE HIM ON THIS?

21 A WELL, IT WAS ANGER. HE WAS ALWAYS ANGRY THAT I
22 WASN'T JUST GOING TO REPORT THE WAY HE WANTED ME TO. HE
23 WAS ALWAYS PRETTY ADAMANT ABOUT THE FACT THAT HE WAS IN
24 CHARGE AND THAT HE EXPECTED US TO DO THE THINGS THAT HE
25 WANTED US TO DO. ONE CONVERSATION I WAS INVOLVED WITH,

1 BEFORE I BECAME CFO WHICH WAS STILL IN GREENVILLE, I WAS
2 IN HIS OFFICE TALKING WITH FORREST FERRELL AND THEY WERE
3 TALKING ABOUT RHONDA JOHNSON'S ACCOUNTING METHODS AND THE
4 FACT THAT SHE WAS DOING ACCOUNTING OR TRYING TO DO
5 ACCOUNTING MORE CONSERVATIVELY THAN THEY WANTED TO. AND
6 RONNIE MADE THE COMMENT TO FORREST, HE SAID TO FORREST,
7 YOU KNOW, WHO IS PAYING HER PAYCHECK. AND FORREST SAID,
8 WELL RONNIE, YOU ARE. AND HE SAID, WELL THEN SHE IS GOING
9 TO BE REPORTING ACCOUNTING THE WAY I WANT HER TO. I AM
10 PAYING HER, SHE IS GOING TO REPORT IT THE WAY I WANT HER
11 TO. AND THAT WAS⁴ KIND OF THE ATTITUDE THROUGHOUT MY
12 TENURE.

13 Q AND LET'S TALK ABOUT ANOTHER FINANCIAL FACT. WHAT IS
14 THE DIFFERENCE BETWEEN AN EXPENSE AND A CAPITALIZATION?

15 A OKAY. IF DURING THE MONTH YOU HAVE OPERATING
16 EXPENSES, YOU BUY SOMETHING, YOU NORMALLY WOULD EXPENSE IT
17 IN THE MONTH YOU BUY IT. THAT WAY ALL THE REVENUES THAT
18 COME INTO THAT MONTH ARE MATCHED WITH ALL THE EXPENSES YOU
19 HAVE IN THAT MONTH. SO, YOU WOULDN'T PUT OFF EXPENSES
20 TYPICALLY FOR ANOTHER MONTH TO MAKE THAT MONTH LOOK GOOD.
21 THAT IS JUST A GENERAL ACCOUNTING PRINCIPLE. YOU DON'T
22 WANT TO INFLATE OR TO MAKE ONE MONTH LOOK ARTIFICIALLY
23 GOOD BY PUSHING EXPENSES OFF TO THE NEXT MONTH. WHAT A
24 CAPITALIZATION IS, IS LET'S SAY YOU BUY AN ASSET THAT HAS
25 A LONG LIFE LIKE A COMPUTER. IT HAS A LIFE OF THREE YEARS

1 AND YOU BUY IT IN THE MONTH OF JANUARY AND IT COST \$2
2 THOUSAND DOLLARS. WELL, YOU DON'T NECESSARILY WANT TO
3 TAKE THAT WHOLE EXPENSE AND THIS IS WHAT ACCOUNTING
4 REQUIRES. YOU DON'T WANT TO TAKE THAT WHOLE EXPENSE IN
5 JANUARY BECAUSE YOU ARE GOING TO GAIN SOME BENEFIT FROM
6 THAT COMPUTER OVER THREE YEARS SO YOU WOULD TAKE THAT \$2
7 THOUSAND DOLLARS AND YOU WOULD SPREAD IT EVENLY OVER THREE
8 YEARS. AND THAT IS WHAT CAPITALIZATION IS. YOU HAVE A
9 CAPITALIZATION, YOU SET IT UP AS AN ASSET, NOT AN EXPENSE.
10 AND THEN THE WAY YOU GET THAT TO BE AN EXPENSE IS YOU
11 DEPRECIATE A LITTLE BIT EVERY MONTH FOR THREE YEARS IN
12 THAT CASE.

13 Q OKAY. DID THAT BECOME AN ISSUE WITH DEALING WITH THE
14 DEFENDANT AT SOME POINT?

15 A WELL, YES. AND IT WAS NOT SOMETHING THAT WAS AS
16 SIMPLE AS A COMPUTER.

17 Q WELL, WHAT WAS IT REGARDING?

18 A WE HAD, WE DID ALL OF OUR MARKETING BY DIRECT MAIL.
19 SO WE WOULD SEND, WE WOULD GET LISTS OF PEOPLE WHO WE
20 THOUGHT MIGHT BE POTENTIAL CANDIDATES FOR REFINANCING
21 THEIR HOME MORTGAGES AND WE WOULD SEND THEM A DIRECT MAIL
22 PIECE THAT SAYS, YOU REFINANCE WITH US YOU WILL END UP
23 LOWERING YOUR RATE, IF THAT IS THE CASE. AND YOU WILL END
24 UP PROBABLY WITH SOME CASH IN YOUR POCKET. BECAUSE WE CAN
25 CONSOLIDATE YOUR LOANS AND THAT WAS KIND OF OUR TARGET.

1 AND SO WE WOULD SEND OUT HALF A MILLION OF THESE DIRECT
2 MAIL PIECES A MONTH AND GAP ALLOWS YOU TO, YOU KNOW, IF
3 YOU SPENT, LET'S SAY, \$250 THOUSAND DOLLARS SENDING OUT A
4 HALF OF MILLION DIRECT MAIL PIECES GAP ALLOWS YOU TO SAY,
5 WELL, THAT HAS A LIFE LONGER THAN JUST THAT MONTH. THOSE
6 PEOPLE MAY NOT CALL YOU BACK DURING THE MONTH, THEY MAY
7 WAIT THREE MONTHS TO CALL YOU BACK, THEY MAY WAIT SIX
8 MONTHS OR THEY MAY CALL YOU BACK AND IT MAY TAKE SEVERAL
9 MONTHS FOR THEM TO CLOSE THE LOAN. THERE IS A LOT OF
10 REASONS WHY THAT MIGHT HAVE A LIFE LONGER THAN ONE MONTH.
11 SO, GAP ALLOWS YOU TO STRETCH THAT BEYOND THE FIRST MONTH
12 THAT YOU SPEND THE MONEY.

13 Q OKAY. AND BRIEFLY, HOW LONG WERE YOU STRETCHING
14 THAT?

15 A WE FELT IT WAS VERY REASONABLE TO STRETCH THAT OUT
16 FOR SIX MONTHS. SO, IF WE SPENT \$250 THOUSAND DOLLARS IN
17 JANUARY WE WOULD EXPENSE ROUGHLY 1/6TH OF THAT PER MONTH
18 FOR THE FOLLOWING SIX MONTHS. OF COURSE, WE DID THE SAME
19 THING IN FEBRUARY.

20 Q AT SOME POINT DID THE DEFENDANT TELL YOU TO DO IT
21 DIFFERENTLY?

22 A YES. AT, I CAN'T RECALL THE EXACT QUARTER THAT WE
23 BEGAN TALKING ABOUT THIS. BUT THERE WAS A TREMENDOUS
24 CAMPAIGN BY KAREN AND FORREST AT RONNIE'S DIRECTION TO
25 EXTEND THAT LIST WELL BEYOND WHAT WE FELT THE USEFUL LIFE

1 OF THOSE DIRECT MAIL PIECES WAS. I CAN'T RECALL WHAT THEY
2 WANTED US TO STRETCH THAT OUT TO. WHETHER IT WAS FOUR OR
3 FIVE YEARS, I CAN'T REMEMBER, IT WAS A VERY LONG TIME
4 WHICH WOULD HAVE THE AFFECT, IF YOU WENT BACK TO ALL OF
5 YOUR PREVIOUS DIRECT MAIL CAMPAIGNS AND YOU SAID, HEY, ALL
6 OF THESE NOW, INSTEAD OF HAVING A SIX MONTH LIFE THEY HAVE
7 A FIVE YEAR LIFE, IT HAS AN IMMEDIATE BOTTOM LINE EFFECT
8 OF MILLIONS OF DOLLARS. AND THAT IS WHAT THEY WERE HOPING
9 FOR, THEY WANTED AN IMMEDIATE BOTTOM LINE PICKUP OF, WELL,
10 IT ACTUALLY WOULD OF BEEN AN IMMEDIATE BOTTOM LINE BENEFIT
11 BECAUSE OF A REDUCTION IN MARKETING EXPENSE.

12 Q AND WHAT TIME FRAME DID YOU ULTIMATELY STRETCH THAT
13 TO IN THAT QUARTERLY FILING?

14 A WE COMPROMISED SOME 24 MONTHS AND THAT WAS REALLY, TO
15 MY WAY OF THINKING, THE ABSOLUTE LIMIT OF WHAT WE CAN DO.
16 ELLIOTT DAVIS WOULD OF LIKED IT SHORTER, I WOULD OF LIKED
17 IT SHORTER.

18 Q WELL, DID YOU TELL THAT TO THE DEFENDANT?

19 A YES, ABSOLUTELY.

20 Q JUST EXPLAIN TO THE JURY THAT INTERACTION WHEN YOU
21 WERE FIGHTING HIM ON THAT ISSUE?

22 A WELL, THE FIGHT LASTED MORE THAN ONE DAY, IT LASTED
23 AS I REMEMBER WEEKS. RONNIE WENT TO, DIRECTLY TO PEOPLE
24 THAT WORK FOR ME SUCH AS SHANE TO TRY TO TALK THEM INTO
25 THE TREATMENT. WE WOULD COME BACK WITH WHAT WE FELT WERE

1 OUR REASONS FOR DOING IT THE WAY WE WANTED TO. WHAT I
2 WOULD OF PREFERRED WAS JUST TO LEAVE IT WHERE IT WAS FOR
3 SIX MONTHS. BUT, YOU KNOW, WHEN I SAY IT WAS CAMPAIGN,
4 THAT IS THE ONLY WAY I CAN DESCRIBE IT. IT WAS KIND OF A
5 CONSTANT PRESSURE ORCHESTRATED BY RONNIE BUT WITH MULTIPLE
6 PEOPLE INVOLVED. TODD LAKE WHO WAS THE MARKETING DIRECTOR
7 WAS, YOU KNOW, ENLISTED TO TELL ME THAT, HEY, THESE PIECES
8 ACTUALLY DO HAVE A LONGER LIFE. AND ULTIMATELY THEY WERE
9 ABLE TO CONVINC ME AND MY STAFF THAT THEY DID INDEED HAVE
10 A 24 MONTH LIFE SO WE SETTLED ON 14 MONTHS. THAT RESULTED
11 IN WHAT I WANT TO^{BE} SAY, \$2 TO \$3 MILLION DOLLAR PICKUP IN
12 THE THIRD QUARTER WHICH WE DID REPORT.

13 Q AND DID YOU EXPLAIN THAT, WHAT YOU DID WITH THE
14 PREPAID MARKETING THAT JUST TOOK YOU, WHEN YOU DID THAT
15 PUBLIC FILING?

16 A YES, WE DID.

17 Q IS THAT A VERY, IT TOOK A WHILE FOR YOU TO EXPLAIN
18 IT, IS IT COMPLICATED TO UNDERSTAND THAT?

19 A YES. I DON'T THINK IN OUR FILING THAT I WENT THROUGH
20 QUITE AS MUCH DETAIL AS I DID HERE. I THINK IN OUR FILING
21 WE SAID, THE \$3 MILLION DOLLAR, I CAN'T REMEMBER THE EXACT
22 AMOUNT. THE \$3 MILLION DOLLAR PICKUP RESULTED FROM THE
23 CAPITALIZATION OF DIRECT MARKETING EXPENSES FROM PRIOR
24 YEARS RESULTING IN A \$3 MILLION DOLLAR EXTRAORDINARY GAIN.
25 I CAN'T REMEMBER, I THINK WE CALLED IT AN EXTRAORDINARY

1 GAIN OR AN ACCUMULATED ADJUSTMENT TO A PRIOR PERIOD OR
2 SOMETHING LIKE THAT. THAT IS PROBABLY THE DESCRIPTION
3 THAT WE PUT IN THE FINANCIALS.

4 Q AND YOU JUST TALKED ABOUT, YOU HAD PREVIOUSLY, MR.
5 SHEPPARD TOLD YOU ABOUT THE WAY THINGS WERE WHEN HE RAN
6 HOMESENSE. DID THAT ISSUE COME UP SEVERAL TIMES ABOUT HOW
7 HE RAN HOMESENSE.

8 A YES, IT WAS CLEAR TO ME THAT THE WAY THINGS HAPPEN AT
9 HOMESENSE OR THE WAY HE WANTED THINGS TO HAPPEN AT
10 HOMEGOLD WHICH WAS, YOU JUST DID IT MY WAY. AT HOMESENSE
11 THEY DID IT HIS WAY, HE WANTED IT TO BE HIS WAY AT
12 HOMEGOLD. AND, YOU KNOW, IN A LOT OF CASES THINGS WERE
13 RUN HIS WAY AT HOMEGOLD. WE FOUGHT BACK WHEN WE HAD TO
14 BUT, YOU KNOW, THE PRESSURE WAS VERY INTENSE TO DO THINGS
15 HIS WAY BECAUSE HE HAD A WHOLE LOT OF PEOPLE WORKING FOR
16 HIM WHO WANTED TO DO THINGS HIS WAY, WHO WERE BEING PAID
17 TO DO THINGS HIS WAY. KAREN MILLER WOULD DO WHATEVER HE
18 SAID AND FORREST FERRELL WOULD TOO, AND REGARDLESS OF THE
19 PROPRIETY OF WHAT HE WAS ASKING THEM TO DO THEY WOULD
20 ENFORCE WHAT HE WANTED DONE. SO, THE PRESSURE WAS PRETTY
21 TOUGH.

22 Q AND YOU TALKED PREVIOUSLY ABOUT THE OUTSIDE AUDITORS.
23 DID THE DEFENDANT EVER DISCUSS WITH YOU OF GETTING RID OF
24 ELLIOTT DAVIS?

