THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe
Master-in-Equity, Fifteenth Judicial Circuit

Case No.: 2009-CP-26-620
Appellate Case No.: 2016-001075

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a South Carolina Corporation .....Plaintiffs,

vs.

Arthur Wayne Vereen, Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, and Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust, ... Defendants,

AND

Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc. and 29th Place Developers, Inc., ... Third-Party Plaintiffs,

vs.

E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually, ...Third-Party Defendants.

OF WHOM Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc., Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction Company, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust and 29th Place Developers, Inc. are ..... Appellants,

AND

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a South Carolina Corporation and E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually are ..... Respondents.

RECORD ON APPEAL

James K. Gilliam, Esquire
Henrietta U. Golding, Esquire
MCNAIR LAW FIRM, P.A.
Post Office Box 336
Myrtle Beach, SC 29578-0336
(843) 444-1107
ATTORNEYS FOR APPELLANTS

Julian M. DuRant, Esquire
Frank H. DuRant, Esquire
DURANT & DURANT, P.A.
2107 Farlow Street
Myrtle Beach, SC 29577
(843) 448-1541
ATTORNEYS FOR ELLIS E. SMITH, INDIVIDUALLY, AND ON BEHALF OF A & E CONSTRUCTORS AND CONSULTANTS, INC.

J. Jackson Thomas, Esquire
THOMAS & BRITTAIN, P.A.
Post Office Box 1290
Myrtle Beach, SC 29578
(843) 692-2628
ATTORNEY FOR E. SMITH AND SONS CONSTRUCTION, LLC, EES CONSTRUCTION AND CONSULTING, INC., AND ELLIS E. SMITH, INDIVIDUALLY

INDEX

ORDERS:

Order of Reference signed by the Honorable Larry J. Hyman, Jr. dated July 23, 2009. 9

"Pre-Trial Order" of Judge Howe dated October 15, 2010 and recorded October 18, 2010 11

Order signed by the Honorable Cynthia Graham Howe dated March 23, 2015 and entitled "Judgment Against the Defendants Arthur W. Vereen, individually and as trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, Individually, and as trustee of the Linda C. Vereen Residence Trust, Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, and Arthur Vereen Construction Company, Inc., Jointly and Severally." 17

Form 4 signed by the Honorable Cynthia Graham Howe dated March 23, 2015 59

Nunc Pro Tunc Order Amending Judgment Total signed by the Honorable Cynthia Graham Howe dated March 24, 2015 61

Form 4 signed by the Honorable Cynthia Graham Howe dated March 25, 2015 63

Order Disposing of Post-Trial Motions signed by the Honorable Cynthia Graham Howe dated April 25, 2016 65

This Court's September 22, 2016 Order 71

This Court's March 22, 2018 Order.....75

MOTIONS:

Defendants' and Third-Party Plaintiffs' Motions to Reconsider Order dated April 20, 2015.....77

Defendants' Motion to Reopen Hearing for Taking Testimony and Evidence Effecting Subject Matter and Relief Sought in Case, dated August 21, 2014, and attached exhibits A & B attached thereto 159

Motion to Dismiss Appeal with attached exhibits evidencing service of Judgments and Form 4s 199

PLEADINGS:

Complaint of Ellis E. Smith 417

Answer, Counterclaims, and Third Party Complaint filed by Appellants 458

Reply of Third-Party Complaint and Answer to Counterclaims 470

TRANSCRIPTS:

Complete and entire trial transcripts before the Honorable Cynthia Graham Howe. According to the information provided, the complete and entire trial transcripts include testimony taken on:

February 15 and 16, 2011 480
Testimony of Arthur W. Vereen:
Direct Examination by Mr. Durant 486
Cross Examination by Ms. Cook 707
Cross Examination by Mr. Thomas 716
Testimony of Susan E. Brady
Direct Examination by Mr. Durant 717
Cross Examination by Ms. Cook 721
Re-Direct Examination by Mr. Durant 729
Testimony of Ellis Smith
Direct Examination by Mr. Durant 871
Cross Examination by Ms. Cook 1015

Transcript of Hearing; June 13, 14, and 16, 2011 1269
Continued Testimony of Susan Brady:
Continued Direct Examination by Mr. Durant 1273
Continued Cross Examination by Ms. Cook 1344
Re-Direct Examination by Mr. Durant 1609
Continuing Testimony of Ellis Smith 1614
Cross Examination by Ms. Cook 1618

October 11, 12, and 13, 2011 1768
Testimony of Ellis Smith
Direct Examination by Ms. Cook 1776
Cross Examination by Mr. Durant 2018
Testimony of Elizabeth Sisson
Direct Examination by Ms. Cook 2039

August 27, 28, 29, and 30, 2012 2440
Testimony of Arthur Wayne Vereen 2500
Direct Examination by Mr. Durant 2500
Cross Examination by Ms. Cook 2722
Cross Examination by Mr. Thomas 2798
Re-Cross Examination by Ms. Cook 2823
Re-Cross Examination by Mr. Thomas 2826
Re-Re-Cross Examination by Ms. Cook 2858
Re-Re-Cross Examination by Mr. Thomas 3068
Re-Re-Cross Examination by Ms. Cook 3092

November 17, 2014 Transcript of hearing before the Honorable Cynthia Graham Howe.....3117

May 11, 2015 Transcript of hearing before the Honorable Cynthia Graham Howe 3155

EXHIBITS:

Defendant's Exhibit #15: Check from Vereen in amount of $50,000 3235

Defendant's Exhibit #18: E. Smith and Sons Construction, LLC filing with South Carolina Secretary of State 3236

Defendant's Exhibit #19: E. Smith and Sons Construction, LLC application to LLR.....3237

Defendant's Exhibit #21: Land Sales Contract between 29th Place Developers, Inc. and Ellis E. Smith.....3244

Defendant's Exhibit #22: Cost of Construction Materials.....3250

Defendant's Exhibit #24: Applications for Permit for construction for Perez, Davis, McMillan, and Sealy.....3252

Defendant's Exhibit #41: Building Permit for Condolux 3257

Defendant's Exhibit #48: Building Permit for Condolux 3258

Defendant's Exhibit #49: Documents reflecting work performed for Cari Ann Davis.....3261

Defendant's Exhibit #50: Certificate of Occupancy for Cari Ann Davis' house 3285

Defendant's Exhibit #51: Documents reflecting work performed for Robert Sealy 3286

Defendant's Exhibit #53: Documents reflecting work performed for McMillans 3298

Defendant's Exhibit #54: Certificate of Occupancy for McMillans.....3312

Defendant's Exhibit #55: Documents reflecting work performed for Perez 3313

Defendant's Exhibit #59: Contracting license to E. Smith and Sons Construction, LLC 3321

Defendant's Exhibit #65: Agreement signed by Ellis Smith on behalf of A&E 3323

Defendant's Exhibit #66: Building Permit for Condolux 3325

Defendant's Exhibit #67: Building Permit for Condolux 3326

Defendant's Exhibit #68: Building Permit for Condolux 3327

Defendant's Exhibit #69: Building Permit for Condolux 3328

Defendant's Exhibit #70: Building Permit for Condolux 3329

Defendant's Exhibit #71: Building Permit for Condolux 3330

Defendant's Exhibit #72: Building Permit applied for by Smith for Capital Partners IV, LLC 3331

Defendant's Exhibit #74: Documents reflecting loan to Smith 3332

Defendant's Exhibit #87: Letter from Turner Padgett dated July 30, 2007 3337

Defendant's Exhibit #88: Ledger reflecting payments made in 2008 on behalf of A&E 3339

Defendant's Exhibit #89: Ledger reflecting payments made in 2008 on behalf of A&E 3351

Defendant's Exhibit #102: Mr. Vereen's Application to be A&E's Qualifying Party signed Oct. 2, 2017 3353

Plaintiff's Exhibit #1: 2004 Notebook by Susan Brady, CPA 3357

Plaintiff's Exhibit #2: 2005 Notebook by Susan Brady, CPA 3515

Plaintiff's Exhibit #3: 2006 Notebook by Susan Brady, CPA 3705

Plaintiff's Exhibit #4: 2007 Notebook by Susan Brady, CPA 4025

Plaintiff's Exhibit #6: Business Records of A&E, job ledgers, and index of job records 4216
- Book 2 4216
- Book 3 4882
- Book 5 5601
- Book 6 5998

Plaintiff's Exhibit #7: Complete deposition of Carrie Drewett admitted into evidence and A&E's written general ledger 6515
- Exhibit 1 6682
- Exhibit 2 6846
- Exhibit 3 7206
- Exhibit 4 7496
- Exhibit 5 7700
- Exhibit 6 7798
- Exhibit 7 7889
- Exhibit 8 7934

Exhibit 9 8109
Exhibit 10 8112
Exhibit 11 8144
Exhibit 12 8148
Exhibit 13 8150
Exhibit 14 8162
Exhibit 15 8163
Exhibit 16 8164
Exhibit 17 8170
Exhibit 18 8178
Exhibit 19 8179
Exhibit 20 8180
Exhibit 21 8183
Exhibit 22 8184
Exhibit 23 8185
Exhibit 24 8186
Exhibit 25 8187
Exhibit 26 8188
Exhibit 27 8212
Exhibit 28 8218
Exhibit 29 8224
Exhibit 30 8227
Exhibit 31 8231
Exhibit 32 8233
Exhibit 33 8297
Exhibit 34 8305
Exhibit 35 8306
Exhibit 36 8312
Exhibit 37 8316
Exhibit 38 8324
Exhibit 39 8327
Exhibit 40 8329
Exhibit 41 8331
Exhibit 42 8337
Exhibit 43 8368
Exhibit 44 8370
Exhibit 45 8382
Exhibit 46 8383
Exhibit 47 8395
Exhibit 48 8398

Plaintiff's Exhibit #8: Incorporation Documents of A&E, Organizational Meeting, Sub S Election; Initial Deposit Ticket 8401

Plaintiff's Exhibit #9: Demand Letter of Smith 8405

Plaintiff's Exhibit #10: Licensing and Incorporation Documents for all parties.....8428

Plaintiff's Exhibit #11: List of Permits from the City of Myrtle Beach for A&E and Grand Strand Builders.....8444

Plaintiff's Exhibit #12: The Willoughby Job Documents.....8456

Plaintiff's Exhibit #13: The Kempe Job Documents.....8666

Plaintiff's Exhibit #14: Dr. Erol Lane Job Documents a/k/a South Strand Cardiology.....8694

Plaintiff's Exhibit #15: Park Place Properties, LLC Job, Pointe Marsh and Black Pearl Putt Job Documents.....8717

Plaintiff's Exhibit #16: Parkway Offices, LLC Job Documents.....8846

Plaintiff's Exhibit #17: Plantation Lakes Job Documents.....8860

Plaintiff's Exhibit #18: Financial Statements for Mr. & Mrs. Vereen from NBSC.....8888

Plaintiff's Exhibit #20: Arthur Vereen Const. Company and A&E Business records (contained in Box 20 as a group).....8893

Plaintiff's Exhibit #21: bank checking account records for A&E from 12/31/07 to 12/31/08.....12178

Plaintiff's Exhibit #24: HUD-1 statements from Park Place Pointe Marsh closings.....12281

Plaintiff's Exhibit #25: Check from daughter Elizabeth Sisson dated 10-28-08 in the amount of $35,803.10 payable to and deposited into Park Place Properties.....12284

Plaintiff's Exhibit #26: Letters regarding 2006 Worker's Comp. audit of A&E; refund check of $49,221.00 payable to A&E and deposit record of deposit of check into account of Park Place Properties.....12285

Plaintiff's Exhibit #27: wages paid to Arthur Vereen and Linda Vereen as reported on personal tax returns showing payment of wages from A&E: $30,000.00 in 2004; $52,000 in 2005; $70,800 in 2006; $70,800 in 2007; $96,566.40 from 1-2008 until 3-18-09 from Company payroll record.....12291

Plaintiff's Exhibit #28: Defendants' Answer lo Plaintiffs Interrogatories.....12306
Plaintiff's Exhibit #30: Deposition of Linda Vereen.....12351

Plaintiff's Exhibit #31: Business checks.....12412

Plaintiff's Exhibit #32: Single check from Whitley for $11,533.00 payable to A&E and deposited into Park Place Properties acct.....12427

Plaintiff's Exhibit #33: Settlement Statement Lot 20, Point Marsh 12428

Plaintiff's Exhibit #34: Settlement Statement Lot 21, Point Marsh 12431

Plaintiff's Exhibit #35: Smith Sapp's A&E accounts receivable as of 12/31/2005.....12435

Plaintiff's Exhibit #36: Smith Sapp's A&E accounts receivable as of 12/31/2004.....12439

Plaintiff's Exhibit #37: construction check from First Palmetto for $79,855.06 payable to A&E and Park Place Properties.....12440

Plaintiff's Exhibit #38: A&E jobs outstanding as of 12-31-06.....12441

Plaintiff's Exhibit #39: Invoice from Stock Builders and A&E check payable for $22,000 for material for Park Place Properties.....12442

Plaintiff's Exhibit #40: Summary Analysis of Non-Corporate Activity of A&E Constructors and Consultants prepared by Susan Brady, CPA (Has been called Plaintiff s Exhibit 5, contains "Consented Amounts") 12453

Plaintiff's Exhibit #40-A: "Amended Summary Analysis of Non-Corporate Activity of A&E Constructors and Consultants with Amended Proposed Statement of Assets, Liabilities and Equity as of 12.31.2007" reducing Defendants' accounts receivables and Ms. Brady's bill of $142,268.00 from Brady. Sent post-trial at direction of Court and served on all parties (no original exhibit number, mentioned in the Final Judgment) 12535

OTHER MATERIALS

April 6, 2015 Letter from Attorney Cook to Judge Howe regarding missing page 37 (no exhibit number).....12537

Exhibit 1 to May 2015 Transcript: Joint Post Trial Brief sent to Judge Howe as Ordered 12538

Letter from DuRant, Attorney for Respondents, dated March 25, 2015 serving Form 4 and Judgment upon the Appellants, with attachments.....12544

Letter from DuRant to Appellants dated March 27, 2015 serving Form 4 and Nunc Pro Tunc Order upon Appellants with attachments.....12593

Affidavit from DuRant dated July 20, 2015 with attached certificates of service, filed with Court of Appeals supporting Motion to Dismiss Appeal.....12600

Letter from Cook, attorney for Appellants, dated April 20, 2015, serving Respondents with attached Motion for Reconsideration.....12605

Affidavit of Kathryn M. Cook 12688

Certificate of Counsel 12737

OFFICE AND GONE AND PAID IT.

Q WAS IT A HANDWRITTEN CHECK?

A EXCUSE ME?

Q IT WAS A HANDWRITTEN CHECK?

A YES. HE PAID THE BILL AND ON THE TOP OF IT, HE DIVIDED 22,000 AND WHATEVER WAS INTO THREE DIFFERENT THINGS AND ASSIGNED THE THREE DIFFERENT JOBS AT THE WILLOUGHBY PLACE. SO, HE TRIED TO TRANSFER THIS MONEY, THIS PAYMENT, THAT WAS SUPPOSED TO BE FOR POINTE MARSH TO WILLOUGHBY PLACE SO IT WAS AN EXTRA CHARGE TO WILLOUGHBY PLACE THAT SHOULDN'T BE THERE. IT SHOULD HAVE BEEN ASSIGNED TO POINTE MARSH.

Q WILLOUGHBY PLACE WAS A FIXED PRICE JOB?

A YES. THAT WAS A CONTRACT JOB.

Q SO YOU COULD BURY THAT INVOICE IN WILLOUGHBY PLACE, COULDN'T YOU, SIR?

A YES, SIR.

Q THEN POINTE MARSH WOULD NOT BE CHARGED FOR THAT BILL, IS THAT CORRECT?

A THAT'S RIGHT. IT WAS PUT ON THE GENERAL LEDGER IN WILLOUGHBY PLACE.

Q WAS THAT IMPROPER?

A PLAIN STEALING IS WHAT IT IS.

Q YOU COULD LOOK AT THE INVOICE AND TELL WHAT HE

HAD DONE?

A YES, SIR.

Q AND YOU COULD LOOK AT WHAT HE'S WRITTEN ON THE TOP AND SEE WHAT HE WAS TRYING TO DO?

A YES, SIR.

Q NOW, HE'S ADMITTED I THINK IN HIS TESTIMONY THAT, THAT WAS AN IMPROPER EXPENSE?

A I THINK HE DID.

Q WHAT DO YOU THINK ABOUT THAT, MR. SMITH? DOES THAT UPSET YOU TO FIND THAT HE DID THAT?

A BY ALL MEANS.

Q IN OTHER WORDS, HE HADN'T PAID YOU FOR ANYTHING AT POINTE MARSH ANYWAY?

A HE PAID FOR SOME OF THE STUFF AT POINTE MARSH. HE WAS JUST HUNDREDS OF THOUSANDS OF DOLLARS BEHIND IN PAYMENTS.

Q CORRECT. SO, HE WASN'T PAYING YOU IN FULL AND NOW HE'S --

A TACKING IT ON SOMEWHERE ELSE.

Q DOES IT MAKE YOU WORRY ABOUT HOW MUCH YOU DIDN'T CATCH, SIR?

A I HAD SAT WITH SUSAN AND WE DISCUSSED, YOU KNOW, UNLESS WE WENT INTO THE OFFICE AND WENT THROUGH EVERY SINGLE INVOICE IN ABOUT TEN DIFFERENT FILE CABINETS, I REALLY HAVE NO CONCEPTION OF JUST

HOW MUCH IS GONE. I SERIOUSLY THINK THIS IS A BIG CHUNK OF IT, BUT I DON'T THINK IT'S ALL OF IT. I THINK THERE'S A LOT MORE GONE THAT WE DIDN'T FIND.

Q HAVE YOU LOOKED AT THE INSURANCE FILE THAT YOU HAVE AT THE OFFICE?

A I LOOKED AT THE INSURANCE FILE THAT WE GOT FROM PEOPLE'S UNDERWRITERS, YES.

Q TELL ME, SIR, WHAT WAS A&E PAYING FOR OTHER THAN A&E'S OWN BILLS?

A WE WERE PAYING FOR ALL THE INSURANCE ON ALL OF THE VEHICLES THAT BELONG TO MR. VEREEN. WE PAID INSURANCE FOR ALL THE OFFICES THAT PARKWAY OFFICES OWNED.

Q MORE THAN ONE YOU MEAN?

A EXCUSE ME?

Q THERE'S MORE OFFICES THEN THE ONE YOU ACTUALLY OCCUPY?

A NO. WE OCCUPIED ONE AND THERE WAS 1, 2, 3, 4 OTHER ONES.

Q YOU WERE PAYING THE ENTIRE LIABILITY FOR ALL OF THEM?

A YES, SIR. WE WERE PAYING TAXES... THE TAXES ON THEM TOO.

Q EACH YEAR?

A YES, SIR.
Q AND WERE YOU PAYING ANY OTHER INSURANCE EXPENSES FOR ANY ENTITY OTHER THAN A&E OUT OF THAT ACCOUNT?
A EVERYONE WE PAID; PARKWAY OFFICES, THAT WAS WHO THE BILL SHOULD HAVE BEEN TO FOR THE OFFICE BUILDING BECAUSE WE DIDN'T OWN IT. PARKWAY OFFICES, PARK PLACE PROPERTIES. WE PAID THE STUFF OUT OF POINTE MARSH, THE LIABILITY INSURANCE, WIND AND HAIL, EVERYTHING AND ANYTHING HE COULD PAY.
Q DID HE EVER TELL YOU THAT HE WAS GOING TO DO THIS?
A NO.
Q WERE YOU SURPRISED?
A YES.
Q DID YOU WANT TO SPEND THE MONEY THAT WAY?
A I DON'T UNDERSTAND WHY WE SPENT IT THAT WAY, YOU KNOW. IF IT WAS SOMETHING THAT WE USED, IF IT WAS SOMETHING THAT WAS OURS, YES. INSURANCE, THAT STUFF, BUT WHY PAY FOR SOMEBODY ELSE'S STUFF. IT JUST DOESN'T MAKE SENSE.
Q LET ME ASK YOU, THERE WERE SOME ALLEGATIONS THAT YOU OWED HUNDREDS OF THOUSANDS OF DOLLARS FOR RENT FOR YOUR SPOT IN THESE RENTAL SPACES

BEHIND... DID YOU EVER HAVE ANY AGREEMENT AT ALL WITH MR. VEREEN THAT YOU WERE GOING TO PAY HIM ALL THIS MONEY FOR HIS PROPERTY?

A THE ONLY THING THAT WAS EVER DISCUSSED IS THE RENT THAT WE WERE GOING TO PAY ON THE OFFICES AND IT WAS THE SAME THING THAT AUTHOR VEREEN WAS PAYING.

Q HOW MUCH WAS THAT?

A $600 A MONTH.

Q AND THERE WERE SOME PAYMENTS MADE?

A YES, BUT THEY WEREN'T ALL MADE. THEY WERE MADE FOR THE FIRST 7, 8 MONTHS, MAYBE A YEAR.

Q BUT THERE WERE SOME CHECKS MADE FOR LARGER AMOUNTS?

A OH, YES. MANY.

Q AND PARKWAY OFFICES ACTUALLY GOT A LOT OF MONEY FROM THE COMPANY, DIDN'T THEY?

A YES.

Q BUT YOU DIDN'T KNOW ABOUT?

A THAT'S CORRECT.

Q DID YOU EVER HAVE ANY DISCUSSION WITH MR. VEREEN CONCERNING SOME KIND OF TRIPLE NET LEASE? DO YOU KNOW WHAT THAT IS?

A I DON'T EVEN KNOW WHAT THAT IS.

Q DID HE EVER TELL YOU THAT YOU WERE PAYING TAXES

AND INSURANCE FOR ALL THAT PROPERTY?

A NO.

Q DID HE EVEN DISCUSS IT WITH YOU?

A I DON'T UNDERSTAND WHAT A TRIPLE NET LEASE WOULD HAVE TO DO WITH PROPERTY THAT WE DIDN'T HAVE ANYTHING TO DO WITH. WHAT IS A TRIPLE NET LEASE?

Q THAT'S WHERE A TENANT WOULD PAY FOR THE TAXES AND THE INSURANCE, IN ADDITION, TO A MONTHLY RENTAL PAYMENT. THE REAL ESTATE TAXES AND THE LIABILITY INSURANCE?

A THAT WOULD BE FOR THE SPACE THAT WE'RE IN?

Q CORRECT.

A WE PAID ALL OF IT. WE PAID THE TAXES AND INSURANCE ON THE WHOLE DEVELOPMENT, NOT JUST OUR OFFICE.

Q BUT YOU DIDN'T AGREE TO DO THAT?

A I DIDN'T AGREED TO DO ANYTHING. I DIDN'T KNOW WHAT A TRIPLE NET LEASE WAS. I'VE NEVER HEARD OF THAT.

Q DID YOU EXPECT THAT HE WOULD TELL YOU THAT BEFORE HE WOULD DO SOMETHING LIKE THAT?

A YES, I WOULD.

Q THAT OWNER WAS PARKWAY OFFICES, LLC?

A YES, SIR.

Q THAT'S HIS WIFE, ISN'T IT?
A I THINK.
Q LINDA VEREEN?
A I THINK SHE OWNED ONE PIECE OF PROPERTY AND THE OTHER PIECE OF THE PROPERTY IS OWNED BY, I MEAN, PARKWAY OFFICES, LLC LINDA VEREEN OWNS THE OTHER ONE.
Q SHE OWNS ALL OF PARKWAY OFFICES, CORRECT?
A SHE OWNS THE CONGLOMERATION. ONE IS INCORPORATED, THE OTHER ONE IS NOT. I THINK.
Q YOU NEVER HAD ANY CONVERSATION WITH HER ABOUT IT, DID YOU?
A NEVER. NO.
Q AS A MATTER OF FACT, YOU DIDN'T HAVE ANY CONVERSATIONS WITH HER AT ALL, DID YOU?
A VERY LITTLE.
Q SHE WAS NEVER THE LANDLORD, WAS SHE?
A NO.
Q LET'S GO TO 2007 ACCORDING TO THE BOOK. THE INSURANCE PAYMENT KEPT COMING OUT, THE DRY-CLEANING BILLS KEPT COMING OUT, AND THE SURFSIDE CLEANERS BILL KEPT COMING OUT. YOU DIDN'T KNOW ANYTHING ABOUT THIS IN 2007, AT LEAST, IN THE EARLY PART OF THE YEAR?
A NOT UNTIL I STARTED LOOKING BACK.

Q LET ME ASK YOU SOMETHING, SIR. AT SOME POINT IN 2007 YOU WERE NOT VERY HAPPY WITH MR. VEREEN, WERE YOU?

A THAT'S CORRECT.

Q AS A MATTER OF FACT, YOU WERE READY TO GET OUT OF DODGE, WEREN'T YOU?

A YES, SIR.

Q AND AT THAT POINT IN TIME IN 2007, YOU WERE AWARE OF WHAT HE WAS DOING WITH THE DRY-CLEANING AND THE INSURANCE AND LINDA VEREEN'S INSURANCE AND ALL THESE PAYMENTS HE KNEW YOU WERE AWARE, DID HE?

A YES, SIR.

Q DID HE STOPPED DOING IT?

A NO.

Q KEPT ON DOING IT, DIDN'T HE?

A YES.

Q DOES THAT SURPRISE YOU, SIR?

A YEAH. IT DID SURPRISE ME AT THE TIME. I THOUGHT HE WAS... IT REALLY HURT ME TO FILE THIS LAWSUIT. I LOOKED AT WAYNE VEREEN AS A VERY CLOSE DEAR FRIEND OF MINE THAT I TRUSTED AND THAT I WOULD HAVE DONE ANYTHING FOR. AND THE MORE WE GET INTO IT, THE WORSE IT GETS. IT REALLY HURT ME. DID I THINK HE WOULD DO IT?

YEAH. I THOUGHT HE WOULD DO IT AFTER I FOUND THE OTHER STUFF. NOTHING SURPRISED ME ANYMORE.

Q BUT HE KNOWS YOU CAUGHT HIM AND HE'S STILL WRITING CHECKS OUT THE NEXT MONTH?

A THAT'S RIGHT.

Q HE'S BULLETPROOF, ISN'T HE, SIR?

A YES, SIR.

Q PARKWAY OFFICES EXPENDITURES CONTINUE IN 2007? AND THE PLANTATION LAKES STUFF IS WINDING DOWN AND THE PARK PLACE PROPERTIES IS FINISHING UP IN 2007?

A YES, SIR.

Q ANY EVIDENCE OF ANY BILLING FOR THOSE EXPENSES? THOSE WERE JOB LEDGERS THAT CONTINUED WITH THE COMPANY, CORRECT?

A YES.

Q ANY EVIDENCE OF BILLING FOR ANY OF THIS WORK?

A NO, SIR.

Q ANY EVIDENCE THAT PAYMENT OTHER THAN THE CHECKS THAT WE'VE GIVEN HIM CREDIT FOR, BUT NO EVIDENCE OF SOMEONE PAYING A BILL THAT WAS SUBMITTED TO HIM?

A NO.

Q DID MR. VEREEN TELL YOU WHY HE'S NOT PAYING THESE BILLS WHEN YOU CONFRONTED HIM IN 2007?

A NO.
Q WOULD HE EVEN ADMIT THAT HE OWNED THE MONEY?
A HE SAID HE DIDN'T OWE IT. THAT I OWED HIM MONEY.
Q YOU'RE STILL SHOWING ADDITIONAL EXPENSES PAID ON HIS HOUSE, IS THAT CORRECT, IN 2007?
A YES. THERE'S PROBABLY SOME, YES.
Q DID HE PAY FOR ANY OF THAT?
A I COULDN'T TELL YOU.
Q NOW, MR. SMITH, LET ME ASK YOU SOMETHING. YOU SAID THAT THE CONSTRUCTION COMPANY WOULD NOT CHARGE HIM ANY OVERHEAD OR COST ON THE WORK DONE AT THE MURRELLS INLET HOUSE?
A OKAY.
Q DID THAT MEAN THAT YOU WERE GOING TO PAY FOR HIS MATERIALS AND SUPPLIES FOR THE HOUSE?
A NO.
Q WHO SHOULD BE PAYING THOSE BILL?
A THAT MEANT THAT HE WOULD PAY FOR ALL COST ON THAT HOUSE.
Q PAY YOU OR HE WOULD PAY THE PEOPLE THAT HE BOUGHT THE STUFF --
A WELL, HE WOULD PAY IF HE BOUGHT THE STUFF FROM SOMEBODY OR WE PAID FOR IT, WHATEVER. HE WOULD PAY US FOR WHAT WE DID. EVERYTHING THAT WAS

OWED TO US, HE WOULD PAY A&E. IF THE SUB OR SOMETHING DID THAT -- HOW HE PAID US BOTH, I DON'T KNOW.

Q BUT HE DIDN'T PAY YOU BACK, DID HE?

A NO, NO, HE DIDN'T.

Q THAT'S MRS. VEREEN'S HOUSE TOO, ISN'T IT?

A YES.

Q DID THERE COME A POINT IN TIME IN 2007 WHEN THE COMPANY STARTED PAYING FOR EXPENSES AND LABOR ON BETH SISSON'S HOUSE?

A AT THAT POINT IN TIME, I REALLY WAS NOT... I WAS ON VACATION AND ACCORDING TO THE BOOKS, YES. THEY STARTED PAYING A LOT OF THINGS FOR BETH SISSON.

Q DID MR. VEREEN EVER DISCUSS WITH YOU THAT THE COMPANY WAS PAYING FOR HER LABOR AND EXPENSES FOR THE IMPROVEMENT OF HER PERSONAL HOUSE?

A NO. I NEVER DISCUSSED THAT WITH HIM.

Q DID YOU EVEN KNOW THAT THEY WERE PAYING FOR THE EXPENSES AND NOT GETTING ANY OF THE REIMBURSEMENT?

A NO, I DIDN'T.

Q SHE DIDN'T OWN ANY OF THE COMPANY, DID SHE?

A NO.

Q DID YOU KNOW IT WAS GOING ON?

A DID SHE KNOW IT WAS GOING ON?
Q NO. DID YOU... YOU KNEW THAT SHE WAS DOING SOME WORK ON THE HOUSE, DIDN'T YOU?
A YES.
Q DID YOU KNOW THAT YOUR COMPANY WAS PAYING FOR IT?
A NO, I DIDN'T.
Q THAT CONTINUED ON INTO 2011?
A RIGHT.
Q THAT WASN'T INCLUDED IN THE 2008 RECORDS, IS THAT CORRECT?
A NO.
Q BUT WAS THERE A POINT IN TIME WHERE MRS. SISSON OWED A LITTLE OVER $35,000 TO THE COMPANY?
A ACCORDING TO THE COMPUTER RECORDS THAT WE'VE GOT, YES.
Q AND SHE CLAIMED... HIS DAUGHTER CLAIMED THAT SHE HAD MADE PAYMENTS?
A THAT'S CORRECT.
Q DID YOU OBTAIN A COPY OF THAT CHECK, SIR?
A THE CHECK WAS... SHE DID MAKE PAYMENTS, BUT IT DID NOT GO INTO A&E. IT WENT INTO PARK PLACE PROPERTIES.
Q IT WAS ACTUALLY MADE PAYABLE TO PARK PLACE PROPERTIES, WASN'T IT?

A YES.
Q IS THAT A PAYMENT TO THE COMPANY THAT WAS OWED THE MONEY?
A NO.
Q BUT SHE TOLD YOU THAT SHE PAID IT HERSELF UNDER OATH, DIDN'T SHE, SIR?
A YES. SHE SAID SHE PAID IT.
Q BUT DID SHE TELL YOU HOW A PAYMENT MADE TO PARK PLACE PROPERTIES COULD BE A PAYMENT TO A&E?
A SHE SAID THAT HER FATHER HAD BEEN PUTTING MONEY IN AND THAT WAS BASICALLY A PAYMENT BACK FROM THE MONEY THAT HE HAD PUT INTO A&E.
Q OKAY. MRS. SISSON AND HER HUSBAND OWN A HOUSE AND A&E PAYS $135,000 OR WHATEVER THE NUMBER IS, AND PAYMENT TO PARK PLACE PROPERTIES IS PAYMENT TO A&E?
A THAT'S WHAT SHE SAID.
Q HOW DO YOU ACCOUNT FOR THAT ON THE BOOKS AND RECORDS OF THE COMPANY?
A I DON'T KNOW.
Q HOW DOES MR. VEREEN ACCOUNT FOR IT ON THE BOOKS OF PARK PLACE PROPERTY?
A I DON'T KNOW.
Q PARK PLACE PROPERTIES DIDN'T PAY FOR ANY OF THESE EXPENSES, DID THEY?

A I DON'T KNOW.
Q YOU HAVE NO IDEA WHO PAID FOR IT?
A NO.
Q AND THIS CONTINUED ON, IS THAT A FAMILY MEMBER OF HIS?
A THAT'S WAYNE'S NEPHEW.
Q AND THERE WAS A LARGE AMOUNT OF EXPENSES THERE SHOWN ON MS. BRADY'S LIST?
A YES, THERE WAS.
Q HAVE YOU EVER FOUND A CONTRACT WHERE THE COMPANY WAS ENGAGED TO DO CONSTRUCTION FOR HIM?
A NO, SIR.
Q DID YOU FIND EVIDENCE OF PAYMENT?
A YES. THERE WAS A CHECK PUT INTO A&E. I THINK IT WAS FROM WAYNE'S MOTHER'S TRUST.
Q BUT THERE'S STILL A LARGE OUTSTANDING BALANCE, CORRECT?
A I COULDN'T TELL YOU FOR SURE. I DON'T KNOW.
Q WHATEVER HAS BEEN PAID HAS BEEN EVENTUALLY CREDITED TO HIS ACCOUNT?
A YES.
MS. COOK: THE ONE ACCOUNT.
MR. DURANT: TO MR. ABSTON ACCOUNT.
MS. COOK: IS THAT A&E?
MR. DURANT: YES.

Q I DIDN'T ASK YOU, WERE THERE HOMEOWNERS ASSESSMENTS PAID EACH AND EVERY MONTH OUT OF THE A&E ACCOUNT?

A PLANTATION LAKES?

Q YES.

A YES, SIR.

Q WHO OWNED THAT PROPERTY?

A WAYNE VEREEN STILL OWNS A HOME. HE STILL HAS A LOT OUT THERE. HE STILL OWNS SOME OUT THERE, BUT HE OWNED IT THE WHOLE TIME THAT WE WERE CONSTRUCTING ON IT. THEN HE SOLD IT TO... IN 2005, BUT HE OWNS ANOTHER LOT THAT A&E IS STILL MAKING PAYMENTS ON. STILL PAYING ASSOCIATION FEES ON IT.

Q WHAT WOULD A&E BE DOING WRITING CHECKS FOR ASSOCIATION FEES OUT OF THE A&E ACCOUNT?

A IT'S A LOT EASIER TO TAKE IT OUT OF A&E THAN OUT OF YOUR OWN POCKET.

Q WHAT ABOUT THE 29TH PLACE HOMEOWNERS ASSOCIATION? THERE IS A CHECK ALMOST EVERY MONTH TO THAT.

A YES. THAT'S RIGHT. THAT BELONGS TO WAYNE VEREEN.

Q THAT'S NOT A PROPERTY OWNED BY --

A A&E OWED NO PROPERTY.

Q DID YOU KNOW THAT HE WAS DOING THAT?
A AFTER I STARTED INVESTIGATING, YES.
Q DID YOU EVER AUTHORIZE HIM TO PAY A HOMEOWNERS BILL OUT OF YOUR ACCOUNT?
A NO, I DID NOT.
Q YOU CONFRONTED HIM WITH IT IN 2007, DIDN'T YOU?
A THAT WAS PART OF THE LIST THAT I GAVE HIM, YES, SIR.
Q DID HE CONTINUE TO MAKE THE PAYMENTS ANYWAY?
A TO THE BEST OF MY KNOWLEDGE, YES.
Q HE'S BULLETPROOF, ISN'T HE?
A YES, SIR.
Q THE SKID RENTAL, WAS THE SAME TYPE OF THING FOR 2007?
A YES, SIR.
Q YOU HAVE SOME INSURANCE ASSESSMENTS? THERE IS A CHECK OR BILLS TO HARTFORD COMPANION. WERE THOSE BILLS OF A&E?
A COMPANION WAS THE INSURANCE ON RANDY'S VAN THAT WAYNE AGREED TO PAY. THEY DIDN'T BELONG TO A&E. THEY BELONGED TO PARK PLACE.
Q AND THAT WAS BECAUSE HE WAS WORKING FOR WAYNE AT THAT TIME?
A YES. HE WASN'T WORKING FOR A&E. HE WAS WORKING FOR PARK PLACE PROPERTY.

Q AND THAT WAS HIS DEAL?
A THAT WAS BETWEEN HIM AND WAYNE. IT HAD NOTHING TO DO WITH ME.
Q A&E DIDN'T HAVE ANY AGREEMENT TO PAY HIS INSURANCE ON HIS --
A OKAY. RANDY WENT TO WORK WHEN PARK PLACE PROPERTIES AND POINTE MARSH BASICALLY FINISHED UP SOMETIME IN THE SUMMER OF 2007. THEY FINISHED UP AND RANDY WENT TO WORK FOR A&E AS AN HOURLY EMPLOYEE OR AS AN EMPLOYEE. I DON'T KNOW IF IT WAS HOURLY OR SALARY. BUT AT THAT POINT IN TIME, IT WAS LIKE JUNE, JULY, AUGUST, SOME POINT RIGHT IN THERE, HE WENT TO WORK FOR A&E AND AT THAT POINT IN TIME, THEY WOULD BECOME A&E EXPENSES, BUT PRIOR TO THAT, NO.
Q YOU ARE ONLY CHARGING HIM FOR THE MONTHLY PAYMENTS THAT WERE MADE DURING THE TIME THAT HE WAS WORKING FOR MR. VEREEN OR MR. VEREEN'S COMPANY, NOT A&E?
A THAT'S RIGHT.
Q WHAT IS THE HARTFORD PAYMENT FOR 11,585, IF YOU KNOW?
A I DON'T REMEMBER.
MR. DURANT: IS THIS A GOOD POINT TO TAKE A BREAK, YOUR HONOR?

JUDGE HOWE: SURE. LET'S TAKE A LUNCH BREAK.

(DISCUSSION OFF THE RECORD.)

Q MR. SMITH, I ASKED YOU ABOUT THE CHECK PAYABLE FOR MRS. SISSON'S FINAL BALANCE. I WILL ASK YOU TO LOOK AT EXHIBIT NUMBER 25, WHICH IS IN FRONT OF YOU AND HAS ALREADY BEEN INTRODUCED INTO EVIDENCE?

A YES.

Q MR. SMITH, IS THAT THE CHECK FROM MRS. SISSON TO PARK PLACE PROPERTIES THAT REPRESENTS THE FINAL PAYMENT OF $35,803.10?

A YES, IT IS. THIS IS FROM MRS. SISSON.

Q AND WHAT ACCOUNT IS IT DEPOSITED IN?

A IT'S MADE OUT TO PARK PLACE PROPERTIES AND IT'S DEPOSITED INTO PARK PLACE PROPERTIES OF MYRTLE BEACH, LLC.

Q THANK YOU, MR. SMITH.

JUDGE HOWE: HOW MUCH WAS THAT MADE OUT FOR?

A $35,000.

JUDGE HOWE: THANK YOU.

A SOMETHING LIKE THAT.

Q MR. SMITH, WOULD YOU TURN TO EXHIBIT NUMBER 26. IT'S ENTITLED A "WORKMANS' COMP AUDIT SECTION".

MR. SMITH, WERE YOU AWARE THAT THE COMPANY THAT'S A&E HAD A WORKERS' COMP AUDIT FOR THE YEAR 2006/2007?

A I KNEW THEY HAD AN AUDIT, YES.

Q DID YOU KNOW THAT THE COMPANY HAD BEEN ISSUED A REFUND CHECK BEFORE YOU FILED THIS LAWSUIT?

A ABSOLUTELY NOT.

Q WAS THERE A REFUND CHECK FOR $49,000 EVER DEPOSITED INTO THE A&E ACCOUNT?

A NO. IT WAS DEPOSITED IN PARK PLACE PROPERTIES OF MYRTLE BEACH, LLC.

Q ALRIGHT. MR. SMITH, WHAT DO THOSE DOCUMENTS STATE THERE? IS THAT A LETTER FROM YOUR WORKERS' COMP UNDERWRITER?

A YES, IT IS. IT'S FROM SUE EWALD.

Q COULD YOU PUBLISH THAT FOR THE COURT PLEASE?

A "ENCLOSED IS YOUR LIABILITY AUDIT FOR THE 2006/2007 TERM. PLEASE REVIEW THE PAYROLL AND SUB COLUMNS FOR ACCURACY AND LET ME KNOW IF ANY CHANGES NEED TO BE MADE. THE AUDIT'S RESULT WAS THAT A REFUND IS DUE YOU OF $49,221.00 AND OUR AGENCY CHECK FOR THAT AMOUNT IS ENCLOSED".

Q WHO IS THE CHECK WRITTEN BY?

A CHECK WAS WRITTEN BY?

Q EXCUSE ME, SIR. WHO WROTE THE LETTER?

A SUE EWALD.
Q SUE EWALD OF WHAT COMPANY?
A PEOPLE'S UNDERWRITERS.
Q WHO IS THE LETTER WRITTEN TO?
A A&E CONSTRUCTION.
Q WHAT'S THE DATE ON THAT LETTER?
A 1-29-09.
Q AND THAT'S THE AUDIT YEAR... WHAT'S THE AUDIT YEAR THERE?
A 2006/2007.
Q WHAT IS ATTACHED TO THAT LETTER?
A A CHECK.
Q WHO IS THE CHECK FROM?
A THE CHECK IS FROM PEOPLE'S UNDERWRITER, INCORPORATED. THE CHECK IS MADE OUT TO A&E CONSTRUCTION AND MR. WAYNE VEREEN.
Q WHAT ADDRESS?
A P.O. BOX 2296, MYRTLE BEACH, SOUTH CAROLINA 29578.
Q WHAT IS THE DATE OF THE CHECK AND THE AMOUNT OF THE CHECK?
A THE DATE OF THE CHECK IS 1-29-08 AND THE AMOUNT OF THE CHECK IS $49,221.00.
Q ON THE BOTTOM, DOES IT SHOW WHO ENDORSED THAT CHECK?

A A&E CONSTRUCTORS AND ARTHUR VEREEN.
Q WHAT ACCOUNT IS THAT DEPOSITED IN?
A IT WAS DEPOSITED IN PARK PLACE PROPERTIES OF MYRTLE BEACH, LLC.
Q WHAT DATE WAS THE CHECK DEPOSITED?
A 2-1-08.
Q WHAT'S BEHIND THAT? IS THERE A SECOND CHECK BACK THERE?
A THERE IS ANOTHER CHECK, YES.
Q AND WHO IS IT FROM?
A PEOPLE'S UNDERWRITERS.
Q WHO IS IT MADE PAYABLE TO?
A A&E CONSTRUCTION AND MR. WAYNE VEREEN.
Q WHAT'S THE AMOUNT OF THAT CHECK?
A 49,221.00.
Q WHAT'S THE DATE OF THAT CHECK?
A 1-29-08.
Q THAT'S THE SAME CHECK THAT YOU JUST SAW BEFORE, ISN'T IT?
A YEAH. IT SEEMS TO BE, YES.
Q IS THERE A LETTER ATTACHED BACK THERE FROM A&E CONSTRUCTION TO SUE EWALD?
A YES.
Q WOULD YOU PUBLISH THAT LETTER TO THE COURT PLEASE?

A "OCTOBER 23, 2006, SUE EWALD PEOPLE'S UNDERWRITERS. SUBJECT: A&E CONSTRUCTION INSURANCE. SUE, HOPEFULLY I HAVE FILLED THE APPLICATION FOR INSURANCE RENEWAL OUT CORRECTLY. ONE AREA I AM STILL CONFUSED WITH IS THE INCLUDING OF ARTHUR VEREEN CONSTRUCTION AS AN ADDITIONAL INSURER. THIS COMPANY HAS NOT ENTERED A CONTRACT TO PERFORM WORK FOR THREE TO FOUR YEARS. A&E HAS AN UNLIMITED GENERAL CONTRACTORS LICENSE AND EVERY CONTRACT WE HAVE PERFORMED SINCE 2003 HAS BEEN UNDER A&E. I AM CONCERNED THAT DUE TO THE PROBLEMS OF ARTHUR VEREEN CONSTRUCTION, INCLUDING UNDER THE PRESENT INSURANCE, MAY CONFUSE AND MUDDY THE SITUATION. I HAVE ASKED JAMES TO INSURE ONLY A&E AND OMIT AVC. SHOULD WE LOOK INTO THIS? ALSO THE REASON OUR GROSS RECEIPTS ARE DOWN FROM PREVIOUS YEARS IS DUE TO THE FACT THAT WE DID NOT INTEND TO BUILD ANY CONDOS IN THE FUTURE. OUR DIRECTION IS IN THE DIRECTION OF SINGLE FAMILY HOMES, REMODELING, AND LIGHT COMMERCIAL BUILDINGS, NOT TO EXCEED TWO STORIES. WE FULLY EXPECT A REDUCTION IN OUR BUSINESS DURING THIS TRANSITION, BUT EXPECT FOR IT TO TAKE OFF IN ABOUT SIX MONTHS."

Q WHAT'S THE DATE OF THAT LETTER FROM MR. VEREEN TO PEOPLE'S UNDERWRITER'S?
A OCTOBER 23RD, 2006.
Q THE LETTER BACK FROM THEM WITH THE CHECK WAS DATED WHEN?
A BACK FROM THEM IS DATED JANUARY 29TH, 2008.
Q SO, THE LETTER FROM MR. VEREEN WAS SENT TO MS. SUE EWALD AT PEOPLE'S BEFORE HE GOT THE REFUND CHECK?
A THAT'S CORRECT, YES.
Q SO, WHEN YOU LEFT A&E, OF COURSE, YOU LEFT A&E BEFORE THE REFUND WAS GIVEN, IS THAT CORRECT?
A YES, SIR.
Q BUT THE REFUND WAS FOR THE TIME THAT YOU WERE AT A&E?
A YES, SIR.
Q WHEN YOU ASKED THROUGH YOUR INTERROGATORIES IF MR. VEREEN HAD DEPOSITED ANY CHECKS PAYABLE TO A&E INTO ANY OTHER ACCOUNT OTHER THAN A&E, DID HE ADMIT THAT HE RECEIVED THAT CHECK?
A NO, SIR.
Q IT WAS IN FACT DEPOSITED INTO THE PARK PLACE PROPERTIES ACCOUNT?
A YES, SIR.
Q WHAT IN THE WORLD DID PARK PLACE PROPERTIES HAVE

TO DO WITH THE WORKERS' COMPENSATION PAID FOR BY A&E?

A NOTHING.

Q WERE YOU AWARE THAT THERE WAS A WORKERS' COMPENSATION AUDIT GOING ON AT ANY TIME?

A I KNEW A WORKERS' COMP AUDIT WAS DONE EVERY YEAR.

Q WERE YOU AWARE OF ANY REFUND BEING ISSUED?

A OH, NO.

Q DID MR. VEREEN EVER TELL YOU THAT HE HAD TAKEN THIS $49,000 AND PUT IT INTO THE PARK PLACE PROPERTIES ACCOUNT?

A NO, SIR, HE HAS NOT.

Q WAS THIS WORKERS' COMPENSATION POLICY, DID IT HAVE ANYTHING TO DO WITH PARK PLACE PROPERTIES?

A NO. A&E CONSTRUCTION.

Q IS THIS ANOTHER EXPENSE THAT MR. VEREEN... AN AMOUNT OF MONEY THAT MR. VEREEN CONVERTED TO HIS OWN USE AT PARK PLACE PROPERTIES?

A YES, SIR.

Q WERE YOU AWARE THAT THIS HAPPENED?

A NO, SIR.

Q DID HE EVER DISCUSS THE RETURN OF ANY WORKERS' COMPENSATION MONEY AND THE PAYMENT TO ANYONE OTHER THAN A&E?

A NO, SIR. NEVER HAS.
Q WHO HAD THE RIGHT TO THIS MONEY?
A A&E CONSTRUCTION HAD THE RIGHT TO THE MONEY. IT'S OWNED 50% PERCENT BY ME AND 50% PERCENT BY HIM.
Q LOOK AT PLAINTIFF'S EXHIBIT 11 PLEASE, MR. SMITH?
A OKAY.
Q IS NUMBER 11 A CERTIFIED COPY FROM THE CITY OF MYRTLE BEACH OF THE JOBS PERMITTED BY THE CITY OF MYRTLE BEACH?
A YES, SIR, IT IS.
Q FOR WHAT YEARS?
A JANUARY 1ST 2003 THROUGH DECEMBER 31ST 2010.
Q IS THIS FOR A&E AS WELL AS GRAND STRAND BUILDERS?
A CORRECT.
Q THAT WAS NOT AN A&E JOB INCLUDED ON THE JOB LEDGERS?
A NO.
Q OTHER THAN THOSE JOBS, IS THERE ANY NEW ACTIVITY IN A&E SHOWN ON THE MYRTLE BEACH PERMITTED LIST?
A NO, SIR.
Q WHAT ABOUT GRAND STRAND BUILDERS, WHO WAS GRAND STRAND BUILDERS?

A TO THE BEST OF MY KNOWLEDGE, IT'S ELIZABETH SISSON AND HER HUSBAND, CHAD.
Q AND THAT WOULD BE THE DAUGHTER OF MR. VEREEN?
A YES, SIR.
Q THE RECORDS... IS GRAND STRAND BUILDERS A COMPANY THAT WAS INCORPORATED IN 2007? EXCUSE ME. THAT WAS RESERVED ON OCTOBER 22, 2007 AND ACTUALLY INCORPORATED MARCH 17, 2008?
A I THINK IT WAS, BUT I'M NOT POSITIVE.
Q MR. WAYNE VEREEN BECAME THE LICENSED BUILDER FOR GRAND STRAND BUILDERS ALSO, DID HE NOT?
A YES, SIR.
Q ACTUALLY, ON OCTOBER OF 2008, A&E CEASED TO BE LICENSED WITH THE STATE, DID IT NOT? IT'S IN THE RECORDS IN FRONT OF YOU?
A YES. THAT IS CORRECT.
Q YOU WEREN'T DOING ANYTHING WITH A&E AT THAT TIME OTHER THAN THE THING ON YOUR HOUSE AND THE JOB WITH CONDOLUX?
A YES, SIR.
Q TELL ME, SIR, HAVE YOU EXAMINED THE CHECKING ACCOUNT RECORDS OF GRAND STRAND BUILDERS?
A YES, SIR. AT ONE POINT IN TIME, I DID, YES.
Q HOW MANY JOBS ARE YOU SHOWING THERE LISTED WITH

THE CITY OF MYRTLE BEACH FOR GRAND STRAND BUILDERS AND WHEN DID THEY START?

A THE ONE ON PORSCHE AND LONG BAY ALLEY. THE ONE ON 74, 8102 OCEAN BOULEVARD. ONE AT 1101 KINGS HIGHWAY. ANOTHER ONE AT 410 70TH AVENUE AND ANOTHER ONE AT 1713 62ND AVENUE AND THAT'S ALL?

Q WERE A LOT OF THESE JOBS FOR GRAND STRAND BUILDERS PERMITTED DONE FOR... AFTER REQUESTING MR. VEREEN BECAUSE HE WAS INVOLVED IN THOSE TRANSACTION? WERE YOU TOLD THAT?

A YES.

Q SEVERAL LARGE JOBS?

A YES. LARGE HOUSES.

Q YOU LEFT IN '07, AND WHEN IN YOUR OPINION, MR. SMITH, DID A&E CEASE TO PERFORM CONSTRUCTION WORK EXCEPT FOR MR. VEREEN'S RELATED ENTITIES?

A SOMEWHERE BETWEEN NOVEMBER OR DECEMBER OF 2007.

Q HAVE YOU EXAMINED THE RECORDS, THE CHECKING RECORDS, OF PARK PLACE PROPERTIES? DID YOU SEE ANY... DURING THE TWO YEARS THAT YOU LOOKED AT THEM IN '08 AND '09, DID YOU SEE ANY PAYROLL CHECKS TO BETH SISSON OR MR. WAYNE VEREEN WHO WORKED FOR THE COMPANY?

A FOR PARK PLACE PROPERTIES?

Q NO, SIR. FOR GRAND STRAND BUILDERS?

A GRAND STRAND BUILDERS, NO.
Q THERE WERE NO PAYROLL CHECKS, WERE THERE?
A NOT TO MY KNOWLEDGE, NO.
Q AND MRS. DREWITT WAS STILL WORKING IN THE BUILDING?
A YES.
Q AND WHO WAS GIVING MRS. DREWITT A PAYROLL CHECK DURING '08 AND '09 AND '10?
A A&E CONSTRUCTION.
Q DO YOU RECALL WHAT MRS. DREWITT SAID ABOUT WHETHER OR NOT A&E HAD ANY BUSINESS IN HER DEPOSITION?

MS. COOK: YOUR HONOR, I OBJECT TO HEARSAY.

Q DID MRS. DREWITT TESTIFY --

MS. COOK: YOUR HONOR, I OBJECT. OF COURSE, I'M GOING TO LET HIM LEAD TO TRY TO GET US THROUGH THIS, BUT THIS IS HEARSAY. FRANK ASKED HIM TO PUT IN THE RECORD HEARSAY ITSELF. NOT ASKING THE QUESTION YES OR NO. FIRST OF ALL, THAT QUESTION WOULD BE LEADING AND THE QUESTION TO ASK HIM WHAT MRS. DREWITT EITHER SAID OR DIDN'T SAY IS HEARSAY.

MR. DURANT: FOR THE SECOND TIME, YOUR

HONOR, HER WHOLE DEPOSITION IS IN THE RECORD AND SHE TESTIFIED THAT THERE --

MS. COOK: YOUR HONOR, I OBJECT TO HIM TESTIFYING ABOUT --

MR. DURANT: I'M TELLING YOU WHAT THE RECORDS SAID.

MS. COOK: WELL, THEN IT'S IN THE RECORD.

MR. DURANT: THERE'S A DEPOSITION IN THE RECORD. SHE SAID THERE WAS NO NEW BUSINESS --

MS. COOK: YOUR HONOR, I --

MR. DURANT: CAN I FINISH AND THEN YOU CAN ADDRESS THE COURT? I CAN GO THROUGH AND DIG IT OUT IF YOU LIKE, YOUR HONOR, BUT WE TOOK HER DEPOSITION AND WE ASKED HER WAS THERE WAS ANY NEW BUSINESS IN A&E AFTER JANUARY 2008 AND SHE SAID THERE WASN'T.

JUDGE HOWE: YOU ALREADY PUT IT IN?

MR. DURANT: YES, YOUR HONOR.

MS. COOK: I WOULD LIKE TO ASK HIM TO FIND THAT DEPOSITION SECTION SO I MAY HAVE AN OPPORTUNITY TO PUT IT IN CONTEXT. SO, I AM GOING TO ASK THE

COURT TO REQUIRE HIM TO FIND THAT AND LET ME PUT IN THE PORTION THAT I NEED TO PUT IN.

MR. DURANT: THE WHOLE PORTION IS IN, THE WHOLE DEPOSITION. IT'S IN THE RECORD.

MS. COOK: YOUR HONOR, THE DEPOSITION MAY BE IN THE RECORD, BUT IF HE IS GOING TO USE DEPOSITION TESTIMONY AND PUT IT ON RECORD, HE NEEDS TO QUOTE IT EXACTLY. BECAUSE HIM TESTIFYING, IN ESSENCE, ABOUT WHAT TESTIMONY IN THE RECORD IS, IS IMPROPER. HE CAN FIND IT AND PUBLISH IT. AND I AM ENTITLED TO THAT. LIKEWISE, PUBLISH THE SURROUNDING PARTS THAT DEAL WITH THIS MATTER SO THAT'S IT'S NOT... SO I CAN PUT IT IN PROPER CONTEXT.

MR. DURANT: YOUR HONOR, I WOULD LIKE TO LET THE DEPOSITION SPEAK FOR ITSELF AND WE CAN MOVE ON. THE WHOLE DEPOSITION IS IN THE RECORD.

JUDGE HOWE: THANK YOU.

Q MR. SMITH, WHEN YOU EXAMINED THESE RECORDS THAT YOU SUBPOENAED, WERE THERE ANY PAYROLL CHECKS

FROM MRS. SISSON IN '08 AND '09 AND EARLIER 2010?

A NO, SIR. THERE WERE NO CHECKS, PAYROLL CHECKS, IN GRAND STRAND BUILDERS OR PARK PLACE PROPERTIES, BUT THERE WERE PAYROLL CHECKS IN A&E IN THOSE YEARS.

Q YOU MEAN A&E CONTINUED TO PAY THE THREE WORKERS THAT WERE THERE FOR MR. VEREEN?

A A&E PAID MRS. SISSON, MRS. DREWITT, WAYNE VEREEN AND PAID DENNIS LONG AND MATTHEW CHESTNUT, CHAD TOUSLEY, BRANDON LONG, UNTIL I THINK THE SECOND WEEK IN MAY OF 2008. AT THAT TIME, THEY WERE NOT WORKING ON ANY A&E JOBS.

Q WHAT HAPPENED TO THE A&E PAY CHECKS TO THESE THREE; MRS. SISSON, MR. VEREEN, AND MRS. DREWITT?

A THEY WENT ON UNTIL LATE 2009. THEY WERE PAID BY A&E.

Q WHERE WAS A&E GETTING THE MONEY TO PAY THEM?

A PARK PLACE PROPERTIES WAS MAKING DEPOSITS INTO A&E TO COVER THE PAYROLL THAT... TO COVER WHATEVER THE EXPENSES WERE FOR THE MONTH OR THE WEEK OF A&E.

Q SO, THIS WENT ON THROUGH 2009?

A IT WENT ON INTO 2009. I DON'T KNOW IF IT WENT

TO THE END OF 2009, BUT I THINK IT WAS SEPTEMBER/OCTOBER IS WHEN IT --

Q EVEN WHEN YOU HAD INSTITUTED SUIT AGAINST THE DEFENDANTS, THEY CONTINUED TO DO THIS?

A ABOUT ALL MEANS, YES.

Q HAVE YOU EXAMINED THE RECORDS OF GRAND STRAND BUILDERS? DO THEY SHOW ANY DEPOSITS FROM THESE VEREEN-RELATED ENTITIES FOR THE WORK THAT WAS PREFORMED UNDER THESE BUILDING PERMITS FOR GRAND STRAND BUILDERS?

A I DON'T KNOW HOW MUCH THE CONTRACTS OF GRAND STRAND BUILDERS WERE, BUT THE AMOUNT THAT I SAW THAT WAS PUT INTO GRAND STRAND BUILDERS WAS MINIMAL AND THERE WERE NO CHECKS WRITTEN OUT FOR MATERIALS AND LABOR AND STUFF FROM GRAND STRAND BUILDERS. IF YOU LOOK AT THE PARK PLACE PROPERTIES CHECKS, THEY PAID MATERIAL AND SUBS OUT OF PARK PLACE FOR GRAND STRAND BUILDERS JOBS.

Q WAIT A MINUTE. THE CONSTRUCTION DRAWS FOR THOSE JOBS WERE PAID TO PARK PLACE PROPERTIES?

A I DON'T KNOW WHETHER THE CONSTRUCTION DRAWS WENT TO GRAND... BUT THEY DID NOT COME INTO GRAND STRAND BUILDERS. THEY WERE NOT DEPOSITED INTO GRAND STRAND BUILDERS.

Q AND YOU DID NOT SEE ANY EVIDENCE WHERE THE OWNERS OF THOSE PROPERTIES ACTUALLY PAID GRAND STRAND BUILDERS FOR ANY SERVICES?

A NO, SIR. NOT TO MY KNOWLEDGE.

Q BUT THE SAME ENTITY THAT GOT THE MONEY, PARK PLACE PROPERTIES, WAS ACTUALLY MAKING DEPOSITS INTO THE A&E ACCOUNTS.

A A&E ACCOUNTS TO COVER THE WEEKLY OR MONTHLY EXPENSES THAT THOSE THREE INCURRED AND THE BUSINESS INCURRED.

Q DO YOU KNOW WHY THEY WERE DOING THAT, MR. SMITH?

A I DON'T KNOW FOR SURE.

MS. COOK: YOUR HONOR, THEN I'M GOING TO OBJECT IF HE'S GOING TO DO ANY TYPE OF SPECULATION. HOW CAN HE KNOW WHY OTHER PEOPLE ARE DOING THINGS? HE WOULD HAVE TO HAVE A BASIS OR FOUNDATION FOR THAT. I OBJECT.

Q EITHER YOU KNOW OR YOU DON'T KNOW. IF YOU DON'T KNOW, WE DON'T WANT YOU TO SPECULATE. DO YOU KNOW THE ANSWER TO THE QUESTION?

A YES. I THINK I DO.

Q WHAT IS THE ANSWER, SIR?

A I THINK THE ANSWER IS, THEY DIDN'T HAVE WORKERS' COMP NOR LIABILITY. THE HOUSES WHEN I TALKED TO

SUE EWALD --

MS. COOK: YOUR HONOR, I AM GOING TO OBJECT --

A -- PEOPLE'S UNDERWRITER.

MS. COOK: YOUR HONOR, I WANT TO OBJECT.

Q IF YOU DON'T KNOW OF YOUR OWN KNOWLEDGE, NOT WHAT SOME THIRD PARTY TOLD YOU OTHER THAN THE DEFENSE.

JUDGE HOWE: IS IT IN EVIDENCE?

A I CAN'T SAY THAT IT IS. I DON'T KNOW.

Q MR. SMITH, YOU ARE THE PRESIDENT OF A&E?

A RIGHT.

Q WOULD YOU AUTHORIZE PAYMENT TO MR. WAYNE VEREEN, A REGULAR SALARY CHECK EVERY WEEK WHILE HE WAS PERFORMING SERVICES FOR GRAND STRAND BUILDERS, CONSTRUCTING HOUSES FOR ENTITIES THAT HE OWNED?

A NO.

Q WOULD YOU AUTHORIZE THOSE SAME PAYMENTS TO CARRIE DREWITT AND MRS. ELIZABETH SISSON?

A NO.

Q TELL ME WHY, SIR?

A BECAUSE THEY WEREN'T WORKING FOR A&E.

Q DO YOU RECALL WHEN WE TOOK MRS. SISSON'S DEPOSITION THAT SHE STATED THAT SHE SPENT 80% PERCENT OF HER TIME WORKING ON THE DEFENSE

OF THIS LAWSUIT?

A YES, SIR.

Q MR. SMITH, SHE WORKS FOR YOUR COMPANY, DOES SHE NOT?

A A&E AND WE PAID HER.

Q IS IT YOUR DESIRE OR WAS IT YOUR DESIRE TODAY TO PAY HER TO DEFEND HER FATHER AND HER FAMILY FROM THIS LAWSUIT?

A AGAINST A&E, NO.

Q DO YOU CONSIDER THAT TO BE... HER TO BE A DISLOYAL EMPLOYEE?

A BY ALL MEANS, TOTAL DISLOYAL.

Q DO YOU CONSIDER MR. VEREEN TO BE A DISLOYAL EMPLOYEE FOR THE COMPANY A&E?

A AT THIS TIME, YES, I DO.

Q AND TELL ME WHY, SIR?

A BECAUSE HE HAS TAKEN MONEY REPEATEDLY SINCE THE FIRST MONTH WE OPENED AND USED IT FOR PERSONAL GAIN AND NEVER PAID IT BACK. THAT TO ME IS A TOTAL VIOLATION OF WHAT AN OFFICER OF THE CORPORATION DOES. HE LOOKED OUT FOR HIS OWN CORPORATIONS THAT HE HAD INTEREST IN AND HIS FAMILY HAD AN INTEREST IN. HE'S NOT KIDD TO ME AND HE PAID THEIR BILLS WITH OUR MONEY. HE SHOULD HAVE NEVER DONE THAT TO ME. THAT IS JUST

A TOTAL VIOLATION OF ANY KIND OF RIGHT AND WHAT DO YOU CALL IT, FIDUCIARY DUTY, THAT YOU HAVE TO ANY CORPORATION. YOU DON'T DOUBLE DIP AND DON'T PLAY BOTH SIDES OF THE STREET. YOU'VE GOT IT BE HONEST. YOU'VE GOT TO BE UP FRONT.

Q HAD HE TOLD YOU OF ALL THESE THINGS THAT HE DID, WHAT WOULD YOU HAVE TOLD HIM?

A TO PUT IT BACK IN.

Q EACH TIME?

A EVERY TIME.

Q AND IF HE ASKED YOU FOR PERMISSION TO DO SOMETHING AND YOU GRANTED IT, WOULD YOU EXPECT HIM TO HAVE TO PUT THE MONEY BACK IN?

A BY ALL MEANS.

Q NO. IF YOU GAVE HIM PERMISSION TO MOVE SOMEONE, WOULD YOU CARE?

A NO.

Q AND THAT WOULD BE A CHARGE TO HIM?

A THAT'S CORRECT.

Q THAT WAS TAKEN WITHOUT PERMISSION?

A YES, SIR.

Q IS THERE A DIFFERENCE FROM TAKING THE MONEY OF A PARTNERSHIP WITH PERMISSION AND WITHOUT PERMISSION?

A I WOULD BE TOTALLY AWARE OF THE TAKING. AT THIS

POINT IN TIME, NOBODY... HE NEVER MADE ME AWARE OF ANY OF THESE TRANSACTIONS. HE WAS JUST TAKING FROM ME BLINDLY. TAKING FROM A&E BLINDLY. 50% PERCENT OF ALL THE MONEY THAT HE TOOK BELONGS TO ME, NOT HIM.

Q DO YOU THINK THAT MR. VEREEN DESERVES TO KEEP HIS SALARY CHECK THAT THIS COMPANY PAID HIM EVERY WEEK FOR PROVIDING SERVICES TO THIS COMPANY?

A NO. I DON'T THINK HE SHOULD KEEP IT. PERSONALLY, I THINK THAT HE SHOULD PUT IT BACK IN BECAUSE HE DIDN'T PROVIDE A SERVICE FOR THIS COMPANY. WHAT HE DID... HE DID WORK FOR THIS COMPANY AND HE DID PROVIDE EXPERTISE AND STUFF, BUT HE DID NOT LOOK OUT FOR THE WELL-BEING OF THIS COMPANY. HE DID NOT LET THIS COMPANY ADVANCE AND GROSS IN MONEY AND WHATEVER. IT'S JUST... IT'S NOT RIGHT.

Q MR. SMITH, YOU ENTERED A CONTRACT WITH MY OFFICE TO REPRESENT YOU IN THIS CASE?

A YEAH. IT'S BEEN A LONG TIME AGO.

Q IS THAT WHAT IS CALLED AN AMENDED COMPENSATION AGREEMENT?

A YES.

MS. COOK: YOUR HONOR, I HAVE NEVER SEEN

THAT.

MR. DURANT: I WILL SHOW IT TO YOU ONCE HE HAS IDENTIFIED IT.

MS. COOK: WELL, IT WASN'T PRODUCED IN DISCOVERY. I DON'T THINK I HAVE A PROBLEM, BUT DO YOU HAVE A COPY I CAN BE LOOKING AT WHILE --

MR. DURANT: SURE.

Q IS THAT YOUR FEE AGREEMENT WITH MY OFFICE, MR. SMITH?

A THIS IS THE AMENDED AGREEMENT, YES.

Q CORRECT. THAT'S A CONTINGENCY FEE AGREEMENT?

A YES.

Q AND WHAT DOES IT PROVIDE THAT YOU WOULD PAY ME A THIRD OF ANY TOTAL RECOVERY IN THIS CASE?

A TOTAL RECOVERY, YES, PERIOD.

Q DID WE EVENTUALLY GET INVOLVED IN THIS CASE WITH WHAT IS CALLED A "BLENDED FEE AGREEMENT"?

A YES.

Q WERE YOU EXPECTING TO GO THROUGH WHAT YOU HAVE GONE THROUGH --

A OH, NO.

Q -- IN THE LAST THREE YEARS?

A NO.

Q WERE YOU ABLE TO PAY ME, MR. SMITH, UNDER THAT

AGREEMENT?

A ACCORDING TO THAT AGREEMENT, NO. I AM PROBABLY $400,000 OR $500,000 BEHIND.

Q YOU HAVEN'T BEEN BILLED, BUT WE REACHED AN AGREEMENT TO CONTINUE REPRESENTATION OF YOU BASED ON WHAT IS CALLED A CONTINGENCY?

A YES, SIR.

Q ARE YOU ASKING THAT THE COURT... IF THE COURT ENTERS ANY AWARD, TO APPROVE THIS AGREEMENT AND MAKE PAYMENT OUT OF THE RECOVERY IF THERE IS ANY OF FOR COMPANY?

A YES.

Q THIS AGREEMENT IS WITH THE COMPANY ITSELF, MR. SMITH, NOT WITH YOU?

A THAT'S CORRECT.

Q AND YOU ENTERED IN BECAUSE YOU HAD NO LEGAL MEANS OR FINANCIAL MEANS TO PURSUE THE CASE AGAINST THE DEFENDANTS WITHOUT A CONTINGENCY FEE AGREEMENT?

A THAT'S CORRECT.

Q HAVE YOU ADVANCED SUBSTANTIAL MONEY OF YOURS TO PURSUE THIS ACTION?

A SUBSTANTIAL TO ME, YES.

Q ARE YOU ASKING THE COURT, IF THE COURT WERE TO RULE IN FAVOR OF THE PLAINTIFF, THAT YOU BE ABLE

TO SUBMIT THOSE BILLS FOR INDEMNIFICATION OR REIMBURSEMENT?

A SURE, YES.

Q AND YOU WILL DO THAT IF AND WHEN THE COURT DOES RULE IN YOUR FAVOR?

A THAT'S CORRECT, YES.

MR. DURANT: YOUR HONOR, IF YOU WILL GIVE ME JUST A MINUTE THAT MAY BE THROUGH THE.

MS. COOK: YOUR HONOR, IS HE GOING TO MOVE THAT THIS BE ADMITTED INTO EVIDENCE?

MR. DURANT: I DO.

MS. COOK: YOUR HONOR, I OBJECT UNLESS HE PUTS THE ORIGINAL BLENDED FEE AGREEMENT IN AS WELL. I MOVE THAT HE LAY A PROPER FOUNDATION AND THE COURT TO BE ABLE TO CONSIDER THE TOTALITY OF THE FACT THAT THE BLENDED FEE AGREEMENT NEEDS TO BE ALSO PUT INTO EVIDENCE. I HAVE NEVER BEEN PROVIDED EITHER ONE OF THEM. IF HE PROVIDES ME A COPY, I WILL BE HAPPY TO PUT IT IN DURING CROSS-EXAMINATION OF MR. SMITH, BUT I OBJECT.

MR. DURANT: DO YOU WANT THE ORIGINAL OR ARE YOU OBJECTING BECAUSE IT'S A COPY?

MS. COOK: NO. I WANT THE FIRST ONE, THE BLENDED FEE AGREEMENT TO GO IN AS WELL.

MR. DURANT: YOUR HONOR, I WOULD BE HAPPY TO BRING IT TOMORROW.

JUDGE HOWE: YOU DON'T HAVE A COPY?

MR. DURANT: I DON'T HAVE A COPY, YOUR HONOR. THE AGREEMENT PROVIDED FOR A $150.00 AN HOUR PLUS 25% PERCENT RECOVERY. HE COULD NOT MAKE ANY PAYMENTS TO ME BECAUSE OF THE EXPENSES.

MS. COOK: YOUR HONOR, IF HE CAN PROVIDE THAT TO THE COURT AND BRING IT TOMORROW SO I CAN PUT IT IN AND THE ORIGINAL FEE AGREEMENT.

JUDGE HOWE: COPY OF THE ORIGINAL FEE AGREEMENT?

MS. COOK: YES, MA'AM. I HAVE NO OBJECTION, BUT WITHOUT THAT I DO OBJECT.

JUDGE HOWE: DO YOU HAVE ANY PROBLEMS WITH THAT MR. DURANT? DO YOU HAVE A COPY?

MR. DURANT: YES, I DO. WHAT NUMBER IS

THAT?

COURT REPORTER: 41.

JUDGE HOWE: THE OTHER ONE IS 41-A. THIS IS 41. SO, BOTH OF THOSE WILL BE ADMITTED.

AGREEMENTS MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS PLAINTIFF'S. EXHIBIT 41.

AGREEMENT MARKED FOR. IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS PLAINTIFF'S EXHIBIT 41-A.

MR. DURANT: JUST A MINUTE PLEASE. THAT'S ALL I HAVE OF THIS WITNESS, YOUR HONOR. THIS WAS JUST FAXED OVER.

MS. COOK: OKAY.

MR. DURANT: DO WE NEED TO MAKE THAT AN EXHIBIT ALSO, 42?

MS. COOK: I HAVE NO OBJECTION, YOUR HONOR.

JUDGE HOWE: ALRIGHT. THANK YOU. THAT IS PLAINTIFF'S EXHIBIT 42 AND THAT IS MS. BRADY'S BILLING FEE.

MR. DURANT: YES, MA'AM. THAT WOULD BE

FOR APPROVAL IF THERE IS AN AWARD IN FAVOR OF THE PLAINTIFF.

MS. BRADY'S BILLING FEE MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS PLAINTIFF'S EXHIBIT 42.

MS. COOK: I KNOW THIS IS A LITTLE UNUSUAL, BUT COULD I ASK A QUESTION ABOUT THIS TO MR. DURANT? WOULD MS. BRADY HAVE, AS ATTORNEYS USUALLY DO AS WELL, BILLING FOR HER SERVICES RATHER THAN JUST WHAT I WOULD CALL, SUMMARY BILLS?

JUDGE HOWE: ARE YOU TALKING ABOUT AN ITEMIZED BILL?

MS. COOK: YES, MA'AM. I WOULD LIKE FOR THE ITEMIZED BILL TO BE ATTACHED --

JUDGE HOWE: I DON'T KNOW IF ACCOUNTANTS DO THAT OR NOT.

MS. BRADY: ACCOUNTANTS DON'T DO IT. WHEREAS, IT HAS ALL THE DESCRIPTIONS LIKE YOU SEE THERE. THIS BILL STARTED THREE YEARS AGO. SO, I CAN PRODUCE WHATEVER THE COURT WANTS. OUR BILLING SYSTEM DOESN'T STOP UNTIL THE END OF THE

MONTH, BUT THIS BILL WAS PUT TOGETHER FOR TIMING. I CAN GET ANY DETAILS THE COURT WANTS. IT IS NOT LIKE AN ATTORNEY WOULD DO IT. THAT'S NOT THE WAY WE ISSUE BILLS. WE DON'T HAVE A DESCRIPTION EACH MONTH OF WHAT WE DID.

JUDGE HOWE: YOUR COMPUTER WON'T SPIT IT OUT? IT WON'T PRODUCE AN ITEMIZED TYPE BILL?

MS. BRADY: IT WILL NOT. WE HAVE TO PUT A DESCRIPTION IN. IT PRINTS OUT THE AMOUNT OF THE BILL. WE HAVE TO PUT THE DESCRIPTION IN.

JUDGE HOWE: AND YOU DIDN'T PUT A DESCRIPTION IN AS YOU WERE GOING ALONG?

MR. THOMAS: SOME OF IT DID, BUT I'M SAYING, AS WE DO THE BILL EACH MONTH, WE DON'T PRINT THE BILL. I THINK THE LEGAL FEE AS THE BILLS ARE, IT WOULD HAVE WHAT THEY DID FOR EACH THING. OUR COMPUTER WILL NOT AUTOMATICALLY DO THAT. IT'S ENTERED INTO OUR COMPUTER SO THERE CAN BE A REPORT DONE. WE HAVE THE OPTION TO PUT A DESCRIPTION OR IT'S ACTUALLY A CODING TO WHAT THAT'S FOR MORE OR LESS.

JUDGE HOWE: HOW MUCH DO YOU WANT TO SEE, MS. COOK?

MS. COOK: COULD WE INQUIRE TO MS. BRADY IF SHE DID NORMALLY SEND A MONTHLY BILL OUT TO MR. SMITH? I ASSUME THE MONTHLY BILL WOULD HAVE, AT LEAST, AS MUCH DETAIL AS EXHIBIT 42 DOES?

MS. BRADY: YES.

MS. COOK: IS IT POSSIBLE TO PUT ON THE MONTHLY BILL THE AMOUNT OF HOURS THAT YOU SPENT WORKING THAT PARTICULAR MONTH?

MS. BRADY: YES. SHE CAN GO BACK... THAT'S NOT SOMETHING THAT THE COMPUTER PRINTS OUT, BUT SHE CAN GO BACK AND PULL REPORTS AND DO THAT FOR YOU.

JUDGE HOWE: IS THAT SOMETHING THAT YOU COULD ASK HER TO DO BY THE END OF TOMORROW AND YOU COULD HAVE HER E-MAIL IT TO MY OFFICE PERHAPS?

MR. THOMAS: YES, I CAN.

MS. COOK: UNFORTUNATELY, I DON'T HAVE A PROBLEM WITH THAT. I DO NOT ANTICIPATE THAT WE ARE GOING TO FINISH THIS TRIAL BY TOMORROW.

JUDGE HOWE: GREAT.

MS. COOK: FRANK, LET ME BREAK IN. BUT AS LONG AS I CAN HAVE IT BEFORE WE RECONVENE.

JUDGE HOWE: OKAY. VERY GOOD.

Q ONE MORE QUESTION, MR. SMITH. WHEN YOU FILED THE TAXES, YOU ASKED FOR A JUDICIAL DISSOLUTION OF THIS COMPANY OF A&E?

A YES, SIR.

Q WHEN DO YOU THINK THAT THE EFFECTIVE DATE SHOULD BE, MR. SMITH, BASED UPON THE FACTS AND CIRCUMSTANCES OF THIS CASE?

A DECEMBER 31ST 2007.

Q BECAUSE WHY?

A THAT'S WHEN WE STOPPED DOING BUSINESS.

Q IN YOUR OPINION?

A IN MY OPINION.

Q THANK YOU, SIR.

MR. DURANT: THAT'S THE PLAINTIFF'S CASE.

JUDGE HOWE: ALRIGHT. MS. COOK.

MS. COOK: YOUR HONOR, FOR THE RECORD, CAN WE JUST PUT ON THE RECORD THAT I MAY LEAD FOR MOTIONS.

JUDGE HOWE: PARDON.

MS. COOK: I'M NOT GOING TO MAKE ANY

MOTIONS, YOUR HONOR. I'VE GOT TO CROSS-EXAMINE.

CROSS-EXAMINATION BY MS. COOK.

Q MR. SMITH, LET'S START RIGHT THERE FOR JUST A MOMENT. MR. DURANT HAD JUST ASKED YOU ABOUT YOUR REQUEST TO THE COURT TO DISSOLVE A&E. AS I UNDERSTAND YOUR ANSWERS, YOU STILL ARE ASKING THE COURT TO DISSOLVE A&E, BUT TO DISSOLVE IT EFFECTIVE 12-1-07, IS THAT CORRECT?

A YES, MA'AM.

Q ARE YOU AWARE AFTER YOUR PHYSICAL DEPARTURE, WHICH I THINK YOU TESTIFIED WAS IN SEPTEMBER OF 2007 FROM THE COMPANY, ARE YOU AWARE OF ONGOING CONTACT THAT A&E HAS HAD WITH OWNERS OF PROJECTS THAT A&E DID WORK FOR ABOUT ISSUES AND PROBLEMS SPECIFICALLY WITH REGARD TO CONSTRUCTION?

A YES.

Q HAVE YOU BEEN COPIED IN ON AND MADE AWARE OF THE PRESENCE OF A&E AND AS TO THE STATUS OF THE CONSTRUCTION COMPLAINTS OF THE POTENTIAL LIABILITY THAT A&E MAY BE FACING, SPECIFICALLY AT THE FOUNTAINS PROJECT?

A TO THE BEST OF MY KNOWLEDGE, YES.

Q AND EVEN IN THE FACE OF THAT POTENTIAL LIABILITY FOR THE FOUNTAINS CONSTRUCTION PROJECT, WHICH

A&E THOUGHT YOU ARE AWARE OF IT AT THE TIME, YOU STILL WOULD LIKE THIS COURT TO JUDICIALLY DISSOLVE THE CORPORATION?

A I DON'T KNOW THAT WE CAN.

Q WOULD YOU AGREE WITH ME THAT... AND I BELIEVE YOU STATED THAT YOU HAVE BEEN IN THE CONSTRUCTION BUSINESS A LONG TIME. AND CUSTOMERS OF THE CONSTRUCTION COMPANIES HAVE CERTAIN LEGAL RIGHTS AND REMEDIES FOR CERTAIN PERIODS OF TIME THAT THEY CAN PURSUE IF THEY BELIEVE THERE IS ANY LIABILITY OR DAMAGE DUE TO CONSTRUCTION. MY UNDERSTANDING OF THAT IS THAT GIVEN WHEN Y'ALL WERE DOING BUSINESS, A&E WOULD BE LIABLE FOR UP TO EIGHT YEARS FROM THE DATE OF CO OF EACH PROJECT? IS THAT YOUR UNDERSTANDING?

A I THOUGHT IT WAS SEVEN, BUT --

Q IT'S SOMEWHERE IN THAT NEIGHBORHOOD OF SEVEN TO EIGHT FOR WHAT WE CALL THE STATUTE OF REPOSE? ARE YOU FAMILIAR WITH THAT?

A NO ANSWER.

Q AND ANY AND ALL WORK THAT A&E HAS PERFORMED WOULD HAVE BEEN STARTED IN 2004 AND SO EVEN FROM THE FIRST PROJECT, WHERE A PROJECT WAS CO'ED THAT EIGHT YEARS WOULD NOT HAVE YET RUN, WOULD IT?

A NO. NOT TO MY KNOWLEDGE, NO.

Q OKAY. WITH REGARD TO THE LIABILITY OR THE POTENTIAL LIABILITY THAT A&E HAS BEEN MADE AWARE OF DOWN AT THE FOUNTAINS, ARE YOU AWARE THAT WORK HAS BEEN DONE BY FORCES TO TRY TO TAKE CARE OF ISSUES WHETHER THEY ARE PUNCH ITEMS OR ALLEGED DEFECTIVE CONSTRUCTION AT THE FOUNTAINS PROJECT ON BEHALF OF A&E?

A NUMBER ONE, THERE ARE NO PUNCH ITEMS ON ANY OF A&E PROJECTS AT THIS TIME. PUNCH IS DONE AFTER SOMEBODY MOVES IN AND THEY GIVE YOU ANY LIST OF WHAT IS WRONG.

Q I'M TRYING TO GIVE A&E THE BENEFIT OF THE DOUBT HERE, BY NOT SAYING DEFECTIVE CONSTRUCTION, BUT OKAY.

A IT'S NOT NECESSARILY DEFECTIVE CONSTRUCTION WHERE YOU HAVE A WARRANT ITEM. YOU CAN HAVE BREAKDOWNS IN ANY SITUATION IN ANY SYSTEM.

Q WELL, AT THE FOUNTAINS, DO YOU UNDERSTAND THE ALLEGATION OF THE OWNER OF THE FOUNTAINS OR WHOEVER IS OCCUPYING THE FOUNTAINS NOW? ONE OF THE ALLEGATIONS TO BE THAT THE SPRINKLER SYSTEM WAS NOT PROPERLY INSTALLED AT THE PROPER PLACE, AND THERE IS A POTENTIAL FIRE HAZARD WITH WHERE CERTAIN ITEMS ARE LOCATED UNDER STAIRWELLS AND

ROTTING WOOD? YOU HAVE BEEN MADE AWARE OF THOSE CLAIMS, AT LEAST, ON THE FOUNTAINS?

A I HAVE BEEN MADE AWARE OF THOSE CLAIMS.

Q OKAY. NOW, HAVE YOU PERSONALLY GONE DOWN AND PICKED UP A HAMMER OR DONE ANYTHING TO TRY TO ADDRESS ANY OF THOSE CLAIMS AT THE FOUNTAINS?

A NO.

Q ARE YOU AWARE THAT GRAND STRAND BUILDERS, MR. VEREEN, AND MRS. SISSON HAVE ATTEMPTED AND ARE ATTEMPTING TO WORK WITH THE PARTIES TO TRY TO COME TO A RESOLUTION OF THESE ISSUES AT THE FOUNTAINS?

A I UNDERSTAND THAT MR. VEREEN IS WORKING WITH THEM, YES.

Q DO YOU HAVE ANY PROBLEM WITH MR. VEREEN ON BEHALF OF A&E TRYING TO WORK ON A RESOLUTION OF THESE ISSUES AT THE FOUNTAIN?

A I WOULD LIKE TO BE KEPT UPDATED ON WHAT IS DONE, WHAT HAS BEEN DONE. I HAVE RECEIVED SOME NOTIFICATION FROM THEM THAT THIS WAS DONE AND THAT WAS DONE. THEN I'VE TALKED TO THE PEOPLE THAT WENT AND DID IT AND IT'S NOT EXACTLY WHAT THEY'RE TELLING ME.

Q HAS ANYBODY PROHIBITED YOU FROM COMING BACK INTO THE OFFICE IN TRYING TO HELP RESOLVE THE ISSUES

AT THE FOUNTAINS? YOU HAVE BEEN INVITED NUMEROUS TIMES TO COME AND PARTICIPATE, HAVEN'T YOU?

A I HAVE NEVER BEEN INVITED TO PARTICIPATE. I HAVE BEEN MADE AWARE OF THEM AND I HAVE MET MR. VEREEN AT THE FOUNTAINS. I HAVE.

Q HOW MANY TIMES?

A EXCUSE ME?

Q HOW MANY TIMES?

A I HAVE BEEN OUT THERE ABOUT FOUR TIMES AND I HAVE MET HIM ONCE.

Q OKAY. WELL, IN ADDITION, LET ME JUST ASK, YOU PULLED THE PERMIT FOR A JOB FOR MARTIN BROWN ON AUGUST 2ND 2007, DIDN'T YOU?

A I DON'T KNOW THE DATE.

Q OKAY.

A I MAY HAVE. I DON'T KNOW WHAT DATE. WHAT BUILDING ARE YOU TALKING ABOUT?

Q DO YOU REMEMBER DOING A CONDOLUX PROJECT IN NORTH MYRTLE BEACH?

A YES, MA'AM.

Q I KNOW YOU JUST DIDN'T DO ONE, BUT WAS THERE NOT A PERMIT PULLED BY THE CITY OF NORTH MYRTLE BEACH TO CONSTRUCT A THREE STORY OFFICE COMPLEX PER ENGINEERED PLAN FOR CONDOLUX? I BELIEVE

THAT BEING THE PROJECT THAT YOU TALKED ABOUT THAT A&E... MR. VEREEN DIDN'T WANT TO DO SO YOU FORMED E SMITH AND SONS AND DID THAT JOB? IS THAT THE SAME JOB?

A YES, MA'AM.

Q THAT PERMIT WAS PULLED ON 8-2-07, WASN'T IT?

A YES, MA'AM.

Q DO YOU REMEMBER WHEN THE CO WAS ISSUED ON THAT JOB? END OF MAY, FIRST OF JUNE OF '08? DOES THAT SOUND RIGHT?

A CLOSE, YES.

Q WHETHER IT'S SEVEN YEARS OR EIGHT YEARS, I MEAN, YOU ARE STILL LOOKING AT POTENTIAL LIABILITY ON THAT JOB UNTIL 2016 POTENTIALLY, IS THAT CORRECT?

A I GUESS YOU ARE CORRECT, YES.

Q SO, DO YOU STILL WISH THIS COURT TO JUDICIALLY DISSOLVE A&E?

A I WISH THIS COURT TO STOP A&E FROM DOING BUSINESS.

Q DO YOU WANT THIS COURT TO STOP A&E FROM ENDEAVORING TO CARING OUT ANY RESPONSIBILITY IT MIGHT HAVE BEEN, IF ANY, WITH REGARD TO CONSTRUCTION ISSUES THAT HAVE ARISEN OR HEREAFTER ARISE ON PROJECTS THAT A&E DID?

A I REALLY DON'T UNDERSTAND THE QUESTION.

Q WELL, IF MARTIN BROWN IN FOUR MONTHS SAYS THAT HE'S GOT ROTTEN STUCCO OR THE BRICK ON THAT FANCY BUILDING THAT YOU BUILT FOR HIM UP THERE IS CRACKING DUE TO A FOUNDATION ISSUE AND HE WANTS SOMETHING DONE ABOUT THAT AND SO HE WANTS TO GO AFTER A&E TO HAVE THAT TAKEN CARE OF, DO YOU WANT A&E NOT TO STEP UP AND BE AVAILABLE TO DO THAT?

A E SMITH AND SONS HAS INSURANCE ON THAT BUILDING AND IT WAS PAID FOR THAT BUILDING. A&E IS NOT INSURED ON THAT BUILDING.

Q E SMITH AND SONS GOT SOME INSURANCE, GIVEN OUR LAW, THAT WILL PAY ON DEFECTIVE CONSTRUCTION? NEVER MIND, YOU DON'T NEED TO ANSWER THAT. EVEN THOUGH NO NEW PROJECTS WERE UNDERTAKEN BY MR. VEREEN AND MRS. SISSON AFTER YOUR DEPARTURE FROM A&E, OTHER THAN, I BELIEVE, WE LOOKED AT THAT PERMIT. IT WAS MRS. SISSON'S HOUSE AND THE PLACE ON MAPLE STREET. AFTER YOU PHYSICALLY LEFT A&E, DID YOU PULL ANY PERMITS UNDER A&E'S NAME?

A YES.

Q AND WHAT JOBS AFTER YOU LEFT PHYSICALLY IN SEPTEMBER OF '07, DID YOU PULL UNDER A&E'S NAME

USING A&E'S LICENSING?

A I COULDN'T TELL YOU EXACTLY.

Q CAN YOU TELL ME HOW MANY?

A I DID SOME WORK ON THE WAREHOUSE ON MADISON DRIVE, NORTH MYRTLE BEACH. I BASICALLY MADE A HANDICAP BATHROOM. I REPAIRED A DECK AT 4306 SOUTH OCEAN BOULEVARD IN WINDY HILL.

JUDGE HOWE: CAN YOU SPEAK UP A LITTLE BIT, MR. SMITH.

A I DON'T REMEMBER WHAT ELSE, MS. COOK.

Q BUT YOU DID PULL SEVERAL OTHER PERMITS?

A YES.

Q IN THE NAME OF A&E?

A YES, MA'AM.

Q AND YOU PULLED THOSE PERMITS IN THE NAME OF A&E EVEN AFTER DECEMBER 31, 2007, DIDN'T YOU?

A YES.

Q DID YOU LET MR. VEREEN, YOUR 50% PERCENT SHAREHOLDER IN A&E, KNOW THAT YOU WERE UNDERTAKING THOSE JOBS USING A&E'S PERMITS?

A NO.

Q I MEAN, A&E'S LICENSE? I'M SORRY.

A NO.

Q DID YOU ENTER INTO CONTRACTS IN THOSE SITUATIONS IN WHICH YOU PULLED PERMITS USING A&E'S LICENSE

AFTER '07?

A CONTRACTS?

Q YES.

A NOT THAT I CAN RECALL. I THINK THE ONLY CONTRACT I SIGNED WAS THE MARTIN BROWN CONDOLUX BUILDING.

Q AND WAS THAT CONTRACT IN THE NAME OF A&E OR WAS THAT IN THE NAME OF E SMITH AND SONS OR WHOSE NAME WAS IT IN AS THE BUILDER?

A E SMITH AND SONS.

Q SO, YOU PULLED THE PERMIT FOR THE CONDOLUX OFFICE BUILDING USING A&E'S LICENSE, BUT YOUR CONTRACT TO BUILD THE CONDOLUX PROJECT WAS WITH YOUR NEW CORPORATION E SMITH AND SONS, IS THAT CORRECT?