25 A WE TALKED ABOUT THAT. I CAN'T RECALL IF WE EVER

1 TALKED ABOUT IT BEFORE THE GOING CONCERN ISSUE CAME UP IN
2 MARCH OF '02. BUT WE TALKED ABOUT GETTING RID OF THEM,
3 GOING BACK TO EITHER THE FIRM THAT YOU STILL AUDIT,
4 HOMESENSE OR SOME OTHER ACCOUNTING FIRM THAT HE WAS AWARE
5 OF. I BELIEVE WE MAY OF EVEN HAD CONVERSATIONS WITH ONE
6 OR TWO OF THOSE DURING THE SUMMER OF 2002 JUST TO SEE, YOU
7 KNOW, IF THEY WERE AVAILABLE AND IF THEY WOULD BE
8 INTERESTED. WE TALKED ABOUT THAT A FEW TIMES.

9 Q OKAY. DID YOU EVER TALK ABOUT SWITCHING BACK TO THE
10 AUDIT FIRM HE USED TO--

11 A YES.

12 Q DID YOU HAVE CONCERNS ABOUT DOING THAT?

13 A WELL, MY PRIMARY CONCERN, YES I DID. I MEAN I KNEW,
14 I KNEW THAT THERE HAD BEEN SOME ISSUES WITH THE HOMESENSE
15 FINANCIALS PRIOR TO THE MERGER THAT WE HEARD KEVIN MAST
16 TESTIFY TO YESTERDAY. AND I WASN'T TOO FAMILIAR WITH WHAT
17 THE ISSUES WERE AT THAT POINT BUT I KNEW IN GENERAL THAT
18 WE HAD SOME ISSUES WITH THOSE. I WAS CONCERNED THAT
19 RONNIE CONTROLLED THOSE AUDITORS THE SAME WAY THAT HE
20 CONTROLLED THE HOMESENSE AND THE SAME WAY HE WAS
21 ATTEMPTING TO CONTROL HOMEGOLD. I WAS CONCERNED THAT
22 THOSE AUDITORS DID NOT HAVE THE EXPERIENCE NECESSARY TO
23 DEAL WITH A PUBLIC COMPANY WHICH ELLIOTT DAVIS DID AND
24 ELLIOTT DAVIS IS A VERY LARGE AND REPUTABLE FIRM THAT
25 DEALS WITH MANY PUBLICLY TRADED COMPANIES. AND I CAN'T

1 RECALL THE NAME OF THE COMPANY THAT RONNIE WAS SUGGESTING
2 BUT THEY, AS FAR AS I KNOW, DIDN'T HAVE ANY OTHER PUBLICLY
3 TRADED COMPANIES AND THAT IS A CONCERN NOTION THAT WE
4 MIGHT GO WITH A FIRM LIKE THAT.

5 Q LET ME JUST, BRING UP SOMETHING BRIEFLY.

6 A OKAY.

7 Q WERE YOU ORIGINALLY APPROACHED BY SLED ABOUT
8 COOPERATING WITH THIS INVESTIGATION?

9 A YES. AND THIS LETTER HERE WAS LONG BEFORE THIS
10 INVESTIGATION, IT WAS, AT THIS TIME IT WAS JUST A GENERAL
11 INVESTIGATION OF WHAT HAPPENED WITH HOMEGOLD.

12 Q AND DID YOU ENTER INTO A PROFFER AGREEMENT?

13 A I DID.

14 Q AND GENERALLY WHAT DID YOU UNDERSTAND ABOUT THE
15 PROFFER AGREEMENT?

16 A WELL, I UNDERSTOOD THAT IT WAS NOT ANY GUARANTEE OF
17 IMMUNITY BUT THAT IF I TOLD THE TRUTH TO THE EXTENT THAT I
18 TESTIFIED TRUTHFULLY THAT MY OWN STATEMENTS CANNOT BE USED
19 AGAINST ME. I WAS A LITTLE CONCERNED THAT SOMEONE MIGHT
20 ATTEMPT TO PUT BLAME FOR CERTAIN ASPECTS OF HOMEGOLD'S
21 FAILURE ON MY TENURE AS CFO SINCE I HAD LEFT. SO, I GOT
22 THE PROFFER.

23 Q AND BASICALLY WHAT THE PROFFER WAS, THAT ANYTHING YOU
24 SAID COULDN'T BE USED AGAINST ME AND IT WOULD REMAIN IN
25 EFFECT AS LONG AS YOU CONTINUE TO TELL THE TRUTH?

1 A CORRECT.

2 Q BUT IT WAS NO AGREEMENT NOT TO?

3 A NO GUARANTEE, I MEAN SPECIFICALLY IT WAS NOT A
4 GUARANTEE OF IMMUNITY AS I UNDERSTAND IT FROM MY LAWYER.

5 Q AND AGAIN, WHY DID YOU REQUEST THAT. LET ME JUST--
6 MR. GRIFFIN: ASKED AND ANSWERED.

7 THE COURT: OVERRULED. GO AHEAD, YOU CAN ANSWER THAT
8 QUESTION.

9 Q WHY DID YOU REQUEST THAT?

10 A I WAS CONCERNED THAT MY STATEMENTS MIGHT BE USED
11 AGAINST ME IF I DIDN'T HAVE SUCH A PROFFER ESPECIALLY BY
12 PEOPLE WHO REMAINED WITH THE COMPANY AFTER I LEFT. I HAD
13 SEEN A LOT OF BLAME BEING PLACED ON PEOPLE, IT HAPPENS IN
14 MANY COMPANIES WHERE SOMEBODY LEAVES AND THEY SUDDENLY GET
15 BLAMED FOR EVERYTHING. AND THAT I FIGURED WOULD HAPPEN
16 WITH ME.

17 Q OKAY. LET'S GO ON, I THINK YOU WERE TALKING EARLIER
18 ABOUT IN OCTOBER OF 2001 MEETING, CAN YOU BRIEFLY EXPLAIN
19 TO THE JURY, WHERE WAS THAT MEETING HELD?

20 A THAT MEETING WAS IN RONNIE'S OFFICE AT THE REED
21 AVENUE BUILDING OF HOMEGOLD.

22 Q AND WHO WAS PRESIDENT AT THAT MEETING?

23 A AS I RECALL, IT WAS, FROM HOMEGOLD, IT WAS RONNIE AND
24 FORREST, I BELIEVE KAREN MILLER WAS INVOLVED, I WAS THERE,
25 SHANE SMITH WAS THERE. AND FROM ELLIOTT DAVIS GARRY RANK

1 AND CY BURGESS.

2 Q AND I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
3 EXHIBIT NUMBER 74. DO YOU RECOGNIZE THAT?

4 A YES, THIS IS, THIS APPEARS TO BE THE NOTEBOOK, THE
5 CONTENTS OF THE NOTEBOOK THEY GAVE US IN TALKING ABOUT THE
6 ISSUES THAT THEY WERE GOING TO BE LOOKING AT DURING THE
7 AUDIT THAT I DESCRIBED A FEW MINUTES AGO.

8 Q CAN YOU BRIEFLY GO THROUGH THE HANDOUT AND DESCRIBE
9 WHAT WAS DISCUSSED AND JUST BRIEFLY AT THAT MEETING.

10 A WELL, THE FIRST PAGE JUST TALKS ABOUT THEIR GOALS
11 THROUGH THE AUDIT OF, YOU KNOW, GETTING IT FILED ON TIME
12 AND HOW THEY WERE GOING TO COME IN AT INTERIM AND DO THE
13 WORK OF THE AUDIT, IT WAS MORE OF A PROCEDURAL THING. THE
14 SECOND PAGE LISTS THE REPORTS THAT THEY WERE GOING TO BE
15 ISSUING, ONE FOR HOMEGOLD, ONE FOR CAROLINA INVESTORS,
16 SOME HUD AND USAP REPORTS AND A CONSENT FOR THE 10K THAT
17 WE WOULD BE FILING.

18 Q WITHOUT GOING THROUGH THE ENTIRE THING, WHAT WERE THE
19 TWO BIG ISSUES THAT WERE DISCUSSED AT THAT MEETING.

20 A OKAY, LET ME FLIP BACK BECAUSE THEY LIST MAJOR AUDIT
21 AREAS WHICH ARE THESE AREAS OF CONCERN THAT COME UP EVERY
22 FALL. THE VERY FIRST ONE IS THE GOING CONCERN ASSESSMENT.
23 THE THIRD ONE THAT WAS A BIG ISSUE, THE SECOND ONE WAS
24 GOODWILL EVALUATION. THE THIRD ONE IS DEFERRED TAX ASSET
25 WHICH WAS A MAJOR ISSUE. THE FORTH ONE WHICH WAS A VERY

1 MAJOR ISSUE WAS THE NOTE RECEIVABLE FROM THE PARENT, THE
2 POTENTIAL IMPAIRMENT OF THAT LOAN TO CAROLINA INVESTORS,
3 THE MONEY OWED TO CAROLINA INVESTORS FROM HOMEGOLD. THERE
4 IS A FEW, TO DETERMINE THE IMPACT OF INTERNAL ACCOUNTING
5 POLICY CHANGES, I BELIEVE THAT IS REFERRING TO THE
6 MARKETING ASSET THAT WE EXTENDED THE LIFE OF. AND THEN
7 THE 2001 BAYVIEW TRANSACTION AND THE RESIDUAL ASSETS
8 REQUIRING EXTERNAL VALUATION, THAT WAS REFERRING TO THE
9 RESERVES WE HAD SET UP FOR THOSE RESIDUAL ASSET POOLS, I
10 BELIEVE ELLIOTT DAVIS FELT WERE TOO HIGHLY VALUED. I
11 LISTED ABOUT SEVEN BECAUSE THOSE WERE ALL PRETTY BIG DEALS
12 THAT WE HAD TO LOOK AT FOR THAT, DURING THAT AUDIT.

13 Q ARE THOSE EACH MAJOR ISSUES?

14 A EACH OF THEM REPRESENTED, WHAT I WOULD SAY MILLIONS
15 OF DOLLARS OF IMPACT ON THE BOTTOM LINE AND ON THE BALANCE
16 SHEET OF HOMEGOLD FINANCIAL STATEMENTS.

17 Q AND WHAT DID YOU THINK ABOUT ALL OF THOSE ISSUES, NOT
18 SPECIFICALLY BUT JUST ABOUT THE MEETING, AT THAT MEETING?

19 A IN ALMOST EVERY ONE OF THESE CASES, NOT SPEAKING TO
20 EACH OF THEM SPECIFICALLY BECAUSE I DON'T KNOW WHERE THEY
21 WERE PLANNING TO END UP ON ANY OF THESE ISSUES. BUT ALL
22 OF THESE WERE ISSUES THAT THE ACCOUNTING DEPARTMENT HAD
23 FOUGHT ON TO BE MORE CONSERVATIVE IN THEIR APPROACH WITH
24 RONNIE AND KAREN. AND SO IN GENERAL I WAS PRETTY HAPPY TO
25 SEE THAT ELLIOTT DAVIS WAS GOING TO BE WILLING TO ADDRESS

1 THESE ISSUES. AND AGAIN AT THE OCTOBER MEETING I DIDN'T
2 KNOW WHERE THEY WERE GOING TO END UP ON BUT I WAS THRILLED
3 THAT THEY WERE GOING TO BE LOOKING AT THEM VERY CAREFULLY.
4 AND THE FACT THAT THEY STARTED THE LIST WITH GOING
5 CONCERN, EVEN THOUGH I DIDN'T HAVE, I DIDN'T FEEL THAT
6 GOING CONCERN WAS THE BIG ISSUE THAT THEY FELT. I WAS
7 HAPPY THAT THEY STARTED THAT WAY BECAUSE THAT TOLD ME THAT
8 THEY WERE GOING TO BE TAKING THESE ISSUES REALLY SERIOUSLY
9 THIS YEAR.

10 Q OKAY. DID YOU DISCUSS THE SERIOUS NATURE OF WHAT WAS
11 BROUGHT UP AT THAT MEETING WITH THE DEFENDANT?

12 A WELL, YEAH, OVER THE COURSE OF TIME. I DON'T BELIEVE
13 WE HAD A MEETING IMMEDIATELY AFTER THAT MEETING AND TALKED
14 ABOUT IT. BUT OVER THE COURSE OF THAT AUDIT, WHILE THE
15 AUDITORS WERE THERE AND WHILE WE WERE WORKING TO GET OUR
16 10K FILED WHICH WAS FROM THAT POINT ABOUT FIVE MONTHS
17 LATER. OVER THAT FIVE MONTHS WE TALKED ABOUT ALL OF THOSE
18 ISSUES.

19 Q AND TALKING ABOUT THE LOAN IMPAIRMENT, SINCE YOU
20 STARTED AS CFO, WAS THE ISSUE FROM THE LOAN OF CAROLINA
21 INVESTORS TO HOMEGOLD AN ISSUE FOR YOU?

22 A FROM THE TIME I STARTED AS CFO?

23 Q YES.

24 A YES, IT WAS PROBABLY AN ISSUE BEFORE THEN. I REALLY
25 DIDN'T NOTICE IT, I DIDN'T PAY MUCH ATTENTION TO IT BEFORE

1 I WAS CFO. WHEN I BECAME CFO THAT PRETTY QUICKLY ROSE TO
2 BECOME THE TOP ISSUE, YOU KNOW, AND IT WAS THE TOP ISSUE
3 FOR, I MEAN EVERYBODY WAS AWARE THAT LOAN WAS GETTING
4 BIGGER AND BIGGER AND LIKEWISE EVERYBODY WAS AWARE THAT
5 OUR OPERATIONS WERE NOT PRODUCING THE REVENUE, THE PROFIT
6 NECESSARY TO REDUCE THAT LOAN TO CAROLINA INVESTORS. SO,
7 YEAH, IT BECAME, EVERY MONTH IT BECAME A BIGGER AND BIGGER
8 ISSUE AND IT ROSE PRETTY QUICKLY TO THE TOP OF THE LIST.

9 Q AND PERIODICALLY WHILE YOU WERE CFO DID YOU HAVE
10 DISCUSSIONS WITH THE DEFENDANT ABOUT THAT INTER-COMPANY
11 AND THE ABILITY ^s TO PAY IT BACK?

12 A PERIODICALLY WE TALKED ABOUT THAT.

13 Q PLEASE TELL THE JURY WHAT HE WOULD SAY ABOUT PAYING
14 THE INVESTORS BACK?

15 A WELL, YOU KNOW, WHEN WE TALKED IN GENERAL ABOUT THE
16 BUSINESS THE FEELING WAS, WE WANTED TO PAY THAT LOAN BACK.
17 BUT OFTEN WHEN I WOULD BRING UP THE FACT, HEY LOOK, THINGS
18 ARE NOT LOOKING GOOD HERE, WE ARE GOING BACKWARDS
19 OPERATIONALLY, WE ARE SPENDING WAY TOO MUCH MONEY AND WE
20 HAVE GOT TO START THINKING ABOUT HOW WE ARE GOING TO PAY
21 THESE PEOPLE BACK, THESE PEOPLE ARE PEOPLE, THEY ARE NOT
22 BIG BANKS, THEY ARE PEOPLE. AND THEY ARE GOING TO LOSE A
23 LOT OF THEIR MONEY AND I NEVER DURING MY TIME THERE,
24 RONNIE NEVER GAVE ME ANY INDICATION THAT WAS CONCERNING
25 HIM.

1 Q DID HE IN FACT MAKE STATEMENTS ABOUT PAYING THE
2 INVESTORS BACK?

3 A YEAH, WHEN I BROUGHT UP SPECIFICALLY HE WOULD SAY
4 THINGS LIKE, THE SENTIMENT WAS HE DIDN'T CARE ABOUT THE
5 INVESTORS. HE FELT LIKE IF THEY LOST THEIR MONEY THEY
6 WOULD DESERVE IT BECAUSE THEY WERE INVESTING IT HIGH
7 INTEREST LOANS, THEY WERE GREEDY TO BE INVESTING AT
8 SOMETHING AT A HIGHER INTEREST RATE THAN THEY COULD GET AT
9 A BANK WHICH WAS A SAFE LOAN. HE FELT THAT WHETHER OR NOT
10 THEY GOT PAID BACK, HE WANTED TO LIVE, HE WANTED TO BE
11 PAID MORE, HE WANTED TO HAVE MORE BECAUSE HE FELT LIKE HE
12 DESERVED IT. ON ONE OCCASION, THAT KIND OF DISCUSSION
13 HAPPENED ON SEVERAL OCCASIONS. I WOULD SAY A FEW
14 OCCASIONS, NOT SEVERAL BUT MAYBE THREE OR FOUR. ON ONE
15 SPECIFIC OCCASION I MADE A SPECIFIC COMMENT ABOUT EITHER
16 THE CHARTERED AIR FLIGHTS OR THE MILLION DOLLAR RV AND MY
17 QUESTION WAS, RONNIE, LOOK, WHEN WE GET TO THE END OF THIS
18 THING AND WE CAN'T PAY THE INVESTORS BACK THEY ARE GOING
19 TO SAY, THEY ARE GOING TO LOOK AT THESE CHARTERED FLIGHTS
20 AND THIS RV AND THEY ARE GOING TO SAY, YOU KNOW, WHAT WERE
21 YOU DOING, DID YOU NOT CARE ABOUT THESE INVESTORS. AND
22 RONNIE'S REACTION, WHETHER IT WAS OUT OF FRUSTRATION FROM
23 MY BRINGING IT UP AGAIN OR NOT, HIS REACTION WAS SCREW THE
24 INVESTORS, THEY ARE GETTING WHAT THEY DESERVE. HE DIDN'T
25 FEEL SORRY FOR THE INVESTORS AT ALL AND HE, THAT WAS MY

1 OBSERVATION.

2 Q THOSE STATEMENTS THAT HE MADE TO YOU, WERE THOSE IN
3 FRONT OF OTHER PEOPLE OR PRIVATE CONVERSATIONS THAT YA'LL
4 HAD.

5 A IN GENERAL EITHER KAREN OR FORREST WERE ALWAYS AROUND
6 WHEN STATEMENTS LIKE THAT WERE MADE. NOW, IN REGARD WITH
7 THAT SPECIFIC ONE I CAN'T RECALL, WE WERE IN RONNIE'S CAR
8 WHEN HE MADE THAT STATEMENT AND I CAN'T RECALL IF FORREST
9 WAS IN THE CAR OR NOT. IT MAY OF BEEN JUST RONNIE AND
10 MYSELF.

11 Q THOSE STATEMENTS THAT HE MADE TO HOMEGOLD OFFICIALS,
12 COMPARE THOSE TO THE STATEMENTS THAT YOU HEARD HIM MAKE AT
13 CAROLINA INVESTOR BOARD MEETINGS.

14 A WELL, HE NEVER SAID THAT AT CAROLINA INVESTORS BOARD
15 MEETINGS. NO, HE WAS ALWAYS FAIRLY POSITIVE, I WOULD SAY
16 EXTREMELY POSITIVE ABOUT THE OUTLOOK FOR HOMEGOLD AND
17 CONVERSELY THE OUTLOOK FOR REPAYING CAROLINA INVESTORS AT
18 THESE CAROLINA INVESTORS MEETINGS. CAROLINA INVESTORS
19 MEETINGS WERE ONE PLACE WHERE THE PRODUCTION NUMBERS WERE,
20 YOU KNOW, EXPLICITLY PROJECTED. HE WOULD SAY WE ARE GOING
21 TO DO \$100 MILLION IN TWO MONTHS. AND WHEN WE DO THAT WE
22 WILL BE ABLE TO BE PROFITABLE AND AFTER THAT WE WILL BEGIN
23 TO PAY YOU BACK. THOSE MEETINGS WERE ALWAYS VERY
24 POSITIVE, THERE WAS NEVER A HINT OF WE DON'T REALLY CARE
25 IF THE INVESTORS DON'T GET PAID BACK. I NEVER HEARD THAT

1 AT CAROLINA INVESTORS MEETINGS.

2 Q PLEASE EXPLAIN TO THE JURY THE DIFFERENCE OF THE
3 STATEMENTS THAT HE WOULD MAKE TO YA'LL AND HOMEGOLD AND
4 THE PUBLIC STATEMENTS THAT HE WOULD BE MAKING.

5 A I SUPPOSE IT IS PROBABLY CONJECTURE BUT I DOUBT HE
6 WOULD MAKE THE STATEMENT OF HIS TRUE FEELINGS IN FRONT OF
7 LARRY OWEN AND THE PEOPLE WHO ARE TALKING TO INVESTORS
8 BECAUSE IF HE DID THE MONEY WOULD DRY UP. LARRY OWEN
9 WOULD STOP GOING TO INVESTORS AND TELLING THEM THE GOOD
10 THINGS THAT ARE HAPPENING AT HOMEGOLD IF IN FACT HE
11 REALIZED THAT RONNIE DIDN'T CARE WHETHER THOSE INVESTORS
12 GOT PAID BACK.

13 Q LET'S GO BACK, WE WERE TALKING ABOUT THE LOAN
14 IMPAIRMENT. AS A RESULT OF THAT 2001 MEETING DID YOU, DID
15 HOMEGOLD OBTAIN VALUATIONS?

16 A YES. WE DIDN'T BEGIN THAT PROCESS UNTIL THE SPRING
17 OF 2002. THEY BROUGHT THE ISSUE UP IN THE OCTOBER
18 MEETING. WE KIND OF DID THE AUDIT, WENT THROUGH THE AUDIT
19 AND THEN SOMETIME IN THE SPRING OF 2002 THEY SAID, LOOK,
20 THIS IMPAIRMENT IS GOING TO BE AN ISSUE. YOU HAVE GOT TO
21 HAVE A VALUATION DONE ON THE HOMEGOLD MORTGAGE DIVISION,
22 WHAT WAS CALLED HOMEGOLD, INC., THAT WAS THE RETAIL
23 MORTGAGE DIVISION. YOU HAVE GOT TO HAVE A VALUATION DONE
24 BECAUSE THE ONLY WAY YOU ARE GOING TO PAY THIS, I CAN'T
25 REMEMBER THE DEBT AT THAT TIME BUT I THINK IT WAS \$144

1 MILLION, THAT IS JUST THE NUMBER THAT STICKS IN MY MIND AT
2 THE END OF THE YEAR. THEY SAID, IF YOU CAN GET A
3 VALUATION THAT THIS DIVISION IS WORTH \$144 MILLION THEN
4 YOU, THEN THEORETICALLY YOU SHOULDN'T HAVE TO IMPAIR THAT
5 LOAN. AN IMPAIRMENT MEANS, WELL, IF SOMEBODY OWED ME A
6 THOUSAND DOLLARS AND I KNEW THAT THEY ONLY HAD \$500
7 DOLLARS AND THEY WERE NEVER GOING TO HAVE MORE THAN \$500
8 DOLLARS, AT SOME POINT I AM GOING TO STOP TELLING PEOPLE
9 THAT SOMEBODY OWES ME A THOUSAND BUCKS. I AM GOING TO
10 START SAYING THEY OWE ME \$500 BUCKS, THEY ARE NOT GOING TO
11 PAY ME A THOUSAND BUCKS. AND THAT IS WHAT IMPAIRMENT IS,
12 HOMEGOLD OWED CAROLINA INVESTORS AT THAT TIME, I THINK
13 \$144 MILLION AND THE AUDITORS WERE SAYING, LOOK, ALL WE
14 WANT TO BE ABLE TO SAY, ARE YOU GOING TO BE ABLE TO PAY
15 THAT BACK. IF YOU ARE NOT WE WANT TO TAKE THAT LOWN DOWN
16 TO WHAT YOU REALLY CAN PAY. IF IT IS \$100 MILLION WE ARE
17 GOING TO IMPAIR IT BY \$44 MILLION, WE ARE GOING TO TAKE IT
18 DOWN TO \$100 MILLION. IF IT IS \$50 MILLION WE ARE GOING
19 TO IMPAIR IT BY \$94 MILLION AND THAT WOULD REPRESENT A \$94
20 MILLION DOLLAR LOSS.

21 Q AND SO, YOU JUST SAID THE PURPOSE OF GETTING THOSE
22 VALUATIONS WERE--

23 A WAS TO SUPPORT THE LOAN VALUE. IF IN THEORY WE COULD
24 SHOW THAT WE COULD SELL THE HOMEGOLD MORTGAGE DIVISION FOR
25 \$144 MILLION THEN THEORETICALLY WE COULD TURN AROUND AND

1 SELL A DIVISION AND PAY CAROLINA INVESTORS BACK THE \$144
2 MILLION AND WE WOULDN'T NEED TO IMPAIR THE LOAN. SO, THEY
3 ASKED US TO GET THE VALUATIONS DONE.

4 Q FOR LOAN IMPAIRMENT PURPOSES?

5 A YES, EXACTLY.

6 Q AND DO YOU REMEMBER ANY DISCUSSIONS WITH JAN SIROTA
7 ABOUT PERHAPS THIS COMPANY MAY BE DOING ONE AT FIRST?

8 A I CAN'T REMEMBER EXACTLY WHETHER HE WAS GOING TO BE
9 INVOLVED OR NOT.

10 Q DO YOU, WHO DID YOU GET THE FIRST VALUATION FROM?

11 A WE WENT TO A BUSINESS CALLED CBIZ WHICH I HAD NEVER
12 HEARD OF BUT WHICH WAS, I BELIEVE, RECOMMENDED BY ELLIOTT
13 DAVIS. I CALLED A NUMBER THAT I FOUND ON LINE OR WAS
14 GIVEN TO ME BY SOMEBODY FOR A WOMAN IN PRINCETON, NEW
15 JERSEY WHO DID THESE VALUATIONS WITH CBIZ. I DIDN'T KNOW
16 HER, JUST SOMEBODY OFF THE STREET THAT DOES VALUATIONS.

17 Q YOU DIDN'T HAVE ANY, HOMEGOLD DID NOT HAVE ANY
18 PREEXISTING BUSINESS WITH CBIZ?

19 A NOT THAT I AM AWARE OF, NO.

20 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MOVED INTO
21 EVIDENCE AS STATE'S EXHIBIT 121. IS THAT THE VALUATION
22 THAT YA'LL RECEIVED BACK AFTER THAT REQUEST?

23 A YES, IT APPEARS TO BE.

24 Q LET'S TURN OUR ATTENTION TO A MARCH 14TH MEETING, DID
25 YOU ATTEND THE MARCH 14TH MEETING?

1 A IS THAT THE MEETING THAT WAS IN GREENVILLE AT THE
2 WYCHE FIRM OR WAS THAT THE MEETING, THERE WERE TWO
3 MEETINGS IN MARCH THAT WE HAD.

4 Q DO YOU REMEMBER A MEETING WHERE THAT CBIZ VALUATION
5 WAS DISCUSSED BY PEOPLE AT ELLIOTT DAVIS?

6 A YES, AT OUR OFFICES THERE WAS A MEETING, I DON'T
7 REMEMBER THE DATE.

8 Q OKAY. DO YOU REMEMBER GOING UP TO THE WYCHE FIRM AT
9 SOME POINT IN MARCH?

10 A YES, BUT THE MEETING REGARDING THIS VALUATION TOOK
11 PLACE IN THE LEXINGTON OR ACTUALLY WE HAD MOVED TO
12 COLUMBIA BY THAT TIME, BUT IN OUR HEADQUARTERS IN
13 COLUMBIA. THIS MEETING REGARDING THE VALIDITY OF THIS
14 VALUATION WHERE THE TWO PEOPLE FROM ELLIOTT DAVIS, GARRY
15 RANK AND CY BURGESS CAME BUT THEY ALSO BROUGHT ALONG A GUY
16 NAMED JOHN MARKEL WHO WAS THERE VALUATION EXPERT AND I
17 BELIEVE AT THAT MEETING TODD MITCHELL WHO WAS THEIR
18 MANAGING PARTNER AT ELLIOTT DAVIS CAME TO THAT MEETING.
19 IS THIS THE MEETING YOU ARE REFERRING TO?