A YES, MA'AM.

Q AND WHAT WAS THE CONTRACT AMOUNT FOR THAT JOB?

A I DON'T KNOW.

Q WAS IT A COST-PLUS OR WAS IT A FIXED STIPULATED SUM?

A COST-PLUS GUARANTEED. MAX SPLIT SAVINGS 60/40.

Q BUT YOU DON'T REMEMBER THE... YOU REMEMBER THE TERMS, BUT YOU DON'T REMEMBER THE AMOUNT OF THAT CONTRACT? DO YOU REMEMBER BALLPARK?

A SOMEWHERE AROUND A MILLION THREE.

Q WERE YOU PAID... WHO WAS PAID BY THE OWNER OF THAT PROJECT FOR BUILDING THAT OFFICE COMPLEX?
A E SMITH AND SONS.
Q DID E SMITH AND SONS AT THAT TIME HAVE A GENERAL CONTRACTORS LICENSE?
A NO, MA'AM.
Q DID E SMITH AND SONS OR MARTIN BROWN OR YOU PAY ANY MONEY TO A&E FOR THE WORK DONE TO BUILD THE MARTIN BROWN CONDOLUX OFFICE BUILDING?
A NO, MA'AM.
Q WAS THAT THE ONLY PROJECT AFTER DECEMBER OF 2007 UNDER WHICH YOU OR E SMITH AND SONS USED A&E'S LICENSE TO PULL A PERMIT?
A NO, MA'AM. I JUST TOLD YOU TWO OTHERS.
Q WELL, OTHER THAN THOSE THREE, ARE THOSE THE ONLY THREE?
A I DON'T RECALL EXACTLY.
Q I KIND OF JUMPED IN, IN THE MIDDLE SO I'M GOING BACK TO THE BEGINNING A LITTLE BIT. WHEN DID YOU FIRST GO INTO BUSINESS FOR YOURSELF? I KNOW YOU WORKED FOR OTHER CONTRACTING COMPANIES, BUT WHEN DID YOU FIRST GO INTO BUSINESS FOR YOURSELF, MR. SMITH?
A SOMEWHERE AROUND MID-NINETIES.
Q WAS THE NAME OF THAT COMPANY EES CONSTRUCTION?

A YES, MA'AM.
Q THAT WAS A CORPORATION?
A YES, MA'AM.
Q LET ME SHOW YOU WHAT I'VE GOT. IT'S A DOCUMENT ENTITLED, SOUTH CAROLINA SECRETARY OF STATE, ARTICLES OF INCORPORATION FOR EES CONSTRUCTION AND CONSULTING. IT'S SHOWN THAT IT WAS FILED WITH THE SECRETARY OF STATE ON JULY 9TH 1996. DO YOU RECOGNIZE THIS?
A IT LOOKS LIKE IT.

MR. DURANT: YOUR HONOR, I WOULD LIKE TO INTRODUCE THIS AS DEFENDANT'S EXHIBIT 18.

MR. DURANT: NO OBJECTIONS.

JUDGE HOWE: DEFENDANT'S 18 SO ADMITTED.

SOUTH CAROLINA SECRETARY OF STATE ARTICLES OF INCORPORATION MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 18.

Q NOW, WHAT WAS THE BUSINESS OF EES WHEN YOU INCORPORATED IN '96?
A BUILDING.
Q WAS THAT YOUR LIVELIHOOD, EES, UNTIL YOU WENT

INTO BUSINESS WITH MR. VEREEN WITH A&E IN 2003?

A I WAS WITH EES AND I GOT MY LICENSES AND I WAS THE QUALIFYING PARTNER PAID BY PINE BLUFF CONSTRUCTION WITH CAROLINA KEYES. THEN WHEN I FINISHED WITH THEM, SHORTLY THEREAFTER, I STARTED WITH MR. VEREEN.

Q AND WHEN YOU WERE... WHEN YOU HELD THE LICENSE FOR PINE BLUFF, YOU WERE THE QUALIFYING PERSON FOR PINE BLUFF CONSTRUCTION BUT YOU STILL RAN EES, DIDN'T YOU?

A YES, SIR.

Q BECAUSE EES WAS A SUBCONTRACTOR FOR PINE BLUFF CONSTRUCTION, IS THAT CORRECT?

A YES, MA'AM.

Q HAD EES EVER BEEN LICENSED AS A RESIDENTIAL BUILDER IN THE STATE OF SOUTH CAROLINA?

A NO.

Q HAD EES EVER BEEN LICENSED AS A GENERAL CONTRACTOR AT ANY LEVEL IN THE STATE OF SOUTH CAROLINA?

A NO.

Q HAVE YOU EVER PULLED A BUILDING PERMIT UNDER THE NAME OF EES?

A YES, MA'AM.

Q NOW, WHEN YOU WENT TO WORK AND YOU AND MR.

VEREEN FORMED A&E, THAT WAS FORMED IN OCTOBER OF 2003, CORRECT?

A YES, MA'AM.

Q AND WHEN IS THE FIRST TIME YOU PERSONALLY, ELLIS SMITH, WAS EVER LICENSED BY THE STATE OF SOUTH CAROLINA AS A CONTRACTOR?

A PERSONALLY BY MYSELF?

Q YES, SIR. WHEN DID YOU BECOME LICENSED?

A 2009.

Q THAT LICENSE, YOU SAT AS A QUALIFYING INDIVIDUAL FOR E SMITH AND SONS?

A THAT'S CORRECT.

Q THAT WAS IN 2009 OR WAS THAT 2010?

A I DON'T REMEMBER.

Q OKAY. LET ME SHOW YOU WHAT IS ENTITLED, GENERAL OR MECHANICAL CONTRACTORS LICENSE APPLICATION." IT'S DATE STAMPED JANUARY 30, 2004, AND IT'S FOR A&E AND YOU HAVE SIGNED AS THE NAME OF THE QUALIFYING PARTY FOR A&E. LET ME SEE IF YOU RECOGNIZE THAT DOCUMENT.

A IT LOOKS LIKE WHAT I TURNED IN.

MS. COOK: I WOULD LIKE TO INTRODUCE THIS AS DEFENDANT'S EXHIBIT NUMBER 19.

MR. DURANT: NO OBJECTIONS.

MR. THOMAS: NO OBJECTIONS.

JUDGE HOWE: DEFENDANT'S EXHIBIT 19 SO ADMITTED.

GENERAL OR MECHANICAL CONTRACTORS LICENSE APPLICATION MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 19.

Q THAT'S THE APPLICATION FOR THE LICENSING OF A&E. ALSO WAS THAT LICENSE FOR A&E RENEWED IN 2006?

A TO BEST OF MY KNOWLEDGE, YES.

Q ON THAT RENEWAL NOT ONLY WERE YOU THE QUALIFYING INDIVIDUAL, BUT ALSO MR. VEREEN WAS A QUALIFYING INDIVIDUAL, ISN'T THAT CORRECT?

A NOT TO MY KNOWLEDGE. I DON'T KNOW.

Q LET ME SHOW YOU THIS DOCUMENT. IT'S ENTITLED, SOUTH CAROLINA DEPARTMENT OF LABOR LICENSING AND REGULATION GENERAL CONTRACTORS RENEWABLE APPLICATION AND THAT'S DATE STAMPED NOVEMBER 8, 2006. IS THAT YOUR SIGNATURE ON IT?

A NO, MA'AM. IT IS NOT.

Q SO THAT'S NOT YOUR SIGNATURE?

A NO, MA'AM. IT IS NOT.

Q OKAY. WAS A&E... DID YOU, AS PRESIDENT, SEEK TO HAVE THE LICENSE OF A&E RENEWED IN 2006?

A I WAS TOLD THAT IT WAS RENEWED BY THE COMPUTER BY CARRIE DREWITT. SHE SUBMITTED A FINANCIAL STATEMENT IN NO WAY SHAPE OR FORM DID I SIGN THAT.

MS. COOK: YOUR HONOR, I WOULD LIKE TO ADMIT INTO EVIDENCE AS EXHIBIT NUMBER 20, THE GENERAL CONTRACTORS RENEWABLE APPLICATION.

JUDGE HOWE: HAVE YOU SEEN THAT, MR. DURANT?

MR. DURANT: THIS IS THE FIRST TIME I'VE SEEN IT. IT IS WHAT IT IS.

Q DID YOU HAVE ANY PROBLEM THEN WITH THE GENERAL CONTRACTORS LICENSE OF A&E BEING RENEWED IN '06?

A NO.

Q OKAY. DO YOU HAVE A PROBLEM NOW WITH THE GENERAL CONTRACTORS LICENSE OF A&E BEING RENEWED IN '06?

A NO. I HAVE A PROBLEM WITH SOMEBODY SIGNING MY NAME THAT'S NOT SUPPOSED TO THAT'S NOT AUTHORIZED TO DO IT.

Q DID YOU AUTHORIZE ANYONE TO GO AHEAD AND DO WHAT WAS NECESSARY TO HAVE THE GENERAL CONTRACTORS LICENSE RENEWED?

A I WAS TOLD BY MRS. DREWITT THAT IT WAS DONE.

THE FINANCIAL STATEMENT OVER THE COMPUTER AND THEY RENEWED OUR LICENSE. NOBODY TOLD ME THAT MY NAME WAS SIGNED ANYWHERE.

Q NOW, WHATEVER FINANCIAL STATEMENT WAS NECESSARY... Y'ALL HAVE A GENERAL CONTRACTORS LICENSE THAT WAS AT CLASSIFICATION OF BB5, MEANING IT WAS AN UNLIMITED LICENSE, ISN'T THAT CORRECT?

A YES, MA'AM.

Q DO YOU HAVE KNOWLEDGE OF WHAT IS REQUIRED IN ORDER TO GET THAT CLASSIFICATION OF AN UNLIMITED LICENSE?

A BB5 QUALIFICATIONS IS A WORTH OF $250,000.

Q ALRIGHT. AND YOU CANDIDLY ADMITTED WHEN YOU ENTERED INTO THIS ARRANGEMENT WITH A&E, YOU DIDN'T HAVE THAT FINANCIAL WHEREWITHAL?

A NO, MA'AM.

Q AND YOU DON'T TODAY?

A NO, MA'AM.

Q AND WHEN YOUR NAME COMPANY, E SMITH AND SONS, WAS FORMED AND THAT WAS FORMED IN APRIL OF 2007, CORRECT?

A I THINK SO.

Q APRIL 3RD 2007, WASN'T IT?

A YES. I THINK SOMETHING LIKE THAT.

Q AND WHEN THAT WAS FORMED, WHEN DID YOU APPLY FOR E SMITH AND SONS TO OBTAIN A CONTRACTORS LICENSE?
A I DON'T KNOW THE EXACT DATE.
Q YOU DIDN'T APPLY FOR A CONTRACTORS LICENSE FOR E SMITH AND SONS UNTIL 2010, DID YOU?
A NO. IT WAS IN 2009.
Q OKAY. AND WAS THAT GENERAL CONTRACTORS LICENSE ISSUED?
A YES. IT WAS.
Q DO YOU STILL HAVE THAT TODAY, THAT GENERAL CONTRACTORS LICENSE?
A YES, MA'AM, I DO.
Q AND WHAT LEVEL OR CLASSIFICATION OF GENERAL CONTRACTORS LICENSE DOES E SMITH AND SONS HAVE?
A $100,000 MAX.
Q NOW, E SMITH AND SONS WAS NOT LICENSED AS A GENERAL CONTRACTOR WHEN YOU DID THE MARTIN BROWN CONDOLUX PROJECT IN NORTH MYRTLE BEACH IN THE FALL OF 2007, WAS IT?
A MY LICENSE WAS ON THE WALL AT A&E AT THE TIME.
Q THE QUESTION WAS, E SMITH AND SONS, WHO HAD THE CONTRACT FOR THAT PROJECT, WAS NOT A LICENSED GENERAL CONTRACTOR IN THE STATE OF SOUTH CAROLINA AT THAT TIME, WERE THEY?

A NO, MA'AM.
Q AND AT THE TIME THAT YOU BEGAN THE MARTIN BROWN PROJECT IN NORTH MYRTLE BEACH IN THE FALL OF 2007 YOU WERE STILL THE PRESIDENT AND 50% PERCENT SHAREHOLDER OF A&E, CORRECT?
A YES, MA'AM.
Q AND YOU TESTIFIED THAT YOU DID NOT LET MR. VEREEN, YOUR OTHER SHAREHOLDER AND THE TREASURER OF THE COMPANY, KNOW THAT A&E WAS PULLING THAT PERMIT, IS THAT CORRECT?
A YES, MA'AM.
Q DID YOU LET MR. BROWN KNOW THAT E SMITH AND SONS WAS NOT A LICENSED CONTRACTOR?
A HE KNEW THAT I WAS PULLING THE PERMIT IN A&E'S NAME.
Q OKAY. SO, MR. BROWN DID KNOW THAT YOU WERE DOING THAT?
A YES.
Q WHEN YOU STARTED WORKING WITH A&E OR BEGAN AND APPROACHED MR. VEREEN ABOUT DOING A&E, BEFORE THE CORPORATION WAS FORMED, WHAT WAS YOUR UNDERSTANDING OF THE ARRANGEMENT OF HOW THE CORPORATION WAS GOING TO WORK?
A 50/50 PARTNER GENERAL CONTRACTORS.
Q AND IT WAS YOUR UNDERSTANDING THAT YOU WERE NOT

GOING TO HAVE TO PUT IN ANY CAPITAL OR ANY MONEY TO START THAT CORPORATION?

A THAT'S CORRECT.

Q IT WAS YOUR UNDERSTANDING THAT MR. VEREEN WAS GOING TO BE THE TOTAL FUNDING SOURCE FOR THAT CORPORATION OTHER THAN THE REVENUES THAT WERE GENERATED?

A THAT'S CORRECT.

Q DID Y'ALL TALK BEFORE YOU FORMED THE CORPORATION ABOUT WHAT THE TERMS WOULD BE IN TERMS OF SALARY BEING PAID TO EACH OF Y'ALL?

A NO.

Q THAT WASN'T DISCUSSED AT ALL?

A NO.

Q DO YOU DISCUSS A DIVISION OF RESPONSIBILITY FOR THE CORPORATION ONCE YOU BEGAN? THIS NOW WAS BEFORE YOU FORMED IT?

A NO.

Q WHO WAS GOING TO BE RESPONSIBLE FOR WHAT ONCE YOU FORMED IT?

A WE TALKED ABOUT HOW THINGS WOULD WORK, YES, MA'AM.

Q BEFORE YOU FORMED THE CORPORATION, DID YOU DISCUSS WHO OR IF A&E WOULD HAVE EMPLOYEES?

A NO.

Q BEFORE YOU FORMED THE CORPORATION, DID YOU HAVE ANY DISCUSSIONS ABOUT THE LEVEL OR THE AMOUNT... A DOLLAR AMOUNT OF JOBS THAT WAS GOING TO BE NEEDED TO BE GENERATED BY EACH OF YOU TO MAKE THIS AN ONGOING AND PROFITABLE BUSINESS?

A NO, MA'AM.

Q NO DISCUSSIONS ABOUT THAT BEFORE YOU FORMED THE CORPORATION?

A NO, MA'AM.

Q DID YOU HAVE ANY DISCUSSIONS WITH MR. VEREEN ABOUT HIS WILLINGNESS TO FORM A CORPORATION WITH YOU BEING A WAY IN WHICH YOU COULD HOPEFULLY REPAY MR. VEREEN FOR SOME MONIES THAT YOU OWED HIM AND HAD NOT BEEN ABLE TO REPAY HIM TO THAT POINT AND TIME?

A I OWED HIM NO MONEY. THERE WAS NO DISCUSSION OF ANY MONEY BEING PAID.

Q WELL, THEN LET'S BACKUP FOR JUST A MOMENT. AT ONE POINT, YOU AND YOUR WIFE LIVED IN A HOME THAT YOU BUILT AT PLANTATION POINT, CORRECT? THAT'S HAS NOTHING TO DO WITH THIS PLANTATION LAKES HOME.

A YES, MA'AM.

Q AND THAT HOUSE THAT YOU AND YOUR WIFE HAD AT PLANTATION POINT, IS IT NOT TRUE THAT MR. VEREEN

OR ARTHUR VEREEN CONSTRUCTION COMPANY ALLOWED YOU TO UTILIZE ARTHUR VEREEN CONSTRUCTION ACCOUNT TO GET MATERIALS AND SUPPLIES FOR YOU TO BUILD THAT HOME?

A YES, MA'AM.

Q HE DID DO THAT?

A YES, MA'AM.

Q AND IS IT YOUR TESTIMONY THAT YOU TOTALLY REPAID MR. VEREEN FOR ALL OF THE MATERIALS AND SUPPLIES THAT HE PAID FOR OR THAT ARTHUR VEREEN CONSTRUCTION COMPANY PAID FOR THAT YOU UTILIZED IN YOUR HOME?

A TO THE BEST OF MY KNOWLEDGE, YES.

Q DID THERE COME A POINT IN TIME WHERE YOU HAD TO FILE BANKRUPTCY?

A YES, MA'AM.

Q AS PART OF THAT BANKRUPTCY, WAS YOUR HOME AT PLANTATION POINT PART OF THAT BANKRUPTCY FILING?

A YES, MA'AM.

Q AS PART OF THAT BANKRUPTCY FILING, DID YOU LIST AS A CREDITOR ON THAT BANKRUPTCY FILING ANY DEBT OWED TO MR. VEREEN THAT WAS ASSOCIATED WITH THE CONSTRUCTION AND BUILDING MATERIALS AT THE PLANTATION POINT HOUSE?

A NO, MA'AM.

Q AT THE TIME THAT YOU FILED BANKRUPTCY, WERE THERE MONIES OWED TO MR. VEREEN OR ARTHUR VEREEN CONSTRUCTION COMPANY AT THAT TIME ON THE PLANTATION POINT HOUSE THAT YOU... EVEN THOUGH YOU DIDN'T LIST HIM OR HIS COMPANY AS A CREDITOR?

A I DON'T RECALL BUT, NO, I DON'T THINK SO.

Q WELL, DO YOU DENY A CONVERSATION THAT YOU HAD WITH MR. VEREEN ABOUT THE FACT THAT YOU DIDN'T LIST HIM AS A CREDITOR OR HIS COMPANY AS A CREDITOR IN YOUR BANKRUPTCY FILING BECAUSE YOU DIDN'T INTEND FOR THAT DEBT TO BE DISCHARGED YOU INTENDED WHEN YOU WERE ABLE TO PAY MR. VEREEN WHAT YOU OWED HIM? DO YOU DENY THAT CONVERSATION?

A YES, MA'AM, I DO.

Q OKAY. EVEN AFTER YOUR BANKRUPTCY FILING, THE LOSING THE HOME AT PLANTATION POINT, DID MR. VEREEN OR HIS COMPANIES OR A COMPANY IN WHICH HE WAS INVOLVED THAT OWNED THE PROPERTY THAT WE CALL 29TH CARRIAGE ROW, 29TH PLACE, DID HE ASSIST YOU IN BUYING A LOT AND BUILDING A HOME THERE?

A AT 29TH PLACE CARRIAGE ROW, YES. I BOUGHT A LOT FROM HIM FOR $17,000.

Q YOU SIGNED A CONTRACT OF SALE. A PURCHASE CONTRACT, A LAND PURCHASE CONTRACT, TO BUY THE LOT AND TO BUILD THE HOME, ISN'T THAT CORRECT?

A YES, MA'AM.

Q AND YOU DID THAT?

A YES, MA'AM.

Q AND THAT'S WHERE YOUR FAMILY LIVED FOR A NUMBER OF YEARS, IS THAT CORRECT?

A YES, MA'AM.

Q AND UNDER THAT TRANSACTION WITH MR. VEREEN, NOT ONLY DID HE SELL THE LOT TO YOU FOR THE $17,000, HE ALSO OR HIS COMPANY FINANCED THE MATERIALS SO YOU COULD BUILD THAT HOUSE AT CARRIAGE ROW, DIDN'T IT?

A YES, MA'AM.

Q YOU SIGNED A CONTRACT TO REPAY HIM THOSE MONIES? AND YOU SIGNED A NOTE TO REPAY HIM THE MONEY THAT --

MR. THOMAS: I THINK THAT THE NOTE WOULD BE THE BEST EVIDENCE. IF YOU'VE GOT A NOTE, WE WOULD LIKE TO SEE IT.

Q LET ME ASK YOU, DID YOU SIGN A NOTE?

A I DON'T RECALL.

Q DO YOU REMEMBER SIGNING A LAND SALES CONTRACT?

A MS. COOK, THAT WAS 18, 19 YEARS AGO.

MR. DURANT: WE STIPULATE TO THE LAND SALES CONTRACT, THE CLOSING, AND THE PAYMENT. THAT'S NOT A NOTE, THAT'S A LAND SALES CONTRACT.

MS. COOK: I UNDERSTAND. THE NOTE I BELIEVE IS AT MY OFFICE, BUT I'M NOT SURE I BROUGHT IT.

Q MR. SMITH, IF YOU WOULD LOOK AT THIS DOCUMENT ENTITLED, LAND SALES CONTRACT, AND SEE IF THAT'S A LAND SALES CONTRACT YOU SIGNED TO BUY THE LOT AND FOR THE CONSTRUCTION COSTS OF THE HOME AT CARRIAGE ROW? REMEMBER WE WENT OVER THAT AT YOUR DEPOSITION. IT WAS MARKED DEFENDANT'S EXHIBIT NUMBER 8?

A THAT IS MY SIGNATURE.

Q AND YOU DON'T DENY, DO YOU, SIR, THAT ABOUT IN JULY OF '92, YOU AGREED TO BUY THE LOT AND BUILD A HOUSE AND PUT $17,000 DOWN ACCORDING TO THIS LAND SALES CONTRACT AND THEN THE BALANCE WAS GOING TO BE $38,750, WHICH YOU WERE TO MAKE MONTHLY PAYMENTS ON? DO YOU REMEMBER THAT AGREEMENT WITH MR. VEREEN?

A I DON'T REMEMBER THE AGREEMENT, BUT I DO... I DID LIVE THERE AND I DID BUILD A HOUSE. I DID PAY HIM $17,000 LONG BEFORE THAT DATE. IT WAS

DONE IN '91.

MS. COOK: YOUR HONOR, WE WOULD LIKE TO INTRODUCE DEFENDANT'S EXHIBIT NUMBER 21.

MR. DURANT: NO OBJECTION.

JUDGE HOWE: ALRIGHT. DEFENDANT'S EXHIBIT 21 SO ADMITTED.

LAND SALES CONTRACT MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 21.

Q ACCORDING TO THIS LAND SALES CONTRACT, YOU WERE TO MAKE 60 PAYMENTS OF $322.90 A MONTH TO MR. VEREEN FOR THE HOME, IS THAT CORRECT?

A I DON'T KNOW.

Q LET ME ASK YOU, IF YOU WOULD, TO READ ON THE SECOND PAGE. I BELIEVE IF YOU LOOK AT THE MIDDLE OF PARAGRAPH 1, IT WILL GIVE THE TIME AND THE PAYMENT OF THAT --

A MS. COOK, ALL I CAN SAY IS I HAVE SEEN THIS BACK PAGE. MY INITIALS ARE NOT ON ANY PAGE IN HERE THAT I HAVE SEEN, NONE. I DON'T KNOW. I PAID HIM. I CLOSED THE HOUSE. HE HAS THE CLOSING STATEMENT. HE WAS PAID IN FULL FOR THE AMOUNT THAT HE ASKED.

Q DID YOU MAKE MONTHLY PAYMENTS TO MR. VEREEN OF

$322.92 FOR THE TERM OF THIS LAND SALES CONTRACT?

A TO THE BEST OF MY KNOWLEDGE, NO.

Q IN FACT, YOU DIDN'T MAKE ANY... AND THAT LAND SALES CONTRACT CALLS FOR INTEREST AT 10% PERCENT, DOESN'T IT?

A I DON'T KNOW.

Q OKAY. AND IT CALLS FOR PAYING THAT OFF ON A CERTAIN DATE? IT SAYS THAT YOU WILL PAY OFF THAT DEBT OF THE $38,750 IN FIVE YEARS BY JUNE 30TH OF '97, DOESN'T IT?

A THAT'S WHAT THE CONTRACT SAYS, YES.

Q DID YOU DO THAT?

A I DON'T KNOW. I DON'T KNOW WHEN THE CLOSING DATE WAS. HE WAS PAID IN FULL FOR THE AMOUNT DUE.

Q YOU DIDN'T PAY HIM MONTHLY. YOU PAID HIM ALL AT ONE TIME AND YOU PAID HIM IN '96, CORRECT?

A MS. COOK, I DON'T HAVE THE CLOSING STATEMENT IN FRONT OF ME. I CANNOT TELL YOU THAT.

Q OKAY. LET ME ASK YOU, HAVE YOU EVER SEEN WHAT I HAVE MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT NUMBER 22, WHICH IS A LIST OF EXPENSES FOR THE BUILDING OF YOUR HOME OF $55,945.83. HAVE YOU EVER SEEN THAT LETTER?

JUDGE HOWE: MS. COOK, WHILE HE'S LOOKING AT THAT, DEFENDANT'S EXHIBIT 21, I KNOW WE HAVE BEEN TALKING ABOUT MR. VEREEN AND HIS RELATED COMPANIES AND MR. SMITH AND HIS RELATED COMPANIES, BUT NOWHERE ON EXHIBIT 21, DOES IT SAY MR. VEREEN.

MS. COOK: I BELIEVE IT SAYS, "29TH PLACE DEVELOPMENT."

JUDGE HOWE: IS THAT ONE OF MR. VEREEN'S COMPANY?

MS. COOK: YES, MA'AM.

Q AND IF YOU DON'T KNOW, YOU DON'T KNOW IF YOU HAVE SEEN IT.

A I DON'T KNOW THAT I'VE SEEN IT, BUT I KNOW THAT THERE ARE A BUNCH OF CHARGES THAT ARE ON HERE.

Q YES, SIR.

A THAT HAVE NOTHING TO DO WITH MY HOUSE.

Q OKAY. THAT'S FINE. DID SCOTT LONG DO MOST OF YOUR LEGAL WORK?

A HE HAS DONE A BUNCH, YES.

Q NOW, DO YOU HAVE ANY PROOF THAT YOU HAVE PAID THE $17,000 DOWN PAYMENT ON THE CARRIAGE ROW HOUSE?

A THE CHECK CAME FROM MY FATHER. HE WILL TESTIFY

TO THAT FACT, BUT HE'S IN GREENVILLE. HE'S 83 YEARS OLD AND I REALLY DON'T WANT TO DRAG HIM DOWN HERE.

Q AND WE HAVE ASKED THROUGHOUT THE COURSE OF THIS LAST THREE YEARS THAT YOU PROVIDE SOME PROOF OF THE PAYMENT OF THAT DOWN PAYMENT AND YOU HAVE NOT PROVIDED IT, HAVE YOU?

A I THINK THE PROOF IS THAT THE CONTRACT IS SIGNED WHERE THE HOUSE WAS PURCHASED BY ME AND IT'S FOR THE AMOUNT OWED. SO, THE $17,000 WAS PAID BEFORE THAT.

Q DO YOU HAVE ANY PROOF OF THE PAYMENT OF THE $17,000?

MR. THOMAS: YOUR HONOR, WE OBJECT TO THE FORM OF THE QUESTION. THE CONTRACT IS THE EVIDENCE PRECISE AND ACKNOWLEDGES THE PAYMENT AS A WHOLE.

JUDGE HOWE: IT DOESN'T.

MS. COOK: OKAY.

Q DO YOU DENY HAVING IN THAT SAME A CONVERSATION WITH MR. VEREEN DEALING WITH THIS HOME AT CARRIAGE ROW THAT YOU ALSO SAID THIS WOULD BE A WAY IN WHICH YOU COULD REPAY HIM FOR THE ADDITIONAL AMOUNTS THAT YOU OWED HIM ON THE CARRIAGE ROW HOUSE?

A I'M MISSED WHAT YOU SAID. THE CARRIAGE ROW HOUSE AND THIS CONVERSATION, THE ADDITIONAL AMOUNT THAT I OWED HIM ON THE CARRIAGE ROW? WHAT ADDITIONAL AMOUNT IS THAT?

Q OKAY. IN A CONVERSATION... HAVE YOU EVER HAD A CONVERSATION WITH MR. VEREEN AT THE TIME THAT YOU APPROACHED HIM ABOUT Y'ALL FORMING A CONSTRUCTION COMPANY, WHICH BECAME A&E, AND BY Y'ALL JOINING FORCES AND DOING THAT NOT ONLY WOULD YOU BE ABLE TO REPAY HIM THE MONEY THAT YOU OWED HIM ON THE PLANTATION POINT HOUSE, BUT YOU WOULD ALSO BE ABLE TO PAY HIM THE REMAINING MONEY THE THAT YOU OWED HIM ON THE CARRIAGE ROW HOUSE?

A MA'AM, AS I TESTIFIED BEFORE THAT I DID NOT OWE HIM ANYTHING ON THE PLANTATION POINT HOUSE NOR DID I OWE HIM ANYTHING ON THE 29TH PLACE HOUSE.

Q SO, YOU DENY THAT CONVERSATION?

A I DENY THAT CONVERSATION IN FULL.

Q OKAY. WHEN YOU FORMED A&E AND YOU BEGAN WORK YOU TALKED ABOUT IT BEING AGREED ON BY THE TWO OF YOU THAT YOU WOULD FINISH UP WHATEVER JOBS YOU WERE WORKING ON AT THE TIME, BUT THAT ANY NEW JOBS THAT YOU ENTERED INTO WOULD BE ENTERED INTO AS A&E AND A&E WOULD BE RESPONSIBLE FOR

THOSE JOBS MOVING FORWARD? DID I UNDERSTAND THAT CORRECTLY?

A ANY CONTRACT THAT WAS SIGNED PRIOR TO JANUARY 1ST OF 2004 WERE TO BE FINISHED BY WHOEVER HAD THE CONTRACT.

Q OKAY.

A AS WAYNE VEREEN HAD A CONTRACT AND HE SIGNED IN OCTOBER THE 1ST, HE IS TO FINISH THAT CONTRACT. IT'S GOT NOTHING TO DO WITH A&E. ANYTHING AFTER JANUARY THE 1ST BELONGS TO A&E.

Q ALRIGHT. WHETHER YOU HAD A WRITTEN CONTRACT WITH THE CUSTOMER OR WHETHER YOU JUST HAD A HANDSHAKE DEAL WITH THE CUSTOMER?

A WRITTEN CONTRACT.

Q OKAY. AND SO IT WAS YOUR UNDERSTANDING THAT NEITHER YOU NOR MR. VEREEN WOULD DO ANY JOBS UNLESS YOU HAD A WRITTEN CONTRACT?

A EXCUSE ME NOW?

Q AFTER JANUARY 1, 2004 WAS IT YOUR UNDERSTANDING THAT NEITHER YOU OR MR. VEREEN WOULD DO ANY CONSTRUCTION WORK UNLESS YOU HAD A WRITTEN CONTRACT FOR A&E?

A THAT WAS NEVER DISCUSSED.

Q NEVER DISCUSSED? SO, COULD A&E DO WORK IF IT DIDN'T HAVE A WRITTEN CONTRACT WITH A CUSTOMER?

A I JUST SAID, "IT WAS NEVER DISCUSSED." THEY SHOULD HAVE A WRITTEN CONTRACT WITH EVERY CUSTOMER BY ALL MEANS.

Q AND EVERY CUSTOMER... OKAY. LET'S START HERE. AT THE TIME THAT YOU FORMED A&E, WHAT JOB DID YOU HAVE ONGOING THAT YOU NEEDED TO FINISH AS AN INDIVIDUAL OR AS A COMPANY OTHER THAN A&E BEFORE NEW JOBS WERE STARTED BY A&E IN WHICH YOU WERE INVOLVED?

A THE ONLY ONE THAT I HAD SIGNED A CONTRACT FOR DOING WAS THE CALLAYA FENCE FOR BURROUGHS AND CHAPIN.

Q OTHER THAN THE STINT FOR BURROUGHS AND CHAPIN, DID YOU HAVE ANY EXISTING JOB THAT YOU NEEDED TO FINISH UP BEFORE YOU BEGAN WORKING WITH A&E?

A I DON'T RECALL.

Q YOU DON'T RECALL?

A NO, MA'AM. I DO NOT RECALL.

Q IS IT YOUR POSITION THAT THE CALLAYA JOB, THE FENCE FOR BURROUGHS AND CHAPIN, THAT WOULD BE AN ELLIS SMITH OR EES CONTRACT BECAUSE YOU SIGNED THAT CONTRACT BEFORE JANUARY 1ST AND THAT WOULD NOT BE A JOB TO WHICH A&E HAD ANY RESPONSIBILITY OR ANY ENTITLEMENT TO PROCEEDS?

A IF I'M NOT MISTAKEN, THE CONTRACT FOR THE

CALLAYA FENCE WAS SIGNED IN AUGUST OF 2003. THEY DID NOT GIVE ME A START DATE UNTIL MUCH LATER.

Q SO, THAT WAS NOT AN A&E JOB? THAT WAS AN ELLIS SMITH OR WHOSE --

A NO, MA'AM.

Q -- JOB WAS THAT?

A EES JOB.

Q OKAY. THAT WAS AN EES JOB. OTHER THAN THAT JOB, DID YOU OR EES HAVE ANY OTHER JOBS THAT YOU NEEDED TO FINISH UP AS ELLIS OR EES BEFORE YOU BEGAN WORKING AT A&E'S?

A THE PEREZ HOUSE IN PRESTWICK. THAT'S THE ONLY TWO THAT I CAN THINK OF RIGHT OFF.

Q SO, THE PEREZ HOUSE IN PRESTWICK AND THE BURROUGHS AND CHAPIN FENCE FOR CALLAYA, THOSE WERE THE ONLY TWO PRIOR JOBS THAT YOU NEEDED TO FINISH UP INDIVIDUALLY OR AS EES BEFORE YOU WENT TO WORK WITH A&E?

A I DON'T REMEMBER. IT'S THE ONLY TWO THAT I CAN REMEMBER.

Q DIDN'T YOU TESTIFY WHEN MR. DURANT WAS QUESTIONING YOU THAT YOU DIDN'T START WORKING, IT TOOK YOU UNTIL JULY OF 2004 BEFORE YOU FINISHED UP PRIOR WORK TO START WORKING WITH

A&E? DID I WRITE THAT DOWN RIGHT?

A NO. THAT'S NOT WHAT I TESTIFIED.

Q OKAY. I'M SORRY. WHEN DID YOU GO TO WORK WITH A&E THEN?

A I SAID THE FIRST CHECK I GOT WAS FOR SUPERVISION IN JULY.

Q OKAY. THEN WHAT --

A I WORKED FOR A&E PRIOR TO THAT AS A SUBCONTRACTOR BECAUSE I HAD ALL MY PEOPLE WORKING WITH ME. IT WAS DONE ON A CONTRACT BASIS, SO MUCH FOR SUCH AND SUCH A JOB.

Q WAS EES DOING ANY... DID EES DO ANY WORK FOR ANY ENTITY OTHER THAN A&E AFTER JANUARY 1, 2004?

A EES?

Q YES, SIR.

A ANY OTHER ENTITY?

Q YES.

A I THINK THE PLANTATION LAKES HOUSE WAS FRAMED BY EES AND IT WAS PAID BY WAYNE VEREEN, I THINK. SO, THAT'S ANOTHER JOB THAT WASN'T A&E. I DID SOME CONSTRUCTION CONSULTING AND SOME WORK AT LEE MCMILLAN'S HOUSE IN BLACK CREEK. I OVERSAW A HOUSE FOR ROBERT SEALEY'S DAUGHTER, SELENA AND K.J. MANN AT FORESTBROOKE, BUT WAS NOT PAID FOR THAT BECAUSE ROBERT IS A FRIEND OF MINE AND I

DID NOT CHARGE SELENA. THEY DIDN'T HAVE THE MONEY. I JUST HELPED THEM FURNISH SOME PUNCHES AND SUBS. I DIDN'T WORK OUT THERE. THAT'S ABOUT IT.

Q LET ME BE CLEAR. STARTING IN JANUARY 2004, WHEN A&E GOT A LICENSE, EES DID WORK AND YOU WERE STILL WORKING FOR EES, AND EES DID WORK AS A SUBCONTRACTOR FOR A&E, BUT EES DID SUBCONTRACTING WORK FOR OTHER ENTITIES OTHER THAN EES... WELL, I MEAN, A&E?

A YES, MA'AM.

Q AND HOW LONG DID THAT CONTINUE WHERE YOU WERE A 50% PERCENT PARTNER IN A&E, BUT ALSO HAD ANOTHER BUSINESS, EES, THAT WAS DOING WORK FOR FOLKS OTHER THAN A&E?

A IT WENT ON FOR QUITE A WHILE. RANDY LONG FRAMED A BUNCH OF HOUSES FOR THE SOUTHERN LADIES; FOR DERRICK SPIVEY, FRAMED HOUSES, TRIMMED HOUSES, DID ALL KINDS OF WORK, BUT IT WAS DONE ON A CONTRACT BASIS THAT CAME INTO A&E... TO EES. EES WOULD DEDUCT WORKERS' COMP AND LIABILITY AND GAVE RANDY A COMPLETE CHECK FOR WHATEVER IT WAS. EES MADE NO MONEY OFF ANY OF IT. IT WAS TO KEEP RANDY LONG IN WORK.

Q SO, YOUR TESTIMONY IS THAT ANY SIMULTANEOUS WORK

OR WORK THAT WAS GOING ON BY EES AT THE SAME TIME A&E WAS IN BUSINESS WHERE EES WAS DOING WORK FOR OTHERS, OTHER THAN A&E, WAS MERELY RANDY LONG BEING A SUB OF EES? AND EES DIDN'T MAKE ANY MONEY OFF THE DEAL? THE ONLY THING EES DID WAS IT GOT PAID FOR THE JOB AND IT DEDUCTED WORKERS'S COMP AND --

A WHATEVER THE COST --

Q DO YOU HAVE ANY RECORDS OF THAT?

A YOU NEED RECORDS OF THAT?

Q YES.

A IT'S ON MY CHECKBOOK.

Q AND THAT WOULD BE THE EES CHECKBOOK?

A YES, MA'AM.

Q DID EES TAKE NEW JOBS AFTER JANUARY 1, 2004 FROM ENTITIES OR PARTIES OTHER THAN A&E?

A YES, MA'AM.

Q AND DID YOU, AS THE OWNER AND SOLE SHAREHOLDER OF EES, PRESENT ANY OF THOSE OPPORTUNITIES FOR WORK TO A&E?

A A&E DIDN'T HAVE THE CAPABILITY TO GO FRAME A HOUSE. WE DIDN'T HAVE FRAMERS. THE SOUTHERN LADIES HIRED A FRAMER, WHICH WAS EES. THAT, DENNIS LONG WENT AND DID. IT'S NOT SOMETHING THAT A&E WOULD WANT TO DO.

Q BUT MY QUESTION WAS, DID YOU PRESENT THOSE OPPORTUNITIES OF EES FOR DOING FRAMING WORK TO A&E?

A NO. EES DID FRAMING WORK FOR A&E BECAUSE THEY DIDN'T WANT TO DO IT.

Q DID A&E EVER IN IT'S PROJECTS DO FRAMING WORK? DID A&E SUB IT OUT?

A IT SUBBED IT OUT. THERE WERE LOTS OF SUB OUTS, YES.

Q AND IT SUBBED OUT THE FRAMING WORK MORE THAN JUST TO EES, DIDN'T IT?

A BY ALL MEANS, YES, MA'AM.

Q OKAY. WHEN A&E HAD PROJECTS THAT CALLED FOR FRAMING WORK AND IT WAS GOING TO USE SUBS BECAUSE IT DIDN'T SELF PERFORM THAT, ISN'T THAT CORRECT?

A THAT'S CORRECT.

Q IT USED SUBS TO DO THAT FRAMING WORK. DID A&E GET A PERCENT MARKUP ON THE SUBS WORK FROM THE CUSTOMER? IF THE SUB WAS DOING A JOB FOR YOU FOR $50.00 FRAMING, DID YOU CHARGE THAT CUSTOMER $50.00 OR DID YOU CHARGE THAT CUSTOMER $50.00 PLUS?

A KIF, THAT'S NOT THE WAY IT WORKS. THE WAY IT WORKS IS YOU HAVE A CONTRACT, YOU HAVE A FIXED

PRICE. YOU GET THE SUB TO DO IT AS CHEAP AS YOU POSSIBLY CAN. YOU WATCH HIM. ANY MONEY THAT YOU SAVE OVER THAT, YOU SAVE. IT'S A CONTRACT PRICE, FIXED PRICE. MR. VEREEN SIGNED CONTRACTS WITH A GROUP THAT DID POINTE MARSH. RICHARDS FRAMING WENT UP AND DID IT. HE DID HIS HOUSE. THEY FRAMED IT AND THEY WERE GOING TO BE PAID FOR THAT HOUSE. HE DIDN'T PAY A&E MONEY OVER THE MONEY HE SAVED OFF THAT HOUSE. IT'S WHAT HE PAID THEM TO FRAME THAT HOUSE.

Q WHEN YOU DID YOUR WORK FOR E SMITH AND SONS, THIS WORK TO BUILD THE CONDOLUX BUILDING IN '07 THE OFFICE BUILDING IN '07?

A YES, MA'AM.

Q DID YOU CHARGE... YOU SAID THAT WAS COST-PLUS WITH A GUARANTEED MAXIMUM, CORRECT?

A YES, MA'AM.

Q THE TAHITIAN PRINCESS, THAT JOB.

A YES, MA'AM.

Q THAT WAS AN A&E JOB, CORRECT?

A YES, MA'AM.

Q WAS THAT JOB A FIXED PRICE?

A YES, MA'AM.

Q AND IN THAT JOB, THE TAHITIAN PRINCESS JOB, DID THE OWNER OF THAT PROJECT, WHO WAS MARTIN BROWN

OR ONE OF HIS COMPANIES, DID THEY HAVE A CONSTRUCTION LOAN TO FUND THE CONSTRUCTION OF THE BUILDING OF THE TAHITIAN PRINCESS?

A YES, MA'AM.

Q AND DID Y'ALL DO A SCHEDULE OF VALUES FOR THAT CONSTRUCTION LOAN A&E DID?

A YES, MA'AM.

Q WOULD YOU HAVE HAD IN THAT SCHEDULE OF VALUES A LINE ITEM FOR FRAMING?

A YES, MA'AM.

Q AND THAT WOULD HAVE BEEN WHATEVER YOUR FRAMING SUBCONTRACTOR WAS GOING TO CHARGE ON THAT JOB?

A NO, MA'AM.

Q IT WOULDN'T HAVE BEEN? WOULD IT HAVE BEEN A DIFFERENT AMOUNT?

A YES, MA'AM.

Q WHAT WOULD IT HAVE BEEN?

A IT WOULD HAVE BEEN INCLUDING THE MATERIAL ON THE JOB AS A FRAMING CONTRACT. IT'S MATERIAL AND LABOR.

Q AND WAS THERE ANY PROFIT AND OVERHEAD ADDED TO THE SCHEDULE OF VALUES BASED ON THE TOTAL OF ALL THE SUBS, LABOR, AND MATERIALS?

A I TRIED TO GET IT CLOSE ENOUGH, NO. WE GET A PERCENTAGE OF PROFIT AT THE END.

Q BUT THAT PERCENTAGE OF PROFIT FOR A&E WAS BASED ON WHAT THE COST OF YOUR SUBS AND YOUR MATERIALS WERE, WASN'T IT? WHEN YOU ADD ALL THAT TOGETHER?

A YES, MA'AM.

Q SO, A PORTION OF THE PROFIT THAT A&E WAS GOING TO MAKE WAS BASED ON A PERCENT OF PROFIT ON THE LABOR AND/OR THE MATERIALS FOR FRAMING, IS THAT A FAIR STATEMENT?

A YES, MA'AM.

Q OTHER THAN... DID EES CONTINUE IN BUSINESS UP UNTIL THE TIME YOU FORMED E SMITH AND SONS IN 2007?

A I DON'T KNOW. I COULDN'T TELL YOU. I DON'T KNOW RIGHT NOW. I DON'T KNOW WHEN THE LAST TIME THEY DID BUSINESS.

Q HAS EES EVER BEEN DISSOLVED?

A NO, MA'AM.

Q AND EES EVER HAD A CONTRACTORS LICENSE?

A NO, MA'AM.

Q NOW, YOU STARTED TAKING A SALARY AFTER A&E WAS FORMED. WHATEVER WORK YOU WERE DOING FOR A&E, YOU DIDN'T TAKE A SALARY FOR A PERIOD OF TIME AND THEN IN JULY, YOU STARTED RECEIVING A SALARY FROM A&E?

A NO, I DIDN'T.
Q I'M SORRY. YOU STILL DIDN'T TAKE A SALARY, YOU GOT PAID THROUGH EES. A&E PAID YOU THROUGH EES.
A A&E PAID EES. EES PAID ME.
Q THAT WAS BASED ON THE $25.00 AN HOUR?
A YES, MA'AM.
Q AND WHY WAS IT AGAIN THAT YOU DECIDED TO DO THAT INSTEAD OF YOU NOT BEING PAID BY EES? YOU JUST BEING PAID A SALARY AS MR. VEREEN WAS BY A&E? WHAT WAS THE BENEFIT IN THAT?
A IT'S TO THE BENEFIT OF ANY CONTRACTOR THAT'S IN BUSINESS TO HAVE JUST AS FEW EMPLOYEES AS YOU CAN HAVE. LET SOMEBODY ELSE PAY THE WORKMANS' COMP AND THE LIABILITY ON IT. WORKMANS' COMP WILL EAT YOU ALIVE. THE LABOR WAS IN EES, NOT A&E.
Q SO, AT THAT TIME, THE EMPLOYEES OF A&E WERE CLERICAL OR SUPERVISORY STAFF, THERE WERE NO LABORERS?
A WE HAD A COUPLE OF LABORERS.
Q OKAY. HOW MANY EMPLOYEES DID EES HAVE IN JANUARY OF 2004?
A I COULDN'T TELL YOU.
Q DID EES PAY WORKERS' COMPENSATION ON YOU?
A NO, MA'AM.

Q DID A&E EVER PAY A WORKERS' COMPENSATION PREMIUM ON YOU?

A ONCE I BECAME A SALARY EMPLOYEE OF A&E, YES, MA'AM.

Q SO, HOW WOULD IT HAVE BEEN THAT YOU BEING A SALARY EMPLOYEE OF EES OR YOU BEING AN EMPLOYEE OF EES, OTHER THAN YOUR TESTIMONY, THAT IT WOULD SAVE WHATEVER THAT WORKERS' COMPENSATION PREMIUM FOR YOU WOULD BE, WHAT OTHER BENEFIT WAS IT TO A&E, IF ANY, THAT YOU WEREN'T A SALARIED EMPLOYEE?

A WE DIDN'T HAVE TO MAINTAIN WORK TO KEEP THEM BUSY. EES WAS RESPONSIBLE FOR THEIR OWN WORK, NOT A&E RESPONSIBLE FOR WORK FOR A BUNCH OF EMPLOYEES. IT'S LIKE MR. VEREEN --

Q I'M TALKING ABOUT YOU, NOT YOUR EMPLOYEES OF EES. I'M TALKING ABOUT YOU, MR. SMITH.

A JUST THE WAY WE DID IT.

Q JUST THE WAY YOU DID IT?

A NO, MA'AM -- "WE". IT WAS IN FULL AGREEMENT TO VEREEN. HE SIGNED THE CHECKS EACH WEEK.

Q ONCE YOU BECAME A SALARIED EMPLOYEE, YOUR SALARY WAS A THOUSAND DOLLARS A WEEK, IS THAT RIGHT?

A YES, MA'AM.

Q MR. VEREEN'S WAS THE SAME AMOUNT?

A TO THE BEST OF MY KNOWLEDGE, YES.
Q DURING THE TIME PERIOD THAT YOU WEREN'T A SALARIED EMPLOYEE, YOU WERE AWARE THAT MR. VEREEN WAS TAKING A SALARY?
A YES, MA'AM.
Q AND DURING THAT PERIOD OF TIME WHEN HE WAS TAKING A SALARY, BUT YOU WERE AN EMPLOYEE OF EES AND YOU WERE COMPENSATED BY THE $25.00 AN HOUR AMOUNT, WAS THAT ALWAYS FIXED HOURS, 40 HOURS A WEEK OR DID YOU SUBMIT ACTUAL TIME THAT YOU MIGHT HAVE HAD UNDER OR OVER 40 HOURS A WEEK?
A ACTUAL TIME.
Q IT WAS ACTUAL TIME?
A YES, MA'AM. THERE WERE WEEKS THAT I DIDN'T WORK BUT 20 HOURS IN A WEEK. THERE MAY BE WEEKS THAT I WORKED 80 HOURS IN A WEEK.
Q HOW DID YOU VERIFY THAT? HOW DID YOU PROVE THE HOURS THAT YOU WORKED WHEN EES SUBMITTED ITS BILL OR ITS INVOICE FOR PAYMENT TO A&E?
A I GAVE AN INVOICE. THERE WAS AN AMOUNT ON IT. MR. VEREEN APPROVED IT. HE WROTE THE CHECK, SIGNED IT AND HANDED IT TO ME.
Q OKAY. SO, YOU DIDN'T PRESENT A TIMECARD OR ANYTHING OF THAT NATURE? YOU JUST WROTE OUT AN INVOICE THAT YOU WROTE OUT? WAS IT BROKEN OUT

HOW MANY HOURS YOU WORKED? HOW MANY HOURS EACH OF THE OTHER EES WORKERS WORKED?

A THEY HAVE COPIES OF EVERY INVOICE THAT I GAVE THEM.

Q I'M ASKING YOU WHAT WAS ON THE INVOICE?

A I DO NOT REMEMBER EXACTLY. THERE WERE HOURLY THINGS. THERE WAS GAS ON IT. THERE WERE PHONES, WHATEVER.

Q AND THINGS LIKE GAS AND PHONES, YOU TESTIFIED EARLIER THAT YOU PUT A RECEIPT WITH IT?

A YES, MA'AM.

Q FOR THE THIRD PARTY, WHOEVER YOU GOT THE MATERIAL OR THE CHARGE WAS FROM? BUT FOR COMPENSATING THE EES WORKERS, WHAT PROOF ON A&E JOBS DID YOU GIVE TO A&E FOR THEIR TIME?

A I GAVE A BILL THAT MR. VEREEN APPROVED AND THAT WAS PROOF ENOUGH.

Q OKAY. THERE WERE NO TIMECARDS OR NO BACKUP FOR THAT, JUST AN AMOUNT THAT YOU PUT DOWN?

A I GAVE HIM A BILL THAT HE APPROVED.

Q THAT'S HOW YOU ACCOUNTED FOR YOUR TIME AS WELL?

A YES, MA'AM.

Q IN 2004, WHAT JOB DID YOU BRING INTO A&E, IF YOU RECALL?

A SCOTT LONG, TAHITIAN PRINCESS. I DON'T KNOW IF

WE WERE DOING DEMOLITION AT THAT TIME. I DON'T KNOW.

Q LET ME GO OVER THE NAMES OF SOME JOBS. AND I WANT YOU TO TELL ME IF IT'S YOUR CONTENTION THAT EACH OF THESE JOBS WAS AN A&E JOB OR WAS IT NOT AN A&E JOB? SEVEN OAKS, WAS THAT AN A&E JOB?

A NO.

Q WILLOUGHBY PLACE, WAS THAT AN A&E JOB?

A YES.

Q THE PLANTATION LAKES HOUSE, WAS THAT AN A&E JOB?

A YES.

Q THE PLANTATION LAKES ADDITION? THAT'S WHEN MS. WHITLEY BOUGHT THE HOUSE AND Y'ALL DID SOME OTHER WORK WITH THOSE ADDITIONS --

A YES.

Q THE LITCHFIELD MEDICAL BUILDING, WAS THAT AN --

A NO.

Q A&E?

A YES.

Q WE SOMETIMES CALL A&E SOUTH STRAND, THAT'S ONE IN THE SAME, IS THAT RIGHT?

A YES, MA'AM. I UNDERSTAND.

Q HOW ABOUT THE KEMP JOB?

A A&E.

Q BEACH DUNES?

A A&E.
Q TAHITIAN PRINCESS, THAT WAS ONE YOU BROUGHT IN?
A A&E.
Q THE GAIL PERRY WORK, IS THAT AN A&E JOB?
A IT WOULD HAVE TO BE.
Q THE JACK FROST JOB?
A A&E.
Q THE BRIAN MAULDIN FENCE JOB?
A IF IT WAS DONE DURING A&E TIME, IT WOULD BE... SOME OF A&E BILLING, IT WOULD BE AN A&E JOB.
Q DO YOU RECALL THERE BEING A BRIAN MAULDIN JOB DEALING WITH A FENCE VERSUS A BRIAN MAULDIN JOB HAVING TO DO WITH UP-FITTING A MARBLE SLAB ICE CREAM SHOP?
A I DIDN'T GET INVOLVED IN THE FENCE. I DO NOT KNOW.
Q SO, YOUR POSITION WOULD BE IF IT WAS DURING THE TIME OF A&E'S WORK DURING '04 TO '07 THAT WAS AN A&E JOB?
A IF THERE WAS MONEY PAID OUT OF A&E TO DO THE JOB, IT'S AN A&E JOB.
Q ALRIGHT. THE FOUNTAINS?
A A&E.
Q THE PUTT-PUTT?
A A&E.

Q THAT'S THE BLACK PEARL, CORRECT?
A YES, MA'AM.
Q THE PEREZ HOUSE?
A IT WAS NOT AN A&E JOB, NO, MA'AM.
Q WHOSE JOB WAS THAT?
A EES.
Q THAT WAS DONE IN 2004, CORRECT?
A NO.
Q 2003 AND 2004 --
A IT WAS COMPLETED IN 2004.
Q STARTED IN '03 AND COMPLETED IN '04?
A YES, MA'AM.
Q THE TAHITIAN PRINCESS II?
A A&E.
Q THE DIXIE MOTEL DEMOLITION?
A A&E.
Q THE BATHROOM MOTEL DEMOLITION?
A A&E.
Q THE BUCCANEER MOTEL DEMOLITION?
A A&E.
Q SCOTT LONG'S OFFICE?
A A&E.
Q THERE'S A JOB THAT'S SOMEWHAT CONFUSING. A JOB CALLED OCEAN BLUE, SOMETIMES CALLED DIAMOND DUNES --

A IT'S NOT CONFUSING. IT'S SEACLUSION AND IT'S A&E.
Q SEACLUSION. WAS THERE A SEACLUSION POOL JOB THAT WAS SEPARATE?
A NO, MA'AM.
Q IS THAT A DIFFERENT JOB?
A NO, MA'AM.
Q WAS THERE A POOL BUILT AT SEACLUSION?
A YES, MA'AM.
Q WAS THAT AN A&E JOB?
A IT WAS INCLUDED IN THE SEACLUSION.
Q THE TAHITIAN PEARL?
A A&E.
Q A&E?
A YES, MA'AM.
Q THE BURROUGHS AND CHAPIN FENCE AT CALLAYA?
A EES.
Q WHEN WAS THAT DONE?
A THE CONTRACT WAS SIGNED IN AUGUST. I DON'T KNOW WHEN WE STARTED. I HAVE NO IDEA WHEN WE GOT THE PERMIT. IT WAS GOTTEN IN THE NAME OF EES. IT WAS NOT IN A&E.
Q BUT IT WAS DONE IN 2004? IT WAS CONSTRUCTED IN 2004, WAS IT NOT?
A PART OF IT. I COULDN'T TELL YOU. I DON'T KNOW.

I KNOW IT WAS FINISHED IN 2004, THAT'S ALL I CAN TELL YOU.

Q LEE MCMILLAN'S HOUSE?

A HE GOT HIS OWN PERMIT.

Q BUT WHO DID THE WORK THERE?

A ALL KINDS OF PEOPLE.

Q DID EES DO WORK?

A YES, THEY DID.

Q DID A&E DO WORK?

A NO, MA'AM.

Q WAS IT BEING BUILT DURING THE TIME 2004 TO 2007?

A YES, MA'AM. IT WAS DONE ON AN HOURLY RATE TO HELP LEE MCMILLAN OUT. YES, MA'AM.

Q AND THAT WAS DONE BY EES?

A IT WAS DONE BY ELLIS SMITH.

Q ELLIS SMITH. CARI ANN DAVIS HOUSE?

A THAT WAS DONE WITH AN A&E PERMIT WHICH MR. VEREEN APPROVED. RON DAVIS, I TALKED TO HIM AND HIS WIFE AND HE SAID, "YEAH, HE APPROVED IT." HE HAD TO HAVE A CONTRACT TO BUILD HIS HOUSE. HE BUILT HIS OWN HOUSE. WE DID NO WORK ON IT, NONE.

Q BUT YOU USED AN A&E PERMIT?

A YES, MA'AM.

Q AND IT'S YOUR TESTIMONY THAT MR. VEREEN KNEW IT

AND APPROVED IT?

A YES, MA'AM.

Q SO, YOU THINK THAT'S NOBODY'S JOB? IT'S NOT AN ELLIS SMITH JOB, IT'S NOT AN EES, AND IT'S NOT AN A&E JOB?

A NO, NONE OF THEM.

Q BUT IN TERMS OF PULLING THE PERMIT, THE PERMIT WAS IN A&E'S NAME?

A YES, MA'AM.

Q HOW ABOUT THE ROBERT SEALEY HOUSE? THAT HAD AN A&E PERMIT?

A ROBERT SEALEY DIDN'T BUILD A HOUSE, MA'AM.

Q I'M SORRY, ROBERT SEALEY'S DAUGHTER'S HOUSE?

A SHE GOT HER OWN PERMIT.

Q THAT WASN'T AN A&E PERMIT?

A NO, MA'AM.

Q WAS THERE A PROJECT DONE FOR ROBERT SEALEY DEALING WITH A ROOF?

A YES.

Q THAT WAS AN A&E PERMIT, CORRECT?

A YES, MA'AM. HE GOT PERMISSION FROM MR. VEREEN TO DO IT?

Q MR. SEALEY DID?

A MR. SEALEY DID. MR. SEALEY CAME IN THE OFFICE AND ASKED AND HE APPROVED IT. HE HAD ALREADY

BUILT THE ROOF AND THEY CAUGHT HIM AND HE HAD TO HAVE A CONTRACTOR BECAUSE IT WAS COMMERCIAL BUILDING. I WENT AND LOOKED AT IT AND IT WAS FINE AND THEY APPROVED IT.

Q IT'S YOUR TESTIMONY THAT MR. VEREEN KNEW ABOUT THAT?

A YES, MA'AM.

Q HOW ABOUT THE ADDITION ON YOUR SON'S HOUSE, THAT WAS BUILT DURING 2004/2007, WASN'T IT?

A THAT WAS MY SON'S PERMIT. IT WAS HIS JOB.

Q WHO PERFORMED WORK ON THAT, DID A&E?

A ABSOLUTELY NOT.

Q DID YOU?

A PERSONALLY? YES.

Q DID YOUR SON?

A YES, MA'AM.

Q DID ANY WORKERS FROM EES?

A NO, MA'AM.

Q HOW ABOUT THE ADDITION ON YOUR HOUSE OF YOUR GARAGE?

A WHAT? IT'S AN A&E PERMIT.

Q YOU USED A&E'S PERMIT TO DO THAT?

A YES.

Q DID MR. VEREEN KNOW THAT?

A I DOUBT IT SERIOUSLY.

Q BECAUSE YOU DIDN'T DO THAT 'TIL AFTER YOU LEFT A&E IN 2007?
A 2007.
Q SO, YOU PULLED THAT PERMIT IN A&E'S NAM IN 2008, CORRECT?
A YES, MA'AM.
Q AND IT'S YOUR TESTIMONY THAT IN 2008, YOUR LICENSE WAS STILL WITH A&E?
A YES, MA'AM.
Q BRIAN MAULDIN MARBLE SLAB JOB?
A A&E.
Q THE MASSEY METAL BUILDING?
A A&E.
Q THE MYRTLE WAVES JOB?
A A&E.
Q BURROUGHS BROTHERS JOBS?
A ARTHUR VEREEN CONSTRUCTION COMPANY.
Q THE GREG SISSON ATTIC UP-FIT?
A A&E JOB.
Q THE CARLA MAULDIN JOB?
A A&E.
Q POINTE MARSH?
A A&E.
Q THAT WAS AN A&E JOB?
A A&E GOT ALL THE PERMITS.

Q AND IT GOT THE PERMITS JUST LIKE YOU GOT IT ON YOUR HOUSE AND JUST LIKE YOU GOT IT ON ROBERT SEALEY'S ROOF AND JUST LIKE IT GOT IT ON CARI ANN DAVIS HOUSE, CORRECT?

A NO. NOT EXACTLY. THE DIFFERENCE IS THIS. THERE WAS MANY THINGS CHARGED TO A&E TO BUILD THAT JOB. THEY WERE NEVER PAID FOR WITH PERMITS THAT WERE GOTTEN IN A&E'S NAME. THE OTHER JOBS THAT YOU JUST REFERENCED HAVE NEVER HAD ONE DIME OF A&E CAPITAL OR CHARGE TO ANY OF THOSE JOBS, NONE, EVER, NEVER.

Q HOW ABOUT THE CAPITAL PARTNERS FOUR JOB, 401 SOUTH OCEAN BOULEVARD IN NORTH MYRTLE BEACH? THAT WAS PULLED WITH AN A&E PERMIT, WASN'T IT?

A THAT'S GOT TO BE ON MARTIN BROWN'S HOUSE. WHAT'S THE AMOUNT OF THE PERMIT?

Q SIR, I APPRECIATE YOU TRYING TO FIGURE IT OUT, BUT I NEED TO ASK THE QUESTIONS, NOT YOU. DO YOU REMEMBER THE --

MR. DURANT: WHY CAN'T YOU SHOW IT TO HIM AND THEN HE CAN ANSWER THE QUESTION? HERE'S THE PERMIT.

MS. COOK: I'M GOING TO ASK THE QUESTIONS, NOT YOU.

MR. DURANT: HE CAN'T ANSWER THE

QUESTION WITHOUT THE PERMIT.

MS. COOK: WELL, IF HE DOESN'T KNOW, THEN HE CAN SAY HE DOESN'T KNOW.

JUDGE HOWE: MR. SMITH, DO YOU KNOW?

A I DON'T KNOW.

Q HOW ABOUT THE OCEAN PEARL BROWN/O'CONNELL JOB, WHOSE JOB WAS THAT? 1906 SOUTH OCEAN BOULEVARD.

A I DON'T KNOW.

Q HOW ABOUT BAREFOOT SANDS DECK REPAIR?

A E SMITH AND SONS.

Q THAT WAS AN E SMITH AND SONS?

A YES, MA'AM.

Q DIDN'T YOU PULL IT WITH AN A&E PERMIT?

A YES, MA'AM, I DID.

Q BUT THAT WAS AN E SMITH AND SONS JOB?

A YES, MA'AM.

Q WAS THE CONDOLUX OFFICE AND THE CONDOLUX FENCE TWO DIFFERENT JOBS?

A THERE WERE THREE JOBS ON THAT ONE SITE.

Q AND ONE WAS A MR. G'S DEMO?

A MR. G'S DEMO.

Q WHOSE JOB WAS MR. G'S DEMO?

A E SMITH AND SONS.

Q WHO PULLED THE PERMIT?

A ELLIS SMITH. BUT IT WAS AN A&E PERMIT.

Q SO, IT WAS AN A&E PERMIT?
A YES. EVERYTHING NEEDS PERMITS. YOU SAID, "WHO PULLED THE PERMIT?" AND I TOLD YOU.
Q ALRIGHT, MR. SMITH. THE CONDOLUX FENCE, WHOSE JOB WAS THAT? WHOSE PROJECT WAS THAT?
A IT WAS AN A&E PERMIT. IT WAS AN E SMITH JOB.
Q AND THE CONDOLUX OFFICE WE HAVE ALREADY ESTABLISHED THAT'S AN E SMITH AND SONS JOB, BUT AN A&E PERMIT?
A YES, MA'AM.
Q THE CONDOLUX WAREHOUSE JOB ON MADISON, YOU TESTIFIED ABOUT THAT ONE. THAT WAS AN A&E PERMIT, CORRECT?
A WHICH ONE?
Q 1705 MADISON?
A WHICH PERMIT?
Q HOW MANY PERMITS WERE THERE?
A FOUR.
Q OKAY. AND WHOSE PERMITS WERE EACH OF THE FOUR?
A ONE WAS A&E, AND THREE OF THEM WERE GOTTEN WITH EES. I'M SORRY, E SMITH AND SONS. E SMITH AND SONS LICENSE. A&E USED THEIR LICENSE TO PULL ONE PERMIT.
Q AND SO, WERE THERE FOUR MORE PERMITS PULLED OR WERE THERE THREE MORE PERMITS PULLED?

A YES, MA'AM.
Q AND THAT WAS UNDER WHOSE LICENSE?
A E SMITH AND SONS.
Q SO, THAT WAS DONE AFTER E SMITH AND SONS GOT A LICENSE, WHICH WAS EITHER IN '09 OR 2010?
A YES, MA'AM.
Q BUT THE FIRST ONE OF THE CONDOLUX WAREHOUSE WAS AN E SMITH AND SONS JOB, BUT AN A&E PERMIT?
A YES, MA'AM.
Q LET ME SHOW YOU A PERMIT FROM THE CITY OF NORTH MYRTLE BEACH IN THE NAME OF THE OWNER AND IT IS CAPITAL PARTNERS FOUR AND THE CONTRACTOR IS A&E AND SEE IF THAT REFRESHES YOUR MEMORY ANY. DO YOU REMEMBER THAT PROJECT?
A OH, THE DEMO FOR BUCCANEER BAY. THAT'S AN A&E JOB.
Q THAT WAS AN A&E JOB?
A A&E GOT ALL THE MONEY OFF OF IT.
Q NOW, YOU NEVER PUT ANY MONEY INTO THIS COMPANY A&E? ANY CAPITAL CONTRIBUTIONS, EXCUSE ME?
A NO, MA'AM.
Q NOW, THERE WERE TIMES WHEN A&E ADVANCED YOU MONEY THAT THEY DIDN'T ADVANCE OR GIVE DISTRIBUTIONS TO YOU THAT THEY DIDN'T GIVE TO MR. VEREEN, ISN'T THAT CORRECT?

A I'M PRETTY SURE THERE WERE SOME, YES, MA'AM.
Q AND ONE OF THE THINGS I THINK MS. BRADY HAD IN ONE OF HER REPORTS MAKING UP THE AMOUNT THAT SHE SAID MR. VEREEN OWES A&E WAS A $15,000 CHECK WRITTEN TO MR. VEREEN AND YOU GOT AT THE SAME TIME A $15,000 CHECK FROM A&E, CORRECT?
A YES, MA'AM.
Q AND YOU KNEW ABOUT BOTH OF YOU GETTING A $15,000 DISTRIBUTION, IS THAT CORRECT?
A I KNEW THAT I GOT ONE.
Q DID YOU KNOW HE GOT ONE?
A I DON'T REMEMBER. I COULDN'T... IF I GOT ONE, HE WAS ENTITLED TO ONE. I DIDN'T HAVE A PROBLEM IF HE DID GET ONE.
Q AND DO YOU HAVE A PROBLEM WITH IT TODAY?
A THAT HE GOT ONE WHEN I GOT ONE?
Q YES.
A NO. I DON'T HAVE A PROBLEM WITH THAT.
Q AND AT THE SAME TIME, DO YOU RECALL THAT MS. SISSON GOT A $5,000 BONUS?
A SHE'S NOT A PARTNER IN THE COMPANY. WHAT'S THAT HAVE TO DO WITH ANYTHING?
Q MY QUESTION WAS, DO YOU RECALL AT SAME TIME YOU AND MR. VEREEN BOTH GOT YOUR $15,000 BONUSES, MS. SISSON GOT A $5,000 BONUS?

A I DON'T KNOW ANYTHING ABOUT THE $5,000 BONUS.
Q OKAY. DO YOU HAVE A PROBLEM WITH HER GETTING A $5,000 BONUS?
A IF THEY GAVE MY SON A $5,000 BONUS, NO, I DO NOT HAVE A PROBLEM WITH IT.
Q NOW IN FACT YOU HAD TWO SONS THAT WORKED FOR A&E, DIDN'T YOU?
A OFF AND ON, YES, MA'AM.
Q OKAY. AND WHEN YOUR SON ULIAL JUNIOR, HE WORKED THERE FOR THE LONGEST PERIOD OF TIME, IS THAT CORRECT?
A YES, MA'AM.
Q AND THEN YOU HAD YOUR SON, SETH SMITH, THAT WORKED THERE FOR A SHORTER PERIOD OF TIME?
A YES, MA'AM.
Q DURING THE TIME THAT ULIAL WORKED AT A&E, DID A&E PAY FOR ANY OF HIS GAS?
A WHEN HE WORKED FOR A&E? NO, MA'AM.
Q DID A&E PAY FOR HIS CELL PHONE OR ANY OF HIS CELL PHONE BILLS?
A YES, MA'AM.
Q DID A&E PAY FOR YOUR CELL PHONE BILL?
A YES, MA'AM. WHEN I WAS AN EMPLOYEE. OTHER THAN THAT, I BILLED THEM FOR IT.
Q WHEN DID YOU DISTINGUISH BETWEEN WHEN YOU WERE

AN EMPLOYEE AND WHEN YOU WERE NOT AN EMPLOYEE?

A WHEN I STARTED GETTING A SALARY DIRECTLY FROM A&E.

Q THAT WOULD HAVE BEEN IN ABOUT THE JULY '04 TIMEFRAME?

A NO, MA'AM.

Q I'M SORRY. LET ME GET THIS STRAIGHT IN MY HEAD. FROM OCTOBER OF '03 TO JULY '04, WHAT WAS YOUR ROLE AT A&E?

A TO GET JOBS AND TO HELP RUN THEM AND GET ON OUR FEET.

Q AND FROM OCTOBER WHEN YOU WERE INCORPORATED UNTIL JULY '04, YOU WEREN'T PAID ANYTHING BY A&E, IS THAT CORRECT?

A EES WAS PAID CONTRACT WORK.

Q I'M TALKING ABOUT YOU, MR. SMITH?

A I OWNED EES.

Q BUT I'M TALKING ABOUT --

A EES WAS PAID CONTRACT WORK. A&E PAID EES. EES GAVE ME A SALARY OFF OF CONTRACT WORK.

Q MR. SMITH, MY QUESTION WAS, FROM OCTOBER OF 2003 THROUGH JULY OF 2004 OR AT THE BEGINNING OF JULY 2004, WERE YOU PERSONALLY PAID ANYTHING DIRECTLY BY A&E?

A NO, MA'AM.

Q DURING THAT TIME PERIOD, THE ONLY WAY THAT YOU RECEIVED ANY COMPENSATION WAS THROUGH WHATEVER COMPENSATION THAT EES PAID YOU RELATED TO EES'S WORK FOR A&E?

A NO. I WAS WORKING AND BUILDING OTHER THINGS TOO.

Q OKAY. AND THAT WAS THE TIME PERIOD THAT YOU WOULD SAY EES WAS A STRAIGHT SUBCONTRACTOR, RIGHT? IN YOUR TESTIMONY I THINK YOU CALLED IT EES WAS A "PURE CONTRACTOR"?

A THAT'S ALL THEY EVER WERE.

Q WHAT CHANGED BEGINNING IN JULY OF '04? AS FAR AS YOUR STATUS WITH A&E WAS CONCERNED?

A WE HAD MONEY TO PAY SOME OF THE THINGS... TO START UP, WE DIDN'T HAVE MONEY. WE STARTED GETTING SOME MONEY IN AND, YES, IT WAS TIME TO START PAYING MORE BECAUSE I JUST GOT MY MONEY OUT OF THE WORK THAT I DID FOR A&E.

Q SO, WHAT CHANGED AS FAR AS YOUR STATUS WAS CONCERNED AND PAYMENT TO YOU WAS CONCERNED IN JULY OF 2004?

A I BECAME MORE INVOLVED WITH A&E.

Q BUT YOU STILL DIDN'T DRAW A SALARY FROM A&E?

A THAT'S CORRECT.

Q IS THAT THE POINT IN TIME THAT MR. VEREEN DREW A

SALARY FROM A&E?

A YES, MA'AM.

Q THE ONLY DIFFERENCE BETWEEN YOU AND MR. VEREEN AT THAT TIME WAS HE WAS DRAWING A SALARY AND YOU WERE DRAWING PAYMENTS FROM EES BASED ON YOUR $25.00 AN HOUR CHARGE, IS THAT CORRECT?

A YES, MA'AM.

Q AND THEN THAT PROCEDURE CHANGED? YOUR COMPENSATION WAS BASED ON THAT $25.00 AN HOUR AND THAT CHARGE CHANGED AT SOME POINT, IS THAT CORRECT?

A I DON'T UNDERSTAND THE QUESTION.

Q DID THERE COME A POINT IN TIME, INSTEAD OF YOU BEING COMPENSATED FOR WORK YOU WERE DOING FOR A&E BEING BASED ON $25.00 AN HOUR THAT YOU WERE COMPENSATED USING SOME OTHER FORMULA?

A WHEN I WENT TO WORK FULL TIME FOR A&E IN MARCH, I GOT A THOUSAND DOLLARS A WEEK. THEY PICKED UP... THEY PAID FOR MY TRUCK. THEY PAID FOR THE INSURANCE. THEY PAID FOR MY PHONE. THEY PAID FOR MY GAS. THEY PAID FOR IT ALL.

Q AND THAT WAS MARCH OF 2005 OR MARCH OF 2006?

A 2005.

Q OKAY. SO, THAT I UNDERSTOOD, FROM OCTOBER OF '03 TO JULY OF '04 YOU WERE NOT COMPENSATED BY

A&E OTHER THAN WHATEVER STRAIGHT PURE CONTRACT WORK EES PROVIDED TO A&E?

A YES, MA'AM.

Q AND THEN FROM JULY OF 2004 TO MARCH OF 2005, YOU WERE NOT COMPENSATED BY A&E OTHER THAN BASED ON YOUR $25.00 AN HOUR CHARGE, WHICH WAS PROCESSED THROUGH EES BEING A SUBCONTRACTOR TO A&E?

A YES, MA'AM.

Q AND THEN FROM MARCH OF 2005 'TIL YOU FELT IN SEPTEMBER OF 2007, YOU WERE COMPENSATED BASED ON A SALARY?

A 'TIL THE END OF DECEMBER 2007, YES, MA'AM.

Q WELL, I WAS GOING TO DIFFERENTIATE BETWEEN YOUR PAYMENTS WHEN YOU WERE STILL WORKING AND YOUR VACATION SO --

A NO, MA'AM. I LOOK AT VACATION AS PART OF WORK.

Q OKAY. SO, THROUGH DECEMBER OF 2007... FROM MARCH OF 2005 TO DECEMBER OF 2007, YOUR COMPENSATION FROM A&E WAS BASED ON A STRAIGHT SALARY?

A YES, MA'AM.

Q THAT STRAIGHT SALARY WAS THE SAME SALARY THAT MR. VEREEN WAS GETTING?

A TO THE BEST OF MY KNOWLEDGE, YES.

Q WAS THERE EVER A POINT IN TIME, WHEN YOU WERE

BEING PAID NOT ONLY THE SUPERVISORY... BASED ON THE $25.00 AN HOUR CHARGE AND A SALARY? ARE YOU ONLY... YOU WEREN'T GETTING A SALARY AND THE $25.00 AN HOUR? THERE WAS NEVER A POINT IN TIME FROM A&E WHERE YOU WERE GETTING $25.00 AN HOUR FOR YOUR SUPERVISORY OVERSIGHT FROM EES AND GETTING A SALARY FROM A&E --

A NO, MA'AM.

Q THAT NEVER HAPPENED?

A NO, MA'AM.

Q DURING THE TIME THAT YOU WERE GETTING PAID THROUGH EES BASED ON YOUR $25.00 AN HOUR CHARGE THAT WAS BASED ON ACTUAL TIME, NOT A 40 HOUR WEEK? THAT WAS BASED ON ACTUAL TIME YOU SPENT WHAT YOU TURNED IN ON INVOICES TO A&E?

A YES, MA'AM.

Q NOW, WHEN YOU WERE BEING PAID A SALARY BEGINNING IN MARCH OF '05 THAT WAS JUST WHATEVER THE SALARY WAS? IT DIDN'T REALLY MATTER WHETHER YOU WORKED 10 HOURS OR YOU WORKED 60 HOURS? YOU WERE PAID A SALARY?

A I WORKED FROM 40 TO 60 HOURS A WEEK. YES, MA'AM.

MR. DURANT: CAN WE TAKE A BREAK, YOUR HONOR?

Q MR. SMITH, BEFORE WE BROKE FOR LUNCH, I HAD BEEN ASKING YOU ABOUT SOME INVOICES. I'M GOING TO HAND YOU WANT WE HAVE MARKED AS EXHIBIT NUMBER 30. I'VE HANDED A COPY OF THOSE TO OPPOSING COUNSEL. IT'S A 2 PAGE DOCUMENT. THE FIRST PAGE BEING A COPY OF THE A&E CHECK. IT'S ACTUALLY A 3 PAGE DOCUMENT. AN A&E CHECK TO S&W READY MIX FOR $2,329.95. THE SECOND PAGE IS AN INVOICE FROM S&W READY MIX IN THE SAME AMOUNT 2,329.95. AND THE THIRD PAGE IS ANOTHER INVOICE FROM S&W. THIS IS A DIFFERENT AMOUNT OF $425 FROM S&W READY MIX?

MR. DURANT: DID YOU SAY 425 OR 500?

MS. COOK: 525. I MAY HAVE SAID 425.

Q MR. SMITH, DO YOU RECOGNIZE THAT INVOICE, THE SECOND PAGE, WHICH IS AN INVOICE FROM S&W READY MIX TO ELLIS SMITH, D/B/A EES? WHAT I'M LOOKING AT IS THE SECOND ENTRY THE "1528 BROOKGREEN" FOR THE 525?

A YES, MA'AM.

Q IS THAT THE FOUNTAINS JOB?

A IT SAYS IT IS. I DON'T KNOW THE ADDRESS DOWN THERE. I COULDN'T TELL YOU.

Q THE FIRST LINE ITEM FOR THE $391.39 IS DENOTED AS A FOUNTAIN JOB. ACTUALLY 1528 BROOKGREEN IS

ANOTHER JOB OF EES, ISN'T THAT CORRECT?

A I HAVE NO IDEA. I DON'T KNOW WHERE 1528 BROOK-GREEN IS.

Q DID EES EVER DO A JOB FOR BENEDICT RAPPA?

A WHO?

Q BENEDICT RAPPA?

A I DON'T KNOW.

Q BUT THE FOUNTAINS IS NOT AT 1528 BROOKGREEN, IS IT?

A I DON'T KNOW. I COULDN'T TELL YOU.

Q DO YOU RECALL HAVING PAYMENT FOR CONCRETE PAID BY A&E FOR JOBS OTHER THAN A&E JOBS?

A REPEAT THE QUESTION.

Q DO YOU RECALL AS A PARTNER OF A&E PAYING BILLS FOR EES'S JOBS THAT WERE JOBS OTHER THAN AN A&E JOB? LIKE A JOB AT 1528 BROOKGREEN?

A NOT THAT I KNOW OF. NOT INTENTIONALLY, NO, MA'AM.

Q SO, IF THAT HAPPENED AND A&E PAID THAT BILL, IT WOULD HAVE BEEN... WHICH INCLUDED A CHARGE FOR 1528 BROOKGREEN, WHICH IS NOT A FOUNTAINS JOB OR ANOTHER JOB OF A&E'S, THAT WOULD HAVE BEEN A MISTAKE AND THAT SHOULD GO ON YOUR SIDE OF THE LEDGER PAGE?

A YES, MA'AM.

MS. COOK: I JUST MARKED THAT FOR ID. IT WAS NOT ASKED FOR THAT TO BE INTRODUCED.

INVOICE, 3 PAGES, MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT 30.

Q LET ME SHOW YOU WHAT I'VE MARKED FOR IDENTIFICATION DEFENDANT'S EXHIBIT NUMBER 31. IT'S TWO PAGES. ONE IS A CHECK FROM A&E TO S&W READY MIX JUNE 26TH 2006 IN THE AMOUNT OF $9,225.56 AND BEHIND THAT IS AN INVOICE FROM S&W READY MIX DATED JUNE 5TH 2006 IN THE AMOUNT OF 9,225.56, WHICH IS THE SAME AMOUNT AS THE CHECK?

A YES, MA'AM.

Q DID A&E HAVE ANY JOBS OFF OF INTERNATIONAL DRIVE?

MR. THOMAS: I OBJECT TO THE FORM OF THE QUESTION. THERE'S NOTHING ABOUT INTERNATIONAL DRIVE ON THERE ANYWHERE.

Q WELL, IF YOU LOOK AT THE SECOND PAGE OF THE INVOICE WHERE IT'S GOT CUSTOMER P.O. NUMBER, IT'S GOT INTERNATIONAL. DO YOU SEE THAT?

A YES.

Q WHEN YOU WOULD ORDER CONCRETE OR SUPPLIES FROM THE CONCRETE COMPANY, WOULD YOU JUST CALL UP AND

SAY WHERE YOU NEEDED IT TO BE DELIVERED?

A YES. AND THEY WOULD GIVE... I WOULD GIVE THEM A BILLING NUMBER AND DIRECTIONS. GIVE THEM A JOB BILLING NUMBER AND GIVE THEM DIRECTIONS TO GET THERE. THIS MAY BE A PART OF MYRTLE BEACH NATIONAL BECAUSE YOU CAME RIGHT BY MYRTLE BEACH NATIONAL GOING INTO THE FOUNTAINS.

Q HOW ABOUT, WOULD IT BE THE MCMILLAN JOB AT BLACK CREEK WHICH IS OFF INTERNATIONAL DRIVE?

A NOT THAT I KNOW OF. THAT'S A LOT OF CONCRETE FOR ONE LITTLE HOUSE. I WOULDN'T THINK SO.

Q WHEN YOU GOT CONCRETE DELIVERED TO THE FOUNTAINS, DID THE CUSTOMER P.O. SAY, "FOUNTAINS" OR DID IT SAY, "INTERNATIONAL" OR DO YOU RECALL WHAT IT SAID?

A I DON'T RECALL. I DON'T KNOW.

Q OKAY. IS THAT YOUR HANDWRITING ON TOP OF THE INVOICE WHICH IS THE SECOND PAGE THAT SAYS "FOUNTAINS"?

A YES, IT IS.

Q AND FOUNTAINS WAS A FIXED PRICE CONTRACT?

A YES.

Q AND SO, COULD YA HIDE MONEY OR BILLS IN THE FOUNTAINS FIX PRICE CONTRACT?

A COULD I?

Q UH-HUH. (AFFIRMATIVE).
A IT'S A POSSIBILITY.
Q LIKE YOU SAID YOU THOUGHT MR. VEREEN HAD DONE YESTERDAY IN ONE OF HIS JOBS?
A LIKE I KNOW HE DID IN ONE OF HIS JOBS? YES, MA'AM.
Q SO, YOU COULD HAVE DONE THE SAME THING BY ASSIGNING AN EES BILL FOR A JOB THAT WAS NOT AN A&E ACCOUNT AND ASSIGNED IT TO THE FOUNTAINS, WHICH WAS A FIXED PRICE CONTRACT OF A&E'S? AND HAD A&E PAY FOR YOUR SEPARATE COMPANIES EXPENSES, IS THAT CORRECT?
A IT'S A DEFINITE POSSIBILITY, YES.
Q OKAY.
A BUT THERE'S 80 YARDS OF CONCRETE ON HERE AND I DON'T RECALL DOING AN 80 YARD JOB ANYWHERE ELSE.
Q YOU THINK IT HAD A&E... BECAUSE YOU APPROVED THAT BILL? FOUNTAINS IS IN YOUR WRITING AND THAT'S HOW YOU WOULD APPROVE BILLS? "YEAH. THAT ONE IS GOOD FOR PAYMENT", CORRECT? IS THAT YOUR METHOD?
A IT DOESN'T SAY, "OKAY EES" ON IT. I DIDN'T APPROVE IT FOR PAYMENT. I PUT IT IN FOR PAYMENT, YES, I DID.
Q OKAY. WELL...

A BECAUSE IT CAME TO ME. IT COMES TO ELLIS SMITH. IT DOESN'T COME TO A&E.

Q OKAY. I JUST INTRODUCED THAT FOR IDENTIFICATION. IT WASN'T INTRODUCED INTO EVIDENCE YET.

CHECKS FROM A&E TO S&W MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT 31.

MR. DURANT: WHAT NUMBER WAS THAT?

MS. COOK: THAT WAS 31.

Q MR. SMITH, I'M SHOWING YOU WHAT I MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT NUMBER 32. IT'S A 2 PAGE DOCUMENT. THE FIRST PAGE IS A CHECK FROM A&E TO S&W CONCRETE ON JUNE 28TH 2006 IN THE AMOUNT OF $5,591.25 AND ATTACHED TO THAT IS AN INVOICE FROM S&W CONCRETE DATED JUNE 12TH 2006 FOR THE SAME AMOUNT $5,591.25?

A YES, MA'AM.

Q DID EES HAVE A JOB AT THE MYRTLE BEACH GOLF CLUB?

A NO, MA'AM.

Q IT DIDN'T?

A IT SAYS, "MYRTLE BEACH NATIONAL GOLF COURSE." WHERE THEY WOULD TURN IN TO GO TO THE FOUNTAINS IS ALL I CAN TELL YOU. MYRTLE BEACH GOLF CLUB.

I DON'T EVEN KNOW WHERE THAT'S AT.

Q OKAY. AND IS IT YOUR HANDWRITING ON THIS INVOICE THAT SAYS, "FOUNTAINS", RIGHT?

A YES.

Q YOU RECEIVED THIS INVOICE AND YOU NOTED IT TO BE ASSIGNED TO THE FOUNTAINS JOB, CORRECT?

A YES, MA'AM.

Q A&E PAID THAT JOB?

A YES, MA'AM.

Q I MEAN, A&E PAID THAT INVOICE?

A YES, MA'AM.

Q MR. SMITH, I WANT TO HAND YOU WHAT I HAVE MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT NUMBER 33. IT'S A PACKAGE OF DOCUMENTS THAT HAVE A&E CHECKS AND ALSO HAVE INVOICES. THE INVOICES AND THESE CHECKS ALL DEAL WITH CHARGES FROM GRAND STRAND DISPOSAL. NOW, GRAND STRAND DISPOSAL, THAT WAS ONE OF THE COMPANIES THAT YOU TESTIFIED YESTERDAY THAT WOULD NOT ESTABLISH AN ACCOUNT WITH MR. VEREEN, IS THAT CORRECT?

A YES, MA'AM.

Q DO YOU HAVE AN UNDERSTANDING AS TO WHY THEY WOULDN'T ESTABLISH AN ACCOUNT WITH MR. VEREEN, ACCORDING TO YOU?

A I THINK THEY HAD A FALLING OUT. MR. VEREEN

WOULDN'T PAY SOME BILLS. THERE WERE SOME DISPUTES ON SOME BILLS.

Q OKAY. THAT'S YOUR UNDERSTANDING?

A YES, MA'AM.

Q NOW, THE FIRST CHECK IN THIS EXHIBIT 33 IS A CHECK DATED JANUARY 16TH 2006 IN THE AMOUNT OF $1,272.77?

A YES, MA'AM.

Q AT THE TOP OF THE CHECK IS THE NOTATION FOR SOME INVOICES, SOME INVOICE NUMBERS, CORRECT?

A YES.

Q ON THE CHECKS STUB THAT'S ON THE TOP?

A YES, MA'AM.

Q THE INVOICE NUMBERS THAT ARE REFLECTED ON THE CHECK STUB OF THAT CHECK 5038 ARE ATTACHED, ARE THEY NOT, OR ONE OF THEM AT LEAST IS, WHICH WOULD BE INVOICE 68189?

A YES, MA'AM.

Q AND THAT MAKES UP PART OF WHAT THE FIRST CHECK PAID FOR?

A YES, MA'AM.

Q NOW, THAT INVOICE 68189 SHOWS SERVICES FOR AN ADDRESS OF 5313 HIGHWAY 17 BUSINESS IN MYRTLE BEACH. WAS THAT AN A&E JOB?

A I DON'T RECALL ONE BEING THERE.

Q RIGHT. BUT THIS BILL WAS TO EES, CORRECT?
A YES, MA'AM, IT IS.
Q WAS THIS FOR THE TEAR DOWN OF A GAS STATION OF MARK BROWN IN MYRTLE BEACH?
A YES, IT WAS AND WE GOT PAID FOR IT.
Q WHO GOT PAID FOR IT?
A A&E.
Q A&E GOT PAID FOR IT?
A YES, MA'AM.
Q THAT WAS AN A&E JOB?
A YES, MA'AM.
Q THAT'S ON THE A&E JOB LEDGER?
A YES, MA'AM.
Q OKAY. THE NEXT CHECK IN EXHIBIT 33 IS A&E CHECK 6566 TO GRAND STRAND DISPOSAL FOR THE AMOUNT OF $1,445.28 IN OCTOBER OF '06?
A YES, MA'AM.
Q AND BEHIND THAT ON TOP OF THE CHECK STUB, IT REFLECTS INVOICE NUMBER FOR GRAND STRAND DISPOSAL AND THE NEXT DOCUMENT IS INVOICE NUMBER 84149?
A YES, MA'AM.
Q AUGUST OF '06?
A YES, MA'AM.
Q THAT'S FOR SERVICES PROVIDED AT 1762 CLIFFWOOD

DRIVE IN MYRTLE BEACH, CORRECT?

A THAT'S WHAT IT SAYS.

Q WELL, DID YOU... DID EES DO A JOB IN CLIFFWOOD?

A NO, MA'AM. I PUT A DUMPSTER THERE FOR BOB FAITH, WHO OWNED THE TAHITIAN PEARL.

Q AND YOU DIDN'T DO ANY WORK FOR MR. FAITH AT THAT CLIFFWOOD DRIVE --

A NO, MA'AM. I DIDN'T DO ANY WORK. NO.

Q OKAY. BUT DID YOU HAVE A&E PAY THAT BILL? THAT'S $389.34?

A IT SAYS I DID.

Q IS THAT YOUR HANDWRITING THERE?

A YES, MA'AM, IT IS.

Q WHERE IT'S STRUCK OUT CLIFFWOOD AND SAYS, "WILLOUGHBY"?

A IT WAS AN HONEST MISTAKE I BELIEVE.

Q OKAY. SO, YOU WEREN'T HIDING EXPENSES OF YOUR OTHER COMPANY, EES OR ITS INDIVIDUAL JOBS THAT WEREN'T A&E JOBS IN FIXED PRICE CONTRACTS FOR A&E JOBS LIKE YOU ACCUSED MR. VEREEN OF DOING? YOU WEREN'T DOING THAT HERE?

A NO, MA'AM.

Q UH-HUH. OKAY. IF YOU WOULD LOOK FOR ME AT THE NEXT CHECK AND IT IS CHECK NUMBER 6632 FROM A&E TO GRAND STRAND DISPOSAL IN NOVEMBER OF 2006 IN

THE AMOUNT OF $870.99 AND ATTACHED TO THAT IS AN INVOICE 85535 OF GRAND STRAND DISPOSAL TO EES AND THAT INVOICE NUMBER IS ATTACHED... REFLECTED ON TOP OF THE CHECK STUB, AND AGAIN, THAT SHOWS A CHARGE $187.25 FOR SERVICES PROVIDED AT 1762 CLIFFWOOD DRIVE. THAT'S MR. FAITH'S PROPERTY?