20 Q I AM TRYING TO DRAW YOUR ATTENTION TO THE MEETING AT
21 THE WYCHE LAW FIRM IN 2002, DO YOU REMEMBER?

22 A I DO.

23 Q WHO AT HOMEGOLD ATTENDED THAT MEETING?

24 A WELL, FORREST, RONNIE, I CAN'T REMEMBER ANY OTHER
25 EMPLOYEES, THERE WERE BOARD MEMBERS.

1 Q WHO WERE THE BOARD MEMBERS?

2 A JACK STERLING, I AM TRYING TO REMEMBER, MAYBE TOBE
3 CHILDERS WAS THERE, BOB PHILPOTT, ALSO ATTENDING WERE
4 GARRY RANK AND CY BURGESS. I BELIEVE FROM THE WYCHE FIRM
5 CARY HALL AND FROM CAROLINA INVESTORS, LARRY OWEN AND
6 EARLE MORRIS WERE THERE. I CAN'T REMEMBER, THERE MAY HAVE
7 BEEN ONE OR TWO OTHER PEOPLE THERE, IT WAS A LARGE
8 CONFERENCE ROOM.

9 Q WHAT WAS PRIMARILY DISCUSSED AT THAT MEETING AT THE
10 WYCHE FIRM?

11 A WE DISCUSSED THE ISSUES THAT HAD ARISEN DURING THE
12 AUDIT BUT THE BIGGEST ISSUE WAS THE GOING CONCERN ISSUE.
13 GARRY RANK SAID AT THAT MEETING THAT WE ARE GOING TO BE A
14 GOING CONCERN NOTE IN OUR AUDIT REPORT WHICH BASICALLY
15 SAYS, YOU KNOW, THE SAME THING AS A NORMAL AUDIT REPORT
16 BUT AT THE END WE ARE, THESE STATEMENTS ARE PREPARED AS IF
17 THE COMPANY IS GOING TO CONTINUE AS A GOING CONCERN. BUT
18 WE DON'T THINK THEY ARE GOING TO, WE DON'T THINK THEY ARE
19 GOING TO MAKE IT FOR TWELVE MONTHS, BEYOND THE DATE OF
20 THIS AUDIT. AND THAT IS SIMPLIFIED TERMS, THAT IS WHAT
21 THAT SAYS.

22 Q AND WHAT WAS THE TONE OR THE NATURE OF THAT MEETING?

23 A WELL, AFTER GARRY MADE THAT STATEMENT THE TONE WAS
24 TENSE. FIRST OF ALL, NOT ALL OF US WERE CLEAR ON EXACTLY
25 WHAT THAT MEANT SO WE ASKED GARRY TO EXPLAIN WHAT THAT

1 MEANT. WE ASKED GARRY WHETHER THAT MEANT, BY PUTTING A
2 GOING CONCERN NOTE IN THE HOMEGOLD FINANCIAL AUDIT,
3 WHETHER THAT MEANT THAT THERE WAS ALSO GOING TO BE ONE AT
4 CAROLINA INVESTORS AND AT HOMEGOLD, INC. AND HE EXPLAINED
5 THAT, YES, OF NECESSITY THEY WOULD HAVE TO PUT ONE IN
6 THOSE TWO BECAUSE IF THE PARENT COMPANY WOULD GO OUT OF
7 BUSINESS THOSE TWO WOULD ALSO. AND THEN AS IT BEGAN TO BE
8 CLEAR TO THOSE IN THE ROOM WHAT GOING CONCERN--

9 MR. GRIFFIN: YOUR HONOR, HE IS NOT RESPONDING TO THE
10 QUESTION AND THIS IS HERESY.

11 THE COURT: JUST GO WITH ANOTHER QUESTION. I KNOW HE
12 IS GOING THROUGH IT IN NARRATIVE FORM, GO WITH ANOTHER
13 QUESTION.

14 Q I DON'T WANT YOU TO TALK ABOUT WHAT ANYONE SAID AT
15 THAT MEETING. LET'S JUST GO AND AT SOME POINT YOU
16 UNDERSTOOD THAT ELLIOTT DAVIS REJECTED THAT CBIZ
17 VALUATION?

18 A YES, THAT WAS A SEPARATE MEETING AT THE HOMEGOLD
19 HEADQUARTERS IN COLUMBIA WHERE ELLIOTT DAVIS BROUGHT THE
20 PEOPLE THAT I JUST MENTIONED, JOHN MARKEL AND TODD
21 MITCHELL WHO WERE KIND OF HEAVY HITTERS ON THE VALUATION
22 SIDE AND CORPORATELY TO LET US KNOW THAT THE CBIZ
23 VALUATION WAS NOT, HAD NOT BEEN PROPERLY DONE. THEY FELT
24 THAT THE VALUATION, BECAUSE IT WAS IMPROPERLY DONE WAS TOO
25 HIGH.

1 Q DO YOU NOT REMEMBER IF JOHN MARKEL WAS AT THAT
2 MEETING AT THE WYCHE FIRM?

3 A JOHN MARKEL WAS NOT AT THE MEETING AT THE WYCHE FIRM
4 AS I RECALL.

5 Q AS YOU RECALL. WHO PROVIDED THE PROJECTIONS TO DO
6 THE CBIZ VALUATION?

7 A THOSE WERE THE SAME PROJECTIONS, RONNIE PROVIDED ALL
8 OF THOSE PROJECTIONS AND WE USED THEM.

9 Q OKAY. DID YOU HAVE TO GET A SECOND VALUATION?

10 A YES, AFTER THE MEETING WE HAD IN COLUMBIA WHERE THEY
11 TOLD US THEY HAD REJECTED THIS VALUATION FOR USE IN THEIR
12 IMPAIRMENT ISSUE, THEY ASKED US TO GET ANOTHER VALUATION
13 FROM DELOITTE AND TOUCHE WHICH IS A LARGE ACCOUNTING FIRM
14 AND IT IS WORLDWIDE. DURING THAT VALUATION, JOHN MARKEL
15 WHO HIS ELLIOTT DAVIS' EXPERT WAS VERY INVOLVED. HE WAS
16 THE ONE WHO--

17 Q LET ME STOP YOU THERE. I AM GOING TO SHOW YOU WHAT
18 HAS BEEN MARKED AS STATE'S EXHIBIT 129. CAN YOU LOOK AT
19 THAT AND CAN YOU IDENTIFY THAT?

20 A YES, THIS IS A LETTER FROM DELOITTE AND TOUCHE. IT
21 IS AN ENGAGEMENT LETTER TO TALK ABOUT WHAT THEY WERE GOING
22 TO BE DOING WITH THE VALUATION AND WE AGREED TO HAVE THEM
23 DO WHAT WE ARE PROPOSING HERE.

24 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
25 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 129.

1 THE COURT: ANY OBJECTION?

2 MR. GRIFFIN: NO OBJECTION.

3 THE COURT: STATE'S 129 IS ADMITTED.

4 (WHEREUPON, STATE'S EXHIBIT NO. 129 WAS ADMITTED INTO
5 EVIDENCE.)

6 Q AND THIS, WHAT IS THE DATE OF THIS?

7 A MARCH 28, 2002.

8 Q AND WHO WAS THAT SENT TO?

9 A IT WAS SENT TO ME.

10 Q LET'S TALK ABOUT THAT, WAS THERE OTHER MEETINGS THAT
11 YOU HAD IN MARCH 2002?

12 A I AM SURE THERE WERE. THAT WAS THE TIME WHEN WE WERE
13 TRYING TO GET OUR K FILED, OUR 10K. SO, I AM SURE WE HAD
14 MULTIPLE MEETINGS.

15 Q OKAY. AND WHO IS THAT LETTER ADDRESSED TO?

16 A IT WAS ADDRESSED TO ME.

17 Q AND WHO IS IT FROM?

18 A THIS IS FROM DELOITTE AND TOUCHE, A PARTNER THERE, IT
19 DOESN'T SAY THE GUY'S NAME BUT I WAS WORKING WITH A MAN
20 NAMED KEVIN SMITH.

21 Q KEVIN SMITH, OKAY. AND CAN YOU PLEASE JUST READ WHAT
22 THE PURPOSE OF THE VALUATION WAS ACCORDING TO DELOITTE AND
23 TOUCHE?

24 A WELL, IT SAYS WE UNDERSTAND THAT THE LIMITED SCOPE OF
25 OUR VALUATION SERVICES IS THE ESTIMATION OF THE FAIR VALUE

1 OF THE ONE-HUNDRED PERCENT CONTROLLING INTEREST IN THE
2 INVESTED CAPITAL OF HOMEGOLD MORTGAGE OPERATIONS OR
3 HOMEGOLD MORTGAGE ORIGINATION AS OF DECEMBER 31ST. IT
4 GOES ON TO DESCRIBE THE DEFINITION OF THE FAIR VALUE.

5 Q AND I WILL DRAW YOUR ATTENTION SO YOU DON'T HAVE TO
6 READ THE ENTIRE THING TO THE JURY.

7 A OKAY.

8 MS. EVANS: I BEG THE COURT'S INDULGENCE.

9 THE COURT: THIS IS A PRETTY GOOD TIME TO TAKE A
10 BREAK. YOU ARE EXCUSED FOR A BREAK FOR ABOUT TEN OR
11 FIFTEEN MINUTES. EVERYONE STAY SEATED, PLEASE.

12 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
13 A SHORT BREAK.)

14 THE COURT: YOU CAN STEP DOWN BUT DON'T DISCUSS YOUR
15 TESTIMONY DURING THE BREAK. WE WILL TAKE ABOUT TEN
16 MINUTES.

17 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

18 THE COURT: IS THE STATE READY?

19 MS. EVANS: YES, YOUR HONOR.

20 THE COURT: DEFENSE READY?

21 MR. GRIFFIN: YES, YOUR HONOR.

22 THE COURT: BRING THE JURY IN, PLEASE.

23 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
24 APPROXIMATELY 11:15 A.M.)

25 THE COURT: MS. EVANS, YOU MAY CONTINUE.

1 MS. EVANS: THANK YOU, YOUR HONOR.

2 Q MR. MARTIN, I AM REFERRING TO STATE'S EXHIBIT NUMBER
3 129. AT THE TOP OF PAGE 2 CAN YOU PLEASE READ THAT ONE
4 PARAGRAPH TO THE JURY.

5 A OUR VALUATION ANALYSIS WILL BE USED FOR FINANCIAL
6 REPORTING PURPOSES PURSUANT TO THE TEST BY HGFI'S AUDITORS
7 FOR IMPAIRMENT OF A LOAN FROM CAROLINA INVESTORS, INC., A
8 SUBSIDIARY OF HGFI TO HGFI ONLY. ACCORDINGLY OUR WORK
9 PRODUCT IS NOT TO BE USED FOR ANY OTHER PURPOSE OR
10 DISTRIBUTED TO THIRD PARTIES EXCEPT TO THOSE FOR WHICH THE
11 PURPOSE OF OUR ANALYSIS ENCOMPASSES WITHOUT THE EXPRESSED
12 KNOWLEDGE AND WRITTEN CONSENT OF DELOITTE AND TOUCHE.

13 Q AND DID YOU SHARE THAT ENGAGEMENT LETTER, AND I WILL
14 SHOW YOU WHAT HAS BEEN PREVIOUSLY MARKED AS STATE'S
15 EXHIBIT 61 WHICH WAS THE VALUATION FROM DELOITTE AND
16 TOUCHE, WITH THE DEFENDANT?

17 A YES, I DID.

18 Q OKAY. AND, AGAIN, IN PREPARING THESE VALUATIONS DID
19 YOU HAVE TO GIVE THE COMPANIES PROJECTIONS?

20 A YES.

21 Q AND WHERE DID YOU GET THOSE PROJECTIONS FROM?

22 A THOSE PROJECTIONS WERE PREPARED BY RONNIE SHEPPARD.

23 Q AND DID ELLIOTT DAVIS ACCEPT THAT VALUATION?

24 A THEY DID.

25 Q OKAY. AND ON THE CBIZ AND DELOITTE AND TOUCHE, DO

1 YOU REMEMBER APPROXIMATELY WHAT THE CBIZ VALUATION CAME IN
2 AS?

3 A YES, I BELIEVE CBIZ ENDED UP AT \$170 MILLION DOLLARS
4 FOR THE VALUE OF THAT DIVISION AND DELOITTE AND TOUCHE, I
5 THINK, GAVE US A RANGE WHICH WAS \$130 TO \$140.

6 Q AND AFTER THAT, BASED UPON THE ACCEPTED VALUATION
7 WERE THEY GOING IMPAIR THE LOAN?

8 A THEY ENDED UP IMPAIRING IT. THEY TOOK THE MIDRANGE
9 OF THAT RANGE THAT DELOITTE GAVE US AND I THINK THAT ENDED
10 UP BEING \$136 OR \$137, I CAN'T REMEMBER THE EXACT AMOUNT.
11 AND THEY SAID BASED ON THAT AND BASED ON THE VALUE OF THE
12 LOAN AT THE TIME WHICH WAS SOMETHING IN THE NEIGHBORHOOD
13 OF \$144 MILLION, THEY WERE GOING TO IMPAIR IT BY \$6 TO \$7
14 MILLION DOLLARS. AGAIN, I CAN'T REMEMBER THE EXACT
15 NUMBERS BUT WE DID IMPAIR THE LOAN.

16 Q SO, AT THIS TIME YOU KNOW THAT GOING CONCERN IS BEING
17 PUT IN A 10K INTO CAROLINA INVESTORS, DID THAT CONCERN
18 YOU?

19 A IT DID CONCERN US. WE WERE CONCERNED ON A LOT OF
20 LEVELS ABOUT THE GOING CONCERN. FROM A STANDPOINT OF
21 INVESTORS IN OUR STOCK, WE WEREN'T THAT CONCERNED. WE
22 WERE WORRIED THAT THE CAROLINA INVESTORS MIGHT SEE THAT
23 GOING CONCERN AND THINK WE NEED TO TAKE OUR MONEY OUT.

24 Q AND WHEN YOU SAY, WE, WHO DO YOU MEAN WE?

25 A THE COMPANY, THE MANAGEMENT OF THE COMPANY. WE WERE

1 CONCERNED, AND OF COURSE THAT DOES INCLUDE THE DEFENDANT.

2 Q WHO ELSE?

3 A FORREST FERRELL, KAREN MILLER. I WOULD SAY THAT
4 CONCERN EXTENDED TO SOME OF THE BOARD MEMBERS AND WE WERE
5 ALL CONCERNED. THERE WERE TWO OR THREE THINGS THAT WE
6 WERE CONCERNED ABOUT. ONE WAS THAT THE SECURITIES
7 COMMISSIONER WOULD NOT RENEW OUR PROSPECTUS TO ISSUE THE
8 NOTES, THE DEBENTURES FOR CAROLINA INVESTORS. WE WERE
9 CONCERNED THAT IF HE DID RENEW THE PROSPECTUS THAT
10 CAROLINA INVESTORS PEOPLE WOULD SEE THE PROSPECTUS AND SEE
11 THE GOING CONCERN AND NOT WANT TO INVEST AGAIN OR INVEST
12 FOR THE FIRST TIME. AND WE WERE CONCERNED THAT THE GOING
13 CONCERN WOULD BECOME PUBLIC AND THAT BY BEING PUBLIC IN A
14 NEWSPAPER THAT THE INVESTORS WOULD ALSO SEE IT AND NOT
15 WANT TO INVEST.

16 Q AND CAN YOU EXPLAIN, YOU DID HAVE AN OPTION AND
17 ELLIOTT DAVIS TOLD YOU ABOUT THAT BUT, THE OPTION OF
18 TERMINATING YOUR INVOLVEMENT WITH ELLIOTT DAVIS AND GOING
19 WITH ANOTHER COMPANY THAT MIGHT NOT AGREE WITH GOING
20 CONCERN OR THE LOAN IMPAIRMENT. DID YOU HAVE ANY
21 DISCUSSIONS WITH THE DEFENDANT ABOUT THAT?

22 A I DON'T RECALL HAVING ANY DISCUSSIONS ABOUT THAT AT
23 THAT TIME.

24 Q AND I THINK YOU PREVIOUSLY EXPLAINED, WOULD THAT HAVE
25 BEEN REALISTIC TO BE ABLE TO DO?

1 A NO, NOT AT THAT POINT AND TIME, IT WOULD NOT OF BEEN
2 FEASIBLE AND IT CERTAINLY WOULD OF BEEN VERY PUBLIC, BUT
3 IT WOULDN'T HAVE BEEN FEASIBLE.

4 Q AND BASED UPON THOSE CONCERNS THAT YOU JUST SAID, DID
5 THE DEFENDANT DIRECT YOU TO DO ANYTHING REGARDING THE
6 GOING CONCERN FOOTNOTE IN THE PROSPECTUS?

7 A WELL, FIRST OF ALL, LET ME JUST SAY THAT THE GOING
8 CONCERN FOOTNOTE REQUIRES THE COMPANY TO RESPOND TO THE
9 AUDITORS QUESTION ABOUT THE GOING CONCERN. IN OTHER
10 WORDS, THE AUDITORS HAVE THIS NOTE IN THE FRONT OF THE
11 AUDIT THAT SAYS, WE DON'T THINK THEY ARE GOING TO BE ABLE
12 TO MAKE IT FOR ANOTHER TWELVE MONTHS. AND WE ARE REQUIRED
13 TO SAY, WELL, WE THINK WE ARE AND HERE IS WHY, HERE IS THE
14 REASONS WHY WE THINK WE WILL MAKE IT. AND SO WE WERE
15 PREPARED TO DO A RESPONSE TO THE GOING CONCERN ISSUE. SO,
16 WE LISTED SEVERAL REASONS WHY WE THOUGHT WE WOULD MAKE IT
17 FOR THE TWELVE MONTHS THAT WE TOLD THEM WE WERE GOING TO
18 BE ABLE TO MAKE IT. AND ONE OF THE REASONS RONNIE WAS
19 VERY SPECIFIC TO INCLUDE THE VALUATIONS IN OUR REASONS
20 THAT WE WOULD BE ABLE TO CONTINUE, HE WANTED US TO PUT IN
21 A STATEMENT THAT WE WERE GOING TO TRY TO SELL THE RETAIL
22 MORTGAGE DIVISION. AND WE THINK IF WE TRY TO SELL IT WE
23 SHOULD BE ABLE TO GET SOME PLACE BETWEEN \$135 TO \$170
24 MILLION THAT THESE VALUATIONS GAVE US.

25 Q DID HE INSTRUCT YOU TO PUT THE CBIZ FROM DELOITTE AND

1 TOUCHE VALUATIONS IN THE PROSPECTUS' FOOTNOTE?

2 A CORRECT.

3 Q TO EXPLAIN THE GOING CONCERN?

4 A GIVING OUR RESPONSE TO WHY WE THOUGHT WE WERE NOT A
5 GOING CONCERN RISK, YES.

6 Q DID ELLIOTT DAVIS AGREE WITH THAT DECISION?

7 A WELL, THEY ULTIMATELY DID AGREE WITH IT, THEY
8 EXPRESSED SOME CONCERNS OVER IT BUT THEY DID AGREE WITH
9 IT, THEY ALLOWED US TO GO AHEAD AND FILE.

10 Q AND AFTER THAT WAS GOING TO BE PUT IN AND THE
11 VALUATIONS WERE ^SBUT INTO THE PROSPECTUS DID YOU HAVE
12 DISCUSSIONS REGARDING, WITH THE DEFENDANT AND OTHERS,
13 REGARDING HOW WE CAN EXPLAIN THIS, DISCUSSIONS ABOUT THE
14 IMPACT ON THE INVESTORS AT CAROLINA INVESTORS?

15 A WELL, THE CONCERN WAS DISCUSSED THAT IF THE INVESTORS
16 SAW THE GOING CONCERN ISSUE AND THE OTHER ISSUE ALONG WITH
17 GOING CONCERN WAS THE FACT THAT THE IMPAIRMENT OF THE LOAN
18 CAUSED CAROLINA INVESTORS AND HOMEGOLD, INC. TO BE IN A
19 NEGATIVE OR A DEFICIT EQUITY DECISION. IN OTHER WORDS, WE
20 OWED PEOPLE MORE MONEY THAN WE HAD COMING IN, BOTTOM LINE.
21 THAT IS THE FIRST TIME THAT HAD HAPPENED. BECAUSE ALWAYS
22 ON THE CAROLINA INVESTORS INCOME STATEMENT OR THE BALANCE
23 SHEET, HE ALWAYS HAD THIS BIG LOAN FOR HOMEGOLD WHICH WAS
24 AN ASSET. SO THE ASSETS ALWAYS OUTWEIGHED THE
25 LIABILITIES. WHEN WE HAD TO IMPAIR THAT LOAN THE ASSETS

1 WERE NOW LOWER THAN THE LIABILITIES SO WE HAD A DEFICIT
2 NET WORTH, IF YOU WILL.

3 Q AND DID YOU, ALONG WITH SOMEONE ELSE AT THE DIRECTION
4 OF THE DEFENDANT GO UP TO CAROLINA INVESTORS?

5 A YES. AFTER THE STATEMENTS WERE ISSUED I WAS ORDERED
6 TO GO TO CAROLINA INVESTORS TO DISCUSS WITH THEM THE
7 IMPACT OR THE DEFINITION OF GOING CONCERN, WHAT IT MEANT
8 AND WHAT IT ULTIMATELY MEANT TO THE BUSINESS.

9 Q AND WHO DID YOU GO TO CAROLINA INVESTORS WITH?

10 A WELL, AS I RECALL I WAS COMING FROM GREENVILLE SO I
11 DROVE OVER THERE TO PICKENS BY MYSELF. I BELIEVE I MET
12 THERE, JACK STERLING. I DON'T RECALL IF ANYONE ELSE FROM
13 HOMEGOLD WAS INVOLVED IN THAT MEETING.

14 Q WHO DID YOU MEET WITH AT CAROLINA INVESTORS?

15 A WELL, AGAIN, I KNOW THAT ANN OWEN AND HER TEAM OF
16 INVESTMENT COUNSELORS WERE THERE. I BELIEVE LARRY OWEN
17 WAS THERE. I DO NOT REMEMBER WHETHER THERE WAS ANY OTHER
18 BOARD MEMBER PRESENT, I DON'T BELIEVE SO, POSSIBLY EARLE
19 MORRIS BUT I DON'T THINK THAT ANY OF THE OTHER, I DON'T
20 THINK THAT ANY OF THE OTHER CAROLINA INVESTORS BOARD
21 MEMBERS WERE THERE.

22 Q OKAY. AND WHO TOLD YOU TO GO UP TO THAT MEETING?

23 A RONNIE.

24 Q AND WHAT DID YOU TELL THOSE INVESTMENT COUNSELORS
25 ABOUT THE GOING CONCERN AND THE LOAN IMPAIRMENT?

1 A WELL, I BASICALLY EXPLAINED TO THEM WHAT GOING
2 CONCERN MEANT, THAT IT WAS AN AUDITOR, THAT IT WAS A
3 STATEMENT OF THE AUDITORS, THAT THEY WERE CONCERNED ABOUT
4 OUR ABILITY TO CONTINUE AS A GOING CONCERN, AS A
5 CONTINUING BUSINESS FOR TWELVE MONTHS. I EXPLAINED THAT
6 AND WE WENT THROUGH, OBVIOUSLY EXPLAINED WHY WE BELIEVED
7 OTHERWISE, GIVING THEM THE REASONS WHY WE THOUGHT WE WOULD
8 CONTINUE. THEN AS FAR AS THE LOAN IMPAIRMENT GOES WE
9 DISCUSSED HOW WE ARRIVED AT THE IMPAIRMENT AMOUNT. WE
10 DISCUSSED WHAT THAT MEANT FOR THEM WHICH WAS IMMEDIATELY,
11 IT DIDN'T HAVE A LARGE IMPACT ON THEM IMMEDIATELY. BUT
12 OBVIOUSLY, ULTIMATELY IT MIGHT MEAN THAT WE WOULDN'T BE
13 ABLE TO PAY BACK ALL OF CAROLINA INVESTORS LOANS.

14 Q DESCRIBE THE TONE OF THE MEETING WHEN GOING CONCERNED
15 IS DISCUSSED AT THE WYCHE FIRM AND THE TONE OF THE MEETING
16 THAT MR. STERLING HAD WITH THE CAROLINA INVESTORS
17 COUNSELORS.

18 A WELL, THE TONE OF THE MEETING AT THE WYCHE FIRM WAS
19 THAT THIS WAS THE END. WE DIDN'T KNOW BUT THAT WE WOULD
20 HAVE THIS GOING CONCERN IN OUR PROSPECTUS AND THE
21 PROSPECTUS WOULD NOT BE RENEWED AND WE WOULD BE UNABLE TO
22 GET ANY MORE INVESTMENTS AND THEN WE WOULD VERY QUICKLY
23 RUN OUT OF MONEY. WE ALL THOUGHT THAT WE WERE PRETTY
24 CLOSE TO THE END.

25 Q WHEN YOU SAY, WE, WHO DO YOU MEAN?

1 A WELL, THE PEOPLE IN THE ROOM THAT WERE FROM HOMEGOLD
2 AND THE PEOPLE IN THE ROOM THAT WERE FROM CAROLINA
3 INVESTORS. I THOUGHT IF WE HAD A GOING CONCERN THERE WAS
4 EVERY POSSIBILITY THAT WE WOULD NOT HAVE A PROSPECTUS, YOU
5 KNOW, I DID NOT KNOW WHAT THE SECURITIES COMMISSIONER
6 WOULD SAY ABOUT THAT.

7 Q AND WAS THERE ANOTHER WORRY ABOUT IF IT WAS THE
8 IMPACT OF THAT OF CAROLINA INVESTORS?

9 A WELL, YES. I MEAN THE FACT IS THAT IF HOMEGOLD
10 FINANCIAL WENT OUT OF BUSINESS, CAROLINA INVESTORS WERE
11 NOT GOING TO BE ABLE TO PAY OFF ALL OF THESE PEOPLE WHO
12 HAD INVESTMENTS. THAT WAS VERY CLEAR IN THAT MEETING.
13 NOBODY HAD ANY QUESTION IN LEAVING THAT MEETING THAT IF
14 HOMEGOLD FINANCIAL WAS NOT ABLE TO MAKE IT THEN CAROLINA
15 INVESTORS WOULD NOT BE ABLE TO MAKE IT.

16 Q NOW, YOU JUST DESCRIBED THE TONE OF THAT WYCHE FIRM,
17 DESCRIBE THE TONE OF YOU AND MR. STERLING AND HOW YOU ARE
18 APPROACHING THIS WITH THE INVESTMENT COUNSELORS. WAS IT
19 THE SAME TONE?

20 A NO, WE EXPLAINED AND LET ME SAY THAT WHEN WE WENT TO
21 THE MEETING THE PROSPECTUS HAD BEEN RENEWED AND WE HAD
22 FILED OUR 10K. SO, IT WAS OUT THERE, PART OF THE CONCERN
23 WAS PASSED. BUT WE WENT UP THERE BASICALLY TO EXPLAIN TO
24 THEM WHAT GOING CONCERN MEANT SO THEY COULD EXPLAIN, IF
25 THE QUESTION AROSE FROM AN INVESTOR. BUT, NO, THE TONE OF

1 THE MEETING WAS NOT, HEY, IT IS DONE, IT IS OVER. THE
2 TONE OF THE MEETING WAS VERY MUCH, WE ARE GOING TO MAKE
3 THIS THING WORK.