A THAT'S THE FAITH HOUSE, YES, MA'AM. HE OWNED THE TAHITIAN PEARL.

Q DID A&E HAVE AN AGREEMENT WITH MR. FAITH TO PAY THE BILL OF MR. FAITH FOR A DUMPSTER AT HIS PRIVATE HOUSE AT CLIFFWOOD DRIVE?

A I CHARGED HIM IN THE TAHITIAN PEARL BILL IN THE EXTRAS THAT WE CHARGED HIM.

Q IN THE WHAT?

A TAHITIAN PEARL EXTRAS BILL.

Q SO, IF WE LOOK AT THE TAHITIAN PEARL EXTRA BILL, WE'RE GOING TO FIND WHERE HE BASICALLY REIMBURSED EES OR E SMITH AND SONS THIS?

A I COULDN'T TELL YOU. I DON'T REMEMBER. IT'S BEEN A LONG TIME.

Q THIS $187.25?

A YES, MA'AM.

Q IT WILL BE THERE? IT WILL BE REFLECTED THERE?

A TO THE BEST OF MY KNOWLEDGE, YES, MA'AM, IT WILL.

Q AND IF IT WASN'T THAT'S AN HONEST MISTAKE AND YOU DON'T DISAGREE WITH THE COURT PUTTING THAT ON YOUR SIDE OF THE LEDGER SHEET, DO YOU, MR. SMITH?

A IF I DID NOT COLLECT IT FROM MR. FAITH, YES.

Q THAT WOULDN'T BE YOU HIDING THAT PAYMENT IN THE TAHITIAN PEARL JOB LIKE YOU ACCUSED MR. VEREEN OF DOING YESTERDAY?

A NO, MA'AM.

Q OKAY. WHAT EVEN MADE YOU THINK OF THAT, MR. SMITH? WHEN YOU SAID THAT ABOUT MR. VEREEN YESTERDAY?

A YOU THE ONE THAT BROUGHT IT UP.

Q NO. ABOUT HIDING AMOUNTS IN FIXED PRICE CONTRACTS? I DIDN'T BRING THAT UP, YOU SAID THAT.

A NUMBER ONE, HE WROTE A HANDWRITTEN CHECK FOR A BILL TO STOCK BUILDERS AND ATTACHED TO THE BACK OF THE CHECK WAS POINTE MARSH, NUMBER 23. THE EXACT SAME AMOUNT ON THE CHECK THAT WAS CHARGED TO POINTE MARSH, NUMBER 23.

Q THAT WAS PRETTY EASY TO TRACK, WASN'T IT?

A IT WAS.

Q IT WOULDN'T HAVE BEEN THAT YOU CAME UP WITH THAT THEORY BECAUSE THAT'S EXACTLY WHAT YOU WERE

DOING?

A EXCUSE ME!

Q IT WOULDN'T BE BECAUSE YOU CAME UP WITH THAT THEORY ACCUSING MR. VEREEN OF DOING THAT BECAUSE YOU WERE ACTUALLY DOING THAT?

A NO, MA'AM.

Q LET'S TALK ABOUT THAT HANDWRITTEN STOCK BUILDERS BILL FOR A MINUTE THAT YOU ACCUSED MR. VEREEN OF DOING. LET ME HAND YOU WHAT I AM GOING TO MARK AS DEFENDANT'S EXHIBIT 35. DEFENDANT'S EXHIBIT 35 THAT I HAVE MARKED FOR IDENTIFICATION IS A SERIES OF DOCUMENTS.

A YES, MA'AM.

Q THE FIRST SHEET... DOCUMENT IN THERE IS A COPY OF THE CHECK TYPEWRITTEN TO STOCK BUILDERS FOR $22,049.48 AND THEN THE CHECK STUB TYPED IN. THERE ARE SEVERAL ANNOTATIONS THAT ADD UP TO THE $22,049.48 INDICATING PAYMENTS OR SUPPLIES ON THE WILLOUGHBY JOB. IS THIS THE CHECK THAT YOU'RE TALKING ABOUT THAT MR. VEREEN HAND WROTE ON AND WHERE YOU THOUGHT HE WAS HIDING BILLS FOR OTHER JOBS IN A FIXED PRICE JOB AT WILLOUGHBY?

A YES, MA'AM.

Q THIS IS IT?

A THIS IS NOT A HANDWRITTEN. THIS WAS WRITTEN ON

A TYPEWRITER.

Q OKAY. BUT YOU HAVE BEEN SAYING "HANDWRITTEN" BUT YOU MEAN A TYPED CHECK, RIGHT?

A RIGHT.

Q WEREN'T ALL THE CHECKS DONE BY HAND, I MEAN, DONE TYPED?

A NO. THEY WERE DONE THROUGH A COMPUTER.

Q NOW, ATTACHED TO DEFENDANT'S EXHIBIT 35 FOR IDENTIFICATION IS A STOCK BUILDERS INVOICE?

A YES, MA'AM.

Q IT TOTALED $22,049.48 WHICH IS THE SAME AMOUNT AS THE CHECK 5965, CORRECT?

A YES, MA'AM.

Q AND WITHIN THIS LEDGER OF STOCK BUILDERS IT INCLUDES NUMEROUS INVOICES THAT ARE INCLUDED ON THAT AMOUNT FOR $22,049.48, CORRECT?

A YES, MA'AM. THIS IS A STATEMENT DETAIL FOR LOT 23, POINTE MARSH.

Q AND YOU GET THAT BY WHERE THE SHIP TO ADDRESS IS ON THE STOCK BUILDERS STATEMENT? IS THAT WHAT YOU'RE TALKING ABOUT?

A YES. THE SHIPPED TO: IN THE UPPER RIGHT-HAND CORNER, DENNIS MACKIE, 612 SEA MOUNTAIN HIGHWAY.

Q IT IS YOUR BELIEF THAT EVERY INVOICE THAT IS LISTED ON THIS STATEMENT AS OF 5/31/06 WAS A

POINTE MARSH INVOICE?

A THIS IS A STATEMENT FOR THAT LOT. THIS IS THE CHECK FOR THE PAYMENT OF THAT STATEMENT. THAT'S ALL I'M SAYING.

Q SO, IF SOME OF THESE INVOICES LIKE THE FIRST LINE IS ONE DATED 4/4/06, IT'S GOT AN INVOICE. 26024500-00 AND IT'S IN THE AMOUNT OF $849.61?

A YES, MA'AM.

Q FROM LOOKING AT THE STATEMENT, YOU BELIEVE THAT WHATEVER IS REFLECTED ON THAT INVOICE FOR $849.61 WERE FOR MATERIALS ON THE POINTE MARSH JOB?

A YES, MA'AM.

Q DO YOU HAVE ANY OTHER BASIS OTHER THAN THIS STATEMENT FOR BELIEVING THAT THE ITEMS REFLECTED ON THIS STATEMENT ALL WENT TO POINTE MARSH? DO YOU HAVE ANY OTHER BASIS?

A NO, MA'AM, I DO NOT.

Q OKAY. BUT THAT IS THE INVOICE THAT YOU WERE TALKING ABOUT YESTERDAY THAT YOU BELIEVE... AND I THINK YOU TESTIFIED TODAY THAT YOU KNOW MR. VEREEN WAS HIDING PAYMENTS... EXPENSES ON HIS OWN PERSONAL JOB IN FIXED PRICE A&E JOBS, IS THAT CORRECT?

A YES, MA'AM.

Q I WANT TO SWITCH GEARS JUST A MINUTE, MR. SMITH. YOU TALKED YESTERDAY ABOUT THERE COMING A POINT IN TIME, WHEN YOU WANTED TO DISASSOCIATE YOURSELF WITH MR. VEREEN AND A&E RESULTING FROM SOME ACTIVITY YOU THOUGHT WAS HAPPENING DEALING WITH CLOSING AT POINTE MARSH?

A YES, MA'AM.

Q DO YOU REMEMBER THAT AREA OF TESTIMONY?

A YES, MA'AM.

Q ONE OF THE THINGS THAT YOU TALKED ABOUT WAS THAT YOU BECAME PARTICULARLY CONCERNED WHEN SCOTT LONG, WHO HAD BEEN PERFORMING OR HAD PERFORMED ONE OR TWO OF THE CLOSINGS ON THE POINTE MARSH HOUSES?

MS. COOK: YOUR HONOR, DO YOU MIND IF I SIT?

JUDGE HOWE: NO. I DON'T MIND AT ALL.

Q ON THE POINT MARSH HOUSES, HE DECIDED HE NO LONGER WANTED TO DO ANY OF THE CLOSINGS BECAUSE OF A CALL YOU TESTIFIED THAT HE RECEIVED FROM A PURCHASER OF A POINTE MARSH HOME WANTING TO KNOW WHERE HER CHECK WAS FROM THE DEVELOPER OR MR. VEREEN AFTER THE CLOSING OCCURRED? AM I CHARACTERIZING THAT LINE OF TESTIMONY CORRECTLY?

A HE CLOSED MORE THAN ONE OR TWO.

Q OKAY. HOW MANY DO YOU THINK HE CLOSED?
A I HAVE NO IDEA. I DON'T WORK FOR SCOTT LONG.
Q LET ME HAND YOU WHAT I'VE MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT NUMBER 36. IF YOU WOULD TAKE A MINUTE AND LOOK THROUGH THAT. DEFENDANT'S EXHIBIT 36 ARE A SERIES OF CLOSING STATEMENTS FROM SCOTT LONG'S OFFICE ON POINTE MARSH HOMES. I BELIEVE POINTE MARSH WAS THE DEVELOPMENT DONE BY PARK PLACE PROPERTIES?
A YES, MA'AM.
Q THE DEVELOPMENT THAT YOU'RE ASKING THE COURT IN THIS ACCOUNTING TO AWARD A&E A CERTAIN PERCENTAGE OF PROFIT AND OVERHEAD ON THAT JOB, IS THAT CORRECT?
A YES, MA'AM.
Q NOW, HOW MANY HOUSES WERE BUILT UP THERE, 23?
A I THINK THAT IS CORRECT.
Q IF YOU FLIPPED THROUGH ALL OF THESE, DIDN'T MR. LONG CLOSE 17 OF THE 23 BETWEEN FEBRUARY THE 21ST 2006 AND JANUARY 1, 2007?

MR. DURANT: I OBJECT TO THE FORM OF THE QUESTION. SHE CAN ASK HIM, DO YOU KNOW THAT? IF HE WASN'T THERE, HE WOULD NOT KNOW ANYTHING OTHER THAN --

JUDGE HOWE: WELL, WE CAN ANSWER I DON'T

KNOW.

A I DON'T KNOW HOW MANY HE CLOSED.

Q YOU SAID YESTERDAY HE CLOSED ONE OR TWO, DIDN'T YOU?

A NO, MA'AM, I DID NOT.

Q OH, YOU DIDN'T SAY THAT?

A NO. I SAID HE HAD CLOSINGS AT POINTE MARSH. I DIDN'T GIVE YOU A NUMBER.

Q YESTERDAY YOU DIDN'T SAY HE HAD CLOSED ONE OR TWO AND AFTER THAT ONE OR TWO HE DECIDED HE DIDN'T WANT TO MESS WITH THIS ANYMORE BECAUSE THAT WHOLE LINE OF QUESTIONING WHEN YOU WERE SCARED, AND YOU WERE AFRAID AND YOU WERE CONCERNED, AND YOU WERE DISAPPOINTED? YOU DON'T REMEMBER THAT? THAT YOU TESTIFIED THAT HE CLOSED ONE OR TWO?

A NO, MA'AM. I DON'T REMEMBER THAT.

Q OKAY. WELL, THIS STATEMENT SHOWED HE CLOSED 17 OF 23 IN THESE SETTLEMENTS. YOU WOULDN'T ARGUE WITH THAT, WOULD YOU, MR. SMITH?

MR. THOMAS: YOUR HONOR, WE OBJECT TO THE QUESTION. I DON'T THINK THIS EXHIBIT IS IN EVIDENCE.

MS. COOK: IT'S NOT.

MR. THOMAS: AND NUMBER TWO, THESE

EXHIBITS THAT ARE NOT IN EVIDENCE, THEY'RE CLOSING STATEMENTS FROM LAWYERS OTHER THAN SCOTT LONG.

MS. COOK: OKAY. I WITHDRAW THAT QUESTION.

Q ONE OF THE JOBS THAT WAS DONE AND YOU TALKED ABOUT GETTING A CHECK FROM KIRK DODRILL, CORRECT?

A YES, MA'AM.

Q AND MR. DODRILL WAS THE DEVELOPER OR THE CUSTOMER FOR WHOM A&E BUILT WHAT PROJECT?

A WE DID NOT BUILD A PROJECT FOR KIRK DODRILL.

Q HOW DID YOU BECOME INVOLVED WITH MR. DODRILL?

A MARTIN BROWN.

Q HOW DID MARTIN BROWN GET YOU INVOLVED WITH MR. DODRILL?

A MARTIN BROWN OWNED THE DUPLEX THAT KIRK DODRILL BOUGHT.

Q AND WAS THAT THE SEACLUSIONS?

A YES, MA'AM.

Q YOU ACTUALLY BUILT THE SEACLUSIONS FOR MARTIN BROWN, BUT RIGHT AT THE TIME IT WAS BEING FINISHED, MR. DODRILL BOUGHT SEACLUSIONS FROM MARTIN BROWN, WHO WAS A&E'S CUSTOMER, IS THAT RIGHT?

A YES, MA'AM.
Q AS A RESULT OF THAT PURCHASE BY MR. DODRILL, THE SEACLUSIONS PROJECT, WHICH YOU BUILT FOR A&E, WERE THERE EXTRAS OR MORE WORK THAT A&E DID ON THAT JOB THAT WERE NOT INCLUDED IN THE MARTIN BROWN JOB FOR SEACLUSIONS?
A YES, MA'AM.
Q AND MR. DODRILL WAS THE GENTLEMAN WHO GAVE THE $19,000 AND CHANGE CHECK TO YOU WHICH YOU AGREED GOES ON YOUR SIDE OF THE PAGE BECAUSE IT DIDN'T END UP GOING INTO A&E?
A YES, MA'AM.
Q IN ADDITION TO THAT, ISN'T IT TRUE, MR. SMITH, THAT $41,000, GIVE OR TAKE, OF EXTRAS WERE DONE FOR MR. DODRILL ON THE SEACLUSIONS PROJECT?
A I COULDN'T TELL YOU THAT. I DON'T KNOW.
Q YOU REMEMBER EXTRAS BEEN DONE ON THAT PROJECT?
A YES, MA'AM. I GAVE HIM A LIST OF EXTRAS AND I PRICED THEM OUT AND HE CHOOSE WHICH ONES HE WANTED DONE.
Q OKAY. WHO PERFORMED THOSE EXTRAS?
A A&E PERFORMED THEM.
Q A&E PERFORMED THEM?
A YES, MA'AM.
Q WAS A&E PAID FOR THEM?

A EXCUSE ME.
Q WAS A&E PAID FOR THE EXTRA WORK THAT WAS DONE?
A THE $19,000 AND CHANGE THAT I GOT WAS FOR THE EXTRAS THAT WERE DONE ON THAT PROPERTY.
Q OKAY. LET ME SHOW YOU WHAT HAS BEEN MARKED AS EXHIBIT NUMBER 37, DEFENDANT'S EXHIBIT NUMBER 37. IS THIS THE STATEMENT OF THOSE EXTRAS THAT YOU WORKED UP PRICES FOR MR. DODRILL FOR?
A YES, MA'AM. IT LOOKS LIKE IT.
Q AND FOR THE EXTRAS THAT YOU PRICED FOR HIM THE AMOUNT WAS $41,619.20?
A YES, MA'AM.
Q AND THAT WAS ADDED TO OVERHEAD AT A 12% PERCENT RATE?
A MA'AM. I COULDN'T TELL YOU I --
Q ISN'T IT ON THERE?
A YES. I SEE IT ON THERE. YES, MA'AM.
Q OKAY. SO, YOU PUT OVERHEAD ON THIS PARTICULAR JOB AT 12% PERCENT?
A YES, MA'AM.
Q NOW, A&E DIDN'T PERFORM ALL OF THESE EXTRAS OR DID THEY?
A NO, MA'AM.
Q WHICH EXTRAS DID A&E PERFORM?

A I KNOW THAT WE PUT THE BAHAMAS SHUTTERS ON IT. I KNOW THAT WE PUT THE TRELLES ON IT.
Q DID YOU ADD OUTLETS?
A ADD WHAT?
Q DID YOU ADD ANY OUTLETS? I'M TAKING THAT TO BE ELECTRICAL OUTLETS?
A MS. COOK, I REALLY DON'T REMEMBER.
Q DID YOU PUT SPEAKERS --
A I KNOW THAT WE PUT TILE SURROUNDS IN TWO SHOWERS INSTEAD OF FOUR.
Q DID YOU PUT SPEAKERS IN THE GAME ROOM?
A SPEAKERS IN THE GAME ROOM? NO, MA'AM. WE DIDN'T DO THAT.
Q DID YOU PUT SHOWERS INSTEAD OF TUBS?
A (NO ANSWER).
Q YOU PUT IN TILE SURROUNDS FOR SHOWERS. DOES THAT MEAN YOU PUT IN SHOWERS AND NOT TUBS?
A WE PUT TILE SURROUNDS FOR TWO...
Q ISN'T IT TRUE, MR. SMITH, THAT NOT ONLY DID YOU PUT THAT $19,000 IN YOUR POCKET ON THE SEACLUSIONS A&E JOB, YOU ALSO PUT $41,619.20 IN YOUR POCKET FOR EXTRAS THAT A&E PAID FOR THE SUPPLIES THAT A&E DIDN'T KNOW IT HAD AS A JOB? ISN'T THAT TRUE?
A NO, MA'AM.

MS. COOK: YOUR HONOR, I MOVE TO INTRODUCE EXHIBIT NUMBER 37 INTO EVIDENCE. HE DID SAY THAT HE RECOGNIZED THAT.

MR. DURANT: NO OBJECTIONS.

MR. THOMAS: NONE.

JUDGE HOWE: NUMBER 37 SO ADMITTED.

EXTRAS FOR MR. DODRILL MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 37.

Q NOW, A&E DID A JOB FOR MARTIN BROWN CALLED TAHITIAN PRINCESS, CORRECT?

A YES, MA'AM.

Q DO YOU RECALL GETTING A CHECK ON THE TAHITIAN PRINCESS JOB FROM MARTIN BROWN THAT WAS NOT PUT INTO A&E, BUT THAT YOU KEPT IN THE AMOUNT OF $2,300 OR SO?

A I DON'T RECALL.

Q YOU DON'T REMEMBER THAT?

A NO, MA'AM.

Q OKAY. IF MARTIN BROWN TESTIFIED TO THAT IN HIS DEPOSITION, WOULD YOU DISPUTE IT?

A IF YOU SHOWED ME THE CHECK WHERE I PUT IT INTO MY ACCOUNT. I JUST DON'T REMEMBER. I JUST

DON'T REMEMBER. I DON'T THINK THAT I DID.

Q WHILE YOU WERE INVOLVED WITH A&E, DID A&E LOOK AT OR ACTUALLY PUT A DEPOSIT DOWN ON A LOT AT THE TIGRIS RIVER DEVELOPMENT?

A NOT FAMILIAR WITH IT.

Q YOU'RE NOT FAMILIAR WITH IT?

A NO, MA'AM.

Q IS IT THAT YOU DON'T RECALL A&E SIGNING AND PUTTING DOWN A DEPOSIT? AND YOU HAD A YEAR TO CLOSE ON THAT LOT AND WITHIN THAT YEAR A&E DECIDED NOT TO CLOSE ON THE LOT. THE BELLAMY LAW FIRM REFUNDED THAT DEPOSIT CHECK ON THAT LOT. BUT THAT CHECK WAS GIVEN BY YOU TO MR. AND MRS. BROWN AND MR. AND MRS. BROWN DEPOSITED THAT INTO THEIR COASTAL FEDERAL ACCOUNT?

A NO, MA'AM.

Q YOU DON'T REMEMBER ANYTHING ABOUT THAT?

A NO, MA'AM.

Q MR. SMITH, LET ME SHOW YOU WHAT I HAVE MARKED AS DEFENDANT'S EXHIBIT NUMBER 38. IT'S A COPY OF A SERIES OF CHECKS. TAKE A MOMENT AND LOOK AT THAT AND I ACTUALLY NEED US TO KIND OF START FROM THE BACK PAGE AND WORK FORWARD. TELL ME WHEN YOU'RE READY.

A I'M READY.

Q OKAY. THE LAST PAGE OF DEFENDANT'S 38 FOR ID IS A CHECK FROM THE BELLAMY LAW FIRM MADE PAYABLE TO A&E IN NOVEMBER OF 2005 IN THE AMOUNT OF $6,990, IS THAT CORRECT?

A YES, MA'AM.

Q THAT'S WHAT'S SHOWN ON THERE?

A YES, MA'AM.

Q THE BOTTOM OF THAT PAGE SHOWS AN ENDORSEMENT OF THAT CHECK SIGNED BY YOURSELF AND MR. VEREEN, DOESN'T IT?

A YES, MA'AM, IT DOES.

Q NOW, DO YOU REMEMBER ANYTHING ABOUT GIVING THAT CHECK AFTER IT WAS ENDORSED TO MR. OR MRS. BROWN?

A DO I REMEMBER?

Q UH-HUH.

A IT WAS NEVER GIVEN TO MR. OR MRS. BROWN. THIS WAS THE CHECK THAT WAYNE VEREEN HANDED ME BECAUSE I HAD TO PAY MY TAXES AND TOLD ME TO PUT IT INTO MY ACCOUNT. I TOOK IT TO COASTAL FEDERAL. COASTAL FEDERAL SAID IT'S A&E ON THE FRONT. THERE WILL BE NO DEPOSIT OF THAT IN A PERSONAL ACCOUNT. I TOOK IT BACK TO HIM. AT THAT POINT IN TIME, HE WROTE ME A CHECK OUT OF A&E.

Q LET ME ASK YOU THIS THEN. THE A&E CHECK... THERE'S A CHECK IN THE AMOUNT OF $6,990 AND IT'S AN A&E CHECK AND IT'S PAYABLE TO COASTAL FEDERAL. THAT'S IN MAY OF '06. NOW, THE REFUND FROM THE BELLAMY FIRM, THE CHECK WAS ACTUALLY WRITTEN IN NOVEMBER OF '05, BUT IF YOU LOOK ON THE BACK OF THAT CHECK, IT WASN'T PROCESSED UNTIL MAY 2ND OF '06, WAS IT?

A YES, MA'AM.

Q AND ON MAY 2ND '06 THERE'S AN A&E CHECK TO COASTAL FEDERAL AND IF YOU LOOK AT THE BACK OF THAT A&E CHECK TO COASTAL FEDERAL ON THAT SAME DAY, MAY 2, 2006, THE BOTTOM OF THAT SHOWS A COASTAL FEDERAL BACK OF THE CHECK IT WAS PROCESSED AND ENTERED AND PUT INTO THE ACCOUNT OF MR. AND MRS. EVELYN BROWN, WASN'T IT? AND THE WHOLE REASON THAT MIDDLE CHECK IS IN THERE IS TO SHOW WHAT THE COASTAL FEDERAL CHECKING ACCOUNT NUMBER OF MR. AND MRS. BROWN IS. MR. AND MRS. MARTIN AND EVELYN BROWN CHECKING ACCOUNT AT COASTAL FEDERAL --

MR. DURANT: I DON'T WANT TO INTERRUPT HER, BUT SHE SHOULD BE ASKING HIM FIRST HAS HE EVER SEEN THIS CHECK, WHICH IS A CHECK FOR $6,000 AND THEN HE CAN SAY YES

HE HAS OR HE HASN'T. HE'S JUST GUESSING WHEN SHE'S ASKING HIM QUESTIONS ABOUT SOMETHING THAT HE HAS NOTHING... UNLESS HE'S GOT KNOWLEDGE OF IT.

MS. COOK: WELL, YOUR HONOR, I'M ASKING HIM ABOUT THE TRANSACTION AND I'M GIVING HIM THESE DOCUMENTS TO SEE IF IT WILL REFRESH HIS RECOLLECTIONS ABOUT A NEGOTIATION OF AN A&E CHECK WRITTEN IN NOVEMBER OF '05 AND ENDORSED BY HE AND MR. VEREEN. BUT NOT NEGOTIATED UNTIL MAY 2ND 2006.

JUDGE HOWE: YOU CAN ASK HIM, BUT MY GUESS IS HE DIDN'T HAVE A LOT TO DO WITH THE CHECKING ACCOUNT OF A&E. YOU'RE WELCOME TO ASK HIM, BUT MY GUESS IS HE'S GOING TO SAY HE DOESN'T KNOW. I DON'T THINK HE HANDLED THE CHECKING ACCOUNT.

MS. COOK: HE DIDN'T SIGN THE CHECKS, YOUR HONOR.

Q YOU DIDN'T SIGN THE CHECKS, BUT YOU... CHECKS WERE GIVEN TO YOU, CORRECT?

A YES.

Q AFTER THEY WERE SIGNED?

A AT TIMES, YES, MA'AM.

Q DO YOU RECALL ANYTHING ABOUT A&E WRITING A CHECK TO COASTAL FEDERAL THAT THEN WAS DEPOSITED IN THEIR COASTAL FEDERAL ACCOUNT?

A I DON'T SEE WHERE THIS IS MARTIN AND EVELYN BROWN'S... I DON'T FOLLOW. I REALLY DON'T FOLLOW WHAT YOU'RE SAYING.

Q THAT'S FINE. WE CAN GET IT CLEARED UP LATER. YOU DIDN'T SIGN THE CHECKS BUT WHAT YOU DID TO GET A CHECK ISSUED... WELL, WHAT DID YOU DO TO GET A CHECK ISSUED FROM A&E TO PAY AN A&E EXPENSE?

A EXCUSE ME NOW.

Q WHAT DID YOU DO TO GET A CHECK ISSUED TO PAY AN A&E EXPENSE?

A I GAVE IT TO WAYNE VEREEN. HE APPROVED IT. HE WROTE A CHECK FOR WHATEVER IT WAS.

Q NOW, THAT'S NOT EXACTLY WHAT YOU DID. YOU HANDLED A BILL TO CARRIE DREWITT --

MR. DURANT: YOUR HONOR, IS THAT A QUESTION OR --

MS. COOK: IT'S GOING TO BE.

MR. DURANT: YOU CAN ASK HIM A QUESTION, BUT SHE CAN'T TELL THEM.

JUDGE HOWE: YOU ARE TELLING HIM WHAT HE DID.

Q ISN'T IT TRUE, THAT IS NOT EXACTLY WHAT HAPPENED, IS IT, MR. SMITH?

A AT TIMES YOU'RE EXACTLY RIGHT. MOST OF THE TIME I GAVE THE BILLS TO CARRIE AND SHE WOULD PROCESS THEM AND GIVE THEM TO MR. VEREEN FOR APPROVAL AND THEN WRITE CHECKS.

Q ISN'T IT TRUE, MR. SMITH, THAT WHAT YOU WOULD DO IS YOU WOULD GIVE A BILL THAT YOU WANTED PAID BY A&E TO CARRIE DREWITT AND SHE WOULD RIGHTLY OR WRONGLY ENTER STUFF INTO THIS PEACHTREE COMPUTER SYSTEM, GENERATE THE CHECK, AND THEN TAKE THE STACKS OF CHECKS TO MR. VEREEN FOR HIM TO SIGN? ISN'T THAT WHAT HAPPENED?

A THAT I COULDN'T TELL YOU.

Q BUT YOU DON'T DISAGREE, DO YOU, MR. SMITH, THAT WHEN YOU HAD A BILL THAT YOU WANTED A&E TO PAY THE PROCESS WAS; YOU HANDED THE BILL TO CARRIE THE BOOKKEEPER AND FROM THERE A PROCEDURE WAS GONE THROUGH UNTIL A CHECK WAS ISSUED AND EITHER MAILED TO PAY OUT OR GIVEN TO YOU TO TAKE TO THE COLLECTOR? IS THAT A FAIR STATEMENT?

A NO, MA'AM. I DON'T THINK IT IS. I THINK THOSE BILLS WERE COLLECTED BY CARRIE AND THEY WERE GIVEN TO MR. VEREEN AND HE WOULD TELL HER WHAT CHECKS TO WRITE. SHE DID NOT INDISCRIMINATELY

WRITE CHECKS ON WHATEVER BILL. MR. VEREEN WOULD TELL HER. SOMETIMES HE DRUG BILLS OUT.

Q OKAY. DID I UNDERSTAND YOU CORRECTLY TO SAY THAT MR. VEREEN, HE WAS THE ONE WHO APPROVED BILLS FOR PAYMENT?

A I APPROVE BILLS ON MY JOBS, GAVE THEM TO HIM. HE WOULD CHECK THEM TO MAKE SURE THAT THEY WERE RIGHT AND THEN HE WOULD TELL CARRIE TO WRITE THE CHECKS AND HE WOULD SIGN THE CHECKS THAT SHE WROTE ACCORDING TO WHICH ONES HE WANTED TO PAY.

Q SO, IT'S YOUR TESTIMONY ON JOBS THAT YOU WERE THE SUPERVISOR ON AND YOU WERE RUNNING, YOU PRELIMINARILY APPROVED PAYMENTS OF BILLS?

A YES, MA'AM.

Q AND YOU GAVE THE BILLS TO WAYNE? YOU DIDN'T GIVE IT TO CARRIE, YOU GAVE IT WAYNE FOR HIM TO REVIEW?

A NO, MA'AM. THAT'S NOT WHAT I SAID.

Q OKAY. I'M SORRY. I MISUNDERSTOOD.

A I PRELIMINARILY APPROVED THE CHECKS THAT CAME TO ME. ANY BILL THAT I HAD LIKE EES, THEY WENT TO CARRIE. SHE WOULD TAKE THEM ALL TO WAYNE. WAYNE WOULD TELL HER WHAT CHECKS HE WANTED AND HE WOULD HAND HER A STACK OF INVOICES, WRITE CHECKS FOR THIS AND HE WOULD LEAVE SOME INVOICES

ON THE DESK THAT MAY NOT BE DUE AT THIS TIME. SHE WOULD WRITE THE CHECKS, GIVE THEM BACK TO HIM, HE WOULD SIGN THEM, AND WE WOULD DISTRIBUTE THEM.

Q MR. SMITH, AT THE BEGINNING OF THIS BUSINESS OF A&E, WHY WASN'T IT... YOU WERE THE PRESIDENT. WHY WASN'T IT YOU DIDN'T WANT TO BE A SIGNATORY ON THE CHECKING ACCOUNT OF A&E?

A I WAS NEVER ASKED. I NEVER ASKED MYSELF... I NEVER ASKED TO BE PUT ON IT.

Q IN FACT, YOU TOOK THE POSITION AND YOU TOLD WAYNE YOU DIDN'T WANT TO BE ON THE CHECKING ACCOUNT, DIDN'T YOU?

A NO, MA'AM. I DID NOT TELL HIM THAT.

Q DID YOU EVER BEFORE SEPTEMBER... IN 2004 YOU WERE THE PRESIDENT OF A&E, CORRECT?

A YES, MA'AM.

Q YOU HAD FREE REIGN TO COME AND GO IN THE OFFICES OF A&E, IS THAT CORRECT?

A YES, MA'AM.

Q DURING THAT TIME, DID ANYONE EVER DENY YOU ACCESS TO ANY BOOKS OR RECORDS OF A&E?

A NO, MA'AM.

Q DID YOU EVER ASK TO SEE ANY BOOKS OR RECORDS OR FINANCIAL INFORMATION ON A&E IN 2004?

A QUITE OFTEN I WOULD GET CARRIE TO RUN A GENERAL LEDGER OF WHAT KIND OF COSTS WE HAD ON THE JOB AND WHERE WE STOOD.

Q AND DID SHE EVER DENY THAT? HAS ANYONE EVER DENIED YOU THAT?

A SHE WOULD TELL ME. SHE DIDN'T PRINT THEM OUT. SHE WOULD TELL ME WHAT WAS GOING ON THERE.

Q DID YOU EVER ASK ANYBODY TO SEE THE CHECKING ACCOUNT RECORDS?

A NO, MA'AM.

Q DID ANYBODY EVER PREVENT YOU FROM LOOKING AT THOSE?

A NO, MA'AM.

Q IN 2005, SAME SCENARIO. YOU HAD FREE REIGN? YOU COULD ASK FOR AND LOOK AT ANY DOCUMENTS THAT YOU WANTED, IS THAT CORRECT?

A YES, MA'AM.

Q DID YOU EVER ASK TO LOOK AT ANY CHECKING ACCOUNT RECORDS OR JOB LEDGERS THAT ANYONE DENIED YOU ACCESS TO?

A NO, MA'AM. I TRUSTED MY PARTNER THAT HE WOULD BE DOING THE RIGHT THING.

Q OKAY. SAME QUESTION WITH REGARD TO 2006?

A YES, MA'AM.

Q DURING 2006, DID YOU EVER ASK TO SEE ANYTHING

THAT YOU WERE NOT SHOWN?

A NO, MA'AM.

Q AND IN 2007, WHEN IS THE FIRST TIME YOU ASKED TO SEE ANY RECORDS, GENERAL LEDGERS, CHECKING ACCOUNT STATEMENTS OR ANY A&E RECORDS OR OTHER RECORDS THAT YOU WERE DENIED BEING ABLE TO SEE?

A NEVER FROM THE TIME I WAS THERE.

Q NEVER?

A NO. I WAS TOLD THAT WE HAD NO IDEA WHAT WAS IN THE BANK. THAT CAME FROM CARRIE. SHE COULDN'T EVEN GET A BALANCE AT THE TIME. ALL SHE HAD WAS A STATEMENT.

Q WHILE YOU WERE THERE, DID YOU EVER ASK MR. VEREEN, "LET ME SEE THE CHECKING ACCOUNT RECORDS."?

A NO.

Q YOU NEVER ASKED MR. VEREEN FOR THE BALANCE?

A NO.

Q THAT WAS IN THE BANK?

A NO, MA'AM.

Q ISN'T IT TRUE, MR. SMITH, ANY TIME YOU NEEDED AN ADVANCE OR YOU NEEDED SOME MONEY TO PAY YOUR INCOME TAXES OR HELPING TO BUY YOUR NEW HOUSE, A&E AND MR. VEREEN AGREED TO THAT AND ADVANCED THAT TO YOU?

A A&E DID, YES, MA'AM.

Q WERE YOU EVER DENIED ANY REQUESTS FOR ADVANCES OR MONEY FROM A&E?

A NO, MA'AM.

MS. COOK: YOUR HONOR, CAN WE TAKE SHORT BANK?

JUDGE HOWE: ABOUT TEN MINUTES.

(DISCUSSION OFF THE RECORD).

Q NOW, MR. SMITH, THE LOT AND HOME THAT WAS ON THE LAND SALES CONTRACT THAT YOU PURCHASED FROM 29TH PLACE DEVELOPERS, WERE YOU EVER A PART OF 29TH PLACE DEVELOPERS THE DEVELOPMENT ENTITY FOR THAT PROJECT?

A IN THE VERY BEGINNING, YES.

Q AND WOULD THAT HAVE BEEN THE FIRST VENTURE IN TERMS OF BUSINESS VENTURE THAT YOU AND MR. VEREEN WERE IN TOGETHER, THE 29TH PLACE DEVELOPMENT OR HAD Y'ALL BEEN IN BUSINESS BEFORE?

A I DON'T RECALL.

Q BUT BEFORE A&E, YOU HAD BEEN A MEMBER OF 29TH PLACE DEVELOPMENT, CORRECT?

A IT WAS TALKED ABOUT, BUT I DON'T KNOW IF I EVER WAS. I KNOW IT WAS SUPPOSED TO BEEN ME, WAYNE, AND RONNIE HENDRIX. I NEVER SAW ANY

CORPORATION. I NEVER SAW ANYTHING WHERE I WAS PUT ON IT. BUT YES, THAT WAS THE ORIGINAL AGREEMENT.

Q YOU'RE NOT AWARE THAT YOU WERE A MEMBER OF 29TH PLACE DEVELOPMENT AND SIGNED THE LOAN DOCUMENTS TO DO THE CONSTRUCTION LOAN?

A NAY. I DON'T RECALL.

Q BUT THAT MAY HAVE OCCURRED?

A I DOUBT IT, BUT IT MIGHT HAVE.

Q AND THEN RIGHT AFTER ALL THE DEVELOPMENT LOAN DOCUMENTS AND BANK DOCUMENTS WERE SIGNED YOU AND MR. HENDRIX FILED BANKRUPTCY?

A I DON'T KNOW ABOUT MR. HENDRIX. I COULDN'T TELL YOU.

Q BUT YOU FILED BANKRUPTCY RIGHT AFTER THAT?

A I FILED BANKRUPTCY IN NOVEMBER OF 1990.

Q AND SO, MR. VEREEN WAS LEFT ALONE TO HANDLE THE 29TH PLACE DEVELOPMENT, ISN'T THAT CORRECT?

A I GUESS YOU'RE RIGHT.

Q DID YOU OWE HIM ANY MONEY WITH REGARD TO THAT?

A EXCUSE ME?

Q FOR THE DEVELOPMENT OF 29TH PLACE DEVELOPERS? DID YOU OWE MR. VEREEN OR 29TH PLACE DEVELOPERS ANY MONEY?

A NO. I NEVER GOT ANY MONEY OUT OF THERE, NO.

Q NO. NOT YOU GOT ANY MONEY OUT OF THEM. DID YOU OWE 29TH PLACE DEVELOPERS OR MR. VEREEN ANY MONEY IN CONNECTION WITH YOUR PART AS PART OF THE DEVELOPMENT ENTITY FOR 29TH PLACE DEVELOPERS?

A NO, MA'AM.

Q NOW, YOU TESTIFIED BEFORE THAT YOU HAD MADE A DEMAND ON MR. VEREEN PRIOR TO FILING THIS LAWSUIT AFTER YOU BECAME CONCERNED, I BELIEVE, YOU SAID IN THE LAST '06, DECEMBER OF '06. DID I UNDERSTAND THAT CORRECTLY?

A YOU'RE CLOSE. YES, MA'AM.

Q AND DID YOU MAKE THAT DEMAND OR MAKE THOSE CONCERNS KNOWN BY WAY OF WRITING TO MR. VEREEN OR HAVING A CONVERSATION WITH HIM?

A WRITING MR. VEREEN.

Q DID YOU EVER HAVE A FACE-TO-FACE CONVERSATION WITH MR. VEREEN ABOUT THOSE ISSUES?

A YES, MA'AM.

Q OKAY. WERE THE WRITTEN LETTERS OF CORRESPONDENCE TO MR. VEREEN ABOUT THOSE ISSUES IN '06 OR '07, WAS YOUR FACE-TO-FACE CONVERSATION BEFORE OR AFTER THOSE WRITTEN LETTERS?

A AFTER.

Q AFTER. IF YOU WOULD TURN IN THE PLAINTIFF'S EXHIBIT BOOK TO WHAT I BELIEVE IS DEFENDANT'S EXHIBIT NUMBER 9, WRITTEN DEMAND LETTERS FROM ELLIS SMITH. FOR MYSELF AS WELL AS THE COURT, AND IF YOU DON'T MIND, I'M GOING TO STAND OVER YOUR SHOULDER BECAUSE I WANT TO GET STRAIGHT WHAT DOCUMENT GOES WITH WHAT BEHIND EXHIBIT NUMBER 9?

A I DON'T REMEMBER.

Q I WANT YOU TO TAKE YOUR TIME AND READ THESE LETTERS AND SEE IF YOU CAN DETERMINE. LET'S JUST... FOR THE RECORD, AND THAT'S WHAT I WANTED TO KNOW BECAUSE I DON'T THINK MINE ARE IN THE SAME ORDER THAT YOURS ARE. SO, BEHIND YOUR 9, WHAT'S THE FIRST PAGE BEHIND YOUR 9? START WITH "WAYNE", IS THAT RIGHT?

A "WAYNE, WE HAVE BEEN FRIENDS..."

Q WHAT'S THE SECOND PAGE?

A "FOR PAYMENT NOT ASSOCIATED..."

Q NEXT PAGE?

A "GREATLY BY THESE ACTIONS..."

Q ALRIGHT.

A "PAST FOUR MONTHS..."

Q OKAY.

A "GREEN TURTLE..."

Q SO, THE NEXT PAGE HAS GOT A LISTING OF THINGS ON... IT'S GOT TWO COLUMNS. ONE SIDE IT'S GOT "GREEN TURTLE" AND THE OTHER SIDE IT'S GOT "AMOUNT."?

A YES, MA'AM. "WAYNE CHECKS".

Q AND THE NEXT PAGE IN YOUR EXHIBIT IT'S GOT "WAYNE CHECKS $217,499" AND THEN "52,499" IS THE NEXT NUMBER?

A YES, MA'AM.

Q AND NEXT PAGE IS ANOTHER LISTED, IS THAT RIGHT? MINE IS ALL OUT OF WHACK. THAT ONES SAYS, "DEPOSITS BY AWV OR ASSOCIATE COMPANIES" AND IT'S GOT THREE COLUMNS OF NUMBERS, CORRECT?

A YES, MA'AM. IT'S GOT THE ENTITY THAT PUT IT IN, THE DATE IT WAS PUT IN AND THE AMOUNT THAT WAS DEPOSITED.

Q THE NEXT PAGE?

A ANOTHER LETTER.

Q THIS IS A SECOND LETTER AND IT SAYS, "WAYNE" AND THEN IT SAYS, "ALL DEPOSITS." WHAT'S THE NEXT THING?

A YOU NEED TO GET IT IN ORDER. THIS WAS THE NEXT LETTER AND THEN THIS.

Q NO. I WANT TO KNOW RIGHT NOW --

A THAT'S FINE.

Q I'M TRYING TO GET US ALL ON THE SAME PAGE. I WANT TO KNOW WHAT'S IN YOUR BOOK?
A YOU GOT IT.
Q AND THEN I'M GOING TO GET YOU TO PUT IT IN CHRONOLOGICAL ORDER, OKAY?
A YES, MA'AM.
Q SO, THEN WE HAVE "WAYNE" AND IT'S "ALL DEPOSITS LISTED ON DEPOSIT SHEET."?
A YES, MA'AM.
Q WHAT'S THE NEXT PAGE AFTER THAT ONE?
A "ARTHUR VEREEN CONSTRUCTION CHECK TOTAL."
Q AND IT SAYS, 114 AND SOME CHANGE?
A YES, MA'AM. THE NEXT THING IS PARK PLACE PROPERTIES.
Q OKAY. THAT'S A TWO COLUMN LIST?
A YES, MA'AM.
Q AND AT THE TOP IT STARTS, "PART PLACE PROPERTIES"?
A YES, MA'AM.
Q GOT'CHA.
A THE NEXT STARTS WITH "STOCK, LONG JOBS, PM."
Q "STOCK" ON MINE IS CIRCLED, OKAY?
A THE NEXT ONE IS "PARK PLACE PROPERTIES."
Q AND IT'S GOT "COST ADVANCED TO AWV."?
A THAT'S CORRECT.

Q ALRIGHT. THAT'S A SEPARATE LETTER, THAT ONE?
A THAT'S ALL OF MINE.
Q WHAT'S THE NEXT PAGE BEHIND TAB 9?
A THIS IS THE LETTER THAT HE SENT ME IN ANSWER.
Q OKAY. THAT'S BEHIND TAB 9. NEXT WE HAVE --
A "OUTSTANDING MONIES NOT PAID BY A&E."
Q IT'S ON LINED NOTEBOOK PAPER?
A YES, MA'AM. "PROJECTS BY AWV"?
Q IT'S ON LINED NOTEBOOK PAPER?
A YES, MA'AM. "EES ADVANCES AND CREDITS FROM A&E, 29TH PLACE CARPET."
Q OKAY. DID THIS NEXT SHEET, THE ONE THAT YOU JUST TALKED ABOUT, THAT'S NOT ON THE LINED PAPER. DID... WAS IT ATTACHED, DO YOU RECALL, TO WAYNE'S LETTER?
A THEY ALL WERE.
Q OKAY.
A "DIXIE MOTEL TEAR DOWN."
Q OKAY.
A "OFFICE SUPPLIES AND EXPENSES."
Q ALRIGHT.
A "WILLOUGHBY PLACE LAWSUIT EXPENSES."
Q OKAY.
A "511 ROBERT GRISSOM."
Q THANK YOU.

A "$164,059.90 PROFIT ON EES JOBS."
Q OKAY.
A AND THEN IT'S GOT --
Q LIKE A LEDGER SHEET.
A IT'S "05".
Q DO YOU RECALL IF THIS SHEET WAS ALSO WITH THESE LETTERS THAT WAYNE WROTE YOU BACK... THE INFORMATION THAT WAYNE WROTE YOU BACK?
A I DON'T RECALL, BUT I THINK IT WAS.
Q YOU THINK IT WAS ALL TOGETHER, OKAY?
A YES, MA'AM.
Q OKAY.
A AND THEN HERE'S ANOTHER LETTER I SENT HIM.
Q IT'S GOT "JULY 9, 2008"?
A YES, MA'AM.
Q WHAT'S THE NEXT PAGE AFTER JULY 9, 2008?
A THAT'S ALL HE'S GOT IN HERE.
Q YOU DON'T HAVE ANOTHER PAGE THAT SAYS, "AWV" ON THE TOP?
A NO. DO YOU SEE IT IN HERE?
Q NO. BUT IT WAS BEHIND MINE, THAT'S WHY I'M ASKING.
(DISCUSSIONS OFF THE RECORD.)
Q NOW THAT WE HAVE ESTABLISHED WHAT'S BEHIND TAB 9, CAN YOU ASSIST US IN PUTTING IN WHAT'S BEHIND

TAB 9, THE LETTERS IN CHRONOLOGICAL ORDER?

A THEY ARE.

Q THEY ARE IN ORDER? OKAY. I'S SORRY. IF YOU WOULD BEAR WITH ME SO THIS MAKES SENSE TO ME. THE FIRST LETTER STARTS, "ALL DEPOSITS LISTED" AND IT'S 5 PAGES IN LENGTH?

A NO.

Q HOW MANY PAGES IN LENGTH IS THE FIRST LETTER THEN?

A THAT'S NOT THE FIRST LETTER.

Q IT STARTS, "WAYNE WE HAVE BEEN FRIENDS."

A YES.

Q HOW MANY PAGES IS THAT FIRST LETTER?

A THEY ARE SO MIXED UP, I DON'T KNOW.

Q CAN YOU TELL ME HOW MANY PAGES THE SECOND LETTER IS?

A I HAVE NO IDEA. THEY'RE ALL MIXED UP.

Q THEY'RE ALL MIXED UP?

A YES, MA'AM.

Q SO, IS IT YOUR TESTIMONY THAT YOU DON'T KNOW WHICH PAGES GO WITH WHICH PAGES BEHIND TAB 9? I'M SORRY TO TAKE UP THIS TIME BUT THIS IS IMPORTANT, MR. SMITH. I'M NOT TRYING TO CONFUSE YOU BECAUSE I'M CONFUSED.

A OKAY.

Q HAVE YOU GOT THEM IN ORDER?
A YES, MA'AM.
Q THE FIRST LETTER BEHIND TAB 9 IT STARTS WITH WHAT AND IS HOW MANY PAGES?
A "WAYNE, WE HAVE BEEN FRIENDS..."
Q HOW MANY PAGES?
A 6.
Q IT'S 6?
A THE NEXT ONE STARTS WITH "FOR PAYMENT..."
Q HOLD ON BECAUSE I HAD 7 FOR THAT ONE, SO I WANT TO MAKE SURE WE HAVE THE RIGHT 6 PAGES. THE WAY THEY WERE IN THE BOOK BEHIND TAB 9 IS NOT CORRECT, IS THAT RIGHT? YOU HAVE STRAIGHTENED THEM OUT NOW AND PUT THE RIGHT THINGS TOGETHER? IT'S MY UNDERSTANDING THAT FROM LOOKING BEHIND TAB 9 THAT YOU DON'T THINK ANY OF THESE ARE THE VERY FIRST LETTER THAT YOU WROTE TO MR. VEREEN?
A NO, MA'AM.
Q BUT OF WHAT'S BEHIND TAB 9, CAN YOU PUT THE DOCUMENTS TOGETHER THAT WENT TOGETHER? WHETHER IT WAS THE FIRST ONE, THE SECOND ONE, THE FIFTH ONE. I JUST WANT TO MAKE SURE WE'VE GOT... BECAUSE YOU'VE GOT A LETTER AND THEN YOU WILL HAVE SOME SCHEDULES OF NUMBERS THAT GO WITH EACH LETTER. CAN YOU PUT THEM TOGETHER AS THEY WENT

TOGETHER TO MR. VEREEN?

A THAT'S THE FIRST PAGE OF THE LAST THING THAT WAS IN HERE.

Q JULY 9 TYPED DOCUMENT IS THE FIRST PAGE OF THE LAST THING THAT YOU SENT THEM?

A YES, MA'AM. THERE'S SOMETHING MISSING OUT OF THIS ONE.

Q AND WHEN YOU SAY, "THIS ONE" YOU'RE REFERRING TO ONE THAT STARTS WITH...

A THIS IS THE FIRST ONE.

Q HOLD ON.

A THERE IS A PAGE MISSING.

Q LET'S GET THE RECORD CLEAR ABOUT THAT.

A THE LAST PAGE IS MISSING ON THAT.

Q SO, THIS ONE THAT STARTS, "WAYNE, WE HAVE BEEN FRIENDS..."?

A YES, SIR.

Q IS SIX PAGES, BUT YOU BELIEVE THAT THERE WAS A 7TH PAGE THAT IS MISSING?

A YES, MA'AM, I DO.

Q I WANT TO GET MINE IN THE SAME ORDER THAT YOURS ARE IN. I'M SORRY, MR. SMITH. THIS IS WHAT YOUR ATTORNEY PUT IN AS THE EXHIBIT.

MR. DURANT: YOUR HONOR, WE PUT THE EXHIBIT IN ONLY TO SHOW THAT WE MADE A

DEMAND. IT'S NOT PROOF OF ANYTHING. WE WERE REQUIRED TO MAKE A DEMAND BEFORE THE DEFENDANT TO BRING A DERIVATIVE ACTION.

MS. COOK: YOUR HONOR, I BEG TO DIFFER. I THINK IT'S PROOF OF A LOT OF THINGS. SO, I JUST WANT TO GET THIS STRAIGHTENED OUT.

Q THAT'S THE FIRST ONE THAT WAS BEHIND TAB 9, BUT THAT'S THE ONE THAT YOU BELIEVE IS MISSING A PAGE?

A NO. I KNOW IT'S MISSING A PAGE.

Q OKAY. THAT'S THE ONE THAT IS MISSING A PAGE?

A THERE'S A NUMBER THAT I ASKED FOR ON THE LAST PAGE.

Q SO, THAT PAGE IS MISSING?

A IT'S NOT IN HERE.

Q IT'S NOT IN THE EXHIBIT BOOK THAT YOUR COUNSEL PUT INTO EVIDENCE?

A OKAY.

Q THE NEXT LETTER THAT'S BEHIND TAB 9, IS HOW MANY PAGES?

A 6. IS THAT CORRECT?

Q YES, SIR. WE HAD 6 AND ONE PAGE IS MISSING.

A 6 ON THE SECOND ONE.

Q 6 ON THE SECOND ONE. CAN I SEE THE ORDER THAT THOSE ARE IN? THEN YOU'VE GOT ONE PAGE THAT'S DATED JULY 9TH 2008?

A YES, MA'AM.

Q BUT THERE IS A SECOND PAGE THAT WENT WITH THAT LETTER?

A YES, MA'AM.

Q BUT THAT IS NOT BEHIND TAB 9?

A NO, MA'AM.

Q THE LAST GROUP OF DOCUMENTS THAT'S BEHIND THE JULY 9TH 2008 LETTER IS MR. VEREEN'S RESPONSE BACK TO YOU FROM ONE OR MORE OF THESE LETTERS?

A THIS IS NOT HIS TOTAL RESPONSE. THIS IS A PARTIAL RESPONSE TO IT.

Q THERE IS MORE THAT MR. VEREEN RESPONDED TO YOU THAN IS BEHIND TAB 9 AS WELL?

A NO. I CAN'T SAY THAT.

Q TAKE YOUR TIME. I'M NOT TRYING TO CONFUSE YOU. I'M TRYING TO GET AS ACCURATE AS I CAN WITH THE DOCUMENTS THAT HAVE BEEN PUT INTO EVIDENCE. DO YOU THINK THAT IS THE COMPLETE RESPONSE THAT HE SENT TO YOU THAT'S BEHIND TAB 9?

A I THINK IT IS.

Q THAT IS 9 PAGES IN LENGTH?

A YES, MA'AM.

Q ALRIGHT. I JUST WANT TO MAKE SURE THAT WE'RE TALKING ABOUT THE SAME THING AND THAT WE HAVE IT IN THE SAME ORDER AND I HOPE THE COURT AND MR. DURANT ARE WITH US. WITHIN TAB 9 THERE ARE TWO LETTERS SENT BY YOU AND ONE RESPONSE SENT BY MR. VEREEN?

A NO, MA'AM.

Q BEHIND TAB 9 THERE'S MORE THAN TWO LETTERS SENT BY YOU AND ONE LETTER IN RESPONSE BY MR. VEREEN?

A YES, MA'AM.

Q WHAT ELSE IS BEHIND YOUR TAB 9? I'M SORRY. THREE LETTERS, THE JULY 9TH LETTER?

A YES, MA'AM.

Q 2008. THREE LETTERS SENT BY YOU AND ONE RESPONSE BY MR. VEREEN?

A YES, MA'AM.

Q AND TWO OF THE THREE LETTERS SENT BY YOU THERE'S A PAGE MISSING FROM EACH OF THOSE?

A YES, MA'AM.

Q OKAY. BEHIND TAB 1 OTHER THAN THE THREE LETTERS THAT WERE SENT BY YOU, DID YOU SEND ANOTHER LETTER THAT IS NOT BEHIND TAB 9?

A MA'AM, I DON'T REMEMBER.

Q OKAY. OF THE LETTERS THAT YOU'VE GOT BEHIND TAB 1, DO YOU HAVE THEM IN CHRONOLOGICAL ORDER AS TO

WHICH ONE YOU SENT FIRST, THEN SECOND, THEN THIRD?

A TAB 1?

Q I'M SORRY. TAB 9. I APOLOGIZE. TAB 9. DO YOU HAVE THEM IN CHRONOLOGICAL ORDER IN WHICH YOU WROTE THEM AND SENT THEM?

A TO THE BEST OF MY KNOWLEDGE, YES.

Q AND THE ONE THAT STARTS, "WAYNE, WE HAVE BEEN FRIENDS FOR MANY YEARS..." IN THAT LETTER YOU TALK ABOUT THAT IT IS AN S CORPORATION AND THAT YOU'VE PRESENTED ALL OF YOUR FINDINGS TO AN ATTORNEY. WHAT ATTORNEY HAD YOU PRESENTED YOUR FINDINGS TO AT THE TIME THAT YOU WROTE THIS FIRST LETTER BEHIND TAB 9 TO MR. VEREEN?

A FRED NEWBY.

Q DO YOU REMEMBER ABOUT WHEN YOU SENT THIS FIRST LETTER?

A NO, MA'AM, I DO NOT.

Q DO YOU KNOW IF IT WAS IN 2006 OR IF IT WAS IN 2007?

A I FEEL SURE IT WAS IN 2007.

Q OKAY. THE THIRD PAGE AT THE BOTTOM OF THE PAGE IT SAYS, "PLEASE COME TO A CONCLUSION BY OCTOBER 4, 2007."?

A SO, I WOULD THINK I PUT IT IN 2007. I DON'T

THINK THAT I WOULD HAVE GIVEN HIM A YEAR TO MAKE A DECISION.

Q DID YOU WRITE HIM ANY LETTERS IN '06 AFTER YOU FIRST BECAME CONCERNED?

A NO, MA'AM.

Q DO YOU RECALL HOW FAR IN ADVANCE OF OCTOBER 4, WHICH WOULD BECOME THE DEADLINE BY WHICH YOU WANTED A RESPONSE, YOU GAVE THIS LETTER TO MR. VEREEN?

A I THINK IT WAS ABOUT THE MIDDLE OF SEPTEMBER. A WEEK TO 10 DAYS.

Q WAS IT ABOUT THE SAME TIME THAT YOU QUIT COMING TO THE OFFICE?

A YES, MA'AM.

Q OKAY. AFTER YOU LEFT THIS LETTER, DID MR. VEREEN RESPOND TO YOU?

A YEAH. HE CAME TO THE MARTIN BROWN JOB.

Q WHAT WAS THE SUBSTANCE OF THAT CONVERSATION?

A WHY I DIDN'T TALK TO HIM? WHY I WANTED BETH TO GIVE BACK ALL THE MONEY THAT SHE MADE OFF ALL THE LEGAL CLOSINGS SHE HAD DONE. I HADN'T SAID NOTHING IN THE LETTER WHATSOEVER ABOUT BETH'S MONEY BACK FOR ANY LEGAL CLOSINGS. I DIDN'T SAY ANYTHING ABOUT IT. HE JUST WENT ON AND ON AND FINALLY LEFT. HE SAID HE KNEW IT HAD BEEN GOING

ON FOR A LONG TIME.

Q ALRIGHT. AND PURSUANT TO THIS LETTER, THIS IS ONE OF THE LETTERS THAT YOU BELIEVE THE LAST PAGE OF THE ACTUAL LETTER PART WHERE YOU ASKED FOR A CERTAIN AMOUNT OF MONEY IS MISSING?

A YES, MA'AM. I KNOW IT IS.

Q HOW MUCH IN THIS LETTER DID YOU REQUEST MR. VEREEN GIVE AND WHO WERE YOU REQUESTING --

A I DON'T RECALL.

MR. DURANT: YOUR HONOR, I OBJECT TO ANYTHING AS IT GOES TO SETTLEMENT NEGOTIATIONS OR OFFERS TO SETTLE. IT'S INAPPROPRIATE. WE HAVE BEEN HERE FOR AND HOUR GOING OVER THIS AND THIS IS NOTHING MORE THAN A DEMAND LETTER WHICH WAS REJECTED. IT'S NOT EVIDENCE OF ANYTHING.

MS. COOK: YOUR HONOR, THIS WAS PUT INTO EVIDENCE BY MR. DURANT.

MR. DURANT: ACQUIRED TO BE PUT INTO EVIDENCE BECAUSE WE HAD TO ESTABLISH THE DEMAND BEFORE WE CAN FILE A DERIVATIVE ACTION.

MS. COOK: I DON'T CARE WHY IT WAS PUT IN, BUT IT WAS PUT IN. IT HAS FACTS...

AND MR... NOTHING ABOUT SETTLEMENT. IT'S TALKING ABOUT WHAT MR. SMITH'S POSITION WAS AT THIS TIME IN SEPTEMBER OF 2007. AS HE HAS JUST TESTIFIED, BASED ON HIS GATHERING FROM THE OFFICES OF A&E, ALL THESE DOCUMENTS HE SAYS HE'S BEEN GATHERING. AND I'M ENTITLED TO ASK QUESTIONS ABOUT WHAT HIS POSITION WAS AND THE BASIS FOR WHAT HE WAS SAYING IN THIS LETTER.

JUDGE HOWE: I MEAN, IT IS IN EVIDENCE.

MR. DURANT: YES. BECAUSE IT HAD TO BE PUT INTO EVIDENCE, YOUR HONOR.

JUDGE HOWE: I UNDERSTAND.

Q IN THIS LETTER YOU TALK ABOUT THE IRS MONITORS THIS TYPE OF CASE, AND... WERE YOU THREATENING MR. VEREEN?

A EXCUSE ME?

Q WERE YOU THREATENING MR. VEREEN IN THIS LETTER WHEN YOU SAY, "WAYNE, I HAVE PRESENTED ALL MY FINDINGS TO AN ATTORNEY AND HE FULLY AND LAWFULLY AGREES WITH MY FINDINGS. HE ADVISED ME THAT THIS ACTION COULD GET VERY COSTLY, BUT THE BRUNT OF THIS EXPENSE WILL BE BORE BY YOU. HE ALSO ADVISED ME TO TRY EVERYTHING IN MY POWER TO

RESOLVE THIS WITHOUT LEGAL ACTION. HE ALSO SAID IF I PURSUIT THIS THAT THE IRS MONITORS THIS TYPE OF CASE AND IT COULD RESULT IN MANY AUDITS AND INVESTIGATIONS FOR PAST COMPANIES AND PERSONAL AUDITS. WAYNE, I KNOW THIS IS HOW YOU HAVE CONDUCTED BUSINESS FOR YEARS AND YOU COULD BE HURT GREATLY BY THESE ACTIONS." WERE YOU THREATENING MR. VEREEN?

A THREATENING HIM? NO, MA'AM.

Q OKAY. YOU ALSO SAY IN THIS LETTER THAT YOU GAVE HIM A LIST OF YOUR FINDINGS FROM THE COMPUTER BACKUP 10 WEEKS AGO. SO, IF THIS WAS IN SEPTEMBER, IT WOULD HAVE BEEN IN JUNE OF '07. IS THAT... DO YOU RECALL?

A IF YOU CHRONOLOGICALLY GO THAT'S ABOUT RIGHT, YES.

Q DO YOU REMEMBER WHAT LISTS AND COMPUTER BACKUP THAT YOU GAVE HIM FROM YOUR FINDINGS?

A NO, MA'AM, I DO NOT.

Q WAS THAT THE SAME DISK THAT YOU HAD TESTIFIED... SORRY. THAT SUSAN BRADY TESTIFIED SHE GAVE TO YOU... YOU GAVE TO HER TO --

A I DON'T RECALL. I DON'T REMEMBER.

Q OKAY. THIS LIST THAT YOU... ONE OF THE LISTS THAT YOU ATTACHED, IT'S GOT $279,412.29. THOSE

WERE ALL AMOUNTS I THINK YOU TOOK THE POSITION THAT MR. VEREEN OWED A&E OR OWED YOU?

A I DON'T REMEMBER.

Q THEN THE SECOND LIST, HOW DID YOU COME UP WITH THE AMOUNTS THAT ARE ON THIS SECOND LIST?

A I DON'T REMEMBER.

Q DO YOU KNOW WHAT THOSE AMOUNTS REPRESENT?

A THEY SEEM TO BE AMOUNTS OWED BY MR. VEREEN.

Q THAT WAS YOUR POSITION THAT THOSE WERE LISTED AMOUNTS THAT WERE OWED BY MR. VEREEN?

A I CAN'T TELL YOU FOR SURE, BUT THAT'S WHAT IT LOOKS LIKE.

Q OWED BY MR. VEREEN TO WHOM?

A TO A&E.

Q THE LAST PAGE OF WHAT'S IN THE BOOK, WHICH I UNDERSTAND THERE'S ANOTHER PAGE MISSING, BUT YOU'VE GOT, "WAYNE - CHECK $217,499, DEPOSITS $165.00" AND THEN OUT TO THE SIDE YOU'VE GOT "52,499.40" WHAT DOES THAT REPRESENT?

A I DON'T REMEMBER.

Q YOU DON'T KNOW IF THOSE WERE CHECKS THAT MR. VEREEN DEPOSITED INTO A&E OR THOSE WERE CHECKS THAT WERE WRITTEN BY A&E TO MR. VEREEN? YOU JUST DON'T REMEMBER?

A I JUST DON'T REMEMBER. I HIRED AN ACCOUNTANT TO

GO THROUGH IT AND SHE WENT THROUGH IT AND SHE DETERMINED ALL THE CREDITS AND DEBITS THAT SHOULD BE THERE.

Q WAS SHE THE ONE WHO --

A ABSOLUTELY NOT. SHE HAD NOTHING TO DO WITH THAT.

Q YOU GENERATED THESE NUMBERS FROM YOUR INVESTIGATION?

A YES, MA'AM.

Q AND THAT WAS PART OF WHAT YOU WERE DOING WHEN YOU SAID AT NIGHT AFTER EVERYBODY... YOU WOULD WORK ON THE BOOKS FROM THE GENERAL LEDGER YOU PRINTED OUT AND THE JOB LEDGERS? THAT YOU PRINTED OUT FROM THE PEACHTREE?

A FROM THE CHECK STATEMENTS AND THE JOB LEDGERS.

Q NOW, WHEN YOU GET DOWN TO THIS 1,586,136.47, DOES THAT NUMBER HAVE ANY SIGNIFICANCE TO YOU?

A I DON'T REMEMBER.

Q WAS THAT AN AMOUNT THAT YOU WERE CLAIMING FOR A&E OR DO YOU KNOW?

A MA'AM, I DON'T REMEMBER.

Q AFTER YOU GOT THIS LETTER YOU SAID MR. VEREEN CAME TO THE JOB SITE? DID YOU GET A RESPONSE BACK IN WRITING FROM MR. VEREEN WITHIN THAT TIME PERIOD THAT YOU HAD ASKED FOR IN YOUR LETTER?

A I DON'T REMEMBER.
Q THE SECOND LETTER BEHIND TAB 9 THAT STARTS, "WAYNE - ALL DEPOSITS..." YOU SENT THIS LETTER TO MR. VEREEN AFTER THE SEPTEMBER '07 LETTER, CORRECT?
A I DON'T REMEMBER.
Q WHERE DID YOU GET THE INFORMATION THAT YOU DRAFTED WITH REGARD TO THE SECOND LETTER?
A SAME PLACE I GOT FROM THE FIRST.
Q IN THIS ONE YOU SAY, "ALL DEPOSITS LISTED ON THE DEPOSIT SHEET. PLEASE GIVE ME A COPY OF ALL BILLS AND CHECKS HIGHLIGHTED IN RED." AND THAT DEPOSIT SHEET WOULD BE THE FOURTH PAGE IN ON THIS PARTICULAR LETTER, IS THAT CORRECT?
A I DON'T REMEMBER.
Q WELL, DID YOU GET COPIES OF ALL BILLS AND CHECKS HIGHLIGHTED?
A NO, MA'AM. I NEVER DID.
Q THE NEXT THING YOU SAY IS, "AYNOR PROPERTY. WE PAID ONE HALF." WHAT DO YOU MEAN BY THAT?
A I DON'T REMEMBER.
Q WAS THERE A POINT IN TIME WHEN A&E WAS LOOKING TO GET NEW JOBS TO GET NEW BUSINESSES IN THE DOOR AND YOU AND/OR MR. VEREEN WOULD GO OUT AND LOOK AT POTENTIAL PROJECTS?

A EVERY DAY WE COULD.

Q RIGHT. AND WAS ONE OF THOSE PROJECTS OVER IN AYNOR?

A MORE THAN ONE.

Q WAS THERE COSTS THAT WERE INCURRED BY YOU OR BY MR. VEREEN OR BY A&E IN CONNECTION WITH PRELIMINARY WORK LOOKING AT A PROJECT OVER IN AYNOR?

A I KNOW WE DID A... WE DID SOME WORK FOR A GROUP OF INDIVIDUALS. WHO THAT GROUP OF INDIVIDUALS WAS, I DON'T KNOW. MR. VEREEN AND HARRY WILLOUGHBY WERE TWO OF THEM. I DON'T KNOW WHAT THE NAME OF THE COMPANY WAS. IT HAD THE OPINIONS FOR THE PROPERTY, BUT IT WAS NOT A&E CONSTRUCTORS.

Q WAS IT A JOB THAT A&E CONSTRUCTORS WAS LOOKING TO GET?

A IT WAS A JOB THAT A&E CONSTRUCTORS WAS GOING TO BUILD THE HOUSES FOR MR. WILLOUGHBY.

Q YOU GOT IN THIS LETTER, "AYNOR PROPERTY. WE PAY ONE HALF." DOES THAT MEAN YOU THINK A&E WRONGFULLY PAID ONE HALF OF SOME COSTS?

A I THINK WE WRONGFULLY PAID ANYTHING IN IT.

Q WAS IT YOUR POSITION THEN THAT A&E WAS OWED SOME MONEY BACK?

A YES, MA'AM.
Q WHO DID YOU BELIEVE THAT A&E WAS OWED THE MONEY BACK FROM?
A I DO NOT KNOW WHO HAD THE OPINION ON THAT PROPERTY OR THE CONTRACT TO PURCHASE THE PROPERTY. YOU TELL ME WHO THAT IS AND I'LL TELL YOU THEY OWE US.
Q SO, IT WAS WHOEVER HAD THE OPINION TO PURCHASE THE PROPERTY?
A WHOEVER HAD THE CONTRACT TO PURCHASE THE PROPERTY.
Q CONTRACT. AND YOU BELIEVE THAT A&E WAS DUE BACK HALF OF THE MONEY THAT THEY PAID FOR WHATEVER WORK YOU DID?
A ANY WORK THAT WAS DONE ON THAT PROPERTY BY A&E SHOULD BE PAID FOR BY ANOTHER PARTY TO A&E PERIOD.
Q WAS THAT YOUR POSITION ON THE ELBOW PROPERTY? IS IT THE SAME TYPE OF SITUATION?
A IF A&E HAD A CONTRACT ON THAT ELBOW ROAD, YES, WE OWE THEM THE MONEY. IF A&E HAD THE CONTRACT -- IF THE CONTRACT TO PURCHASE THAT PROPERTY IS IN A&E'S NAME, YES. IF IT IS IN ANOTHER COMPANY'S NAME THAT'S NOT AFFILIATED WITH A&E, IT AIN'T GOT NOTHING TO DO WITH US.

Q ALRIGHT. AND YOU'VE GOT, "PICKUP LABOR 95% PERCENT WERE NOT A&E ASSOCIATED." WHAT DO YOU MEAN BY THAT?

A WHAT DO YOU MEAN?

Q WHY DID YOU PUT THIS IN THE LETTER TO WAYNE? WHAT DOES THIS HAVE TO DO WITH YOUR DEMAND? "PICKUP LABOR 95% PERCENT WERE NOT A&E."?

A WHERE DO YOU SEE ON THERE WHERE IT SAYS, "PICKUP LABOR NOT A&E"? THIS IS ANOTHER SHEET.

Q THIS IS WHERE I HAVE BEEN READING FROM. "PICKUP LABOR 95% PERCENT WERE NOT A&E." WHAT DOES THAT MEAN?

A THE PICKUP LABOR THAT WE USED, WE USED AT POINTE MARSH.

Q WAS THERE ANY OTHER PICKUP LABOR USED AT ANY OTHER PROJECTS OTHER THAN POINTE MARSH?

A SOMETIMES, NOT OFTEN. YES. BY ALL MEANS, THEY WERE USED AT OTHER PROJECTS BUT NOT OFTEN. NOT LIKE POINTE MARSH.

Q THEN YOU GOT, "TOTAL PAID BY AWV." IS THAT PAID BY MR. VEREEN?

A I DON'T REMEMBER. I COULDN'T TELL YOU. I DON'T HAVE ALL MY FACTS AND FIGURES UP IN FRONT OF ME. I DON'T HAVE IT.

Q WHAT'S THE SIGNIFICANCE OF THIS TOTAL

172,731.42?

A I JUST TOLD YOU I COULDN'T TELL YOU. I DON'T KNOW. I DON'T HAVE THE STUFF IN FRONT OF ME.

Q OKAY. THIS WAS PART OF YOUR DEMAND TO MR. VEREEN --

A I UNDERSTAND.

Q -- AS PRESIDENT OF A&E, CORRECT?

A YES, MA'AM.

Q WHAT DOES THIS MEAN IN YOUR DEMAND TO MR. VEREEN, TURNER/PADGETT $119,000?

A THAT'S JUST A NUMBER THAT HE GAVE ME. I DON'T KNOW. I DO NOT HAVE MY INFORMATION THAT I PUT THIS STUFF TOGETHER WITH IN FRONT OF ME. I CAN'T GIVE YOU AN INTELLIGENT ANSWER TELLING YOU WHERE IT CAME FROM OR WHAT IT'S FROM UNLESS I HAVE MY STUFF.

Q TO YOUR KNOWLEDGE, DID A&E PAY TURNER/PADGETT ANY MONEY?

A YES, MA'AM. A&E DID PAY TURNER/PADGETT SOME MONEY.

Q AND TURNER/PADGETT WAS THE LAW FIRM THAT DEFENDED A&E IN THE WILLOUGHBY PLACE TRADEMARK SUIT?

A YES, MA'AM.

Q WAS THE DEFENSE COST PAID FOR BY MR. VEREEN OR

WAS IT PAID FOR BY A&E OR DO YOU KNOW?

A I DON'T KNOW THE EXACT NUMBERS, BUT BOTH OF THEM WROTE CHECKS.

Q DID YOU WRITE ANY CHECKS?

A NO, MA'AM.

Q AND THEN IT SAID, "AWV DEPOSITED $926,768.16." WHAT DOES THAT MEAN?

A I DON'T KNOW.

Q DOES THAT MEAN THAT MR. VEREEN DEPOSITED INTO A&E $926,000 AND CHANGE?

A MA'AM, I COULD NOT TELL YOU.

Q THIS TOTAL OF ALL THOSE AMOUNTS, THE $1,218,499.50, DO YOU KNOW WHAT THAT MEANS?

A I COULDN'T TELL YOU.

Q DOES THAT MEAN THAT THE MR. VEREEN OR MR. VEREEN'S COMPANIES HAD CONTRIBUTED THAT MUCH MONEY?

A I DON'T KNOW.

Q COULD IT MEAN THAT?

A IF I HAVE MY FACTS AND FIGURES I COULD TELL YOU.

Q DO YOU HAVE THEM HERE?

A NO, MA'AM, I DO NOT.

Q OKAY. YOU'VE GOT, "AWV LIABILITIES TO A&E $2,950,079.90." DO YOU KNOW WHERE YOU ARRIVED AT THAT AMOUNT?

A IF YOU TURN TO THE SECOND AND THIRD PAGE IT LOOKS LIKE IT'S A TOTAL OF THOSE NUMBERS.

Q ALRIGHT. WE'LL GO OVER THOSE PAGES IN JUST A MINUTE. AND YOU'VE GOT "E SMITH LIABILITY." WOULD THAT MEAN YOUR LIABILITIES THAT YOU OWE A&E?

A YES, MA'AM. IT LOOKS THAT WAY.

Q HOW DID YOU ARRIVE AT $117,235?

A MA'AM, I DO NOT HAVE MY NUMBERS IN FRONT OF ME. I COULDN'T TELL YOU.

Q DO YOU REMEMBER WHAT MONIES THAT YOU GOT OUT OF A&E OR WERE PAID FOR ON YOUR BEHALF BY A&E THAT TOTALLED THAT AMOUNT? DO YOU REMEMBER ANY OF THEM?

A I REMEMBER GETTING A CHECK FOR $52,000 AND CHANGE TO PUT AS A DOWN PAYMENT TO THE HOUSE THAT I HAD. I GOT A $15,000 CHECK THAT YOU HAVE SINCE TOLD ME THAT HE GOT A 15 AND SHE GOT A 5. AND THEN I GOT $19,000 AND CHANGE FROM KIRK DODRILL THAT WAS IN THERE. I GOT A $5,000 CHECK FROM PARK PLACE PROPERTIES FROM LOOKING AFTER IT WHILE THEY WERE IN THE BAHAMAS. THAT WAS IN THERE. OTHER THAN THAT, MA'AM, I COULDN'T TELL YOU.

Q OF THAT $117,000 NUMBER, A&E WITH MR. VEREEN'S

CONSENT AGAIN, WHEN YOU WERE IN NEED OF HOUSING, GAVE YOU AN ADVANCE OR GAVE YOU $52,000 AND SOME ODD DOLLARS, CORRECT?

A EXCUSE ME NOW.

Q MR. VEREEN AUTHORIZED A&E TO GIVE YOU $52,000 AND CHANGE TO ASSIST YOU IN BUYING THE HOUSE THAT YOU LIVE IN NOW, IS THAT CORRECT?

A HE APPROVED IT. I AUTHORIZED IT. HE APPROVED IT.

Q HE ALWAYS HELPED YOU WHEN YOU --

A HE HAD IT... WE HAD IT IN THE BANK AND HE VOLUNTEERED IT.

Q OKAY. AND THE $19,000 THAT YOU GOT THAT WAS A PAYMENT THAT YOU TESTIFIED TO EARLIER, THAT ON ONE OF THE JOBS IT WAS PAID DIRECTLY TO YOU OR IT WAS PAID TO A&E AND YOU DEPOSITED IT AND YOU MEANT TO GIVE HALF OF IT TO MR. VEREEN, BUT YOU FORGOT?

A IT WAS NOT WRITTEN TO A&E. IT WAS WRITTEN TO ELLIS SMITH AND IT WAS PUT IN AN EES CONSTRUCTION ACCOUNT.

Q THAT WAS $19,000 AND CHANGE?

A 19,840, SOMETHING LIKE THAT. I CAN'T REMEMBER EXACTLY.

Q WAS THAT FROM AN A&E JOB OR WAS THAT SOMETHING

EES DID?

A KIRK DODRILL, SEACLUSIONS.

Q SO, THAT WAS AN A&E JOB?

A IT WAS AN A&E JOB, YES, MA'AM.

Q AND THEN YOU'VE GOT RENT, 46 MONTHS AT $900 FOR A TOTAL OF 41,400. WHAT DOES THAT FIGURE REPRESENT?

A I THINK IT'S PRETTY SELF-EXPLANATORY. IT'S RENT.

Q WHAT WAS THAT RENT FOR? THAT WAS A&E'S? RENT THAT A&E OWED?

A RENT THAT A&E... THAT I JUST THREW A NUMBER IN. WE PAID $700 A MONTH. WE'VE GOT CHECKS FOR $700 A MONTH IN 2004 FOR RENTAL ON THE OFFICE. THEY WERE WRITTEN, SIGNED BY HIM AND DEPOSITED IN HIS COMPANY. I SAID, "WHAT THE HECK? $900 A MONTH 46 MONTHS OF IT. THAT GIVES YOU 46 MONTHS OF RENT." THAT'S WHAT A&E OWED PARK PLACE PROPERTIES.

Q DURING THE TIME THAT A&E'S OFFICE WAS AT PARK PLACE PROPERTIES, PARK PLACE PROPERTIES, AS YOU TESTIFIED EARLIER HAS, THAT OFFICE COMPLEX HAS FOUR DIFFERENT OFFICES IN IT, RIGHT?

A YES, MA'AM.

Q AND AT ONE POINT, YOU WERE IN A LARGER OFFICE

AND THEN MOVED INTO A SMALL OFFICE, CORRECT?

A YES, MA'AM.

Q AT THE OUTSET WHEN THE BUSINESS WAS STARTED IN 2004, DID Y'ALL COME TO AN AGREEMENT ABOUT HOW MUCH A&E WAS GOING TO PAY THE LANDLORD FOR THE RENTAL OF YOUR OFFICE SPACE?

A $600 A MONTH.

Q $600 A MONTH?

A SAME THING THAT ARTHUR VEREEN CONSTRUCTION WAS PAYING THE LANDLORD AT THE TIME WHEN THEY QUIT OR CEASED DOING BUSINESS.

Q AND YOU AGREED TO PAY $600 A MONTH. WHY DID YOU MAKE CHECKS PAYABLE FOR $700.00 A MONTH?

A I DIDN'T MAKE CHECKS PAYABLE, HE DID.

Q DID YOU AUTHORIZE RENT IN THAT AMOUNT AT --

A NO, MA'AM, I DID NOT.

Q OKAY. WHEN YOU MOVED FROM THE LARGER SPACE THAT YOU WERE IN TO THE SMALLER SPACE THAT YOU WERE IN, DID YOU COME TO ANY AGREEMENT FOR RENT FOR THE NEW SPACE THAT YOU WERE IN?

A WE PAID TO HAVE THE OFFICE TOTALLY RE-DONE. FIGURED WE WOULD HAVE THE SAME RENT GOING ACROSS OVER THERE. HE WAS PAYING FOR ALL THOSE IMPROVEMENTS SO I THOUGHT, WHICH TURNED OUT NOT TO BE, YES.

Q SO, LET ME SEE IF I UNDERSTAND WHAT YOU JUST SAID. WAS IT YOUR UNDERSTANDING THAT YOUR RENT WOULD STAY THE SAME IN ADDITION TO A&E PAYING FOR THE RENOVATIONS OR YOU DIDN'T KNOW A&E WAS PAYING FOR THE RENOVATIONS?

A I DID KNOW A&E WAS PAYING FOR THE RENOVATIONS. THE BUILDING BELONGED TO PARKWAY OFFICES, NOT A&E.

Q OKAY. THEN, YOU GOT UNDER THAT "ELLIS TRUCK SINCE NOVEMBER 9TH, MONTHS OR $750 A MONTH FOR $6,750." WHAT DOES THAT MEAN, ELLIS?

A WHAT DO YOU MEAN, WHAT DOES IT MEAN?

Q WELL, IS THAT AN AMOUNT THAT A&E OWES YOU OR IS THAT AN AMOUNT THAT YOU OWE A&E?

A I OWE A&E.

Q OKAY. AND THE $41,000 FIGURE FOR THE RENT, THAT'S AN AMOUNT THAT A&E OWES PARK PLACE OFFICES OR PARKWAY OFFICES?

A PARKWAY NOT PARK PLACE. MINUS WHATEVER RENT WE'VE ALREADY PAID.

Q OKAY. NOW, YOU SAID THAT YOU GOT THE TWO MILLION NINE HUNDRED AND CHANGE FIGURE ON THE FIRST PAGE FROM THE NEXT TWO PAGES OF THIS LETTER. "COSTS TO AWV AND COMPANIES." WHERE DID YOU GET THESE FIGURES?

A THE CHECK STATEMENTS, GENERAL LEDGER.
Q OKAY. FOR EXAMPLE, PARK PLACE PROPERTIES, YOU GOT $108,872.83. WHERE DID YOU GET THAT NUMBER? WAS THAT FROM A JOB LEDGER? WAS IT FROM THE TOTALS OF THE CHECKS? WHERE DID YOU GET THAT NUMBER?
A MA'AM, I DON'T KNOW.
Q OKAY. THE NEXT PAGE AFTER THAT LIST IS THE "DEPOSITS BY AWV OR ASSOCIATED COMPANIES." WHERE DID YOU GET THE FIGURES THAT YOU SHOW OF THE $926,758.16? WAS THAT ALSO FROM --
A ALSO CHECK STATEMENTS FROM A&E FROM JANUARY... I'M SORRY. FROM... YEAH. JANUARY CHECK STATEMENTS OF '04 AS FAR AS I HAD IN '07.
Q OKAY. AND THEN YOU'VE GOT PLUS 259,000 CHANGE. WHERE DID THAT NUMBER COME FROM?
A I DON'T REMEMBER.
Q AFTER YOU WENT THROUGH THIS EXERCISE IN THIS LETTER, DOES THIS LETTER INDICATE ANYWHERE ON IT HOW MUCH YOU ARE ASKING MR. VEREEN TO PAY TO A&E OR HOW MUCH YOU OWE TO A&E? DID YOU SENT OUT A CONCLUSION ACCORDING TO YOUR INVESTIGATION OF WHAT YOU THINK EACH OF YOU MAY OWE?
A I COULDN'T TELL YOU. WHEN I SENT THE LETTER YES, IT DID.

Q THIS LETTER IS NOT MISSING A PAGE, IS IT?
A I COULDN'T TELL YOU. I DON'T REMEMBER.
Q OKAY.
A MR. VEREEN HAS GOT THE ORIGINAL.
Q ALRIGHT. DID YOU SEND THE LETTER ON JULY 9TH 2008 BEFORE YOU GOT MR. VEREEN'S RESPONSE OR AFTER?
A I DON'T REMEMBER.
Q OKAY. YOU DID GET MR. VEREEN'S RESPONSE THOUGH?
A TO THE BEST OF MY KNOWLEDGE, YES.
Q DID YOU GO THROUGH THIS AND FIGURE OUT WHAT YOU AGREED WITH OR WHAT YOU DISAGREED WITH IN MR. VEREEN'S LETTER?
A I DON'T REMEMBER.
Q OKAY. WELL, AT THE CONCLUSION OF MR. VEREEN'S LETTER IT SAYS, "MONIES OWED AWV OR AVC IN EXCESS OF $956,777 BY ELLIS SMITH." DID YOU LOOK TO SEE HOW THEY JUSTIFIED THOSE NUMBERS?
A YES. I LOOKED AT HOW HE FABRICATED THEM.
Q HOW HE FABRICATED THEM. OKAY. AND DID YOU THEN LOOK AT THE BACKUP EXPLAINING HOW HE CAME UP WITH THOSE NUMBERS?
A I LOOKED AT HOW HE FABRICATED THEM. YES, MA'AM, I DID.
Q DID YOU EVER RESPOND BACK IN WRITING OR ORALLY

TO MR. VEREEN?

A I DON'T REMEMBER.

Q OKAY.

A WHAT IS THE DATE ON THE LETTER HE SENT ME?

Q UNFORTUNATELY, THERE'S NOT A DATE ON THE LETTER. SO, I CAN'T REALLY TELL YOU.

A OKAY.

Q FROM YOUR JULY 9TH 2008 LETTER, THE FIRST PAGE OF IT, WAS IT YOUR POSITION FROM THAT LETTER THAT MR. VEREEN OWED A&E $1,218,000.00 AND SOME CHANGE?

A I COULDN'T TELL YOU.

Q DO YOU HAVE A POSITION TODAY WHETHER OR NOT MR. VEREEN OWES A&E $1,218,499.50?

A NO. HE OWES THE COMPANY 2.8 MILLION THAT WE HAVE DOCUMENTED AND THAT DOESN'T COUNT ANY THAT WE HAVEN'T FOUND SO FAR. WE QUIT LOOKING.

Q DOES THAT $2,800,000 INCLUDE OR GIVE MR. VEREEN CREDIT FOR MATERIALS OR SUPPLIES THAT HE OR PARK PLACE PROPERTY OR PARKWAY OFFICES OR ARTHUR VEREEN CONSTRUCTION COMPANY PAID ON BEHALF OF A&E?

A THAT GIVES HIM THE BENEFIT OF THE DOUBT ON EVERYTHING THAT HE PURCHASED OR PUT INTO A&E.

Q OKAY. HOW DID YOU COME UP WITH THE NUMBERS FOR

WHICH YOU WOULD GIVE HIM THE BENEFIT OF THE DOUBT ON THE MATERIALS OR BILLS HE OR HIS ENTITIES PAID ON BEHALF OF A&E?

A EVERYTHING THAT WE HAVE LEGITIMATE BACKUPS FOR OR A METHOD THAT THEY HAD BEEN PAID FOR, HE HAS BEEN GIVEN CREDIT. IF HE HAS AN INVOICE THAT HAS A JOB NAME ON IT, NOT ONE THAT MRS. SISSON WROTE ON IT, BUT AN ORIGINAL INVOICE FROM A JOB WITH A JOB NAME ON IT THAT IS LEGITIMATE AND A METHOD IN WHICH HE PAID FOR IT BY ANOTHER SOURCE, WE WOULD GIVE HIM CREDIT FOR IT.

Q OKAY. IF HE DIDN'T HAVE AN INVOICE WITH A NAME OF A JOB ON IT BY A THIRD PARTY, EVEN IF YOU KNOW IT IS A LEGITIMATE A&E BILL OR OBLIGATION THAT HE OR HIS COMPANY PAID, YOU TAKE THE POSITION THAT A&E DOES NOT OWE IT AS A REIMBURSEMENT TO MR. VEREEN OR HIS COMPANIES, IS THAT CORRECT?

A I DON'T THINK THAT IS A LEGITIMATE BILL. I HAVE SEEN TWO CHECKS THAT Y'ALL HAVE PRESENTED THAT SAY THAT YOU "CHALLENGE". ONE OF THEM IS THE DOLPHIN THING WHICH CAME UP... THEY SAY IS COLUMNS. IT'S NOT COLUMNS. THAT WENT TO THE FOUNTAINS. THAT'S NOT CORRECT. HE'S GOT A CHECK THAT WAS TO STOCK BUILDERS THAT ON HIS

LITTLE STUB THAT HE WROTE UP TOP. HE'S GOT WILLOUGHBY PLACE IN THREE DIFFERENT JOBS. GO RIGHT TO THE BACK. THERE ARE INVOICES FOR POINTE MARSH TO THE EXACT SAME THING. WHY WOULD I TAKE A CHECK STUB FOR HIM THAT HE'S HANDWRITTEN ON? THERE IS NO EVIDENCE TO IT WHATSOEVER.

Q LET ME ASK YOU ABOUT ANOTHER EXAMPLE. YOU JUST WENT OVER TWO, BUT YESTERDAY ONE OF THE CHARGES THAT YOU CHALLENGED WAS A CHECK OR A PAYMENT MADE TO CAROLINA FIRST IN THE AMOUNT I BELIEVE IT'S AROUND $17,000?

A YES, MA'AM.

Q AND IN EXCHANGE FOR THE A&E CHECK TO CAROLINA FIRST FOR THE 17,000 AND CHANGE --

A YES, MA'AM.

Q -- A CASHIERS CHECK WAS WRITTEN --

A YES, MA'AM.

Q -- IN THAT AMOUNT TO SEARS?

A YES, MA'AM.

Q THERE WAS NO INDICATION ON THE CHECK FROM A&E TO CAROLINA FIRST THAT IT WAS TO SEARS FOR TAHITIAN PRINCESS, BUT ARE YOU OKAY WITH THAT BEING A LEGITIMATE A&E EXPENSE?

A IF I KNOW FOR A FACT THAT THERE IS A CASHIERS

CHECK THAT'S WRITTEN FROM A BANK AND IS GOING FOR SUPPLIES TO A CERTAIN JOB AND IT'S WRITTEN ON THE CASHIERS CHECK WHAT IT'S FOR, I DON'T HAVE A PROBLEM WITH THAT.

Q OKAY.

A BUT IT'S GOING TO BE A CASHIERS CHECK.

Q AND SIMILARLY, THERE WAS A CHECK, I MAY BE WRONG ON THIS AMOUNT, I DON'T REMEMBER IF IT WAS 17 OR 19. ALSO YESTERDAY THERE WAS... WE DISCUSSED A CHECK IN THE AMOUNT OF $17,426 TO CAROLINA FIRST FROM A&E AND A&E CHECK TO CAROLINA FIRST. DO YOU REMEMBER DISCUSSING THAT? I MEAN, YOU WEREN'T UP HERE, BUT --

A I DON'T THINK YOU'VE ASKED ME THAT QUESTION.

Q OKAY. WELL, I THINK I ASKED MS. BRADY THAT. DO YOU RECALL OR DO YOU HAVE ANY PROBLEMS WITH AN AMOUNT OF 17,000 AND CHANGE THAT A&E WROTE A CHECK TO CAROLINA FIRST FOR AND GOT A CASHIERS CHECK THAT WAS TO PAY ROCKFORD FOR THE JACK FROST JOB?

A DO WE HAVE AN INVOICE?

Q LET ME SHOW YOU WHAT WAS MARKED YESTERDAY AS EXHIBIT 4 AND ASK YOU TO LOOK AT THAT AND TELL ME --

MR. DURANT: YOUR HONOR, THAT'S THE

INVOICE THAT WE STIPULATED THAT WE WOULD PAY. IS THAT $17,000?

A I CAN CHECK AND SEE. IF I CAN FIND THE PERMIT AND SEE WHEN IT WAS WRITTEN AND SEE IF IT ALL WORKS.

Q IS THIS SUFFICIENT BACK FOR YOU TO CONCEDE THAT THIS IS A LEGITIMATE A&E EXPENSE?

A JUST LIKE I SAID, IF I CAN GET THE PERMIT, THE BACKUP INFORMATION, IT WILL BE FINE.

Q DID YOU OR MS. BRADY GO THROUGH AND PULL PERMITS TO MATCH UP WITH THE RECEIPTS OR BILLS OR INVOICES THAT WE PROVIDED FOR THE A&E BILLS?

A I'M NOT FAMILIAR WITH THE RECEIPTS AND INVOICES THAT YOU PROVIDED.