4 Q SO, AT THE MARCH 14TH MEETING, WHERE THESE PEOPLE ARE
5 VERY CONCERNING, IS IT FAIR TO SAY EVERYONE WAS UPBEAT,
6 TALKING ABOUT GOOD THINGS THAT THEY CAN TELL THE
7 INVESTORS?

8 A IT WAS MUCH MORE UPBEAT.

9 MR. GRIFFIN: OBJECTION, YOUR HONOR, LEADING.

10 THE COURT: I SUSTAIN TO THE FORM OF THE QUESTION.

11 Q PLEASE JUST DESCRIBE DIFFERENT TONES AGAIN AT THE
12 SECOND MEETING.

13 A THE SECOND MEETING WAS MUCH MORE UPBEAT THAN THE
14 FIRST MEETING. WE WERE DISCUSSING SOME DIFFICULT ISSUES,
15 IT WASN'T ALL ROSY. BUT DEFINITELY WE WERE FOCUSING ON
16 WHAT THE FUTURE WAS FOR THE COMPANY RATHER THAN WHAT HAD
17 HAPPENED.

18 Q AND AFTER THIS LOAN IMPAIRMENT DID HOMEGOLD TRANSFER
19 SOME ASSETS TO CAROLINA INVESTORS TO MAKE THE DEBT APPEAR
20 TO BE, TO WIPE AWAY THAT \$6 MILLION DOLLAR IMPAIRMENT.

21 A WELL, WE WERE NOT ABLE TO WIPE AWAY THE \$6 MILLION
22 DOLLAR IMPAIRMENT. WE TRANSFERRED ASSETS PERIODICALLY TO
23 CAROLINA INVESTORS BOOKS AND WE DID THAT UP UNTIL THAT
24 POINT, UP UNTIL THAT POINT WE DID IT TO MAINTAIN POSITIVE
25 EQUITY AT CAROLINA INVESTORS. AT THAT POINT WE WERE NOT

1 ABLE TO MAINTAIN POSITIVE EQUITY AS I RECALL. THE
2 IMPAIRMENT WAS SO GREAT THAT, A \$6 MILLION TO \$7 MILLION
3 DOLLAR IMPAIRMENT WAS MORE THAN WE HAD ASSETS TO SHIFT, TO
4 SELL, IF YOU WILL, TO CAROLINA INVESTORS. SO, THAT CAUSED
5 A NEGATIVE EQUITY POSITION TO CAROLINA'S BALANCE SHEET.

6 Q DO YOU REMEMBER WHEN THE PELHAM ROAD PROPERTY WAS
7 TRANSFERRED FROM HOMEGOLD TO CAROLINA INVESTORS?

8 A WELL, I REMEMBER IT HAPPENING, I DON'T REMEMBER THE
9 SPECIFIC TIMING OF IT.

10 Q DO YOU REMEMBER APPROXIMATELY WHAT, AT THE PELHAM
11 ROAD PROPERTY WAS VALUED AT, APPROXIMATELY, DO YOU
12 REMEMBER?

13 A I RECALL THAT THERE WERE MULTIPLE APPRAISALS DONE. I
14 BELIEVE WE HAD IT ON THE BOOKS FOR SOMETHING OF THE
15 NEIGHBORHOOD OF \$10 MILLION DOLLARS. I BELIEVE WE HAD AN
16 APPRAISAL AND THE INITIAL APPRAISAL CAME BACK SOMEWHAT
17 LOWER THAN THAT. AND THEN I BELIEVE WE HAD ANOTHER
18 APPRAISAL, I DON'T KNOW HOW MANY APPRAISALS WE HAD DONE
19 BUT I KNOW WE HAD ULTIMATELY, GOT AN APPRAISAL THAT PUT
20 THE VALUE AT SOMETHING PRETTY CLOSE TO THAT, THE BOOK
21 VALUE, THE \$10 MILLION DOLLARS. AND I AM NOT CERTAIN
22 ABOUT THE \$10 MILLION DOLLARS BUT THAT NUMBER STICKS OUT
23 IN MY MIND. SO, WE WENT WITH THE APPRAISAL THAT WAS
24 APPROXIMATELY THE BOOK VALUE AND WE TRANSFERRED AT
25 APPROXIMATELY BOOK VALUE.

1 Q DO YOU REMEMBER AFTER THAT MARCH 14TH MEETING IF MR.
2 OWEN WAS CALLED DOWN PERIODICALLY, ARE THINGS GOING ANY
3 BETTER IN 2002?

4 A FROM A BUSINESS STANDPOINT?

5 Q FROM A BUSINESS STANDPOINT.

6 A NO, NO.

7 Q THE CONCERNS, DID THAT GOING CONCERN HAVE AN IMPACT
8 ON THE AMOUNT OF INVESTMENTS THAT WERE COMING INTO
9 CAROLINA INVESTORS?

10 A PERHAPS INITIALLY BUT IT SEEMED THAT AS TIME WENT ON
11 THE INVESTMENTS ~~KEPT~~ ^{WENT} GOING PRETTY STRONGLY THROUGH THE
12 SUMMER.

13 Q AND DID MR. OWEN, WERE YOU AWARE IF HE WOULD CALL
14 PERIODICALLY DOWN TO HOMEGOLD?

15 A WELL, HE HAD, AS FAR AS I KNOW HE HAD DAILY
16 CONVERSATIONS WITH FORREST FERRELL AND I KNEW THAT BECAUSE
17 FORREST WOULD TELL ME. SO, YES, I THINK HE WAS STAYING IN
18 PRETTY CLOSE CONTACT WITH WHAT WAS GOING ON.

19 Q DO YOU REMEMBER THE DEFENDANT TELLING MR. FERRELL
20 SOMETHING THAT WAS RELAYED TO MR. OWEN.

21 MR. GRIFFIN: OBJECTION, YOUR HONOR, HEARSAY.

22 THE COURT: OVERRULED.

23 Q ABOUT CONCERNS AFTER THIS, ABOUT WHAT TO FOCUS ON?

24 A I RECALL THAT MR. OWEN WAS TOLD TO FOCUS ON THE PAGE
25 OF THE PROSPECTUS THAT INCLUDED OUR RESPONSE TO THE GOING

1 CONCERN ISSUES. IN OTHER WORDS, ALL THE POSITIVES THAT WE
2 PUT IN THERE. NOW, I CANNOT RECALL THAT MR. SHEPPARD TOLD
3 ME FERRELL TO SAY THAT.

4 Q OKAY. DO YOU REMEMBER WHAT PAGE THAT WAS?

5 A NO, PAGE, NO I DON'T.

6 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
7 STATE'S EXHIBIT NUMBER 50 AND WHAT IS THIS?

8 A THIS IS THE PROSPECTUS.

9 Q AND I AM GOING TO DRAW YOUR ATTENTION TO F11, JUST
10 GLANCE OVER THAT AND THEN YOU CAN ANSWER MY QUESTIONS.

11 A YOUR ORIGINAL QUESTION?

12 Q DO YOU REMEMBER WHAT PAGE?

13 A IT IS PAGE F11. I DO NOT RECALL THAT FORREST TOLD
14 LARRY TO FOCUS ON F11, I RECALL THAT HE TOLD HIM TO FOCUS
15 ON THE PAGE THAT INCLUDED OUR RESPONSE.

16 Q AND IS THAT RESPONSE ON PAGE F11?

17 A THAT IS ON PAGE F11, YES.

18 Q DID THINGS GO ANY BETTER IN 2002 FOR THE COMPANY?

19 A NO, NOTHING, OPERATIONAL NOTHING GOT BETTER. I WOULD
20 SAY WE WERE ON TARGET THROUGH 2002 UNTIL THE TIME I LEFT
21 TO LOSE MORE THAN WE HAD LOST IN 2001.

22 Q DO YOU REMEMBER IN JUNE OF 2002 THAT ELLIOTT DAVIS
23 SENDING HOMEGOLD SOMETHING ABOUT THEIR INTERNAL CONTROLS?

24 A WELL, THEY WOULD OF SENT US A MANAGEMENT LETTER, PART
25 OF THE AUDIT PROCESS, I DON'T RECALL US SPECIFICALLY

1 GETTING SOMETHING IN JUNE.

2 Q BUT YOU DID GET A MANAGEMENT LETTER?

3 A WE WOULD NORMALLY GET A MANAGEMENT LETTER FROM THEM
4 TALKING ABOUT, YOU KNOW, HERE ARE SOME THINGS THAT WE
5 NOTED DURING OUR AUDIT, HERE IS PERHAPS SOME WEAKNESSES IN
6 OUR INTERNAL CONTROLS. AND THAT IS TYPICAL IN AN AUDIT SO
7 I AM SURE WE DID GET SOMETHING FROM THEM. I DON'T RECALL
8 SPECIFICS ON THINGS THAT THEY POINTED OUT.

9 Q OKAY. GOING IN TO 2002, THINGS ARE NOT GETTING ANY
10 BETTER. DO YOU REMEMBER, I WANT TO SHOW YOU WHAT HAS BEEN
11 MARKED AS STATE'S⁴ EXHIBIT NUMBER 128. CAN YOU IDENTIFY
12 THAT?

13 A THIS IS A SERIES OF EMAILS THAT I INITIATED TO LARRY
14 THAT I COPIED, I CAN'T TELL IF I COPEDED ANYBODY ELSE. IT
15 LOOKS LIKE IT IS JUST TO LARRY OWEN IN A RESPONSE.

16 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE TO
17 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 128.

18 MR. GRIFFIN: NO OBJECTION.

19 THE COURT: WITHOUT OBJECTION STATE'S 128 IS
20 ADMITTED.

21 (WHEREUPON, STATE'S EXHIBIT NO. 128 WAS ADMITTED INTO
22 EVIDENCE.)

23 THE COURT: COUNSEL, YA'LL STEP UP HERE FOR JUST A
24 MINUTE, PLEASE.

25

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

4 Q AND, MR. MARTIN, WHAT IS THE DATE ON THESE SERIES OF
5 EMAILS?

6 A AUGUST 7TH WAS THE INITIAL EMAIL, ALL THREE OF THEM
7 IN 2002.

8 Q AND WITH EMAILS, YOU HAVE TO READ THEM FROM THE
9 BOTTOM DOWN, CORRECT?

10 A RIGHT, THAT WAS THE FIRST ONE.

11 Q OKAY. CAN YOU READ THAT FROM THERE?

12 A I WILL TRY.

13 Q LOOK AT THE BOTTOM, WHO WAS THAT SENT TO?

14 A SENT TO LARRY OWEN. WOULD YOU LIKE FOR ME TO READ
15 IT?

16 Q YES, PLEASE.

17 A LARRY, I AM TRYING TO ORGANIZE A MEETING FOR MONDAY
18 OR TUESDAY IF THAT WOULD WORK BETTER FOR YOU AND EARLE
19 HERE AT THE OFFICE TO DISCUSS THE SECOND QUARTER RESULTS,
20 REVIEW THE PRESS RELEASES THAT WE ARE PUTTING TOGETHER IN
21 RESPONSE TO THE LOSS AND TALK ABOUT WHERE WE ARE HEADED IN
22 THE THIRD QUARTER. MY MAIN PURPOSE IS TO GIVE YOU AND
23 EARLE SOME AMMUNITION TO CARRY BACK WITH YOU TO COUNTERACT
24 THE RUMORS YOU HAVE BEEN DEALING WITH. A SECONDARY BUT
25 EQUALLY IMPORTANT PURPOSE TO HAVE ALL OF US TOGETHER TO

1 DISCUSS OUR DIRECTION GOING FORWARD. I THINK RONNIE IS
2 GOING TO WALK YOU AROUND THE NEW RETAIL DIVISION HE IS
3 OPENING WHICH I EXPLAINED TO YOU PROBABLY AND ADEQUATELY
4 THE OTHER DAY. DAVID GAFFNEY WILL GIVE US AN UPDATE ON
5 THE TOMLIN LITIGATION, I HAVE GOT COMMITMENTS FROM RONNIE
6 AND FORREST TO GIVE US A BLOCK OF TIME TO DISCUSS THESE
7 IMPORTANT ISSUES. MONDAY WOULD BE THE IDEAL FOR US BUT
8 YOU ARE THE ONE WHO IS GOING TO HAVE TO TRAVEL SO EITHER
9 MONDAY OR TUESDAY WILL BE FINE. WE ARE RELEASING EARNINGS
10 ON WEDNESDAY.

11 Q OKAY. SO THIS IS A MEETING THAT YOU ARE ASKING LARRY
12 AND EARLE TO COME DOWN AND YOU SAID THE MAIN PURPOSE IS TO
13 GIVE YOU SOME AMMUNITION TO TAKE BACK AND COUNTERACT THE
14 RUMORS YOU HAVE BEEN DEALING WITH. WHAT WERE THOSE RUMORS
15 AT THE TIME?

16 A AS I REMEMBER IT THEY HAD SOME, I THINK WHAT THEY
17 WERE REFERRING TO AS COMPETITORS WHO WERE SAYING THAT WE
18 WERE IN POOR FINANCIAL CONDITION AND THAT WE WERE GOING
19 OUT OF BUSINESS.

20 Q LET ME STOP YOU THERE. ALTHOUGH THOSE WERE RUMORS,
21 WERE YA'LL IN POOR FINANCIAL CONDITION?

22 A WE WERE, YES.

23 Q AND SO, AND GOING DOWN WHAT IS LARRY OWEN'S RESPONSE
24 TO YOU?

25 A KEVIN, I CAN BE THERE ON MONDAY. JUST LET ME KNOW

1 WHAT TIME, I HAVE A CONFLICT ON TUESDAY.

2 Q AND THEN AGAIN YOUR RESPONSE?

3 A GOOD, WOULD 10:00 O'CLOCK BE FINE. WILL EARLE BE
4 ABLE TO COME, I CAN CALL HIM IF YOU NEED ME TO.

5 Q OKAY. AND AS A RESULT OF THIS EMAIL WAS THERE IN
6 FACT A MEETING?

7 A YES, THERE WAS.

8 Q DO YOU REMEMBER APPROXIMATELY WHEN THAT MEETING WAS?

9 A WELL, IT WAS DEFINITELY IN THE MIDDLE PART OF AUGUST.
10 I DON'T REMEMBER IF IT WAS ON THE DATE THAT WE ESTABLISHED
11 FOR THIS EMAIL BUT IT PROBABLY WAS. AND IT WAS IN THE
12 OFFICE IN COLUMBIA THAT HOMEGOLD HEADQUARTERS WERE IN AT
13 THAT TIME.