Q AFTER YOU STOPPED GOING... AFTER DECEMBER OF 2007 WHEN YOU CEASED BEING INVOLVED WITH A&E AND CEASED BEING PAID BY A&E, DID A&E NONETHELESS PAY PAYMENTS FOR THE TRUCK THAT YOU OWNED?

A YES, MA'AM. THEY DID RIGHT ON UNTIL IT WAS PAID OFF AND THEY SENT ME THE TITLE.

Q AND IN YOUR CALCULATIONS, HAVE YOU TAKEN INTO CONSIDERATION THE PAYMENT BY A&E OR BY MR. VEREEN FOR THAT TRUCK?

A MY CALCULATIONS? MY CALCULATIONS STOP AT THE DATE THE DEMAND LETTER WAS SENT.

Q OKAY. DO YOU BELIEVE YOU OWE A&E ANY MONEY FOR THE MONEY IT PAID UNTIL IT PAID OFF THE TRUCK AND THEN THE VALUE OF THE TRUCK AND THE TITLE WAS GIVEN TO YOU?

A OH, BY ALL MEANS.

Q PARDON ME?

A ABOUT ALL MEANS, YES, MA'AM.

Q SO, HOW MUCH DO YOU KNOWLEDGE THAT YOU OWE BACK TO A&E FOR THAT?

A I COULDN'T TELL YOU RIGHT OFF. I WOULD HAVE TO LOOK INTO IT.

Q SO, YOU HAVEN'T COME UP WITH A FIGURE THAT YOU OWE A&E FOR THAT?

A I DON'T KNOW. MAYBE MS. BRADY HAS. I DON'T KNOW.

MS. COOK: YOUR HONOR, THIS MIGHT BE A GOOD PLACE TO STOP BECAUSE I'M GOING TO GO INTO A WHOLE OTHER LINE OF QUESTIONING. SO, I WOULD LIKE A LITTLE BREAK AND I MIGHT BY BEING ABLE TO WORK ON MY DOCUMENTS TONIGHT BE ABLE TO MAKE IT FLOW FASTER TOMORROW.

JUDGE HOWE: DOES IT SUIT EVERYONE TO BREAK AT THIS TIME?

MR. DURANT: WHATEVER THE PLEASURE OF

THE COURT.

JUDGE HOWE: OKAY.

(END OF FIRST DAY OF ELLIS SMITH, OFF THE RECORD.)

Q GOOD MORNING, MR. SMITH. WHEN WE STOPPED YESTERDAY WE HAD BEEN LOOKING AT TAB 9 TO PLAINTIFF'S EXHIBIT NOTEBOOK AND THAT TAB INCLUDED SEVERAL DEMAND LETTERS FROM YOU AND SOME INFORMATION BACK FROM MR. VEREEN. I WANT TO GO BACK TO THE PART OF TAB 9 WHICH IS THE INFORMATION FROM MR. VEREEN RESPONDING TO ONE OR MORE OF THOSE LETTERS. I'VE TAKEN THE LIBERTY OF PULLING THAT PORTION OUT AND MARKING THAT AS DEFENDANT'S EXHIBIT NUMBER 23 SEPARATELY TO MAKE IT A LITTLE BIT EASIER BECAUSE THAT WAY YOU CAN LOOK INTO YOUR NOTEBOOK IF YOU NEED TO LOOK AT ANYTHING AS WELL. BUT ASSURE YOURSELF THAT IS THE BACK PORTION OF MR. VEREEN'S RESPONSE?

MS. COOK: YOUR HONOR, THIS IS EXHIBIT NUMBER 23.

Q ON DEFENDANT'S EXHIBIT NUMBER 23 WHICH IS ALSO PART OF EXHIBIT 9 AND IN THE PLAINTIFF'S EXHIBITS THE HANDWRITING THAT IS ON THIS TYPED DOCUMENT, IS THAT YOUR HANDWRITING?

A YES, MA'AM.

Q THE HANDWRITING DOES IT REPRESENT COMMENTS OR

POSITIONS YOU WERE TAKING AT THE TIME THAT YOU REVIEWED THIS ABOUT THE DIFFERENT ITEMS ON MR. VEREEN'S RESPONSE?

A YES, MA'AM.

Q AND THE FIRST CATEGORY ON THE FIRST PAGE OF DEFENDANT'S EXHIBIT 23 IS ENTITLED, "EES ADVANCES/CREDIT FROM A&E."

A YES, MA'AM.

Q THIS WAS MR. VEREEN'S POSITION AS TO MONIES THAT EES OR YOU HAD BEEN ADVANCED FROM A&E. AND THE FIRST ONE IS $3,470 FOR CARPET AT 29TH PLACE?

A YES, MA'AM.

Q DO YOU AGREE THAT YOU OR EES RECEIVED PAYMENT FROM A&E FOR CARPET AT 29TH PLACE IN THE AMOUNT OF $3,470?

A THEY PAID A CARPET BILL THAT WAS MINE. YES, THAT IS CORRECT.

Q SO, YOU ARE IN AGREEMENT WITH THAT ITEM?

A YES, MA'AM.

Q THEN THERE IS A CHECK FOR REAL ESTATE PURCHASE OF $60,000. DO YOU AGREE WITH THAT?

A NO, MA'AM.

Q THERE IS ALSO A CHECK OF $7,380 TO PAY REAL ESTATE TAXES ON YOUR OR EES'S PROPERTY. DO YOU RECALL EITHER HAVING A&E OR A&E AGREEING TO PAY

SOME REAL ESTATE TAXES ON YOUR BEHALF OR EES'S BEHALF?

A NO, MA'AM. I DO NOT AGREE.

Q IF WE PRODUCED A CHECK THAT SHOWS THAT, WOULD YOU HAVE A PROBLEM WITH THAT AMOUNT GOING ON YOUR SIDE OF THE LEDGER SHEET SO TO SPEAK?

A I'M NOT FAMILIAR WITH IT.

Q WE'VE GOT A CHECK ON THE LAST PAYMENT ON THE NORTH MYRTLE BEACH DUPLEX OF $19,280. IS THAT THE SAME AMOUNT AS THE SITUATION WE TALKED ABOUT YESTERDAY WHERE ON ONE OF MARTIN BROWN'S PROJECTS THERE WAS A CHECK WRITTEN TO EES, I BELIEVE YOU SAID, AND WAS DEPOSITED BY EES THAT WAS TO BE A&E'S JOB PROCEEDS?

A YES, MA'AM.

Q AND THAT TOTALLY WENT TO YOU? AND YOU DON'T HAVE A PROBLEM WITH THAT BEING ON YOUR SIDE OF THE LEDGER SHEET?

A NO, MA'AM.

Q DO YOU RECALL AN EMPLOYEE ADVANCE TO YOU IN THE AMOUNT OF $11,466 IN OCTOBER OF 2005? MY RECOLLECTION WAS THAT ALSO WAS TO PAY SOME REAL ESTATE TAXES. DO YOU RECALL THAT?

A NO, MA'AM. I DON'T HAVE ANYTHING... I DON'T OWN ANYTHING THAT WOULD HAVE THAT KIND OF REAL

ESTATE TAXES ON IT.

Q DO YOU RECALL AN ADVANCE IN THAT AMOUNT IN OCTOBER OF '05 THAT SHOULD BE ON YOUR SIDE OF THE LEDGER SHEET?

A I CAN'T TELL YOU IF THIS IS THE AMOUNT. I MEAN, I DID GET A CHECK TO PAY MY FEDERAL INCOME TAX, BUT I DO NOT... I DON'T RECALL THE EXACT AMOUNT.

MR. THOMAS: ARE THESE A&E CHECKS THAT WE'RE TALKING ABOUT?

MS. COOK: YES, SIR.

Q BUT YOU WOULD AGREE IF A&E DID ADVANCE YOU THAT MONEY AND IF IT WAS IN THAT AMOUNT FOR WHATEVER PURPOSE, THAT SHOULD BE ON YOUR SIDE OF THE LEDGER SHEET?

A I THINK THAT EVERYTHING THAT BELONGED TO ME IS IN MS. BRADY'S COMPUTATION OF THIS WHOLE THING. I THINK IT'S ALL RECOGNIZED, EVERY CHECK THAT WAS GIVEN TO ME OR... THE BANKING CHECK AND THE CARPET WERE ALL PART OF IT.

Q I UNDERSTAND THAT, BUT MY QUESTION TO YOU IS, IF THERE WAS A CHECK FROM A&E TO YOU OR ON YOUR BEHALF TO PAY AN OBLIGATION; YOUR FEDERAL INCOME TAXES OR WHATEVER ELSE IT IS. YOU DON'T DISPUTE THAT SHOULD BE ON YOUR SIDE OF THE LEDGER SHEET, DO YOU?

A THERE IS NO BILL PAID ON MY BEHALF EXCEPT FOR THE 29TH PLACE CARPET.

Q WELL, LET ME SHOW YOU AN A&E CHECK, CHECK NUMBER 4472 IN THE AMOUNT OF $11,466 PAYABLE TO ELLIS E. SMITH WHICH IS TABBED EMPLOYEE ADVANCES. DO YOU DENY THAT YOU WERE ADVANCED THAT AMOUNT OF MONEY?

A NO, MA'AM. I DON'T DENY IT AT ALL.

Q OKAY. WOULD YOU DISPUTE THAT THIS SHOULD BE ON YOUR SIDE OF THE LEDGER SHEETS? LIKE WAYNE'S GOT A LEDGER SHEET, THIS SHOULD BE ON YOUR SIDE?

A YES, MA'AM.

Q OKAY. AND THEN I BELIEVE THAT YOU ALREADY ACKNOWLEDGE, BUT I JUST WANT TO CLARIFY, BUT WHEN YOU --

(DISCUSSION OFF THE RECORD.)

Q YOU DON'T DENY AND YOU DO AGREE THAT THE ADVANCE TO YOU $51,876 FROM A&E TO ENABLE YOU TO PURCHASE THE HOME THAT YOU LIVE IN NOW ON JASMINE, THAT'S ON YOUR SIDE OF THE LEDGER SHEET?

A YES, MA'AM.

Q YOU AGREE THAT THE $15,000 ADVANCE OR BONUS OR WHATEVER IT WAS TO YOU THAT WAS AT THE SAME TIME IN '06 AS WAS GIVEN TO WAYNE THAT SHOULD BE ON

YOUR SIDE OF THE LEDGER SHEET? YOUR 15 AND WAYNE'S SHOULD BE ON HIS SIDE?

A YES, MA'AM.

Q NOW, THE NEXT SECTION THAT TALKS ABOUT POTENTIAL LIABILITY TO A&E CREATED BY EES'S FAILURE TO NOTIFY. AND I BELIEVE THAT HAS TO DO WITH WAYNE'S POSITION; THAT A&E DID NOT KNOW THAT PERMITS ON CERTAIN JOBS WERE PULLED BY EES, BUT IN THE NAME OF A&E? YOU'VE GOT SOME COMMENTS WRITTEN OVER TO THE SIDE ON SOME OF THOSE ITEMS. THE HORRY COUNTY PERMIT FOR THE CARI DAVIS JOB IN MARCH OF '05 YOUR HANDWRITTEN NOTATIONS SAY, "WAYNE'S PERMISSION." WHAT WAS YOUR POSITION THEN AND NOW ABOUT THAT PERMIT OR A&E PERMITTED JOBS?

A WAYNE WAS AWARE OF BOTH OF THESE.

Q THE ROBERT SEALEY JOB AND THE CARI ANN DAVIS JOB?

A YES, MA'AM.

Q DO YOU AGREE WITH WHAT IS REFLECTED ON BOTH OF THESE DOCUMENTS AS TO WHAT THE PERMITTED VALUE OF THE JOB WAS PER THE PERMIT YOU PULLED?

A I DON'T REMEMBER, BUT THEY LOOK PRETTY CLOSE.

Q SO, IF WE PUT THE PERMITS IN, YOU DON'T HAVE ANY DISPUTE WITH THAT?

A YES, MA'AM.
Q WERE ANY OF THE BILLS, WHETHER IT WAS FOR MATERIALS OR LABOR, SERVICES, SUBCONTRACTORS ON THE CARI ANN DAVIS OR ROBERT SEALEY JOBS, PAID FOR BY A&E?
A NO, MA'AM.
Q THEY WERE ALL PAID FOR BY YOU OR EES --
A NO.
Q -- OR THE OWNERS OF THE PROPERTY?
A THE OWNERS OF THE PROPERTY PAID.
Q DID A&E RECEIVE ANY COMPENSATION FROM THOSE TWO JOBS?
A NO, MA'AM.
Q DID A&E RECEIVE ANY COMPENSATION FOR THE USE OF ITS PERMIT ON THOSE TWO JOBS AND THE POTENTIAL LIABILITY THAT COULD BE IMPOSED ON A&E FOR PULLING THOSE PERMITS?
A NO, MA'AM.
Q THE NEXT 8 PERMITS PULLED IN THE NAME OF A&E, YOU DON'T HAVE ANY COMMENTS BESIDE THOSE? DO YOU AGREE OR ADMIT THAT THOSE WERE PERMITS THAT WERE PULLED BY YOURSELF OR EES THAT A&E WAS NOT AWARE OR THAT MR. VEREEN WAS NOT NOTIFIED OF AND DID NOT KNOW HAD BEEN PULLED IN A&E'S NAME?
A ALL BUT ONE OF THOSE. THE ONE ON 1/2007 POOL,

AN ENCLOSURE THAT IS A PERMIT FOR A POOL THAT IS AT SEACLUSION?

Q YES, SIR?

A THAT WAS INCLUDED IN A&E'S CONTRACT TO BUILD THAT BUILDING.

Q DID A&E PAY THE COST, LABOR AND MATERIALS SUB WORK FOR THAT?

A YES, MA'AM.

Q DID A&E RECEIVE ANY PAYMENT FROM SEACLUSION'S FOR THAT POOL AND ENCLOSURE?

A THAT WAS IN THE SEACLUSION'S ORIGINAL CONTRACT. YES, MA'AM. THEY DID RECEIVE PAYMENT FOR THAT POOL.

Q THE NEXT FIVE MYRTLE BEACH PERMITS, YOU DO ADMIT THAT ALL THOSE JOBS WERE EITHER YOURS OR EES'S, IS THAT CORRECT? OR WERE PERMITS USED... THE LEE MCMILLAN HOME, WE TALKED ABOUT THAT YESTERDAY. YOU SAY MR. MCMILLAN PULLED THAT PERMIT?

A THERE IS NO CITY OF MYRTLE BEACH PERMIT FOR THAT JOB.

Q THERE'S NO PERMIT AT ALL?

A THERE'S NO CITY OF MYRTLE BEACH PERMIT FOR THAT JOB NOR THE SEALEY JOB.

Q OKAY. HOW COULD THAT WORK BE DONE WITHOUT A

PERMIT?

A NEITHER ONE OF THEM ARE IN THE CITY OF MYRTLE BEACH.

Q HORRY COUNTY?

A YES, MA'AM.

Q WERE THERE HORRY COUNTY PERMITS PULLED?

A YES, MA'AM.

Q WERE THEY IN THE NAME OF A&E?

A NO, MA'AM.

Q WERE THEY IN THE NAME OF THE JOB OWNER, THE PROPERTY OWNER?

A LEE MCMILLIN'S WAS IN LEE AND HOLLY MCMILLAN. THE SEALEY HOUSE WAS IN SELENA AND K.J. MANN, THAT'S THE NAME, NOT SEALEY. THAT'S ROBERT SEALEY'S DAUGHTER.

Q THAT'S THE MANN JOB?

A YES, MA'AM.

Q THESE LAST LINE ITEMS FOR THOSE PARTICULAR JOBS, WERE ANY EXPENSES OF THOSE JOBS PAID BY A&E?

A NO, MA'AM.

Q DID A&E RECEIVE ANY COMPENSATION FOR THOSE JOBS?

A B&B FENCE WAS NOT AN A&E JOB. THAT WAS AN EES CONSTRUCTION JOB.

Q DID A&E RECEIVE ANY COMPENSATION FOR ANY OF THESE JOBS?

A NO, MA'AM.

Q WERE THESE JOBS PERFORMED FROM THE PERIOD OCTOBER 2003 THROUGH DECEMBER OF 2007? EACH OF THOSE JOBS WERE PERFORMED SOMETIME DURING THAT PERIOD?

A YES, MA'AM.

Q WHILE YOU WERE ACTIVELY PARTICIPATING AS PRESIDENT AND 50% PERCENT SHAREHOLDER OF A&E?

A WE DIDN'T HAVE A LICENSE 'TIL JANUARY. WE COULDN'T GET ANY PERMITS FOR A&E UNTIL JANUARY NOT OCTOBER.

Q BUT A&E WAS FORMED IN OCTOBER, WAS IT NOT?

A YES, MA'AM.

Q AND ALL OF THESE JOBS WERE PERFORMED DURING THE TIME PERIOD IN WHICH YOU WERE A 50% PERCENT SHAREHOLDER OF A&E AND PRESIDENT OF A&E, IS THAT CORRECT?

A YES, MA'AM.

JUDGE HOWE: I'M SORRY. WHEN WHERE THESE LAST FIVE JOBS PERFORMED, MR. SMITH?

A WHICH ONES ARE YOU REFERRING TO?

JUDGE HOWE: THE LEE MCMILLAN, K.J., SELENA MANN JOB, THE B&B FENCE AND THE ULIAL SMITH AND YOUR ELLIS SMITH

REPAIRS? WHEN WERE THOSE JOBS PERFORMED?

A THE LEE MCMILLIN JOB, I'M NOT SURE OF THE DATES, BUT I THINK IT WAS IN 2005. HE BUILT HIS OWN HOUSE AND I WAS JUST HELPED HIM PUT SUBS TOGETHER AND DID SOME WORK FOR HIM. SELENA AND K. J. MANN THAT... I'M ALMOST POSITIVE THAT WAS IN 2006 OR 2005, BUT IT WAS IN THIS TIMEFRAME. ULIAL SMITH, THAT'S MY SON'S ADDITION, HE GOT HIS OWN PERMIT AND HE PAID FOR EVERYTHING HIMSELF. AND THEN ELLIS SMITH REPAIRS. I HAD A TOWNHOUSE THAT THE CARPET UP TOP WENT IN THAT. IT WAS NOT A MYRTLE BEACH PERMIT EITHER, THAT WAS JUST A REPAIR JOB.

JUDGE HOWE: THE B&B FENCE WAS BEFORE 2004?

A THE FENCE I SIGNED THE CONTRACT IN AUGUST OF 2003, BUT THE WORK WAS GOING ON IN 2004.

JUDGE HOWE: SO, THAT WAS AT CALLAYA?

A YES, MA'AM. CALLAYA FENCE.

MS. COOK: YOUR HONOR, I'M GOING TO PUT THOSE PERMITS IN JUST A SECOND.

JUDGE HOWE: ALRIGHT. THANK YOU.

Q AND AM I CORRECT THAT YOU DIDN'T PULL A PERMIT FOR THE WORK THAT YOU WERE DOING ON YOUR HOUSE?

A THAT WAS JUST REPAIRS. YES, MA'AM, THAT'S CORRECT. WHICH HOUSE ARE YOU REFERRING TO? IS THAT THE 29TH PLACE?

Q NO, SIR. YES. THAT'S THE REPAIRS?

A 29TH PLACE, YES, MA'AM. THAT IS CORRECT. THAT WAS PAINTING. YES, MA'AM.

Q ALRIGHT. YOU PULLED THE PERMIT FOR THE ADDITION THAT YOU DID TO YOUR HOUSE ON JASMINE AVENUE IN A&E'S NAME, CORRECT?

A YES, MA'AM. IS THAT THE GARAGE?

Q YES, SIR. YOU PULLED THAT IN JULY OF 2008, CORRECT?

A AUGUST, JULY, SOMETHING IN THAT TIMEFRAME, YES.

Q THAT WAS IN A&E'S NAME?

A YES, MA'AM.

Q THE NEXT TWO ITEMS, ONE IS A LAWSUIT BY MICHAEL MULLINAX AND IT'S GOT INCITED BY EES. AND THEN YOU'VE GOT A LAWSUIT BY BUZZ SOUTHERN INCITED BY EES. YOU'VE GOT TWO VALUES AND THEN YOU HAVE COMMENTS OUT TO THE SIDE, "WAYNE DIDN'T PAY APPROVED BILLS." I WANT TO GO INTO... WHAT LAWSUIT WAS FILED BY MICHAL MULLINAX? WHAT PROJECT WAS IT ON? WHAT WAS THE SUBSTANCE OF THAT DISPUTE?

A IT WAS LANDSCAPING THAT WAS INSTALLED AT

WILLOUGHBY PLACE. MR. MULLINAX DID NOT... IT WAS 8 OR 9 MONTHS AFTER HE HAD DONE THE WORK, HE FOUND THAT HE HAD NOT BEEN PAID FOR SOME OF IT. I'M NOT FAMILIAR WITH EXACTLY WHAT IT WAS, BUT IT WAS FOR LANDSCAPING AT WILLOUGHBY PLACE FOR STUFF... HE CLAIMS THAT HE HAS NOT BEEN PAID FOR IT.

Q OKAY. DID YOU OR DO YOU DISPUTE THE FACT... DO YOU KNOW IF A&E PAID THE 33,000 AND CHANGE THAT MR. MULLINAX WAS CLAIMING?

A I HAVE NO IDEA. I DIDN'T PAID THE BILLS, MR. VEREEN DID. IF THE BILL CAME IN, IT WAS APPROVED BY ME, THEN HE USUALLY APPROVED IT. I DON'T REMEMBER SEEING THESE BILLS. I CAN'T SAY THAT I'VE SEEN THEM OR APPROVED THEM OR ANYTHING.

Q DID THAT DISPUTE COME UP AFTER YOU HAD QUIT GOING TO THE OFFICE IN SEPTEMBER OF '07?

A I DON'T REMEMBER THE TIMEFRAME.

Q HOW ABOUT THE LAWSUIT BY BUZZ SOUTHERN THAT WAS ON POINTE MARSH?

A I THINK THAT LAWSUIT WAS BY CITY PLUMBING. I THINK, I'M NOT SURE. THAT'S THE COMPANY THAT BUZZ SOUTHERN OWNED AND THAT WAS THE COMPANY THAT WAS DOING WORK FOR MR. VEREEN AT POINTE

MARSH.

Q WAS THAT LAWSUIT STARTED OR A CLAIM RELATED TO THAT LAWSUIT STARTED BEFORE YOU LEFT A&E IN SEPTEMBER OF 2007?

A I COULDN'T TELL YOU IF THE LAWSUIT WAS DONE. I KNOW THE WORK WAS DONE IN 2005/2006 AND HIM AND MR. VEREEN HAD A DISAGREEMENT ABOUT PAYMENTS, SOMETHING FROM THE PAST AT SEVEN OAKS OR SOMETHING. I'M NOT FAMILIAR WITH THE TERMS OF THIS.

Q LET ME SHOW YOU WHAT I HAVE MARKED AS EXHIBIT NUMBER 24, DEFENDANT'S EXHIBIT 24. IT IS 5 PAGES WHICH INCLUDES: THE HORRY COUNTY PERMIT APPLICATION FOR THE PEREZ JOB, THE HORRY COUNTY PERMIT APPLICATION FOR THE CARI DAVIS JOB, THE HORRY COUNTY PERMIT APPLICATION FOR THE MCMILLAN JOB, THE HORRY COUNTY PERMIT APPLICATION FOR THE SEALEY JOB AND A SHEET OR A PRINT-OFF FROM THE CITY OF MYRTLE BEACH WHICH ENDS IN YOUR EXHIBITS, BUT IT'S JUST ONE PAGE THAT SHOWS CERTAIN PERMITS FOR JOBS PULLED BY ELLIS SMITH AND A&E PULLED ON AN ELLIS SMITH JOB. AND I'M GOING TO LET MR. DURANT LOOK AT IT FIRST. ARE THESE THE PERMIT APPLICATIONS IN THE CITY OF MYRTLE BEACH PRINT-OUT RELATIVE TO SOMETHING IN A&E PERMITS?

MR. DURANT: YOU'RE ASKING WHETHER THOSE ARE A&E PERMITS OR THEY'RE APPLICATIONS?

MS. COOK: APPLICATIONS.

Q THE LAST PAGE SHOWS THE ACTUAL PERMIT ISSUED BY THE CITY OF MYRTLE BEACH.

A THIS LOOKS LIKE MR. PEREZ'S PERMIT. I DIDN'T HAVE ANYTHING TO DO WITH IT. I GUESS, IT WAS DONE BY MR. PEREZ.

Q WHAT'S THE DATE OF THAT APPLICATION?

A 9/24/03.

Q THE NEXT PAGE, DO YOU RECOGNIZE THAT?

A CARI ANN DAVIS, YES, MA'AM.

Q WHAT'S THE DATE ON THAT ONE?

A 2/8/05.

Q 2005?

A YES, MA'AM.

Q IS ANY OF THAT HANDWRITING ON THAT APPLICATION YOURS?

A NO, MA'AM. YES, IT IS. THIS A&E CONSTRUCTORS, PO BOX AND... THAT'S MY HANDWRITING, YES. THIS IS K.J. AND SELENA MANN. I'M SORRY, THIS IS LEE AND HOLLY MCMILLAN.

Q WHAT IS THE DATE ON THAT APPLICATION FOR PERMIT IN HORRY COUNTY?

A 9/7/05.

Q IS ANY OF THE HANDWRITING ON THAT APPLICATION YOURS?
A NO, MA'AM. I DON'T THINK IT IS.
Q AND NEXT APPLICATION, WHAT JOB?
A ROBERT SEALEY.
Q WHAT'S THE DATE ON THAT PERMIT APPLICATION FROM HORRY COUNTY?
A 11/29/06.
Q AND THE LAST PAGE, MR. SMITH?
A NONE OF THAT'S MY HANDWRITING EITHER.
Q DID YOU RECOGNIZE... I THINK THE TOTAL PRINTOUT HAS BEEN PUT IN BY YOUR COUNSEL. DO YOU RECOGNIZE THAT AS BEING A PAGE OF THE CITY OF MYRTLE BEACH ROLES OF PERMITS ISSUED TO A&E ON JOBS?
A YES, MA'AM.
Q AND ON THE BOTTOM OF THE PAGE THERE IS AN INDICATION OF A PERMIT BEING ISSUED BY THE CITY OF MYRTLE BEACH TO A&E FOR THE ELLIS SMITH JASMINE JOB, CORRECT?
A YES, MA'AM.
Q AND THAT'S IN 2008?
A YES, MA'AM. THAT WAS ISSUED ON 8/7... THAT CAN'T BE RIGHT BECAUSE A&E DOES NOT HAVE A PERMIT... OH, I KNOW WHAT THAT IS. I RENEWED

THE PERMIT. I HAD NOT FINISHED IT AND IT HAD EXPIRED, BUT IT HAS BEEN CHANGED AGAIN TO E SMITH AND SONS.

Q OKAY. SO YOU ACTUALLY PULLED THE PERMIT EARLIER THAN THE DATE SHOWN ON HERE?

A YEAH. IT WAS PULLED IN AUGUST OF 2008.

MS. COOK: YOUR HONOR, I WOULD LIKE TO INTRODUCE DEFENDANT'S EXHIBIT 24 INTO EVIDENCE.

JUDGE HOWE: ANY OBJECTIONS?

MR. DURANT: NO OBJECTIONS.

JUDGE HOWE: ALRIGHT 24 SO ADMITTED.

PERMITS MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 24.

Q THE NEXT CATEGORY SAYS, "OUTSTANDING PERSONAL LOANS OF EES OWED TO ARTHUR WAYNE, AWV ON 29TH PLACE DEVELOPERS/ARTHUR VEREEN CONSTRUCTION." AND IT LISTS SOME OF WHAT WE TALKED ABOUT YESTERDAY DEALING WITH THE PLANTATION POINT HOME WHERE MR. VEREEN ALLOWED YOU TO CHARGE SUPPLIES AND ASSISTED WITH THE FINANCING OF YOUR CONSTRUCTION OF THE HOME AT PLANTATION POINT. WE DID DISCUSS THAT YESTERDAY, CORRECT?

A YES, MA'AM.

Q AND THE NEXT LINE ITEM TALKS ABOUT THE 29TH PLACE, WHICH WE HAVE ALSO REFERRED AS THE 29TH PLACE, CARRIAGE ROW HOME THAT YOU ALSO LIVED IN AND MR. VEREEN DID THE LAND SALES CONTRACT AND YOU ULTIMATELY BOUGHT THAT HOME AND PAID THE 35 OR $38,000 THAT'S SHOWN ON THAT SALES CONTRACT, CORRECT?

A PLUS THE 17 THAT I PAID FOR.

Q OKAY. AND WE HAVEN'T TALKED ABOUT OCEAN KEYES YET, BUT WE'LL GET TO THAT. NOW, YOU'VE GOT ON THE FIRST TWO ITEMS EES DIDN'T EXIST, BUT YOU EXISTED. ELLIS SMITH. I MEAN, YOUR INITIALS ARE EES, CORRECT?

A I UNDERSTAND.

Q SO. YOU INTERPRETED THAT TO MEAN THAT YOUR COMPANY EES AS OPPOSED TO YOU... YOUR PERSONAL INITIALS EES, CORRECT?

A YES, MA'AM.

Q THE PLANTATION POINT AMOUNT SHOWED AS BEING OWED TO MR. VEREEN OR TO ARTHUR VEREEN CONSTRUCTION OR TO 29TH PLACE ON THE PLANTATION POINT MATTER IS SHOWN THE PRINCIPAL BEING OWED AS $67,823. DO YOU AGREE WITH THAT OR DISPUTE THAT?

A I DISPUTE THAT.

Q AND ON THE 29TH PLACE IT SHOWS $96,921 AS PRINCIPAL BEING OWED. DO YOU AGREE OR DO YOU DISPUTE THAT?

A I TOTALLY DISPUTE THAT.

Q ALRIGHT. WE'LL GO TO THE OCEAN KEYES MATTER A LITTLE BIT LATER. BUT LET'S TALK JUST A MINUTE ABOUT THAT 29TH PLACE SITUATION. WE COVERED IT SOME YESTERDAY, BUT I AM GOING TO TRY TO GET PULLED OUT FOR YOU THE... I THINK WE MARKED YESTERDAY THE LAND SALES CONTRACT.

JUDGE HOWE: I THINK IT MIGHT BE 21.

Q I AM GOING TO SHOW YOU AGAIN THE LAND SALES CONTRACT AND IT WAS EXECUTED OR THE DATE ON IT IS JULY 1ST, 1992. HOLD THAT IN FRONT OF YOU BECAUSE I WANT YOU TO BE ABLE TO REFER TO IT.

A OKAY.

Q I WANT TO HAND YOU A GROUP OF DOCUMENTS THAT I HAVE MARKED FOR IDENTIFICATION AS EXHIBIT 25. THE FIRST PAGE IS A JULY 25TH 1996 LETTER TO THE OWNER OF THAT PROPERTY, 29TH PLACE DEVELOPERS. MR. VEREEN FROM SCOTT LONG'S PARALEGAL IS SENDING A PAYOFF OR A CHECK IN THE AMOUNT OF 38,359.18 ALONG WITH $390.82 FROM YOU AS SHOWN ON A HUD STATEMENT THAT'S THE NEXT 2 PAGES WHERE YOU GOT FINANCING AND YOU PAID OFF SOME BILLS

AND YOU ALSO PAID MR. VEREEN IN JULY OF '96 THE AMOUNT OF THE $38,750 AS PROVIDED FOR IN THE LAND SALES CONTRACT, CORRECT?

A YES, MA'AM.

Q SO, WE HAVE HERE PROOF THAT, THAT $38,750 UNDER THE LAND SALES CONTRACT WAS PAID IN FULL IN JULY OF 1996, CORRECT?

A I THINK IT ALSO ACKNOWLEDGES THAT THERE WAS A... THE ORIGINAL AND HE HAD RECEIVED 17.

Q I DO AGREE. I DO AGREE THAT'S YOUR POSITION THAT HE HAD RECEIVED THAT AND YOU SAID THAT WAS BY WAY OF CHECK FROM YOUR FATHER, CORRECT?

A YES, MA'AM.

Q AND ALSO THE NEXT PAGES OF EXHIBITS, OF DEFENDANT'S EXHIBIT 25, IS A COPY OF THE DEED THAT AT THAT CLOSING YOU RECEIVED TO THE PROPERTY AT 29TH PLACE CARRIAGE ROW AS A RESULT OF PAYING THAT DEBT, CORRECT?

A YES, MA'AM.

MS. COOK: YOUR HONOR, I WOULD LIKE TO INTRODUCE DEFENDANT'S EXHIBIT 25.

JUDGE HOWE: ANY OBJECTIONS?

MR. THOMAS: YOUR HONOR, WE HAVE NONE AND IF WE MAY SPEAK ON BEHALF OF MR. DURANT, HE HAS NONE EITHER.

JUDGE HOWE: ALRIGHT. DEFENDANT'S EXHIBIT 25 SO ADMITTED.

LETTER MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 25.

Q AND SAME TIME THAT YOU DID THAT CLOSING, MR. SMITH -- LET ME BACK UP A MINUTE. THE LAND SALES CONTRACT SAYS, "THAT THE PRINCIPAL BALANCE DUE TO BUY THE HOUSE IS $38,750" CORRECT?

A THAT WAS AFTER THE PURCHASE OF THE LOT. YES, MA'AM.

Q AFTER YOU PAID THE $17,000 FOR THE DOWN PAYMENT, THE BALANCE OF WHAT YOU WOULD OWE UNDER THIS LAND SALES CONTRACT IS $38,750?

A YES, MA'AM.

Q AND YOU DIDN'T PAY IT IN THE MONTHLY INSTALLMENTS THAT THE LAND SALES CONTRACT PROVIDED FOR YOU AS PAID IN FULL IN 1996?

MR. THOMAS: YOUR HONOR, WE OBJECT TO HER CHARACTERIZATION OF WHAT THE LAND SALES CONTRACT CALLS FOR. IT CALLS FOR MONTHLY INSTALLMENTS OF INTEREST AND PAYMENT FOR THE BALANCE OF THE PRINCIPAL UPON THE DATE OF THE CLOSING AND HE CLOSED IT A YEAR EARLY.

MS. COOK: THAT'S FINE.

Q YOU PAID THE BALANCE, THE PRINCIPAL, IN 1996 AND YOU DIDN'T HAVE TO PAY IT UNTIL THE SUMMER OF '97, DID YOU?

A I DON'T KNOW. LET ME LOOK AND SEE.

MS. COOK: WILL YOU STIPULATE TO THAT, JACK?

MR. DURANT: YOUR HONOR, IS SHE TRYING TO CHANGE THE TERMS OF A WRITTEN AGREEMENT UNDER CLOSING? SHE CAN'T DO IT WITH HER OWN TESTIMONY.

MS. COOK: NOT AT ALL.

MR. DURANT: THIS IS 1996. THE DOCUMENT WAS A DEED SIGNED BY HER CLIENT FOR A CERTAIN AMOUNT OF MONEY WITH NO PAYMENT AFTER THAT. HOW CAN SHE CHANGE THOSE TERMS?

MS. COOK: I'M NOT TRYING TO.

MR. DURANT: I OBJECT TO HER TESTIMONY THAT HAS NOTHING TO DO WITH THE DEFENSE IN THIS CASE.

MS. COOK: YES, MA'AM. IT DOES.

MR. DURANT: SHE SUED BASED UPON A FAILURE TO PAY ON A LAND SALES AGREEMENT WHERE YOU HAVE A CLOSING STATEMENT AND A

DEED SIGNED BY THE DEFENDANT.
JUDGE HOWE: I'M NOT SURE --
MS. COOK: BUT THERE'S ANOTHER --
JUDGE HOWE: -- WHAT SHE'S TRYING TO DO.
MS. COOK: -- ANOTHER DOCUMENT SIGNED CONTEMPORANEOUSLY WITH THE NOTES THAT MR. THOMAS TALKED ABOUT YESTERDAY. I HAVE THAT NOTE RIGHT HERE. AND MY QUESTION TO MR. SMITH, WHERE THIS WAS GOING IS, DID YOU EVER PAY ANY OF THOSE INTEREST PAYMENTS FROM THE TIME THAT YOU SIGNED THE LAND SALES CONTRACT, THE $322 A MONTH BEFORE YOU PAID IT OFF? DID YOU EVER PAY ANY OF THOSE INTEREST PAYMENTS? LET ME JUST ASK THAT QUESTION.
MR. DURANT: SAME THING, YOUR HONOR, THERE'S A PROMISE TO PAY. THERE'S SATISFACTION --
JUDGE HOWE: HE PAID IT OFF.
MR. DURANT: -- OF THE NOTE FROM CLOSING.
JUDGE HOWE: HE PAID IT OFF AT CLOSING.
MS. COOK: NO, MA'AM. THE POSITION OF MY CLIENT IS HE PAID THE PRINCIPAL AT CLOSING, BUT HE SIGNED A NOTE FOR THE

UNPAID INTEREST THAT HE HAD NOT PAID IN 1992.

JUDGE HOWE: WELL, HE JUST SAID HE DIDN'T KNOW ABOUT THE OTHER.

MS. COOK: OKAY.

MR. THOMAS: IF THERE IS A NOTE, YOUR HONOR, WE HAVE NEVER SEEN IT AND WE OBJECT TO IT. IT'S NEVER BEEN PRODUCED AND WE HAVE ASKED THEM FOR WHATEVER YOU HAVE AS EARLY AS AUGUST OF LAST YEAR. AND WE OBJECT ON THE FAILURE TO PRODUCE DURING DISCOVERY.

JUDGE HOWE: HAS IT BEEN PRODUCED?

MS. COOK: YES, MA'AM. WE PRODUCED 19 NOTEBOOKS... NOT 19, I'M SORRY. IN THE REQUEST TO PRODUCE IN THE DOCUMENTATION.

MR. DURANT: I HAVE NEVER SEEN THIS.

MR. THOMAS: YOUR HONOR, WE OBJECT ON FURTHER BASIS, THEY HAVEN'T SUED HIM ON THIS NOTE AND IT IS NOT MENTIONED IN THE COMPLAINT. THEY HAVE SUED HIM FOR THE $38,000 THAT'S CLEARLY BEEN PAID. THAT'S THE SECOND CAUSE OF ACTION.

MS. COOK: YOUR HONOR, THIS IS NOT... I KNOWLEDGE THAT AND WE HAVE CONCEDED TO

MR. THOMAS THAT WE ARE NOT SEEKING TO RECOVER THAT 38,000 AND CHANGE, BUT MY CLIENT'S TESTIMONY WILL BE AND I BELIEVE IT WAS WHEN HE WAS ALREADY PUT UP AS A HOSTILE WITNESS THAT THE REASON -- ONE OF THE REASONS HE ENTERED INTO THIS PARTNERSHIP WITH MR. ELLIS SMITH WAS THAT HE KNEW THAT THE ONLY WAY HE WOULD EVER BE PAID BACK ALL THE MONEY THAT WAS DUE HIM BY ELLIS SMITH FOR THE PLANTATION POINT HOUSE, FOR ALL THE MONEY THAT WAS OWED ON THE CARRIAGE ROW HOUSE, WHICH THAT'S WHAT THIS ONE IS, WAS TO KEEP HIM EMPLOYED SO HE COULD EARN A LIVING. SO HE COULD PAY HIM BACK AND THAT WAS PART OF THE REASON, THE MAIN REASON, ONE OF THE MAIN REASONS THAT HE ENTERED INTO THIS A&E CORPORATION WITH MR. SMITH WAS IN ORDER TO BE PAID BACK BY MR. SMITH THE MONEY THAT HE CONTINUALLY SAID THAT HE WOULD PAY HIM BACK AS WELL AS FOR MR. SMITH AND MR. VEREEN TO CARRY ON, HOPEFULLY, A SUCCESSFUL AND PROFITABLE BUSINESS FOR THEMSELVES AS WELL. THIS IS NOT BEING

OFFERED IN ORDER TO COLLECT THIS MONEY. THIS INTEREST FROM MR. SMITH -- AT THIS TIME, IT IS OFFERED TO SUPPORT THE BASIS THAT MY CLIENT HAS SAID FOR WHICH HE ENTERED INTO THE AGREEMENT TO ENTER INTO BUSINESS WITH MR. SMITH AND WHAT HIS UNDERSTANDING OF THE DEAL BETWEEN HE AND MR. SMITH WERE OR WAS WITH REGARD TO A&E.

MR. THOMAS: YOUR HONOR, I DON'T UNDERSTAND. IF IT'S NOT BEING OFFERED AS A BASIS FOR COLLECTION OF MONEY, THEN IT'S NOT RELEVANT. WHAT WOULD BE THE RELEVANCE?

MS. COOK: IT GOES TO THE CREDIBILITY OF WHAT THESE GENTLEMENS' AGREEMENT WAS AND SET FORTH IN THEIR CORPORATION AS 50% PERCENT PARTNERS AS TO A&E.

JUDGE HOWE: SO, THIS IS NOT GOING TO BE SOMETHING WHERE YOU'RE TRYING TO PUT THIS ON MR. SMITH?

MS. COOK: YES, MA'AM. WE WILL BE ATTEMPTING TO PUT THAT ON MR. SMITH'S SIDE OF THE PAGE, NOT IN TERMS OF COLLECTION OF THE NOTE, BUT AS IN PART

OF MR. SMITH AND MR. VEREEN'S AGREEMENT THAT A&E WAS GOING TO BE FORMED. MR. VEREEN WAS GOING TO PUT IN THE CAPITAL UP FRONT. MR. SMITH WAS GOING TO PUT IN NO CAPITAL UP FRONT AND WHEN THEY GOT TO BE ABLE TO DO DISTRIBUTIONS, MR. SMITH WOULD REPAY ALL HIS OBLIGATIONS TO MR. VEREEN BEFORE THERE WAS A DISTRIBUTION OF PROFIT OR CAPITAL. SO, IN ESSENCE, WHAT MR. SMITH PUT IN AS CAPITAL CONTRIBUTIONS, YOUR HONOR, AT THE BEGINNING OF A&E WAS HIS RENEWED PROMISE TO PAY HIS PAST DEBTS TO MR. VEREEN BEFORE HE TOOK OUT ANY PROFITS IN THE COMPANY.

JUDGE HOWE: WAS THAT IN WRITING?

MS. COOK: NO, MA'AM.

MR. THOMAS: I WAS JUST GOING TO SAY, YOUR HONOR, THEY ARE TRYING TO GET AROUND THE STATUTE OF LIMITATIONS WHICH IS A SERIOUS PROBLEM IN ALMOST ALL OF THESE CLAIMS. IT HAS TO BE IN WRITING.

MS. COOK: I'M GOING TO LET YOU RULE ON THAT ONE FIRST.

JUDGE HOWE: HAVE YOU FOUND IT IN THE

NOTEBOOK THAT WAS IN DISCOVERY?

MS. COOK: SHE HASN'T FINISHED LOOKING. YOUR HONOR. I UNDERSTAND IT IF YOU WERE GOING TO ULTIMATELY RULE THAT IN THE ACCOUNTING, WHEN WE GET TO THE END OF THE LEDGER PAGE, THAT THIS AMOUNT CANNOT BE PART OF MR. SMITH'S SIDE OF THE PAGE FOR WHATEVER LEGAL OR OTHER REASONS THAT YOU FIND, SUCH AS, THE STATUTE OF FRAUD, THE STATUTE OF LIMITATIONS, ANYTHING ALONG THOSE LINES. AND I WOULD UNDERSTAND THAT, BUT IT IS ADDITIONALLY OFFERED TO VERIFY THE AGREEMENT BETWEEN MR. SMITH AND MR. VEREEN AS TO THE PURPOSE OF THEIR CORPORATION FORMED AND WHAT MY CLIENTS' POSITION IS THAT HIS AGREEMENT TO ENTER INTO THIS BUSINESS WITH MR. SMITH WAS THAT BEFORE PROFITS WERE DISPERSED, HE WOULD BE PAID FROM MR. SMITH WHAT THESE TWO GENTLEMEN SEPARATE AND APART FROM A&E AND IT'S BUSINESS AGREED WAS OWED. NOW, I KNOW THE AMOUNT AGREED IS DISPUTED. BUT IT'S BEING OFFERED FOR TWO PURPOSES AND I UNDERSTAND THAT YOUR HONOR MIGHT

ULTIMATELY RULE THAT THIS IS NOT AN AMOUNT THAT CAN GO ON MR. SMITH'S SIDE OF THE LEDGER OF A&E, BUT IT'S ALSO BEING OFFERED AS PROOF OF AND AS IMPEACHMENT OF MR. SMITH'S TESTIMONY YESTERDAY. THAT HE WAS NOT... THAT HE DIDN'T KNOW ANYTHING ELSE TO... IF YOU LET ME TALK LONG ENOUGH, I'LL COME UP WITH A THEORY. I AM TIRED. BECAUSE HE DID TESTIFY YESTERDAY THAT HE DISPUTED THAT HE OWED ANY MONEY --

JUDGE HOWE: I REMEMBER.

MS. COOK: SO, ALSO I OFFER FOR A THIRD GROUND TO IMPEACH THAT TESTIMONY BY VIRTUE OF THIS NOTE THAT WAS DRAWN UP BY HIS ATTORNEY ON THE SAME DAY AND AS THIS CLOSING, WHICH REPRESENTS THOSE INTEREST PAYMENTS, THAT HAVE NOT BEEN PAID FROM '92 TO '96 WHEN HE DID PAY IT OFF EARLY.

JUDGE HOWE: THAT'S WHY I WILL BE SURPRISED IF IT'S IN ONE OF THOSE DISCOVERY NOTEBOOKS BECAUSE I DON'T BELIEVE EITHER ONE OF THESE ATTORNEYS WOULD HAVE ALLOWED MR. SMITH TO TESTIFY THAT HE DIDN'T OWE ANYTHING IF THIS NOTE

HAD BEEN PRODUCED.

MS. COOK: BUT I WILL SAY THAT IN MY ANSWERS TO DISCOVERY, BECAUSE I ALWAYS DO THIS, LAWYERS, I ALWAYS PUT THAT WE RESERVE THE RIGHT TO USE ANY DOCUMENTS FOR THE PURPOSES OF IMPEACHMENT.

MR. THOMAS: YOUR HONOR, WE WOULD LIKE TO POINT OUT, WE SERVED INTERROGATORIES ON MR. VEREEN ON THE 2ND OF DECEMBER 2010 ASKING ALL THESE QUESTIONS AND SAID, "WHAT YOU SUING US FOR?" THEY HAVE NEVER BEEN ANSWERED.

MS. COOK: WELL, DIDN'T I JUST SAY I WILL TOTALLY UNDERSTAND IF YOUR HONOR DOES NOT PUT ON THE ELLIS SMITH SIDE OF THE PAGE THE A&E... THIS AMOUNT AS BEING OWED TO A&E, BUT IT'S BEING OFFERED FOR TWO OTHER GROUNDS AS WELL.

JUDGE HOWE: I HEARD YOU. I UNDERSTAND.

MR. DURANT: YOUR HONOR, THE WHOLE THING IS A GUISE TO GET AROUND THE STATUTE OF LIMITATIONS FOR A CLOSING THAT OCCURRED LONG, LONG AGO THAT PEOPLE DON'T HAVE ANY RECORDS OF, INCLUDING MR. SMITH OR ME.

JUDGE HOWE: WELL, SHE HAS ANOTHER REASON.

MR. DURANT: AND SHE WANTS TO IMPEACH MR. SMITH OR MS. DREWITT ON WHAT HE DID OR DIDN'T KNOW AND THAT'S WHY THE STATUTE OF LIMITATIONS IS THERE BECAUSE THESE THINGS ARE SO LONG AGO YOU ARE NOT GOING TO KNOW WHAT'S GOING ON. THESE PEOPLE HAVE BEEN DOING THIS FOR YEARS AND YEARS AND YEARS WITHOUT THIS EVER BEEN BROUGHT UP. SO, NOW, THIS IS COME IN OUT OF THE CLEAR BLUE SAYING, "WELL, LOOK A HERE. SOMEBODY OWES ME MONEY. I DON'T KNOW WHAT SHE'S USING IT FOR, BUT I HAVE NEVER SEEN IT MYSELF."

MS. COOK: YOUR HONOR, IT'S NOT BEEN OFFERED OUT OF THE CLEAR BLUE BECAUSE I BELIEVE IF MR. DURANT WOULD GO BACK TO MR. VEREEN'S DEPOSITION, MR. VEREEN TESTIFIED ABOUT NOT ONLY DEBT, BUT THE OTHER PREVIOUS PRE-EXISTING DEBTS AND SPECIFICALLY, THIS DEBT HAVING TO DO WITH 29TH PLACE CARRIAGE ROW AT HIS DEPOSITION.

JUDGE HOWE: BUT HE JUST DIDN'T PRODUCE

THE DOCUMENT AT HIS DEPO?
MS. COOK: YES, MA'AM. WE... AT THE DEPOSITION, I'M NOT SURE IF WE HAD THAT AT THAT TIME.
MR. DURANT: YOUR HONOR, IN THE COUNTERCLAIM, HE SAID THAT HE HAD NEVER BEEN PAID ANYTHING FROM HIM.
MR. THOMAS: I TELL YOU WHAT, YOUR HONOR, IF THEY WILL STIPULATE THAT THEY'RE NOT LOOKING FOR CREDIT FOR THE NOTE AND THEY ARE OFFERING IT ONLY FOR PURPOSES OF IMPEACHMENT, WE WILL REMOVE OUR OBJECTION. THEY ARE NOT LOOKING FOR ANY CREDIT WHATSOEVER FOR PAYMENT ON THAT NOTE.
JUDGE HOWE: FOR THIS INTEREST?
MR. THOMAS: FOR THE NOTE?
MS. COOK: I CAN'T STIPULATE TO THAT, YOUR HONOR. I UNDERSTAND, YOUR HONOR, MAY ULTIMATELY RULE THAT WAY, BUT I'M OFFERING IT FOR OF ALL THREE PURPOSES AND --
JUDGE HOWE: I UNDERSTAND. YOUR ASSOCIATE COUNSEL IS LOOKING FOR IT.
MRS. SISSON: KEEPER OF DOCUMENTS.

I DIDN'T SEE WHERE WE PRODUCED THAT BEFORE THE REQUEST FOR PRODUCTION AND I DON'T SEE IT IN THE ELLIS SMITH BOOK. I DON'T KNOW WHERE ELSE IT WOULD BE.

MS. COOK: AND SO THAT BEING SAID --

JUDGE HOWE: YOU'RE GOING TO PROFFER IT.

MS. COOK: I'M GOING TO PROFFER IT, YES, MA'AM. BUT ARE YOU RULING AT THIS POINT THAT IT'S NOT ADMISSIBLE?

JUDGE HOWE: I'M NOT GOING TO ADMIT IT ONLY BECAUSE THERE'S SO MANY DOCUMENTS IN THIS CASE AND I JUST THINK IT'S UNFAIR AND THESE ATTORNEYS ARE SURPRISED AND I THINK IT SHOULD HAVE BEEN PRODUCED IN DISCOVERY. SO, I'M GOING TO ALLOW YOU TO PROFFER IT.

MS. COOK: OF COURSE.

JUDGE HOWE: YOU HAVE THE RIGHT TO PROFFER IT, YOU KNOW, OVER MY RULING ANYWAY.

MS. COOK: YES, MA'AM. THAT'S PROFFERED... MARKED FOR ID AS DEFENDANT'S EXHIBIT 25.

JUDGE HOWE: OKAY.

Q MR. SMITH, SCOTT LONG WAS YOUR ATTORNEY FOR THE

CLOSING WHEN YOU BOUGHT AND GOT THE DEED FOR THE CARRIAGE ROW HOUSE, CORRECT?

A TO THE BEST OF MY RECOLLECTION, YES.

Q AND THEN THE NOTE IS DATED ON THE FIRST PAGE JULY 23RD, 1996 AND ON... ON EXHIBIT, 25 MR. SMITH?

A THAT'S EXHIBIT 25.

MS. COOK: I'M SORRY. NO. YOUR HONOR, THAT WAS EXHIBIT 26. I DON'T THINK I EVER MARKED THE ORIGINALS. I'M SORRY. THAT'S EXHIBIT 26.

NOTE DATED JULY 23RD, 1996
MARKED FOR IDENTIFICATION AS
DEFENDANT'S EXHIBIT 26.

Q IF YOU WOULD, THE NOTE ON THE FIRST PAGE IT'S DATED JULY 23RD?

MR. THOMAS: NOW, YOUR HONOR, YOU HAVE ALREADY RULED THAT THIS NOTE IS NOT ADMISSIBLE. IF SHE WANTS TO ASK HIM QUESTIONS ABOUT THE DOCUMENT, WE THINK IT'S GOT TO BE ADMITTED. BUT WE REJECT IT. IT'S NOT BEEN ADMITTED. SO, WE DON'T THINK THAT SHE CAN ASK HIM QUESTIONS ABOUT THE DOCUMENT UNLESS IT'S OTHER THAN FOR THE LIMITED PURPOSE OF

MAKING HER PROFFER.

MS. COOK: I'M JUST MAKING MY PROFFER.

MR. THOMAS: OKAY. I'M SORRY.

MS. COOK: I JUST HAD TO GET THE RIGHT NUMBER ON THE ID DOCUMENT.

MR. DURANT: 26?

MS. COOK: YES.

Q THIS NOTE IS DATED JULY 23, 1996. THAT IS THE SAME DAY THAT YOU CLOSED WITH MR. VEREEN TO BUY 29TH PLACE, ISN'T IT?

A I DON'T KNOW.

Q THE DATE ON THE CLOSING STATEMENT IS --

A 7-23-96.

Q JULY 23, 1996, CORRECT?

A YES, MA'AM.

Q AND THE NOTE, IS THAT YOUR SIGNATURE ON THE BACK PAGE OF THE NOTE?

A YES, MA'AM.

Q AND THE NOTE WAS IN THE ORIGINAL PRINCIPAL AMOUNT OF $17,850 OR THE FIRST PAGE OF THE NOTE, IS THAT CORRECT?

A YES, MA'AM.

Q NOW, THAT NOTE FOR $17,850 IS THE AMOUNT OF 10% PERCENT INTEREST ON THE 48 MONTHS THAT YOU OWED FROM 1992 TO 1996 WHEN YOU PAID OFF THE LAND

SALES CONTRACT? THAT EQUALS WHEN YOU ROUND THE NUMBERS TO $17,850... THIS IS STILL PART OF THE PROFFER.

MR. THOMAS: YOUR HONOR, WE THINK THE PROFFER IS LIMITED TO AN IDENTIFICATION SO IT CAN BE SUBMITTED TO THE COURT. I DON'T THINK SHE ENTITLED TO CROSS-EXAMINE HIM ABOUT A DOCUMENT THAT'S NOT BEEN ADMITTED.

MS. COOK: I CAN PROFFER WHATEVER... YOUR HONOR, IT'S THE DEFENDANT'S POSITION THAT I CAN PROFFER THE DOCUMENT AND I CAN ALSO PROFFER THE TESTIMONY.

JUDGE HOWE: YOU MAY.

Q THAT'S THE AMOUNT OF THE INTEREST THAT YOU HADN'T PAID MR. VEREEN OR 29TH PLACE DEVELOPERS FROM '92 TO '96, ISN'T THAT CORRECT?

A I DON'T KNOW.

Q OKAY. AND THEN THE LAST PAGE OF THAT DOCUMENT IS THE AMORTIZATION SCHEDULE RUN BY YOUR ATTORNEY THAT SHOWS YOU WERE TO MAKE FOUR QUARTERLY PAYMENTS? AND THAT WAS AT AN INTEREST RATE OF 9% PERCENT, CORRECT?

A THAT'S WHAT IT LOOKS LIKE.

Q DID YOU MAKE ANY OF THOSE PAYMENTS?

A NOT TO MY KNOWLEDGE.

Q DO YOU DENY THAT YOU OWED THIS MONEY REFLECTED IN DEFENDANT'S EXHIBIT NUMBER 26, THE NOTE IN THE AMOUNT OF $17,850 PLUS WHATEVER INTEREST TO 29TH PLACE OR MR. VEREEN BECAUSE THE NOTE IS TO MR. VEREEN WHEN YOU AND MR. VEREEN FORMED A&E IN OCTOBER OF 2003?

A THIS WAS NEVER DISCUSSED.

Q BUT MY QUESTION WAS, DO YOU DENY THAT YOU OWED HIM THIS MONEY WHEN A&E WAS FORMED IN OCTOBER 2003?

A MA'AM, I DIDN'T EVEN KNOW THAT I OWED HIM THIS MONEY. I DO NOT RECALL THIS NOTE.

Q DOES SEEING THIS NOTE REFRESH YOUR RECOLLECTION CONCERNING THAT MATTER?

A I SEE WHERE I SIGNED THIS PAGE. I SEE IT CAME FROM SCOTT. I DON'T KNOW RECALL.

MS. COOK: YOUR HONOR, THAT WOULD BE THE END OF THAT PROFFER.

Q CAN WE TURN TO PAGE 2 OF DEFENDANT'S 23. THAT'S THE DOCUMENT THAT'S PART OF YOUR EXHIBIT 9 AND IT'S YOUR RESPONSE, YOUR HANDWRITTEN NOTES TO MR. VEREEN'S POSITION AFTER YOUR DEMAND LETTERS. WE FINISHED THE FIRST PAGE OF THAT. NOW, ON THE SECOND PAGE, IS THAT YOUR HANDWRITING ON THE

SECOND PAGE? THE CIRCLES AND THE QUESTION MARKS?

A THIS ONE?

Q AT THE TOP IT SAYS, "PROJECTS 2004 THROUGH 2007"?

A YES, MA'AM.

Q ARE THOSE YOUR CIRCLES AND QUESTION MARKS?

A YES, MA'AM.

Q THE LITTLE HASHMARKS OVER TO THE SIDE, ARE THOSE YOURS, IF YOU KNOW?

A IT LOOKS LIKE THEY ARE BECAUSE I THINK THEY SORT OF CORRELATE BACK AND FORTH.

Q WHAT SIGNIFICANCE, IF YOU CIRCLED SOMETHING, WHAT DID THAT MEAN?

A I DIDN'T UNDERSTAND HOW OVERHEAD COULD BE PUT ON THESE JOBS. LIKE IT LOOKS TO ME LIKE IT'S SOMEWHERE AROUND 10% PERCENT. LIKE THE DIXIE MOTEL. THE ONLY PERSON THAT WENT TO THE DIXIE MOTEL TO TEAR IT DOWN WAS MYSELF AND I HAD A SUB THAT TORE IT DOWN AND I WAS THERE MAYBE THREE HOURS A DAY FOR A WEEK AND IT WAS GONE. NOW, THE OVERHEAD DOES NOT STIPULATE... THERE'S NO REASON FOR THERE TO BE A 10% PERCENT OVERHEAD ON A JOB THAT TOOK A SUPERINTENDENT AT $25.00 AN HOUR A GRAND TOTAL OF 15 HOURS TO DO.

Q DO YOU QUESTION --
A I QUESTION THE OVERHEAD.
Q OVERHEAD. OKAY.
A YES, MA'AM.
Q WOULD THAT BE THE SAME BASIS FOR EACH OF THESE ITEMS YOU HAVE CIRCLED UNDER THE OVERHEAD COLUMN OR ARE THERE DIFFERENT BASIS?
A YES, MA'AM.
Q IT'S THE SAME BASIS?
A EVERY ONE OF THEM. YES, MA'AM.
Q OKAY. IF YOU DIDN'T CIRCLE THE AMOUNT IN THE OVERHEAD COLUMN FOR A PARTICULAR JOB, DOES THAT MEAN THAT YOU AGREE THAT'S THE LEGITIMATE PERCENTAGE AND OVERHEAD FOR THAT PARTICULAR JOB?
A NO, MA'AM. IT'S NOT THAT I AGREE. THAT'S JUST WHEN I LOOKED AT THESE JOBS THAT ARE CIRCLED, THE OTHER JOBS, IT'S SORT OF HARD FOR ME TO SAY BECAUSE I DON'T HAVE ALL THE STUFF, BUT THESE ARE JOBS THAT I SPECIFICALLY RAN AND KNEW WHAT WAS INVOLVED IN DOING THESE JOBS. I THINK THAT THIS OVERHEAD FIGURE IS WAY OUTRAGEOUS.
Q WELL, LET'S LOOK AT WILLOUGHBY PLACE. I'M NOT DOING TO GO THROUGH EACH ONE OF THESE, OKAY?
A OKAY.
Q BUT LET'S LOOK IN PARTICULAR AT THE WILLOUGHBY

PLACE.

A I'VE GOT IT.

Q YOU'VE GOT CIRCLED THE OVERHEAD FIGURE FOR WILLOUGHBY PLACE AND THAT FIGURE IS $783,544, CORRECT?

A YES, MA'AM.

Q WHAT WAS THE BASIS OF YOUR DISPUTE OR CIRCLING THAT FIGURE ON THAT JOB?

A I THINK IT'S HIGH. IT DOESN'T COST THAT MUCH TO RUN THE COMPANY THAT WE HAD. WHERE 783,544 CAME FROM, I DON'T KNOW.

Q SO, IT'S YOUR POSITION THAT OVERHEAD AMOUNT IS TOO HIGH ON THAT JOB?

A YES, MA'AM.

Q YOU WOULD AGREE WITH ME THAT THERE IS AN AMOUNT OF OVERHEAD THAT SHOULD BE BOURNE BY THE WILLOUGHBY PLACE JOB?

A OH, YES. I'M NOT DISPUTING THAT THERE SHOULD BE OVERHEAD. I'M JUST DISPUTING THE AMOUNT OF OVERHEAD.

Q LET'S GO TO THE THIRD PAGE, WHICH AT THE TOP SAYS, "OFFICE SUPPLIES/EXPENSES." LET'S MAKE SURE WE'RE LOOKING AT THE SAME PAGE. THE FIRST TWO LINE ITEMS SAY, "OFFICE EXPENSES/SUPPLIES", AND IT GIVES A TOTAL FOR THE YEARS OF '04, '05,

'05, '07, AND '08?

A YES, MA'AM.

Q YOU'VE GOT "BETH'S PAPER?" WHAT SIGNIFICANCE DOES THAT HAVE TO YOU? WHAT DID THAT MEAN?

A BETH WAS DOING A LOT OF CLOSINGS, REAL ESTATE CLOSINGS. SHE WAS MAKING A LOT OF COPIES AND OFFICE EXPENSES/SUPPLIES. PAPER WAS A BIG DEAL. THAT'S WHAT THAT WAS ALL RELEVANT TO.

Q PARDON ME?

A THAT'S ALL THAT WAS IN RELEVANCE TO.

Q DO YOU AGREE THAT SOME AMOUNT OF OFFICE EXPENSES/SUPPLIES SHOULD BE BOURNE FROM EACH OF THOSE YEARS BY A&E?

A YES, MA'AM.

Q DO YOU HAVE AN AMOUNT THAT YOU BELIEVE IS APPROPRIATE VERSUS WHAT IS ON MR. VEREEN SUMMARY HERE?

A IF I'M NOT MISTAKEN, THIS IS WHAT IS ASSIGNED TO A&E PAID EACH YEAR, 6816, 6816, 6816 EACH YEAR. I THINK IT'S A LITTLE BIT HIGH. I DON'T HAVE RECORDS OF... I DON'T HAVE ANYTHING TO SUPPORT THAT, BUT THAT SEEMS LIKE A LOT OF PAPER FOR A SMALL CONSTRUCTION COMPANY TO BE USING.

Q YOU CONSIDER $40 MILLION OF TRANSACTION IN AND OUT OVER... I THINK YOUR ACCOUNTANT TESTIFIED

OVER 40 YEARS AS SMALL?

A YES, MA'AM. THAT IS SMALL.

Q THE NEXT ITEM IS PUT DOWN FOR OFFICE SUPPLIES/ EXPENSES IS A SITE TECH SUBSCRIPTION FOR $1,710 A YEAR.

A YES, MA'AM.

Q DO YOU DISPUTE THAT AS BEING AN A&E EXPENSE AND A RESOURCE USED BY A&E?

A I DO NOT THINK WE GOT SITE TECH UNTIL 2005. I HAVE NO BACKUP WHATSOEVER TO SAY THAT WAYNE PAID THAT. I KNOW WE HAD SITE TECH AND WE USED IT. I JUST DON'T HAVE THE BACK UP TO SAY HE PAID IT. AND I DON'T THINK WE HAD IT IN 2004.

JUDGE HOWE: MR. SMITH, FOR MY BENEFIT WHAT IS SITE TECH?

A SITE TECH IS LIKE A REAL ESTATE CONSOLIDATION YOU CAN GO ON AND FIND WHO OWNS PROPERTY, WHAT SOLD, WHAT HAS BEEN SOLD BACK AND FORTH.

JUDGE HOWE: IT'S KIND OF LIKE A COMPUTER SOFTWARE PROGRAM?

A THAT'S A FANTASTIC PROGRAM, YES, MA'AM.

JUDGE HOWE: OKAY.

Q THE PUBLIC CAN GET ON THE HORRY COUNTY WEBSITE AND GET A CERTAIN AMOUNT OF INFORMATION, BUT THE SITE TECH JUST TAKES IT AND ENHANCES IT STEPS

FURTHER WHERE YOU CAN GET A LOT MORE OF THAT TYPE OF INFORMATION?

A THAT'S CORRECT. AND YOU MUST PURCHASE AREAS LIKE YOU PURCHASE GEORGETOWN COUNTY, HORRY COUNTY, MARION COUNTY. YOU HAVE TO PURCHASE FROM SITE TECH FOR YOUR SUBSCRIPTION FOR IT.

JUDGE HOWE: I UNDERSTAND.

Q BUT YOU AGREE... WOULD YOU AGREE THAT -- I MEAN, YOU DO AGREE THAT A&E DID USE SITE TECH?

A YES, MA'AM, I DO.

Q AND WOULD YOU AGREE THAT WHENEVER A&E GOT SITE TECH AND YOUR RECOLLECTION IS YOU THINK '06?

A '05. I DON'T THINK WE HAD IT IN '04.

Q OKAY. WOULD YOU AGREE THAT THE EXPENSE OR THE ANNUAL SUBSCRIPTION FOR THAT SITE TECH PROGRAM WOULD BE AN APPROPRIATE EXPENSE OF A&E'S?

A IT WOULD BE AN APPROPRIATE EXPENSE IF A BILL AND A CHECK WOULD HAVE BEEN PAID BY MR. VEREEN OR WHOEVER.

Q WELL, IF WE HAVE A CHECK, BUT WE DON'T HAVE AN INVOICE, YOU WOULD SAY THAT'S IT'S NOT AN APPROPRIATE EXPENSE OF A&E?

MR. DURANT: CHECK FROM WHOM?

MS. COOK: A&E.

MR. DURANT: A CHECK FROM A&E, IS THAT

WHAT YOU'RE SAYING?

A A CHECK FROM A&E. THAT'S NO PROBLEM FOR SITE TECH.

Q IF IN SOME YEARS THE CHECK WAS NOT FROM A&E, BUT IT WAS PAID BY MR. VEREEN ON A&E'S ACCOUNT OR BENEFIT OR WAS PAID BY PARK PLACE PROPERTIES ON BEHALF OF A&E OR IT WAS PAID BY PARKWAY OFFICES BY A CHECK ON BEHALF OF A&E OR IT WAS PAID BY ARTHUR VEREEN CONSTRUCTION PER CHECK FOR A&E, DO YOU HAVE A PROBLEM WITH A&E REIMBURSING... SHOULD A&E HAVE OR SHOULD THEY NOW REIMBURSE WHATEVER ENTITY OF MR. VEREEN OR MR. VEREEN THAT PAID FOR SITE TECH THAT WAS USED BY A&E?

A IT MAY HAVE BEEN PARTIALLY USED BY A&E. IT MAY HAVE BEEN USED IN PARTIAL BY PARK PLACE PROPERTIES OR PARKWAY OFFICES OR ELIZABETH SISSON OR WHOEVER.

Q WAS IT USED BY YOU PERSONALLY NOT FOR A&E BUSINESS?

A YES. I DID USE IT, YES, MA'AM.

Q DO YOU HAVE A PROBLEM WITH A&E PAYING THE ANNUAL SUBSCRIPTION FOR SITE TECH, WHETHER IT ACTUALLY PAID IT AT THE TIME OR WHETHER MR. VEREEN OR AN ENTITY OF MR. VEREEN PAID IT AT THE TIME? DO YOU HAVE A PROBLEM WITH A&E BEING RESPONSIBLE

FOR THAT CHARGE? I THINK IT'S $1,700 A YEAR?

A IF THEY HAVE A BILL AND THEY HAVE A CHECK WHERE THEY HAVE PAID IT AND IT WAS PUT IN BEFORE DECEMBER 1ST, WE HAVE NO PROBLEM.

Q BEFORE... BEFORE... BEFORE DECEMBER 1ST OF --

A SPECULATION. WHEN Y'ALL HAD TO PRODUCE.

Q OH, SO, IF IT WAS IN... EVEN THOUGH IT WAS A LEGITIMATE... YOUR POSITION WOULD BE EVEN THOUGH IT WAS A LEGITIMATE A&E EXPENSE, IF A CHECK AND A RECEIPT WAS NOT PRODUCED THAT'S TO BAD A&E... MR. VEREEN OR HIS COMPANIES AREN'T ENTITLED TO BE REIMBURSED OR GIVEN CREDIT FOR BILLS THAT YOU ACKNOWLEDGE ARE LEGITIMATE A&E EXPENSES --

MR. DURANT: YOUR HONOR, SHE IS TRYING TO GET AROUND A COURT ORDER THAT REQUIRED HER TO DO CERTAIN THINGS ON A CERTAIN DATE. AND IT'S UNFAIR TO ASK HIM, DOES HE DISAGREE WITH YOUR ORDER. THAT'S WHAT SHE'S TRYING TO DO. THIS IS IMPEACHMENT ON A TOPIC THAT WAS SUBMITTED TO SAY, "HEY, YOU OWE ME MONEY AND THIS WAS MR. VEREEN'S RESPONSE THAT SAYS I DON'T." NOW, WE ARE GOING INTO, "CAN YOU PAY THE BILL?" HE SAID, "NO. YOU DIDN'T MEET THE DEADLINE. IF IT WAS

WITHIN THE DEADLINE, I WOULD PAY IT." THAT'S THE COURT'S DECISION, NOT MR. SMITH'S DECISION.

JUDGE HOWE: I UNDERSTAND.

MS. COOK: I AGREE IT'S ULTIMATELY YOUR DECISION, YOUR HONOR, BUT THE COURT ORDER SAYS I'VE GOT TO PRODUCE THE DOCUMENTS. IT DOESN'T SAY THAT I CAN'T INTRODUCE THE TESTIMONY AND YOU WILL JUDGE THE CREDIBILITY OF IT.

JUDGE HOWE: I THINK HE'S SAYING, IF YOU DIDN'T INTRODUCE THE DOCUMENTS, THEN HE'S NOT GOING TO AGREE TO IT.

MS. COOK: I UNDERSTAND THAT.

JUDGE HOWE: AND I DON'T THINK HE HAS TESTIFIED THAT HE THINKS IT'S A LEGITIMATE A&E EXPENSE. I THINK HE SAID ALL THESE OTHER ENTITIES USED IT AS WELL.

MS. COOK: OKAY.

Q LET'S LOOK THROUGH THESE DOCUMENTS. WELL, BEFORE DECEMBER THE 21ST. I'M GOING TO HAND YOU WHAT HAS BEEN MARKED AS DEFENDANT'S EXHIBIT NUMBER 27. IT'S A COPY OF THE BOTTOM OF ONE OF THE CHECKING ACCOUNTS... THE CREDIT CARD... THE

MASTER CARD OF MR. VEREEN.

MR. DURANT: IS THIS THE MASTER CARD OF MR. VEREEN OR WHO IS IT THE MASTER CARD OF?

MS. COOK: MR. VEREEN.

MR. DURANT: IT DOESN'T SHOW THAT ON THERE.

MS. COOK: WELL, THIS IS A MASTER CARD BILL AND WHEN WE GET MR. VEREEN ON THE STAND, I WILL HAVE HIM IDENTIFY THIS.

MR. DURANT: IT DOESN'T SAY WHICH COMPANY. IT SAYS, "ARTHUR VEREEN CONSTRUCTION" THAT HAD CREDIT CARDS AND MR. VEREEN HAD SOME, BUT IT WASN'T PAID BY THE COMPANY THAT INCURRED THE BILL. THAT'S THE REASON FOR THE REQUIREMENT OF THE COURT'S ORDER. GO AHEAD AND ASK HIM WHAT YOU WANT TO.

Q LET ME ASK YOU ON THIS DEFENDANT'S EXHIBIT NUMBER 27, THE THIRD LINE ITEM DOWN, IT'S GOT "PURCHASE 11/8." DO YOU SEE AN ENTRY OF $1,795.50 WHERE IT SAYS, "SITE TECH SYSTEMS, LLC?"

A YES, MA'AM.

Q TO YOUR KNOWLEDGE IS THAT SITE TECH SYSTEM THE

SAME SITE TECH THAT A&E AND THE OTHER PEOPLE USING THE A&E OFFICE HAD USE OF?

A THIS ONE --

Q THIS IS '06, MR. SMITH, BECAUSE YOU CAN SEE WHERE IT SAYS, "CLOSING DATE 11/16/06."

A OKAY. I SEE IT, YES. THIS IS THE SAME SYSTEM THAT WE USED.

Q OKAY. AND THE TOP OF THE CHECKS --

A THE SAME SYSTEM THAT WAS USED. WHEN WE SIGNED ON, IT HAD MR. VEREEN'S NAME AND MR... EVERYTHING IN THE PASSWORD AND TO GET ON WAS A VEREEN NAME, A VEREEN OR WHATEVER. IT WAS TO GET ON.

Q ALRIGHT. THE TOP OF EXHIBIT 27 IS A CHECK FROM PARK PLACE PROPERTIES OF MYRTLE BEACH, NOVEMBER 30TH 2006 THAT PAYS THAT TOTAL BILL THAT'S IN THE SAME AMOUNT, CORRECT?

A IT LOOKS LIKE IT, BUT, I GUESS, IT IS.

Q NOW, LET ME SHOW YOU ANOTHER DOCUMENT THAT I AM MARKING FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT 28.

MR. DURANT: YOUR HONOR, SO THE COURT IS CLEAR, HERE ON YOUR ORDER. YOUR ORDER OF THE COURT SAYS, "THE INVOICE WAS TO BE SUBMITTED FROM THE PROVIDER" WHICH

WOULD HAVE BEEN SITE TECH SYSTEM. THERE IS NO INVOICE. THIS IS A CREDIT CARD BILL OF ONE OF THE DEFENDANTS AND THEY DIDN'T COMPLY BY SUBMITTING THE CREDIT CARD STATEMENT SO THE PLAINTIFF'S... THERE IS A REQUIREMENT BECAUSE OF THE RULING OF THE COURT THAT THERE MUST BE A BILL FROM THE VENDER ITSELF AND THERE MUST BE A CHECK TO PAY IT. SHE HAS NOT COMPLIED. THIS DOES NOT COMPLY WITH THE ORDER.

MS. COOK: WHEN YOU SAY, "THIS", FRANK, YOU'RE TALKING ABOUT DEFENDANT'S EXHIBIT 27?

MR. DURANT: CORRECT.

JUDGE HOWE: YOU HAVE NOT MOVED TO ADMIT DEFENDANT'S 27 IN?

MS. COOK: NOT YET.

Q LET ME SHOW YOU WHAT WE HAVE MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT 28. IT'S ENTITLED "DESCRIPTION INFORMATION FORM."

A YES, MA'AM.

Q AND IT'S GOT "COMPANY NAME, A&E." IT'S GOT A START DATE ON THIS PARTICULAR CONTRACT ON DEFENDANT EXHIBIT 28 AS NOVEMBER 6TH 2006. YOU

DON'T DENY, DO YOU, SIR, THAT A&E DID HAVE A CONTRACT, AT LEAST, BY NOVEMBER 6TH 2006 WITH SITE TECH TO PROVIDE THAT SERVICE THAT YOU --

MR. DURANT: YOUR HONOR, I OBJECT TO THE QUESTION. SHE SHOULD ASK HIM HAS HE EVER SEEN THIS BEFORE, BEFORE SHE ASKED HIM THE QUESTIONS ABOUT THE CONTRACT.

MS. COOK: I HAVEN'T ASKED TO ADMIT IT YET.

MR. DURANT: IT DOESN'T MATTER. IF YOU'RE ASKING HIM ABOUT A CONTRACT, YOU NEED TO ASK HIM HAS HE EVER SEEN THIS CONTRACT. THAT'S THE OBJECTION OF THE PLAINTIFF.

JUDGE HOWE: ARE YOU ASKING TO ADMIT IT?

MS. COOK: NOT AT THIS TIME, NO, MA'AM.

JUDGE HOWE: ALRIGHT. MR. SMITH, HAVE YOU EVER SEEN WHATEVER THIS DOCUMENT IS THAT MS. COOK IS SHOWING YOU?

A I HAVE NEVER SEEN THIS DESCRIPTION INFORMATION FORM.

Q ALRIGHT. DO YOU DENY THAT A&E DID SUBSCRIBE TO SITE TECH AND THAT THEY DID IN TERMS OF BEING ABLE TO HAVE THAT SERVICE ENTERED INTO SOME KIND OF CONTRACT OR ARRANGEMENT WITH SITE TECH TO

PROVIDE THAT SERVICE FOR A FEE?

A I AGREE WE USED IT AND ACCORDING TO THIS THING, THE DESCRIPTION INFORMATION, THE COMPANY NAME WAS A&E.

Q OKAY. AND IF YOU LOOK AT THE THIRD PAGE OF THAT DOCUMENT. IN ORDER TO USE THAT SYSTEM WAS THE CREDIT CARD OF MR. VEREEN, THE MASTER CARD, 5474872750241679 USED AS A METHOD TO PAY FOR THE SITE TECH SERVICE FOR A PERIOD OF TIME?

A ACCORDING TO THIS, YES, MA'AM.

Q DO YOU HAVE ANY REASON TO DISPUTE WHAT IS SHOWN ON DEFENDANT'S EXHIBIT 28? THAT'S THE CONTRACT THAT WAS ENTERED THAT MR. VEREEN'S MASTER CARD WAS UTILIZED TO PAY FOR THE SERVICES OF SITE TECH PROVIDED TO A&E?

A THERE IS A DESCRIPTION OF INFORMATION AND IT APPEARS TO BE CORRECT.

MS. COOK: YOUR HONOR, I MOVE TO ADMIT DEFENDANT'S EXHIBIT 28 AND DEFENDANT'S EXHIBIT 27.

JUDGE HOWE: SAME OBJECTION, YOUR HONOR. THERE IS NO PROOF THAT THIS SUBSCRIPTION WAS GIVEN TO US BEFORE THE DEADLINE ALSO.

JUDGE HOWE: I UNDERSTAND.

MS. COOK: YOUR HONOR, I'M GOING TO NEED A RULING FROM THE COURT.

JUDGE HOWE: WAS DEFENDANT'S 28 GIVEN TO THE PLAINTIFF'S ATTORNEYS WITHIN THE DEADLINE?

MS. COOK: WELL, YOUR HONOR, FIRST OF ALL, ANY DOCUMENTS --

MR. DURANT: THE QUESTION HAS TO BE ANSWERED FIRST AS TO WHETHER SHE GAVE IT TO ME.

JUDGE HOWE: DEFENDANT'S 27 AND 28?

MS. COOK: DEFENDANT'S 27 AND 28 WERE GIVEN BEFORE THE DECEMBER 21ST... THE DECEMBER 1ST DEADLINE INASMUCH AS MR. DURANT, MS. BRADY, AND MR. SMITH PRIOR TO MY INVOLVEMENT IN THE CASE WENT, AT LEAST ONCE, BUT I BELIEVE TWICE, BUT I MIGHT BE WRONG ON THAT. IF I COULD, YOUR HONOR, PLEASE FINISH MY THOUGHT... I WOULD LIKE TO COMPLETELY TRY TO PRESENT MY ARGUMENT AND THEN HE CAN TALK AND MAYBE I WILL COME UP WITH SOMETHING ELSE.

MR. DURANT: SHE'S VERY PERSISTENT, YOUR HONOR.

JUDGE HOWE: ALL THE ATTORNEYS IN THIS ROOM ARE VERY GOOD I UNDERSTAND.

MS. COOK: LET ME GET BACK TO MY TRAIN OF THOUGHT. I AM AWARE AND I DON'T THINK MR. DURANT DENIES THE FACT THAT AT LEAST ON ONE OCCASION HE, MR. SMITH, AND MS. BRADY IN ORDER TO YOU REVIEW THE A&E DOCUMENTS, WENT TO OFFICES OF A&E TO REVIEW DOCUMENTS THAT WERE SET OUT IN THE CONFERENCE ROOM. THEY REVIEWED THOSE DOCUMENTS AND THEY CHOSE WHAT THEY WANTED TO GET. MY UNDERSTANDING IS MR. DURANT STAYED A LITTLE WHILE, BUT AS WE WOULD LIKE TO DO, LEFT MR. SMITH AND MS. BRADY THERE TO COMPLETE THE TASK. THEY DECIDED WHAT THEY WANTED TO MARK. THEY DIDN'T WANT EVERYTHING. THE RULES... AS I UNDERSTAND THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE, THEY REQUIRE THAT YOU PRODUCE A DOCUMENT IN THE METHOD IN WHICH THEY ARE REGULARLY STORED.

JUDGE HOWE: I UNDERSTAND THAT, MS. COOK.

MS. COOK: SO, THEY WERE PRODUCED. IN ADDITION TO THAT PRODUCTION BECAUSE

THESE RECORDS ARE RECORDS OF A&E, THESE ARE NOT RECORDS OF... THE CONTRACT IS A RECORD OF A&E'S AS FAR AS EXHIBIT 27 IS CONCERNED. 28, I'M SORRY. THAT'S A RECORD OF A&E. ADDITIONALLY, YOUR HONOR, WE PRODUCED --

JUDGE HOWE: NOT EXACTLY. 28 IS A DOCUMENT OF BOTH ARTHUR VEREEN AND A&E BECAUSE THE NAME OF THE SUBSCRIBER IS ARTHUR VEREEN. THE COMPANY NAME IS A&E BUT THE SUBSCRIBER IS ARTHUR VEREEN.

MR. DURANT: AND THE COMPANY THAT PAID IT WAS PARK PLACE PROPERTIES. THAT'S A DIFFERENT COMPANY.

MS. COOK: YOUR HONOR, IT'S OUR POSITION THAT, THAT CONTRACT WAS IN THE GROUP OF DOCUMENTS THAT WERE PRODUCED AT THE OFFICES OF A&E. BUT ADDITIONALLY, YOUR HONOR, AND I WOULD LIKE AT THIS TIME TO INTRODUCE AS --

JUDGE HOWE: WHEN WAS THAT MEETING? DO YOU KNOW ABOUT WHEN? THAT WAS WHEN MR. MACDONALD WAS STILL THE ATTORNEY OF RECORD FOR THE DEFENDANTS?

MS. COOK: YES, MA'AM. SEPTEMBER OF

'09, AROUND THAT AREA OF TIME. I WOULD ALSO LIKE TO INTRODUCE AS PLAINTIFF'S. EXHIBIT --

JUDGE HOWE: WELL, LET ME ASK YOU THIS, MS. COOK. IS THIS PART OF THE INFORMATION OR PART OF WHAT YOU CONSIDER ACCOUNTING INFORMATION FOR SET OFF AND REIMBURSEMENT?

MS. COOK: YES, MA'AM. I WOULD ALSO LIKE TO INTRODUCE --

JUDGE HOWE: BECAUSE THAT'S PART OF THE... I KNOW WE HAD A STATUS CONFERENCE AND THAT IS EXACTLY WHAT PART OF THE ORDER THAT WAS RENDERED IN THE PRE-TRIAL ORDER FILED OCTOBER THE 8TH OF 2008. IT SAYS, "THE DEFENDANT SHALL PRESENT EVIDENCE OF THE ACTUAL INVOICE OR BILL FOR SERVICES FOR THE LABOR RENDERED IN EXCHANGE FOR THE CHECK FOR PAYMENT MADE PURSUANT TO SUCH INVOICE. IF THE INFORMATION IS NOT DELIVERED TO PLAINTIFF WITHIN SUCH DEADLINE, IT IS ORDERED THAT SUCH ACCOUNTING RECORDS AND INFORMATION SHALL NOT BE PRESENTED IN THE TRIAL OF THE CASE BY THE DEFENDANT."

THAT'S SUPPOSED TO BE DELIVERED BY DECEMBER 1ST 2010.

MS. COOK: YES, MA'AM. AND THE MARCH '09 PRODUCTION PRODUCED PART OF THIS. YOUR HONOR, PRODUCED PART OF THIS. ADDITIONALLY, IN THE REQUEST TO PRODUCE, 8 NOTEBOOKS WHICH ARE REQUESTS TO PRODUCE RESPONSES 1 THROUGH 39 WERE PRODUCED AS WELL AS...

JUDGE HOWE: I KNOW THERE ARE LOTS AND LOTS OF DOCUMENTS. IN FACT, I DON'T KNOW THAT I HAVE HAD A CASE WITH THIS MANY PIECES OF PAPER IN IT SINCE I'VE BEEN HERE. I'VE ONLY BEEN HERE A LITTLE OVER TWO YEARS SO -- BUT THERE IS STILL LOTS OF PAPER.

MS. COOK: AS WELL AS FOUR MORE NOTEBOOKS THAT WERE PRODUCED JUST PRIOR TO DECEMBER 1ST 2010.

JUDGE HOWE: WELL, MY QUESTION IS WHERE ARE DEFENDANT'S 27 AND 28 IN ANY OF THOSE NOTEBOOKS?

MS. COOK: I DON'T KNOW IF THEY WORK IN --

MR. DURANT: YOUR HONOR, THE ONLY THING

THAT --

MS. COOK: NO, NO, NO, NO. 27, EXCUSE ME, IF I COULD. 27 WAS IN SOME OF THESE NOTEBOOKS.

JUDGE HOWE: WAS DEFENDANT'S 28 IN THERE? THAT'S THE SUPPORTING INVOICE.

MS. COOK: BEAR WITH ME JUST A MINUTE. 27 WAS PRODUCED PRIOR TO DECEMBER 1ST AND IS IN THE NOTEBOOK.

MR. DURANT: YOUR HONOR, THERE ARE TWO NOTEBOOKS. ONE AND THE ONLY ONE I'M COUNTING IS THE ONE SHE GAVE US IN COMPLIANCE WITH THE ORDER, NOT THE SECOND NOTEBOOK.

MS. COOK: WE'RE TALKING ABOUT THE FIRST BOOK. 27 IS THE CHECK AND THIS STATEMENT FROM THE CREDIT CARD COMPANY, WHICH IS A RECURRING CHARGE FOR WHICH WE DON'T GET INDEPENDENT LITTLE RECEIPTS. THIS IS THE --

MR. DURANT: NO TESTIMONY TO THAT.

MS. COOK: THIS IS THE RECEIPTS, YOUR HONOR. ADDITIONALLY, SO THAT WAS IN THE NOTEBOOK PRODUCED PRIOR TO THE COURT'S ORDER. 28 WAS IN THE RECORDS OF A&E AT

A&E'S OFFICE WHEN THE PLAINTIFF WENT TO DO THEIR DOCUMENT INSPECTION.

MR. DURANT: WHO SAID IT WAS THERE? WHERE IS IT IN THEIR TESTIMONY?

JUDGE HOWE: THE PROBLEM IS, YOU WEREN'T THE COUNCIL OF RECORD THEN. WE HAD MR. MACDONALD AS THE COUNSEL OF RECORD. AND WE'VE GOT MR. DURANT WHO SAYS THAT HE'S NEVER SEEN THIS BEFORE, IS THAT CORRECT?

MR. DURANT: I NEVER SEEN IT, YOUR HONOR, BUT IT'S MY --

MS. COOK: YES. HE HAS SEEN IT.

MR. DURANT: IT'S NOT ME THAT HAS TO SEE IT, YOUR HONOR. IT IS --

JUDGE HOWE: AND MR. SMITH SAYS THAT HE HAS NEVER SEEN IT EITHER. MR. DURANT, YOU KNOW THAT YOU HAVE NOT SEEN IT SINCE DECEMBER THE 1ST 2010?

MR. DURANT: YOUR HONOR, IF I COULD BE HEARD AND KIND OF EXPLAIN MY POSITION?

JUDGE HOWE: YES, SIR.

MR. DURANT: THERE WAS A LAWSUIT AGAINST THE DEFENDANT, A&E FOR MISAPPROPRIATION OF FUNDS. WE ADDED THE OTHER PARTIES BECAUSE THEY GOT THE MONEY AND IT WAS

TRANSFERRED AND THEN THERE WAS A COUNTERCLAIM. SO, WE DID GO TO THEIR OFFICE, NOT BECAUSE THERE WAS A SUBPOENA. THOSE ARE OUR RECORDS. WE ALMOST HAD TO GET A COURT ORDER TO DO IT. WE WENT IN THERE ONE DAY AND WE LOOKED AT RECORDS. THAT CHECK HERE, I'M TALKING ABOUT THIS ONE, THIS CHECK, IS FOR PARK PLACE PROPERTIES.

JUDGE HOWE: YOU'RE POINTING TO DEFENDANT'S 27?

MR. DURANT: YES. IT'S A CHECK... SO MAYBE THE COURT DISREGARDS ANY OF THESE, BUT MR. SMITH AND A&E, WHO I REPRESENT DON'T. SO, PARK PLACE PROPERTIES CLAIMS THEY'RE ENTITLED TO A CREDIT. WELL, THEY GOT TO SHOW IT BECAUSE I DON'T TREAT THEM AS ONE IN THE SAME AND NEITHER DOES THE LAW. SO, IT'S INCUMBENT UPON THE DEFENDANT IN OUR DISCOVERY REQUEST THAT YOU'RE CLAIMING REIMBURSEMENT FOR A BILL AS PARK PLACE PROPERTY THAT YOU PAID. SHOW ME THE INVOICE, NOT A CREDIT CARD FROM MR. VEREEN PERSONALLY OR ARTHUR VEREEN

CONSTRUCTION. WE WANT THE BILL AND THEN WE WANT THE EVIDENCE OF PAYMENT BECAUSE WE ARE NOT GOING TO GIVE MR. VEREEN PERSONALLY CREDIT FOR A PAYMENT MADE BY PARK PLACE PROPERTIES BECAUSE WE THINK IN THESE ILLEGAL ENTITIES IF SHE'S GOT THESE TWO THINGS IN THE STUFF BY DECEMBER 2ND THEN, HEY, YOU MIGHT RULE WITH HER --

JUDGE HOWE: ARE THOSE TWO THINGS DEFENDANT'S 27 AND 28?

MR. DURANT: I DON'T THINK THOSE TWO... IF THEY HAD GIVEN THINGS THEN, MY FEELING PROBABLY IS THAT MR. SMITH WOULD HAVE SAID, "MAYBE I'LL APPROVE IT." WE WOULD HAVE NEVER APPROVED THIS AS A CREDIT FOR PAYMENT FOR MR. VEREEN. IT WOULD BE A CREDIT FOR THE PERSON THAT MADE IT, PARK PLACE PROPERTIES. WE DON'T KNOW WHY THEY DID ALL OF THIS, BUT WE ARE GOING TO INSIST ON STRICT COMPLIANCE BECAUSE OF THESE PROBLEMS. WE COULDN'T GET THIS CREDIT CARD BECAUSE IT IS NOT A CREDIT CARD OF A&E'S. THAT WOULD BE THE FIRST THING THAT WE WOULD

WANT TO KNOW. WAS IT OUR CREDIT THAT WAS BEING PLEDGED AND PAID WITH A CREDIT CARD AND DID SOMEONE ELSE PAY IT? I THINK WE WERE ALL AWARE OF THIS WHEN WE CAME OVER HERE AND I THINK YOU SAID, "HEY, IF YOU WANT CREDIT, PARK PLACE PROPERTIES, PARK PLACE PROPERTIES GIVE ME THE CHECK WHERE YOU PAID IT AND GIVE ME THE INVOICE SO THE COURT CAN GO AND GIVE THE PROPER PERSON CREDIT OR IF YOU DON'T, YOU'RE NOT GOING TO GET IT." THAT'S OUR POSITION AS TO EVERY BILL.