14 Q AND WHAT WAS THE AMMUNITION THAT YOU GAVE TO LARRY
15 AND EARLE TO COME BACK THAT YOU WERE IN POOR FINANCIAL
16 CONDITION. FIRST OF ALL, WHO CONDUCTED THE MEETING
17 PRIMARILY?

18 A WELL, IT WAS A MEETING THAT RONNIE WAS ATTENDING SO
19 HE WOULD OF BEEN CONDUCTING IT. I DON'T KNOW THAT HE
20 SPOKE MORE THAN ANYBODY ELSE. BUT RONNIE AND FORREST WERE
21 OBVIOUSLY RUNNING THE MEETING.

22 Q WHAT WAS RONNIE TELLING, DISCUSSING AT THIS MEETING?

23 A OKAY. AUGUST WOULD OF BEEN THE EFFORTS WE WERE
24 MAKING TO SELL THE DIVISION. PRIMARILY AT THAT POINT WE
25 WERE TALKING TO A BUSINESS CALLED IMPAC, A BANK, THEY WERE

1 RELATED TO A BANK IN CALIFORNIA THAT WE WERE TALKING TO
2 ABOUT BUYING THE RETAIL DIVISION.

3 Q AND WERE THOSE IMPAC OFFERS THAT YOU WERE GETTING IN
4 IN THAT TIME FRAME, WERE THEY GOOD OFFERS, WERE THEY CLOSE
5 TO THOSE VALUATION RANGES?

6 A WELL, THE OFFERS WE WERE GETTING FROM THEM CONTAINED
7 VERY LITTLE, IF ANYTHING, I CAN'T REMEMBER, VERY LITTLE
8 UPFRONT MONEY. IN OTHER WORDS, THEY WEREN'T GOING TO GIVE
9 US \$145 MILLION DOLLARS TO TAKE THE BUSINESS. WHAT THEY
10 CONTAINED, AS I REMEMBER, WAS VERY LITTLE UPFRONT MONEY
11 AND THEN THE POTENTIAL TO BE PAID UP TO PROBABLY THE
12 AMOUNT OF THE VALUATIONS OVER MANY YEARS IF THAT DIVISION
13 OPERATED PROFITABLY.

14 Q WERE THOSE RETURNS CASH RETURNS?

15 A WELL, AS I RECALL THE INITIAL OFFERS THAT WE GOT FROM
16 IMPAC, THERE WAS SOME CONSIDERATION OF CASH RETURNS ON
17 THEM.

18 Q NOT CASH TO THE TUNE OF \$185 MILLION.

19 MR. GRIFFIN: OBJECTION, YOUR HONOR, LEADING.

20 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

21 Q HOW MUCH WERE THE OFFERS REGARDING THE CASH?

22 A AS I REMEMBER THERE WAS VERY LITTLE UPFRONT. WHEN I
23 SAY VERY LITTLE, IT WAS POSSIBLY AS MUCH AS \$1 OR \$2
24 MILLION UPFRONT BUT NO WHERE IN THE NEIGHBORHOOD OF THE
25 \$140 MILLION THAT WE WANTED. BUT THE EARN OUT PROVISION,

1 IF PROJECTIONS WERE MET, IF PROFITABILITY WAS ACHIEVED
2 OVER THE COURSE, I CAN'T REMEMBER HOW MANY YEARS THOSE
3 OFFERS RAN. BUT OVER THE COURSE OF SEVERAL YEARS THE
4 POTENTIAL WAS THERE, PROBABLY NOT A REASONABLE EXPECTATION
5 BUT THE POTENTIAL WAS THERE THAT WE WOULD BE ABLE TO
6 OBTAIN ALL OF THAT MONEY.

7 Q AND THAT MEETING WAS CONDUCTED, THAT INFORMATION WAS
8 GIVEN TO EARLE AND LARRY TO TAKE BACK UP TO PICKENS?

9 A YES, AND I DON'T KNOW HOW MUCH DETAIL WE GOT INTO,
10 HOW THE DEAL WAS STRUCTURED. I THINK WHAT WAS SAID, THESE
11 ARE DEALS THAT COULD PAY BACK CAROLINA INVESTORS NOTE.
12 AND THEY WERE TECHNICALLY. I MEAN, YOU KNOW, IF
13 EVERYTHING WENT AS PLANNED WHICH DIDN'T OFTEN HAPPEN, BUT
14 IF EVERYTHING WENT AS PLANNED IT WAS POTENTIAL.

15 Q I AM GOING TO SHOW YOU WHAT HAS ALREADY BEEN MARKED
16 AS STATE'S EXHIBIT NUMBER 63 FOR ID PURPOSES. CAN YOU
17 PLEASE TELL THE JURY WHAT THAT IS?

18 A THIS IS MY RESIGNATION LETTER.

19 Q WHAT IS THE DATE OF THAT RESIGNATION LETTER?

20 A AUGUST THE 22ND OF 2002, AUGUST 29TH OF 2002.

21 Q WHO DO YOU ADDRESS THAT LETTER TO?

22 A TO RONNIE SHEPPARD.

23 Q AND WHY DID YOU DECIDE TO RESIGN AS CFO ON AUGUST
24 29TH OF 2002?

25 A WELL, ULTIMATELY I FELT THAT THE MONEY WE WERE TAKING

1 FROM CAROLINA INVESTORS WAS BEING TAKEN WITHOUT ANY
2 EXPECTATION OF EVER PAYING IT BACK. THAT WE WERE SIMPLY
3 TAKING MONEY FROM INVESTORS, FROM PEOPLE AND THEY WERE NOT
4 GOING TO SEE THEIR MONEY AGAIN.

5 Q AND DO YOU ADDRESS THOSE CONCERNS TO THE DEFENDANT?
6 A I DO.

7 Q ON THE AUGUST 29TH LETTER?

8 A SOMEWHERE IN THERE I DO.

9 Q CAN YOU SEE THAT SECOND PARAGRAPH?

10 A YES, ABOUT THE FORTH LINE DOWN AT THE END I SAID, I
11 HAVE ARRIVED AT THE OPINION THAT WE ARE COMPLETELY UNABLE
12 TO REPAY THESE INVESTORS AND THAT WE SHOULD IMMEDIATELY
13 STOP TAKING NEW DEPOSITS OR ROLLING OVER MATURITY NOTES AS
14 TODAY, IN MY OPINION. WE HAVE TRANSITIONED FROM A COMPANY
15 THAT IS ACCEPTING ADDITIONAL FINANCING IN ORDER TO EFFECT
16 A TURNAROUND TO A COMPANY THAT HAS NO REALISTIC
17 EXPECTATIONS OF EVER TURNING AROUND.

18 Q AND YOU GAVE THIS TO THE DEFENDANT?
19 A YES, MA'AM.

20 Q AND WHO ELSE WAS WORKING IN YOUR FAMILY AT THAT
21 POINT?

22 A I WAS THE ONLY ONE WORKING IN MY FAMILY.

23 Q AND HOW MUCH MONEY WERE YOU MAKING?

24 A AT THE TIME I HAD A SALARY OF \$160 THOUSAND.

25 Q DID YOU EVER RECEIVE BONUSES PERIODICALLY?

1 A AT THE END OF 2001, WHETHER IT WAS, THE END OF 2001
2 OR THE BEGINNING OF 2002 I RECEIVED A \$25 THOUSAND DOLLAR
3 BONUS. AT THE SAME TIME THE REST OF THE MANAGEMENT TEAM
4 RECEIVED BONUSES.

5 Q HOW MANY CHILDREN DO YOU HAVE?
6 A I HAVE FIVE.

7 Q DID YOU HAVE ANOTHER JOB WHEN YOU LEFT?
8 A I DID NOT.

9 Q OKAY. WHY DID YOU LEAVE THE COMPANY AND GIVE THAT
10 LETTER TO THE DEFENDANT?

11 A I COULDN'T CONTINUE--
12 MR. GRIFFIN: OBJECTION, YOUR HONOR, HAS BEEN ASKED.
13 THE COURT: OVERRULED, I WILL PERMIT HIM TO ANSWER
14 IT.

15 A I COULDN'T CONTINUE WORKING THERE KNOWING THAT WE
16 WERE TAKING MONEY FROM INDIVIDUAL INVESTORS THAT WE WERE
17 NEVER GOING TO PAY BACK.

18 Q AND DID YOU RELAY THAT TO THE DEFENDANT?
19 A I DID.

20 Q AND DID YOU HAVE ANY CONVERSATIONS WITH HIM ABOUT
21 THAT?

22 A I DID. HIS INITIAL REACTION WHEN I HANDED HIM THIS
23 AND TALKED TO HIM ABOUT IT WAS, HE WAS ANGRY BUT NOT AS
24 ANGRY AS I THOUGHT HE WOULD BE. HE ACCUSED ME OF
25 STRUTTING THIS KIND OF POISON AROUND SOME OTHER MANAGEMENT

1 TEAM MEMBERS. BUT ULTIMATELY HE SAID, YOU KNOW, I KNOW
2 WHERE WE ARE FINANCIALLY, I KNOW THAT WE ARE NOT GOING TO
3 BE REPAYING THESE INVESTORS AND I KNOW THAT I AM WORKING
4 ON A WAY TO GET OUT OF THIS THING TOO.

5 Q I AM GOING TO SHOW YOU WHAT HAS PREVIOUSLY BEEN MOVED
6 INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 125 AND THIS IS
7 GOING BACK IN TIME. CAN YOU PLEASE TELL THE JURY, IS THAT
8 YOUR SIGNATURE ON THAT?

9 A YES, IT IS.

10 Q AND WHAT IS THAT DOCUMENT?

11 A THIS IS THE DEED TO A PIECE OF REAL ESTATE OF
12 LEAPHART ROAD.

13 Q AND WHO DO YOU TRANSFER THAT LEAPHART ROAD PROPERTY
14 TO?

15 A IT IS BEING TRANSFERRED FROM HOMEGOLD TO RONNIE
16 SHEPPARD.

17 Q AND WHAT IS THE AMOUNT OF THAT?

18 A \$308 THOUSAND DOLLARS, \$308,593.

19 Q WHAT IS THE DATE THAT IS NOTARIZED?

20 A 29TH OF JUNE OF 2001.

21 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
22 STATE'S EXHIBIT NUMBER 99, CAN YOU PLEASE TELL THE JURY
23 WHAT THAT IS?

24 A THIS IS A CONSENT SIGNED BY THE DIRECTORS, BASICALLY
25 DIRECTING THE CORPORATION TO SELL THAT SAME PIECE OF

1 PROPERTY TO MR. SHEPPARD.

2 Q AND IS THAT SIGNED BY THE DEFENDANT?

3 A IT IS.

4 MS. EVANS: YOUR HONOR, AT THIS TIME I WOULD LIKE
5 MOVE IN STATE'S EXHIBIT NUMBER 99.

6 THE COURT: THE SAME OBJECTION AS YESTERDAY?

7 MR. GRIFFIN: YES, YOUR HONOR.

8 THE COURT: THOSE OBJECTIONS ARE OVERRULED, STATE'S
9 EXHIBIT NUMBER 99 IS ADMITTED.

10 (WHEREUPON, STATE'S EXHIBIT NO. 99 WAS ADMITTED AS
11 EVIDENCE.)

12 Q PLEASE TELL THE JURY WHAT THAT IS?

13 A THEY ARE ALL COPIES OF THE SAME CONSENT AND WE HAD
14 HAVE SOME OF THE DIRECTORS FAX THEIR SIGNATURE TO US.
15 I AM LOOKING AT, IT APPEARS THAT ALL OF THE DIRECTORS DID
16 SIGN THE CONSENT.

17 Q OKAY. AND WHAT IS, PLEASE TELL THE JURY WHAT THAT
18 IS. YOU DON'T HAVE TO READ IT TO THEM BUT IN GENERAL WHAT
19 IS THAT?

20 A WE OWNED THIS PIECE OF PROPERTY, THE BOARD HAD TO
21 GIVE THEIR CONSENT TO SELL THE PIECE OF PROPERTY. SINCE
22 RONNIE WAS ALSO A DIRECTOR THEY HAD TO GIVE THEIR CONSENT
23 TO SELL THE PIECE OF PROPERTY TO RONNIE.

24 Q AND WHAT IS THE DATE THAT IS SIGNED?

25 A THAT IS SIGNED ON THE 25TH OF JUNE OF 2001.

1 Q AND THEN YOU TRANSFERRED THAT PROPERTY AND THAT
2 PREVIOUS EXHIBIT THAT I SHOWED YOU?

3 A YES, AND THE DATE ON THAT, I CAN'T RECALL WHAT THE
4 DATE ON THAT WAS BUT A FEW DAYS LATER.

5 Q A FEW DAYS LATER. YOU PREVIOUSLY TALKED ABOUT A
6 MEETING THAT YOU AND MR. STERLING ATTENDED WITH CAROLINA
7 INVESTORS. DID YOU ALSO ATTEND CAROLINA INVESTORS BOARD,
8 PERIODICALLY ATTEND CAROLINA INVESTORS BOARD MEETINGS?
9

10 A I DID, QUARTERLY.

11 Q AND WHO DID YOU GO UP THERE WITH?

12 A GENERALLY IT WAS RONNIE AND FORREST AND JACK STERLING
13 WOULD MEET US THERE BECAUSE HE WAS COMING FROM GREENVILLE.
14 SO, IT WAS USUALLY THE FOUR OF US AND THEN THE BOARD OF
15 CAROLINA INVESTORS.