MS. COOK: YOUR HONOR, FIRST OF ALL, EXHIBIT 27 IS A PARK PLACE PROPERTY, WHICH WAS A DIFFERENT ENTITY.

JUDGE HOWE: YES, MA'AM.

MS. COOK: THE BOTTOM OF THAT, MR. VEREEN'S CREDIT CARD, PLUS THE REGISTER TAPE, THAT ADDS ALL THE AMOUNTS THAT WERE ON THAT CREDIT CARD AND WERE PRODUCED TO MR. SMITH AND HIS COUNSEL BEFORE THE DECEMBER 1ST 2010 DEADLINE. I'M GOING TO FIND THAT... WE HAVE IT RIGHT HERE.

MR. DURANT: IF SHE SAYS IT'S THERE,

YOUR HONOR, I DON'T --

MS. COOK: NO, SIR. NO, SIR. WE HAVEN'T GONE THIS FAR. IT NEEDS TO BE ON THE RECORD AND I WILL SHOW IT TO... AND I WOULD LIKE TO MARK AS EXHIBITS EACH OF THESE NOTES THAT WAS PRODUCED BEFORE THAT DEADLINE BECAUSE I CAN SEE THE WRITING ON THE WALL THIS IS GOING UP.

JUDGE HOWE: I DON'T KNOW THAT YOU NEED TO PRODUCE THEM AS LONG AS YOU PUT ON THE RECORD WHERE IT WAS.

MS. COOK: NO, MA'AM. I WOULD LIKE TO PUT IT ALL ON RECORD.

JUDGE HOWE: I KNOW YOU'RE PUTTING IT ON THE RECORD NOW.

MS. COOK: NO, NO. I WOULD LIKE TO MOVE THESE IN AS EXHIBITS, YOUR HONOR. LET ME JUST SHOW IT TO MR. DURANT.

MR. DURANT: I AGREED WITH HER THAT EVERY EXHIBIT THAT SHE GOT THAT SHE GAVE ME ON DECEMBER 1ST CAN BE AN EXHIBIT, AN EXHIBIT IN THE CASE, BUT NOT EVIDENCE BECAUSE IT'S INCUMBENT UPON THESE DEFENDANTS TO ESTABLISH THAT THEY PAID

THESE CLAIMS.

JUDGE HOWE: OKAY. THAT'S DEFENDANT'S 27. NOW, DEFENDANT'S 28, WHEN WAS THAT PRODUCED?

MS. COOK: DECEMBER... THE EXHIBIT 28 WAS IN THE DOCUMENT PRODUCTION OF THE DOCUMENTS AT THE OFFICES OF A&E IN MARCH OF 2009 OR SEPTEMBER OF 2009 WHEN COUNSEL WENT TO LOOK AT DOCUMENTS.

JUDGE HOWE: HOW DO YOU KNOW THAT, MS. COOK?

MS. COOK: BECAUSE MY CLIENT HAS ADVISED ME THAT IT WAS IN... THAT ALL OF THE DOCUMENTS OF A&E THAT WERE IN THEIR POSSESSION WERE IN THAT OFFICE.

JUDGE HOWE: BECAUSE YOU WEREN'T THERE.

MS. COOK: NO, MA'AM, I WAS NOT. AND I DON'T BELIEVE MR. DURANT WAS THERE, BUT FOR A SHORT PERIOD OF TIME.

MR. DURANT: YOUR HONOR, IF THAT WAS THE CASE, WE COULD TELL GENERAL MOTORS TO... ASK THEM FOR DOCUMENTS AND THEY COULD SAY, "WELL, YOU GOT IT IN THERE SO YOU GOT THEM, BUT I'M NOT BLAMING HER. THE RULE... WE SENT A DISCOVERY REQUEST FOR

THIS INFORMATION AND IT SAID, "TELL ME WHAT YOU CLAIM IS A CREDIT." AS TO THIS ONE, IT WOULD BE IN THE CREDITS FOR PARK PLACE PROPERTIES AND IT WAS NOT IN THE RESPONSE. I BELIEVE WE HAD A COURT ORDER BECAUSE WE WERE TOLD... I'VE GOT THE RECORDS. I'VE GOT THE CHECK AND THE BACKUP FOR IT. AND WE DID NOT GET IT AND WE WENT TO COURT TO SAY, "WAIT A MINUTE, AT SOME POINT IN TIME THIS IS AN ACCOUNTING LAWSUIT. WE'VE GOT TO GO THROUGH AND STRAIGHTEN THIS OUT AND THEY DON'T HAVE AN ACCOUNTANT BECAUSE WE ATTEMPTED TO COMPLY WITH THE ORDER AND THAT WAS NOT PRODUCED.

MS. COOK: YOUR HONOR, HE JUST SAID THAT EXHIBIT 27, WHICH IS THE CHECK AND THE INVOICE, THE CHECK AND THE INVOICE WHICH IS WHAT YOUR ORDER WAS...

MR. DURANT: THAT'S NOT AN INVOICE.

MS. COOK: IT'S OUR POSITION THAT, THAT IS THE INVOICE. I UNDERSTAND MR. DURANT WOULD LIKE A SEPARATE...

JUDGE HOWE: THAT'S A STATEMENT. EXHIBIT 27 IS A CREDIT CARD STATEMENT.

MS. COOK: THAT SHOWS THE REQUIRING CHARGE FOR THE SITE TECH SYSTEM, LLC CHARGE.

JUDGE HOWE: THAT'S WHAT YOU'RE SAYING?

MS. COOK: YES, MA'AM. ALL I CAN PRODUCE IS WHAT... YOUR HONOR, WE COULD NOT GO TO SITE TECH OR TO MASTER CARD AND SAY, IN 2006, MASTER CARD AND SITE TECH, "WE WERE CHARGED A RECURRING CHARGE THAT WE GAVE YOU AT THE BEGINNING OF THE CONTRACT. A CREDIT CARD NUMBER FOR THAT. YOU WOULD BILL US EVERY MONTH. THAT MR. SMITH HAS NOW SAID HE DOES NOT DISPUTE THAT SITE TECH WAS A PROGRAM THAT WAS IN THEIR OFFICE AND UTILIZED BY A&E AS WELL AS OTHERS. I DO NOT BELIEVE THAT THE COURT'S ORDER WENT SO FAR NOR DO THE RULES OR THE LAWS OF EVIDENCE REQUIRE THAT WE PRODUCE EVIDENCE IN A FORM THAT THE PLAINTIFF REQUESTS. OUR POSITION IS THAT THIS IS A RECEIPT OR A STATEMENT OR WHATEVER YOU WANT TO CALL THE DOCUMENT, BUT IT IS A DOCUMENT BY A THIRD PARTY THAT VERIFIES A CHARGE ATTACHED TO IT. IT IS A CHECK

THAT INCLUDES AN AMOUNT THAT PAYS THAT PARTICULAR LINE ITEM CHARGE FOR A SERVICE IN THIS CASE THAT THE PLAINTIFF HAS ADMITTED WAS A SERVICE THAT WAS PROVIDED FOR AND USED BY, ON A RECURRING BASIS, A&E.

JUDGE HOWE: WELL, DEFENDANT'S 27 CAN COME IN FOR WHATEVER IT'S WORTH. DEFENDANT'S 28 IS NOT COMING IN BECAUSE IT DOESN'T COMPLY WITH THE PRE-TRIAL ORDER. AND YOUR CLIENT CAN TESTIFY LATER WHEN YOU PUT HIM UP AS TO DEFENDANT'S 27.

MS. COOK: YOU MEAN 28?

JUDGE HOWE: NO. 28 IS NOT COMING IN BECAUSE IT DOES NOT COMPLY WITH THE PRE-TRIAL ORDER. DEFENDANT'S 27 MAY COME IN.

MS. COOK: JUST SO THAT THE RECORD IS CLEAR, YOUR HONOR. I UNDERSTAND YOUR HONOR'S RULING, BUT I JUST WANT THE RECORD TO BE CLEAR. 28 IS NOT COMING IN BECAUSE IT DOESN'T COMPLY WITH YOUR ORDER IN TERMS OF... THAT ANYTHING THAT... JUST SO WE CAN CLARIFY THIS AND

HOPEFULLY IT WILL SHORT CIRCUIT SOME THINGS DOWN THE ROAD. IF IT WASN'T PRODUCED IN ONE OF THESE NOTEBOOKS AS IT SUPPORTS...

JUDGE HOWE: YOU KNOW, IT WOULD HAVE BEEN NICE IF SOMEBODY HAD BATE STAMPED ALL OF THESE DOCUMENTS AND THAT WAY WE WOULDN'T HAVE A PROBLEM TODAY. BUT FOR WHATEVER REASON, THEY WEREN'T BATE STAMPED. THAT'S WHAT MOST ATTORNEYS DO WHEN YOU HAVE A DOCUMENT CASE IS BATE STAMP THE DOCUMENTS. THAT WASN'T DONE AND I DON'T KNOW WHY IT WASN'T DONE, BUT YOU CAN'T GO BACK AND DO IT NOW. BUT IT WASN'T DONE. AND SO, WE'VE GOT ONE SIDE OBJECTING TO THIS DOCUMENT SAYING, "I'VE NEVER SEEN IT" AND I HAVE GOT YOUR SIDE SAY, "YES, IT WAS PRODUCED." BUT MS. COOK, YOU WEREN'T THERE. SO, I AM GOING TO DISALLOW IT FOR THAT REASON AND FOR THE REASON THAT IT WAS NOT PRODUCED AFTER THE ORDER. IT WAS NOT PRODUCED IN YOUR NOTEBOOK. SO, IF IT WAS NOT PRODUCED IN THE NOTEBOOK AND YOU CAN'T ACTUALLY PROVE IT WAS PRODUCED, I'M

DISALLOWING IT PERIOD.

MS. COOK: SO, DO I UNDERSTAND THAT THE COURT'S POSITION THEREAFTER MAY BE THAT ANYTHING OFFENSIVELY PLAINTIFF'S COUNSEL... I'M NOT QUESTIONING THEIR VERACITY AT ALL BECAUSE MR. DURANT WASN'T THERE THE WHOLE TIME.

JUDGE HOWE: BUT YOU WEREN'T THERE AT ALL. HE WAS THERE AT THE MEETING THE WHOLE TIME.

MS. COOK: CORRECT, YES, MA'AM. AND IT'S MY UNDERSTANDING THAT HE DIDN'T LOOK THROUGH ALL THE DOCUMENTS AT THAT TIME. SO, I KNOW... TO BE PERFECTLY HONEST, I DON'T KNOW THAT ME OR MR. DURANT, IF WE HAD BEEN THERE THE WHOLE TIME, AT THIS POINT, WE COULD SAY WHAT EXACTLY WAS THERE OR WHAT WASN'T. BUT IS IT THE COURT'S POSITION THAT ANYTHING THAT'S NOT IN THE NOTEBOOKS...

MR. DURANT: THE FIRST SET OF NOTEBOOKS BECAUSE YOU HAVE TWO SETS.

MS. COOK: OH, NO, SIR. WE HAVE 3 SETS. WE HAVE THE DOCUMENT PRODUCTION THAT WAS DONE AT THE OFFICE, WHICH AREN'T

CONTAINED IN ANYTHING EXCEPT... I DO HAVE COPIES OF EVERYTHING THAT THEY PULLED OUT OF THAT. WE WILL BE GOING BACK TO LOOK AND SEE IF IT WAS IN THERE, BUT I MEANT IT WASN'T. THIS BEING EXHIBIT 28. WE HAVE THAT DOCUMENT PRODUCTION. WE HAVE 8 BINDERS OF DOCUMENT PRODUCTION. WE HAVE 4 BINDERS OF DOCUMENT PRODUCTION AFTER, YOUR HONOR'S ORDER OF OCTOBER AND BEFORE THE DECEMBER 1ST DEADLINE.

JUDGE HOWE: IS THAT WHAT MR. DURANT IS CALLING THE FIRST?

MR. DURANT: YES.

MS. COOK: I HAVE NO IDEA. AND THEN, AFTER THE DECEMBER 1ST DEADLINE AND WE MET WITH THOSE DOCUMENTS, MY CLIENT WENT BACK AND REORGANIZED WHAT WAS IN THAT SET IN A WAY THAT TRACKED MS. BRADY'S NOTEBOOKS.

JUDGE HOWE: THOSE ARE THE SAME SET OF DOCUMENTS, THEY'RE JUST IN A DIFFERENT ORDER --

MR. DURANT: NO, MA'AM.

MS. COOK: NO, MA'AM. THAT SET THAT WE

CAME BACK WITH AND THEY WERE GIVEN WERE A FULL SET OF THOSE THAT WERE REORGANIZED TO TRACK MS. BRADY'S REPORTS. ADDITIONALLY, DOCUMENTS HAVE BEEN LOCATED AND I UNDERSTAND THE COURT'S POSITION THAT THE ADDITIONAL... I UNDERSTAND THE COURT'S RULING THAT THOSE ADDITIONAL DOCUMENTS THAT WERE PUT IN THE SECOND SET OF NOTEBOOKS AFTER YOUR ORDER, AFTER THE OCTOBER ORDER, THOSE ADDITIONAL DOCUMENTS BROUGHT IN THAT WERE PUT IN THAT SHOW... THOSE DOCUMENTS CANNOT COME IN, THOSE ADDITIONAL DOCUMENTS?

JUDGE HOWE: WHEN WHERE THOSE DOCUMENTS PUT IN?

MS. COOK: YOUR HONOR, WE MET ON DECEMBER... THAT SET OF NOTEBOOKS WAS GIVEN TO THEM ON... DECEMBER 15TH, I BELIEVE, YOUR HONOR. SO 14 DAYS AFTER --

MR. DURANT: I THINK THEY WERE GIVEN TO US AT THE BEGINNING. WE HAD THREE DAYS THAT WE MET AND THEY WERE GIVEN TO US ON THE DATE THAT WE MET.

MS. COOK: THE FIRST DAY?
MR. DURANT: YES. AND WHAT WE WERE DOING IS TRYING TO LOOK AT A NEW DOCUMENT AND I SAID, "WAIT A MINUTE. ARE THEY THE SAME?" WE FOUND OUT THERE WERE SOME INVOICES THAT HAD BEEN ADDED. WE SAID, "WE CAN'T DO THIS. WE'RE SHORT OF TRIAL. WE'VE GOT TO LOOK AT WHAT YOU GAVE US. IF IT WASN'T IN THERE WE CAN'T DO IT."
MS. COOK: I'M NOT EXACTLY SURE OF THE DAY. I THINK THOSE THREE DAYS MAY HAVE BEEN DECEMBER 15TH, 16TH, AND 17TH. THEY WERE RIGHT IN THERE.
JUDGE HOWE: BOTTOM LINE, SOME TIME AFTER THE CUTOFF?
MS. COOK: I BELIEVE IT WAS 14 TO 15 DAYS AFTER THE CUTOFF. SO, THERE ARE SOME DOCUMENTS WITHIN THAT SET OF NOTEBOOKS THAT I WILL PROFFER AS EVIDENCE. THAT DID NOT MEET, YOUR HONOR'S OCTOBER ORDER DEADLINE OF DECEMBER 1ST, BUT TO SAY THAT THEY HAVEN'T RECEIVED THEM OR SEEN THEM IS TO MISCHARACTERIZE WHAT HAS OCCURRED.

JUDGE HOWE: I UNDERSTAND.
MS. COOK: MR. DURANT... I UNDERSTAND MR. DURANT'S POSITION 'CAUSE I'VE BEEN IN HIS SHOES. I MIGHT VERY WELL TAKE THE SAME POSITION.
MR. DURANT: I CAN'T REMEMBER ANYTHING SHE GAVE ME WITHOUT LOOKING AT IT, YOUR HONOR. WE COULDN'T DO IT. WE HAVE TO GO BACK AND LOOK AT THE BOOK.
MS. COOK: YOUR HONOR, BUT TO SAY THAT THEY HAVEN'T SEEN IT, WHAT ACTUALLY OCCURRED AND AS I SAID, IF I HAD, YOUR HONOR'S ORDER, I MIGHT HAVE DONE WHAT MR. DURANT DID.
JUDGE HOWE: THEY JUST DIDN'T SEE IT BEFORE DECEMBER THE 1ST?
MS. COOK: THAT'S CORRECT. THEY CHOSE TO SAY, "WE DIDN'T SEE IT BEFORE DECEMBER 1ST" WHETHER YOU GOT A BILL, A RECEIPT, A STATEMENT AND PROOF OF PAYMENT, CHECK FROM THE ENTITY, WE'RE NOT GOING TO CONSIDER IT. NOW, I WILL SAY I BELIEVE MR. SMITH, EVEN IN A COUPLE OF THOSE INSTANCES, AND I BELIEVE IN A COUPLE OF THOSE INSTANCES, WE WERE

GIVEN CREDIT FOR THOSE ITEMS WHERE THAT PROOF WAS PROVIDED AFTER THE DATE. AND PART OF A CREDIT IS GIVEN BY MS. BRADY AT THE BEHEST OF MR. SMITH WHO DID AGREE WHEN WE WERE ALL SITTING THERE TRYING TO GO THROUGH IT. OH, YES. NOW, THAT I SEE THIS IN A DOCUMENT THAT WAS PRODUCED AFTER DECEMBER 1ST, 14 TO 20 DAYS LATER THAN THAT, YOU KNOW, I DO AGREE THAT THIS IS... OH, NOW, YOU KNOW... I BELIEVE THAT, THAT JACK FROST MATTER WAS ONE --

MR. DURANT: WE WILL TAKE THOSE BACK IF SHE DOESN'T WANT THEM.

MR. THOMAS: YES, WE WILL.

MS. COOK: NO. WE WANT THOSE CREDITS, YOUR HONOR. AND, YOU KNOW, I... THERE WERE ITEMS AND WE WENT THROUGH THEM AND FRANK'S POSITION FOR HIS CLIENT, AS I UNDERSTAND IT, WOULD BE, "WELL, IT DIDN'T GET HERE BY THE CUTOFF SO WE'RE NOT GOING TO CONSIDER IT." BUT IN SOME CASES, MR. SMITH DID SAY, "THAT WAS EXPENSE. I SEE IT NOW. I HAVEN'T SEEN IT BEFORE, BUT, YES, THAT NEEDS TO BE

BACKED OUT OR GIVEN CREDIT FOR." SO, I GUESS... NOW, I DON'T EVEN REMEMBER WHERE I WAS. DO I UNDERSTAND, YOUR HONOR, TO SAY THAT IF THE ACTUAL DOCUMENT PER YOUR ORDER WAS NOT PRODUCED BY DECEMBER 1ST, THE DOCUMENT CANNOT COME IN AS EVIDENCE?

JUDGE HOWE: YES.

MS. COOK: ALRIGHT, YOUR HONOR.

JUDGE HOWE: BECAUSE WE HAVE TO HAVE A CUTOFF AND THAT WAS THE CUTOFF. AND AS I UNDERSTAND, THAT WAS THE CUTOFF THAT Y'ALL AGREED TO IN MY OFFICE IN OCTOBER.

MS. COOK: I BELIEVE WE WERE ACTUALLY IN COURT, YOUR HONOR.

JUDGE HOWE: YOU'RE RIGHT. I THINK WE WERE IN THE COURTROOM. I THINK I ASKED Y'ALL, I SAID, "LET ME KNOW IF Y'ALL THINK YOU CAN COMPLY WITH THAT DECEMBER 1ST DATE. I DON'T WANT TO PUT ANY EXTRA PRESSURE ON YOU. IS THAT A DATE THAT YOU CAN COMPLY WITH?" BECAUSE I UNDERSTAND THERE ARE A LOT OF DOCUMENTS. AND I THINK Y'ALL EVEN SAID YOU JUST DON'T EVEN KNOW HOW MANY

DOCUMENTS. I SAID OKAY. AND YOU SAID YES. DECEMBER 1ST WILL GIVE US ENOUGH TIME.

MS. COOK: YOUR HONOR, I DON'T DISPUTE THAT. ALL I CAN TELL YOU IS WE USED OUR BEST EFFORTS AND WE WERE NOT TRYING TO HIDE ANYTHING. YOU KNOW THIS IS A DIFFICULT CASE AND MR. DURANT AND I UNDERSTAND. BUT I ALSO WOULD LIKE TO PUT ON THE RECORD THAT, YOU KNOW, I DON'T BELIEVE IT'S INCUMBENT UPON THE DEFENDANTS IN THIS CASE TO DO THE PLAINTIFF'S DISCOVERY WORK IN TERMS OF... YES. WE'VE GOT TO PRODUCE IT AND I AGREE WITH THAT. SO, THAT THEY'RE NOT BLIND SIDED, BUT AS I UNDERSTOOD, YOUR HONOR'S ORDER, IT WASN'T THAT... I DIDN'T MEAN IT WASN'T... I DID NOT AND I DO NOT BELIEVE THAT YOUR HONOR'S ORDER WENT SO FAR AS TO SAY IF YOU DON'T PRODUCE EVIDENCE OF A THIRD PARTY, A BILL OR AN INVOICE AND PROOF OF PAYMENT OF THAT INVOICE BY DECEMBER 21ST THAT IS NOT A MATTER THE COURT, IN DOING AN ACCOUNTING, WILL EVEN CONSIDER. I

UNDERSTAND, YOUR HONOR'S RULING TO SAY THE DOCUMENTS CAN'T COME IN, BUT I DID NOT AND I DO NOT BELIEVE YOUR ORDER GOES SO FAR AS TO SAY YOU CAN'T CONSIDER TESTIMONY WITH REGARD TO IT.

JUDGE HOWE: I THINK IT SAYS, "ACCOUNTING RECORDS AND INFORMATION SHALL NOT BE PRESENTED DURING TRIAL OF THE CASE."

MR. DURANT: YOUR HONOR, THIS APPLIES TO CREDITS CLAIMED BY AN ENTITY OTHER THAN THE PLAINTIFF THAT WAS THE BUSINESS THAT WE'RE DEALING WITH. PARK PLACE, FOR EXAMPLE, IS SAYING, "HEY, WAIT A MINUTE. WE GET A CREDIT FOR ALL THE VEREEN STUFF AND WE MADE THE PAYMENT FOR A&E." IT'S INCUMBENT UPON PARK PLACE TO ESTABLISH THAT, NOT A&E. WE CAN'T PROVE THAT HE DID SOMETHING FOR US. SO, IF THEY'RE CLAIMING THE BURDEN OF PROOF IS ON THAT DEFENSE AND I --

JUDGE HOWE: I THINK PART OF THE PROBLEM IN THIS CASE WAS ALTHOUGH IN MR. DURANT'S AND MR. THOMAS REPRESENTING A&E, YOUR CLIENT REALLY HAD ALL OF A&E'S

RECORDS. IS THAT NOT PART OF THE PROBLEM?

MR. DURANT: CORRECT.

MS. COOK: WELL, THAT IS WHERE THE RECORDS WERE SUPPOSEDLY HOUSED, BUT I BELIEVE, YOUR HONOR, THERE IS BUNCH OF TESTIMONY IN THE RECORD BY MR. SMITH YESTERDAY THAT HE RAN OFF BOO-COOS OF DOCUMENTS. SO, WHAT WAS OR WAS NOT LEFT IN OUR OFFICE WHEN MR. SMITH WAS STILL THERE AND HE WAS PART OF A&E, YOUR HONOR. I TOTALLY UNDERSTAND THAT AND I'M NOT SAYING THAT HE WASN'T ENTITLED TO THOSE DOCUMENTS. HE CLEARLY WAS. HE WAS ENTITLED TO THEM. HE'S PRESIDENT OF THE COMPANY. HE WAS AS ENTITLED TO THEM AS THEM BEING STORED AT THE ACTUAL PHYSICAL OFFICES OF A&E, WHICH EVIDENTLY DIDN'T HAVE TO PAY RENT TO THE LANDLORD OF THAT OFFICE. SO, YOU KNOW, I CAN'T SAY WHAT MR. SMITH, AS THE PRESIDENT OF THE COMPANY, HAD AS WELL. I BELIEVE, YOUR HONOR, IF YOU READ THE ANSWER AND COUNTERCLAIM OF MY PREDECESSOR IN THIS CASE THAT THE CLAIMS BROUGHT

ADDITIONALLY IN THE DEFENSES AND IN THE COUNTERCLAIM, MR. VEREEN, AS AN OFFICER OF A&E, ALSO REQUESTS THAT AN ACCOUNTING BE DONE IN THIS MATTER. AND SO, BOTH OF THESE GENTLEMEN ARE SUING ON BEHALF OF A&E. THEY BOTH WANT AN ACCOUNTING. AND SO, FOR OUR HANDS TO BE TIED IN A COURT OF EQUITY TO DO AN ACCOUNTING, A TRUE ACCOUNTING, FOR BOTH OF THESE GENTLEMEN.

JUDGE HOWE: I DON'T THINK YOUR HANDS ARE TIED.

MS. COOK: WELL, YOUR HONOR, IF YOU'RE SAYING NOW AND MAYBE I'M MISUNDERSTANDING WHAT YOUR HONOR'S RULING IS, IF YOU'RE SAYING NOW THAT NO EVIDENCE OF PAYMENTS MADE BY OTHERS ON BEHALF OF A&E FOR A&E OBLIGATIONS OTHER THAN PAYMENTS MADE BY OTHERS ON BEHALF OF A&E FOR WHICH SOME DOCUMENTS HAVE BEEN PROVIDED PRIOR TO DECEMBER 1ST 2010, ANYTHING OTHER THAN THAT, NO TESTIMONY AND NO DOCUMENTARY EVIDENCE CAN BE INTRODUCED. I BELIEVE THAT MY HANDS ARE TIED. I DO UNDERSTAND THE COURT'S POSITION --

JUDGE HOWE: BUT I DIDN'T TIE THEM. I DIDN'T TIE THOSE HANDS. NOW, YOUR CLIENT MAY HAVE TIED THEM BY NOT GIVING YOU THOSE DOCUMENTS TO PRODUCE TO THE PLAINTIFF'S ATTORNEYS, BUT I DIDN'T TIE THOSE HANDS.

MS. COOK: YOUR HONOR, I RESPECTFULLY UNDERSTAND YOUR POSITION AND I UNDERSTAND YOUR POSITION WITH REGARD TO THE DOCUMENTS, BUT I GUESS, I RESPECTFULLY DISAGREE WITH THE INTERPRETATION OF YOUR ORDER THAT WOULD GO SO FAR AS TO SAY THAT NO TESTIMONY... I UNDERSTAND THAT IT'S DISPUTED TESTIMONY, BUT THAT NO TESTIMONY COULD COME IN ABOUT THAT DOCUMENT, EXCUSE ME, ABOUT THOSE EXPENSES PAID BY THIRD PARTY BECAUSE, YOUR HONOR, TO RULE THAT WAY IS TO EVEN SAY THAT NO TESTIMONY COULD COME IN BY MY CLIENTS THAT IS UNSUPPORTED BY A DOCUMENT TO BE CONSIDERED IN THIS ACCOUNTING. NOW, THE WEIGHT THAT YOU PUT ON TESTIMONY WITHOUT SUPPORTING DOCUMENTATION IS ONE THING, BUT TO DISALLOW TESTIMONY ABOUT IT AT ALL OR MY

ABILITY TO CROSS-EXAMINE MR. SMITH AND HIS SENSE OF DECENCY AND JUSTICE, MAY DECIDE JUST AS HE DID WHEN WE MET IN MS. BRADY'S OFFICE, THAT EVEN THOUGH A PARTICULAR INVOICE OR A PARTICULAR CHECK OR PROOF OF PAYMENT WAS NOT PRODUCED BY DECEMBER 1ST, BUT HE HAS SUBSEQUENTLY SEEN IT AND/OR AGREES... AND/OR AGREES, YOU KNOW, THAT THIS IS A LOT OF STUFF, YES. THAT IS A LEGITIMATE EXPENSE THAT WAS A&E'S AND THAT COULD BE ONE PART OF WHAT HE AGREES. BUT I DON'T AGREE THAT IT WAS PAID FOR BY A THIRD PARTY BECAUSE I DON'T HAVE PROOF OF THAT, BUT MY CLIENT COULD TESTIFY ABOUT IT EVEN IF, YOUR HONOR, WON'T LET PROOF OF PAYMENT COME IN, WHICH THE PROOF OF PAYMENT PART IS PROBABLY NOT GOING TO BE THE ISSUE, YOUR HONOR, BECAUSE THE PROOF OF PAYMENT... AND I THINK MR. DURANT MAY NOT BE ABLE TO CATEGORICALLY SAY THAT RIGHT THIS MINUTE, BUT THE PROOF OF PAYMENT, THEY'VE GOTTEN ALL THE CHECKING ACCOUNT STATEMENTS FROM A&E, PARKWAY OFFICES, PARK PLACE PROPERTIES, AND

ARTHUR VEREEN --

MR. DURANT: YOUR HONOR, FROM PLAINTIFF'S PERSPECTIVE, WE DON'T KNOW THAT WE HAVE ALL OF ANYTHING. I KNOW THAT SHE HAS NOT DECEIVED ME ON ANYTHING, BUT TO SAY THAT WE BELIEVE MR. VEREEN WITH WHAT HE HAS DONE IN THIS CASE WOULD BE EMBARRASSING. MY CLIENT DOES NOT BELIEVE IT AND HE WANTS PROOF. WE CAME HERE FOR THE PROOF. WE ARE NOT SUBMITTING MR. SMITH UP HERE TO SAY THAT I WANT CREDIT FOR $12,000 THAT I PAID OUT OF MY INDIVIDUAL ACCOUNT, BUT I WON'T GIVE YOU A CHECK FOR IT. WE HAVEN'T DONE IT. NOW, IF HE WANTS CREDIT...

MS. COOK: BECAUSE MR. SMITH DIDN'T HAVE ANY MONEY.

MR. DURANT: IF YOU WILL PLEASE, LET ME FINISH. IF HE WANTS CREDIT FROM A COMPANY THAT IS NOT THE COMPANY THAT MR. SMITH OWNS, IT'S A VERY SIMPLE REQUIREMENT THAT THE COURT HAS, "GIVE ME THE INVOICE AND THEN WE WILL SEE WHO IT WAS PAYABLE... WHO INCURRED THE BILL AND

WHO PAID IT AND IF IT'S APPROPRIATE. EITHER WE WILL AGREE OR YOU CAN RULE ON IT, BUT WITHOUT THAT, HE CAN'T JUST GO AND SAY IN THIS CASE, "WELL, I PAID TWO MILLION DOLLARS MORE THAN I TOOK OUT. "THAT'S WHY WE'RE IN ACCOUNTING, YOUR HONOR. WE CAN'T DO THIS FOREVER.

JUDGE HOWE: IT IS AN ACCOUNTING PAID. AND YOU DO NEED TO HAVE... IF YOU PAID A BILL, WHOEVER 'YOU' IS, I MEAN, THE ENTITIES ARE MAKING MY HEAD WHIRL. IT'S A&E AND WE'VE GOT TWO SHAREHOLDERS. I DON'T KNOW WHY ALL THESE OTHER ENTITIES ARE INVOLVED IN HERE. THEY SHOULDN'T BE, BUT THEY ARE. YOU NEED TO HAVE A CHECK AND YOU NEED TO HAVE AN INVOICE. THAT'S WHAT THE PRE-TRIAL ORDER WAS ALL ABOUT. THAT'S WHY WE HAVE A CUTOFF DATE AND IT SHOULDN'T BE THAT COMPLICATED, BUT WE'VE BROUGHT IN ALL THESE OTHER ENTITIES AND SO THAT'S WHY WE HAVE A CUTOFF DATE AND WE NEED TO STICK TO THAT.

MS. COOK: YES, MA'AM. I UNDERSTAND. I CLEARLY AGREE THAT THE CHECK HAS NOT

BEEN PRODUCED BY THE CUTOFF DATE, BUT IT MAY BE THAT THERE WERE INSTANCES IN WHICH THERE IS A CHECK PRODUCED WITHIN THE REALM OF YOUR ORDER, SUCH THAT IT WOULD BE ADMISSIBLE. IT MAY ALREADY BE IN, BUT THERE MAY BE INSTANCES... THERE ARE INSTANCES IN WHICH WE GOT THE BACKUP INVOICE OR WHATEVER RECEIPTS AFTER YOUR HONOR'S CUTOFF DATE. AND I UNDERSTAND YOUR HONOR'S RULING THAT ANYTHING THAT WAS PRODUCED AFTER THAT DECEMBER 1ST DATE IN TERMS OF EITHER PROOF OF PAYMENT OR THE INCURRING OF THE OBLIGATIONS, THE RECEIPTS THAT DOCUMENT THAT CANNOT COME IN. BUT DOES IT GOES SO FAR AS TO SAY MY CLIENT CAN'T TESTIFY ABOUT THAT OBLIGATION BEING INCURRED? I THINK THAT GOES... MY ARGUMENT WOULD BE, YOUR HONOR, THAT, THAT GOES TO WEIGH YOUR HONOR, MAY TOTALLY DISCOUNT IT.

JUDGE HOWE: I THINK YOUR CLIENT CAN PROBABLY TESTIFY, BUT I THINK IT PROBABLY DOES GO TO WEIGH BECAUSE WITHOUT THE DOCUMENT... WE HAVE SO MANY ENTITIES INVOLVED. I DON'T KNOW HOW

MUCH WEIGHT I CAN GIVE TO THAT TESTIMONY.

JUDGE HOWE: YES, MA'AM. WITH THAT SAID.

JUDGE HOWE: DOES ANYONE NEED A 10 MINUTE BREAK?

MR. DURANT: THAT WAS A VORACIOUS ARGUMENT THAT DEMANDS A BREAK.

MS. COOK: BEFORE WE TAKE A BREAK CAN I BE CLEAR? IF WE CAN GET THE RECORD CLEAR ON YOUR HONOR'S RULING. AS I UNDERSTAND YOUR HONOR'S RULING 27, WHICH IS THE BOTTOM PART OF THE CHECKING ACCOUNT STATEMENT THAT SHOWS THE CHARGING OF THE SITE TECH MONTHLY CHARGE ALONG --

MR. DURANT: ANNUAL CHARGE.

MS. COOK: NO, SIR. WELL, WHATEVER THE CHARGE IS. THE TOP HALF OF THE EXHIBIT SHOWS A CHECK THAT INCLUDES AN AMOUNT SUFFICIENT TO PAY THAT BILL. THAT CAN BE ADMITTED BUT DEFENDANT'S EXHIBIT 28 CANNOT BE ADMITTED AND IT CANNOT BE ADMITTED BECAUSE WE CANNOT VERIFY TO THE COURT... I CAN VERIFY TO THE COURT, THAT

IT WAS NOT IN ANY OF THE NOTEBOOKS AND OTHER THAN BEING AT THE OFFICES AT THE SEPTEMBER '09 DOCUMENT REVIEW, SINCE WE CANNOT VERIFY THAT IT WAS PRODUCED, THEN 28 CANNOT COME IN?

JUDGE HOWE: APPARENTLY, 27 WAS PRODUCED SOME TIME AGO FOR WHATEVER IT'S WORTH. I DON'T KNOW HOW YOU CAN...

MR. DURANT: 27 WILL STILL HAVE TO BE AUTHENTICATED BY THE DEFENDANTS, BUT WE ADMIT THAT --

JUDGE HOWE: I'M NOT SURE IF THIS WITNESS CAN AUTHENTICATE IT.

MS. COOK: ALRIGHT.

JUDGE HOWE: YOU MAY HAVE TO PUT THAT IN UNDER MR. VEREEN OR MRS. SISSON.

MS. COOK: WELL, AT THIS TIME YOU'RE NOT --

JUDGE HOWE: I'M NOT SURE MR. SMITH IS THE PROPER WITNESS TO PUT IT IN UNDER. UNLESS MR. DURANT AGREES TO PUT IT IN.

MR. DURANT: NO.

JUDGE HOWE: IF IT'S IN THE NOTEBOOK, YOU WOULD AGREE TO PUT IT IN?

MS. COOK: YES.

MR. DURANT: NO. HER NOTEBOOKS ARE NOT INTO EVIDENCE. I WILL AGREE THAT THE NOTEBOOKS SHE DELIVERED TO ME BY DECEMBER 1ST CAN BE MARKED AS AN EXHIBIT. THEY CANNOT GO INTO EVIDENCE UNTIL --

JUDGE HOWE: THEY ARE AUTHENTICATED?

MR. DURANT: CORRECT.

MS. COOK: SO, 28 AND 27, AS I UNDERSTANDING THE COURT'S RULING RIGHT NOW, ARE NOT ADMITTED INTO EVIDENCE?

JUDGE HOWE: YES, MA'AM.

MS. COOK: YOUR HONOR, COULD WE TAKE A BREAK NOW?

JUDGE HOWE: YES, MA'AM.

MS. COOK: AND COULD WE PERHAPS TAKE A LITTLE BIT LONGER BECAUSE WHAT I WOULD LIKE TO DO DURING THE BREAK IS MARK THE NOTEBOOKS. I UNDERSTAND THAT I CAN MARK THEM AS EVIDENCE. THEY WON'T BE IN EVIDENCE YET, BUT --

JUDGE HOWE: THEY HAVEN'T BEEN MARKED YET?

MS. COOK: NO, MA'AM.

JUDGE HOWE: OKAY.

(DISCUSSION OFF THE RECORD.)

Q MR. SMITH, LET'S GO BACK TO DEFENDANT'S EXHIBIT NUMBER 23, WHICH IS MR. VEREEN'S RESPONSE TO YOUR DEMAND LETTERS THAT HAVE AN ANNOTATION BY YOU ON THEM AND IF YOU WOULD FLIP OVER TO THE THIRD PAGE, MR. SMITH, UNDER CATEGORY THAT SAYS, "SALARY EXPENSES" ONE OF THE THINGS ONCE YOU GO THROUGH THE INDIVIDUALS NAME, YOU SEE ANNUAL BONUSES AND HOLIDAY PARTY. IT'S GOT, "RECEIPTS WRITTEN." IS THAT YOUR HANDWRITING?

A YES, MA'AM.

Q LET ME ASK YOU, DID A&E GIVE HOLIDAY PARTIES AND BONUSES TO EMPLOYEES AND TO YOURSELF, MR. VEREEN, MS. SISSON, MRS. DREWITT AND RANDY LONG, WHO I AM GOING TO CALL MORE ADMINISTRATIVE OR SUPERVISORY EMPLOYEES?

A NOT RANDY LONG.

Q YOU DID NOT --

A NO.

Q YOU DISAGREE THAT RANDY LONG GOT BONUSES OR YOU DISAGREE THAT THEY WERE CALLED SUPERVISORY?

A RANDY LONG DID NOT GET BONUSES. HE DIDN'T GO TO WORK FOR A&E UNTIL LIKE JUNE/JULY OF 2007.

Q DO YOU AGREE THAT ANNUAL BONUSES WERE GIVEN TO EMPLOYEES AND THAT YOU DID HAVE HOLIDAY PARTIES

FOR A&E?

A YES. WE HAD SOME HOLIDAY PARTIES.

Q DO YOU DISAGREE WITH IT BEING A LEGITIMATE A&E EXPENSE FOR 2004 THROUGH 2007 OF THE AMOUNTS OF 5,000 AND 10,000, 4,000 AND THEN 4,000 RESPECTIVELY FOR THOSE FOUR YEARS? THAT THOSE ARE LEGITIMATE A&E EXPENSES WITHOUT RECEIPTS BEING PRODUCED TO YOU?

A SOME OF THE BONUSES I UNDERSTAND. AS FAR AS HOW THEY CAME UP WITH 5,000, 10,000 4,000, 4,000, I DON'T THINK THAT'S RIGHT.

Q DO YOU HAVE AN AMOUNT THAT YOU CONSIDER A LEGITIMATE A&E EXPENSE FOR ANNUAL BONUSES AND HOLIDAY PARTIES FOR 2004?

A HOLIDAY PARTIES, THERE SHOULD BE RECEIPTS FOR IT BECAUSE IF ANYTHING WAS BOUGHT, THERE SHOULD BE RECEIPTS FOR THAT.

Q MY QUESTION THOUGH, SIR, WAS, DO YOU HAVE AN AMOUNT AS THE PRESIDENT OF A&E TO AN AMOUNT THAT YOU BELIEVE IS A LEGITIMATE A&E EXPENSE FOR HOLIDAY PARTIES AND ANNUAL BONUSES FOR 2004?

A NO, MA'AM, I DO NOT.

Q IS IT YOUR POSITION THAT IF THERE IS NOT A RECEIPT OR THE AMOUNT THAT IT COST TO THROW THE PARTY THAT A&E SHOULD NOT HAVE TO PAY THAT AS A

LEGITIMATE EXPENSE OR SHOULD NOT BE RESPONSIBLE FOR THAT AS A LEGITIMATE EXPENSE?

A NO, MA'AM. THAT'S NOT WHAT I SAID. IF THE BONUSES WERE WRITTEN OUT AS TO WHO GOT WHAT... IF I HAD A LIST OF THOSE AND I HAD RECEIPTS FOR THE PARTY WHERE THE STUFF WAS PURCHASED OR WHATEVER. IF WE TOOK THEM OUT TO EAT OR WHAT EVER, IF I HAD THOSE RECEIPTS, YES. THAT IS ACCEPTABLE.

Q AND YOU HAVE A FIGURE THAT'S ACCEPTABLE FOR 2005?

MR. DURANT: FOR WHAT?

MS. COOK: ANNUAL BONUSES AND HOLIDAY PARTIES.

A SAME THING ON ALL OF THEM.

Q OKAY. YOU HAVE NO AMOUNT FOR 2005 THAT YOU BELIEVE AS PRESIDENT OF A&E, IS APPROPRIATE TO COVER THE COST OF THE ANNUAL BONUSES THAT YOU GAVE OUT OR HOLIDAY PARTIES?

A NO, MA'AM.

Q FOR 2006?

A NO, MA'AM.

Q FOR 2007?

A NO, MA'AM.

Q AND IT'S MY UNDERSTANDING THAT IT'S YOUR

POSITION AS PRESIDENT OF A&E THAT ANYTHING AFTER 2007 THAT THERE SHOULD BE NO A&E EXPENSES AT ALL? DO I UNDERSTAND THAT POSITION CORRECTLY?

A YES, MA'AM.

Q NEXT IS BETH SISSON'S ALLIANCE. IT'S GOT $300 PER MONTH AND IT HAS FOR 2004 AN AMOUNT OF $3,600. YOU STRUCK THROUGH THEM AND PUT $2,100, IS THAT CORRECT?

A YES, MA'AM. I AM AWARE THAT WAYNE PAID HER $300 A MONTH FOR USE OF HER TRUCK.

Q OKAY.

A I AM AWARE OF THAT.

Q AND DO YOU AGREE THAT IS A LEGITIMATE A&E EXPENSE?

A IT'S LISTED ON A&E AND IT'S NOT DISPUTED.

Q BUT AT A $2,100 LEVEL NOT A $3,600 LEVEL?

A YES, MA'AM.

Q 21?

A YES, MA'AM. 21 NOT 36.

Q THANK YOU. AND WOULD THAT BE THE SAME FOR MRS. DREWITT?

A I DON'T THINK THAT HE GAVE HER $300 A MONTH FOR A CAR ALLOWANCE. I KNOW THAT HE GAVE HER A TANK OF GAS EACH MONTH TO DO THE RUNNING AROUND FOR BANK DEPOSITS AND STUFF LIKE THAT, BUT AS FAR AS

THE 300, I CAN'T TESTIFY TO THAT.

Q DO YOU AGREE AS AN A&E EXPENSE A LEGITIMATE AMOUNT OF $2,100 A YEAR FOR MRS. DREWITT?

A NO, MA'AM.

Q AND THAT WOULD BE NO AS TO THE YEARS 2004 THROUGH 2007?

A YES, MA'AM. I WAS NOT AWARE THAT HE WAS DOING IT, IF HE WAS DOING IT. IF IT'S IN THE BOOKS, IT WOULD NOT BE CHARGED AGAINST MR. VEREEN.

Q IF IT'S IN WHAT BOOK?

A IF IT'S IN SUSAN'S ANALYSES THAT WAS A CHARGE FOR A&E, IT WOULD HAVE NOT BEEN CHARGED TO MR. VEREEN.

Q IF YOU WOULD FLIP TO THE NEXT PAGE. THE TOP OF THAT PAGE IT SAYS, "ITEMS DUE TO AWV" ARTHUR WAYNE VEREEN "FROM A&E", DID YOU REVIEW THIS PAGE?

A YES, MA'AM.

Q AND THE HANDWRITING ON THE PAGE IS YOURS?

A YES, MA'AM.

Q THE FIRST ITEM IS "WILLOUGHBY PLACE-WALK THROUGH EXPENSES." NOW, WILLOUGHBY PLACE THAT IS THAT TRADEMARK SUITS THAT WE TALKED ABOUT THAT MS. BRADY WAS AN EXPERT FOR A&E IN, IS THAT CORRECT?

A YES, MA'AM.

Q AND THAT'S THE LAWSUIT IN WHICH THE TURNER PADGETT FIRM DEFENDED A&E?
A YES, MA'AM.
Q IT'S MY UNDERSTANDING AND IS IT CORRECT THAT A&E PAID LEGAL FEES AND EXPENSES TO THE TURNER PADGETT LAW FIRM TO COVER THE COST OF DEFENSE OF THE WILLOUGHBY PLACE LAWSUIT FOR A PERIOD OF TIME?
A A&E PAID PART OF THE EXPENSE, YES, MA'AM.
Q AND ADDITIONALLY, TURNER PADGETT ALSO REPRESENTED THE OWNER OF THAT PROJECT, THE WILLOUGHBY FAMILY, IN THAT SUIT AND SO THEY PAID PART OF THE LEGAL EXPENSES AS WELL. IS THAT YOUR UNDERSTANDING?
A TO THE BEST OF MY KNOWLEDGE, YES, MA'AM.
Q AND THEN YOU NEVER PERSONALLY PAID ANY OF THE DEFENSE COSTS OF A&E TO LAWYERS, DID YOU?
A PERSONALLY, NO, MA'AM.
Q DO YOU DISPUTE THE $193,738 AS BEING A LEGITIMATE A&E EXPENSE PAID FOR THE DEFENSE OF A&E IN THAT TRADEMARK CASE?
A YES, MA'AM, I DO.
Q WHY DO YOU DISPUTE THAT?
A BECAUSE I DO NOT HAVE BILLS OR RECEIPTS OR WHERE THAT HAD BEEN PAID. THIS NUMBER MEANS NOTHING

TO ME. IT'S JUST AN ARBITRARY NUMBER.

Q IF YOU REFUTE AND SAW THE CHECKS VERIFYING PAYMENT AND THE INVOICES FOR THAT WORK PERFORMED, WOULD YOU HAVE A PROBLEM WITH THAT BEING CREDITED OR VIEWED IN THIS ACCOUNTING AS A LEGITIMATE A&E EXPENSE?

A ONLY IF I HAD HARRY WILLOUGHBY'S... WHERE HE HAD PAID WHAT HE HAD, A COPY OF HIS. SO, I CAN'T SEE IF HE PAID A&E BACK FOR ANYTHING THAT WE FRONTED ON THE LAWSUIT.

Q OKAY.

(DISCUSSION OFF THE RECORD.)

Q MR. SMITH, I'M GOING TO SHOW YOU WHAT I HAVE MARKED AS DEFENDANT'S EXHIBIT 29. IT IS A GROUP OF DOCUMENTS WHICH CONTAIN COPIES OF CANCELED CHECKS FROM PAYMENT TO TURNER PADGETT AND ALSO INVOICES FROM THE TURNER PADGETT LAW FIRM FOR THEIR SERVICES AND EXPENSES IN CONNECTION WITH THE DEFENSE OF THE WILLOUGHBY PLACE LITIGATION.

MS. COOK: I WILL STATE FOR THE RECORD, YOUR HONOR, THAT THE CHECKS THEMSELVES WERE PRODUCED IN OUR NOTEBOOK OF DECEMBER 1ST, 2000... THE PARK PLACE PROPERTIES NOTEBOOK PRODUCED FOR THE DECEMBER 1ST DEADLINE TO YOUR HONOR AND

THE INVOICES FROM TURNER PADGETT WERE PRODUCED IN NOTEBOOKS THAT CONTAINS THE RESPONSES FOR REQUEST TO PRODUCE AND THIS WAS IN RESPONSE TO THE REQUEST TO PRODUCE NUMBER 10.

JUDGE HOWE: ALRIGHT.

Q MR. SMITH, DID YOU REVIEW OR HAVE YOU REVIEWED WITH YOUR COUNSEL AND YOUR EXPERT, THE PAYMENTS FOR THE DEFENSE OF THE LAWSUIT TO TURNER PADGETT BY PARK PLACE PROPERTIES ON BEHALF OF A&E AND BILLS OF THE TURNER PADGETT LAW FIRM? HAVE YOU SEEN THOSE DOCUMENTS IN THE COURSE OF THIS LAWSUIT? I WILL POINT OUT THE VERY LAST DOCUMENT IN THAT STACK, WHICH IS CHECK NUMBER 4871 FROM PARK PLACE PROPERTIES TO TURNER PADGETT DATED OCTOBER 28TH 2007 IN THE AMOUNT OF $70,000 WAS NOT FOR PAYMENT OF LEGAL FEES, BUT WAS A&E'S PAYMENT OF THE SETTLEMENT, THE PORTION OF THE SETTLEMENT THAT YOU HAD WITH THE PLAINTIFF IN THAT CASE, WHICH A&E'S PORTION OF THAT SETTLEMENT WAS $70,000. DO YOU RECOGNIZE THESE DOCUMENTS? DO YOU AGREE THAT A&E PAID $70,000 TOWARDS A&E'S RESPONSIBILITY FOR A PAYMENT OF $70,000 TOWARDS THE TOTAL SETTLEMENT OF --

MR. DURANT: YOUR HONOR, I OBJECT TO FORM OF THE QUESTION. CONCERNING THE CHECKS, YOUR HONOR, WE DID GET THE CHECKS AND WE DID GET THEM WITHIN THE TIMEFRAME OF THE COURT ORDER. THAT'S NOT AN ISSUE. SO, TO THAT EXTENT, WE DID. I THINK THE ONLY THING SHE CAN ASK HIM ABOUT IS DOES HE HAD ANY KNOWLEDGE OF THE PAYMENT OF THESE BILLS BY THE OTHER DEFENDANTS? HE CANNOT AUTHENTICATE THE CHECKS. HE CAN SAY HE RECEIVED IT. HE DOESN'T KNOW WHAT THEY PAID OR WHERE THEY GOT MONEY FROM SOMEONE ELSE FOR REPAYMENTS ALONG WITH THE THREE INSURANCE CARRIERS THAT THEY HAVE AND THE CO-DEFENDANTS. THAT IS THE REASON THAT WE DECIDE, HEY, WE'RE NOT GOING TO AGREE ON THIS. HE CAN TESTIFY TO ANYTHING HE WANTS TO, BUT I DON'T THINK THAT HE WAS INVOLVED IN THE SETTLEMENT OF THE CASE.

MS. COOK: WELL, BECAUSE HE WOULDN'T EVEN ATTEND SOME CONFERENCE, WOULD HE?

MR. DURANT: YOU CAN ASK HIM --

MS. COOK: THAT'S FINE. I WILL WITHDRAW

THAT.

Q MR. SMITH, DO YOU AGREE OR DISAGREE THAT A&E IS RESPONSIBLE TO PAY TURNER PADGETT FOR THE ATTORNEYS FEES THAT WERE INCURRED TO DEFENDANT A&E IN THE WILLOUGHBY LAWSUIT?

A IN THIS STACK OF PAPERS THERE IS NOT ONE INVOICE FROM TURNER PADGETT TO A&E CONSTRUCTORS FOR PAYMENT, NOT ONE. SO, I DON'T KNOW WHAT WE ARE RESPONSIBLE FOR, WHAT WE PAID, BUT EVERYTHING IS ADDRESSED WILLOUGHBY FAMILY INVESTMENTS, LLC. THAT'S NOT A&E.

Q OKAY. WELL, DO YOU AGREE... YOU DO AGREE THAT TURNER PADGETT DEFENDED A&E, RIGHT?

A THE BEST OF MY KNOWLEDGE, YES.

Q WOULD YOU AGREE WITH ME THAT TURNER PADGETT DIDN'T DO THAT FOR FREE?

A YES, MA'AM. I WOULD AGREE WITH THAT.

Q DO YOU AGREE THAT A&E SHOULD PAY TURNER PADGETT FOR THE SERVICES RENDERED BY TURNER PADGETT TO A&E?

A YES, MA'AM.

Q AND WAS THE LAWSUIT SETTLED?

A TO THE BEST OF MY KNOWLEDGE, YES.

Q DO YOU KNOW WHAT THE TOTAL SETTLEMENT AMOUNT FOR THAT LAWSUIT WAS?

A NO, MA'AM, I DO NOT. I WAS NEVER GIVEN THAT AMOUNT.

Q SO, YOU DON'T KNOW WHETHER A&E CONTRIBUTED 70,000 TOWARD THAT SETTLEMENT OR $135,000 TOWARDS THAT SETTLEMENT OR... YOU HAVE NO IDEA?

A THERE IS NOTHING IN THE A&E CHECKBOOK THAT SAYS THAT WE GAVE $70,000 TO THAT SETTLEMENT. NO, MA'AM, THERE IS NOT.

Q OKAY. THE NEXT LINE ITEM ON EXHIBIT 23 IS 2004 THROUGH 2008 TAX PREPARATIONS AND IT'S GOT AN AMOUNT OF $45,000?

A YES, MA'AM.

Q DID SUSAN BRADY CHARGE A&E, OR HER FIRM, CHARGE A&E FOR ANY OF THE ACCOUNTING WORK THEY DID FOR A&E? NOW, NOT ASSOCIATED WITH HER EXPERT WITNESS DUTIES. ASIDE FROM HER EXPERT WITNESS DUTIES IN WILLOUGHBY, WERE THERE ANY CHARGES OR FEES INCURRED WITH SUSAN BRADY'S ACCOUNTING FIRM FOR ACCOUNTING WORK THAT SHE DID FOR A&E?

A I FEEL SURE THAT THERE WERE, BUT I DO NOT KNOW WHAT THE AMOUNT WAS.

Q AND DO YOU AGREE WHETHER OR NOT THERE WAS A RECEIPT TO A&E WHO WAS RESPONSIBLE FOR PAYING MS. BRADY OR HER FIRM FOR THAT LEGAL WORK?

A A&E SHOULD HAVE PAID THAT BILL. YES, MA'AM.

Q BILL OR BILLS.
A WHAT DID YOU SAY?
Q I SAID BILL OR BILLS. DO YOU KNOW, DID SHE SEND A MONTHLY BILL OR DO YOU KNOW?
A SHE SENDS ME A MONTHLY BILL.
Q AND IF MS. BRADY OR HER FIRM DID NOT SEND A BILL, BUT THEY PERFORMED THE WORK, IS IT YOUR POSITION THAT A&E HAS NO RESPONSIBILITY TO PAY HER?
A IF YOU'RE NOT BILLED FOR A SERVICE, HOW WOULD YOU KNOW HOW MUCH YOU OWED?
Q SO, IF SOMEONE DOESN'T SEND YOU A BILL, EVEN THOUGH THEY GIVE YOU GOODS OR SERVICES OR THEY PROVIDE GOODS OR SERVICES, YOU DON'T OWE IT?
A NO, MA'AM. THAT'S NOT WHAT I SAID. WHAT I'M SAYING IS IF IT WAS DONE ON AN HOURLY RATE, HOW WOULD WE KNOW HOW MUCH TO PAY MS. BRADY IF WE DID NOT HAVE A BILL OUTLINING THAT.
Q WELL, IF SHE CALLED YOU AND SAID, "ELLIS, THIS MONTH I'VE DONE THIS MUCH WORK AND Y'ALL OWE ME $600." SHE DIDN'T SEND YOU A BILL. WOULD YOU BELIEVE THAT THERE WAS NO OBLIGATION? IS IT YOUR POSITION THERE WOULD BE NO OBLIGATION IF SHE JUST TOLD YOU THAT AND DIDN'T SEND YOU A BILL? THERE WILL BE NO OBLIGATION ON A&E TO PAY

HER THAT $600?

A NO. IF SHE CALLED AND TOLD ME THAT I WOULD SAY, "PLEASE SEND ME A BILL."

Q BUT WITHOUT A BILL, YOU WOULD HAVE NO OBLIGATION TO PAY HER?

A I WOULD NOT PAY HER UNTIL I RECEIVED A BILL.

Q OKAY. ON THAT PAGE THAT WE ARE LOOKING AT, IF YOU GO DOWN TO THE LINE ITEM THAT YOU DON'T HAVE STRUCK THROUGH THERE... TO BEGIN WITH, IT SAYS, "RENT OF 1 DUMP TRUCK. RENT ON 2 PICKUP TRUCKS. RENT ON 1 PICKUP TRUCK."

A YES, MA'AM.

Q AND THE TYPED LINE ITEMS ARE 21,000 FOR THE DUMP TRUCK, 21,600 FOR THE PICKUP TRUCKS, AND THEN 6,000 FOR THE SECOND PICKUP TRUCK. OUT TO THE SIDE YOU'VE GOT WRITTEN $2,040, IS THAT CORRECT?

A YES, MA'AM.

Q WHAT DOES THAT MEAN? WHAT DOES THAT MEAN TO YOU WHEN YOU WROTE IT DOWN THERE?

A THE DUMP TRUCKS WERE A VAST MAJORITY USED ON WAYNE VEREEN JOBS, HIS PERSONAL STUFF. THE PICKUP TRUCK, ONE WAS DRIVEN BY BASIL. HE WORKED ON WAYNE VEREEN JOBS AT POINTE MARSH. THERE WAS ONE PICKUP TRUCK THAT WAS USED FOR ABOUT THREE MONTHS BY MR. SCOTT ON A DAILY BASIS

DRIVING BACK AND FORTH TO THE FOUNTAINS. THAT WAS AN A&E EXPENSE. THE REST OF THEM WE DIDN'T USE.

Q SO, OF THOSE AMOUNTS THAT ARE OUTLINED BY MR. MR. VEREEN, YOU AGREE ONLY $2,040 IS OWED IN TOTALITY FOR THE YEARS 2004 THROUGH 2007?

A AND THIS TIME, WITH THE INFORMATION THAT I HAD AND WHAT I PUT TOGETHER, YES, MA'AM.

Q AND THAT WAS FOR A CUMULATIVE PERIOD OF TIME, THAT WASN'T PER YEAR?

A YES, MA'AM. I THINK THAT'S CORRECT.

Q THE LIGHTER NUMBER THAT'S UNDER THAT, THAT LOOKS LIKE 117343, IS THAT YOUR HANDWRITING?

A NO, MA'AM, IT'S NOT.

Q AND THEN DOWN, I THINK THIS GOES TO THE SITE TECH SYSTEMS MEMBERSHIP. THE NUMBER 14550, IS THAT YOUR HANDWRITING?

A NO, MA'AM.

Q IF YOU WILL, FLIP TO THE NEXT PAGE. THIS SAYS, "OFFICE RENT-PROPERTY EXPENSES." AND AGAIN, IT ITEMIZED ANNUALLY 2004 TO 2008 SOME NUMBERS. THE FIRST IS 511 GRISSOM PARKWAY AND THAT... MR. VEREEN PUT 3,300 A MONTH AND THEN WRITTEN BESIDE THAT IS 700 A MONTH, CORRECT? IS THAT YOUR HANDWRITING, $700 A MONTH?

A YES, MA'AM, IT IS.
Q THE 511 ADDRESS, IS THAT THE BIGGER OFFICE THAT Y'ALL... THAT A&E UTILIZED TO BEGIN WITH OR WAS THAT THE SMALLER OFFICE THAT YOU MOVED TO?
A ACCORDING TO THIS, IT SAYS... IN 2004 WE WERE IN THAT OFFICE. IN 2006, WE MOVED TO THE OTHER OFFICE.
Q WHICH IS THE 505 GRISSOM PARKWAY OFFICES, CORRECT?
A YES.
Q MR. VEREEN HAS $1,600 A MONTH AND YOU DON'T HAVE ANYTHING WRITTEN THERE, BUT YOU'VE GOT STRUCK OUT OVER ON 2008, CORRECT?
A NO. I'VE GOT THE $700 A MONTH FOR THOSE TWO. THAT'S WHAT THAT REFERS TO.
Q OKAY. DID YOU AT THAT TIME TAKE THE POSITION THAT THE RENT A&E SHOULD PAY THE OWNER OF THE OFFICE SPACE OR THE LANDLORD WAS AT A RATE OF $700 A MONTH AND THAT WAS IRRESPECTIVE OF WHICH OFFICE YOU WERE IN?
A YES, MA'AM. THAT WAS THE AMOUNT OF THE CHECK THAT A&E WROTE TO PARKWAY OFFICES FOR A MONTHLY RENT. WE HAD CHECKS IN OUR ACCOUNT THAT ADDRESSED THAT IN THE LITTLE MEMO SECTION AT THE BOTTOM OF THE CHECKS.

Q BUT AT ONE TIME YOU ALSO AGREED THAT THE RENT ON OFFICE SHOULD BE $950 A MONTH, DIDN'T YOU?

A YES, MA'AM, I DID.

Q AN ANOTHER TIME YOU AGREED THAT THE RENT ON OFFICE SHOULD BE $1,200 A MONTH?

MR. DURANT: YOUR HONOR, IF SHE'S TESTIFYING THAT HE AGREED OR IS SHE SAYING IF HE SETTLED THE CASE, HE WOULD ALLOW THAT? THEY ARE TWO DIFFERENT THINGS.

MS. COOK: MR. DURANT, I BELIEVE I CAN... I AM GOING TO LEAVE OUT SOME... I ASKED THE QUESTION AND MR. SMITH ANSWERED IT.

MR. DURANT: BUT YOU'RE ASKING ABOUT A SETTLEMENT OFFER THAT HE MADE --

MS. COOK: NO --

MR. DURANT: -- NOT ABOUT WHAT HE AGREED TO PAY.

MS. COOK: JUDGE, I BELIEVE MR. DURANT KNOWS HE WILL HAVE AN OPPORTUNITY TO RE-DIRECT AND IF HE WANTS TO RE-DIRECT ON AN ISSUE HE CERTAINLY CAN DO THAT, BUT UNLESS HE'S GOT AN OBJECTION TO MY QUESTION, I DON'T THINK THAT WAS A

PROPER... I DON'T EVEN KNOW WHAT THAT WAS. I DON'T THINK THAT WAS PROPER TESTIMONY FOR MR. DURANT.

MR. DURANT: I OBJECT TO THE FORM OF THE QUESTION, YOUR HONOR, BECAUSE SHE IS ASKING THE WITNESS, "DID YOU AGREE TO PAY MORE THAN THAT?" AND HE'S ANSWERING IT AND SHE'S TAKING IT FROM THE SETTLEMENT OFFER. I THINK SHE SHOULD REPHRASE THE QUESTION THE WAY THE WITNESS CAN ANSWER OR ALLOW HIM TO EXPLAIN HIS ANSWER.

MS. COOK: I THINK HE EXPLAINED HIS ANSWER.

JUDGE HOWE: ALRIGHT. MR. SMITH, WOULD YOU LIKE TO EXPLAIN YOUR ANSWER NOW?

A YES, MA'AM. I WILL EXPLAIN. THAT'S NO PROBLEM.

MS. COOK: I MEAN, HE ANSWERED IT.

MR. DURANT: HE SAID HE WOULD LIKE TO EXPLAIN.

A NO. I WOULD LIKE TO EXPLAIN. THE $700 A MONTH IS WHAT I TOOK OUT OF THE CHECKBOOK THAT WE PAID PARKWAY OFFICES AND PARKWAY OFFICES ACCEPTED THAT AS RENT, FROM I THINK THE FIRST 6 OR 8 MONTHS THAT WE WERE IN THOSE BUILDINGS. THERE

IS A CHECK IN THE A&E ACCOUNT THAT IS MARKED THAT. WHEN I MADE THE OFFER OF THE 900 AND THE 1,200, IT WAS FOR A SETTLEMENT AMOUNT. I WOULD AGREE TO PAY HIM THAT IF THIS THING WOULD END. I COULD GET MY MONEY AND WE COULD GO OUR SEPARATE WAYS. I AGREED TO GIVE UP EXTRA.

Q AT ONE TIME YOU AGREED THAT A FAIR VALUE FOR THE RENT ON THE OFFICE SPACE WAS $1,600 A MONTH, DIDN'T YOU?

A ALL IN THE SETTLEMENT OFFER.

Q WHERE IS IT IN THE SETTLEMENT OFFER?

A MA'AM, I COULDN'T TELL YOU. I DON'T HAVE IT IN MY HAND.

Q SO, IT'S YOUR TESTIMONY UNDER OATH THAT THE ONLY TIME THAT YOU KNOWLEDGE $1,600 A MONTH RENT OBLIGATION BY A&E WAS IN A SETTLEMENT OFFER?

A THAT WAS IF HE SETTLED AT THE TIME THAT I MADE THE OFFER.

Q THAT'S THE ONLY TIME THAT YOU HAVE EVER ACKNOWLEDGED A $1,600 A MONTH OBLIGATION OF A&E TO PAY RENT?

A I DON'T RECALL BUT I KNOW THAT I MADE A $900 OR A 950 AND A 1,200.

Q OKAY. ON THAT SAME PAGE AS YOU GO DOWN THE CATEGORIES IT SAYS, "WAREHOUSE RENT AND

EXPENSES."?

A YES, MA'AM.

Q WERE THERE ANY WAREHOUSE OR STORAGE UNITS THAT A&E USED TO STORE MATERIALS?

A THERE WAS A WAREHOUSE BEHIND 511 THAT HAD ALL KINDS OF EQUIPMENT AND MATERIALS THAT BELONGED TO MR. VEREEN, YES.

Q THERE WAS NO MATERIALS OR EQUIPMENT OF A&E'S THAT WERE EVER STORED BY A&E IN ANY WAREHOUSES OR STORAGE UNITS?

A THERE WERE ABOUT 8 OR 10 MINI-WAREHOUSES BEHIND 505 AND THE END ONE, WHICH WAS A DOUBLE ONE, THERE WERE MATERIALS IF WE HAD LEFT OVER FROM A JOB OR WHATEVER. WE WOULD JUST PUT THEM IN THERE, YES, MA'AM.

Q WAS THERE A WAREHOUSE OR STORAGE UNIT ANYWHERE EVER USED BY A&E TO DO WORK FOR JOBS KIND OF LIKE A SHOP?

A OH, YEAH. YES, MA'AM.

Q WHERE WAS THAT LOCATED?

A THAT WAS BEHIND 511.

Q THAT WAS SEPARATE AND DISTINCT FROM THE OTHER WAREHOUSE THAT WAS USED TO STORE LEFTOVER MATERIALS --

A YES, MA'AM.

Q AND IS IT YOUR POSITION THAT A&E DIDN'T OWE THE OWNER OF THOSE WAREHOUSES OR STORAGE UNITS THAT WERE USED TO STORE MATERIALS OR WERE USED AS A SHOP TO WORK ON THINGS FOR A&E ANY RENT? THEY OWED ZERO RENT?

A I THOUGHT THAT IT WAS INCLUDED IN THE $700 A MONTH. IF I LOOKED BACK AT ARTHUR VEREEN CONSTRUCTION'S CHECKBOOK, THEY PAID $600 A MONTH RENT TO PARKWAY OFFICES AND THAT INCLUDED THE WAREHOUSE AT THE BACK. HE DIDN'T HAVE A SEPARATE WAREHOUSE BILL. I HAD NO REASON TO BELIEVE THAT THERE WOULD BE ANOTHER WAREHOUSE BILL.

Q NEXT, UNDER TRUCKS AND EQUIPMENT COSTS, THE FIRST LINE IS "PLACEMENT OF STOLEN EQUIPMENT" AND UNDER 2006, IT'S GOT $590 AND YOU HAVE A QUESTION MARK. DO YOU KNOW ANYTHING ABOUT ANY EQUIPMENT THAT WAS STOLEN IN 2006?

A YES, MA'AM, I DO.

Q OKAY. WHAT WAS THAT?

A THERE WERE TWO ROOF NAILING GUNS THAT DID NOT BELONG TO A&E. THEY BELONGED TO ELLIS SMITH. THEY WERE STOLEN OUT FROM IN FRONT OF THE BUILDING. THERE WAS ALSO A CONCRETE SAW THAT WAS STOLEN AT THAT TIME TOO.

Q AND WHO DID THAT BELONG TO?
A IT BELONGED TO A&E. I THINK THAT WAS ONE THAT WAYNE BROUGHT INTO A&E WHEN HE DID --
Q WHEN THOSE TWO NAIL GUNS OF YOURS AND THAT CONCRETE SAW OF MR. VEREEN'S WERE STOLEN, DID A&E PAY MONEY TO HAVE TO BUY TWO MORE NAIL GUNS AND A CONCRETE SAW?
A THEY NEVER REPLACED MY NAIL GUNS AND WE NEVER REPLACED THE CONCRETE SAW BECAUSE I HAD ONE THAT I HAD BOUGHT FROM MS. GRAHAM BEFORE I CAME TO WORK FOR A&E.
Q ALRIGHT. THE NEXT LINE ITEM IS "REPLACEMENT OF DAMAGED BOBCAT" AND THAT AGAIN IS UNDER 2006, I GUESS. Y'ALL WERE HAVING A RUN OF BAD LUCK? "$8,500." DO YOU KNOW ANYTHING ABOUT HAVING TO HAVE A NEW BOBCAT OR HAVING TO HAVE A BOBCAT REPLACED OR REPAIRED?
A NO. WE HAD A BRAND NEW BOBCAT. WE HAD A CAT STEER SKID.
Q WAS THERE ONE THAT WAS DAMAGED OR BLOWN UP?
A IN 2006, NO, MA'AM.
Q WAS THERE ONE ANY TIME FROM 2004 TO 2007 THAT WAS DAMAGED OR BLOWN UP OR THE ENGINE BLOWN OR SOMETHING LIKE THAT?
A WAYNE HAD ONE THAT WE WERE USING AT TAHITIAN

PRINCESS AND THE COOLANT WENT OUT OF IT AND IT BURNT THE MOTOR UP. YES, MA'AM.

Q AND THAT HAPPENED WHEN YOU WERE USING IT, DIDN'T IT?

A ONE OF MY CONCRETE BOYS, YES.

Q OKAY. SO, BECAUSE THAT BOBCAT WAS DAMAGED AND BLOWN UP, YOU HAD TO GET ANOTHER ONE?

A NO, MA'AM. WE DID NOT GET ANOTHER ONE AT THAT TIME.

Q BUT DID YOU... NOT AT THAT TIME --

A THAT WAS IN 2004.

Q PARDON ME?

A THAT WAS IN 2004 NOT 2006.

Q OKAY. WHEN YOU GOT A NEW ONE OR WHEN YOU BLEW UP THE OLD ONE?

A THEY BLEW UP THE OLD ONE... HE WENT TO TRY TO GET IT FIXED AND THEY SAID IT WASN'T WORTH FIXING.

Q THAT WAS IN 2004?

A YES, MA'AM.

Q IN 2006, DID YOU BUY A BOBCAT?

A A&E BOUGHT A BOBCAT.

Q A&E BOUGHT A BOBCAT? AND THAT WAS IN 2006?

A YES, MA'AM. I THINK THAT THE BOBCAT WAS PURCHASED AT THE END OF 2005. I MAY BE

MISTAKEN, BUT IT WASN'T A BOBCAT WAS A SKID STEER.

Q SO, I CAN KEEP IT STRAIGHT, WHAT'S A SKID STEER?

A IT'S THE SAME THING. IT'S GOT A BUCKET ON THE FRONT. YOU OPERATE THE WHEEL WITH YOUR FEET AND YOUR HANDS. THE BUCKET IS WITH THE HANDS... IT'S LIKE JOYSTICKS.

Q OKAY. SO A BOBCAT IS A --

A BOBCAT IS A SKID STEER.

Q LIKE COKE AND SODA, RIGHT?

A THERE YOU GO.

Q THANK YOU. UNDER "GAS" YOU'VE GOT A WHOLE ITEMS CIRCLED AND YOU'VE GOT 80% PAYMENT. WHAT DID YOU MEAN BY THAT?

A GAS HAS GOT NOTHING TO DO WITH THAT.

Q OKAY. IT DOESN'T?

A I DON'T KNOW.

Q I THOUGHT THAT LINE ITEM "GAS" WAS THE DESCRIPTION IN THE LINE ITEM 3725 FOR 2004, 2005 WAS 15,347. IS THAT NOT HOW YOU INTERPRETED THAT WHEN YOU WROTE WHATEVER IT WAS ON THE SIDE?

A OKAY. "GAS" WAS AN A&E EXPENSE.

Q OKAY. AND DO YOU AGREE WITH THE AMOUNTS THAT MR. VEREEN HAD OR DID YOU DISPUTE THOSE AND THAT'S WHY YOU'VE GOT IT CIRCLED?

A I DON'T KNOW EXACTLY WHAT THE AMOUNT IS. I DON'T HAVE ANY RECEIPTS OR BILLS WHERE WE PAID FOR THAT MUCH GAS. BUT MOST OF THE GAS THAT WAS USED BY A&E WAS USED IN VEHICLES TO TRAVEL FROM MYRTLE BEACH TO NORTH MYRTLE BEACH OR MYRTLE BEACH TO MURRELLS INLET.

Q WAS THERE SOMETHING WRONG WITH THAT?

A NO. THEY WERE THE JOBS THAT BELONG TO WAYNE. I MEAN, HIS HOUSE OR POINTE MARSH. NONE OF OUR COMPANY TRUCKS WENT TO OTHER JOBS, VERY RARELY, OTHER THAN TO HIS JOBS THAT USED THE GAS. BETH CHARGED GAS THERE. CARRIE CHARGED GAS THERE. THAT WAS ALL PART OF A&E'S EXPENSE.

Q SO, IT'S YOUR TESTIMONY THAT A&E NEVER HAD GAS EXPENSES FOR ITS EQUIPMENT OR ITS TRUCKS THAT WENT TO WILLOUGHBY?

A OUR TRUCKS VERY RARELY WENT TO WILLOUGHBY. WE MAY HAVE A DUMP TRUCK EVERY NOW AND THEN. YOU CAN LOOK AT THE TIME CARDS AND YOU CAN TELL THE ONLY PERSON THAT DROVE THE DUMP TRUCK IN OUR COMPANY WAS MATTHEW CHESTNUT. THE VAST MAJORITY OF HIS TIME CARDS WERE AT POINTE MARSH, MURRELLS INLET, SOMEWHERE OF THAT NATURE.

Q HOW ABOUT, A&E NEVER HAD TRUCKS OR EQUIPMENT THAT YOU DROVE TO THE FOUNTAINS PROJECT?

A NO. I PURCHASED THE FUEL AND TURNED IN A RECEIPT TO BE REIMBURSED FOR THE FOUNTAINS, TAHITIAN PRINCESS. I DIDN'T BRING THE PIECE OF EQUIPMENT BACK TO MYRTLE BEACH TO GET FILLED UP WITH FUEL.

Q BUT WAS THAT GAS, FOR YOU PURCHASING IT AND TURNING IN A RECEIPT AND BEING REIMBURSED, IS THAT WHAT IS SHOWN ON THIS LINE ITEM?

A IN MY OPINION, NO. THAT'S NOT. I THINK THIS GAS THAT WAS HERE IS WHAT WAS CHARGED TO THE THIRD AVENUE 501 TEXACO STATION THAT WE HAD AN ACCOUNT AT AND IT WAS PAID ON A MONTHLY BASIS. THAT'S WHAT I INTERPRETED IT TO BE.

Q OKAY. DID YOU USE ANY TRUCKS OR EQUIPMENT THAT UTILIZED GAS ON THE TAHITIAN PRINCESS JOB IN NORTH MYRTLE BEACH?

A I HAD EQUIPMENT THAT UTILIZED GAS, YES. IT UTILIZED DIESEL FUEL.

Q AND HOW ABOUT AT TAHITIAN PRINCESS II?

A YES, MA'AM.

Q AND HOW ABOUT AT SEACLUSION?

A YES, MA'AM.

Q AND HOW ABOUT AT --

A THE FOUNTAINS?

Q WELL, WE TALKED ABOUT THE FOUNTAINS.

A I HAD EQUIPMENT AT EACH ONE OF THOSE JOBS; FORKLIFTS, WHATEVER, THAT I HAD RENTED FROM HERTZ. WE WOULD TAKE GAS CANS AND GO TO, FOR INSTANCE, THE DODGE STORE IN NORTH MYRTLE BEACH AND THAT'S WHERE I PURCHASED DIESEL FUEL TO PUT IN THOSE PIECES OF EQUIPMENT. THEY WERE NOT CHARGED TO THIS LOCATION.

Q LET'S GO ON FURTHER AND IT'S GOT "AWV". SO THAT'S WAYNE VEREEN'S TRUCK PAYMENT?

A YES, MA'AM.

Q AND DO YOU DISPUTE THAT AS BEING A LEGITIMATE A&E EXPENSE?

A I DON'T KNOW WHAT HIS TRUCK PAYMENT COSTS. I SEE MINE IS 620. I ASSURE YOU, HIS IS NOT THE SAME AS MINE, THE TRUCK PAYMENT. SO, I DON'T KNOW. I QUESTION WHERE IS THE CHECK THAT HE PAID THIS AND WHAT WAS THE AMOUNT THAT HE OWED? I HAVE NO IDEA.

Q DID A&E PROVIDE YOU A TRUCK?

A YES, MA'AM, THEY DID.

Q OKAY.

A FROM JANUARY OF '05 TO PRESENT. YES, MA'AM.

Q DID A&E PAY FOR GAS FOR YOU FOR THAT TRUCK?

A I PAID FOR THE GAS AND THEY REIMBURSED ME. YES, MA'AM.

Q AND DID A&E PAY FOR THE INSURANCE ON THAT TRUCK THAT YOU USED?
A THAT TRUCK BELONGED TO A&E. YES, MA'AM.
Q AND DID A&E PAY THE TAXES ON THAT TRUCK?
A YES, MA'AM. IT WAS THEIR TRUCK.
Q IS THAT THE SAME TRUCK THAT WE TALKED ABOUT THAT THEY CONTINUED TO PAY THE PAYMENTS ON UNTIL IT WAS PAID OFF WELL AFTER DECEMBER OF '07 AND SENT YOU THE TITLE FOR IT?
A YES, THAT'S CORRECT.
Q DID A&E PAY FOR THE INSURANCE ON THAT TRUCK AFTER YOU LEFT FOR VACATION IN SEPTEMBER OF 2007?
A YES, MA'AM.
Q DID IT PAY THE INSURANCE ON THAT TRUCK THROUGH DECEMBER OF 2007?
A YES, MA'AM.
Q DID A&E PAY FOR YOUR INSURANCE ON THAT TRUCK AFTER DECEMBER, 31 2007?
A YES, MA'AM, THEY DID.
Q DO YOU AGREE THAT WHATEVER THAT INSURANCE AMOUNT IS THAT A&E PAID ON YOUR BEHALF AFTER DECEMBER 31ST SHOULD BE ON YOUR SIDE OF THE LEDGER SHEET?
A YES, MA'AM.

Q THE SAME FOR PROPERTY TAXES? WERE THE PROPERTY TAXES PAID ON THE TRUCK AFTER DECEMBER 31ST 2007?

A YES, MA'AM.

Q AND YOU WOULD AGREE THAT SHOULD BE... AFTER 12/31/07 THAT SHOULD BE ON YOUR SIDE OF THE LEDGER SHEET?

A YES, MA'AM.

Q NOW, DO YOU HAVE ANY OBJECTION TO MR. VEREEN, WHETHER HE HAD A PAYMENT OR HE ALREADY PAID THE TRUCK OFF OR WHETHER THE TRUCK WAS IN HIS NAME THAT HE DROVE, GIVING THE SAME AMOUNT OF MONEY AS A BASIC CAR ALLOWANCE FOR WHAT HE DROVE AS A 50% PERCENT PARTNER AS YOU GOT?

A AS LONG AS HE HAD RECEIPTS FOR GAS, WE WOULD PAY FOR IT. IT'S NO PROBLEM.

Q HOW ABOUT FOR HIS TRUCK PAYMENT OR AN ALLIANCE... LET'S SAY HE ALREADY PAID THE TRUCK OFF?

A WELL, WE HADN'T PAID THE TRUCK OFF. HE WAS MAKING PAYMENTS ON IT. I KNEW THAT.

Q WHETHER HIS PAYMENT WAS LOWER OR HIGHER, DO YOU HAVE A PROBLEM WITH THAT?

A AS LONG AS HE GAVE US A COPY OF WHAT WAS OWED ON IT. I HAVE NO PROBLEM WITH THAT THROUGH

DECEMBER 31ST 2007.

Q BUT ANYTHING AFTER THAT DATE --

A YES, MA'AM.

Q -- YOU DO NOT BELIEVE WOULD BE A LEGITIMATE A&E EXPENSE?

A NO, MA'AM.

Q HOW ABOUT REPAIR EXPENSES THAT WERE ASSOCIATED WITH EITHER OF YOUR TWO VEHICLES BEFORE DECEMBER 31ST 2007? DO YOU HAVE A PROBLEM WITH THOSE EXPENSES BEING LEGITIMATE EXPENSES OF A&E?

A REPAIR EXPENSES?

Q YES. OIL CHANGES.

A THE TRUCKS ARE UNDER WARRANTY. I DON'T UNDERSTAND... THE TRUCKS ARE UNDER WARRANTY. I UNDERSTAND THAT THE TRUCKS ARE UNDER WARRANTY. I DON'T KNOW WHY WE WOULD HAVE REPAIR EXPENSES, YOU KNOW. A NEW SET OF TIRES AFTER 50,000 MILES SURE, I UNDERSTAND THAT.

Q SO, YOU HAVE NO PROBLEM WITH THAT IF THERE ARE RECEIPTS AND THERE WERE REPAIRS OR OIL CHANGES OR TIRES FOR ANY OF YOUR TRUCKS?

A NO. I HAVE NO PROBLEM WITH THAT.

Q HOW ABOUT IF THERE WERE REPAIRS OR TIRES OR ANYTHING WITH REGARD TO THE DUMP TRUCK, PICKUP TRUCK, THAT WERE USED BY A&E?

A AS I SAID, THEY WERE USED BY A&E ON WAYNE VEREEN'S JOBS. SO, THE WAY I LOOK AT IT, PARK PLACE PROPERTY IS RESPONSIBLE FOR THE REPAIR ON THOSE TRUCKS.

Q SO, IT'S YOUR POSITION THAT ANY REPAIRS ON ANY OF THE HEAVY EQUIPMENT, FOR LACK OF BETTER CATEGORY TERMS, THAT NONE OF THAT IS A LEGITIMATE EXPENSE FOR A&E?

A IT ALL HAS TO BE QUANTIFIED. I CAN'T JUST GIVE YOU A BLANKET THING SAYING ANY REPAIR ON ANYTHING. I NEED TO SEE A BILL AS TO WHAT IT WAS AND HOW IT WAS HANDLED. SEE, I'VE GOT ALL KINDS ON THIS LITTLE LIST WHERE YOU SAY, "REPAIR EXPENSES." I JUST GOT NUMBERS THROWN IN HERE. I HAVE NO IDEA WHAT THEY ARE FOR. ANY OF THESE THINGS THAT WE GOT BEFORE DECEMBER THE 1ST, WE WOULD HAVE GLADLY LOOKED AT.

Q DO YOU RECALL HAVING WORK OR SOMETHING DONE AT THE CARRIAGE ROW HOUSE IN 2005 WHERE YOU NEEDED CONCRETE?

A EXCUSE ME. NO, MA'AM. I DON'T RECALL THAT.

Q DO YOU RECALL EES HAVING SOMETHING DONE AT CARRIAGE ROW HOUSE WHERE YOU NEEDED CONCRETE AND A&E PAID FOR IT?

A NO, MA'AM. I DON'T RECALL THAT.

Q IF THAT HAPPENED, IT WAS A MISTAKE AND IT SHOULD BE PUT BACK ON YOUR SIDE OF THE LEDGER SHEET, IS THAT CORRECT?

A I DON'T RECALL IT EVER HAPPENED SO... I WOULD LIKE TO SEE A RECEIPT OR A BILL OR WHATEVER IT WAS WHERE THAT HAPPENED.

Q OKAY. LET ME SHOW YOU WHAT I HAVE MARKED AS DEFENDANT'S EXHIBIT NUMBER 34. IT'S 2 PAGES. THE FIRST PAGE IS A CHECK DRAWN OFF OF A&E'S ACCOUNT OCTOBER 18TH 2005 TO S&W READY MIX CONCRETE FOR $1,113 AND THE SECOND IS AN INVOICE FOR THAT AMOUNT DATED 9/30/2005 FROM S&W READY MIX TO ELLIS SMITH, D/B/A EES CONSTRUCTION SHOWING 2940 CARRIAGE ROW. NOW, CARRIAGE ROW WAS... IS THAT --

MR. DURANT: IS THIS A DIFFERENT INVOICE FROM THE ONE YOU GAVE US?

MS. COOK: HOLD ON JUST A MINUTE. I'M SORRY, YOUR HONOR. HAND ME THAT BACK. I GAVE YOU THE WRONG ONE.

MR. DURANT: IS THIS SOMETHING THAT YOU HAVE GIVEN US BEFORE?

MS. COOK: YES, SIR.

MR. DURANT: WHEN WAS THAT GIVEN TO US?

MS. COOK: THAT WAS IN THE ELLIS SMITH

ACCOUNTS RECEIVABLE NOTEBOOK.

MR. DURANT: GO AHEAD. I DON'T REMEMBER IT BUT GO AHEAD.

Q NOW, MR. SMITH, I'M SORRY, I APOLOGIZE. NOW, YOU HAVE THE ONE THAT HAS THE CHECK FOR THE $1,113 PAID BY A&E TO S&W READY MIX, ALONG WITH THE INVOICE OF THE $113 WHERE THE DESCRIPTION IS "CARRIAGE ROW"?

A THERE IS NO PLACE AT MY HOUSE, 2940 CARRIAGE ROW LANE THAT YOU COULD PUT 10 YARDS OF CONCRETE. THE LOT IS NOT BIG ENOUGH. THERE'S A MISTAKE. THERE'S NO CONCRETE GONE AT CARRIAGE ROW. YOU ARE WELCOME TO GO LOOK.

MS. COOK: YOUR HONOR, CAN WE TAKE A BREAK? I'M GETTING DIZZY. MAYBE IF WE BREAK FOR LUNCH.

(OFF THE RECORD.)

SOUTH CAROLINA,

CERTIFICATE

HORRY COUNTY.

I, PEPPER M. MCCARTHY, A NOTARY PUBLIC AND VERBATIM REPORTER IN AND FOR THE STATE OF SOUTH CAROLINA DO HEREBY CERTIFY THAT THIS WITNESS WAS SWORN PRIOR TO THE TAKING OF THIS HEARING AND THAT THE FOREGOING (FOUR HUNDRED AND TWO)(402) PAGES CONSTITUTE A TRUE AND ACCURATE TRANSCRIPT OF THE EVIDENCE AS GIVEN BY SAID WITNESS AND AS TAKEN DOWN AND TRANSCRIBED BY ME. I FURTHER CERTIFY THAT THE PERSONS WERE PRESENT AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NOT OF COUNSEL FOR NOR IN THE EMPLOY OF ANY OF THE PARTIES TO THIS ACTION NOR AM I INTERESTED EITHER DIRECTLY OR INDIRECTLY IN THE RESULTS THEREOF.

I FURTHER CERTIFY THAT I AM NOT RELATED BY BLOOD OR MARRIAGE TO ANY OF THE PARTIES TO THIS ACTION.

THIS THE 20TH, DAY OF NOVEMBER 2014.

Pepper M. McCarthy

PEPPER M. MCCARTHY,
VERBATIM REPORTER AND
NOTARY PUBLIC

MY COMISSION EXPIRES:
FEBRUARY 2, 2022

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

CASE NUMBER 2009-CP-26-0620

ELLIS E. SMITH, INDIVIDUALLY, AND ON BEHALF OF A&E CONSTRUCTORS AND CONSULTANTS, INC., A SOUTH CAROLINA CORPORATION,

PLAINTIFFS,

V.

ARTHUR WAYNE VEREEN, PARK PLACE PROPERTIES OF MYRTLE BEACH, LLC, PARKWAY OFFICES, LLC, PARKWAY OFFICE, LLC, ARTHUR VEREEN CONSTRUCTION INC. AND

LINDA C. VEREEN,

DEFENDANTS.

ARTHUR WAYNE VEREEN, INDIVIDUALLY AND ON BEHALF OF A&E CONSTRUCTORS AND CONSULTANTS, INC., AND 29TH PLACE DEVELOPERS, INC.,

THIRD-PARTY PLAINTIFFS

V.

E. SMITH AND SONS CONSTRUCTION, LLC, EES CONSTRUCTION AND CONSULTING, INC., AND ELLIS E. SMITH INDIVIDUALLY,

THIRD-PARTY DEFENDANT'S

PARTIAL HEARING

JUNE 13 & 14, 2011

AS TAKEN AND TRANSCRIBED BY PEPPER M. MCCARTHY, NOTARY PUBLIC AND VERBATIM REPORTER, IN FRONT OF THE HONORABLE CYNTHIA GRAHAM HOWE, AT HORRY COUNTY GOVERNMENT AND JUSTICE CENTER, 1301 SECOND AVENUE, CONWAY, SOUTH CAROLINA.

****THIS IS AN OFFICIAL TRANSCRIPT GOVERNED BY 25A SOUTH CAROLINA CODE ANN. REGS. 67-615D (SUPP. 2000). THE UNAUTHORIZED COPYING OF THIS DOCUMENT IS DEEMED TO BE CONVERSION OF AN ASSET BELONGING TO THE COURT REPORTER.**

Appearances

FOR PLAINTIFFS:

COOK & ROY
KATHRYN M. COOK, ESQ.
10409 N. KINGS HIGHWAY
MYRTLE BEACH, SOUTH CAROLINA 29577

BETH SISSON
ARTHUR WAYNE VEREEN

FOR DEFENDANTS: E SMITH AND SONS

THOMAS & BRITTIAN
JACKSON THOMAS, ESQ.
1314 PROFESSIONAL DRIVE
MYRTLE BEACH, SOUTH CAROLINA 29577

ELLIS SMITH
DURANT & MARTIN
FRANK H. DURANT
2107 FARLOW STREET
MYRTLE BEACH, SOUTH CAROLINA 29577

ELLIS SMITH
SUSAN BRADY

INDEX TO EXAMINATION

DIRECT EXAMINATION BY MR. DURANT.....PAGE 5

CROSS EXAMINATION BY MS. COOK.....PAGE 76

RE-DIRECT EXAMINATION BY MR. DURANT.....PAGE 341

NO EXHIBITS ON FILE

JUDGE HOWE: THIS IS THE CASE OF ELLIS SMITH, ET AL. VERSES ARTHUR WAYNE VEREEN, ET AL. IT'S CIVIL ACTION NUMBER 2009-CP-26-620. THERE IS AN ORDER OF REFERENCE AND IT WAS SIGNED BY LARRY E. HYMAN, JR. DATED JUNE 23RD 2009. THEREFORE, THIS COURT DOES HAVE JURISDICTION OF THIS MATTER AND THIS IS A CONTINUATION OF A HEARING THAT WAS BEGUN BACK... A COUPLE, THREE MONTHS AGO?

MR. DURANT: FEBRUARY.

JUDGE HOWE: WELL, SEVERAL MONTHS AGO. MR. DURANT, ARE YOU STILL CONTINUING YOUR CASE?

MR. DURANT: YES, MA'AM. MRS. BRADY WAS ON THE STAND WHEN WE LEFT. MRS. BRADY, YOU ARE STILL UNDER OATH FROM YOUR APPEARANCE IN FEBRUARY. DO YOU UNDERSTAND?

SUSAN BRADY, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

CONTINUED DIRECT EXAMINATION BY MR. DURANT:

A YES, SIR.

Q I BELIEVE WHEN WE FINISHED, MRS. BRADY, YOU HAD COMPLETED YOUR TESTIMONY CONCERNING THE 2007 TAX

YEAR FOR A&E?

A I BELIEVE THAT'S RIGHT.

MS. COOK: YOUR HONOR, I KNOW THIS IS... AND I HATE TO INTERRUPT, BUT I WANTED TO TRY TO GET SOMETHING ON THE RECORD. I'M A LITTLE UNCLEAR ABOUT WHETHER IT WOULD BE THE PROPER TIME OR AFTER DR. DURANT FINISHES WITH MRS. BRADY, BUT BECAUSE WE HAVE HAD THIS LENGTHY RECESS DUE TO EVERYBODY'S SCHEDULE, I BELIEVE, YOUR HONOR, HAD INSTRUCTED MRS. BRADY AT THE TIME OF CEASING HER TESTIMONY, AT THAT TIME, THAT SHE COULD NOT DISCUSS THIS CASE OR THESE MATTERS WITH COUNSEL OR WITH MR. SMITH AND I WOULD JUST LIKE FOR EITHER MYSELF TO BE ABLE TO INQUIRE ABOUT THAT OR YOUR HONOR TO INQUIRE ABOUT THAT AND I THOUGHT THAT MIGHT BE BEST TO ASK THOSE QUESTIONS AT THIS TIME IN CASE. I DON'T EXPECT THE ANSWERS TO BE ANYTHING OTHER THAN WHAT YOUR HONOR INSTRUCTED BUT IN THE EVENT...

JUDGE HOWE: I WILL ASK. MRS. BRADY,

AT THE END OF THE TESTIMONY BACK IN FEBRUARY, I DID ADMONISH YOU THAT BECAUSE WE WERE STOPPING THE TESTIMONY RIGHT IN THE MIDDLE OF YOUR TESTIMONY THAT YOU WOULD NOT BE ALLOWED TO DISCUSS YOUR TESTIMONY WITH COUNSEL EVEN THOUGH THERE WAS A LENGTHY DELAY BETWEEN FEBRUARY AND THE BEGINNING OF TRIAL TODAY. HAVE YOU DISCUSSED THE MERITS OF YOUR TESTIMONY WITH ANYONE? YOUR TESTIMONY.

A NO, MA'AM.

JUDGE HOWE: ALRIGHT. IS THAT OKAY WITH YOU MS. COOK?

MS. COOK: YES, MA'AM.

Q MRS. BRADY, I UNDERSTAND THAT YOU PREPARED A SUMMARY ANALYSIS OF NON-CORPORATE ACTIVITY OF A&E CONSTRUCTION, WHICH IS A REPORT THAT IS MARKED FOR IDENTIFICATION ONLY AT THIS TIME AS 40. YOUR HONOR, I WILL HAND IT TO YOU AND WE WILL HAVE TESTIMONY ABOUT IT LATER. YOU PREPARED A FINAL REPORT OF NON-CORPORATE ACTIVITY OF THIS COMPANY?

A YES, SIR.

Q I WANT TO ASK YOU SOME QUESTIONS GENERALLY AS AN EXPERT IN THE FIELD OF ACCOUNTING AND CERTIFIED

PUBLIC ACCOUNTING. WHEN YOU RENDERED THESE REPORTS FOR THE YEAR 2004 THROUGH 2007 IN YOUR FINAL REPORT, DID YOU COMPLETELY EXAMINE THE BOOKS AND RECORDS OF A&E, THE CORPORATION?

A YES, SIR. I DID A VERY THOROUGH REVIEW.

Q TELL ME WHAT DO YOU DEFINE AS NON-CORPORATE ACTIVITY?

A WHAT I'M SAYING THERE IS EITHER IT WAS NOT A BUSINESS EXPENSE OR IT WAS NOT CORPORATE ACTIVITY OF A&E.

Q SO, LET ME ASK YOU A GENERAL QUESTION. WERE THE BOOKS AND RECORDS OF THE COMPANY A&E MAINTAINED PROPERLY?

A I DON'T FEEL THAT THEY WERE MAINTAINED PROPERLY IN THE FACT THAT THE MONEY WENT BETWEEN SEVERAL OTHER COMPANIES AND THERE WAS NO DOCUMENTATION. THERE WAS NOT ADEQUATE RECORDS TO SHOW MONEY WAS COMING AND GOING OUT THROUGH SEVERAL OTHER ENTITIES THAT MR. VEREEN OWNED.

Q GENERALLY SPEAKING, MRS. BRADY, AS AN ACCOUNTING EXPERT, SHOULD THE INCOME OF A COMPANY, SPECIFICALLY A&E, ALWAYS BE PLACED IN THE COMPANY'S BUSINESS ACCOUNT?

A SURE.

Q AND THAT WOULD BE CHECKING MAINTAINED FOR THAT

PURPOSE?
A ARE YOU SAYING SHOULD THE MONEY RUN THROUGH THE COMPANY?
Q YES, MA'AM.
A ABSOLUTELY.
Q SHOULD THE BILLS OF A COMPANY ORDINARILY BE PAID OUT OF THAT COMPANY'S BUSINESS ACCOUNT?
A THEY SHOULD BE AND THERE ARE CIRCUMSTANCES WHERE THEY MIGHT BE PAID OUT OF A LOAN. IF THEY'RE NOT RAN THROUGH A CHECK OUT OF THAT BUSINESS, THERE SHOULD AT LEAST BE DOCUMENTATION TO SHOW THAT AN EXPENSE WAS PAID AND THAT MONEY IS OWED BACK TO EITHER A BANK OR ANOTHER COMPANY OR WHOEVER EXPENSED IT. IT SHOULD BE RECORDED ON THE BOOKS.
Q NOW, YOU ARE FAMILIAR WITH THE PEACHTREE ACCOUNTING SYSTEM?
A I HAVE BECOME VERY FAMILIAR WITH THE PEACHTREE.
Q THAT'S THE SYSTEM THAT THIS COMPANY MAINTAINED IT'S BOOKS AND RECORDS?
A YES, SIR.
Q AND YOU HAVE EXAMINED THIS ACCOUNT IN DETAIL, HAVE YOU NOT, THE ACCOUNT OF A&E MAINTAINED ON PEACHTREE?
A YES. I HAVE EXAMINED THE BACK UP THAT I HAVE.
Q IS THE PEACHTREE ACCOUNTING SYSTEM, IN YOUR

OPINION, A GOOD SYSTEM FOR MAINTAINING THE BOOKS AND RECORDS OF A CONSTRUCTION COMPANY?

A YES. IT'S A VERY GOOD ACCOUNTING SOFTWARE.

Q TELL ME, IF YOU USE THE PEACHTREE ACCOUNTING SYSTEM, WOULD YOU EXPECT A CORPORATION TO PUT IT'S BILLS AND EXPENSES IN THAT SYSTEM?

A YES. AS I WAS SAYING EARLIER, IT SHOULD RUN... ALL YOUR EXPENSES, IF IT'S NOT ACTUALLY PAID OUT OF THE CHECKING ACCOUNT, AT THE VERY LEAST, IT SHOULD BE PUT INTO YOUR ACCOUNTING SYSTEM AND AT LEAST JOURNAL ENTRIES IN SO YOU CAN TRACK THAT EXPENSE OR THAT INCOME AND IF THERE IS MONEY THAT WAS PAID FROM SOME OTHER SOURCE, YOU WILL HAVE A RECORD THROUGH YOUR SOFTWARE WHO IS OWNED BACK THAT MONEY.

Q THE PEACHTREE ACCOUNTING SYSTEM, IS IT SET UP SO YOU CAN PAY EXPENSES AND ALLOCATE THOSE EXPENSES TO SPECIFIC JOBS?

A YES, SIR.

Q IS IT SET UP WHERE YOU CAN MAKE DEPOSITS THROUGH THE PEACHTREE SYSTEM AND ALLOCATE THOSE DEPOSITS TO A CUSTOMER'S BILL?

A YES, SIR.

Q WHY IS IT IMPORTANT FOR A COMPANY SUCH AS A&E TO PROPERLY MAINTAIN IT'S ACCOUNTING RECORDS?

A WELL, IT'S IMPORTANT FOR ANY COMPANY TO KEEP TRACK OF YOUR INCOME EXPENSE. NUMBER ONE, TO KNOW WHERE YOU ARE, WHERE YOUR PROFITABILITY IS, IF YOU'RE MAKING MONEY. IT'S ALSO VERY IMPORTANT FOR THE OTHER MEMBERS OF THE COMPANY. SO, AT ANY TIME ANY OF THE OWNERS, OFFICERS, MANAGERS WANT, YOU CAN PRINT REPORTS AND EVERYONE CAN GET A FINANCIAL... GET AN IDEA WHERE YOU ARE FINANCIALLY AND IT'S ALSO VERY CRITICAL AT THE END OF THE YEAR WHEN YOU DO YOUR TAX RETURN YOU'VE GOT EVERYTHING THERE IF YOU KEEP YOUR ACCOUNTING SOFTWARE CORRECT AND YOU DO HAVE ALL YOUR INCOME AND EXPENSES AND ALL YOUR JOURNAL ENTRIES IN. IT'S VERY SIMPLE TO DO. AS FAR AS FINANCIAL STATEMENTS, THEY GO ONTO A TAX RETURN AT THE END OF THE YEAR JUST TO HAVE AN ACCURATE RECORD OF ALL YOUR INCOME AND EXPENSES.

Q THIS WOULD BE A WAY OF TRACKING YOUR PROFITS?

A SURE.

Q YOUR EXPENSES?

A SURE.

Q YOUR INCOME?

A CORRECT.

Q AND ANY DISBURSEMENTS MADE FOR ANY PURPOSE OF THE COMPANY?

A RIGHT.

Q DO CPAS SUCH AS YOU ROUTINELY RELY UPON SUCH REPORTS FROM THE PEACHTREE ACCOUNTING SYSTEMS?
A WE ALWAYS RELY... WE RELY UPON THE FINANCIALS AND THEN OF COURSE MEETING WITH THE CLIENT TO DISCUSS IF THERE'S ANYTHING THAT HAS HAPPENED THAT HAS NOT BEEN THROUGH... IF IT'S NOT BEEN PUT IN BY THAT BUSINESS SOFTWARE.
Q THEN YOUR FIGURES WOULD BE ADJUSTED ACCORDINGLY?
A CORRECT.
Q IF YOU FAIL TO MAINTAIN THESE RECORDS PROPERLY, AS IN THIS CASE, WHAT AFFECT DOES IT HAVE --
MS. COOK: YOUR HONOR, I OBJECT.
Q MRS. BRADY, DID THE COMPANY PROPERLY RECORD ITS INCOME AND EXPENSES IN THE YEARS THAT YOU EXAMINED THE BOOKS AND RECORDS?
A I DO NOT FEEL THEY DID, NO.
Q HOW DOES THIS AFFECT THE PREPARATION OF THE TAX RETURNS BY THE TAX PROFESSIONAL?
A I DON'T KNOW THAT YOUR TAX RETURNS CAN BE CORRECT IF YOU DON'T HAVE THE INCOME REPORTED... YOUR INCOME AND EXPENSES IN THE RIGHT PLACE. I DON'T THINK YOU CAN PREPARE AN ACCURATE TAX RETURN.
Q YOU EXAMINED THE TAX RETURNS FOR A&E FOR THE YEARS THAT THEY WERE PREPARED?
A YES, SIR.

Q AND THEY WERE PREPARED BY THE ACCOUNTING FIRM OF SMITH SAPP AND THEY ARE CERTIFIED PUBLIC ACCOUNTANTS?
A YES, SIR.
Q AND WHAT YEARS WERE THEY PREPARED?
A I HAVE A 2004, 2005, 2006. I WAS A LITTLE UNSURE IF IT WAS THE FINAL, IF IT WAS A DRAFT OR IF IT WAS ACTUALLY FILED. AND THEN I THINK 2007, I WAS TOLD WAS A DRAFT. I HAVE THE TAX RETURN, BUT I DON'T KNOW IF IT WAS ACTUALLY FILED.
Q NOW, YOU HAVE COMPLETED YOUR STUDY OF THE BOOKS AND RECORDS. DOES THE 2004 TAX RETURN THAT WAS FILED AND SIGNED BY MR. VEREEN FOR A&E, DOES IT PROPERLY REFLECT THE INCOME AND EXPENSES OF THE COMPANY FOR THE CALENDAR YEAR 2004?
A I DO NOT BELIEVE IT DOES.
Q YOU HAVE DISCUSSED EARLIER ABOUT SOME PAYMENTS THAT WERE MADE TO OTHER RELATED ENTITIES; TO ARTHUR VEREEN CONSTRUCTION, PARKWAY OFFICES, PARK PLACE PROPERTIES AND MR. VEREEN. YOU HAVE DISCUSSED THOSE AND HAVE THOSE IN YOUR REPORTS?
A YES, SIR.
Q DID YOU LOOK AT THE RECORDS MAINTAINED BY SMITH SAPP FOR THOSE ENTITIES AND PEOPLE TO DETERMINE WHETHER THOSE ENTITIES REPORTED THOSE PAYMENTS

MADE?

A WE LOOKED AT THE RECORDS... THE OTHER ENTITIES AT SMITH SAPP'S OFFICE. HOWEVER, THE BACKUP OR THE ACCOUNTING DETAIL WAS NOT COMPLETE THAT I COULD ACTUALLY COME TO SOME OF THE ANSWERS THAT I REALLY WANTED. WITH A&E WE HAD THE TAX RETURNS AND WE HAD THE SOFTWARE PROGRAM. WE HAD NO SOFTWARE BACKUP FOR THE OTHER ENTITIES. WE WERE TOLD IT WAS NOT KEPT ON A COMPUTER ACCOUNTING SOFTWARE PROGRAM. SO, IT WAS HARDER TO GO THROUGH THE SPECIFICS OF WHAT THOSE COMPANIES DID. THERE WERE CERTAIN THINGS I COULD PULL OUT AND SEE THAT THEY DID, BUT I COULDN'T DEFINITELY DEFINE SOME OF THE INCOME AND EXPENSES FOR THOSE COMPANIES, HOW IT WAS TREATED BY LOOKING AT THE TAX RETURN BECAUSE THE TAX RETURNS ARE VERY GENERAL NUMBERS.

Q DID MR. VEREEN PROPERLY REPORT THE INCOME AND EXPENSES TO ITS ACCOUNTANT IN 2004, ACCORDING TO THEIR RECORDS?

MS. COOK: YOUR HONOR, I OBJECT. SHE CAN'T KNOW WHAT MR. VEREEN DID OR DIDN'T REPORT TO HIS ACCOUNTANT IF SHE SAYS ANYTHING THAT'S GOING TO BE HEARSAY. HOW DOES SHE KNOW WHAT MR. VEREEN TOLD OR REPORTED TO HIS

ACCOUNTANT.

JUDGE: SUSTAINED. I THINK YOU CAN RE-WORD THAT.

Q MRS. BRADY, MR. VEREEN RECEIVED HIS SUPERVISORY FEES AND OTHER FEES IN THE CALENDAR YEAR 2004 AND 2005 AS SHOWN ON YOUR REPORTS. SPECIFICALLY, AS TO THOSE ITEMS, DID MR. VEREEN PAY INCOME TAXES ON THOSE FILED RETURNS FOR THOSE EXPENSES?

A HE REPORTED A COUPLE, A VERY SMALL PORTION IN 2004 OF SUPERVISORY FEES. PROBABLY 70% OF IT WAS NOT REPORTED AS INCOME ON HIS TAX RETURN.

Q WAS THE 1099 PREPARED AND SENT BY THE COMPANY, A&E, TO MR. VEREEN FOR THOSE EXPENSES?

A A 1099 WAS NOT PREPARED FOR MR. VEREEN FOR ANY OF THE SUPERVISORY EXPENSES THAT I FOUND IN RECORDS.

Q WAS IT INCLUDED IN THE W-2 THAT THE COMPANY SENT TO HIM AT THE END OF THE YEAR?

A IT WAS NOT INCLUDED IN THE W-2 THAT I REVIEWED.

Q DID THE COMPANY SEND A 1099 SENT BY A&E TO ARTHUR VEREEN CONSTRUCTION FOR THE PAYMENTS THAT HE RECEIVED THAT WERE COMPANY FUNDS AS SHOWN IN YOUR REPORTS FOR 2004 AND 2005?

A NO, SIR. I DON'T BELIEVE I SAW ANY 1099S ISSUED FOR A&E.

Q FOR ANY PURPOSE?

A FOR ANY PURPOSE.
Q LIKEWISE, WITH THE EXPENDITURES OR THE MONIES RECEIVED BY PARKWAY OFFICES IN 2004 AND 2005, IS THERE ANY REPORT AT SMITH SAPP SHOWING THAT A&E SENT A 1099 TO PARKWAY OFFICES FOR ANY MONEY RECEIVED FROM THE CORPORATION?
A NO, SIR. I HAVE NOT SEEN ANY 1099S.
Q NOW, HOW IMPORTANT IS IT, MRS. BRADY, FOR A COMPANY TO BILL FOR ITS SERVICES?
A HOW IMPORTANT IS IT FOR THEM TO BILL FOR THEIR SERVICES?
Q BILL FOR THE SERVICES, SEND INVOICES?
A I WOULD THINK THAT WOULD BE VERY IMPORTANT.
Q DO YOU EVEN HAVE TO ASK THE QUESTION?
A DO I HAVE TO ASK... I'M CONFUSED.
Q I PRESUME THAT A CORPORATION WOULD EXIST TO MAKE MONEY?
A CORRECT.
Q IF A COMPANY DOES NOT BILL, IT CANNOT EXPECT PAYMENT?
A I CAN SAY IN MY PROFESSION, I DON'T RECEIVE PAYMENT IF I DON'T BILL.
Q IS THERE ANY EVIDENCE IN YOUR EXAMINATION OF A&E'S BOOKS AND RECORDS THAT THE RELATED PARTIES THAT WERE PARK PLACE PROPERTIES, WAYNE VEREEN, PARKWAY

OFFICES, THAT THEY WERE EVER BILLED FOR ANY OF THE SERVICES RENDERED BY THE COMPANY?

A I HAVE NOT SEEN ANY BILLS, NO, SIR.

Q ARE YOU FAMILIAR WITH THE PROVISIONS OF THE CODE CONCERNING COMPLEX OF INTEREST BETWEEN DIRECTORS AND SHAREHOLDERS?

A I CAN SAY I'M FAMILIAR.

Q IS THERE A REQUIREMENT THAT MR. VEREEN NOT TREAT HIMSELF ANY DIFFERENTLY THAN ANY OTHER THIRD PARTY WHEN HE PERFORMS WORK OR A&E PERFORMS WORK FOR THOSE ENTITIES?

A SORRY.

Q IS THERE ANY REQUIREMENT THAT MR. VEREEN BE FAIR IN DEALING WITH THE RELATED ENTITIES ON BEHALF OF A&E?

A YES, SIR.

Q IS THERE EVIDENCE IN THE RECORDS OF A&E THAT A&E BILLED EVERY OTHER CUSTOMER FOR THEIR SERVICES RENDERED WITH THE EXPECTATION OF THESE RELATED ENTITIES?

A TO HONESTLY ANSWER THAT, I HAVEN'T SEEN A LOT OF THE BILLS PERIOD. I'VE SEEN SOME OF THE BILLS FOR CONSTRUCTION, BUT I HAVE... MY REVIEW, I HAVEN'T SEEN A LOT OF THE BILLS... ALL OF THE BILLS THAT THEY HAVE BILLED OUT. I HAVE SEEN SOME THAT THEY

HAVE BILLED FOR THEIR CONSTRUCTION.
Q HAVE YOU SEEN EVIDENCE OF PAYMENT IN THE BOOKS AND RECORDS FROM CUSTOMERS OTHER THAN RELATED PARTIES?
A YES, SIR.
Q ARE BASICALLY THOSE ACCOUNTS PAID OTHER THAN THE RELATED PARTIES?
A YES, SIR.
Q WAS ANY EXPLANATION GIVEN TO YOU BY ANYONE DURING YOUR INVESTIGATION AS TO WHY THESE COMPANIES WERE NOT BILLED, THESE RELATED COMPANIES?
A NO,. SIR.
Q IS THERE ANY EVIDENCE IN THE RECORDS THAT YOU EXAMINED OF SMITH SAPP THAT YOU RECEIVED -- RECORDS FROM SMITH SAPP AND A&E FOR THE RELATED COMPANY --
A I DON'T UNDERSTAND.
Q IS THERE ANY EVIDENCE IN THE RECORDS YOU EXAMINED AT SMITH SAPP... YOU SAID YOU RECEIVED THE RECORDS FOR SMITH SAPP FOR A&E AND THESE RELATED COMPANIES, DID YOU NOT?
A CORRECT.
Q IS THERE ANY EVIDENCE IN THOSE SUBPOENAED DOCUMENTS THAT MR. VEREEN REPORTED THESE OFF THE BOOKS PAYMENTS FROM THE A&E JOBS TO SMITH SAPP?
MS. COOK: YOUR HONOR, I OBJECT.

JUDGE HOWE: ON WHAT GROUNDS?

MS. COOK: "OFF THE BOOKS" WHAT BOOKS? I DON'T THINK THAT QUESTION WAS CLEAR.

Q MRS. BRADY, THERE'S EVIDENCE IN YOUR REPORTS OF PAYMENTS MADE FROM JOBS RENDERED BY A&E THAT WERE NOT PUT IN THE A&E ACCOUNT, CORRECT?

A CORRECT.

Q YOU HAVE EVIDENCE IN YOUR RECORDS AND PUT IN YOUR REPORTS WHERE THOSE MONIES WENT TO?

A CORRECT.

Q IS THERE ANY EVIDENCE THAT MR. VEREEN REPORTED THESE TRANSACTIONS TO HIS ACCOUNTANT, SMITH SAPP, SHOWN IN THOSE RECORDS?

A THERE IS EVIDENCE OF SOME OF THE MONEY GOING INTO THE ACCOUNT. LIKE I SAID EARLIER, THE ACCOUNTING RECORDS OF THESE OTHER ENTITIES IS VERY VAGUE AND THERE WERE SOME SITUATIONS WHERE I COULD TELL THAT THEY DIDN'T REPORT SOME INCOME AND THERE WAS SOME SITUATIONS WHERE THEY DID EXPENSE. EVEN SOME OF THE EXPENDITURES THEY MADE THAT THEY HAVE REQUESTED BACK. IN THE LARGE VIEW OF IT, I CAN'T SAY THAT THEY REPORTED ALL OF IT AS INCOME AND ALL OF IT AS EXPENSES BECAUSE THOSE RECORDS ARE NOT ACCURATE. I CAN SEE WHERE IT WENT INTO THE BANK ACCOUNT ON SOME OF THEM. THE PERSONAL CHECKS, WE

CAN'T TELL. I CAN'T REALLY... BECAUSE THOSE BOOKS MIGHT SHOW SALES INCOME OF 200,000 OR 300,000. I DON'T HAVE THE BACKUP THAT I CAN GO BACK AND SAY SPECIFICALLY, ALL OF THOSE DEPOSITS, HOW THEY HANDLED THEM.

Q WHEN THIS ACTION WAS INITIALLY FILED, MRS. BRADY, YOU WERE PROVIDED WITH A COPY OF THE PLAINTIFF'S INTERROGATORIES CONCERNING... THOSE WERE QUESTIONS ASKED OF MR. VEREEN AND THE RELATED COMPANIES CONCERNING THESE TRANSMISSIONS YOU REPORTED ON?

A CORRECT.

Q DID MR. VEREEN PROPERLY ANSWER THOSE QUESTIONS CONCERNING THOSE PAYMENTS THAT WERE DIVERTED INTO OTHER RELATED ACCOUNTS?

MS. COOK: YOUR HONOR, I OBJECT. SHE CAN'T KNOW WHAT MR. VEREEN KNEW OR DIDN'T KNOW TO PROPERLY ANSWER OR NOT ANSWER THE QUESTION. HOW CAN SHE TESTIFY ABOUT WHAT MR. VEREEN PUT IN ANSWERS TO QUESTIONS?

MR. DURANT: YOUR HONOR, I ASKED HIM SPECIFIC QUESTIONS ABOUT CHECKS, WRITTEN CHECKS. HE SAID THAT THERE WERE NONE AND... THAT'S WHAT HE SAID IN HIS ANSWER. AND I'M ASKING HER

ABOUT THOSE CHECKS.

JUDGE HOWE: OKAY.

MS. COOK: YOUR HONOR, I THINK THE PROPER WAY TO DO THAT WOULD BE TO PULL OUT THE QUESTION, POINT TO THE QUESTION, AND...

JUDGE HOWE: WELL, LET'S DO THAT.

MR. DURANT: YOUR HONOR, INTERROGATORIES NUMBER 24.

Q MRS. BRADY, QUESTION IS, "PLEASE STATE WHETHER OR NOT YOU HAVE EVER ENDORSED OR HAVE SOMEONE ELSE ENDORSE A CHECK PAYABLE TO THE PLAINTIFF, A&E, WITHOUT DEPOSITING THE SAME IN THE CHECKING ACCOUNT OF THE COMPANY, A&E? AND WHETHER YOU HAVE EVER RECEIVED PAYMENT IN ANY FORM FOR GOODS, SERVICES OR MATERIALS PROVIDED BY A&E OR THAT WAS DUE TO A&E FOR ANY REASON WITHOUT GIVING SUCH PAYMENT TO A&E FOR DEPOSIT. AND IF SO, FOR EACH INSTANCE, IDENTIFY THE MAKER, THE DATE AND THE AMOUNT OF EACH PAYMENT OR CHECK AND WHAT YOU DID WITH SUCH CHECK, CASH OR OTHER FORM OF PAYMENT AND HOW YOU TOLD WHAT WAS EMPLOYED BY A&E OF SUCH ACTION BY YOU AND WHO AUTHORIZED SUCH ACTION ON YOUR BEHALF"?

MS. COOK: INTERROGATORY 18.

MR. DURANT: 24. YOUR HONOR, WITHOUT READING IT ALL, THE ANSWER WAS THAT MR. VEREEN DID IT ON FOUR OCCURRENCES. AND ANOTHER ANSWER WAS, "UPON INFORMATION AND BELIEF THESE ARE THE ONLY FOUR OCCURRENCES OF THIS TYPE."

Q NOW, MRS. BRADY, HAVE YOU SEEN EVIDENCE THAT MR. VEREEN OR THESE RELATED ENTITIES DEPOSITED CHECKS PAYABLE TO A&E OR FOR A&E'S RENDERED SERVICES AND PLACED THOSE MONIES IN ANOTHER ACCOUNT?

A HAVE I SEEN EVIDENCE?

Q YES, MA'AM.

A YES, SIR.

Q ARE THEY NOT INCLUDED IN THE 2004, 2005, 2006 REPORTS THAT YOU SUBMITTED INTO EVIDENCE?

A WERE THEY INCLUDED IN MY REPORTS OR THEIR REPORTS?

Q BOTH.

A THEY WERE NOT IN THE A&E RECORDS. I PULLED THEM OUT IN MY REPORTS?

Q YES, MA'AM.

A CORRECT.

Q BUT YOU FOUND EVIDENCE OF THOSE CHECKS DEPOSITED SOMEWHERE ELSE?

A CORRECT.

Q AND THEY ARE CONTAINED IN YOUR REPORT?

A RIGHT.
Q AND THOSE CHECKS AND THE DEPOSIT TICKET GOING INTO ANOTHER ACCOUNT ARE IN YOUR REPORTS?
A CORRECT.
Q AND EVIDENCED. AND MR. VEREEN HAS IN FACT ADMITTED THAT HE DID THAT, DID HE NOT?
A CORRECT.
Q MY QUESTION IS, WAS THIS STATEMENT CORRECT WHEN MR. VEREEN ANSWERED THESE INTERROGATORIES?
A NO.
Q MA'AM, YOU HAVE TESTIFIED TODAY AND YOU HAVE IN YOUR BOOKLET VARIOUS INCIDENTS WHERE YOU HAVE CHARGED THINGS TO MR. VEREEN OR HIS RELATED ENTITIES. WERE THERE CHARGES MADE BY MR. VEREEN'S OWN ACCOUNTANT, SMITH SAPP, WHERE SMITH SAPP CHARGED CERTAIN EXPENSES AS BEING NOT BUSINESS EXPENSES BUT PERSONAL EXPENSES?
A YES, SIR.
Q AND THOSE WERE DONE FOR ALL OF THOSE YEARS 2004, 2005, 2006 ANYWAY?
A YES. THERE WERE MORE IN 2004 AND 2005 THAT SMITH SAPP PULLED OUT. I DON THINK IN '06 AND '07 THERE MIGHT HAVE BEEN A FEW.
Q WERE SOME OF THOSE EXPENSES ON OCCASION WHERE OVER $100,000.00 HAD BEEN PAID BY A&E TO PAY THE

CONSTRUCTION LOAN OF PARK PLACE PROPERTIES?

A THAT AMOUNT OF MONEY WAS PAID TO A BANK. I'M NOT SURE WHAT IT WAS PAID FOR.

Q THAT WAS PAID OUT OF THE A&E ACCOUNT?

A CORRECT.

Q AND A&E DOESN'T HAVE A LOAN, DOES IT, MA'AM, TO YOUR KNOWLEDGE?

A OTHER THAN A COUPLE OF EQUIPMENT LOANS, THEY DID NOT HAVE ANY LOANS TO THOSE BANKS THAT THE PAYMENTS WERE MADE TO.

Q NOW, THESE THINGS THAT SMITH SAPP HAD ALREADY CHARGED TO MR. VEREEN OR THESE RELATED ENTITIES, THEY ARE NOT INCLUDED IN YOUR REPORT, ARE THEY?

A NO, SIR. THEY ARE INCLUDED ON THE FINANCIALS AS FAR AS WHAT I FELT MR. VEREEN OWED, BUT IT'S NOTHING THAT I DID ANYTHING WITH.

Q SO, AT THE TIME OF THE 2004, 2005, AND 2006 TAX RETURNS, EVEN MR. CRUMPLIER AT SMITH SAPP HAD CHARGED SOME OF THESE EXPENSES AS PERSONAL EXPENSES OR EXPENSES THAT WERE NOT PROPERLY BELONGING TO A&E?

A YES, THEY HAD.

Q AND MR. VEREEN SIGNED THOSE TAX RETURNS THAT WERE FILED?

A I'M ASSUMING THAT HE DID, BUT USUALLY THEY'RE IN

THE FILE. THE SIGNED COPY IS NOT IN THERE.

Q RIGHT. NOW, YOU DIDN'T DOUBLE DIP? YOU DIDN'T CHARGE THEM TWICE, DID YOU? YOU TOOK THOSE FIGURES FROM SMITH SAPP AND STARTED FROM THOSE FIGURES IN DOING YOUR REPORTS?

A CORRECT. THAT MIGHT BE WHERE SOME OF THE... I THINK I TESTIFIED EARLIER IN SOME OF MY BOOKS, YOU MIGHT SEE A NUMBER THAT HAS BEEN DELETED BECAUSE IF WE EVER GOT TO A POINT THAT WE HAD AN EXPENSE AND SAW THAT IS WAS PREVIOUSLY RECORDED, IT WAS DELETED. SO, THE FINAL REPORTS, NO. THEY'RE NOT EXPENSES.

Q THOSE EXPENSES WERE JUST AS WRONG AS ANY OF THE ONES YOU FOUND, IS THAT CORRECT? IN TERMS OF BEING AN EXPENSE PAID BY MR. VEREEN OUT OF THE COMPANY ACCOUNT THAT WAS NOT A PROPER BUSINESS EXPENSIVE OF A&E?

A CORRECT.

Q TELL ME, MA'AM, WHEN THESE TAX RETURNS WERE FILED, THOSE EXPENSES THAT WERE CHARGED AS PERSONAL EXPENSES, THEY WERE CHARGED AS AN ACCOUNTS RECEIVABLE TO MR. VEREEN AND THE RELATED ENTITIES?

A CORRECT. THEY HAD IT AS A RECEIVABLE FROM, I THINK, WAYNE VEREEN.

Q FOR ALL THE COMPANIES?

A YES. THE ONLY RECEIVABLE ON THE BOOKS WAS FROM WAYNE VEREEN.

Q SO, THE NET AFFECT OF THESE CHARGES BY SMITH SAPP IS THAT MR. VEREEN GOT THE MONEY AND IT'S SHOWN AS AN ACCOUNT RECEIVABLE TO THE COMPANY?

A CORRECT.

Q DO YOU KNOW WHETHER OR NOT SMITH SAPP TOLD THE OTHER SHAREHOLDER, MR. SMITH, ABOUT THESE UNAUTHORIZED EXPENSES?

A I HAVE NO IDEA.

Q DID MR. SMITH TELL YOU HE KNEW ANYTHING ABOUT THEM?

A NO. HE DID NOT TELL ME HE KNEW ANYTHING ABOUT THEM.

Q LET ME ASK YOU AS A CERTIFIED PUBLIC ACCOUNTANT, IF YOU ARE PREPARING A TAX RETURN FOR A CORPORATION WITH TWO 50% SHAREHOLDERS, A SUB-CHAPTER S CORPORATION, ARE YOU REQUIRED TO NOTIFY THE OTHER SHAREHOLDER WHEN SOMETHING LIKE THIS OCCURS?

A ARE YOU ASKING ME AS A CPA?

Q YES, MA'AM.

A AM I RESPONSIBLE TO NOTIFY?

Q YES, MA'AM.

A HONESTLY I WOULD IN MY PROFESSION. BY LAW I DON'T

KNOW THAT YOU HAVE TO CONTACT BOTH OF THEM. WHEN I DO TAX RETURNS AND THERE'S MULTIPLE SHAREHOLDERS, I USUALLY PROVIDED IT TO ALL OF THEM. I CAN'T TELL YOU SPECIFICALLY IF THERE'S A LAW THAT REQUIRES THAT.

Q DOES NOT THE LAW REQUIRE AN ANNUAL REPORT TO BE GIVEN TO EVERY SHAREHOLDER?

A YES. THE LAW DOES. I DON'T KNOW THAT'S IT'S THE CPA'S RESPONSIBILITY.

Q SO, THE SHAREHOLDER WOULD HAVE TO BE NOTIFIED ON AN ANNUAL BASIS IF THERE WERE SOME KIND OF IRREGULARITY UNDER THE ACCOUNT?

A SHAREHOLDER SHOULD RECEIVE ALL THE FINANCIAL DOCUMENTS AND HAVE RECORDS TO THE FINANCIAL.

Q NOW, MR. VEREEN KNEW THAT THESE EXPENDITURES WERE MADE BY THE COMPANY, DID HE NOT, BECAUSE HE WROTE THE CHECKS?

A YES. HE SIGNED THE CHECKS.

Q MR. VEREEN KNEW ABOUT THESE DEPOSITS THAT WERE MADE FROM CHECKS PAYABLE TO A&E OR FOR A&E SERVICES AND WERE PUT INTO HIS RELATED ACCOUNTS?

A I WOULD HAVE TO SAY THAT HE DEFINITY KNEW ABOUT THAT.

Q IS THERE ANY EVIDENCE THAT MR. VEREEN IN 2004, 2005, 2006, AND 2007 EVER INFORMED MR. SMITH THAT

HE WAS TAKING THESE ACTIONS AND THAT HE IN FACT DID IT?

A NOT TO MY KNOWLEDGE. HE HAS NEVER EXPRESSED ANY OF THAT TO ME.

Q EVEN WHEN THESE INTERROGATORIES WERE PROPOUNDED AND ANSWERED IN 2010, HE STILL DID NOT ADMIT IT, DID HE, MA'AM?

A CORRECT.

Q WHAT'S WRONG... LET'S LOOK AT A&E. WHAT'S WRONG WITH MR. VEREEN TAKING FUNDS OUT OF THE COMPANY AND FILING TAX RETURNS WITH IMPROPER INFORMATION? WHAT PROBLEMS, LEGAL PROBLEMS, DOES IT HAVE, MS. BRADY, WHEN THAT OCCURS?

A YOU HAVE SEVERAL PROBLEMS AS FAR AS THESE... LET ME KIND OF BACK UP AND EXPLAIN WHAT HAS HAPPENED HERE. MR. VEREEN IS A PARTNER IN SEVERAL DIFFERENT ENTITIES. EACH ONE WAS A CORPORATION OR AN LLC AND THE PURPOSE OF THAT IS TO KEEP EACH ENTITY SEPARATE AND THESE BOOKS WERE RAN, AS ALL THESE COMPANIES WERE, AS ONE. THERE'S NO... IT'S SO HARD TO GO BACK AND TRACK WHAT THE INCOME WAS SUPPOSED TO BE AT ONE COMPANY OR WAS IT SUPPOSED TO BE AT THE OTHER? BECAUSE THEY RAN IT LIKE THEY WERE PAYING OUT OF ALL THE DIFFERENT COMPANIES. WHEN YOU FILE THE TAX RETURNS, LIKE WHEN A&E FILED

THEIR TAX RETURN, THERE WAS NOT A PROPER ACCOUNTING OF THE INCOME OR THE EXPENSES BECAUSE EVEN EXPENSES THAT WERE PAID ON OTHER COMPANIES, THEY WEREN'T PAID OUT OF A&E. THEY WERE NEVER JOURNAL ENTRIED IN THAT THEY WERE EXPENSES THAT WERE RECORDED ON THE JOB LEDGER. SO, THESE TAX RETURNS ARE NOT TECHNICALLY CORRECT.

Q DOES THAT EXPOSE THE CORPORATION TO ANY LIABILITY TO THE STATE AND FEDERAL GOVERNMENT?

A I BELIEVE IT DOES, YES.

Q DOES IT EXPOSE THEM TO PENALTIES AND INTEREST?

A YEAH, BECAUSE THE TAXABLE INCOME AND THE EXPENSES HAS NOT BEEN CORRECTLY REPORTED FOR EACH COMPANY.

Q THIS IS A SUB CHAPTER S CORPORATION, CORRECT?

A CORRECT.

Q WHAT KIND OF LIABILITY DOES THAT EXPOSE MR. SMITH AS A 50% OWNER OF THE CORPORATION IF THE INCOME TAX RETURNS ARE INCORRECT IN THAT THEY DID NOT PROPERLY REPORT THE INCOME THAT THE COMPANY EARNED?

A HE'S 50% LIABLE.

Q BECAUSE HE'S A 50% OWNER?

A YES. SHAREHOLDER 50%.

Q LIKEWISE, IF MR. VEREEN, THROUGH THESE RELATED ENTITIES, RECEIVED THE INCOME AND DID NOT REPORT

IT, DOES THAT EXPOSE THE COMPANY TO FURTHER LIABILITY? UNREPORTED INCOME?

A EXPLAIN THAT QUESTION.

Q IN REGARDS TO UNREPORTED INCOME IN GENERAL, THE INCOME TO A&E THAT WOULD BE PAYABLE BY WAY OF CHECKS. IT WAS NOT ALL REPORTED ON THE A&E TAX RETURN, WAS IT, MA'AM?

A CORRECT.

Q NOW, IF MR. SMITH IS RESPONSIBLE FOR 50% OF THAT INCOME, DOES THAT POSE MORE PROBLEMS TO HIM BECAUSE HE DID NOT RECEIVE THE INCOME OR COMPANIES UNDER HIS CONTROL?

A YOU ARE ASKING ME IF HE COULD BE HELD LIABLE FOR THE INCOME THAT HE NEVER RECEIVED?

Q YES, MA'AM.

A I WOULD SAY THERE IS A GOOD POSSIBILITY OF THAT.

Q MRS. BRADY, GOING TO THE PLANTATION LAKES JOB, ARE YOU FAMILIAR WITH THAT, THE HOUSE THAT WAS OWNED BY MR. VEREEN?

A YES, SIR.

Q DID MR. SMITH TELL YOU HE WAS NOT AWARE OF HOW THIS WAS BOOKED ON THE COMPANIES --

MS. COOK: YOUR HONOR, I OBJECT THAT CALLS FOR HEARSAY. I OBJECT BASED ON HEARSAY.

JUDGE HOWE: LET HIM GET THE WHOLE QUESTION OUT FIRST.

Q MRS. BRADY, WAS MR. SMITH AWARE OF THE WAY MR. VEREEN REPORTED THE PLANTATION LAKES TRANSACTION ON THE 2005 TAX RETURNS?

MS. COOK: YOUR HONOR, I OBJECT. SHE DOESN'T KNOW WHAT MR. SMITH DOES AND DOESN'T KNOW --

Q DID HE TELL YOU --

MS. COOK: I OBJECT ON GROUND OF HEARSAY.

Q DID MR. SMITH KNOW THAT THE PLANTATION LAKES HOUSE TRANSACTION WAS NOT PROPERLY REPORTED ON THE 2005 TAX RETURNS?

MS. COOK: YOUR HONOR, I OBJECT. SHE DOESN'T KNOW WHAT MR. SMITH KNOWS OR DOESN'T KNOW.

JUDGE HOWE: SUSTAINED.

Q MRS. BRADY, WAS THE PLANTATION LAKES TRANSACTION PROPERLY REPORTED ON THE 2005 A&E TAX RETURNS?

A NO. IF IT WAS AN A&E JOB, IT WAS NOT.

Q YOU HAVE FOUND TODAY THAT IT WAS AN A&E JOB, IS THAT NOT CORRECT?

A DID I FIND TODAY THAT IT WAS AN A&E JOB?

Q THAT WAS A JOB LISTED ON THE PEACHTREE SOFTWARE

PROGRAM?
A THAT JOB WAS LISTED ON THE PEACHTREE SOFTWARE. IT HAD A JOB NUMBER AND THERE WERE EXPENSES PAID FOR THAT JOB OUT OF A&E.
Q TO THE TUNE OF APPROXIMATELY $136,000.00 AS SHOWN ON YOUR REPORT?
A I THINK SO. I CAN'T REMEMBER THE NUMBER BUT THAT SOUNDS CORRECT.
Q YOU WERE AWARE OF THE TRANSFER OF REAL PROPERTY INTO A&E AND THE SALE OF THE PROPERTY THAT SAME DAY?
A YES.
Q THERE WAS $200,000.00 RECEIVED IN THE A&E ACCOUNT?
A CORRECT.
Q WAS THAT BOOKED ON THE 2005 FEDERAL AND STATE TAX RETURNS PREPARED BY SMITH SAPP?
A IT WAS ON THE TAX RETURN. HOW WAS IT REPORTED?
Q YES, MA'AM.
A IT WAS RECORDED AS A CAPITAL CONTRIBUTION FROM WAYNE VEREEN.
Q DOES THAT MEAN THAT MR. VEREEN USED THAT $102,000.00 AS A CREDIT TO HIMSELF?
A CORRECT. IT WAS PUT IN AND IT WAS CREDITED TO THE ACCOUNTS RECEIVABLE ACCOUNT THAT WAS ON THE BOOKS THAT HE OWED THE COMPANY BACK AND THAT WAS

DEDUCTED.

Q FOR TAX REPORTING PURPOSES, THE COMPANY A&E RECEIVED NOTHING FOR ITS CONSTRUCTION COSTS AND ITS EXPENSES ON THE 2005 TAX RETURN?

A CORRECT. THAT'S CORRECT BECAUSE THE ACCOUNTING RECORDS HAD THE JOB COSTS LISTED, BUT IT HAD REVENUE AS ZERO.

Q DID MR. SMITH TELL YOU THAT HE WAS AWARE OF THE WAY IT WAS REPORTED?

MS. COOK: YOUR HONOR, FOR HER TO SAY YES OR NO TO THAT IS GOING TO CALL FOR HEARSAY.

MR. DURANT: HE IS STILL TESTIFYING, YOUR HONOR, SUBJECT TO MR. SMITH BACKING IT UP.

MS. COOK: YOU CAN ASK MR. SMITH THE QUESTION.

MR. DURANT: YOUR HONOR, I WILL AGREE THAT THESE QUESTIONS AND ANSWERS CAN BE STRICKEN IF I DON'T ASK MR. SMITH THAT SAME QUESTION.

MS. COOK: I CAN'T DO THAT. I OBJECT. IT'S HEARSAY.

MR. DURANT: LET'S MOVE ON, YOUR HONOR.

Q MRS. BRADY, DO THE BOOKS AND RECORDS, AS FAR AS THE 2005 TAX RETURN SHOW, THERE HAS BEEN NO PAYMENT BY MR. VEREEN FOR THE COST AND EXPENSES AT THE PLANTATION LAKES HOUSE?
A CORRECT.
Q HAVE YOU FOUND ANY INVOICE FROM THE COMPANY TO MR. VEREEN FOR THOSE SERVICES?
A NO.
Q HAS THERE BEEN ANY EVIDENCE OF PAYMENT SINCE 2005 BY MR. VEREEN OTHER THAN SOME CLAIMED CREDIT FROM SOMEWHERE ELSE?
A NOT SPECIFICALLY FOR THAT JOB, NO.
Q THE PARK PLACE PROPERTIES JOB, THAT WAS A JOB THAT A&E... THAT IS SHOWN ON THE JOB LEDGER AT A&E?
A CORRECT.
Q THERE ARE ACTUALLY TWO JOBS ON THERE. THERE'S A PUTT-PUTT JOB AND THE 23 HOUSES?
A THERE'S A JOB LISTED AS POINTE MARSH. I DON'T KNOW THAT IT'S LISTED AS PUTT-PUTT.
Q THERE'S ANOTHER LISTED FOR THE REPAIRS DONE TO THE PUTT-PUTT?
A THERE'S A JOB ON THE BOOKS CALLED "PARK PLACE PROPERTIES." THERE'S ANOTHER JOB ON THE BOOKS CALLED "POINTE MARSH. ARE THOSE THE ONES YOU ARE REFERRING TO?

Q YES, THAT'S CORRECT. MRS. BRADY, WHEN YOU LOOKED AT THE BOOKS AND RECORDS OF THE COMPANY, IS THERE EVIDENCE OF ANY BILLS FOR SERVICES RENDERED BY A&E TO PARK PLACE PROPERTIES?

A NO, THERE'S NOT.

Q SHOULD THERE HAVE BEEN?

A IF THAT WAS MONEY THAT... YES. I MEAN, EITHER IF IT WAS A LOAN OR IF IT WAS A JOB FOR WHATEVER, I WOULD THINK THERE WOULD BE SOME KIND OF RECORD THAT THAT MONEY WAS OWED BACK.

Q NOW, IS THERE ANY EVIDENCE IN THE BOOKS AND RECORDS OF THE COMPANY OF ANY LOAN MADE BY THE COMPANY TO MR. VEREEN OR TO PARK PLACE PROPERTIES OR PARKWAY OFFICES? ANY RECORDS OF ANY LOAN?

A ON THE BOOKS THERE ARE NO NOTES RECEIVABLE OR ACCOUNTS RECEIVABLE FROM ANY OF THE OTHER COMPANIES, PARK PLACE PROPERTIES OR --

Q EVEN ON THE TAX RETURNS PREPARED BY MR. VEREEN FOR A&E IN 2004, 2005, AND 2006?

A THERE ARE NO NOTES RECEIVABLES OR PAYABLES FROM THE OTHER COMPANIES.

Q SHOULD THERE HAVE BEEN?

A ABSOLUTELY.

Q NOW, WHAT HAPPENS WHEN A COMPANY'S EXPENSE MONEY FOR MR. VEREEN'S RELATED ENTITIES AND THERE'S NO

BILL OR PAYMENT OF A BILL? WHAT HAPPENS TO THE CORRECTNESS OF THE COMPANY'S BOOKS?

A YOU'RE SAYING WHEN HE PAYS EXPENSES FOR HIS OTHER COMPANIES?

Q NO, MA'AM. WHAT HAPPENS IN THIS CASE IF PARK PLACE PROPERTIES, A&E PROVIDED AROUND A HUNDRED THOUSAND DOLLARS WORTH OF MATERIALS AND LABOR FOR THE PUTT-PUTT UNDER THE PARK PLACE PROPERTIES JOB LEDGER? WHAT HAPPENS WHEN THERE'S NO BILL AND NO RECEIPT FOR PAYMENT WITH THE COMPANY'S BOOKS AND RECORDS?

A WHEN THERE'S NO BILLS AND NO RECEIPT OF PAYMENT?

Q YES, MA'AM.

A IT SHOULD HAVE BEEN PUT ON THE BOOKS AS THAT WAS A NOTE THAT WAS DUE FROM THAT OTHER COMPANY. I THINK IT WAS ACTUALLY PUT ON AS CONSTRUCTION IN PROGRESS.

Q BUT THE CONSTRUCTION HAD LONG BEEN FINISHED, HAD IT NOT?

A YES.

Q DID THE SAME THING HAPPEN ON THE BILLS AND EXPENSES FOR THE POINTE MARSH JOB WHICH IS OWNED BY PARK PLACE PROPERTIES?

A YES. THERE WERE SOME DEPOSITS ON POINTE MARSH, NOT NEAR AS MUCH TO COVER THE EXPENSES PAID, BUT

THERE WERE SOME DEPOSITS THROUGHOUT THE YEARS FROM POINTE MARSH.

Q FROM PARK PLACE PROPERTIES?

A YES. SOME OF THEM WERE CODED AS PARK PLACE PROPERTIES, SOME WERE CODED AS POINTE MARSH DEPOSITS.

Q BUT THERE'S NO EVIDENCE OF BILLING FROM A&E TO PARK PLACE PROPERTIES FOR THE MONEY THAT WAS EXPENDED BY A&E?

A I HAVEN'T SEEN ANY.

Q IS THERE ANY EVIDENCE ON THE BOOK OF ACCOUNTS RECEIVABLE FROM PARK PLACE PROPERTIES THAT WAS FILED ON THEIR TAX RETURNS?

A NO, SIR.

Q SHOULD IT HAVE BEEN THERE?

A SURE.

Q WHAT DOES THIS DO TO THE PROFIT AND LOSS AND THE CORRECTNESS OF THE COMPANY BOOKS AT THE END OF THE YEAR WHEN THIS HAPPENED?

A THEY'RE INCORRECT. I MEAN, BECAUSE YOU'VE GOT ALL THESE EXPENSES THAT WERE RECORDED AS JOBS IN PROGRESS AND THEN THERE'S NEVER ANY MONEY COLLECTED. SO, IT DESTROYS THE BOOKS. IT LOOKS LIKE THE OTHER COSTS OF ALL THEIR OTHER JOBS IS MUCH HIGHER THAN IT IS. IN REALITY, YOU'VE GOT

JOBS THAT YOU'RE DOING AND YOU'RE REPORTING NO INCOME. SO, THE BOOKS ARE COMPLETELY DESTROYED.

Q I GUESS TO MR. VEREEN AS A 50% SHAREHOLDER, HE SUFFERS NO HARM, IS THAT CORRECT? BECAUSE HIS COMPANIES HAVE GOTTEN THE INCOME, CORRECT?

A GOT THE INCOME THROUGH ANOTHER COMPANY?

Q CORRECT. WHAT DOES IT DO TO MR. SMITH, THE 50% SHAREHOLDER WHEN MR. VEREEN'S RELATED ENTITIES HAVE NOT BEEN BILLED AND HAVE NOT PAID?

A IT'S A FINANCIAL STRAIN, BUT HE'S LOST OUT ON THAT MONEY.

Q BUT THE BOOKS AND RECORDS... WHEN I SAY THE "REPORTED INCOME" IS NOT ON THE BOOKS FOR MR. VEREEN RECEIVING THESE FUNDS AND NOT MAKING PAYMENT. THEY ARE NOT ON THE TAX RETURNS, ARE THEY?

A CORRECT.

Q NOW, YOU HAD MULTIPLE JOBS IN 2004 THAT WERE ON THE BOOKS; SOUTH STRAND CARDIOLOGY, DR. LALE? ARE YOU FAMILIAR WITH THAT JOB?

A YES.

Q AND WERE THERE SUBSTANTIAL AMOUNTS OF MONEY THAT WERE RECEIVED BY MR. VEREEN OR HIS RELATED COMPANIES THAT ARE SHOWN IN YOUR REPORTS THAT WERE INCOME DUE THE COMPANY?

A FROM SOUTH STRAND?
Q YES, MA'AM.
A YES. SOUTH STRAND, I DON'T THINK WAS RECORDED. I THINK THAT WAS IN EARLY STAGES ON THE BOOKS. THERE WERE EXPENSES PAID. I DON'T BELIEVE ANY INCOME WAS EVER REPORTED FOR THAT JOB IN 2004.
Q WERE THERE EXPENSES IN 2004 FOR ARTHUR VEREEN CONSTRUCTION OLD JOBS THAT WERE PAID FOR BY A&E; SEVEN OAKS AND THE LITCHFIELD JOBS?
A YES. SOME OF THOSE JOBS, SEVEN OAKS AND LITCHFIELD WERE LISTED AS JOBS ON THE A&E BOOKS.
Q RIGHT. BUT THERE WAS NO PAYMENT MADE FOR THOSE EXPENSES, WAS THERE, MRS. BRADY?
A CAN I VERIFY MY REPORTS TO SEE?
Q YES, MA'AM.

MS. COOK: YOUR HONOR, FOR THE RECORD, MR. DURANT IS SAYING, "ON THE BOOKS". IS HE REFERRING TO THE JOB LEDGERS? SORRY.

JUDGE HOWE: MR. DURANT, COULD YOU CLARIFY THAT.

MR. DURANT: THERE WAS NO CHECK FOR PAYMENT OF THOSE SERVICES.

Q GO AHEAD, MA'AM.
A I WAS GOING TO ASK YOU A QUESTION. THERE IS A

REPORT IN ONE OF MY BOOKS THAT SHOWS ALL THE INCOME THAT WAS REPORTED FROM ALL THE JOBS. CAN I LOOK AT THAT IF IT'S IN EVIDENCE?

Q IF YOU DON'T REMEMBER IT'S OKAY.

A I KNOW THE SEVEN OAKS JOB, BUT I DON'T KNOW WHERE YOU ARE GOING. WITH THE SEVEN OAKS JOB, THERE WAS NO INCOME REPORTED, NO PAYMENTS.

Q ARE YOU AWARE OF A REFUND CHECK THAT WAS MADE PAYABLE TO THE COMPANY IN THE AMOUNT OF $49,000.00 FOR A WORKERS' COMPENSATION REFUND?

A I KNOW THERE WAS A CHECK FOR THAT AMOUNT FROM THE INSURANCE COMPANY.

Q DID YOU MAKE A DETERMINATION THAT WAS A REFUND THAT WAS DUE A&E?

A YES.

Q WHAT WAS DONE WITH THAT MONEY?

A IT WAS DEPOSITED INTO ANOTHER ACCOUNT AND I'M NOT EXACTLY SURE WHICH ONE.

Q ONE OF THESE RELATED ENTITIES?

A RELATED ENTITIES, YEAH. WITHOUT LOOKING AT MY RECORDS, I THINK IT MAY HAVE BEEN PARK PLACE, BUT I CAN'T...

Q WAS THIS REPORTED ON THE BOOKS AND RECORDS OF A&E AS BEING A RECEIPT?

A NO, SIR.

Q WAS IT REPORTED ON THEIR TAX RETURNS IF YOU KNOW?
A NOT TO MY KNOWLEDGE, NO.
Q WHEN WOULD A COMPANY SUCH AS PARK PLACE PROPERTIES, IF THEY GOT THE MONEY, WHEN WOULD MR. VEREEN EVER BE AUTHORIZED TO ENDORSE A CHECK OVER FOR A REFUND TO ANOTHER ACCOUNT?
A I DON'T KNOW THAT THERE'S EVER A POINT THAT THAT'S AUTHORIZED.
Q NOW, THAT MONEY COULD HAVE BEEN PUT INTO THE A&E ACCOUNT AND WRITTEN FOR A LEGITIMATE COMPANY EXPENSE?
A CORRECT.
Q BUT IT WAS NOT?
A IT WAS NOT.
Q OTHER THAN THE VEREEN JOBS THAT WERE LISTED AS THE VEREEN RELATED JOBS, DID YOU FIND ANY RECORDS IN THE COMPANY OF ANY CONSTRUCTION CONTRACTS THAT A&E PERFORMED WHERE THERE WAS NO CONSTRUCTION LOAN TO MAKE PAYMENT?
A CAN YOU REPEAT THAT?
Q YOU'VE LOOKED AT THE RECORDS OF A&E?
A YES, SIR.
Q INSOFAR AS THE PARK PLACE PROPERTIES JOBS WERE DONE AT POINTE MARSH. THE POINTE MARSH JOB SPECIFICALLY, YOU ARE AWARE THAT THERE WERE

CONSTRUCTION LOANS TO PAY FOR THOSE IMPROVEMENTS?
A I'M SURE THERE WERE. YOU MEAN, ON THE BOOKS OF A&E.
Q NO, MA'AM. IN THE RECORDS THAT YOU'VE BEEN PROVIDED IN THIS CASE.
A I DON'T KNOW THAT I'VE BEEN PROVIDED THE LOAN. IS THAT YOUR QUESTION?
Q YES. THERE'S NO RECORD OF PAYMENTS ON THE PARK PLACE PROPERTIES JOBS AT POINTE MARSH THAT CAME FROM A... DIRECTLY FROM A CONSTRUCTION LENDER?
A NOT TO MY KNOWLEDGE.
Q IS THERE EVER A SITUATION WHERE A CONSTRUCTION COMPANY SHOULD PERFORM CONSTRUCTION SERVICES FOR A RELATED ENTITY WITHOUT REGULAR BILLING AND EVIDENCE OF THE ABILITY TO MAKE PAYMENT? DO YOU UNDERSTAND MY QUESTION?
A YES. NO, THERE'S NOT.
Q THAT SHOULD NEVER HAPPEN?
A THAT SHOULD NOT HAPPEN, CORRECT.
Q AND DID IT HAPPEN IN THIS CASE?
A I BELIEVE IT DID.
Q NOW, IN GOING THROUGH THE TAX RECORDS OF SMITH SAPP WAS THERE SOME KIND OF CREDIT GIVEN BY SMITH SAPP FOR PAYMENT AND EXPENSES THAT WERE ADVANCED BY THESE RELATED VEREEN ENTITIES ON THEIR TAX

RETURNS?
A WAS THERE CREDIT GIVEN TO?
Q YES, MA'AM.
A SMITH SAPP NEVER MADE ANY RECORD ABOUT EXPENSES... OH, REPHASE THAT QUESTION. I'M SORRY.
Q THE 2004, 2005, AND 2006 TAX RETURNS, DID MR. VEREEN AND THE RELATED ENTITIES CLAIM REIMBURSEMENT OR A CREDIT FOR PAYMENTS THAT THEY HAD MADE ON BEHALF OF THE COMPANY, A&E?
A YES, THEY DID.
Q WHAT DID THAT CONSIST OF IN THE DOCUMENTATION THAT YOU EXAMINED FROM SMITH SAPP RECORDS?
A I BELIEVE IT WAS AFTER... WHEN THEY WERE PREPARING THE 2007 TAX RETURNS, WHICH I BELIEVE WAS IN 2009, THEY MADE A JOURNAL ENTRY, AT THAT POINT, ONTO THE BOOKS FOR I BELIEVE IT WAS SOMEWHERE BETWEEN 3 AND $400,000 THAT MR. VEREEN... EXPENSES THAT MR. VEREEN HAD PAID ON CONSTRUCTION JOBS FROM 2003 UP TO THAT POINT. AND WHEN WE WENT TO LOOK AT THE BOOKS TO SEE WHAT THAT BACKUP WAS, THERE WAS ABSOLUTELY NO BACKUP OTHER THAN A LIST OF EXPENSES THAT THE ACCOUNTANT TOLD US THAT MRS. SISSON HAD PREPARED.
Q SO, ON THE 2004, 2005 AND THE 2006 TAX RETURNS, THESE CREDITS WERE NOT CLAIMED ON THE FILED

RETURNS?
A CORRECT.
Q IN 2009, AFTER THIS LAWSUIT WAS FILED, THERE'S A LISTING OF EXPENSES THAT THESE VARIOUS VEREEN ENTITIES CLAIMED AS CREDIT, CORRECT?
A CORRECT.
Q AND THAT WAS PREPARED BY MS. SISSON?
A IT'S ON THE BOOKS THAT WE GOT FROM SMITH SAPP WHEN WE ASKED FOR BACKUP. HE SAID THAT THE LIST WAS GIVEN TO HIM BY MRS. SISSON AND THERE WAS NO BACKUP BEHIND... I THINK IT WAS AN EXEL SPREADSHEET WITH ALL OF THE... A LISTING OF THE EXPENSES, BUT THEY HAD NO BACKUP. NO BILLS WHATSOEVER TO BACK THAT NUMBER UP.
Q TELL ME, AS A CERTIFIED PUBLIC ACCOUNTANT, IF A THIRD PARTY IS CLAIMING AN EXPENSE FOR REIMBURSEMENT NOT A... FOR A&E, WHAT IS PROPER BACKUP TO GET REIMBURSEMENT FOR THAT EXPENSE OR CREDIT ON A TAX RETURN?
A PROPER BACKUP WOULD BE LIKE AN INVOICE OR RECEIPT AND INVOICE FOR THE BILL. A CHECK WHERE THE BILL WAS PAID.
Q THAT WOULD BE A CHECK FROM WHOEVER'S CLAIMING THE CREDIT?
A WHOEVER'S CLAIMING THE CREDIT. A CHECK WHERE THEY

PAID IT AND AN INVOICE WHERE THEY WERE BILLED, YOU KNOW, DETAILING WHAT IT WAS FOR.

JUDGE HOWE: DID YOU SAY THIS WAS BETWEEN 300 AND $400,000.00?

A YES, MA'AM.

Q MRS. BRADY, IN YOUR PRACTICE AS A CERTIFIED PUBLIC ACCOUNTANT, IS IT UNUSUAL FOR A COMPANY OR FOR THESE ENTITIES TO CLAIM REIMBURSEMENT FOR EXPENSES THAT THEY PAID FOUR OR FIVE YEARS BEFORE AND DID NOT CLAIM WHEN THE TAX RETURN WAS FILED?

A I WOULD SAY IT'S UNUSUAL. I WOULD THINK IT WOULD BE UNUSUAL TO WAIT FOUR YEARS TO WANT A REIMBURSEMENT FOR AN EXPENSE THAT YOU PAID.

Q YOU WOULD EXPECT THAT THEY REQUEST THAT REIMBURSEMENT IN THE YEAR THEY FILED IT?

A CORRECT.

Q BECAUSE THEY PAID IT?

A CORRECT.

Q AND THEY DON'T WANT TO PAY TAXES ON MONEY?

A THAT'S CORRECT.

Q DID YOU THINK THIS WAS UNUSUAL?

A I THOUGHT IT WAS VERY UNUSUAL.

Q WOULD A CERTIFIED PUBLIC ACCOUNTANT LOOK AT THOSE EXPENSES MORE CAREFULLY THAN YOU WOULD SAY AT THE END OF THE YEAR?

A ABSOLUTELY.
Q YOU DID LOOK AT THOSE EXPENSES CAREFULLY, DID YOU NOT?
A WE DID. AND LIKE I SAY, WHEN WE WENT BACK TO SMITH SAPP, WE WERE ORIGINALLY TOLD THAT THEY HAD BACKUP. SO, WE WENT OVER TO MEET WITH THEM TO SEE THE BACKUP AND THAT'S WHEN WE FOUND OUT THERE WAS A MISCOMMUNICATION BY THEIR FIRM BETWEEN A COUPLE OF THE CPAS AND THEN WE WERE TOLD AT THAT POINT, THERE WAS NOT ANY BACKUP.
Q AT MR. VEREEN'S DEPOSITION YOU WERE PRESENT?
A YES, SIR.
Q HE CLAIMED HE HAD THE INVOICES AND THE CHECKS AT THAT TIME, DID HE NOT?
A YES, HE DID.
Q AND HE DID NOT?
A I'VE NEVER SEEN THEM.
Q WHAT PROBLEM DOES THAT POSE TO THE COMPANY, A&E? YOU FILED TAX RETURNS FOR 2004, 2005, AND 2006 AND NOW THESE VEREEN RELATED ENTITIES SAY, "I WANT CREDIT FOR THIS MONEY THAT I ADVANCED ON BEHALF OF THE COMPANY." ASSUMING IT WAS TRUE, WHAT PROBLEM DOES THAT POSE TO A&E?
A ASSUMING THAT THEY HAD BACKUP?
Q YES, ASSUME THEY DID.

A WELL, YOU'VE GOT A LOT OF PROBLEMS. YOU'VE GOT ONE, THE STATUTE HAS GOT TO RUN ON THE TAX RETURN.

Q WHAT DO YOU MEAN BY THAT?

A WELL, YOU HAVE THREE YEARS TO FILE OR TO AMEND. SO, TECHNICALLY, THOSE WERE EXPENSES FOR A 2003 JOB OR 2004 JOB THAT SHOULD HAVE BEEN FILED IN THAT YEAR. NUMBER TWO, YOUR BOOKS ARE GOING TO BE OFF. YOUR JOB COST WAS OFF BECAUSE IF THOSE ARE EXPENSES ON THAT JOB, IF YOU REPORTED INCOME, THEN YOUR INCOME WOULD HAVE BEEN OVERSTATED. SO, TECHNICALLY, AND THE IRS IS VERY FUNNY. YOU CAN GO BACK BEYOND THE STATUTE IF YOU OWE THEM MONEY, BUT IF THEY OWE YOU MONEY, YOU'VE GOT THE THREE YEARS. SO, YOU JUST HAVE ALL KINDS OF PROBLEMS WITH YOUR TAXES BEING WRONG. THE INCOME WAS MISREPORTED AND YOUR TIMEFRAME. THAT WAS ASSUMING YOU HAD BACKUP.

Q SO, DESPITE THIS, DID YOU HAVE A MEETING WITH MRS. SISSON AND MS. COOK AND MYSELF AND MR. SMITH CONCERNING THESE 3 TO $400,000.00 WORTH OF EXPENSES OR MORE TO EXAMINE THOSE RECORDS?

A YES.

Q AND OF THE RECORDS THAT WERE SUBMITTED TO YOU, DID THE MAJORITY OF THEM INCLUDE AN INVOICE AND A CHECK FOR PAYMENT?

A THE MAJORITY OF THEM DID NOT.
Q YOU ARE AWARE OF THE COURT ORDER AS TO WHAT HAD TO BE SUBMITTED TO YOU FOR CREDIT?
MS. COOK: YOUR HONOR, I OBJECT. HOW SHE INTERPRETS A COURT ORDER AND WHAT THE ORDER SAYS, I MEAN, THE COURT ORDER SPEAKS FOR ITSELF. BUT I DON'T THINK SHE'S QUALIFIED TO INTERPRET A COURT ORDER.
MR. DURANT: YOUR HONOR, I WILL MOVE ALONG.
Q MRS. BRADY, WAS THERE AN OCCASION WHERE YOU APPROVED AN EXPENSE WHERE THERE WAS NOT A ACTUAL INVOICE AND A CHECK FOR PAYMENT?
A THAT I APPROVED IT?
Q THAT YOU APPROVED --
A NO, SIR.
Q DID MR. SMITH APPROVE SOME OF THOSE?
A I THINK THERE WERE SOME THAT HE DID. THAT HE SAID MIGHT HAVE BEEN EXPENSES THAT DID NOT HAVE INVOICES, BUT I DID NOT.
Q I UNDERSTAND WHAT YOU'RE SAYING. HAVE YOU RECORDED IN YOUR BOOKS AND RECORDS ANY EXPENSE THAT WAS APPROVED BY THE COMPANY AND THAT BEING YOU AND MR. SMITH FROM THOSE MEETINGS?

A DID I INCLUDE ON MY FINAL REPORT?
Q YES, MA'AM.
A THERE IS AN INFORMATIONAL PAGE ONLY. AND MY REPORT IS BASICALLY TWO PAGES. THE FIRST PAGE IS WHEN I WENT THROUGH THE BOOKS AND WHAT I QUESTIONED AS A CPA. AND I CAME UP WITH A NUMBER ON MY SECOND PAGE. IT'S BASICALLY LABELED "INFORMATION PURPOSES ONLY" AND THERE IS A LISTING OF EXPENSES AS TO WHAT I TOOK OUT OF THE MEETINGS. THEY WERE VERY LONG MEETINGS, BUT WE WENT THROUGH A LOT OF EXPENSES AND THERE WERE SOME THINGS THAT MR. SMITH SAID COULD HAVE BEEN EXPENSES THAT THEY OWED. I HAVE LABELED ALL OF THOSE. THERE IS ANOTHER SPREADSHEET THAT I WAS GIVEN FROM MS. COOK THAT WERE EXPENSES THAT THEY CONSENTED THAT THEY DID OWE. SO, THE SECOND PAGE OF MY REPORT LISTS ALL --

JUDGE HOWE: WAIT A MINUTE. FOR THE RECORD, WHEN YOU SAY, "EXPENSES THAT THEY ADMITTED THEY OWED." WHO IS "THEY"?

A I'M SORRY. MR. VEREEN AND THE ENTITIES. SO, THAT SECOND PAGE OF THAT REPORT WILL LIST EVERYTHING THAT I INTERPRETED THAT MR. SMITH SAID THAT MIGHT HAVE BEEN A BUSINESS EXPENSE AND THERE IS ANOTHER

SECTION BY YEAR THAT MS. COOK SAID THAT MR. VEREEN AND HIS ENTITIES CONSENTED THAT WERE PERSONAL EXPENSES OR MONEY THEY OWED THE COMPANY BACK. SO, THOSE ARE ON THE BACK PAGE SEPARATE FROM MINE, BUT ALL THE TOTALS ARE THERE FOR THE COURT TO DECIDE BASICALLY.

Q THEY WERE EXPENSES CLAIMED BY ARTHUR W. VEREEN PERSONALLY EACH YEAR, IS THAT NOT CORRECT? THAT HE SAID I PAID OUT OF SOME ACCOUNT THAT I HAD FOR A&E?

A YOU'RE TALKING ABOUT THE EXPENSES THAT THEY WERE REQUESTING?

Q YES, MA'AM.

A CORRECT.

Q AND THEY WERE EXPENSES REQUESTED FOR REIMBURSEMENT FOR PARK PLACE PROPERTIES, LLC., THE DEFENDANT?

A CORRECT.

Q AND FOR PARKWAY OFFICES, LLC. A NAMED DEFENDANT?

A CORRECT.

Q AND THEY WERE EXPENSES FROM ARTHUR VEREEN CONSTRUCTION COMPANY, INC.?

A CORRECT.

Q DID THEY TREAT ALL THESE AS KIND OF ONE IN THE SAME IN TERMS OF MONIES FROM RELATED ENTITIES?

A DID THEY TREAT THEM ONE IN THE SAME?

Q WELL, YOU HAD CLAIMS MADE BY EACH OF THESE ENTITIES FOR REIMBURSEMENT?
A RIGHT.
Q AND REIMBURSEMENT FOR FOUR TO FIVE YEARS IN THE PAST, CORRECT?
A CORRECT. LET ME JUST VERIFY. YOU'RE NOT TALKING ABOUT THE OTHER EXPENSES THAT WE WERE TALKING ABOUT EARLIER THAT THEY PRESENTED TO SMITH SAPP? YOU'RE TALKING ABOUT NOW THE REPORTS THAT THEY CLAIMED?
Q YES.
A OKAY.
Q MR. THOMAS HAS HANDED ME THE COURT ORDER DATED OCTOBER 18TH. WHAT DOES IT SAY IN 9 CONCERNING WHAT THE DEFENDANTS HAD TO GIVE YOU FOR A CREDIT?

MS. COOK: YOUR HONOR, HOLD ON JUST A SECOND. LET ME FIND THAT ORDER AS WELL.

MR. DURANT: OCTOBER THE 18TH.

MS. COOK: PARAGRAPH 9. SAYS WHAT IT SAYS, BUT IT DOESN'T SAY IN ORDER FOR THE COURT TO BE ABLE TO GIVE MY CLIENT CREDIT. IT JUST SAYS WHAT WE ARE ORDERED TO PRODUCE, IF WE HAVE IT. I DON'T THINK IT TAKES THAT NEXT STEP

THAT MR. DURANT WOULD LIKE IT TO TAKE.
JUDGE HOWE: WHAT ARE WE WAITING ON?
MR. DURANT: YOUR HONOR, I WILL PUBLISH IT. IT SAYS, "THE DEFENDANTS SHALL PRESENT EVIDENCE OF THE ACTUAL INVOICE OR BILLS, BILLS FOR SERVICES OR LABOR RENDERED AND THE CANCELED CHECK FOR PAYMENT MADE PURSUANT TO SUCH INVOICE." AND SKIP A SENTENCE. "IF THE INFORMATION IS NOT DELIVERED TO THE PLAINTIFFS WITHIN SUCH DEADLINE, IT IS ORDERED THAT SUCH ACCOUNTING RECORDS AND INFORMATION SHALL NOT BE PRESENTED IN THE TRIAL OF THE CASE BY THE DEFENDANTS." YOUR HONOR, I BELIEVE THIS PROVISION WAS ADDRESSED AT THE PRE-TRIAL HEARING THAT THEY WOULD PROVIDE THE... I BELIEVE MR. VEREEN SAID THAT HE HAD THE INVOICES AND HE HAD THE CHECKS AND THIS ORDER SAYS, "PRODUCE THE INVOICES AND PRODUCE THE CHECKS BY DECEMBER 1ST OR I'M NOT GOING TO LET YOU MAKE THAT CLAIM IN THE TRIAL OF THE CASE."
MS. COOK: YOUR HONOR, I RESPECTFULLY

DISAGREE. I MEAN, IT SAYS WE'VE GOT TO PRODUCE IT BY A CERTAIN DATE. THAT THEY THEN HAVE THE OPPORTUNITY TO TAKE DEPOSITIONS. AND THAT IF WE DON'T PRODUCE IT BY THAT DATE, IF WE COME UP AND PRODUCE IT AT TRIAL, WE CAN'T PUT IT IN. BUT IT DOESN'T SAY... NOR DO I INTERPRET IT AND YOU CAN'T PRODUCE SOMETHING YOU DON'T HAVE. WHETHER OR NOT YOUR HONOR WILL CONSIDER GIVING CREDIT FOR MATTERS THAT WE DON'T HAVE AN INVOICE, A CHECK. I MEAN, THAT'S A MATTER FOR THE COURT TO WEIGH IN TERMS OF BURDEN OF PROOF AND CREDIBILITY. WHAT I INTERPRETED THAT TO MEAN, AND WHAT I BELIEVE, YOUR HONOR, WAS TALKING ABOUT WHAT WE WERE ALL TALKING ABOUT WHEN WE WERE HERE BEFORE YOU BEFORE THE OCTOBER ORDER WAS A CUTOFF DATE BY WHICH WE HAD TO PRODUCE WHATEVER DOCUMENTS WE HAD AND THEN IF WE DID NOT PRODUCE THEM BY THAT DATE, WE COULDN'T THEN SUBSEQUENTLY PRODUCE NEW MATTERS HERE AT TRIAL, YOUR HONOR. NEW DOCUMENTS THAT WE HAVEN'T GIVEN

THEM BY THAT DATE AND HAVING THEM HAVE AN OPPORTUNITY TO... THEM HAVING AN OPPORTUNITY TO TAKE THE DEPOSITION OR WHATEVER. NOT THAT IF WE DIDN'T PRODUCE AN INVOICE AND A CHECK AND THE BACK OF THE CHECK SHOWING THAT IT HAD CLEARED AND BLAH-BLAH-BLAH THAT WE COULDN'T PRODUCE EVIDENCE ON THE ISSUE. THAT GOES TO THE WEIGHT THAT YOUR HONOR IS CONCERNED WITH. AS I UNDERSTAND WHAT MR. DURANT IS TRYING TO SAY NOW IS, IF WE DIDN'T PRODUCE THE INVOICE AND WE DIDN'T PRODUCE THE CHECK, WE CAN'T EVEN CLAIM IT AS A CREDIT. WE'VE GOT THE CHECK THAT SHOWS PAYMENT, BUT WE DON'T HAVE AN INVOICE. I MEAN, THAT'S WHAT WAS TURNED OVER TO HIM AND THAT'S ALL WE'VE GOT. I MEAN, THAT'S FOR YOUR HONOR TO WEIGH THE CREDITABILITY AND THE VOLUME OF THE EVIDENCE, NOT THAT IT'S NOT ALLOWED FOR US TO CLAIM IT AT ALL.

JUDGE HOWE: BUT YOU HAVE GIVEN HIM THE CANCELED CHECKS?

MS. COOK: WE HAVE GIVEN HIM EVERYTHING. WE... WE HAVE GIVEN HIM EVERYTHING THAT WE HAVE. THERE IS NOTHING... THERE'S NO NEW INVOICE OR ANYTHING OF THAT TYPE THAT NOW WE ARE GOING TO HAND UP AN INVOICE THAT HE OR MRS. BRADY DID NOT GET BY THAT CUTOFF DATE OR FRANK DIDN'T GET BY THAT CUTOFF DATE.

JUDGE HOWE: YOU ARE NOT PLANNING TO COME UP WITH SOME ORAL EVIDENCE OF SOMETHING THAT YOU DIDN'T GIVE HIM, EITHER AN INVOICE OR A CANCELED --

MS. COOK: NO, MA'AM.

MR. DURANT: YOUR HONOR, MAY I ADDRESS THIS? MR. VEREEN TESTIFIED DURING, I THINK, HIS TWO DEPOSITIONS THAT HE HAD THE BACKUP, WHICH BEING THE INVOICE AND THE CHECK FOR PAYMENT AND THAT HE HAD ALREADY GIVEN IT TO ME AND HE WAS GOING TO GIVE IT WHEN WE WENT TO THE HEARING. REMEMBER NOW, THIS IS NOT A BILL THAT WE ARE JUSTIFYING THAT A&E PAID. THIS IS A BILL WHERE A THIRD PARTY IS SAYING? "I PAID A BILL THAT

WAS AN A&E RESPONSIBILITY."
JUDGE HOWE: ALRIGHT.
MR. DURANT: SO AT THAT TIME, AND MRS. BRADY IS GOING TO REVIEW IT, MR. SMITH IS GOING TO REVIEW IT. WE ARE TRYING TO DETERMINE WHERE IS THE SUBSTANTIATION FOR THE PAYMENT THAT YOU'RE CLAIMING? NOT THAT YOU JUST PAID THE BILL. THAT IT WAS AN A&E BILL AND THAT CAN ONLY BE DETERMINED BY REVIEWING THE INVOICE. WHO'S CLAIMING IT CAN ONLY BE DETERMINED BY A CHECK. THERE IS NO WAY TO KNOW IF SOMEONE PAID IT OR DIDN'T PAY IT OR WHAT THEY PAID IT FOR. THIS ORDER WAS DRAFTED, YOUR HONOR, BECAUSE THAT IS THE ONLY DOCUMENTATION THEY CAN PRESENT THAT WOULD SATISFY THAT REQUIREMENT AND HE HAD ALREADY SAID THAT HE HAD IT. NOW, WHEN YOU GO UP THERE, WE'VE GOT 19 BOOKS OF RECORDS WHERE A CHECK WAS MADE PAYABLE TO SOMEBODY, NO BACKUP. HOW ARE YOU GOING TO KNOW ANYTHING ABOUT IT? WE'VE GOT VOLUMES OF CREDIT CARD

CHARGES FROM SIX YEARS AGO WHERE THEY'RE CHARGING GASOLINE EXPENSES IN 2004 AND 2005, BUT NO BILL FOR IT AND NO CHECK WHERE ANYBODY PAID IT. AND THAT'S WHAT WE ARE FACED WITH AND THAT'S WHAT MRS. BRADY WILL TESTIFY IS THEY WERE NOT APPROVED BECAUSE THERE'S NO EVIDENCE OF WHAT IT WAS. IF YOU DON'T COMPLY WITH THE ORDER, THERE'S NO WAY FOR YOU TO CONSIDER IT. I BELIEVE THE ORDER IS SPECIFIC BECAUSE WE HAD TO KNOW WHAT THEY WERE CLAIMING AND WHAT THEY COULD PROVE, YOUR HONOR, TO FILE IT FOR THE INCOME TAX RETURN AS A DEDUCTION. THEY WOULD STILL HAVE TO HAVE THE SAME QUANTUM OF PROOF.

JUDGE HOWE: I UNDERSTAND. WELL, I THINK WHAT I AM GOING TO DO IS, I'M GOING TO LET MS. COOK PRESENT WHAT SHE HAS AS LONG AS SHE GAVE YOU SOMETHING. MY GUESS IS I'M NOT GOING TO LOOK VERY FAVORABLY UPON IT.

MR. DURANT: YES, MA'AM.

JUDGE HOWE: I'M NOT GOING TO GIVE IT VERY MUCH WEIGHT BECAUSE SHE DOESN'T

HAVE THE BACKUP, BUT I WILL LET HER PRESENT WHAT SHE DOES HAVE. BUT IT'S NOT GOING TO BE VERY CREDIBLE IF SHE DOESN'T HAVE THE BACKUP.

MR. DURANT: YOUR HONOR, MY UNDERSTANDING WAS SHE CAN'T PRODUCE ANY BACKUP NOW THAT SHE DIDN'T PRODUCE ON DECEMBER 1ST.

JUDGE HOWE: THAT'S RIGHT. ABSOLUTELY.

MR. DURANT: WE HAVE OTHER ISSUES ABOUT THAT, BUT ANYWAY.

JUDGE HOWE: IF SHE HASN'T GIVEN YOU THE BACKUP WHEN SHE WAS SUPPOSED TO ON THIS DATE THEN SHE CAN'T PRODUCE IT NOW.

Q MRS. BRADY, DO YOU UNDERSTAND THE RULING? WHAT STANDARD DOES A CERTIFIED PUBLIC ACCOUNTANT HAVE CONCERNING WHAT IS ADEQUATE BACKUP FOR THE REIMBURSEMENT OF AN EXPENSE IN REGARDS TO WHAT YOU WOULD REQUIRE AND WHAT THE INTERNAL REVENUE WOULD REQUIRE IF YOU WERE GOING TO AMEND THESE TAX RETURNS?

A I'M GOING TO ANSWER THIS QUESTION IN KIND OF A COMMENT AS WELL. WHAT THE INTERNAL REVENUE WANTS.

THEY WOULD REQUIRE SOME KIND OF BACKUP, BUT TO CLARIFY, IT'S ME BEING THE ACCOUNTANT AND GOING TO THESE RECORDS. ALL OF THESE RELATED ENTITIES WROTE CHECKS TO THE SAME SUPPLIERS. SO, IF I HAD... PARK PLACE PROPERTY PAID A LOT OF CONSTRUCTION EXPENSES. THEY MIGHT HAVE PAID COASTAL FASTENERS OR MAC CEILING OR STOCKS BUILDING SUPPLY THE SAME CHECKS... A&E WOULD HAVE PAID THE SAME VENDORS. SO, FOR US TO HAVE A CHECK WRITTEN TO ONE OF THOSE SUPPLIERS, I COULDN'T DETERMINE WHO IT WENT TO WITHOUT THAT BACKUP. IS THAT CLEAR?

Q SAME WAY FOR ARTHUR VEREEN CONSTRUCTION? WOULD IT BE THE SAME WAY FOR THE OTHER RELATED ENTITIES?

A CORRECT. I'M SAYING IF YOU PULLED THEIR CHECK REGISTERS FOR ALL THESE COMPANIES THEY'RE WRITING CHECKS TO THE SAME PEOPLE, THE SAME EMPLOYES, THE SAME SUPPLIERS. SO, WITHOUT SOME KIND OF BACKUP, IT'S HARDER FOR ME TO GO IN AND SAY WHOSE EXPENSE THIS WAS WITH JUST A CANCELED CHECK. IS THAT CLEAR?

Q WOULD THIS APPLY TO ALL OF THE REQUESTED CREDITS THAT WERE SUBMITTED BY THE VEREEN ENTITIES?

A CORRECT.

Q WHAT ABOUT THE CREDIT CARD CHARGES? WOULD IT EVER

BE ACCEPTABLE, MS. BRADY, TO YOU AS A CPA FOR SOMEONE TO GIVE YOU A FIVE YEAR OLD CREDIT CARD BILL AND SUBMIT THAT AS PROOF OF PAYMENT OF ANYTHING?

A I WOULDN'T ACCEPT IT. I WOULDN'T PUT IT ON THE BOOKS FIVE YEARS LATER IF SOMEBODY GAVE ME A CREDIT CARD EXPENSE THEY PAID ON THEIR CREDIT CARD FROM FIVE YEARS EARLIER.

Q AND THAT WOULD BE FOR GASOLINE EXPENSES OR WHATEVER?

A I WOULD SAY FOR ANY EXPENSE.

Q IS THERE ANY WAY TO LOOK AT THAT CREDIT CARD CHARGE AND DETERMINE WHAT IT WAS FOR OR WHO PAID IT?

A THERE'S NO WAY TO LOOK AT THE CREDIT CARD CHARGE TO SAY WHAT IT WAS FOR. I MEAN, I CAN TELL WHO PAID IT IF THERE'S AN A&E CHECK THAT SAYS "MBNA."

Q IF YOU WERE JUST GIVEN MR. VEREEN'S CREDIT CARDS WITH NO CHECK --

A I UNDERSTAND. I'M SORRY. I UNDERSTAND YOUR QUESTION. NO. THERE'S NO WAY TO SEE WHO PAID IT WITHOUT THAT CANCELED CHECK.

Q ON THE CREDIT CARD IS THERE... ARE YOU AWARE WHETHER OR NOT A&E HAD ANY CREDIT CARDS ITSELF, A&E, THE ENTITY?

A I'M NOT AWARE OF IT. NOT TO MY KNOWLEDGE.
Q AND THESE CREDIT CARDS WHERE THEY WERE SEEKING REIMBURSEMENT, WERE ALL FOR THE RELATED ENTITIES, MR. VEREEN PERSONALLY OR SOME OTHER COMPANY CREDIT CARD?
A YES. THERE WERE A FEW OCCASIONS WHERE IT MIGHT HAVE BEEN AN A&E EXPENSE THAT THEY WERE GIVEN CREDIT FOR, BUT IT WAS NOT THE A&E CREDIT CARD.
Q WAS THERE ANYTHING IN THE BOOKS AND RECORDS OF A&E THAT YOU EXAMINED THAT SHOWED EVIDENCE OF THIS PAYMENT PRIOR TO THAT MEETING AFTER DECEMBER THE 1ST, 2010? DID YOU EVER SEE ANY RECORDS OF THIS BEFOREHAND?
A THIS?
Q THESE CREDIT CARD CHARGES AND ALL THESE EXPENSES THAT THEY WERE CLAIMING? HAD YOU SEEN IT AT ALL BEFORE MRS. SISSON COMPILED THESE BOOKS?
A NO.
Q AND IT WASN'T REFLECTED ON ANY OF THE BOOKS AND RECORDS OF A&E AS BEING EXPENDITURES MADE BY SOMEONE THAT THEY WANTED CREDIT FOR?
A NO.
Q WERE THERE CLAIMS FOR CREDIT SUBMITTED BY MRS. SISSON FOR THE PLANTATION LAKES JOB AND THE POINTE MARSH JOBS?

A YOU MEAN EXPENSES PAID ON THOSE JOBS?
Q YES.
A YES, THERE WAS.
Q WOULD THERE EVER BE A CIRCUMSTANCE IN THIS CASE WHERE YOU WOULD APPROVE THOSE EXPENSES?
A ARE YOU ASKING ME IF I WOULD APPROVE THEM BECAUSE OF THE TIME OR WHETHER THEY WERE JOBS?
Q WELL, IS THERE AN OCCASION WHERE YOU WOULD APPROVE AN EXPENSE FOR A JOB BY MR. VEREEN, HIS OWN JOB, OR AT POINTE MARSH OR THE PUTT-PUTT WHERE HE SHOULD BE REIMBURSED?
A NO.
Q THAT WOULD BE BECAUSE THOSE WERE HIS JOBS?
A IT APPEARS AS THOSE WERE HIS JOBS, CORRECT.
Q THEY WERE NOT OWNED BY A&E, WERE THEY?
A NO.
Q THEY WERE OWNED BY THOSE RELATED ENTITIES?
A THERE WAS NO EVIDENCE TO SHOW THAT THOSE WERE A&E JOBS OTHER THAN THEY PAID SOME OF THE EXPENSES.
Q MR. VEREEN WOULDN'T EXPECT A&E TO REIMBURSE HIM FOR HIS OWN EXPENSES?
A NO.
Q DID YOU ALSO HAVE SOME NEW MATTERS IN THERE FOR RENT? RENT FOR THE OFFICE BUILDING, RENT FOR EQUIPMENT, RENT FOR CHAIRS, TABLES AND WHATNOT?

A THERE WERE. AND I WANT TO MAKE A STATEMENT HERE. A LOT OF THE CLAIMS THEY MADE I DON'T HAVE IN MY RECORDS. I HAVEN'T KEPT... THERE WERE A LOT OF CLAIMS THAT WERE MADE FOR RENT BACK FROM 2004 TO 2007 THAT WERE MADE IN 2010. BUT THE RENT WAS PAID... THERE WAS RENT PAID ON THE BOOKS OF A&E. AND THAT RENT THAT WAS PAID WAS RECORDED AS RENTAL INCOME ON THE OTHER COMPANY. SO, THOSE ARE THINGS THAT I DIDN'T REALLY TAKE INTO CONSIDERATION. I DIDN'T FEEL THEY MATTERED. THERE WERE STATEMENTS I THINK THAT THERE'S AN EXCESSIVE AMOUNT OF RENT THAT WAS OWED BACK. THERE WAS NO LEASE TO SHOW, AND LIKE I SAY, THE COMPANY HAD PAID RENT.

Q WAS THERE ANY DOCUMENTATION AT ALL OF THE CLAIM FOR RENT THAT WAS SUBMITTED BY MRS. SISSON?

A I HAD NOT SEEN IT. THERE WERE CHECKS ON A&E THAT WERE MADE TO PARK PLACE PROPERTY THAT SAID, "FOR RENT" ON THE BOTTOM OF THE CHECKS AND THAT WAS A CONSISTENT AMOUNT, I THINK, FOR THE FIRST YEAR OR TWO.

Q WAS THERE ANY EVIDENCE TO SUPPORT THIS $2,000.00 OR $3,000.00 A MONTH RENT THAT THEY WERE CLAIMING ANY EVIDENCE TO SUPPORT THAT?

A NO.

Q HAVE YOU EXAMINED THE CHECKING ACCOUNT RECORDS OF

A&E AND GRAND STRAND BUILDERS FOR 2008 AND 2009?
A A&E AND GRAND STRAND BUILDERS?
Q FOR THE PERIOD OF TIME AFTER '07?
A I THINK I'VE LOOKED AT THEM. I DON'T KNOW HOW MUCH EXAMINING I'VE DONE.
Q WHY IS THERE A REQUEST FOR REIMBURSEMENT BY MRS. SISSON'S SALARY FOR 2004 CONTAINED IN THAT SUBMISSION BY MRS. SISSON?
A I BELIEVE THERE WAS, THERE AGAIN, HER CLAIMS ARE NOT IN MY REPORTS. BUT I BELIEVE I REMEMBER SEEING THAT.
Q IS THAT BASED UPON SOME CLAIM THAT PARKWAY OFFICES PAID HER SALARY FOR A CERTAIN PERIOD OF TIME?
A I BELIEVE THAT WAS THE STATEMENT.
Q WAS THERE ANY DOCUMENTATION TO SUPPORT THAT?
A NO, SIR.
Q WAS SHE AN EMPLOYEE OF A&E AT THAT TIME ACCORDING TO THE BOOKS AND RECORDS OF THE COMPANY?
A NOT ACCORDING TO A&E'S BOOKS AND RECORDS.
Q HAVE YOU PREPARED A REPORT OF THE NON-CORPORATE ACTIVITY OF A&E CONSTRUCTORS AND CONSULTANTS, INC., THAT'S PLAINTIFF'S 40?
A YES, SIR.
Q IS THIS A COMPUTATION OF EVERYTHING THAT YOU SUBMITTED FOR 2004, 2005, 2006, 2007 AND AS YOU

MADE ADJUSTMENTS?