16 Q AND IN GENERAL TERMS DID YOU, GOING INTO 2002 WERE
17 YOU BRINGING THEM THE FINANCIAL STATEMENTS OF HOMEGOLD?

18 A AT SOME POINT WE STOP BRINGING THE FINANCIAL
19 STATEMENTS OF HOMEGOLD. WE REFERRED TO THEM, WE WOULD
20 MENTION THAT THEY WERE AVAILABLE ON LINE OR WHERE EVER
21 PUBLICLY TRADED FINANCIALS ARE AVAILABLE. BUT WE HAD
22 FOCUSED, I FOCUSED ON THE CAROLINA INVESTORS FINANCIAL
23 STATEMENTS AND THEN WE FOCUSED THE MAJORITY OF THE MEETING
24 ON WHAT WE WERE DOING WITH THE BUSINESS TO MAKE IT WORK.

25 Q AND WHAT DID THE DEFENDANT RELAY AT THE CAROLINA
INVESTORS BOARD MEETINGS?

1 A WELL, RONNIE AND FORREST WOULD BOTH--

2 Q NOT WHAT FORREST BUT JUST WHAT RONNIE WOULD TALK
3 ABOUT.

4 A RONNIE WOULD TALK ABOUT THE IMPROVEMENTS THAT WE WERE
5 MAKING IN THE PRODUCTION, THE WAY WE WERE RETURNING TO
6 PROFITABILITY, WE ARE AIMING TO RETURN TO PROFITABILITY.
7 AND THE POSITIVE THINGS WE WERE DOING TO FIX THE COMPANY.

8 Q WOULD HE ALSO TALK ABOUT THOSE PROJECTIONS WHAT WE
9 PREVIOUSLY TALKED ABOUT?

10 A YES.

11 Q AND IN 2002*WAS HE MEETING THOSE PROJECTIONS?

12 A THE PROJECTIONS WERE NEVER MET. AS FAR AS I KNEW AS
13 LONG AS I WAS THERE, SO WE NEVER REALLY MET PROJECTIONS.

14 Q AND YOU TENDERED YOUR RESIGNATION AUGUST 29TH OF
15 2002?

16 A YES.

17 Q AND HOW LONG WERE YOU OUT OF A JOB, MR. MARTIN?

18 A I HAD SOME WORK WITH VARIOUS COMPANIES. I WORKED
19 WITH RBMG ON SOME PROJECTS BUT I GOT MY PERMANENT JOB IN
20 NOVEMBER OF '03 SO I WAS OUT OF PERMANENT WORK FOR A
21 LITTLE OVER A YEAR.

22 Q LET ME JUST GO BACK TO, YOU PREVIOUSLY TALKED A
23 LITTLE BIT ABOUT SPENDING AND THINGS THAT WERE GOING ON.
24 AS CFO WAS ANYBODY GOING AROUND YOU IN THE ACCOUNTING
25 DIVISION?

1 A IT HAPPENED, YES. I AM NOT AWARE, I AM SURE, OF MANY
2 OF THE INSTANCES BUT I BECAME AWARE OF SOME INSTANCES.

3 Q PLEASE TELL THE JURY ABOUT SOME OF THE INSTANCES THAT
4 YOU BECAME AWARE OF.

5 A WELL, SOME OF THEM WEREN'T THAT BIG. SOME OF THEM, I
6 HAD AN AP CLERK NAMED TONYA BRAZELLE WHO IS RELATED TO
7 RONNIE AND IT OCCURRED ON OCCASIONS, I DON'T KNOW HOW
8 OFTEN, WHERE HE WOULD GO DIRECTLY TO HER AND HAVE HER
9 WRITE A CHECK FOR SOMETHING HE NEEDED OR WANTED. AND I
10 BECAME AWARE OF THAT OCCASIONALLY. NOW, NONE OF THOSE
11 INSTANCES THAT I BECAME AWARE OF WERE ANYTHING HUGE, JUST
12 THINGS HERE AND THERE THAT HE NEEDED. AND I CAN'T RECALL
13 THAT ANY OF THEM WERE NOT BUSINESS RELATED BUT IT HAPPENED
14 A LOT. ON ONE OCCASION THOUGH, THIS IS A LITTLE MORE
15 SIGNIFICANT. HE HAD GONE AROUND TO ME TO SHANE SMITH WHO
16 REPORTED TO ME TO OBTAIN SOME LOANS. ONE OF THE LOANS--

17 Q LET ME STOP YOU AND SHOW YOU. I WANT TO SHOW YOU
18 WHAT HAS BEEN MOVED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 64 AND 65. CAN YOU PLEASE REVIEW THOSE.

20 A THIS FIRST ONE, 64 IS A, THE TOP COPY IS A CHECK FROM
21 HOMEGOLD TO RONNIE FOR \$200 THOUSAND DOLLARS AND IT IS
22 ACCOMPANIED BY A LOAN DOCUMENT.

23 Q AS CFO WERE YOU MADE AWARE OF THOSE?

24 A I WAS NOT AWARE OF THESE, THESE WERE SIGNED BY
25 FORREST FERRELL. AND THEN THIS NEXT ONE IS, WELL, IT IS

1 ALSO \$200 THOUSAND AND IT IS A DIFFERENT DATE SO IT IS A
2 DIFFERENT \$200 THOUSAND. I CAN'T TELL THE SIGNATURE OF
3 WHO IT WAS REQUESTED BY BUT IT WAS SIGNED BY FORREST
4 FERRELL TO RONNIE SHEPPARD, \$200 THOUSAND DOLLAR CHECK
5 WITH A VERY, A ONE PARAGRAPH PROMISSORY NOTE ATTACHED
6 SIGNED BY RONNIE SHEPPARD.

7 Q LET ME DRAW YOUR ATTENTION, WHAT HAS HE PLEAD TO THE
8 PROMISSORY NOTE?

9 A OKAY. HOMEGOLD, INC. WILL HOLD HIS COLLATERAL, A
10 CERTAIN SAVINGS CERTIFICATE FROM CAROLINA INVESTORS, INC.
11 WITH ACCOUNT NUMBER 53722. SO, APPARENTLY HE HAD INVESTED
12 \$200 THOUSAND DOLLARS AT CAROLINA INVESTORS AND HE WAS
13 GETTING IT BACK THROUGH THIS LOAN. I WAS NOT AWARE OF
14 THIS.

15 Q AND YOU WERE CFO AT THE TIME?

16 A YES, I WAS.

17 Q SHOULD SUCH THINGS COME TO YOU?

18 A ABSOLUTELY, THEY SHOULD OF BEEN AT LEAST, I SHOULD OF
19 BEEN MADE AWARE OF IT.

20 Q AND WHAT IS THE DATE ON THAT?

21 A THIS IS DATED 4/18/02.

22 Q AND WERE YOU AWARE WHEN YOU WERE PREPARING THE
23 PROSPECTUS FOR CAROLINA INVESTORS AND I DRAW YOUR
24 ATTENTION TO STATE'S EXHIBIT NUMBER 50. HOW MUCH IN THAT
25 PROSPECTUS DID RONNIE SHEPPARD INVEST IN CAROLINA

1 INVESTORS?

2 A \$200 THOUSAND DOLLARS.

3 Q THE FOLLOWING MONTH, THE SAME MONTH THAT IS GOING OUT
4 HE GETS A LOAN FOR \$200 THOUSAND DOLLARS?

5 A IT APPEARS TO BE ABOUT EIGHT OR TEN DAYS LATER.

6 Q OKAY. AND THAT WAS DONE WITHOUT YOUR KNOWLEDGE?

7 A CORRECT.

8 Q AND A SUBSEQUENT \$200 THOUSAND DOLLARS?

9 A CORRECT, ON JULY 29TH.

10 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
11 STATE'S EXHIBIT NUMBER 66. WHAT IS THE DATE OF THAT?

12 A APRIL 1ST OF 2002.

13 Q AND IS THE TIME YOU ARE PREPARING A PROSPECTUS TO GO
14 OUT, IS THAT THE DATE OF THE PROSPECTUS?

15 A YES, AROUND THAT DATE.

16 Q AND WHAT DOES THE, WAS THAT APPROVED BY YOU AS CFO?

17 A THIS PARTICULAR ONE APPEARS TO HAVE BEEN APPROVED BY
18 SHANE SMITH, THE PAYMENT AND THE ACTUAL EXPENSE REPORT IS
19 APPROVED BY KAREN MILLER.

20 Q OKAY. AND HOW MUCH IS THAT FOR?

21 A THIS IS FOR \$7,300 DOLLARS FOR 20,000 MILES OF
22 PERSONAL AUTOMOBILE USAGE.

23 Q AND WHAT ARE THE DATES OF THAT?

24 A HE DOESN'T GIVE A DATE ON THE USAGE BUT HE TURNED IN
25 THE EXPENSE REPORT ON 3/29 AND THE CHECK IS DATED 4/1.

1 Q TURN TO PAGE 2, IS THERE A DATE DOWN AT THE BOTTOM
2 FOR THE MILAGE?

3 A OKAY, IT SAYS FOR THE PERIOD 2000 THROUGH JANUARY,
4 JANUARY OF 2000 MAYBE THROUGH APRIL OF 2000. IT IS NOT
5 REAL CLEAR BUT IT IS AN AGREEMENT.

6 Q AND THAT CHECK IS ISSUED THE SAME DATE THE PROSPECTUS
7 CAME OUT?

8 A APPROXIMATELY, YES, I CAN'T REMEMBER THE EXACT DATE
9 OF THE PROSPECTUS.

10 Q I WILL SHOW YOU STATE'S EXHIBIT 67. WHAT IS THE DATE
11 OF THAT?

12 A THIS IS DATED JANUARY 31ST.

13 Q OF WHAT YEAR?

14 A OF '02.

15 Q WHAT IS THAT FOR?

16 A IT IS A \$9,000 DOLLAR CHECK FOR, I CAN'T REALLY TELL,
17 IT IS ATTACHED TO AN EXPENSE REPORT WITH NO, OH,
18 FURNITURE. IT SAYS FURNITURE FOR RONNIE'S OFFICE APPROVED
19 BY KAREN MILLER.

20 Q OKAY.

21 A I DON'T KNOW IF I WAS AWARE OF THAT OR NOT, I MAY OF
22 BEEN.

23 Q AND LET ME SHOW YOU THE LAST ONE, STATE'S EXHIBIT
24 NUMBER 68. WILL YOU PLEASE LOOK AT THAT AND WHAT WAS THAT
25 FOR?

1 A THIS IS A \$17,000 DOLLAR CHECK DATED 3/29/02. THE
2 REASON FOR THE CHECK REQUEST IS TO PURCHASE WALLPAPER FOR
3 THE REED AVENUE OFFICE.

4 Q AND WHAT IS THE DATE OF THE CHECK?

5 A THE DATE OF THE CHECK IS APRIL 1ST OF 2002.

6 Q DOES IT SHOW ANY EXPENSE WAS INCURRED FOR THE
7 WALLPAPER?

8 A THE DATE WAS SUBMITTED WAS 3/29, WHEN HOMEGOLD
9 RENOVATED THE SECOND FLOOR OF REED AVENUE, IT DOESN'T
10 REALLY SAY A DATE.

11 Q DO YOU REMEMBER WHEN?

12 A I DON'T, LET'S SEE, IF IT WAS WHEN WE MOVED TO REED
13 AVENUE THAT WOULD OF BEEN, IT SAYS LAST MAY SO I AM
14 ASSUMING THAT IS THE TIME WE WERE MOVING, MAY OF '01.

15 Q MAY OF '01. AND AGAIN, THE DATE OF THAT CHECK?

16 A APRIL THE 1ST OF '02.

17 MS. EVANS: I BEG THE COURT'S INDULGENCE. I HAVE NO
18 FURTHER QUESTIONS OF THIS WITNESS.

19 THE COURT: MR. GRIFFIN.

20 CROSS-EXAMINATION

21 BY MR. GRIFFIN:

22 Q GOOD AFTERNOON, MR. MARTIN. WE HAVE NEVER HAD A
23 CHANCE TO SPEAK BEFORE, HAVE WE?

24 A NO.

25 Q YOU RESIGNED, SUBMITTED YOUR RESIGNATION LETTER

1 AUGUST 29TH OF 2002?

2 A THAT'S CORRECT.

3 Q AND THAT WAS THE DAY YOU WERE GOING TO BE FIRED FROM
4 HOMEGOLD, IS THAT CORRECT?

5 A I DON'T KNOW.

6 Q YOU DON'T KNOW THAT YOU WERE ABOUT TO BE FIRED ON
7 THAT DAY. YOU MEAN IT BEING MENTIONED HERE IN THIS COURT
8 IS THE FIRST TIME YOU HAVE EVER HEARD OF IT?

9 A NO, I HAVE HEARD OF IT SINCE THEN, YES.

10 Q AFTER YOU LEFT HOMEGOLD YOU SAID THAT YOU WERE
11 CONCERNED THAT PEOPLE WERE GOING TO BLAME YOU FOR
12 HOMEGOLD'S PROBLEMS, IS THAT CORRECT?

13 A I WAS CONCERNED THAT SOME MIGHT PUT SOMETHING ON ME,
14 YES.

15 Q AND THE RESULT OF THOSE CONCERNS, YOU WENT DOWN TO
16 THE ATTORNEY GENERALS OFFICE WITH A LAWYER AND NEGOTIATED
17 SOME PROFFER AGREEMENT, I THINK THEY CALL IT?

18 A THAT ISN'T EXACTLY HOW IT HAPPENED. THEY CALLED ME
19 TO TESTIFY OR TO GIVE INFORMATION ABOUT THE INVESTIGATION
20 THEY WERE DOING.

21 Q AND THAT YOU TESTIFIED ON MORE THAN ONE OCCASION FOR
22 THE ATTORNEY GENERALS OFFICE IN THE GRAND JURY?

23 A I TESTIFIED, YES I DID, YES.

24 Q AND THEN YOU ALSO TESTIFIED FOR THE SEC?

25 A I HAVE.