A YES, SIR.

Q DOES THIS REFLECT YOUR EXAMINATION OF THE BOOKS AND RECORDS OF THE COMPANY AND THE DOCUMENTATION THAT HAS BEEN SUPPLIED TO YOU DURING THE COURSE OF THIS LAWSUIT?

A YES, IT DOES.

Q DO YOU FEEL THAT IT IS ACCURATE AND CORRECT BASED UPON THE INFORMATION THAT HAS BEEN GIVEN TO YOU?

A YES, SIR.

Q WHAT AMOUNT DO THESE DEFENDANTS SHOW A&E AS A RESULT OF THESE UNAUTHORIZED DISBURSEMENTS?

A THE AMOUNT THAT I CAME UP WITH BEFORE ANY OF YOUR ARGUMENTS WAS 2.8 MILLION.

Q CAN YOU GIVE ME THE EXACT FIGURES ON YOUR REPORT?

MS. COOK: YOUR HONOR, HAS HE PUT THE REPORT IN?

MR. DURANT: I WOULD AFTER I QUESTION HER ABOUT IT. IT'S MARKED AS PLAINTIFF'S 40.

MS. COOK: I WOULD JUST LIKE THE COURT TO NOTE THAT I GOT THIS FOR THE FIRST TIME THIS MORNING.

JUDGE HOWE: ALRIGHT. WELL.

Q IF YOU WILL GO THROUGH THE FRONT PAGE AND TELL THE

COURT YOUR METHODOLOGY IN COMING UP WITH THESE NUMBERS?

A THE AMOUNT THAT I WAS SAYING THAT ARTHUR VEREEN OR HIS ASSOCIATED ENTITIES OWED A&E BACK WAS $2,870,879.90.

Q IN THAT NOTEBOOK, DO YOU GO BACK AND REVISE THE 2004, 2005, 2006, AND 2007 NOTEBOOKS THAT HAVE PREVIOUSLY BEEN INTRODUCED INTO EVIDENCE?

A YES. THERE IS 2004, THERE WAS NOTHING CHANGED. 2005, I HAD QUESTIONED SOME EXPENSE THAT THEY HAD PROVIDED BACKUP OR WE JUST QUESTIONED... WE DIDN'T KNOW WHAT IT WAS. IT MIGHT HAVE BEEN A CREDIT CARD CHARGE OR JUST A CHARGE THAT WE WEREN'T SURE OF AND THERE IS $43,000.00 WORTH OF REINVESTMENTS AND THOSE ARE EXPENSES THEY HAD DOCUMENTED.

Q CORRECT. YOU GAVE THEM CREDIT FOR IT?

A I GAVE THEM CREDIT. I WAS COMFORTABLE THEY WERE EXPENSES, CORRECT.

Q IN 2005, WHAT DID YOU DO? YOU START WITH YOUR 2005 REPORT THAT'S ALREADY INTO EVIDENCE. DID YOU MAKE CHANGES ON THOSE?

A YES. I JUST ADDED A SEPARATE COLUMN. I KEPT THE NUMBERS. I KEPT THE REPORTS AS THEY WERE. I JUST ADDED A SEPARATE COLUMN AND WENT DOWN AND LISTED WHERE THIS 40,000 CAME FROM.

Q THOSE ARE $40,000.00 WORTH OF CREDITS?
A THOSE ARE CREDITS THAT I GAVE TO THE COMPANY.
Q $40,973.51?
A YES.
Q AND THAT'S THE SUM TOTAL OF ALL THE CREDITS FROM ALL THE VEREEN ENTITIES, IS THAT CORRECT?
A CORRECT. WELL, TO BE EXACT, THERE'S LIKE A $23,000.00 CHECK THAT WAS MADE OUT TO CAROLINA FIRST.
Q CORRECT.
A AND WE DIDN'T KNOW WHAT THAT WAS AND I THINK WHEN THEY DID PROVIDE US INFORMATION FOR THOSE EXPENSES, THEY WERE PAID.
Q THEN YOU GAVE THEM CREDIT FOR IT?
A I GAVE THEM CREDIT FOR THAT.
Q DID YOU DO THE SAME THING IN THE CALENDAR YEAR 2006?
A YES, SIR.
Q DID YOU GIVE THEM CREDITS THAT YEAR?
A YES. THERE IS $867.96 CREDIT FOR 2006.
Q 2007?
A 2007, THERE'S A CREDIT FOR $1,175.00.
Q DID YOU HAVE SOME ADDITIONS THERE THAT YOU ADDED SINCE THE COMPLETION OF THE 2007 BOOK?
A ON MY SECOND PAGE, IS THAT WHAT YOU ARE REFERRING

TO?

Q YES, MA'AM.

A THE SECOND PAGE, LIKE I SAID BEFORE, IT'S MORE OF AN INFORMATIONAL... THESE WERE SOME OF THE EXPENSES. THE FIRST LIST IS WHEN ALL OF US MET AND WE WENT THROUGH AND MR. SMITH AGREED THAT SOME OF THESE WERE EXPENSES. I HAVE PUT THESE IN AS INFORMATIONAL PURPOSES BECAUSE I'M NOT SO SURE THAT I AGREE WITH SOME OF THE DECISIONS THAT Y'ALL MADE. AS A CPA, I'M OKAY WITH THIS AFTER THE TIMEFRAME AND HOW TO HANDLE THIS. SO, I DID NOT MAKE IT PART OF MY FINAL REPORTS. THIS WOULD BE FOR THE COURT TO DECIDE.

Q MRS. BRADY, DID YOU HAVE SOME EXPENSES THAT WERE SUBMITTED FOR APPROVAL THAT MR. SMITH AGREED WITH THAT YOU AND SUBSEQUENTLY FOUND OUT HAD ALREADY BEEN REIMBURSED BY A&E TO THE VEREEN ENTITIES?

A YES, BUT I BELIEVE THERE WERE A COUPLE EXPENSES WHERE THEY HAD... I THINK ONE WAS LIKE A $20,000.00 CHECK THEY HAD ASKED FOR REIMBURSEMENT AND WE FOUND... FOR CREDIT, AND WE FOUND WHERE A CHECK HAD BEEN SENT TO MR. VEREEN OR WRITTEN OUT TO MR. VEREEN FOR 9,500.00 FOR THE SAME BILL, BUT THOSE ARE REFLECTED IN HERE.

Q MRS. BRADY, I BELIEVE I NEED TO CORRECT YOU. THE

INVOICE WAS 9,500.00, YET HE WAS PAID 20,000.00. IS THAT WHAT YOU MEANT TO SAY?

A YES. I'M SORRY.

Q SO, THE RESULT WAS THAT A&E REIMBURSED THE VEREEN ENTITY FOR MORE OR LESS THAN WHAT THE ACTUAL CHARGE WAS?

A REIMBURSED THEM MORE.

Q AND THAT WAS CLAIMED AS A NEW DISBURSEMENT AT THIS DECEMBER MEETING?

A CORRECT.

Q AND YOU FOUND EVIDENCE THAT A&E HAD ALREADY REIMBURSED THEM FOR THE 20,000,00?

A CORRECT.

Q DID YOU, IN FACT MAKE AN ADJUSTMENT FOR THAT?

A I DID ON THESE BOOKS.

Q THANK YOU, MA'AM. SO, IN COMPILING AND COMING UP WITH THIS $2.87 MILLION FIGURE, HAVE YOU GIVEN CREDIT TO MR. VEREEN, PARKWAY OFFICES, PARK PLACE PROPERTIES OR ANY OTHER VEREEN ENTITY FOR ANY CHECK THAT THEY MADE PAYABLE TO A&E AND DEPOSITED INTO THE A&E ACCOUNT?

A YES, SIR.

Q ARE YOU SATISFIED THAT YOU HAVE ACCURATELY GIVEN CREDIT FOR EVERY DEPOSIT MADE, DEPOSIT BEING A CHECK INTO THE A&E ACCOUNT?

A YES, SIR. I PHYSICALLY WENT THROUGH THE BANK STATEMENTS.
Q AND INSOFAR AS THESE CHARGES AND EXPENSES OF THE COMPANY, HAVE YOU VERIFIED EACH AND EVERY CHECK THAT WAS WRITTEN BY THE COMPANY TO SEE THAT THE COMPANY RECORDS WERE CORRECT IN THE POSTING OF THAT CHECK, POSTING BEING THAT A CHECK WAS MADE PAYABLE FOR SOMETHING?
A CORRECT.
Q THE COMPUTERIZED LEDGER REFLECTS ACTUALLY THE CHECKING ACCOUNT RECORDS?
A ARE YOU ASKING ME?
Q YES, MA'AM.
A YES.
Q AND YOU HAVE VERIFIED THAT?
A YES.
Q MRS. BRADY, YOU DON'T PURPORT TO KNOW WHAT THEY DID WITH MONEY THAT WAS NOT RECORDED ON THE BOOK, DO YOU?
A I DO NOT KNOW.
Q OTHER THAN WHAT YOU DISCOVERED IN THIS LAWSUIT?
A CORRECT.
Q SO, IN YOUR OPINION, MRS. BRADY, BASED UPON THE INFORMATION THAT YOU HAVE GIVEN IS THE AMOUNT OF MONEY THAT IS DUE, THE $2.8 MILLION, THAT IS

SHOWING ON YOUR REPORT HERE PLAINTIFF'S EXHIBIT 40?

A YES, IT IS.

Q DOES THIS REPORT ALLOW FOR PRE-JUDGEMENT INTEREST?

A IT DOES NOT.

Q HAVE YOU COMPUTED THAT PRE-JUDGEMENT INTEREST?

A I HAVE NOT.

Q ANY OTHER CREDIT THAT WOULD BE DUE WOULD BE BASED UPON ANY CLAIM THAT THE VEREEN ENTITIES MAY HAVE MADE FOR PAYMENTS THAT THEY HAD MADE ON BEHALF OF THE COMPANY WHICH THEY HAVE NOT BEEN GIVEN CREDIT FOR?

A I'M SORRY. SAY THAT AGAIN.

Q YOUR FIGURE WOULD BE SUBJECT TO ANY ADJUSTMENT THE COURT MAY WANT TO MAKE FOR PAYMENTS THAT THESE RELATED ENTITIES CLAIM THEY MADE ON BEHALF OF A&E, CORRECT?

A CORRECT. I'M SORRY. I WAS THINKING ABOUT... LET ME GO BACK TO THE QUESTION YOU ASKED ME EARLIER ABOUT THE INTEREST. THE REASON THE INTEREST WASN'T DONE IS BECAUSE I HAD QUESTIONS OF WHAT THE COURT WOULD ALLOW ON SOME OF THESE OTHER DISPUTED CHARGES. THE MEETINGS THAT YOU HAVE AGREED TO THAT I WAS SAYING, THAT I DIDN'T KNOW HOW I FELT ON THESE CHARGES. THAT'S WHY I DIDN'T DO THE

INTEREST BECAUSE I WASN'T SURE THAT I HAD THE BOTTOM LINE OF WHAT THE COURT --

Q YOU WOULD BE CAPABLE OF PRODUCING THAT FIGURE IF IN FACT THE FINAL AMOUNTS ARE DETERMINED EACH YEAR?

A OH, ABSOLUTELY.

Q MRS. BRADY, IS IT YOUR OPINION THAT THE $2.8 MILLION IS FAIR AND REASONABLE, BASED UPON THE INFORMATION THAT HAS BEEN GIVEN TO YOU AND YOUR EXAMINATION OF THE BOOKS AND RECORDS OF THE COMPANY AND THE THIRD PARTY INFORMATION THAT HAS BEING GIVEN TO YOU THROUGH DISCOVERY IN THIS CASE?

A YES, IT IS.

Q MRS. BRADY, YOU WERE EMPLOYED BY MR. SMITH AND HAVE YOU BEEN PAID FOR YOUR SERVICES?

A NO, SIR.

Q WHAT IS YOUR OUTSTANDING... WHAT ARE THE TOTAL OF YOUR OUTSTANDING CHARGES FOR PERFORMING SERVICES FOR A&E IN THIS CASE?

A THE BILL IS BETWEEN $115,000.00 AND $116,000.00 FOR THE LAST THREE AND A HALF YEARS OR THREE YEARS, WHATEVER. I CAN PRODUCE THAT SINCE WE WORKED UP UNTIL THE WEEKEND HERE. I CAN GET MY OFFICE TO PRODUCE THAT TODAY IF YOU NEED THAT AS WELL.

Q ALRIGHT. IS IT SAFE TO SAY THAT YOU HAVE SPENT A SUBSTANTIAL AMOUNT OF TIME IN REVIEWING THESE RECORDS?
A YES, SIR.
Q MRS. BRADY, HAVE YOU EVER SEEN ANYTHING LIKE THIS IN YOUR LIFE?
A I CAN HONESTLY SAY IN MY PROFESSION, I'VE NOT SEEN A SET OF BOOKS LIKE THIS.
Q HAVE YOU EVER SEEN CORPORATIONS THAT SPEND MONEY ON BEHALF OF OTHER COMPANIES AND NOT REPORT IT IN THEIR BUSINESS RECORDS? IS THAT A COMMON THING?
A I CAN TELL YOU THAT CLIENTS MIGHT TRY, BUT NOT TO BE... NOT FOR THE FINAL REPORT. IT'S VERY CRITICAL AND I GUESS, IN MY PROFESSION, WHEN I HAVE SHAREHOLDERS THAT HAVE MULTIPLE COMPANIES, IT'S VERY IMPORTANT TO GET THOSE EXPENSES FOR THAT COMPANY AND TO HAVE INTERCOMPANY NOTES PAYABLE TO AND FROM THE OTHER COMPANIES AND IF YOU DON'T HAVE THAT ON YOUR BOOKS, YOU DON'T HAVE A CORRECT SET OF BOOKS. SO, THAT'S SOMETHING THAT I STRIVE WITH ALL OF MY CLIENTS THAT HAVE MULTIPLE CORPORATIONS.
Q THESE TYPES OF INTERRELATED TRANSFERS, DO YOU SEE STUFF LIKE THIS WHEN THERE'S TWO SEPARATE SHAREHOLDERS THAT ARE NOT IN THE SAME FAMILY AND HAVE NO OTHER RELATED COMPANIES?

A I HAVE NEVER SEEN IT TO THIS EXTENT OF THESE BOOKS.

Q ANSWER ANY QUESTIONS THAT COUNSEL MAY HAVE.

JUDGE HOWE: LET ME GET THE FIGURE AGAIN. HOW MUCH IS OWED TO YOU SO FAR?

MR. DURANT: YOUR HONOR, WE MOVE TO INTRODUCE THIS REPORT INTO EVIDENCE.

JUDGE HOWE: OKAY.

MS. COOK: WELL, YOUR HONOR, I WOULD LIKE AN OPPORTUNITY... I MEAN, I WAS... THIS WAS GIVEN TO ME THIS MORNING. AND, FRANK, I THINK IS... IT MIGHT NOT BE AN ISSUE BECAUSE FRANK HAS GONE A LITTLE LONGER I THINK THAN HE THOUGHT HE WAS GOING TO. ANYWAY. BUT HAVING JUST GOTTEN IT THIS MORNING, I ANTICIPATE THAT PROBABLY THE REMAINDER OF THE DAY, UNFORTUNATELY, IS GOING TO BE CROSS-EXAMINING. I DON'T OBJECT TO THIS. IN THE EVENT THAT I GOT FINISHED WITH WHAT I'M PREPARED FOR, THOUGH, SUCH THAT WE COULD PUT ANOTHER WITNESS ON. I WOULD LIKE THE

OPPORTUNITY TO RECALL MRS. BRADY WITH REGARD TO EXHIBIT 40 AFTER I HAVE HAD TIME TO LOOK AT IT MORE IN DEPTH THIS EVENING. IF WE FINISH WITH HER TODAY IN TIME TO GET SOMEBODY ELSE UP TODAY.

JUDGE HOWE: I BET WE WON'T.

MS. COOK: CAN WE TAKE A BATHROOM BREAK?

JUDGE HOWE: WE CERTAINLY MAY. LET ME GET THAT FIGURE FOR YOUR FEES?

A LET'S SAY $116,000.00. IT'S 115,500.00 OR 115,800.00 SO --

JUDGE HOWE: DO YOU KNOW HOW MANY HOURS THAT WOULD BE?

A I CAN GET THAT REPORT. IT WILL BE ON OUR BILLING SYSTEM. IT WILL TELL YOU EXACTLY THE DATES AND HOW MANY HOURS.

JUDGE HOWE: OKAY.

MR. DURANT: YOUR HONOR, THE REASON WE SUBMIT THAT FIGURE IS IF THE COURT RULES IN OUR FAVOR, THIS WOULD BE AN EXPENSE THAT WE WOULD REQUEST THAT THE COMPANY PAID IN THIS LAWSUIT OUT OF ANY RECOVERY.

JUDGE HOWE: THANK YOU VERY MUCH.

PLAINTIFF'S 40 WILL BE ADMITTED.
BRADY REPORT MARKED FOR
IDENTIFICATION AND
INTRODUCED INTO EVIDENCE
AS PLAINTIFF'S EXHIBIT
40.
JUDGE HOWE: ALRIGHT, MS. COOK.

CROSS EXAMINATION BY MS. COOK:

Q MRS. BRADY, I HOPE I DON'T... I'M GOING TO TRY TO CALL YOU MRS. BRADY, BUT I MIGHT SAY SUSAN SOMETIMES.

A THAT'S OKAY.

Q YOU TESTIFIED WHEN YOU WERE HERE IN FEBRUARY THAT YOU TOOK THE CPA EXAM IN '93 AND YOU WERE CERTIFIED AS A CPA IN '95. IS THAT STILL YOUR RECOLLECTION OF YOUR CERTIFICATION WAS IN `95?

A YEAH, I THINK IT WAS.

Q IF I UNDERSTOOD YOUR TESTIMONY CORRECTLY, THEN YOU, EVEN BEFORE YOU BECAME A CERTIFIED PUBLIC ACCOUNTANT... SO, AFTER YOU HAD FINISHED YOUR EXAM IN '93, BUT EVEN BEFORE YOU BECAME CERTIFIED IN '95, WHICH I UNDERSTOOD TOOK SOME WORK EXPERIENCE BEFORE YOU COULD BE CERTIFIED, YOU BEGAN REPRESENTING ELLIS SMITH AND HIS BUSINESSES, IS THAT CORRECT?

A DID YOU SAY BEFORE '95 OR 2005?
Q '95.
A NO.
Q I'M SORRY. I THOUGHT YOU HAD TESTIFIED THAT WHEN... WHEN DID YOU FIRST START REPRESENTING ELLIS SMITH? DIDN'T YOU TELL ME YOU BEGAN --
A WHEN I FIRST BEGAN, I WAS WORKING AT MORGAN... I MET ELLIS WHEN I WENT TO WORK WITH KING AND GODBOLD. I'M SORRY. I DON'T HAVE MY DATES HERE.
Q DIDN'T YOU SAY YOU BEGIN WORKING AT KING AND GODBOLD IN LATE '94 OR EARLIER '95?
A I APOLOGIZE. I DON'T HAVE MY DATES HERE. YOU MIGHT BE CORRECT, OKAY. I WAS CERTIFIED IN '95. YOU'RE CORRECT BECAUSE I WAS NO LONGER WORKING AT MORGAN AND LEWIS. I WAS AT KING AND GODBOLD WHEN I BECAME CERTIFIED.
Q AND EVEN BEFORE YOU BECAME CERTIFIED AT KING AND GODBOLD, YOU HAD ALREADY MET ELLIS AND THINKING OF DOING HIS ACCOUNTING WORK, IS THAT CORRECT?
A I BELIEVE IT WAS AFTER... HE WAS ACTUALLY A CLIENT OF ONE OF THE OTHER ACCOUNTANTS THERE. I APOLOGIZE. I CAN'T TELL YOU EXACTLY. I WAS THINKING IT WAS AFTER THAT. IT MIGHT HAVE BEEN '96. I CAN'T GIVE YOU THE DATE.
Q WELL, DO YOU THINK YOU WERE REPRESENTING ELLIS BY

AT LEAST `96?

A I MIGHT HAVE BEEN DOING WORK, BUT I WAS NOT HIS ACCOUNTANT AT THAT POINT.

Q BUT YOU IN SOME FORM WHILE WORKING AT KING AND GODBOLD, AS EARLY AS 1996, DID ACCOUNTING WORK FOR ELLIS SMITH, IS THAT CORRECT?

A THAT COULD BE CORRECT.

Q AND YOU CONTINUE TO DO ACCOUNTING WORK FOR ELLIS SMITH AND HIS FAMILY UP UNTIL TODAY'S DATE IRRESPECTIVE OF THIS LAWSUIT, IS THAT CORRECT?

A CORRECT.

Q DO YOU DO HIS SON'S ACCOUNTING WORK?

A I DO SOME INCOME TAX WORK FOR ONE OF HIS SONS.

Q PRIOR TO MR. SMITH JOINING UP WITH MR. VEREEN AND BECOMING A 50% SHAREHOLDER IN A&E, WHICH WAS FORMED IN LATE '03 AND BEGAN WORKING IN 2004, WHAT BUSINESSES, IF ANY, OF MR. SMITH'S DID YOU DO ACCOUNTING WORK FOR?

A EES CONSTRUCTION AND CONSULTANTS, INC.

Q AND SINCE YOU HAD BEEN DOING ACCOUNTING WORK FOR MR. SMITH, WAS THAT THE ONLY BUSINESS THAT YOU WERE AWARE OF THAT MR. SMITH WAS INVOLVED IN THAT PRODUCED HIS INCOME THAT HE LIVED OFF OF?

A AT THAT POINT IN TIME?

Q YES.

A YES, MA'AM.
Q DID YOU DO HE AND HIS WIFE'S PERSONAL INCOME TAX AND ACCOUNTING WORK?
A YES, MA'AM.
Q AND THEN YOU DID EES'S ACCOUNTING WORK?
A I DID INCOME TAX RETURNS FOR EES.
Q DID YOU KEEP THE BOOKS AND RECORDS, THE ACCOUNTING BOOKS AND RECORDS OF EES AT ANY TIME?
A NO, I DID NOT.
Q TO YOUR KNOWLEDGE, BEFORE MR. SMITH BECAME INVOLVED IN A&E, DID MR. SMITH OR HIS WIFE KEEP THE ACCOUNTING BOOKS AND RECORDS OF EES?
A I BELIEVE MR. SMITH DID.
Q WERE THOSE ACCOUNTING BOOKS AND RECORDS TURNED OVER TO YOU IN ORDER FOR YOU TO PERFORM YOUR SERVICES FOR THE TAX PREPARATIONS FOR EES?
A YES.
Q WAS THAT KEPT ON A COMPUTER SYSTEM SUCH AS PEACHTREE?
A NO, MA'AM.
Q HOW WAS THAT DONE? IS THAT DONE ON THE PAPER LIKE I DO MINE?
A I DON'T KNOW HOW YOU DO YOURS, BUT, YEAH, IT'S ON PAPER.
Q SHEETS THE OLD FASHION WAY. UNLESS YOU LOSE THEM,

PAPERS AND COMPUTER GO DOWN, YOU GONNA HAVE A HARD TIME NOW.

A OKAY.

Q BUT THAT'S HOW MR. SMITH KEPT HIS ACCOUNTING BOOKS AND RECORDS OF EES WAS ON PAPER?

A CORRECT.

Q DID YOU REPRESENT MR. SMITH WHEN HE... WERE YOU DOING ACCOUNTING WORK FOR MR. SMITH OR HIS COMPANY WHEN HE FILED BANKRUPTCY?

A NO.

Q DO YOU KNOW WHEN HE FILED BANKRUPTCY?

A NO, MA'AM.

Q WAS IT BEFORE YOU BEGAN DOING WORK WITH HIM, WHICH WOULD HAVE BEEN AS EARLY AS '96?

A I'M ASSUMING. I DIDN'T KNOW ABOUT IT SO I DIDN'T KNOW WHEN IT WAS. I'VE HEARD IT MENTIONED SINCE THIS TRIAL BEGAN, BUT I DID NOT KNOW BEFORE --

Q YOU DID MR. SMITH'S ACCOUNTING WORK AND STILL DO HE AND HIS WIFE'S INCOME TAX PREPARATION, CORRECT?

A CORRECT.

Q YOU DID EES'S INCOME TAX PREPARATION. DID YOU DO ANY OTHER ACCOUNTING WORK FOR EES?

A I BASICALLY DID... I WOULD DO INCOME TAX RETURNS AT THE END OF THE YEAR, 1099S. OH, I DID PAYROLL. I 'M SORRY.

Q YOU DID PAYROLL?
A PAYROLL, W-2'S, YEAR END REPORTING.
Q ANYTHING ELSE FOR EES?
A NOT THAT I CAN RECALL.
Q WAS EES A CORPORATION OR WAS IT A D/B/A FOR MR. SMITH OR DO YOU KNOW?
A IT WAS AN S CORPORATION.
Q WAS EES... I KNOW YOU HAD TESTIFIED EARLIER THAT YOU BEGAN DOING WORK FOR A&E WHEN YOU DID THE INITIAL AUDIT IN ORDER FOR A&E TO GET THEIR LICENSE THROUGH THE SOUTH CAROLINA LABOR AND LICENSING DEPARTMENT, IS THAT CORRECT?
A CORRECT.
Q AS PART OF THAT I BELIEVE YOU TESTIFIED THAT YOU HAD TO VERIFY THE ASSETS IN ORDER TO JUSTIFY WHAT LEVEL OF LICENSING A&E WAS ENTITLED TO, CORRECT?
A CORRECT.
Q DID YOU DO THAT SAME TYPE OF WORK FOR EES AS A CORPORATION FOR THEM TO GET A CONTRACTOR'S LICENSE THROUGH LLR.
A NO, I DID NOT.
Q TO YOUR KNOWLEDGE, HAS EES EVER HAD A CONTRACTOR'S LICENSE?
A I DO NOT KNOW.
Q NOW, IT'S MY UNDERSTANDING THAT MR. SMITH UPON...

IT WAS APRIL OF 2007, WHILE HE WAS STILL WORKING AT A&E, HE INCORPORATED A BUSINESS CALLED E SMITH AND SONS? ARE YOU FAMILIAR WITH THAT CORPORATION?

A I AM.

Q DO YOU DO THE ACCOUNTING WORK FOR E SMITH AND SONS?

A YES, I DO.

Q DID YOU DO ANY TYPE OF INITIAL... WHAT KIND OF ACCOUNTING WORK HAVE YOU HAD FOR E SMITH AND SONS?

A I DON'T KNOW THAT I HAVE ALL THOSE RECORDS HERE, BUT I CAN GIVE YOU... I DON'T HAVE MY FILES HERE WITH ME, BUT I CAN TELL YOU FROM MEMORY WHAT I RECALL.

Q THAT'S NOT WHAT I ASKED.

A SORRY.

Q WHAT KIND OF ACCOUNTING WORK HAVE YOU DONE--

A INCOME TAX RETURNS. SAME THING. PAYROLL AND PROBABLY 1099S.

Q HAVE YOU DONE... HAVE YOU... IS EES A CORPORATION?

A EES OR E SMITH AND SONS?

Q SORRY. E SMITH AND SONS, IS IT A CORPORATION?

A YES, IT IS.

Q IS IT A SUBCHAPTER S OR A C OR --

A I THINK IT'S A SUBCHAPTER S.

Q HAVE YOU DONE ANY, I BELIEVE YOU CALLED IT

"INITIAL WORK" LIKE YOU DID FOR A&E IN ORDER TO VERIFY IT'S WHEREWITHAL, E SMITH AND SONS, TO BE ABLE TO OBTAIN A GENERAL CONTRACTOR'S LICENSE THROUGH THE SOUTH CAROLINA LABOR AND LICENSING DEPARTMENT?

A NO, I HAVE NOT.

Q NOT BEEN ASKED TO DO THAT?

A NO, MA'AM.

Q DO YOU KNOW IF E SMITH AND SONS HAS A CONTRACTOR'S LICENSE?

A NO, I DO NOT.

Q DO YOU DO ANY ACCOUNTING WORK FOR ANY OTHER PARTNERSHIPS OR CORPORATIONS OR ENTITIES IN WHICH MR. SMITH HAS ANY INTEREST?

A I BELIEVE THERE IS ANOTHER COMPANY, LOW COUNTY RENTAL OR --

Q MAINTENANCE OR SOMETHING --

A YEAH.

Q WAS THAT BEGUN SOME TIME IN LATE '07 AND '08, AS FAR AS YOU RECALL?

A I HONESTLY CAN'T TELL YOU WHAT YEAR THAT ONE STARTED.

Q IS IT STILL IN OPERATION AS FAR AS YOU KNOW? DO YOU STILL DO ACCOUNTING WORK --

A I DID TAX RETURNS FOR THEM THIS YEAR OR FOR LAST

YEAR.
Q GENERALLY SPEAKING, WHAT TYPE OF ACCOUNTING SERVICES HAVE YOU PROVIDED LOW COUNTRY MAINTENANCE FOR LACK OF A BETTER TERM?
A THE SAME; INCOME TAX RETURNS, W-2S, PAYROLL --
Q 1099S?
A 1099S.
Q NOW, E SMITH AND SONS AND LOW COUNTRY MAINTENANCE, LET'S JUST CALL THEM LOW COUNTRY BECAUSE I CAN'T REMEMBER WHAT THE END OF THE NAME OF THE ENTITY IS. DO YOU KEEP THE ACCOUNTING BOOKS AND RECORDS, FINANCIAL RECORDS, FOR THOSE TWO COMPANIES? E SMITH AND SONS AND LOW COUNTRY?
A YOU MEAN DURING THE YEAR?
Q YES.
A NO, MA'AM.
Q TO YOUR KNOWLEDGE, WHO KEEPS THOSE BOOKS AND RECORDS, FINANCIAL BOOKS AND RECORDS OF THOSE TWO COMPANIES?
A ELLIS SMITH.
Q ARE THEY KEPT BY UTILIZATION OF ANY KIND OF SOFTWARE LIKE PEACHTREE OR ANY OTHER KIND OF SOFTWARE PROGRAM?
A NOT TO MY KNOWLEDGE.
Q HOW ARE THEY KEPT TO YOUR KNOWLEDGE? LIKE I DO?

A LIKE YOU DO.
Q OLD FASHIONED?
A THE OLD FASHIONED WAY.
Q OTHER THAN LOW COUNTRY ANY OTHER ADVENTURES IN WHICH MR. SMITH IS INVOLVED THAT YOU HAVE DONE ACCOUNTING WORK FOR SINCE YOU BEGIN WORKING WITH MR. SMITH?
A I THINK THAT'S IT. I MEAN, OTHER THAN A&E.
Q ALRIGHT. YOU DO HIS SON, ELLIS JR.'S TAX RETURNS, CORRECT? AND HIS WIFE'S?
A ELLIS JR., I HAVE THE LAST YEAR.
Q HOW ABOUT HIS DAUGHTER? MR. SMITH'S DAUGHTER?
A I HAVE NEVER DONE ANYTHING FOR HIS DAUGHTER.
Q AND I BELIEVE HE HAS ANOTHER SON, SETH?
A YES, SETH.
Q HAVE YOU DONE ANY ACCOUNTING WORK FOR SETH?
A I DON'T... IF I DID THE TAX RETURN FOR HIM, IT'S BEEN YEARS AGO. I DON'T REMEMBER IF I EVER DID ANYTHING FOR SETH OR NOT.
Q NOW, WHEN YOU WERE FIRST APPROACHED... AS I UNDERSTOOD YOUR TESTIMONY ABOUT DOING ACCOUNTING WORK FOR A&E, WAS IT ELLIS SMITH THAT APPROACHED YOU AND ENGAGED YOU TO BE A&E'S ACCOUNTANT? DID I UNDERSTAND THAT CORRECTLY?
A CORRECT.

Q WERE YOU ENGAGED... I BELIEVE THE SECRETARY OF STATE'S RECORDS SHOW THAT THIS CORPORATION WAS FORMED, A&E, IN OCTOBER OF 2003 AND THEN THEY GOT THEIR LICENSE IN JANUARY OF 2004. USING THOSE TWO TIMEFRAMES AS KIND OF SOME PARAMETERS, DO YOU RECALL WHEN YOU MIGHT HAVE FIRST BEEN APPROACHED ABOUT BECOMING A&E'S ACCOUNTANT? IT WOULD HAVE BEEN BEFORE THEY GOT THEIR LICENSE IN JANUARY OF '04 BECAUSE YOU DID THE --

A YES, RIGHT. I'M GOING TO ASSUME IT WAS SOMEWHERE AT THE END OF '03.

Q DID YOU DO THE WORK TO INCORPORATE A&E?

A EXPLAIN WHAT YOU MEAN, "DO THE WORK..."? ANYTHING TO DO WITH THEIR CORPORATION?

Q YES.

A NO, MA'AM.

Q DID YOU DO A&E'S TAX RETURN FOR 2003?

A I BELIEVE I DID.

Q BEFORE BECOMING ENGAGED BY A&E TO BE THEIR ACCOUNTANT, HAD YOU EVER DONE ANY ACCOUNTING WORK FOR MR. VEREEN OR ANY ENTITY, TO YOUR KNOWLEDGE, IN WHICH MR. VEREEN WAS ASSOCIATED?

A NO, MA'AM.

Q NOW, AFTER YOU BECAME A&E'S ACCOUNTANT IN LATE '03, DID YOU HAVE AN OCCASION TO BE... YOUR

SERVICES UTILIZED AS AN EXPERT WITNESS FOR A&E IN CONNECTION WITH TRADEMARK LITIGATION BY SOME GUY WHO EVIDENTIALLY MAKES A GOOD LIVING AT DOING THAT?

A I DID THAT AFTER I GAVE UP THE A&E ACCOUNT.

Q BUT FOR A PERIOD OF TIME, YOU WERE A&E'S ACCOUNTANT AND YOU STOPPED BEING THEIR ACCOUNTANT, BUT YOU BECAME THEIR EXPERT WITNESS IN A --

A I WAS ASKED TO DO THE EXPERT WITNESS.

Q -- IN TRADEMARK LITIGATION, IS THAT CORRECT?

A YES, I DID.

Q AND YOU WERE PAID FOR THAT WORK?

A YES, MA'AM.

Q SO, YOU HAVE A LONG HISTORY OF ASSOCIATION WITH ELLIS SMITH AND HIS BUSINESSES, WOULD THAT BE A FAIR STATEMENT?

A THAT'S A FAIR STATEMENT.

Q YOU HAD NO KNOWLEDGE OR ASSOCIATION OR BUSINESS RELATIONSHIP WITH MR. VEREEN OR ANY OF HIS BUSINESSES?

A NO, MA'AM.

Q NOW, WHEN YOU WERE APPROACHED... WHEN WERE YOU APPROACHED TO OFFER SERVICES IN CONNECTION WITH THE SUBJECT MATTER OF THIS LAWSUIT, WHICH IS DISPUTED ABOUT PROFITS AND LOSSES WITHIN A&E AND

THE PARTNERS SHARES OR RIGHTS TO THOSE PROFITS AND LOSSES? WHEN WERE YOU FIRST APPROACHED BY ANYONE TO PROVIDE ANY KIND OF SERVICES IN CONNECTION WITH THAT ISSUE OR THOSE ISSUES?

A I DON'T KNOW IF I CAN GIVE YOU THAT DATE. I WAS THINKING ABOUT THAT THE OTHER DAY. I DON'T KNOW THAT I CAN GIVE YOU THE EXACT DAY THAT I WAS FIRST APPROACHED?

Q LET ME SEE IF WE CAN GET IT IN A TIMEFRAME THAT MIGHT HELP. YOU DID THE TAX RETURN FOR A&E IN 2003, CORRECT?

A CORRECT. I THINK THAT WAS A NO ACTIVITY RETURN.

Q AND THE TAX RETURN OF A&E, IT WOULD HAVE BEEN DUE WHEN?

A MARCH OF 2004.

Q AND YOU WOULD HAVE DONE THAT RETURN FOR THE MARCH 15TH DEADLINE OF '04 OR WAS IT LATER? DO YOU RECALL?

A I HONESTLY DO NOT RECALL. I WOULD IMAGINE IF IT WAS NO ACTIVITY, IT WAS PROBABLY DONE, BUT I CAN'T TESTIFY WITHOUT HAVING THAT FILE HERE.

Q NOW, AFTER YOU PREPARED THE TAX RETURN IN '03, WHAT WAS YOUR UNDERSTANDING OF YOUR SCOPE OF INVOLVEMENT AS AN ACCOUNTANT FOR A&E WAS GOING TO BE THEREAFTER? NOW, FORGET THE TRADEMARK LAWSUIT.

FORGET THIS, BUT WHAT WAS YOUR UNDERSTANDING OF WHAT YOU WERE HIRED TO DO FOR A&E ON AN ONGOING BASIS?

A THAT I WOULD BE DOING SIMILAR TO WHAT I DID FOR MR. SMITH, MAYBE AT THE END OF THE YEAR DOING THE INCOME TAX RETURNS.

Q DURING THE COURSE OF THE YEAR, WERE YOU GOING TO DO ANYTHING ELSE FOR A&E OTHER THAN THE INCOME TAX RETURN AT THE END OF THE YEAR?

A I DON'T THINK WE DISCUSSED DOING ANYTHING ELSE.

Q SO, WHEN YOU WERE FIRST APPROACHED BY A&E, YOU WEREN'T GOING TO DO THEIR... Y'ALL WEREN'T GOING TO PROCESS THEIR PAYROLL?

A NO, MA'AM.

Q WHEN YOU ARE FIRST APPROACHED BY MR. SMITH ABOUT BEING A&E'S ACCOUNTANT, HE HAD DONE HIS ACCOUNTING WORK ON PAPER LIKE I DO IT AS I UNDERSTAND IT?

A CORRECT.

Q DID YOU HAVE ANY DISCUSSIONS WITH HIM OR ANYONE AT A&E ABOUT HOW THEY WERE GOING TO DO THEIR ACCOUNTING WORK AND WHAT IT WAS THAT YOU WANTED TO SEE AT THE END OF THE YEAR TO ASSIST YOU IN THE TAX PREPARATION?

A THAT WAS DISCUSSED AT SOME POINT BECAUSE I HAD BEEN TOLD THAT THEY WOULD DO PEACHTREE. BECAUSE I

HAD ASKED HIM FOR... I TOLD HIM THE REPORTS THAT I WOULD NEED AND I BELIEVE I DISCUSSED WITH HIM, WHICH I DO WITH MOST OF MY CLIENTS, I PREFER A COMPUTER SOFTWARE BACKUP.

Q YOU HAD THAT DISCUSSION WITH MR. SMITH?

A I BELIEVE SO.

Q DID YOU HAVE IT WITH ANYBODY ELSE? I'M TALKING EARLY ON IN '04?

A NO. AND I DON'T KNOW THAT I HAD THAT CONVERSATION WITH MR. SMITH AS FAR AS WHAT I'D WANT THE TAX IN '04. THAT COULD'VE BEEN IN '05 AFTER THE YEAR END.

Q WHAT CONTACT DID YOU HAVE WITH A&E IN TERMS OF PROVIDING ANY SERVICES FOR THEM IN '04?

A I DON'T KNOW THAT I REALLY HAD MUCH.

Q YOU WOULDN'T HAVE REALLY HAD ANY CONTACT WITH THAT CLIENT AGAIN UNTIL THE END OF '04, THE END OF '05, IN PREPARATION OF THAT '04 TAX RETURN?

A CORRECT. IF I DON'T DO ANY PAYROLL THAT'S USUALLY... I GET WITH MY CLIENTS, UNLESS THEY HAVE NEED, I GET WITH THEM AFTER THE YEAR END.

Q IS THAT YOUR RECOLLECTION OF HOW IT WORKED WITH A&E?

A I BELIEVE SO.

Q WOULD THAT HAVE THEN BEEN ABOUT THE TIME THAT YOU

MIGHT HAVE HAD THE DISCUSSION WITH MR. SMITH ABOUT WILL THEY USE PEACHTREE AND YOU SAID WHAT YOU WOULD NEED AND THINGS OF THAT NATURE?

A IT WOULD'VE BEEN PROBABLY AFTER THE YEAR END.

Q AFTER YEAR END OF '04?

A YES, MA'AM.

Q DID YOU HAVE ANY DISCUSSION, AT THAT POINT IN TIME, IN ANTICIPATION OF DOING THE '04 RETURN? DID YOU HAVE ANY DISCUSSION WITH MR. VEREEN?

A NO, MA'AM.

Q DID YOU HAVE ANY DISCUSSION WITH BETH?

A NO, MA'AM.

Q DID YOU HAVE ANY DISCUSSION WITH A LADY THAT I UNDERSTAND WAS THE BOOKKEEPER, CARRIE, AND I WILL BUTCHER HER LAST NAME SO LET'S JUST CALL HER CARRIE. DO WE ALL KNOW WHO WE'RE TALKING ABOUT?

A YES, MA'AM.

Q DID YOU HAVE ANY DISCUSSION WITH CARRIE?

A BEFORE '04, NO, MA'AM.

Q NOW, DO YOU RECALL IF AT THE END OF '04 AND THE BEGINNING OF '05 IN ANTICIPATION OF DOING THE '04 RETURN, DID YOU HAVE THAT KIND OF DISCUSSION WITH MR. SMITH ON BEHALF OF A&E? ANTICIPATING THAT YOU WOULD DO THE '04 RETURN IN ORDER TO HAVE IT FILED BY MARCH OF '05? AT THAT POINT, DID YOU KNOW THAT

Y'ALL WOULD BE GETTING AN EXTENSION? "Y'ALL" A&E WOULD BE GETTING AN EXTENSION AND FILING LATER THAN THE MARCH 15TH DEADLINE?

A HOW MANY QUESTIONS ARE IN THERE?

Q AT THE END OF '03, THE BEGINNING OF '04... SORRY, THE END OF '04, THE BEGINNING OF '05, IN ANTICIPATION OF DOING THE '05 TAX RETURN, WAS IT YOUR RECOLLECTION THAT YOUR DISCUSSIONS WERE THAT YOU WERE GOING TO HAVE THE TAX RETURN DONE BY THE FILING DATE OR THAT A&E WAS GOING TO NEED TO GET AN EXTENSION?

A I THINK IT WAS AN EXTENSION. I DON'T THINK I HAD ANY CONTACT OR MAYBE I... I MEAN, WE ALWAYS DO THAT BEFORE THE EXTENSION TIME. WE CALL AND I THINK PROTOCOL WOULD HAVE BEEN THAT WE PROBABLY CALLED THEM OR SOMEONE IN OUR OFFICE CALLED TO SEE IF THEY WERE GOING TO BE FILING OR DOING AN EXTENSION. I BELIEVE THAT THEY DID NOT HAVE THE INFORMATION AT THAT TIME.

Q SO, YOUR DISCUSSION WITH MR. SMITH WAS ABOUT WHAT KIND OF PROGRAM THEY USED AND WHAT YOU WOULD NEED? IT MIGHT NOT HAVE BEEN THE END OF '04, IT COULD HAVE BEEN ON INTO '05 LIKE LARRY KING HAS TO DO FOR ME BECAUSE I NEVER HAVE MY STUFF READY. AND YOU KNEW THAT YOU WERE GOING TO HAVE TO FILE AN

EXTENSION OR YOU LEARNED YOU WERE GOING TO FILE AN EXTENSION?

A I HONESTLY CAN'T REMEMBER HOW THE CONVERSATION WENT IN '04 AND '05 WHEN I WAS... I MEAN, WHAT DATES THAT I HAD A CONVERSATION WITH MR. SMITH. I MEAN, I KNOW WE TALKED ABOUT THE TAX RETURNS. I KNOW HE WAS GOING TO GET WITH WAYNE AND THEY WERE GOING TO GET ME THE INFORMATION, BUT I CAN'T TELL YOU EXACTLY WHAT I ASKED FROM HIM AND WHAT DATE THAT WAS.

Q BUT YOUR RECOLLECTION IS YOU DID FILE AN EXTENSION TO DO THE '05 TAX RETURNS?

A OH, '04.

Q I'M SORRY. THE '04 RETURN DURING '05?

A I'M CONFIDENT WE FILED AN EXTENSION FOR '04, YES.

Q AND SOME TIME AFTER FILING THE EXTENSION, WOULD IT BE FAIR TO SAY THAT YOU WERE BROUGHT SOME DOCUMENTATION BY SOMEONE FOR A&E TO ASSIST YOU IN THE PREPARATION OF THAT '04 RETURN THAT YOU WERE PREPARING IN '05?

A CORRECT.

Q WHO BROUGHT YOU THAT INFORMATION?

A MR. SMITH.

Q DO YOU RECALL GENERALLY SPEAKING WHAT HE BROUGHT YOU?

A I'M THINKING IT WAS... I THINK IT MIGHT HAVE BEEN THE GENERAL LEDGERS.
Q AT THAT POINT, WHEN YOU GOT THAT INFORMATION, YOU KNEW AHEAD OF TIME THAT THEY WERE USING THE PEACHTREE SYSTEM?
A THEN I DID. I JUST CAN'T REMEMBER IF HE GAVE ME SOME KIND OF BACKUP OR HE GAVE ME THE PRINTED DOCUMENTS, BUT AT THAT POINT, I DID HAVE THE INFORMATION FROM PEACHTREE.
Q HAD YOU WORKED WITH PEACHTREE AND THAT ACCOUNTING SYSTEM IN CONNECTION WITH A CONSTRUCTION COMPANY IN YOUR PROFESSIONAL CAPACITY AS A CPA PRIOR TO MR. SMITH AND THE A&E RETURN?
A I HAD DONE A LITTLE BIT WITH IT.
Q HOW MANY CONSTRUCTION CLIENTS, CONSTRUCTION BUSINESSES/CORPORATIONS HAD YOU DONE... HAD YOU SERVED AS THE CPA PREPARING THEIR TAX RETURNS BEFORE A&E?
A I CAN'T ANSWER THAT EITHER.
Q HAD YOU REPRESENTED ANY CONSTRUCTION COMPANIES --
A YES.
Q IT WOULD BE EASIER IF YOU... I KNOW YOU KNOW WHERE I'M GOING, BUT TRY TO LET ME FINISH MY QUESTION.
A SORRY.
Q HAD YOU HAD AS CLIENTS MORE THAN FIVE OR LESS THAN

FIVE BEFORE A&E, IF YOU RECALL?

A I WOULD SAY BEFORE... MAYBE BETWEEN FIVE AND TEN BECAUSE THAT WAS JUST A POINT WHERE I HAD SWITCHED COMPANIES AND WORKED WITH DIFFERENT... YOU KNOW, IT WOULD HAVE BEEN A WHILE BACK.

Q NOW, OTHER THAN WORKING WITH THE PEACHTREE ACCOUNTING SYSTEM IN YOUR CONNECTION WITH YOUR SERVICES FOR A&E PRIOR TO THIS LITIGATION, HAD YOU EVER WORKED WITH OTHER CLIENTS THAT USED PEACHTREE AS THEIR ACCOUNTING SYSTEM AND THEN YOU UTILIZED IT IN YOUR WORK FOR THEM?

A I'VE HAD SOME CLIENTS IN THE PAST BACK WHEN I WAS AT KING AND GODBOLD THAT USED PEACHTREE. I HAVEN'T IN THE LAST SEVERAL YEARS.

Q IN 2005, WHEN YOU WERE BROUGHT WHATEVER INFORMATION TO START THE TAX PREPARATION BY ELLIS, WHEN YOU GOT THAT INFORMATION, WHAT DID YOU DO WITH IT?

A WHEN I GOT THE INFORMATION, I ENTERED THE INFORMATION INTO OUR COMPUTER.

Q WHAT KIND OF ACCOUNTING SYSTEM DO YOU USE?

A WE HAVE THOMPSON ROOTERS, CREATIVE SOLUTION. IT'S A FINANCIAL PACKAGE. I PUT ALL THE TRANSACTIONS IN... I'M TRYING TO THINK BACK BECAUSE WE HAD SOME PROBLEMS WITH CARRIE THE BOOKKEEPER. SHE HAD A

DIFFERENT YEAR END. I CAN'T REMEMBER EXACTLY HOW I GOT THE INFORMATION, BUT I PUT ALL THE INFORMATION INTO OUR SYSTEM AND I PRINTED OUT A GENERAL LEDGER TO DISCUSS.

Q DISCUSS WITH WHOM?

A WELL, I STARTED OUT WITH ELLIS.

Q FROM THE INFORMATION THAT YOU WERE BROUGHT AND WHATEVER YOU REVIEWED IN '05 WHAT WAS IT THAT PROMPTED QUESTIONS AND ISSUES IN YOUR MIND DEALING WITH THE BOOKS AND RECORDS OF A&E?

A I HAD QUESTIONS REGARDING THE INFORMATION THAT I HAD BECAUSE I MET WITH ELLIS AND I GAVE HIM THE INFORMATION AND TOLD HIM TO GO BACK AND TO GET WITH MR. VEREEN TO GO OVER SOME OF THE INFORMATION AND THEN WE WOULD ALL MEET.

Q DID THAT HAPPEN?

A NO, IT NEVER HAPPENED.

Q AND I BELIEVE FROM YOUR EARLIER TESTIMONY WHEN MR. DURANT WAS QUESTIONING YOU IN FEBRUARY THAT YOU SAID AS EARLY AS 2005, FROM THE INFORMATION THAT YOU WERE LOOKING AT ON THE PEACHTREE AND THE GENERAL LEDGER, THAT YOU HAD CONCERNS OR QUESTIONS AT THAT POINT AND YOU MADE THOSE CONCERNS OR QUESTIONS... YOU MADE ELLIS AWARE OF THOSE CONCERNS OR QUESTIONS, IS THAT ACCURATE?

A YES. AT THAT POINT, THERE WERE EXPENSES THAT I COULDN'T IDENTIFY. I DIDN'T KNOW WHAT THEY WERE.

Q AND THAT RELATED TO EXPENSES AND THINGS YOU COULDN'T IDENTIFY FOR THE 2004 YEAR, THE FIRST YEAR THEY WERE IN BUSINESS?

A CORRECT.

Q IF I RECALL YOUR TESTIMONY, YOU BROUGHT THAT TO ELLIS' ATTENTION. HE WAS GOING TO GO BACK AND TALK TO WAYNE AND IF I WROTE DOWN YOUR TESTIMONY CORRECTLY, YOU KNOW, WHAT I HAD PUT WAS THAT YOU HAD... THAT YOU HAD PERIODICALLY BEEN IN CONTACT WITH ELLIS BECAUSE IT KIND OF SET DORMANT, WAS MY IMPRESSION, FOR A WHILE. AND SAY, "HEY, WE'VE GOT TO FILE THESE RETURNS." YOU KNOW, AND YOU KIND OF WERE BUGGING HIM. BUT YOU WERE PUTTING A BUG IN HIS EAR, YOU KNOW, "I NEED THE ANSWERS TO THESE QUESTIONS IN ORDER TO BE ABLE TO PREPARE YOUR '04 RETURNS." IS THAT A FAIR STATEMENT?

A THAT'S FAIR.

Q AND ELLIS KEPT SAYING, "WE ARE GOING TO DEAL WITH IT. WE'RE GOING TO DEAL WITH IT." KIND OF THING. OR WHAT IS --

A I THINK HIS TESTIMONY WAS THAT HE HAD TALKED TO WAYNE AND HE WAS WAITING ON ANSWERS OR HIM AND WAYNE WERE SUPPOSED TO GET BACK TOGETHER OR WAYNE

WAS CHECKING ON SOME THINGS. BUT I KNOW THEY HAD TALKED AND I DON'T KNOW WHAT THE --

Q YOU KNEW YOUR TAX RETURN WAS GOING TO BE DUE, BUT YOU WERE BEING PUT ON THE BACK BURNER?

A CORRECT.

Q DID THAT GO ON INTO '06 SUCH THAT THE '04 RETURN WAS NOT PREPARED BY YOU SUCH THAT IT COULD BE FILED IN OCTOBER? WHEN DOES THE EXTENSION GO TO FOR A CORPORATION? IT GOES TO AUGUST?

A SEPTEMBER.

Q DID YOU END UP FILING THE '04 RETURN?

A OH, NO. I DID NOT FILE THE '04 RETURN.

Q AND YOUR TESTIMONY WAS YOU SAW AN '04 RETURN PREPARED BY SMITH SAPP, IS THAT CORRECT?

A CORRECT.

Q SO, BY SEPTEMBER 15TH OF '05 WITH THE EXTENSION THAT YOUR FIRM HAD GOTTEN FOR THEM WOULD HAVE BEEN UP HAD YOU ALREADY SAID, "I DON'T WANT TO PARTICIPATE AS YOUR ACCOUNTANT ANYMORE" OR WOULD IT HAVE BEEN ON INTO '06 WHEN THAT HAPPENED?

A I DON'T RECALL THAT DATE EITHER.

Q WELL, WHEN YOU... YOU KNEW THAT YOU HADN'T PREPARED THE RETURN BY SEPTEMBER 15TH '05, CORRECT?

A CORRECT.

Q HAD YOU ALREADY LET A&E KNOW THAT YOU WERE... BY SEPTEMBER 15TH '05 THAT YOU WERE NOT GOING TO BE THEIR ACCOUNTANT FOR PURPOSES OF PREPARING THE RETURN?

A NO. WHEN I DECIDED NOT TO DO IT THAT WAS A DISCUSSION WITH, I BELIEVE, IT WAS WITH BETH... WHEN I WASN'T GOING TO DO THEIR ACCOUNTING IS RIGHT BEFORE THE LAWSUIT CAME UP AND I DON'T REMEMBER WHAT THAT DATE WAS.

Q THAT WAS '06 OR '07? EARLIER '07?

A HONESTLY, I CAN'T SAY. I DON'T HAVE THOSE FILES WITH ME.

Q SO, YOU'RE TURNING DOWN THE ACTIVITY OF DOING THEIR... A&E'S CORPORATE TAX RETURNS ANNUALLY? YOU DID NOT... YOU DIDN'T DISENGAGE YOUR SERVICES FOR THAT PURPOSE UNTIL THE NEED FOR YOUR SERVICES AS AN EXPERT IN THE TRADEMARK LAWSUIT AROSE, IS THAT A FAIR STATEMENT?

A I DON'T THINK I HAD THAT DISCUSSION WITH THEM. WE HAD DISCUSSIONS I THINK BECAUSE I WASN'T PROVIDED ANY INFORMATION.

Q SO, YOU WENT FROM '03 WHEN YOU PREPARED THE DUE DILIGENCE FOR A&E TO BECOME LICENSED THROUGH... I WILL SHOW YOU PAPERWORK IN A LITTLE BIT THAT SHOWS YOU YOUR ACTIVITIES WITH REGARD TO BEING AN EXPERT

IN THE TRADEMARK LITIGATION WHICH WAS IN '07. TAKE THAT AS A GENERAL TIMEFRAME FOR RIGHT NOW. YOU DIDN'T DO THE '04 RETURN? YOU DIDN'T DO THE '05 RETURN AND YOU DIDN'T DO THE '06 RETURN FOR A&E, IS THAT CORRECT?

A WOW. I DIDN'T DO ANY RETURN FOR A&E OTHER THAN 2003.

Q YOU DIDN'T DO '04? YOU DIDN'T DO '05? YOU DIDN'T TELL A&E THAT YOU WEREN'T GOING TO BE THEIR ACCOUNTANT FOR PURPOSES OF THE TAX RETURNS IN '05 OR '06, DID YOU? YOU NEVER SAID --

A I DON'T KNOW THAT I EVER SAID I WASN'T GOING TO DO THEIR TAX RETURN. I KNOW WE FILED EXTENSIONS. I WAS NEVER PROVIDED ANY FINANCIAL DATA.

Q I THOUGHT YOU HAD TESTIFIED EARLIER THAT YOU WOULD BE THEIR EXPERT, BUT THAT YOU WERE NOT GOING TO DO THEIR ACCOUNTING WORK?

A THAT'S WHAT I'M SAYING. I DON'T KNOW THAT I DISENGAGED EARLIER. I WAS JUST NEVER GIVEN ANY INFORMATION TO DO IT. I WILL BE GLAD TO PROVIDE THAT TO YOU, BUT I DON'T HAVE THE FILES FOR THE TRADEMARK LITIGATION AND A&E FILE WHEN THEY WERE A CLIENT OF MINE WITH ME, BUT I WILL BE GLAD TO DOCUMENT THAT. I JUST DON'T HAVE IT.

Q BUT AT LEAST THROUGH YOUR '04 AND '05 AND ON INTO

'06, YOU CONTINUED TO HAVE DISCUSSIONS WITH ELLIS ABOUT YOUR CONCERNS ABOUT THE ACCOUNTING BOOKS AND RECORDS OF A&E, IS THAT A FAIR STATEMENT?

A I JUST CAN'T TESTIFY TO THE DATES. I KNOW IN '04 AND THE FIRST OF '05. I JUST CANNOT WITHOUT MY FILES HERE.

Q NOW, AS I UNDERSTAND IT FOR EXHIBIT 40 THAT MR. DURANT JUST PUT INTO THE RECORD, YOUR OPINION AS AN ACCOUNTING EXPERT IN THIS CASE, IS THAT MR. VEREEN AND/OR HIS RELATED ENTITIES OWE A&E $2,870,879.90? AM I CORRECT, THAT'S YOUR OPINION?

A CORRECT.

Q IN ORDER TO ARRIVE AT THAT OPINION, DO I UNDERSTAND YOU CORRECTLY TO SAY THAT YOUR BEGINNING POINT WAS TO START WITH THE BALANCES EACH YEAR THAT SMITH SAPP HAD COME UP WITH?

A CORRECT.

Q LET ME SEE IF I CAN ONCE AND FOR ALL UNDERSTAND IN MY MIND. HAVE YOU SEEN A COPY OF A FILED SIGNED 2004 RETURN FOR A&E?

A I CAN'T TELL... I'VE SEEN A TAX RETURN, WHETHER IT'S SIGNED... I CAN PULL THE DOCUMENT HERE THAT'S IN EVIDENCE. I KNOW IN OUR ACCOUNTING FILES WE DID NOT KEEP SIGNED COPIES. SO, I CAN VERIFY ON THAT FORM THE COPY THAT I HAVE AND TELL YOU IF

THERE'S A SIGNATURE ON IT.

MS. COOK: YOUR HONOR, DO YOU MIND IF SHE GETS UP? IT'S SO VOLUMINOUS, I CAN'T POINT TO ANYTHING. MRS. BRADY, SO WE MIGHT FOLLOW ALONG, CAN YOU TELL ME WHAT COURT'S EXHIBIT THAT YOU'RE LOOKING IN?

A IT SAYS, "6 OF 6."

Q THIS IS IN PLAINTIFF'S EXHIBIT 6 AND IT'S THE 6TH BOOK WITHIN EXHIBIT 6 AS FAR AS WE CAN TELL. IS THAT RIGHT, MRS. BRADY?

A CORRECT.

Q AND YOU'RE LOOKING BEHIND A TAB THAT SAYS, "2004 RETURN" AND IF YOU WOULD TELL ME... FIRST OF ALL, CAN YOU TELL ME WHERE YOU GOT THIS DOCUMENT THAT SAYS, "2004 RETURN FOR A&E"?

A THIS WAS THE COPY THAT WAS PROVIDED BY SMITH SAPP.

Q THAT'S FROM SMITH SAPPS RECORDS?

A CORRECT.

Q CAN YOU TELL FROM THIS EXHIBIT IF IT IS A COPY OF THE ACTUAL RETURN... IT'S NOT SIGNED AS I SEE. IS THAT CORRECT?

A CORRECT.

Q CAN YOU TELL IF THIS IS THE ACTUAL VERSION THAT WAS FILED BY A&E FOR THE 2004 YEAR?

A ACCORDING TO SMITH SAPP RECORDS THIS IS A COPY OF THE RETURN THAT WAS FILED.
Q HOW CAN YOU TELL THAT'S FROM SMITH SAPP'S RECORDS?
A THERE'S NOTHING HERE THAT CAN TELL YOU. THEY TOLD ME THAT WHEN WE WENT TO GET THE RECORDS.
Q SO, YOUR TESTIMONY IS THAT WHAT'S BEHIND THE TAX RETURN TAB 4, FROM THE DOCUMENT ITSELF, YOU CAN'T TELL IF THIS IS A COPY OF WHAT WAS FINALLY FILED... FROM THE RECORDS YOU CAN'T TELL THAT?
A I CAN'T TELL YOU WHAT THEY ACTUALLY SIGNED AND PUT IN THE MAIL, NO.
Q THIS MAY HAVE... KIND OF THE SAME QUESTION. HOW ABOUT FOR 2005, WHAT TAX RETURN HAVE YOU EVER SEEN FOR A&E FOR 2005?
A IT WOULD BE THE SAME THING. THE COPY THAT WE RETAINED FROM SMITH SAPP THAT THEY SENT.
Q IS THAT IN THAT BOOK?
A IT'S PROBABLY IN ONE OF THE OTHER NUMBERS OF 6.
Q AGAIN, WOULD IT BE THE SAME THING? IT'S NOT SIGNED AND YOU CAN'T TELL FROM THE DOCUMENT IF IT'S A COPY OF THE FILED RETURN? WOULD THAT BE TRUE? OTHER THAN WHAT YOU SAY YOU WERE TOLD BY SMITH SAPP?
A CORRECT. THE TAX RETURNS WERE, YOU KNOW, IN THE FILE AND HAD THE LETTERS IN FRONT OF THEM THAT

SMITH SAPP... WHEN THEY HAD ISSUED AND PREPARED THE TAX RETURNS, BUT THAT'S ALL I HAVE IS A LETTER FROM THE ACCOUNTANT THAT THEY PREPARED THE TAX RETURN AND IT WAS GIVEN TO THE CLIENT TO SIGN AND MAIL.

Q AND WHEN, ACCORDING TO YOUR RECORDS, WHEN WERE THEY TURNED OVER YOU BY SMITH SAPP? WHEN DID THEY ACTUALLY PREPARE THE '04 AND THE '05 RETURNS?

A THERE'S NO DATE ON THE RETURN. I DON'T' KNOW.

Q AND HAVE YOU SEEN AN '06 RETURN?

A YES.

Q AND I'M GOING TO ASK YOU IF YOU WOULD TO SEE IF WE CAN FIND THE '06 RETURN THAT YOU... WOULD IT HAVE ALSO BEEN FROM SMITH SAPP'S RECORDS?

A YES. IT'S THOSE BLUE BINDERS RIGHT THERE. IT WILL SAY, "2006".

Q YES, MA'AM. LET ME HAND YOU PLAINTIFF'S EXHIBIT 6. IT APPEARS TO BE 3 OF 6. HAVE YOU FOUND THE '06 RETURN THERE?

A YES, MA'AM.

Q I NOTICED THE '06 RETURN HAS GOT STAMPED ON IT "DRAFT". DO YOU KNOW IF ANY '06 RETURN HAS EVER BEEN FILED FOR A&E?

A I DO NOT.

Q DO YOU, IN FACT, KNOW IF A RETURN WAS FILED IN '04

OR '05?
A WHETHER IT WAS ACTUALLY MAILED IN, I DO NOT.
Q THE COPY THAT YOU HAVE THERE IN FRONT OF YOU THAT'S GOT THE "DRAFT" STAMPED ON. DOES THAT INDICATE TO YOU THAT THAT WAS NOT A FINAL PREPARED '06 RETURN?
A RIGHT. IT WOULD INDICATE THAT THIS IS A DRAFT AND HAS NOT BEEN FILED.
Q TO YOUR KNOWLEDGE, HAVE YOU EVER SEEN A TAX RETURN FOR '06 FOR A&E OTHER THAN THAT DRAFT RETURN?
A NO, I HAVE NOT.
Q HAVE YOU SEEN THE '07 OR '08 RETURN FOR A&E?
A I THINK THERE MIGHT BE A DRAFT FOR '07 AS WELL.
Q DO YOU BELIEVE THAT TO BE A "DRAFT"?
A I BELIEVE THAT WAS A DRAFT.
Q HAVE YOU EVER SEEN THE '08 RETURN?
A NO.
Q '09?
A NO.
Q 2010?
A NO, MA'AM. I HAVE SEEN NO OTHER RETURNS.
Q IS IT UNUSUAL FOR A BUSINESS, ESPECIALLY A CONSTRUCTION COMPANY OR ANY TYPE OF BUSINESS TO HAVE TO FILE AFTER-THE-FACT AN AMENDED RETURN?
A IS IT UNUSUAL TO FILE AN AMENDED RETURN?

Q YES, MA'AM.
A I DON'T KNOW IF I WOULD GO AS FAR AS SAYING, "IT'S UNUSUAL." I MEAN, IT'S DONE.
Q I WANT TO TALK JUST A MOMENT ABOUT YOUR INVOLVEMENT AS AN EXPERT FOR A&E HAVING TO DO WITH THE TRADEMARK LITIGATION. WASN'T IT ABOUT THE SAME TIME THAT YOU GOT INVOLVED AS AN EXPERT WITH THE TRADEMARK LITIGATION THAT YOU LIKEWISE, LET A&E KNOW THAT YOU AND YOUR FIRM WERE NOT INTERESTED IN BEING THEIR ACCOUNTANTS IN TERMS OF PREPARATION OF THEIR TAX RETURNS?
A YOU'RE ASKING ME WAS IT ABOUT THE SAME TIME?
Q YES, MA'AM.
A I THINK WHEN THEY STARTED ASKING ME ABOUT THE LITIGATION I TOLD THEM I REALLY JUST HAD CONCERNS THAT THEY HAD NEVER PROVIDED ANY FINANCIAL DATA FOR ME TO PREPARE THE TAX RETURNS.
Q I BELIEVE THOUGH... HAD YOU, FROM WHATEVER SOURCES, PREPARED SOMETHING PRELIMINARILY? BECAUSE I THOUGHT I RECALL IN YOUR EARLIER TESTIMONY BY MR. DURANT THAT YOU TESTIFIED TO THE EXTENT THAT THESE "SUPERVISOR FEES" THAT MR. VEREEN SUPPOSEDLY WAS PAID BY A&E, BUT HE NEVER SHOWED ON HIS PERSONAL TAX RETURN AS INCOME OR 1099 OR W-2, THAT IN '04 FROM THE RETURN THAT YOU

SAW IN '04, THAT SMITH SAPP HAD PICKED UP, I BELIEVE YOU SAID, TWO OR THREE OF SOME ENTRIES THAT YOU HAD ALREADY PRELIMINARILY FOUND ON THOSE "SUPERVISORY FEES". AM I RECALLING THAT CORRECTLY?

A WHAT IS YOUR QUESTION? ARE YOU ASKING ME IF THAT'S WHAT I SAID?

Q YES, MA'AM.

A ABSOLUTELY.

Q SO, WHATEVER RECORDS YOU WERE PROVIDED BY A&E IN TERMS OF PERFORMING YOUR DUTIES TO PREPARE THE '04 RETURNS, YOU DID PREPARE SOMETHING, IS THAT CORRECT?

A I PREPARED A PRELIMINARY GENERAL LEDGER. THE SUPERVISORY FEES THAT WERE PICKED UP ON SMITH SAPP AS "SUPERVISORY FEES" OTHER INCOME TO WAYNE VEREEN, THOSE WERE THE ONES THAT I HAD INITIALLY PULLED OUT. THERE WAS A GENERAL LEDGER WITH THE INFORMATION THAT THEY GAVE ME. IT HAD QUESTIONS AND I THINK PROBABLY THERE WAS AN ACCOUNT THAT WE CALL "UNDISTRIBUTED..." EXPENSES THAT WE DON'T KNOW WHAT THEY ARE OR THEY ARE QUESTIONED. THAT WAS WHAT WAS PRESENTED TO ELLIS SMITH TO TAKE BACK TO DISCUSS WITH WAYNE TO GET ANSWERS. THAT WAS THE ONLY DATA. I NEVER GOT ANYTHING ELSE BACK,

ANY QUESTIONS ANSWERED. WHEN WE STARTED THE LITIGATION AND I GOT THE TAX RETURN FROM SMITH SAPP, IN THEIR RECORDS WAS A COPY ON MY PRELIMINARY GENERAL LEDGER.

Q OF YOUR WORK PRODUCT?

A OUR WORK WAS IN THE BACK OF THEIR WORK FILE. OH, YES.

Q DURING YOUR SERVICES FOR THE LITIGATION, YOU GOT SMITH SAPPS '04 RETURN, DID I UNDERSTAND THAT CORRECTLY?

A NO, MA'AM. I MEANT WHEN WE STARTED THIS LITIGATION.

Q THIS LITIGATION, NOT THE TRADEMARK LITIGATION?

A CORRECT.

Q SO, OTHER THAN YOUR SERVICES AS AN EXPERT WITNESS IN THE TRADEMARK LITIGATION, THE ONLY OTHER INVOLVEMENT THAT YOU REALLY HAD IN DOING ACCOUNTING WORK FOR A&E WAS YOUR INITIAL AUDIT TO GET THEM THEIR LICENSES WITH THE LLR AND THEN PREPARATION OF YOUR PRELIMINARY GENERAL LEDGER IN THAT SERIES OF QUESTIONS, IS THAT FAIR?

A THAT'S FAIR.

Q NOW, WHEN WAS IT THAT YOU WERE APPROACHED BY... I'M NOT PINNING YOU DOWN TO A DAY, BUT CAN YOU GIVE US A TIMEFRAME WHEN YOU WERE APPROACHED BY

MR. SMITH... WHO APPROACHED YOU TO PROVIDE SERVICES IN CONNECTION WITH THE ISSUES THAT WE ARE HERE ABOUT TODAY?

A MR. SMITH.

Q AND WHEN DID MR. SMITH FIRST APPROACH YOU ABOUT ASSISTING HIM IN THE ISSUES WE ARE HERE ABOUT TODAY?

A I CAN'T GIVE YOU AN ANSWER ON THAT AS WELL. I KNOW WE HAD SEVERAL CONVERSATIONS IN THE BEGINNING THAT HE STARTED TO HAVE SOME CONCERNS, BUT I CAN'T GO BACK TO THOSE DATES. I'M SORRY.

Q WHEN YOU SAY, "IN THE BEGINNING" '05 WHEN YOU STARTED PREPARATION OF DOING THE '04 RETURN OR IN '05 WHEN YOU BROUGHT UP THOSE ISSUES THAT HE WAS TO GO BACK TO TALK TO MR. VEREEN ABOUT, IS THAT THE TIMEFRAME YOU'RE TALKING ABOUT?

A NO. I THOUGHT YOU WERE TALKING ABOUT THIS CASE.

Q I AM, MRS. BRADY.

A GO AHEAD WITH YOUR QUESTION. I 'M SORRY.

Q CAN YOU PIN IT DOWN? YOU SAID, "EARLIER ON". SO, I THOUGHT YOUR EARLIER ON IN TERMS OF YOUR SERVICES FOR A&E, BUT --

A NO. I MEANT EARLIER ON WHEN HE STARTED THINKING ABOUT THERE WAS AN ISSUE WITH SOME PROBLEMS.

Q AND WHEN WAS THAT? IF YOU CAN'T GIVE ME A DATE, I

UNDERSTAND THAT. BUT IN TERMS OF WAS THAT WHILE Y'ALL WERE WORKING ON THE TRADEMARK LITIGATION? WAS IT AFTER THE TRADEMARK LITIGATION HAD STOPPED? WAS IT BEFORE MR. SMITH STOPPED GOING TO A&E TO WORK? WAS IT... IF YOU CAN'T PUT IT IN A DATE TIMEFRAME, CAN YOU PUT IT IN RELATIONSHIP TO OTHER THINGS THAT WERE GOING ON?

A I WANT TO THINK THAT IT WAS AFTER THE TRADEMARK, BUT I CAN'T PINPOINT THAT DATE.

Q WHAT DID MR. SMITH REQUEST YOU TO DO?

A HE ASKED ME TO LOOK AT THE RECORDS. LOOK AT THE BOOKS AND SEE IF I THOUGHT THERE WERE ANY ISSUES THAT HE SHOULD BE CONCERNED ABOUT.

Q AND WHAT DID HE GIVE YOU TO LOOK AT TO PERFORM THAT SERVICE FOR HIM?

A I THINK IT WAS A BACKUP.

Q WHAT DO YOU MEAN IT WAS A BACKUP?

A A COMPUTER BACKUP OF A SOFTWARE PROGRAM.

Q AND DID YOU HAVE AN UNDERSTANDING OF WHERE THAT CAME FROM?

A I ASSUMED HE GOT IT FROM THE OFFICE. I DON'T --

Q YOU ASSUMED THAT, BUT YOU DON'T KNOW?

A I DON'T KNOW THAT WE DISCUSSED WHERE HE GOT IT FROM.

Q SO, HE BROUGHT YOU A COMPUTER DISK AND WHAT WAS ON

THAT COMPUTER DISK?

A THE SOFTWARE PEACHTREE ACCOUNTING FOR A&E.

Q AND WHAT WAS THE PEACHTREE ACCOUNTING FOR A&E THAT WAS ON THAT DISK?

A THE TIMEFRAME?

Q I'M ASKING YOU WHAT WAS ON THE DISK HE BROUGHT YOU --

A THE COMPANY DATA BACKUP FOR PEACHTREE.

Q WHICH WAS WHAT?

A THAT WAS ALL THEIR FINANCIAL INFORMATION, THE CHECKS THAT WERE WRITTEN, THE DEPOSITS THAT WERE MADE.

Q SO, DID HE BRING YOU THE CHECKS? I NEED YOU TO SPECIFICALLY DESCRIBE FOR THE COURT EXACTLY WHAT HE BROUGHT YOU IN TERMS OF WHAT WAS ON THAT DISK, THE DOCUMENTS.

A OKAY. IT WAS A BACKUP OF THE PEACHTREE ACCOUNTING. PEACHTREE ACCOUNTING IS WHERE ALL THE CHECKS WERE WRITTEN. I SAY, "ALL OF THEM". THE CHECKS ARE WRITTEN. THE DEPOSITS ARE MADE. ALL THAT DATA IS RECORDED ON THE SOFTWARE PACKAGE AT THEIR OFFICE I'M ASSUMING.

Q NOW, IS THAT RECORDING IN THE FORM OF A GENERAL LEDGER? I MEAN, WHAT IS THE FORMAT IN PEACHTREE BY WHICH THAT IS ON THE DISK?

A I DON'T KNOW HOW THEY INPUTTED THEIR INFORMATION. I WASN'T THERE, BUT WHEN YOU WRITE A CHECK ON A NORMAL SOFTWARE PROGRAM YOU USE IT FOR DAY-TO-DAY OPERATIONS. EVERY TIME YOU WRITE A CHECK, YOU WRITE IT OFF OF THAT PROGRAM. YOU MAKE A DEPOSIT, YOU RECORD IT IN THAT PROGRAM.

Q I APOLOGIZE TO BE STUPID BECAUSE I DO IT ON PAPER. SO, IS THERE LIKE A CHECK REGISTER THAT'S A PART OF THE PEACHTREE PROGRAM AND THEN THERE'S A PLACE WHERE YOU PUT IN THE DEBT OR DIFFERENT --

A THE PEACHTREE PROGRAM, WHEN YOU INITIALLY WOULD SET IT UP, YOU WOULD PUT IN YOUR BALANCES. IF YOU HAVE DEBT, YOU WOULD PUT IT IN THEN. YOU WOULD PUT IN YOUR ASSETS. YOU WOULD PUT IN YOUR CHECKING ACCOUNT. DEPENDING ON IF YOU STARTED THAT SOFTWARE PROGRAM WHEN YOU FIRST STARTED BUSINESS OR IF YOU WERE ALREADY IN BUSINESS. IF YOU HAD BEGINNING BALANCES, YOU WOULD ENTER ALL THAT AS YOU WOULD HAVE A BALANCE SHEET.

Q OKAY.

A FOR YOUR COMPANY. AND THEN MOST PEOPLE USE THAT SOFTWARE TO WRITE THEIR CHECKS AND WHEN YOU WRITE THOSE CHECKS THEY'RE CODED. YOU GIVE IT A CODE. YOU GIVE IT A CODE TO WHAT KIND OF EXPENSE IT IS. SOMETHING LIKE PEACHTREE HAS A JOB COST AND IT

WILL TRACK THAT AND YOU CAN PUT WHAT JOB IT WAS.

Q THAT WAS SOME OF WHAT WHEN MR. DURANT WAS QUESTIONING YOU, YOU TALKED ABOUT THE FACT THAT THEY HAD SEPARATE JOB LEDGERS ON THIS PEACHTREE SYSTEM? FOR EXAMPLE, THEY TALKED ABOUT THE POINTE MARSH JOB. WITHIN THAT PEACHTREE SYSTEM, THERE'S A POINTE MARSH JOB LEDGER AND EVERY EXPENSE IF IT'S POSTED CORRECTLY, SHOULD COME UNDER THAT POINTE MARSH JOB LEDGER, FOR EXAMPLE, WOULD THAT BE ACCURATE?

A YES. IF YOU HAVE JOBS, YOU WOULD GIVE THEM JOB NUMBERS. YOU WOULD IDENTIFY THEM IN SOME WAY. I THINK THIS WAY A&E GAVE THEM JOB NUMBERS. SO, WHEN YOU WRITE THAT CHECK IF IT'S A JOB, IT GIVES YOU THE OPPORTUNITY TO PUT WHAT JOB THAT'S FOR.

Q SO IN TERMS OF IT BEING YOUR GENERAL LEDGER, BUT IF YOU ALSO INPUTTED IT AND YOU WANTED A CODE FOR THAT JOB, IT WOULD CARRY OVER TO THAT SPECIFIC JOB LEDGER? IS THAT HOW IT SHOULD WORK?

A CORRECT. THAT'S ANOTHER REPORT. IF YOU ENTER ANYTHING IN, THAT'S ANOTHER REPORT THAT YOU CAN PRINT. YOU COULD PRINT A GENERAL LEDGER. YOU COULD PRINT A CHECK LEDGER. AND YOU COULD DO A JOB LEDGER AND IT WILL SHOW YOU EVERYTHING THAT YOU HAVE CODED TO THAT JOB.

Q LIKEWISE, IF SOMEBODY MADE A PAYMENT TO YOU, SAY IN THIS CASE POINTE MARSH, THE DEVELOPER OF THE POINTE MARSH PROJECT, IF THEY MADE A PAYMENT TO THEIR CONTRACTOR OR A CONTRACTOR UNLESS THAT CONTRACTOR WAS A&E, THEY MADE A PAYMENT. THEY GAVE A&E A CHECK AND A&E ENTERED IT INTO THE PEACHTREE SYSTEM. IT SHOULD SHOW AS A RECEIPT AND IT SHOULD ALSO, IF IT WAS CODED CORRECTLY, GO OVER TO THAT JOB LEDGER TO SHOW THE RECEIPT OF INCOME IN THERE, CORRECT?

A OKAY. CORRECT.

Q NOW, WHEN HE BROUGHT YOU THAT BACKUP DISK THAT HAD ALL THAT INFORMATION ON IT, DO YOU RECALL WHAT IT WAS? I MEAN, WAS IT THE GENERAL LEDGER? AND FOR WHAT TIME PERIODS? WAS IT THE GENERAL LEDGER? WAS IT THE JOB LEDGERS? WHAT WAS ON THAT DISK?

A THE BACKUP WOULD'VE BEEN THE COMPANY DATA. YOU'RE SAYING AS FAR AS GENERAL LEDGERS... WHEN YOU BACK IT UP, YOU'RE BASICALLY BACKING UP ALL OF YOUR DATA. SO, WHEN YOU'RE SAYING, "GENERAL LEDGERS AND JOB LEDGERS" THOSE ARE ALL REPORTS THAT YOU COULD PRINT AFTER YOU RESTORED YOUR DATA.

Q WHAT DATA? GIVE ME EXAMPLES OF THE DATA THAT --

A DATA WOULD BE A CHECK WRITTEN OR A DEPOSIT MADE. (TWO PEOPLE SPEAKING OVER EACH OTHER).

Q WOULD THAT HAVE BEEN THE ONLY THING THAT WAS ON THAT DISK? WAS THERE SOME KIND OF INFORMATION THAT SHOWED EVERY CHECK WRITTEN OR DEPOSIT MADE? ANY OTHER DATA THAN JUST CHECKS WRITTEN AND DEPOSITS MADE?

A THAT'S WHAT I WAS GETTING READY TO SAY. IF THERE HAD BEEN ANY JOURNAL ENTRIES MADE, YOU CAN PHYSICALLY MAKE JOURNAL ENTRIES INTO THE BOOKS.

Q WHAT DO YOU MEAN BY "JOURNAL ENTRIES"? WOULD THOSE BE ACCOUNTS PAYABLE?

A IT COULD BE ANYTHING LIKE, I THINK, WHEN I HAD MENTIONED JOURNAL ENTRIES EARLIER, LIKE IF YOU HAD AN EXPENSE THAT WAS PAID OUT OF ANOTHER COMPANY, YOU WOULD GO INTO THIS SOFTWARE, YOU WOULD DO A JOURNAL ENTRY, WHICH IS LIKE A NOTE AND IT WILL SAY... YOU CAN PUT THE JOB. SAY IT WAS THE PUTT-PUTT OR POINTE MARSH, YOU CAN ADD THAT EXPENSE IN THERE AND ALL ACCOUNTING IS A TWO SIDED ENTRY. SO, THE OTHER SIDE OF THAT WOULD'VE BEEN, WHO PAID FOR THAT EXPENSE. WHO'S OWED THAT MONEY. SO, WHEN I SAY, "JOURNAL ENTRY" THAT'S A WAY OF GETTING THE DATA INTO YOUR SOFTWARE WITHOUT YOU PHYSICALLY PUTTING MONEY IN OR TAKING IT OUT, BUT KEEPING YOUR RECORDS STRAIGHT.

Q WELL, MRS. BRADY, ON THIS DISK THAT HE GAVE YOU TO

PERFORM YOUR SERVICES OF ASSISTING HIM WITH THESE ISSUES, WHENEVER IT WAS, WHAT DATA WAS ON HERE THAT YOU LOOKED AT THAT COULD ASSIST YOU IN YOUR SERVICES THAT YOU WERE PERFORMING FOR MR. SMITH AS A 50% PARTNER OF A&E? WHAT WAS ON THE DISK?

A THE TRANSACTIONS THAT THE COMPANY HAD MADE FOR I THINK IT WAS... IF YOU LET ME LOOK AT MY COMPUTER, I THINK I COULD TELL YOU.

Q THAT'S FINE.

A IT WAS PART OF '05 TO '07.

Q DID IT HAVE '04?

A THIS IS GOING TO BE A LITTLE CONFUSING. PEACHTREE, THE SOFTWARE, KEEPS TWO YEARS OF THE ACTUAL TRANSACTIONS. SO, IF I WENT INTO THOSE '05 BOOKS AND TRIED TO PULL UP MY CHECK REGISTER AND SEE WHAT THOSE '04 CHECKS WERE, THEY WILL NOT BE THERE. BUT IN THE REPORT SECTION, I CAN GO INTO AN ACCOUNTS PAYABLE AND PRINT OUT ALL OF THE CHECKS THAT WERE WRITTEN IN 2004 AND IT WILL SHOW ME THAT. SO, REPORT-WISE, IT KEEPS THAT INFORMATION, BUT NOT ACTIVE WHERE YOU CAN GO INTO THE ACTUAL CHECK. SO, THERE WAS SOME FORWARD DATA ON THERE.

Q BUT YOUR RECOLLECTION IS... DO YOU ACTUALLY HAVE IT ON THERE? YOU LOOKED AT SOMETHING. YOU SAID,

"CAN I LOOK AT MY COMPUTER?"

A I NEVER GOT THERE BUT, YES.

Q SO, FOR LACK OF A BETTER TERM, YOU HAD ACTIVE '05 TO '07 DATA ON THAT DISK, IS THAT CORRECT?

A YEAH. I BELIEVE IT MIGHT HAVE BEEN EITHER MARCH OR MAY OF '05.

Q IS IT AS FAR BACK AS IT ACTIVELY WENT?

A WAS THE ACTIVE DATA CORRECT?

Q IT WENT THROUGH WHEN?

A I THINK IT WAS MARCH OF '07.

Q AND THEN I UNDERSTAND FROM YOUR TESTIMONY THERE STILL MIGHT HAVE BEEN SOME DATA ON THAT DISK THAT DEALT WITH '04, BUT IT WASN'T IN THAT... I'M USING THE TERM, "ACTIVE DATA"? BY KNOWING THAT IT WAS MARCH OF '07 OR AROUND THAT TIME, DOES THAT ENABLE YOU TO PINPOINT WITH ANY CERTAINTY WHEN MR. SMITH WOULD HAVE FIRST APPROACHED YOU ABOUT THE ISSUES THAT WERE IN THIS CASE TO PERFORM THESE SERVICES THAT WE'RE TALKING ABOUT?

A IT WOULD TELL YOU WHEN I GOT THE INFORMATION.

Q CAN YOU TELL THAT FROM LOOKING AT --

A BECAUSE THE INFORMATION GOES THROUGH MARCH 1ST '07. SO, IT HAD TO HAVE BEEN AFTER THAT.

Q SO, YOU CAN SAY IT WAS AFTER MARCH 1ST OF '07, BUT YOU CAN'T PIN IT... I MEAN, WAS IT THE NEXT MONTH

OR WAS IT IN '08 OR DO YOU KNOW?
A I DON'T BECAUSE I DON'T KNOW WHEN HE GOT HIS ACTUALLY BACKUP.
Q NOW, ARE YOU AWARE THAT MR. SMITH IN DECEMBER OF '06 WROTE A NOTE OR BROUGHT UP THESE ISSUES AND WROTE A NOTE TO MR. VEREEN ABOUT THE ISSUES THAT WE ARE HERE ABOUT TODAY? SAID THAT HE HAD ENGAGED AN ACCOUNTANT. ARE YOU AWARE OF THAT?
A I KNOW THAT HE WAS TALKING WITH... I'M NOT FAMILIAR WITH WHAT PAPER YOU'RE TALKING ABOUT. I KNOW THAT HE HAD BEEN MEETING AND TALKED WITH WAYNE, BUT I DON'T KNOW ANY OF THE DETAILS.
Q AND DID YOU KNOW THAT... WERE YOU AWARE AT THE TIME THAT HE WAS FORMING THIS E SMITH AND SONS IN EARLY APRIL OF '07?
A NO, MA'AM. I DON'T KNOW.
Q WERE YOU EVER AWARE OR DID YOU DISCUSS WITH HIM IN ANY WAY HIM STARTING E SMITH AND SONS AND IT'S BUSINESS IN APRIL OF '07, BUT CONTINUING TO WORK FOR A&E? DID THAT EVER COME UP IN ANY DISCUSSIONS BETWEEN THE TWO OF Y'ALL?
A I DON'T RECALL THOSE CONVERSATIONS... ANY OF THOSE CONVERSATIONS.
Q AFTER YOU GOT THAT BACKUP DISK FROM MR. SMITH, WHAT'S THE NEXT THING THAT HAPPENED IN ORDER FOR

YOU TO PERFORM WHATEVER SCOPE OF SERVICES YOU WERE ASKED BY MR. SMITH TO PERFORM?

A YOUR QUESTION WAS, WHAT HAPPENED AFTER HE BROUGHT THE BACKUP DISK?

Q UH-HUH. (AFFIRMATIVE RESPONSE).

A I DON'T RECALL EXACTLY WHAT THE NEXT STEP... EVENTUALLY, HE ASKED ME IF I WOULD WORK ON THIS, YOU KNOW, REVIEW THE BOOKS.

Q "THE BOOKS" BEING OTHER THAN THAT DISK THAT HE BROUGHT TO YOU?

A REVIEW ALL OF A&E'S BOOKS. I MEAN, HE DIDN'T GIVE ME ANY INFORMATION. HE JUST ASKED ME IF I WOULD HELP HIM WORK ON THIS.

Q DO YOU KNOW IF THAT WAS BEFORE OR AFTER THIS LAWSUIT WAS FILED?

A THAT WAS BEFORE.

Q IT WAS BEFORE THE LAWSUIT WAS FILED?

A YEAH. I THINK IT WAS WHEN HE WAS THINKING ABOUT FILING THE LAWSUIT.

Q AND WHAT DID YOU TELL HIM?

A I TOLD HIM YES.

Q AND DID YOU UNDERTAKE ANY SERVICES BEFORE THIS LAWSUIT WAS FILED?

A I DID AN ENGAGEMENT WITH HIM TO DO THIS AND I DON'T KNOW EXACTLY WHAT DATE THIS LAWSUIT WAS

FILED. SO, I'M NOT SURE IF IT WAS... IT WAS IN THE PROCESS. WHETHER IT WAS ON THE FILE DATE, I'M NOT EXACTLY SURE.

Q LET ME ASK YOU, I WANT YOU TO BE SPECIFIC. WHAT WERE YOU ASKED AS AN EXPERT... WHAT WERE YOU ASKED TO DO AS AN EXPERT RENDERING YOUR SERVICES AND YOUR OPINION IN THIS LAWSUIT?

A I WAS ASKED TO REVIEW THE BOOKS OF A&E; THE SOFTWARE, THE ACCOUNTING, THE BOOKS, TO SEE IF I THOUGHT THERE WAS ANY MISAPPROPRIATION.

Q WAS THAT THE SUM AND SUBSTANCE OF WHAT YOU WERE ASKED TO DO?

A YES, MA'AM.

Q HAVE YOU DONE THAT?

A I HAVE.

Q WHAT DID YOU DO? WHAT DOCUMENTS DID YOU USE? WHAT SOURCES DID YOU GO TO LOOK AT THE BOOKS AND RECORDS OF A&E TO SEE IF THERE HAD BEEN MISAPPROPRIATION OF MONEY?

A WE GOT ANOTHER COMPUTER BACKUP --

Q WHO IS "WE"?

A I WAS TRYING TO FINISH. I THINK MR. DURANT SUBPOENAED THE RECORDS AND WE WENT TO THE OFFICE. WE GOT THE COMPUTER BACKUP OF A&E. I TOOK THE COMPUTER BACKUP SOFTWARE, RESTORED THAT ONTO MY

COMPUTER. I RECEIVED ALL THE BANK STATEMENTS FROM THE COMPANY AND THAT'S WHERE INITIALLY WE STARTED.

Q NOW, WHEN YOU WENT... AND YOU PHYSICALLY WENT TO THE OFFICES OF A&E AND YOU PHYSICALLY COPIED THE DISK OVER FROM THE COMPUTER, IS THAT CORRECT?

A I DIDN'T COPY THEIR DISK. I TOOK MY OWN AND JUST BACKED IT UP TO A DRIVE.

Q OKAY. YOU TOOK YOUR OWN COMPUTER?

A NO, NO, NO. I TOOK MY OWN DRIVE, MY FLASH DRIVE. IT'S SIMILAR TO A DISK, BUT IT HOLDS A LOT MORE INFORMATION THAN THE --

Q AND YOU PLUGGED THAT INTO THEIR COMPUTER?

A YOU PLUG THAT INTO THEIR COMPUTER AND IT BACKS UP.

Q AND IT DOWNLOADED INFORMATION INTO YOUR ZIP DRIVE OR WHATEVER THEY CALL THAT?

A CORRECT.

Q AND YOU PHYSICALLY DID THAT, DIDN'T YOU?

A I DID.

Q WAS THE INFORMATION THAT YOU GOT WHEN YOU GOT YOUR ZIP DRIVE, DID IT COVER A DIFFERENT PERIOD OF TIME THAN WHEN YOU GOT THE DISK FROM... THE BACKUP DISK FROM MR. SMITH EARLIER?

A YES.

Q OTHER THAN COVERING A DIFFERENT PERIOD OF TIME, DID YOU GET ANY ADDITIONAL INFORMATION? I

UNDERSTAND THAT IT COVERED A LATER PERIOD OF TIME, THAT ACTIVE PERIOD WAS A LATER PERIOD OF TIME. BUT DID YOU BACKUP OR DOWNLOAD TO YOUR ZIP DRIVE ANY DIFFERENT MODULES OR INFORMATION OR DATA THAN WHAT MR. SMITH HAD FROM THE BACKUP THAT HE SENT YOU?

A NO. IF I UNDERSTAND THAT QUESTION CORRECTLY. DID I BACK UP ANYTHING OTHER THAN THE COMPANY BACKUP?

Q YES, MA'AM.

A NO.

Q SO, YOU STARTED WITH MR. SMITH'S CD OR DISK OR WHATEVER YOU CALL IT, YOUR ZIP DRIVE AND YOU SAID THE BANK RECORDS, THAT'S A&E'S BANK RECORDS OR STATEMENTS?

A BANK STATEMENTS.

Q WHERE DO THEY BANK, CAROLINA FIRST?

A I'VE SEEN SO MANY BANK STATEMENTS SINCE THEN, ALL THE OTHER ENTITIES. I'M NOT SURE I WOULD HAVE TO LOOK AT IT.

Q BUT IT WAS THE BANK STATEMENTS OF A&E?

A CORRECT.

Q DID YOU GET THEM FROM 2003 WHEN THE BANK ACCOUNT WAS OPENED UP THROUGH SOME PERIOD OF TIME?

A I BELIEVE WE HAVE 2003. THE END OF 2003 THROUGH 2007 OR 2008 MAYBE.

Q I DON'T KNOW. I'M ASKING YOU, DID YOU --
A I MEAN, MY REPORTS GO THROUGH 2007, BUT I THINK WE GOT THE BANK STATEMENTS THROUGH 2008.
Q IS THERE A REASON YOUR REPORTS STOP AT 2007?
A IT'S UP TO THAT POINT THAT I WAS TOLD, WHEN THEY WERE DOING... MOST OF THEIR BUSINESS WAS DONE IN 2007, I BELIEVE. THAT'S WHAT I WAS ASKED TO DO.
Q SO, YOU WERE ONLY ASKED TO CARRY IT FOR 2007, IS THAT ACCURATE?
A I BELIEVE THAT WAS THE CONVERSATION WITH MR. SMITH.
Q TO YOUR KNOWLEDGE, HAS A&E BEEN DISSOLVED?
A THE ACTUAL CORPORATION BEEN DISSOLVED?
Q CORRECT.
A I DO NOT KNOW.
Q DO YOU KNOW IF THEY'RE DOING ONGOING BUSINESS?
A I DO NOT KNOW.
Q SO, OTHER THAN YOUR BACKUP THAT YOU GOT FROM THE A&E OFFICE AND THE BANK STATEMENTS, DID YOU UTILIZE ANYTHING ELSE TO COME UP OR RENDER AN OPINION IN REVIEWING THE BOOKS AND RECORDS OF A&E TO DETERMINE IF ANY MONEY HAD BEEN MISAPPROPRIATED?
MR. DURANT: AT WHAT POINT IN TIME?
Q AT ANYTIME?

A OH, YES. THAT WAS AFTER MR. DURANT SUBPOENAED THE RECORDS FROM SMITH SAPPS. WE GOT ALL THEIR ACCOUNTING RECORDS FOR --

Q WHAT ACCOUNTING RECORDS?

A I WAS GETTING READY TO SAY FOR A&E, FOR PARK PLACE PROPERTIES, ARTHUR VEREEN PERSONALLY, AND ARTHUR VEREEN CONSTRUCTION COMPANY AND --

Q AND WHEN YOU... I'M SORRY. GO AHEAD.

A I'VE LOST MY TRAIN OF THOUGHT.

Q WHEN YOU SAID YOU GOT A&E'S ACCOUNTING RECORDS FROM SMITH SAPP, WHAT RECORDS DID YOU GET FROM SMITH SAPP? WHAT A&E RECORDS DID YOU GET FROM SMITH SAPP?

A WE GOT-- I WAS TOLD EVERYTHING THEY HAD, WHICH WOULD BE THE TAX RETURN AND BEHIND THAT WOULD BE WORK PAPERS OF HOW THEY CAME UP WITH THOSE NUMBERS.

Q YOU DIDN'T GET BANK STATEMENTS?

A THAT, I'M NOT SURE IF THEY HAD BANK STATEMENTS, BUT WE DID TELL THEM. I THINK WE INFORMED THEM NOT TO COPY THAT. THAT WE ALREADY HAD THE BANK STATEMENTS.

Q BUT MY QUESTION WAS, DID YOU GET BANK STATEMENTS FROM THEM?

MR. DURANT: FOR WHICH COMPANY?

Q A&E.
A I HONESTLY DON'T KNOW IF I GOT... I KNOW THERE IS SOME IN THE BOOKS NOW, WHETHER WE GOT THEM ALL... I KNOW THERE ARE SOME IN THE COPIES THAT ARE IN THOSE FILES FROM SMITH SAPP. I DON'T KNOW THAT I GOT ALL 12 MONTHS OF EVERY COMPANY.
Q NOW, FOR ARTHUR VEREEN, THE DOCUMENTS THAT YOU GOT FROM SMITH SAPP ON ARTHUR VEREEN, DID YOU GET COPIES OF ARTHUR VEREEN'S PERSONAL CHECKING ACCOUNT? DID YOU GET BANK STATEMENTS FROM ARTHUR WAYNE VEREEN'S PERSONAL CHECKING ACCOUNT?
A I BELIEVE WE HAVE SOME OF THOSE. I DON'T KNOW IF WE HAVE COMPLETE.
Q DID YOU LOOK AT... DID YOU NOT THINK IT IMPORTANT TO LOOK AT ALL THE BANK STATEMENTS OF ARTHUR VEREEN FOR THAT PERIOD '03 THROUGH '07?
A FOR HIS PERSONAL?
Q UH-HUH. (AFFIRMATIVE RESPONSE).
A WELL, IF IT'S ONE BANK ACCOUNT THAT DOESN'T SAY THAT IT'S... THAT WOULD BE JUST LIKE ONE ACCOUNT. WE DID LOOK THROUGH SOME FOR SPECIFIC THINGS THAT WE WERE LOOKING FOR IN THE BEGINNING, BUT I CAN'T TELL YOU WE WENT THROUGH ALL OF HIS PERSONAL BANK ACCOUNTS.
Q YOU DID GO THROUGH ALL OF A&E'S BANK STATEMENTS TO

LOOK AT ALL DEPOSITS IN AND ALL DEPOSITS OUT, IS THAT CORRECT?

A CORRECT.

Q BUT YOU DIDN'T DO THAT FOR MR. VEREEN OR ANY PERSONAL ACCOUNTS THAT HE HAS?

A NO. BECAUSE I WOULDN'T REALLY KNOW BASICALLY, EVERYTHING OF WHAT I WAS LOOKING FOR THROUGH HIS PERSONAL AFFAIRS.

Q NOW, FOR ARTHUR VEREEN CONSTRUCTION COMPANY, DID YOU GET COPIES OF ALL OF ARTHUR VEREEN CONSTRUCTION COMPANY'S BANK STATEMENTS FROM THE END OF '03 THROUGH '07?

A I BELIEVE WE DID.

Q DID YOU LOOK AT ALL OF THOSE?

A YES.

Q SO, THAT WOULD BE IN SOME OF THE EXHIBITS THAT ARE HERE TODAY?

A I BELIEVE SO.

Q DID YOU GET COPIES OF ALL OF PARKWAY OFFICES 2003 THROUGH 2007 BANK STATEMENTS?

A YES, MA'AM.

Q DID YOU GET ALL OF THE PARK PLACE PROPERTIES 2003 THROUGH 2007 BANK STATEMENTS?

A YES. THE ONLY THING I'M NOT SURE OF, SOME OF THESE I KNOW WE GOT '04 THROUGH '07 OF EVERYTHING

YOU'VE ASKED ME. I KNOW '03 WE HAD ARTHUR VEREEN'S... THE PARK PLACE AND THE OTHER ONE. I'M NOT SURE IF WE HAD '03. I KNOW WE HAD 2004 THROUGH 2007.

Q DID YOU LOOK AT EACH OF THOSE... JUST SO THAT THE RECORD IS CLEAR, WHEN WE TALK ABOUT ARTHUR VEREEN OR WAYNE VEREEN AND HIS RELATED ENTITIES, IN THIS LITIGATION WE'RE TALKING ABOUT HIS PERSONAL ACCOUNTS AND WE'RE TALKING ABOUT RELATED ENTITIES BEING; ARTHUR VEREEN CONSTRUCTION COMPANY, PARK PLACE PROPERTIES AND PARKWAY OFFICES, CORRECT?

A CORRECT.

Q NOW, FOR THE RELATED ENTITIES IN PERFORMING YOUR SCOPE OF DUTIES AS YOU WERE ASSIGNED THEM IN THIS CASE, HOW DID YOU UTILIZE RECORDS OT WHATEVER RECORDS YOU HAD OF THOSE RELATED ENTITIES? THOSE THREE RELATED ENTITIES; ARTHUR VEREEN CONSTRUCTION COMPANY, PARKWAY OFFICES AND PARK PLACE PROPERTIES?

A WHAT DO YOU MEAN, HOW DID I UTILIZE THEM?

Q WELL, I GUESS, DID YOU UTILIZE THEM?

A YES, I DID.

Q AND FOR WHAT DID YOU UTILIZE THEM?

A TO VERIFY THAT THE MONEY AND THE EXPENSES THAT WERE GOING BACK AND FORTH TO TRY AND TRACK THEM.

LIKE I TESTIFIED EARLIER, TO SEE IF THEY WERE RECORDED ON THIS BOOK AND HOW THEY WERE RECORDED ON THE OTHERS.

Q AS I UNDERSTAND IT TO COME UP WITH YOUR OPINION AND IN SOME OF THE EXHIBITS WE'VE MARKED LIKE YOUR COUNSEL HAS MARKED A 2004 NOTEBOOK, 2002 NOTEBOOK, 2006 NOTEBOOK, AND A 2007 NOTEBOOK. THOSE ARE EXHIBITS 1 THROUGH 4, FOR EXAMPLE. LET'S PICK OUT... LET'S LOOK AT THE NOTEBOOK FOR 2004 THAT WOULD BE EXHIBIT 1.

A OKAY. YOU SAID 2002 WORK BOOK, BUT I DON'T HAVE ONE OF THOSE.

Q I DIDN'T MEAN THAT. I MEANT 2004. YOU HAVE GOT WHAT I'LL BE CALLING YOUR SPREADSHEETS. IS THAT A FAIR STATEMENT? YOUR SPREADSHEET THAT YOU WENT THROUGH AND YOU'VE GOT ONE OF THESE SPREADSHEETS FOR EACH YEAR? I THINK YOU ENTITLED IT "ANALYSIS OF NON-CORPORATE ACTIVITY". IS THAT CORRECT?

A CORRECT.

Q FOR 2004, IN EXHIBIT 1 THAT'S A TWO-PAGE DOCUMENT, RIGHT?

A THE SPREADSHEET?

Q YES, MA'AM.

A YES, MA'AM.

Q NOW, ONE OF THE THINGS THAT I THOUGHT I UNDERSTOOD

YOU TO SAY IS IN DOING YOUR SCOPE OF WORK, YOU STARTED WITH... FOR EACH YEAR SMITH SAPP'S TRIAL BALANCES? IS THAT WHAT YOU DID?

A CORRECT.

Q AND WHEN YOU SAID, YOU START WITH THEIR "TRIAL BALANCES" FOR 2004, YOU STARTED WITH THE TRIAL BALANCE THAT THEY HAD FOR EVERY CATEGORY OF REVENUE AND EXPENSE FOR A&E? IS THAT WHAT WAS SHOWN ON THESE TRIAL BALANCES THAT YOU STARTED WITH?

A YES, MA'AM. DO YOU HAVE THE TRIAL BALANCE IN YOUR NOTEBOOK?

Q I DON'T KNOW IF I DO OR NOT, BUT...

A OKAY. YES, MA'AM. THE FRONT PAGE OF THE NOTEBOOK WAS THE TRIAL BALANCE THAT WE STARTED WITH.

Q SO, THAT WAS WORK PRODUCT OF SMITH SAPP? AND YOU STARTED WITH THOSE NUMBERS AND WHAT DID YOU DO FROM THAT DOCUMENT? WHAT DID YOU DO THEREAFTER?

A I WENT THROUGH THE ACTIVITY FOR THE YEAR AND THEN WE PULLED OUT ANYTHING THAT I HAD A QUESTION OR MR. SMITH HAD BROUGHT TO MY ATTENTION THAT HE HAD QUESTIONS ABOUT. WE BROUGHT ALL OF THOSE OUT AND I --

Q I WANT TO STOP YOU RIGHT THERE BECAUSE I WANT TO TAKE IT PIECE BY PIECE. SO, YOU STARTED WITH

THESE TRIAL BALANCES OF SMITH SAPP? AND THEN YOU SAID YOU WENT THROUGH THE ACTIVITY, ALL OF THE ACTIVITY FOR THAT YEAR? WHAT DID YOU LOOK AT TO LOOK AT ALL OF THE ACTIVITY FOR THAT YEAR?

A LET ME BACK UP ONE MINUTE. I WANT TO MAKE SURE YOU'RE NOT CONFUSED. WHEN I SAID I STARTED WITH THEIR TRIAL BALANCES. IN MY FINANCIAL REPORTS THAT'S WHERE THE BALANCE IS COMING FROM, BUT THE PROCESS THAT IT WAS, I DID THIS FIRST.

Q YOU DID WHAT FIRST?

A I DID THE SPREADSHEET FIRST THAT YOU'RE REFERRING TO. AND WHEN I USED SMITH SAPP'S TRIAL BALANCE THAT'S WHEN I MADE... AFTER I DID ALL THE SPREADSHEETS AND CAME UP WITH THE NUMBERS AND I MADE JOURNAL ENTRIES, THAT'S WHEN I WENT BACK TO SMITH SAPP'S TRIAL BALANCES AND MADE ENTRIES FROM THE SPREADSHEET TO COME UP WITH THE OTHER BALANCES.

Q SO, WHAT --

A I DIDN'T WANT YOU TO THINK I WAS DOING IT BACKWARDS. SO, WE COULD UNDERSTAND EACH OTHER.

Q I THOUGHT I HAD UNDERSTOOD YOU TO SAY, IN DOING THIS EACH YEAR, YOU STARTED WITH SMITH SAPP'S TRIAL BALANCES AND THEN YOU HAD JUST SAID YOU THEN WENT AND LOOKED AT THAT YEARS ACTIVITY. AND I WAS

ASKING YOU WHAT YOU PHYSICALLY LOOKED AT TO GET THIS YEARS ACTIVITY? SO, YOU ARE TELLING ME YOU DIDN'T REALLY START WITH SMITH SAPP'S TRIAL BALANCES, YOU LOOKED AT THE YEARS ACTIVITY?

A I'M TELLING YOU THE CORRECT WAY THAT I DID THIS PROCESS WAS I DID MY SPREADSHEETS. I WENT THROUGH MY QUESTIONS. WHEN I DID THE REPORT FOR THE YEAR WHEN I GOT TO THE END OF THE YEAR, I TOOK SMITH SAPP'S TRIAL BALANCE THAT THEY HAD PREPARED AND I TOOK THE TOTALS FROM MY SPREADSHEET BECAUSE ON THIS SPREADSHEET EVERY EXPENSE THAT I QUESTIONED I WENT BACK TO THE PROGRAM TO SEE WHERE THEY HAD EXPENSED IT.

Q LET'S START AT THE BEGINNING THEN. WHAT YOU DID WAS... THE FIRST THING YOU DID WAS YOU PREPARED THIS TWO PAGE SPREADSHEET EXCEPT FOR THESE BOTTOM COLUMNS THAT SAY, "JOURNAL ENTRY", IS THAT CORRECT?

A I DID ALL OF THAT AT THE SAME TIME.

Q ALRIGHT. YOU DID THE WHOLE TWO PAGES AT THE SAME TIME? NOW, IN ORDER TO COME UP THESE CATEGORIES OF EXPENSES THAT WERE QUESTIONED, BECAUSE ALL THAT'S REFLECTED ON HERE, ARE THINGS THAT YOU OR MR. SMITH HAD QUESTIONS ABOUT AS TO WHETHER OR NOT THEY WERE LEGITIMATE EXPENSES OF A&E, IS THAT

CORRECT?

A THAT'S ACCURATE.

Q YOU DIDN'T LOOK AT EVERY PIECE OF REVENUE THAT CAME IN AND EVERY EXPENSE THAT WAS PAID BY THE COMPANY IN 2004 AND EVERY JOB THAT WAS DONE? YOU JUST LOOKED AT THINGS THAT Y'ALL HAD QUESTIONS ABOUT?

A NO, MA'AM. I LOOKED AT EVERY TRANSACTION THAT WENT THROUGH THAT COMPANY. I WENT THROUGH --

Q WELL, WHAT DID YOU DO --

MR. DURANT: CAN SHE ANSWER THE QUESTIONS PLEASE, YOUR HONOR?

A I WENT THROUGH THE COMPUTER SOFTWARE AND SAW EVERY CHECK AND EVERY DEPOSIT. I WENT AND GOT THE BANK STATEMENTS TO VERIFY THAT EVERY DEPOSIT THAT WAS ON THIS SYSTEM HIT THE BANK. THERE WERE A COUPLE SITUATIONS WHERE IT DIDN'T. THE BANK TELLS THE TRUTH. SO, NO MATTER WHAT YOU PUT IN THAT COMPUTER SOFTWARE, WHAT GOES THROUGH THAT BANK IS WHAT GOES THROUGH YOUR COMPANY. SO, I WENT THROUGH EVERY BIT OF THAT. I CHECKED WHAT I HAD CONCERNS ABOUT AND THEN I WENT OVER WITH MR. VEREEN AND THERE WERE A COUPLE MORE THINGS THAT HE HAD CONCERNS. SO, THAT'S WHEN THIS LIST WAS DONE HERE BECAUSE I DIDN'T KNOW "PARK PLACE JOB." I

DIDN'T KNOW WHAT THAT WAS UNTIL WE SAT DOWN TOGETHER. SO, THESE ARE THINGS THAT WE... ONE OF US HAD A QUESTION ABOUT AND IT WAS PULLED OUT.

Q I WANT TO GO BACK AND BREAK WHAT YOU JUST SAID UP INTO LITTLE PIECES. YOU SAID THAT WHAT YOU STARTED WITH WAS YOU WENT OVER EVERY TRANSACTION. NOW, LET'S JUST TALK ABOUT 2004. YOU SAID YOU WENT THROUGH EVERY TRANSACTION IN 2004 FROM THE COMPUTER IS WHAT I THOUGHT I UNDERSTOOD YOU TO SAY. IS THAT WHAT YOU SAID?

A I DID. BUT I WILL BACK UP AND SAY, 2004 I HAD TO USE SOME PRINTED DOCUMENTS, AS I WAS TELLING YOU EARLIER, THAT YOU DIDN'T HAVE ALL THE TRANSACTIONS. SO, I HAD TO ACTUALLY PRINT SOME REPORTS FOR '04 AND USE SOME OF THE '04 REPORTS THAT WERE IN SMITH SAPP'S OFFICE.

Q AND THOSE REPORTS THAT YOU LOOKED AT, THEY WERE ONLY AS GOOD AS WHATEVER INFORMATION HAD BEEN ENTERED INTO THE COMPUTER SYSTEM, IS THAT A FAIR STATEMENT?

A THAT'S A FAIR... THE GENERAL LEDGERS, YES.

Q IS THAT WHAT YOU LOOKED AT, SUSAN? WHEN YOU SAID YOU LOOKED AT EVERY TRANSACTION, YOU LOOKED AT THE GENERAL LEDGER FOR THE YEAR 2004 THAT WOULD HAVE SHOWN EVERY EXPENSE OUT AND EVERY DEPOSIT IN?

A I LOOKED AT THE GENERAL LEDGER AND THEN VERIFIED IT WITH THE BANK STATEMENTS BECAUSE THERE WERE SOME CHECKS ON THE GENERAL LEDGER THAT NEVER CLEARED THE BANK.

Q I UNDERSTAND. AND I'M TALKING ABOUT YOUR FIRST STEP.

A NO. WHAT I'M SAYING IS IT'S ALL TOGETHER. I MEAN, I DIDN'T JUST SIT DOWN ONE DAY AND DO THIS. THIS ENTAILED GOING THROUGH THE GENERAL LEDGERS THAT HAD ALL THE TRANSACTIONS ON THE SOFTWARE VERIFYING IT WITH THE BANK STATEMENTS TO SEE THAT THEY ACTUALLY VERIFIED THE BANK. SO, THAT WAS A LARGE PROCESS TO GET THESE TWO PAGE SPREADSHEETS.

Q AND WHETHER OR NOT YOU HAD A QUESTION ABOUT AN EXPENSE, WHEN YOU WERE DOING THE SPREADSHEET, YOU VERIFIED EVERY ENTRY ON THE GENERAL LEDGER WITH WHAT WAS AT THE BANK?

A CORRECT.

Q OKAY. FOR EXAMPLE, YOU GOT... LET'S JUST LOOK AT THE VERY FIRST ONE. "WAYNE VEREEN, SUPERVISORY FEES, NOT ON W-2." NOW, FIRST OF ALL, SUPERVISORY FEES NOT ON W-2. WHY DID YOU CALL IT THIS? WHY DID YOU CALL THIS ENTRY, "WAYNE VEREEN, SUPERVISORY FEES?" WHY DID YOU CALL THIS ENTRY THAT NAME?

A BECAUSE THAT'S THE WAY IT HAD BEEN NOTED IN THE RECORDS, I BELIEVE, THAT I GOT FROM SMITH SAPP.
Q SO, SUPERVISORY FEES WAS A CATEGORY OR AN EXPENSE CATEGORY THAT SMITH SAPP HAD PLACED CERTAIN EXPENSES IN, IS THAT CORRECT?
A NO, MA'AM. THEY HAD PUT THEM IN CONSTRUCTION COSTS. THERE WERE SOME HANDWRITTEN NOTES. WHO WROTE THOSE NOTES, I DON'T KNOW. I THINK SOME OF THE ACTUAL CHECK STUBS MIGHT SAY, "SUPERVISORY FEES." BUT THERE WERE HANDWRITTEN NOTES ON SMITH SAPP'S RECORDS THAT SAID, "SUPERVISORY." IF I'M NOT MISTAKEN, SOME OF THE CHECKS DID TOO AND I CAN PULL THAT 2004 DATA AND TELL YOU.
Q DON'T YOU HAVE RIGHT THERE ON EXHIBIT 1 BEHIND TAB 1, DON'T YOU HAVE THE BACKUP FOR YOUR ENTRY NUMBER 1 ON YOUR TWO PAGE SPREADSHEET?
A I'VE GOT THE CHECKS LISTING THE CHECK DATES.
Q SO, WHAT YOU'VE GOT BEHIND TAB 1 IS CHECKS AND THOSE ARE... AND YOU HAVE LISTED OUT THE INDIVIDUAL CHECKS BEHIND TAB 1, BUT YOU DID NOT PUT... YOU DON'T HAVE IN YOUR REPORT COPIES OF THE ACTUAL CHECKS THEMSELVES, DO YOU?
A I THINK THAT I HAVE THE CANCELED CHECKS.
Q YOU DO HAVE THE CANCELED CHECKS?
A YES.

Q LET ME ASK YOU THIS: LET'S LOOK AT THE FIRST ONE. THE FIRST ONE THAT YOU HAVE BEHIND TAB 1 IS CHECK NUMBER 1016 FROM THE VEREEN ACCOUNT. THAT WAS A CHECK WRITTEN BY A&E TO WAYNE VEREEN IN THE AMOUNT OF $26,000.00, CORRECT?

A YES, MA'AM.

Q NOW, IS THAT AN AMOUNT YOU SAY IS AN AMOUNT WAYNE VEREEN OWES BACK? THAT'S AN AMOUNT THAT YOU'RE CHARGING AND SAYING WAYNE VEREEN SHOULDN'T HAVE GOTTEN THAT WHEN HE GOT THAT ADVANCE AND HE OWES THAT BACK TO A&E?

A CORRECT.

Q SO, THAT'S WHAT YOU DID? ALL OF THESE CHECKS THAT ARE REFLECTED HERE WHICH TOTAL, ACCORDING TO YOUR TAB 1, ARE $88,000 AND CHANGE? THOSE ALL ARE AMOUNTS YOU SAY ARE CHECKS TO WAYNE VEREEN THAT HE SHOULDN'T HAVE GOTTEN AND REALLY SHOULD BE PUT BACK AS AN ACCOUNTS RECEIVABLE INCOME TO A&E? DO I UNDERSTAND YOU CORRECTLY?

A YEAH. THE TOTAL IS 103,000 AND WHEN YOU LOOK ON THAT ONE SPREADSHEET, THE FIRST FIVE WERE NOT CODED AS SUPERVISORY FEES. THAT NOTE ON THE FRONT WAS TO LET ME KNOW... THE FIRST PAGE IT TELLS YOU WHERE IT WAS ORIGINALLY CLASSED AND THE LAST EIGHT CHECKS WERE CODED TO SUPERVISORY FEES AND THOSE

FIRST FOUR OR FIVE... THE FIRST SIX WERE CODED IN OTHER PLACES LIKE ACCOUNTS RECEIVABLE. SOME OF THEM WERE CODED TO OVERHEAD. SOME OF THEM WERE CODED TO A GENERAL EXPENSE AND SOME ARE SUBCONTRACTOR FEES.

Q THOSE WERE ALL CODED AS EXPENSES AND REFLECTED AS EXPENSES AS WERE CODED BY EITHER CARRIE THE BOOKKEEPER OR SMITH SAPP, CORRECT?

A THESE WERE HOW THEY THERE CODED ON A&E.

Q THAT'S WHAT WAS ON THE COMPUTER AT A&E?

A CORRECT.

Q LOOK SPECIFICALLY AT THE CANCELED CHECK FOR THE FIRST ITEM, 1016. CHECK WRITTEN ON MARCH THE 11TH 2004 FROM A&E TO WAYNE VEREEN IN THE AMOUNT OF $26,000.00. THE ACTUAL CANCELED CHECK IN THE "FOR" LINE OF THE ACTUAL CANCELED CHECK, IT SAYS, "FOR" AND THEN HANDWRITTEN IS "REIMBURSEMENT T PRINCESS."? THAT'S WHAT IT SAYS ON THE CHECK, RIGHT?

A RIGHT.

Q NOW, T PRINCESS, AS YOU'VE REVIEWED AND WE HAVE ALL REVIEWED THESE DOCUMENTS ITEM FOR ITEM, T PRINCESS IS A NAME OF AN A&E JOB, TAHITIAN PRINCESS, IS IT NOT?

A CORRECT.

Q AND ARE YOU AWARE OF THE FACT THAT MR. VEREEN PERSONALLY PAID EXPENSES OUT OF HIS PERSONAL CHECKING ACCOUNTS TO BUY MATERIALS FOR THE TAHITIAN PRINCESS THAT WERE USED ON THE TAHITIAN PRINCESS JOB, AN A&E JOB, FOR WHICH HE WAS REIMBURSED? ARE YOU AWARE OF THAT?

A NO, MA'AM.

Q LET ME JUST ASK YOU THIS GENERALLY SPEAKING, IS THERE ANYTHING WRONG WITH A PRINCIPAL OF A COMPANY EITHER LOANING OR PAYING EXPENSES PERSONALLY OF THEIR COMPANY AND THEN BEING REIMBURSED FOR THOSE EXPENSES? SO, THAT IF IN FACT IT BECOMES A WASH? IT'S AS IF THE COMPANY PAID FOR THE EXPENSES? IF IT'S PROPERLY RECORDED IN THE BOOKS AND RECORDS OF THE COMPANY? IS THERE ANYTHING WRONG WITH THAT?

A IF IT WAS PROPERLY RECORDED AS AN EXPENSE AS A JOB COST AND IT WAS PUT ON THE BOOKS AS A JOB COST EXPENSE AND A NOTE BACK TO THAT OTHER SHAREHOLDER AND THE OTHER SHAREHOLDER KNEW ABOUT IT, THERE'S NO PROBLEM.

Q OKAY. IS THERE ANYTHING WRONG WITH A SHAREHOLDER LOANING OR PUTTING IN ADDITIONAL CAPITAL TO A COMPANY WHEN IT DOESN'T HAVE SUFFICIENT FUNDS TO OPERATE AND MEET IT'S OBLIGATIONS? AND THEN WHEN THERE'S SUFFICIENT FUNDS IN THE BANK BEING

REIMBURSED FOR THOSE MONIES THAT THEY EITHER CONTRIBUTED AS CAPITAL OR LOANED WITHOUT MAKING ANYBODY PAY INTEREST? IS THERE ANYTHING WRONG WITH THAT IF IT'S PROPERLY RECORDED OR IT IS RECORDED IN SOME WAY SO THAT THINGS CAN BE TALLIED UP? IS THERE ANYTHING WRONG WITH THAT?

A THERE IS NOTHING WRONG... I DON'T HAVE A PROBLEM WITH THAT SCENARIO AT ALL AS LONG AS IT'S PROPERLY RECORDED AND PEOPLE KNOW AND IT'S ON THE BOOKS.

Q AND ARE YOU AWARE, SINCE YOU HAVE LOOKED AT ALL THE BOOKS AND RECORDS OF A&E, THAT THERE WERE NUMEROUS TIMES DURING THE LIFE OF THIS COMPANY FROM 2004 TO 2007 BECAUSE THAT'S THE TIME PERIOD THAT YOU LOOKED AT, WHEN A&E DID NOT HAVE SUFFICIENT CAPITAL TO PAY IT'S ONGOING EXPENSES? I'M SURE, FROM LOOKING AT THE CHECKING ACCOUNT RECORDS YOU SAW THE INSUFFICIENT FUNDS? YOU SAW THAT, CORRECT?

A CORRECT.

Q DID YOU SEE AS YOU REVIEWED EVERY DEPOSIT THAT WAS MADE INTO A&E, DID YOU SEE THE NUMEROUS OCCASIONS DURING WHICH MR. VEREEN EITHER PERSONALLY OR ONE OF THOSE THREE COMPANIES THAT HE DID BUSINESS AS MADE A CASH CONTRIBUTION BY WAY OF PUTTING CASH, WRITING A CHECK AND DEPOSITING IT INTO A&E? DID

YOU PICK UP ON ALL THAT?
A I DID.
Q YOU PICKED UP... AND YOU WOULD AGREE WITH ME, SUSAN, THAT IN 2003 A CHECKING ACCOUNT WAS OPENED, AND I THINK YOU HAVE THE STATEMENT THERE SO YOU CAN SEE, THE CHECKING ACCOUNT STATEMENT AT CAROLINA FIRST FOR A&E CONSTRUCTION, THAT WAS OPENED IN 2003, RIGHT?
A I BELIEVE SO. I DON'T HAVE THE 2003 IN FRONT OF ME.
Q ARE YOU AWARE OF ANY OTHER CHECKING ACCOUNTS OR OPERATING ACCOUNTS OF A&E OTHER THAN THIS CAROLINA FIRST CHECKING ACCOUNT?
A I WAS JUST VERIFYING THAT IT WAS CAROLINA FIRST. I AM LOOKING AT THE PAGE WITH THE CANCELED CHECK. OKAY, THAT'S THE ONLY ACCOUNT THAT --
Q IT'S GOT CAROLINA FIRST ON THE CHECK, DOES IT NOT?
A YEAH. BUT THAT'S VERY LITTLE WRITING.
Q WHEN THAT CHECKING ACCOUNT WAS OPENED, THERE'S ONLY ONE PERSON WHO CONTRIBUTED CASH IN THERE, WASN'T IT? HE OPENED THE ACCOUNT, RIGHT?
A WAS THERE ONLY ONE PERSON?
Q YEAH.
A I THINK THERE WAS ONE CHECK. I DON'T --
Q WELL, THAT CHECK WAS A $50,000.00 CHECK TO ARTHUR

VEREEN PERSONALLY, WASN'T IT?

A I BELIEVE IT WAS.

Q AND HAVE YOU GIVEN CREDIT FOR THE $75,000.00 IN CASH THAT MR. VEREEN INFUSED INTO THE COMPANY IN 2004?

A HE WAS GIVEN CREDIT ON SMITH SAPP'S BOOKS FOR THAT DEPOSIT GOING IN.

Q BUT HE WASN'T GIVEN IT BY YOU. IN YOUR REPORT IT DOESN'T REFLECT THAT.

A IT'S ALREADY RECORDED ON THERE. THAT ACCOUNT RECEIVABLES BALANCE THAT I TOLD YOU I STARTED WITH SMITH SAPP, IT'S ALREADY IN THERE. ARE YOU REALLY ASKING ME IF I GAVE HIM CREDIT AGAIN?

Q NO, MA'AM. I'M ASKING ON YOUR REPORT, DO YOU KNOW ANYWHERE ON YOUR REPORT, YOUR REPORT, NOT SMITH SAPPS, BUT ON YOUR REPORT, DO YOU KNOW OF ANYWHERE THE $75,000.00 IN CASH THAT MR. VEREEN INFUSED INTO A&E IN 2004?

A IT IS NOT NOTED ON MY REPORT, BUT THE CASH THAT HE PUT IN AND $75,000.00 THAT HE WAS REIMBURSED IS ON THE RECORDS OF 2004 IN THIS BOOK THAT WE HAVE HERE. IT'S ALREADY RECORDED. IT WAS WASHED SO THERE WAS NO NEED OF ME PUTTING IT IN AGAIN.

Q HOW ABOUT THE $40,000.00 IN CASH THAT MR. VEREEN PUT IN --

MR. DURANT: ARE YOU REFERRING TO CHECK OR CASH?

MS. COOK: CHECK. IT'S ALL THE SAME. WHEN I SAY, "CASH" IT'S ALL BY WAY OF CHECK.

Q THE CHECK PROCEEDS TOTALING $40,000.00 FOR 2005, DID YOU PUT THAT ON YOUR SPREADSHEETS ANYWHERE THAT HE CONTRIBUTED $40,000.00 IN 2005 TO MEET THE FINANCIAL OBLIGATIONS OF A&E?

A YES, MA'AM. I BELIEVE SO.

Q WHERE IS THAT?

A LET ME GRAB THE 2005 BOOK. IT'S BACK HERE. OKAY. I'M READY. THE SPREADSHEET THAT WE WERE LOOKING AT OF 2004 OR 2005, DO YOU HAVE THAT?

Q I DO.

A ON THE NEXT PAGE IT HAS THE JOURNAL ENTRIES.

Q YES, MA'AM.

A SEE THE $365,000.00?

Q ARE YOU LOOKING AT PAGE 1 OR ARE YOU LOOKING AT PAGE 2?

A THIRD PAGE.

Q I SEE THE 325 AND THE 40.

A THAT'S THE 40,000 YOU ARE REFERRING TO.

Q THAT'S IN SMITH SAPP'S, IS THAT CORRECT? THAT WAS WHAT WAS IN SMITH SAPP?

A I DON'T KNOW IF THAT WAS IN SMITH SAPP'S RECORDS. I FOUND IT. I CAN'T TELL YOU EXACTLY RIGHT NOW HOW SMITH SAPP... OH, YOU'RE TALKING ABOUT IF THEY RECORDED IT AS A PERSONAL EXPENSE?

Q NO, MA'AM. NO, MA'AM.

A WHAT ARE YOU TALKING ABOUT SPECIFICALLY, SMITH SAPP?

Q AS YOU DID YOUR SPREADSHEETS AND WE WERE TALKING ABOUT 2004, BUT WE'RE TALKING ABOUT 2005 NOW. SO, LET'S TALK ABOUT 2005. AS YOU DID YOUR SPREADSHEETS FOR 2005, YOU WENT THROUGH AND WHETHER YOU HAD CONCERNS OR MR. SMITH HAD CONCERNS WHEN THERE WERE CHECKS WRITTEN TO MR. VEREEN AND YOU PUT THAT, I BELIEVE, THAT'S TAB 1, 2005 TAB 1. YOU'VE GOT $27,121.62 AS BEING AN AMOUNT THAT YOU SAY IS OWED BACK... AS I UNDERSTAND YOUR REPORT, FROM MR. VEREEN TO A&E, CORRECT?

A WHAT REPORT ARE YOU LOOKING AT NOW?

Q WE ARE TALKING ABOUT 2005. SO 2005. I'M LOOKING AT YOUR SPREADSHEET FOR 2005. THE SPREADSHEET IS FOR EACH YEAR THAT YOU HAVE BROKEN OUT EVERYTHING, THAT IN YOUR OPINION, MAKES UP THE 2 MILLION 8 HUNDRED AND CHANGE THAT YOU'RE SAYING MR. VEREEN OR HIS THREE COMPANIES OWES BACK TO A&E, AM I CORRECT?

A CORRECT.
Q AND ONE OF THOSE ITEMS THAT MAKES UP THE $2,800,000.00 FOR 2005 IS A MATTER OF $27,127.60, IS THAT CORRECT?
A (NO RESPONSE).
Q IT IS REFLECTED TO WAYNE VEREEN AS SUPERVISORY FEES FOR 2005, RIGHT?
A RIGHT.
Q AND ONE OF THOSE ITEMS THAT MAKES UP THAT 2 MILLION AND CHANGE FOR 2005 IS AN AMOUNT OF $27,127.62, IS THAT CORRECT? THAT IS REFLECTED AS "WAYNE VEREEN'S SUPERVISORY FEES NOT ON W-2", REFERENCE NUMBER 1? THAT WOULD BE YOUR TAB NUMBER 1 FOR 2005? THAT'S WHAT YOU'VE GOT, RIGHT?
A CORRECT.
Q AND WHERE DID YOU GET THAT NUMBER FROM?
A THAT LIST OF CHECKS THAT YOU SEE LISTED THERE THAT WERE WRITTEN TO WAYNE VEREEN.
Q OKAY. AND THAT'S ALL CHECKS WRITTEN TO WAYNE VEREEN? NOW, THAT'S CHECKS WRITTEN TO WAYNE VEREEN, BUT WHERE IN YOUR REPORT, WHICH IN 2005 I THINK YOU TESTIFIED TO THIS AS WELL AS YOUR REPORT SAYS. IF I'M READING 2005 CORRECTLY, YOU SAY THAT FOR 2005 MR. VEREEN OWES A&E $1,110,167.77, IS THAT WHAT YOU AND YOUR REPORT SAY FOR 2005?

A GIVE ME THE TOTAL AGAIN.
Q $1,110,167.77.
A THAT'S BEFORE YOU HAD TAKEN OFF THE 365 AT THE BOTTOM?
Q YES, MA'AM. I UNDERSTAND THAT, BUT ON YOUR REPORT YOU SAY $1,110,167.77 BEFORE ANY CREDITS IS OWED BY MR. VEREEN TO A&E, CORRECT?
A YES.
Q AND THEN WHEN YOU GO TO YOUR THIRD PAGE, YOU ACKNOWLEDGE THE $365,000.00 PAYMENT THAT IS REFLECTED AND PICKED UP ON YOUR JOURNAL FOR 2005 THAT $365,000.00 PAYMENT, CORRECT?
A CORRECT.
Q NOW, WHERE DO YOU GIVE HIM CREDIT FOR 2005 FOR THE ADDITIONAL $40,000.00 THAT HE PAID?
A THAT 40 IS PART IN A 365,000.
Q IT IS? WELL, WHAT MAKES UP THE 365,000 THEN?
A THERE'S A 40 AND A 325 DEPOSIT.
Q AND THE 365 WAS DEPOSITED ON WHAT? WHAT WAS THE SOURCE OF THAT? WAS THAT FROM A JOB?
A I THINK THE BOOKS SAID IT WAS POINTE MARSH DEPOSIT.
Q SO, YOU BELIEVE YOU'VE ACCOUNTED FOR THAT?
A YES. BUT I WILL BACK YOU UP. I DON'T KNOW WHERE YOU'RE GOING. THAT ENTRY IS REVERSED AND ON YOUR

FINAL REPORT THAT'S WHERE IT WILL SHOW. WHEN I SAW THE ACCOUNTING... THE FINAL REPORT, IN THE BEGINNING THERE'S A $730,000.00. I NOTICED THAT. THAT ENTRY HAD BEEN PUT IN BACKWARDS.

Q SO, WHICH ONE ARE YOU SAYING IS WRONG, EXHIBIT 2 OR EXHIBIT 40?

A I'M SAYING EXHIBIT 2... ONCE THIS WAS ENTERED INTO TESTIMONY, I DIDN'T WANT TO GO BACK AND CHANGE ANYTHING THAT HAD ALREADY BEEN PUT INTO EVIDENCE AND WHEN WE STARTED TO REVIEW FOR THE FINAL REPORT WE SAW THAT THE DATA ENTRY HAD BEEN PUT IN BACKWARDS.

Q WHO IS "WE"?

A ME AND MY STAFF. ME AND SOME PEOPLE THAT WERE WORKING WITH ME.

Q TELL ME EVERYBODY THAT REVIEWED THIS BEFORE YOU DID EXHIBIT 40 AS OF TODAY. TELL ME WHO YOU TALKED TO ABOUT EXHIBIT 40 BEFORE YOU PUT IT TOGETHER.

A MY OFFICE.

Q WHO IN YOUR OFFICE?

A BART BUIE, NICOLE.

Q DID YOU HAVE ANY DISCUSSIONS WITH ELLIS?

A ABOUT THIS REPORT HERE?

Q UH-HUH. (AFFIRMATIVE RESPONSE).

A NO. I THINK WE TALKED BEFORE WE CAME TO THE COURT LAST TIME.
Q YEAH. I'M TALKING ABOUT...
A IF YOU'RE TALKING ABOUT THE ERROR, THEY DID KNOW ABOUT THE ERROR.
Q OKAY.
A THE ERROR WAS FOUND BEFORE... THERE WAS A LOT OF TIMEFRAME WHEN THIS WAS PUT INTO EVIDENCE AND THIS REPORT WAS DONE. WE'RE TALKING PROBABLY WELL OVER A YEAR. SO, I CAN'T... I KNEW ABOUT THIS AFTER THIS WENT.
Q YOU KNEW ABOUT YOUR ERROR IN EXHIBIT 2 AFTER IT WAS PUT INTO EVIDENCE ON FEBRUARY 16TH, IS THAT WHAT YOU'RE SAYING?

JUDGE HOWE: IS IT YOUR ERROR?

A THIS WAS AN ACCOUNTING ERROR THAT WAS DONE THE WAY THE NUMBER WAS ENTERED BACKWARDS. SO, I GAVE HIM CREDIT FOR THE 365,000. WHEN I WENT TO REVIEW TO DO THE FINAL REPORT, I NOTICED ON THIS FINANCIAL THE JOURNAL ENTRY WAS ENTERED BACKWARDS. SO, ON THE FINAL --

JUDGE HOWE: WHEN YOU SAY, "BACKWARDS" TELL ME HOW YOU MEAN BACKWARDS?

A EVERYTHING THAT WE SAID THAT ARTHUR VEREEN OWED THE COMPANY WAS DEBITED. IT WAS ADDED TO

EVERYTHING THAT HE PAID IN WAS A CREDIT AND THAT ENTRY GOT PUT IN BACKWARDS.

JUDGE HOWE: OKAY.

MS. COOK: YOUR HONOR, I'M GOING TO START GOING THROUGH SOME PARTICULARS WITH 2004. I THOUGHT THIS MIGHT BE A GOOD TIME TO STOP.

JUDGE HOWE: OKAY.

(OFF THE RECORD).

Q MRS. BRADY, BEFORE WE GET SPECIFICALLY INTO SOME ISSUES IN 2004, I WANT TO ASK YOU A COUPLE OF THINGS IN GENERAL TERMS. YOU HAD TALKED TO US ABOUT SOME THINGS YOU REVIEWED IN ORDER TO COME UP WITH YOUR OPINION AND IF I REMEMBER CORRECTLY YOU SAID THAT YOU DID HAVE DOCUMENTS FROM THE THREE ENTITIES WE'VE CALLED THE VEREEN RELATED ENTITIES; PARK PLACE PROPERTIES, PARKWAY OFFICES AND ARTHUR VEREEN CONSTRUCTION COMPANY, CORRECT?

A CORRECT.

Q DID YOU LOOK AT THE DOCUMENTATION ON THOSE THREE RELATED ENTITIES TO VERIFY OR TO SATISFY YOURSELF IF THOSE ENTITIES OR MR. VEREEN PERSONALLY PAID ANY EXPENSES FROM THEIR MONIES THAT WERE EXPENSES OF A&E FOR A&E JOBS?

A OKAY. IF I UNDERSTAND YOU CORRECTLY, ARE YOU

SAYING THROUGH THOSE BOOKS, DID I SEE IF MR. VEREEN HAD PAID ANY EXPENSES FOR A&E OUT OF THOSE ENTITIES?

Q OR HIS OWN PERSONAL ACCOUNTS? WHATEVER RECORDS YOU HAD AND YOU SAID THAT YOU HAD THE CHECKING ACCOUNT RECORDS?

A BANK STATEMENTS.

Q AND THE BANK STATEMENTS. AND WE ALSO PROVIDED DOCUMENTATION THAT SHOWED INVOICES AND CHECKS FROM EACH OF THE THREE ENTITIES AND MR. VEREEN PERSONALLY. WHEN YOU WERE COMING UP WITH YOUR REPORT, IN YOUR OPINION, MY CLIENTS OWE A&E $2.8 MILLION AND CHANGE, DID YOU LOOK AT WHETHER OR NOT MR. VEREEN OR PARK PLACE PROPERTIES OR PARKWAY OFFICES OR ARTHUR VEREEN CONSTRUCTION COMPANY HAD PAID FROM THEIR MONIES EXPENSES OF A&E?

A I DIDN'T HAVE THE INFORMATION THAT COULD HAVE ANSWERED THOSE. I THINK THAT WAS WHAT WE WERE REFERRING TO EARLIER AS FAR AS THE INVOICES AND THE BACKUP. I DIDN'T HAVE ENOUGH DATA TO PULL OUT AND THAT'S... THERE AGAIN, WHERE I WAS SAYING THAT SOME OF THESE VENDERS WERE THE SAME VENDERS. THERE MIGHT HAVE BEEN CHECKS MADE TO THE SAME PEOPLE, BUT I HAD NO WAY OF KNOWING WHAT THOSE

CHECKS WERE FOR.

Q SO, ON EACH OF YOUR YEARLY SPREADSHEETS, 2004, 2005, 2006, AND 2007 IT POINTS UP ISSUES OR CONCERNS OR QUESTIONS THAT YOU AND/OR MR. SMITH HAD ABOUT A&E MONIES AND CHECKS WRITTEN TO MR. VEREEN OR HIS ENTITIES, BUT THEY WOULD NOT REFLECT NOR HAVE YOU LOOKED AT THE ISSUE OF WHETHER THOSE ENTITIES WERE MR. VEREEN'S PERSONALLY PAID EXPENSES, NOT CONTRIBUTED MONEY TO A&E, BUT PAID EXPENSES THAT WERE A&E EXPENSES? YOU HAVE NOT LOOKED AT THAT ISSUE IN PREPARING YOUR EXPERT REPORT?

A I DIDN'T HAVE ANYTHING TO PROVIDE ME WITH THAT INFORMATION OF SOME OF THE EXPENSES THAT HE PAID.

Q SO, NO, YOU DID NOT AND YOUR REPORT DOES NOT COVER THOSE EXPENSES, IS THAT CORRECT?

A THAT REPORT ONLY COVERS WHAT I HAD BACKUP FOR. I WAS PROVIDED NO INVOICES OR CANCELED CHECKS THAT MR. VEREEN OR HIS ENTITIES PAID FOR A&E SO THAT I COULD STRIKE THEM ON THAT.

Q OKAY. AND AS YOU SIT HERE TODAY, YOU HAVE NOT BEEN PROVIDED ANY OF THAT INFORMATION?

A THERE WERE A FEW OF THE ONES IN THAT BACKUP THAT I THINK THAT HAD BEEN... THAT ARE ON THIS FINAL REPORT HERE, AND SHOW SOME THAT HE PAID AND SOME

THAT HE WAS REIMBURSED, BUT I DON'T THINK THERE'S ANYTHING ELSE THAT WE WERE PROVIDED.

Q WOULD YOU AGREE WITH ME IN THIS PROPOSITION, THAT IF EXPENSES OF A&E WERE PAID FOR BY VEREEN OR VEREEN RELATED ENTITIES THAT THEY WERE LEGITIMATE EXPENSES FOR LEGITIMATE A&E JOBS, THAT A&E SHOULD REIMBURSE MR. VEREEN OR THE APPROPRIATE ENTITY THAT PAID THAT EXPENSE? AS A GENERAL PROPOSITION, DO YOU AGREE WITH THAT?

A IF A&E KNEW ABOUT IT IN A TIMEFRAME. I DON'T AGREE, AND THAT'S WHAT I HAD DISCUSSED EARLIER WITH EXPENSES SEVEN YEARS LATER COMING UP THAT WERE NEVER RECORDED ON THE BOOKS, WHETHER IT WAS A LEGITIMATE EXPENSES OR NOT. I WOULD HAVE A PROBLEM WITH THAT BECAUSE IT'S TOO LATE TO MAKE A FINANCIAL DIFFERENCE. I THINK IF IT WOULD HAVE BEEN PRESENTED IN A CURRENT TIME OR THE CURRENT YEAR THEN, NO. I WOULD HAVE NO PROBLEM WITH THAT. MY PROBLEM WAS, LIKE I SAY, COMING UP FOUR, FIVE, SIX YEARS LATER.

Q AND THAT WAS BECAUSE IF YOU CAME UP WITH ANYTHING MORE THAN A YEAR AFTER THE FACT, IT WOULD HAVE AN AFFECT ON THE FINANCIAL ABILITY...

A THE FINANCIAL SITUATION... I MEAN, IF IT'S AN EXPENSE PAID THAT WAS NEVER RECORDED NUMBER ONE,

THE COMPANY DIDN'T DEDUCT IT. SO, THE COMPANY WOULD HAVE PAID INCOME TAX ON MORE THAN IT SHOULD HAVE. IF THE OTHER PARTNERS DIDN'T KNOW ABOUT IT, THEY WOULDN'T KNOW TO PAY IT BACK. AND IF IT'S BEEN AFTER THREE YEARS THE IRS... THERE'S NOTHING YOU CAN DO ABOUT IT. THE STATUTE HAS RAN. SO, YOU COULDN'T PUT IT ON A TAX RETURN. I'M SAYING THAT IT DOESN'T HAVE AS MUCH AFFECT IF IT'S NOT SOMETHING IN THE CURRENT PERIOD.

Q BUT AS A GENERAL PROPOSITION IF, FOR INSTANCE, PARK PLACE PROPERTIES PAID A BILL BY CHECK TO A VENDER FOR AN EXPENSE THAT WAS AN A&E EXPENSE ON THE WILLOUGHBY JOB AND EVERYBODY ACKNOWLEDGED IT WAS A WILLOUGHBY EXPENSE AND PARK PLACE PROPERTIES PAID IT, AS A GENERAL PROPOSITION, FORGET IRS LIABILITY, BUT AS A GENERAL PROPOSITION, WOULD YOU AGREE THAT A&E SHOULD REIMBURSE WHATEVER LEGITIMATE VERIFIABLE EXPENSES ANOTHER ENTITY PAID ON IT'S BEHALF?

A THEY PRESENTED THE DOCUMENTATION WHERE THE BILL WAS DUE AND IT WAS PAID BY THAT PERSON, YES, I WOULD SAY.

Q AND IT WOULD FLOW THE OTHER WAY AS WELL? IF A&E PAID AN EXPENSE OF ANOTHER PERSON OR ENTITY THAT WAS... AND EVERYBODY AGREED THAT OTHER PERSON OR

ENTITIES EXPENSE WAS THAT PERSON'S ENTITY, BUT A&E HAD PAID IT, THEN THAT PERSON OR ENTITY SHOULD REIMBURSE A&E?

A CORRECT.

Q AND THAT'S WHAT THIS LAWSUIT'S ABOUT, ISN'T IT?

A WELL, I THINK THIS LAWSUIT IS ABOUT A LOT OF THINGS THAT WERE NEVER RECORDED AND NOT KNOWN ABOUT.

Q ONE OF THE THINGS IS, THERE ARE CERTAIN EXPENSES THAT A&E PAID THAT WERE MR. VEREEN'S PERSONAL EXPENSES, CORRECT? FOR INSTANCE, THE PAYMENT BY A&E OF THE SURFSIDE CLEANERS BILL. LET'S JUST USE THAT AS AN EXAMPLE.

A ARE YOU ASKING ME IF THAT WAS A PERSONAL EXPENSE?

Q NO. I'M ASKING YOU... THERE WERE SITUATIONS... LISTEN TO MY QUESTION, MRS. BRADY.

A I'M TRYING, BUT THEY'RE GETTING LONG.

Q THERE WERE SITUATIONS WHERE A&E PAID A PERSONAL EXPENSE OF MR. VEREEN SUCH AS THE SURFSIDE CLEANERS BILLS? A&E PAID THOSE PERSONAL EXPENSES OF MR. VEREEN, CORRECT?

A CORRECT.

Q BECAUSE THAT IS A PERSONAL EXPENSE FOR MR. VEREEN, HE SHOULD REIMBURSE A&E FOR THOSE PERSONAL EXPENSES THAT A&E PAID FOR, IS THAT CORRECT?

A CORRECT.
Q AND YOU DON'T DISAGREE WITH THE PROPOSITION THAT IF MR. VEREEN HAD STROKED HIS CHECK TO PAY STOCK BUILDERS FOR WOOD TO BE USED ON THE WILLOUGHBY JOB, WHICH WAS AN A&E JOB, THAT A&E SHOULD REIMBURSE MR. VEREEN FOR THAT EXPENSE, IS THAT CORRECT?
A THAT'S CORRECT. BUT LIKE I SAID, IF IT WAS IN THE TIME PERIOD, YES.
Q AND THE TIME PERIOD, IN YOUR OPINION, IS IF THAT HAD OCCURRED AND WAS MORE THAN ONE YEAR THEN NEITHER PARTY WOULD HAVE TO REIMBURSE THE OTHER PARTY?
A NO, I'M NOT SAYING THAT. I'M SAYING THAT YOU GOT SOME EXPENSES... FIVE YEARS, SIX YEARS BACK -- I DON'T THINK AS FAR AS THE SURFSIDE CLEANERS THAT WAS AN EXPENSE THAT WAS ON BOOKS FROM THE DAY IT WAS PAID. SO, A&E KNEW THAT THOSE EXPENSES WERE RECORDED ON THE BOOKS WHEN IT WAS PAID FOR MR. VEREEN.
Q AND AS FAR AS YOU KNOW, MR. ELLIS WAS AT TOTAL LIBERTY TO TRAVEL IN AND OUT OF THAT OFFICE AND LOOK AT ANY BOOKS AND RECORDS, CORRECT?
A WAS I AWARE?
Q I SAID, AS FAR AS YOU KNOW, MR. SMITH WAS AT

PERFECT LIBERTY TO TRAVEL IN AND OUT OF THE A&E OFFICES AND LOOK AT ANY BOOKS AND RECORDS OF A&E DURING HIS TIME THERE, ISN'T THAT CORRECT?

A HE SHOULD HAVE BEEN, YES.

Q DO YOU KNOW IF HE DID THAT?

A I HONESTLY DON'T KNOW.

Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS DEFENDANT'S EXHIBIT 1. NOW, THIS IS IN SOME BOOKS... SOMEWHERE THAT YOU ALREADY MARKED. I'M GOING TO SHOW YOU WHAT I'VE MARKED AS DEFENDANT'S EXHIBIT 1. IT'S A 2 PAGE DOCUMENT. THE FRONT OF IT IS A CHECK, ARTHUR VEREEN, HIS PERSONAL CHECK, MADE PAYABLE ON OCTOBER 26TH 2004 TO A&E FOR $75,000.00 AND THE DEPOSIT SLIP THAT GOES ALONG WITH IT THAT SHOWS A&E DEPOSITED MR. VEREEN'S $75,000.00 PAYMENT OR LOAN OR CONTRIBUTION IN OCTOBER OF 2004. YOU HAVE SEEN THAT CHECK BEFORE BECAUSE YOU'VE LOOKED AT EVERY CHECK AND EVERY DEPOSIT, HAVEN'T YOU?

A I DIDN'T SAY I'VE LOOKED AT EVERY CHECK AND EVERY DEPOSIT ON MR. VEREEN'S ACCOUNT.

Q BUT YOU LOOKED AT EVERY DEPOSIT --

A OH, IN A&E? I'M SORRY. YOU SAID, HAVE I SEEN THE CHECK BEFORE? I'VE SEEN THE DEPOSIT. THIS DEPOSIT SLIP WOULD HAVE BEEN ON THE RECORDS.

Q AND I THOUGHT YOU TESTIFIED EARLIER TODAY, AS WELL AS IN FEBRUARY, THAT YOU HAD ALSO VERIFIED THE SOURCE OF EVERY DEPOSIT INTO A&E'S ACCOUNT? DID YOU NOT TESTIFY TO THAT?

A YEAH. I VERIFIED THAT IT WAS FROM... THIS DEPOSIT HERE WAS FROM ARTHUR VEREEN. IT WAS RECORDED ON THE TAX RETURNS AND I SAW THAT IT HAD BEEN RECORDED. SO, I HAVE NEVER DISPUTED THIS.

Q SO, YOU AGREE THAT ON OCTOBER 27TH, MR. VEREEN CONTRIBUTED $75,000.00 IN CASH BY WAY OF CHECK TO A&E AND A&E DEPOSITED IT?

A YES, MA'AM.

JUDGE HOWE: WHAT YEAR IS THAT?

MS. COOK: 2004.

Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS EXHIBIT 2. IT IS THE CAROLINA FIRST BANK ACCOUNT, BANK STATEMENT, FOR THE MONTH OF OCTOBER 2004 WITH THE CHECK. LET ME ASK YOU IF YOU HAVE SEEN THIS OCTOBER BANK STATEMENT THAT HAS BEEN MARKED AS EXHIBIT 2?

A YES, MA'AM.

Q THEN LET ME SHOW YOU WHAT'S BEEN MARKED AS EXHIBIT 3. IT'S A COPY OF THE GENERAL LEDGER FROM THE PEACHTREE SOFTWARE OF A&E FOR THE MONTH OF OCTOBER 2004, WHICH WOULD COINCIDE WITH THE CHECK

IN THE BANK ACCOUNT STATEMENT. YOU HAD ACCESS TO AND YOU UTILIZED THESE GENERAL LEDGERS, DIDN'T YOU?

A YES, MA'AM.

Q HAVE YOU SEEN THE GENERAL LEDGER FOR OCTOBER 2004 THAT COINCIDED WITH THE SAME TIME PERIOD AS THE BANK STATEMENT FROM CAROLINA FIRST FOR THE A&E ACCOUNT AND THE $75,000.00 CHECK WRITTEN BY MR. VEREEN TO A&E?

A ARE YOU ASKING ME IF I'VE SEEN THE CHECK ON HERE? COULD YOU REPEAT THE QUESTION PLEASE?

Q YES. YOU HAVE SEEN THE GENERAL LEDGER FOR OCTOBER OF 2004 THAT COINCIDES WITH THE BANK STATEMENT OF A&E FROM 2004? THAT COINCIDES WITH THE SAME TIME PERIOD AS EXHIBIT 1, THE CHECK OF $75,000.00 FROM MR. VEREEN TO A&E, CORRECT?

A CORRECT.

MS. COOK: YOUR HONOR, I WOULD LIKE TO OFFER INTO EVIDENCE EXHIBITS 1, 2, AND 3. 1 BEING THE CHECK, 2 BEING THE BANK STATEMENT FOR OCTOBER '04 AND 3 BEING THE GENERAL LEDGER FROM OCTOBER FROM '04.

JUDGE HOWE: ANY OBJECTION?

MR. DURANT: NO OBJECTION. I THINK

THEY ARE ALREADY IN EVIDENCE, BUT...
MS. COOK: THEY ARE IN SOME OF THESE BOXES.
CHECK FOR $75,000.00 MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 1.
BANK STATEMENT FOR OCTOBER 2004 MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 2.
GENERAL LEDGER FROM OCTOBER 2004 MARKED FOR IDENTIFICATION AND INTRODUCED INTO EVIDENCE AS DEFENDANT'S EXHIBIT 3.

Q IF YOU LOOK AT EXHIBIT 2, WHICH IS THE BANK STATEMENT, THE THIRD PAGE IN THE BANK STATEMENT IS SHOWING A NOTICE OF INSUFFICIENT FUNDS IN THE AMOUNT OF $20,000.00 RIGHT BEFORE MR. VEREEN GAVE THE $75,000.00 TO A&E, DOESN'T IT?

A YES.

Q WOULD YOU AGREE WITH ME THAT THIS IS ONE EXAMPLE

OF WHEN A&E DID NOT HAVE ENOUGH FUNDS TO COVER ITS COSTS THAT MR. VEREEN LOANED OR FRONTED OR DEPOSITED ADDITIONAL --

MR. DURANT: YOUR HONOR, OBJECT TO THE FORM OF THE QUESTION. SHE CAN ASK THE WITNESS, DOES SHE KNOW WHY MR. VEREEN PUT THE MONEY IN? SHE CAN'T TESTIFY AS TO ANYTHING BUT WHAT THE RECORD SAYS. I OBJECT TO THE FORM OF THE QUESTION.

JUDGE HOWE: SUSTAINED.

Q WELL, WOULD YOU LOOK AND TELL ME WHAT THE BANK BALANCE WAS ACCORDING TO THE BANK STATEMENT AND I BELIEVE YOU TESTIFIED, "THAT THE BANK DOESN'T LIE." ACCORDING TO THE BANK STATEMENT, WHAT WAS THE BANK BALANCE IN A&E'S ACCOUNT ON OCTOBER 25TH?

A I DON'T KNOW IF THAT IS PROVIDED IN HERE. I DON'T KNOW THAT I'VE TESTIFIED THAT I WENT THROUGH THE DAILY BALANCES. I GONE THROUGH THE ACTIVITY, BUT I DON'T --

Q WELL, LET ME HELP YOU.

MR. DURANT: YOUR HONOR, WE WOULD STIPULATE THAT THERE WAS A RETURNED CHECK IF THAT'S THE QUESTION.

MS. COOK: THAT'S NOT THE QUESTION,

YOUR HONOR.

JUDGE HOWE: DEFENDANT'S 2 SHOULD SHOW THAT.

Q IF YOU WOULD, LET'S LOOK HERE ON OCTOBER... I APOLOGIZE. THIS ONE DOESN'T SHOW IT. BUT THEY DID HAVE A CHECK BOUNCE IN THE AMOUNT OF $20,000.00 ON THE 26TH OF OCTOBER, CORRECT?

A YES, MA'AM. THIS WOULD NOT HAVE BEEN INCLUDED -- THIS INSUFFICIENT NOTICE WOULD NOT HAVE BEEN INCLUDED IN THE BANK STATEMENT. SO, IF THERE'S NOT A "NSF CHARGE" ON HERE, I WOULDN'T HAVE KNOWN THAT.

Q YOU DON'T KNOW THAT WAS PRODUCED TO US FROM YOUR SUBPOENA OF THE BANK RECORDS WHERE THE "NSF" STATES?

A I CAN'T TELL YOU THAT I'VE SEEN THAT NSF STATEMENT THAT WAS INCLUDED IN THE BANK STATEMENT THAT I GOT FROM THE BANK.

Q YOU DON'T DENY THAT THERE WERE OCCASIONS IN WHICH A&E DID NOT HAVE SUFFICIENT FUNDS TO PAY ITS BILLS, CORRECT?

A I SAW PROBABLY FIVE OR SIX NFS CHARGES, $200.00 OR $300.00 WORTH AT THE END OF THE YEAR. TO BE HONEST WITH YOU, I DIDN'T GO THROUGH THE DAILY BALANCES TO SEE WHAT THEY HAD. I WENT THROUGH THE

CHECKS AND THE DEPOSITS. I DON'T KNOW THAT THERE WAS A REASON FOR ME TO FIGURE OUT WHAT THEIR BALANCE WOULD HAVE BEEN DAILY.

Q WHERE DOES YOUR REPORT REFLECT THAT ADDITIONAL CASH CONTRIBUTION BY MR. VEREEN ON OCTOBER 26TH OF $75,000.00?

A IN MY REPORT, IT DOES NOT REFLECT THAT BECAUSE CHECK 1091 FROM A&E CONSTRUCTORS AND CONSULTANTS, SHOWS THAT 75 BEING RETURNED BACK TO MR. VEREEN. SO, HE DEPOSITED 75,000.00. HE WAS GIVEN A CHECK BACK FOR 75,000.00. I DIDN'T SEE WHERE THAT WAS AN ISSUE.

Q WERE THERE OTHER INSTANCES THAT YOU SAW IN WHICH MR. VEREEN OR ONE OF HIS THREE COMPANIES ADVANCED MONEY TO A&E FOR WHICH HE WAS NOT PAID BACK?

A IF THERE WAS... THERE WERE MANY INSTANCES WHERE HE PUT MONEY IN LIKE THE 40 YOU WERE TALKING ABOUT AND THE 325 AND THERE WAS NOT A REVERSE CHECK AND THAT'S WHERE I TOOK IT AND GAVE CREDIT FOR MR. VEREEN. THIS $75,000.00 CHECK AND THE REIMBURSEMENT WAS RECORDED ON SMITH SAPP'S BOOKS. SO, LIKE I SAID, WHEN I STARTED WITH SMITH SAPP'S BALANCE, HE HAD THE $75,000.00 CHECK THAT WAS WRITTEN. HE HAD DEPOSITED THE CHECK THAT WAS WRITTEN BACK TO REIMBURSE HIM AND I CAN SHOW YOU

THAT ON THE TAX RECORDS IF YOU WOULD LIKE TO SEE WHERE THAT HAS ALREADY BEEN RECORDED. SO, I DIDN'T FEEL THE NEED TO...

Q SO, YOUR REPORT REALLY REFLECTS WHAT YOU AND MR. SMITH HAD QUESTIONS ABOUT AND THEN YOU LEAD TO SMITH SAPP AND SMITH SAPP'S BALANCES ON WHAT THEY HAD ALREADY STRAIGHTENED OUT --

A NO, MA'AM. BUT IF THEY HAVE A CHARGE AND A CREDIT AND I LOOKED AT IT AND VERIFIED IT, I DIDN'T SEE ANY REASON TO DISPUTE IT.

Q LET ME HAND YOU WHAT HAS BEEN MARKED AS EXHIBIT 4. IT IS A CHECK WRITTEN FROM A&E CONSTRUCTORS' ACCOUNT OFF THE CAROLINA FIRST ACCOUNT AND IT'S MADE PAYABLE TO CAROLINA FIRST IN THE AMOUNT OF $17,426.80. YOU HAVE THAT REFLECTED ON YOUR 2004 REPORT. THAT CHECK IS DATED JUNE 2, 2004, BUT ON YOUR SPREADSHEET THAT IS REFLECTED UNDER YOUR TAB 14 THAT YOU'VE GOT ENTITLED, "CHECK, CAROLINA FIRST, WAYNE'S PROPERTY TAXES." AND IT'S ONE UNDER THAT AND IT SAYS, "CONSTRUCTION COSTS." AND SO, ACCORDING TO YOUR SPREADSHEET, AM I CORRECT THAT IT'S YOUR POSITION AS THE EXPERT FOR MR. SMITH AND A&E THAT MR. VEREEN OWES A&E $17,426.80 FOR THAT CHECK THAT WAS WRITTEN BY A&E TO CAROLINA FIRST?

A THE 17,426.80 YOU SAID?
Q YES, MA'AM.
A YES.
Q NOW, IF YOU WOULD... AND THE CHECK THAT REFLECTS THAT IS THE TOP PAGE OF EXHIBIT NUMBER 4, CORRECT?
A CORRECT.

MS. COOK: YOUR HONOR, I WOULD LIKE TO INTRODUCE EXHIBIT 4 INTO EVIDENCE.

JUDGE HOWE: ANY OBJECTION, MR. DURANT?

MR. DURANT: I'M PRESUMING THIS WAS WITH THE INFORMATION THAT WAS GIVEN TO US BY DECEMBER 1ST?

MS. COOK: YES, SIR. YES, SIR.

MR. DURANT: WITH THAT BEING ESTABLISHED, I HAVE NO OBJECTION.

JUDGE HOWE: DEFENDANT'S 4 SO ADMITTED.

CHECK FOR $17,426.80
MARKED FOR IDENTIFICATION
AND INTRODUCED INTO EVIDENCE
AS DEFENDANT'S EXHIBIT 4.

Q SO, IT'S A&E'S POSITION THAT MR. VEREEN OWES A&E THIS 17 AND CHANGE?
A THE RECEIPT THAT YOU JUST TOOK AWAY. I DO NOT

REMEMBER SEEING THAT WHEN WE MET.

Q OKAY. DO YOU REMEMBER US TALKING AND THERE'S A RECEIPT PAGE 2 OF EXHIBIT 4 IS ACTUALLY A COPY OF THE TOP OF THE A&E CHECK FOR THE 17,000 WHERE THEY GOT A CASHIERS CHECK FROM CAROLINA FIRST IN THE SAME AMOUNT MADE PAYABLE TO "ROCFORD MANUFACTURING" AND THAT WAS ACTUALLY FOR AN A&E BILL FOR 17,426.80, WHICH IS THE THIRD PAGE, WHICH IS AN A&E EXPENSE FOR THE JACK FROST METAL BUILDING THAT WAS AN A&E JOB, ISN'T IT?

A YES, MA'AM. BUT AS I SAID, I DO NOT REMEMBER EVER SEEING THIS. THESE PAPERS THAT YOU'RE GIVING ME NOW WHEN WE MET.

Q MR. DURANT HAS NEVER GONE OVER THOSE DOCUMENTS? WE SAT IN YOUR OFFICE AND WENT OVER ALL THOSE BOOKS, RIGHT?

A WE WENT THROUGH THEM LINE BY LINE, YES. BUT I DON'T REMEMBERING SEEING THIS ONE SPECIFICALLY.

Q DON'T YOU REMEMBER HAVING A CONVERSATION IN THAT OFFICE WHERE I THINK IT WAS EVEN MR. SMITH WHO SAID, "OH, ROCFORD. I REMEMBER WHAT ROCFORD WAS. THAT WAS JACK FROST, THE METAL BUILDING"? WHAT, THAT DIDN'T OCCUR?

A I DIDN'T SAY IT DIDN'T OCCUR. I SAID WHEN WE WERE IN THAT OFFICE Y'ALL WERE GOING OVER EXPENSES AND

YOU WERE BOTH TALKING. AND I THINK I INTERRUPTED YOU AND SAID, "Y'ALL ARE GOING AHEAD OF ME TO GET WHAT YOU HAVE VERIFIED." AND I SAID, "I'M GOING TO BE ABLE TO GET A REPORT SOMEWHERE OR GET THIS INFORMATION AGAIN THAT WE CAN MAKE SURE WE ARE ON THE SAME PAGE." BECAUSE Y'ALL WENT AHEAD OF ME A COUPLE TIMES AND Y'ALL SAID, "YES". THAT'S WHY THIS FINAL REPORT, THE SECOND PAGE IS KIND OF LISTED AS INFORMATIONAL BECAUSE I DON'T KNOW THAT I GOT EVERYTHING THAT WAS SAID THAT DAY AND EVERYBODY WAS GOING THROUGH AND TALKING SO FAST. I'M NOT SAYING THAT YOU DID NOT HAVE THIS. I'M TELLING YOU, I DO NOT RECALL EVER SEEING IT OR I WOULD HAVE MADE A NOTE.

Q YOU DON'T FEEL COMFORTABLE THAT YOU CAUGHT UP WITH US WHEN WE WERE GOING THROUGH ALL OF THAT SPECIFICALLY WITH REGARD TO THAT $17,000 ITEM?

A WHEN YOU WERE CONSENTING TO SOME OF THE EXPENSES BECAUSE THERE WERE A COUPLE TIMES WHEN I WAS MAKING NOTES THAT Y'ALL WENT AHEAD. AND LIKE I SAY, I JUST DON'T REMEMBER. I'M NOT SAYING YOU DIDN'T HAVE IT, BUT I DON'T REMEMBER SEEING THAT.

Q YOU DO REMEMBER THERE WERE THINGS THAT WE SAID, "WE" BEING THE VEREEN SIDE OF THE TABLE SAID, "WE ACKNOWLEDGE THAT IS A PERSONAL EXPENSE..." MRS.

BRADY, WE DIDN'T JUST MEET ONE DAY, WE MET SEVERAL DAYS, DIDN'T WE?

A CORRECT.

Q DURING THOSE CONVERSATIONS, THERE WERE EXPENSES THAT THE VEREEN SIDE OF THE TABLE SAID THAT WE ACKNOWLEDGE THOSE ARE PERSONAL EXPENSES WHEN WE ARE GETTING DOWN TO THE END OF THE DAY AND WE ARE ADDING EVERYTHING UP. WE ACKNOWLEDGED THAT IS A PERSONAL EXPENSE. WE HAD THOSE CONVERSATIONS, RIGHT?

A CORRECT.

Q AND IN FACT THERE WAS A REPORT THAT WAS DONE THAT SUMMARIZED ALL OF THAT AND IT WAS GIVEN TO Y'ALL THE NIGHT BEFORE TRIAL IN FEBRUARY, CORRECT?

A I THINK THAT'S THE REPORT THAT I GOT AT TRIAL.

Q OKAY. AND YOU HAVE HAD FROM FEBRUARY 'TIL TODAY TO WORK ON THAT, RIGHT? AND YOU DID WORK ON IT BECAUSE YOU DID EXHIBIT 40?

A CAN I GO BACK? WE ARE GOING BACK TO THAT SAME PAPER AND I DON'T KNOW THAT I EVER ANSWERED YOUR QUESTION BEFORE IT BROKE EARLIER. CAN I GO BACK TO DO THAT?

Q IF YOU WOULD, HOW ABOUT ANSWERING MY QUESTION AND YOU NEED TO EXPLAIN YOUR ANSWER TO MY QUESTION WITH REGARD TO WHATEVER ELSE IT IS. YOU CERTAINLY

CAN DO THAT.

A I MIGHT HAVE MISUNDERSTOOD. WHEN WE LEFT HERE IN FEBRUARY, I DIDN'T KNOW THAT I WAS STILL SUPPOSED TO WORK ON THE BASIS OF THE REPORTS. I TOOK WHAT YOU BROUGHT BACK AND CONSENTED TO AND CAME BACK WITH A NUMBER. I DIDN'T DO ANYMORE SEARCH GOING THOUGH IT. I DIDN'T FEEL LIKE THAT WAS WHAT I WAS SUPPOSED TO BE DOING AFTER WE STARTED THE TRIAL. AND THAT MIGHT HAVE BEEN MY FAULT. I APOLOGIZE. BUT ---

Q YOU DON'T DISPUTE THAT 17,000 AND CHANGE IS SHOWN ON YOUR REPORT IN 2004 AS AN AMOUNT OF MONEY THAT IS OWED BY MR. VEREEN BACK TO A&E? THAT CONSTITUTES PART OF YOUR $2,800,000 CHANGE NUMBER, CORRECT?

A ONE SECOND. OKAY. THIS 17 IS LEFT OFF OF YOUR REPORT THAT YOU GAVE ME THE DAY OF COURT. YOU DON'T LIST THE 17,426.80.

Q MA'AM, I HAVE ASKED YOU, WAS THE 17,000 AND CHANGE PART OF THAT 2,800,000 AND CHANGE YOU SAY MY CLIENT OWES A&E?

A YES, MA'AM.

Q AND DO YOU NOT ADMIT THAT THAT 17,000 AND CHANGE WHICH MAKES UP PART OF THE $2.8 MILLION WAS IN FACT A LEGITIMATE A&E EXPENSE PAID FOR BY MR.

VEREEN OR A&E BY VIRTUE OF THE CAROLINA FIRST CHECK?

A CAN I VERIFY MY RECORDS TO SEE IF THAT JOB IS ON THERE?

Q YES.

A YES. THAT WAS AN EXPENSE OF THE JACK FROST JOB.

Q THAT WAS A LEGITIMATE A&E EXPENSE THAT WAS PAID FOR THAT Y'ALL HAVE... AND YOU, AS AN EXPERT, HAVE INCLUDED AS PART OF YOUR $2.8 MILLION DOLLAR FIGURE SAYING MY CLIENT OWES A&E, CORRECT?

A CORRECT.

Q IF YOU WILL, LET'S LOOK AT 2004. YOUR SPREADSHEET FOR 2004 SETS FORTH WHAT MY CLIENT OWES A&E ACCORDING TO YOU. LET'S LOOK AT YOUR TAB 2 THAT BACKS UP PART OF THAT $2.8 MILLION. THIS IS 2004 AND YOUR LINE ITEM THAT REFERENCES TAB 2 IS FOR PRUDENTIAL INSURANCE FOR PREMIUMS PAID ON WAYNE'S LIFE INSURANCE, CORRECT?

A CORRECT.

Q AND YOUR 2004 REPORTS SAYS $3,050.60 IS OWED BACK BY MR. VEREEN TO A&E FOR PAYMENT OF HIS LIFE INSURANCE. THAT'S WHAT YOUR SPREADSHEET FOR 2004 BEFORE YOU MADE ANY ADJUSTMENTS PROVIDES, DOESN'T IT?

A CORRECT.

Q AND YOUR TAB 2, WHICH IS THE "BACKUP"... BECAUSE THAT'S BEHIND ALL THESE TABS. YOU'VE GOT YOUR SPREADSHEET THAT HAS THE SUMMARY AND THEN YOU'VE GOT THE TABS AS YOUR BACKUP AS TO HOW YOU ARRIVED AT THAT, IS THAT NOT CORRECT?

A CORRECT.

Q AND YOUR TAB 2 DOESN'T REALLY HAVE ANY BACKUP, BUT IT'S GOT A SHEET THAT YOU'VE LISTED WHERE PRUDENTIAL LIFE INSURANCE PREMIUMS WERE DRAFTED FROM THE A&E CHECKING ACCOUNT, CAROLINA FIRST ACCOUNT, CORRECT?

A CORRECT.

Q AND YOU'VE GOT THAT REFLECTED THAT'S THE $3,050.60 IS THE DRAFT FROM JUNE 15TH '04 THROUGH DECEMBER 15TH '04? SO, FOR HALF OF A YEAR, RIGHT?

A YES.

Q THAT WASN'T RIGHT, WAS IT?

A NO, MA'AM.

Q THERE WEREN'T DRAFTS FROM JUNE TO DECEMBER OF '04? YOU PUT THAT IN THERE BECAUSE YOU DISCUSSED THAT WITH MR. SMITH AND MR. SMITH BELIEVED HAD THOSE DRAFTS HAD BEEN MADE FOR THAT WHOLE HALF A YEAR, CORRECT? AND THAT'S WHY YOU PUT SIX PAYMENTS DOWN THERE?

A CORRECT.

Q AND WHEN YOU REALLY... AND THAT'S WHAT YOUR REPORT THAT'S IN EVIDENCE SAYS. BUT NOW, YOU'VE CORRECTED IT WHEN YOU GOT TO EXHIBIT 40, YOUR EXHIBIT 40? YOU CORRECTED IT BECAUSE YOU WENT BACK EVEN BEFORE WE CAME TO TRIAL AND YOU VERIFIED FROM THE BANK ACCOUNT... FROM THE BANK STATEMENTS, "WHICH DON'T LIE" WHICH TELL THE TRUTH, THAT THERE WASN'T A DRAFT EVERY MONTH FROM JUNE TO DECEMBER? YOU CORRECTED THAT BECAUSE YOU WENT BACK TO LOOK AT THE BANK RECORDS AND THERE WERE ONLY DRAFTS IN OCTOBER, NOVEMBER AND DECEMBER. ISN'T THAT RIGHT?

A NO, MA'AM. THAT STATEMENT WAS NOT CORRECT. THE 2.8 MILLION DOES NOT INCLUDE THOSE DRAFTS THAT YOU JUST SAID. WHAT WAS BEHIND TAB 2 SAID, "3,050", OKAY. BUT LONG BEFORE WE WENT TO COURT, WHEN WE GOT THE BANK STATEMENTS THAT WAS VERIFIED. THESE BOOKS; 2004, 2005, AND 2006 YOU ALREADY HAD COPIES. SO, INSTEAD OF US GOING BACK AND CHANGING EVERY YEARS' FINANCIAL STATEMENTS, WHEN WE STARTED GETTING ALL THE RECORDS IN 2007, AND WE'LL GET TO THAT BOOK... YOUR 2007 BOOK HAS ADJUSTMENTS FOR ANYTHING THAT WE FOUND THAT WAS PUT IN HERE AND THAT WE DISCOVERED WAS NOT CORRECT. SO, IT HAD NOTHING TO DO WITH BEFORE WE WENT TO TRIAL, THE 2007 BOOK NEVER INCLUDED THOSE TOTAL AMOUNTS.

Q NO, MA'AM. I DON'T BELIEVE THAT'S WHAT I ASKED YOU, BECAUSE I SAID, "THAT'S CORRECTED IN EXHIBIT 40". BUT YOU --

A IT WASN'T CORRECTED IN EXHIBIT 40. THERE WAS NO CHANGE... THAT BOOK --

Q EXHIBIT 40, WHICH IS YOUR COMPILATION AND SUMMARY --

A IT NEVER INCLUDED THAT NUMBER.

Q IT INCLUDES ALL THE NUMBERS AND ALL SUBSEQUENT ADJUSTMENTS YOU'VE MADE TO THE NUMBER, DOESN'T IT?

A THAT REPORT INCLUDES FROM... THE NUMBER ON THAT REPORT NEVER INCLUDED... THE ADJUSTMENTS WERE MADE BEFORE THAT FINAL REPORT WAS MADE.

Q I UNDERSTAND, MRS. BRADY. MAYBE WE ARE SAYING THE SAME THING, BUT DIFFERENT WAY. YOUR INITIAL WORK REFLECTED THAT A&E BELIEVED IT WAS OWED $3,050.00 FROM MR. VEREEN FOR DRAFTS FOR LIFE INSURANCE PREMIUMS? YOUR INITIAL WORK AND YOUR INITIAL OPINION, WAS THAT ACCOUNTS RECEIVABLE OF $3,050.00 WERE OWED BY MR. VEREEN TO A&E. THAT WAS YOUR INITIAL REPORT BEFORE YOU DID FURTHER DUE DILIGENCE AND FOUND OUT THAT THE NUMBERS YOU HAD IN YOUR INITIAL REPORT WEREN'T CORRECT? IS THAT A FAIR STATEMENT?

A NO, MA'AM. THESE BOOKS WERE ALL ISSUED AT ONE

TIME. THE 2004, 2005, 2006 AND THE 2007 BOOKS WERE ALL ISSUED AT THE SAME TIME. WHEN HE WENT IN TO CORRECT THE FINANCIAL STATEMENTS EACH YEAR, A JOURNAL ENTRY WAS MADE. IT WAS DONE PER YEAR SO THIS COULD BE FOLLOWED. REVIEWING THE CHECKS AND THE DEPOSITS FROM A&E WAS OVER $40 MILLION WORTH OF TRANSACTIONS. SO, ONCE THESE STATEMENTS WERE DONE IN 2004, 2005, 2006 AND 2007, ALL THESE BOOKS HAD BEEN DONE. WE FELT THE PROPER WAY WAS TO GO BACK AND ANY ENTRIES WE HAD MADE TO DO IN 2007, BECAUSE IF WE WOULD HAVE HAD TO REPRODUCE THE FINANCIAL STATEMENTS, GET BEGINNING BALANCES, ENDING BALANCES, RE-ENTER THAT INTO THE SOFTWARE, MOVE IT OVER TO 2005, RE-ENTER ALL THOSE BALANCES AGAIN, THAT WOULD HAVE BEEN MASSIVE TIME. AND IT WOULDN'T BE AS EASY TO FOLLOW AS IT IS NOW. I KNOW IT LOOKS LIKE THERE MIGHT HAVE BEEN A MISTAKE HERE, BUT THIS IS WHERE WE STARTED WITH THE DATA PER YEAR. AND IT WAS AFTER 2004, THAT I'VE GOT THE BANK STATEMENTS THAT WERE VERIFIED THAT THOSE DRAFTS DID NOT COME OUT. SO, ALL FOUR OF THESE BOOKS, ONCE THEY WERE ENTERED, THE LAST BOOK IS CORRECT. IF THERE WAS ANYTHING IN THE FIRST THREE YEARS JUST FOR EASE OF FOLLOWING THE TRIAL BALANCE AND THE FINANCIAL STATEMENT EVERY YEAR. SO, IT

WAS NEVER INCLUDED IN THAT FINAL REPORT AND AS I WAS SAYING EARLIER, I THINK THERE'S BEEN SOME CONFUSION THAT I CHANGED MY... AND CORRECTED MY FINAL REPORT. I NEVER CORRECTED IT AT ALL. I JUST ADDED WHAT YOU SAID YOU HAD CONSENTED FOR ARTHUR VEREEN AND HIS ENTITIES. I JUST MADE A NOTE INTO THAT. I DIDN'T CORRECT THE NUMBER THAT I HAD IN FEBRUARY. I DIDN'T CHANGE THAT WHATSOEVER UNTIL WE CAME BACK. THAT NUMBER HAS BEEN THE SAME, BUT WAY BEFORE WE CAME TO COURT.

Q WELL, MRS. BRADY, YOU SAID THOSE FOUR NOTEBOOKS WERE ALL ISSUED AT THE SAME TIME. THAT'S WHAT YOU JUST SAID, RIGHT?

A YES, MA'AM.

Q THAT'S NOT TRUE, IS IT? BECAUSE YOU HAD DONE THE 2004, 2005 AND 2006 NOTEBOOKS PRIOR TO US COMING BEFORE JUDGE HOWE ON THE COUNT OF THE OCTOBER 15TH ORDER THAT JUDGE HOWE ENTERED, WHICH SAID YOU HAD TO PROVIDE ME THE 2007 NOTEBOOK BY A CERTAIN DATE? THEY WEREN'T ALL ISSUED AT THE SAME TIME, WERE THEY, MRS. BRADY?

A I THOUGHT I DID ALL MY FINAL WORK. I DON'T KNOW WHAT DATE THEY WERE ISSUED TO YOU. I THOUGHT THEY WERE ALL GIVEN TO YOU AT THE SAME DATE.

Q YOU DON'T REMEMBER THAT ONE OF THE THINGS THAT

WERE TAKEN UP WHEN WE HAD ALL THE ACCOUNTANTS IN HERE WAS MR. DURANT SAYING THAT YOU HAD JUST FINISHED YOUR '07 BOOK AND YOU WOULD PROVIDE IT TO ME THE NEXT WEEK?

A I APOLOGIZE. I COULD HAVE SAID THAT. I DON'T KNOW.

Q LET'S GO TO... IF YOU... WELL, LET'S LOOK AT 2004, TAB 11. THAT GOES WITH THE ANNOTATION ON YOUR SPREADSHEET THAT SAYS, "CHECKS DEPOSITED INTO AVC." THAT'S ARTHUR VEREEN CONSTRUCTION, CORRECT, AS OPPOSED TO WAYNE VEREEN?

A YEAH.

Q ON 2004, ON YOUR SPREADSHEET AS THE DESCRIPTION FOR TAB 11, YOU'VE GOT "CHECKS DEPOSITED INTO AVC." THAT'S ARTHUR VEREEN CONSTRUCTION. "FOR S&S CARDIOLOGY." THAT'S SOUTH STRAND CARDIOLOGY. AND YOU'VE GOT $57,562.00 THAT'S ON YOUR SPREADSHEET, RIGHT?

A YES, MA'AM.

Q BOOK 1, EXHIBIT 1?

A YES.

Q AND ACCORDING TO THAT, A&E'S POSITION THAT MR. VEREEN OR ARTHUR VEREEN CONSTRUCTION OWES $57,562.00 TO A&E, IS THAT CORRECT?

A CORRECT.

Q SO, THAT AMOUNT WOULD BE PART OF THE $2,800,000 AND CHANGE THAT IS A&E'S POSITION MR. VEREEN OR HIS ENTITIES OWE, CORRECT?
A CORRECT.
Q IF YOU LOOK BEHIND YOUR TAB 11, THAT'S WHERE THE BACKUP SHOULD BE THAT SHOWS WHERE YOU GOT THAT NUMBER OF $57,562.00, RIGHT?
A NO. WHERE I GOT THE NUMBER FROM IS THIS SHEET OUT OF THE TAX RECORDS THAT WAS GIVEN TO SMITH SAPP'S OFFICE FROM CARRIE THE BOOKKEEPER FOR A&E.
Q MRS. BRADY, LISTEN TO ME. I SAID BEHIND TAB 11 IS THE BACKUP THAT PROVIDES THE BASIS FOR SAYING MR. VEREEN OWES THAT AMOUNT TO A&E, CORRECT?
A CORRECT.
Q THAT BACKUP IS BEHIND YOUR TAB 11 IN EXHIBIT 1?
A CORRECT.
Q IT CONSISTS OF TWO PAGES, DOESN'T IT?
A YES, MA'AM.
Q THE TOP PAGE IS WHAT?
A THAT IS A NOTE IN THE FILE THAT SAID, "RECEIVED $57,562 FROM SOUTH STRAND, DEPOSITED INTO PARKWAY OFFICE ACCOUNTS PER WAYNE."
Q DO YOU KNOW WHOSE WRITING THIS IS?
A I DO NOT.
Q WHAT FILE WAS THIS PIECE OF PAPER IN?

A THIS WAS IN SMITH SAPP'S FILES. THEY VERIFIED THAT THIS CAME FROM A&E'S OFFICE.
Q AND BEHIND THAT IS A CHECK OR A COPY OF A DEPOSIT SLIP, ISN'T IT?
A YES, MA'AM.
Q AND IT SHOWS A MAY 18, 2004 DEPOSIT INTO ARTHUR VEREEN CONSTRUCTION COMPANY, NOT PARKWAY OFFICES ACCOUNT AS THE NOTE SAYS, BUT IT DOES SHOW A DEPOSIT OF $50,000? IT'S GOT "SS CARDIOLOGY, MAY 18TH 2004." THAT'S WHAT THAT SHOWS, CORRECT?
A CORRECT.
Q AND THESE ARE THE TWO THINGS THAT FORM THE BASIS OF A&E'S POSITION THAT THEY'RE OWED $57,562.00 FROM MR. VEREEN?
A CORRECT.
Q OTHER THAN THE NOTE, WHICH MAKES REFERENCE TO AN INCORRECT DEPOSIT INTO AN ACCOUNT WHERE IT WASN'T DEPOSITED INTO, WE DO HAVE A CHECK THAT SHOWS $50,000.00 DEPOSITED INTO ARTHUR VEREEN CONSTRUCTION ON SOUTH STRAND. WHOSE JOB WAS SOUTH STRAND? WAS THAT AN A&E ACCOUNT OR WAS THAT AN ARTHUR VEREEN CONSTRUCTION ACCOUNT OR DO YOU KNOW?
A I CAN JUST TELL YOU THERE WERE EXPENSES PAID FOR A&E AND OBVIOUSLY MONEY DEPOSITED INTO ANOTHER COMPANY. TECHNICALLY, WHOSE JOB THAT IS, I DON'T

KNOW THAT I CAN ANSWER THAT QUESTION.
Q OKAY. IF IT'S NOT AN A&E ACCOUNT, IF IT'S NOT AN A&E JOB, WHY WOULD ANYBODY OWE A&E MONEY?
A BECAUSE A&E PAID SEVERAL EXPENSES ON THE JOB.
Q WHERE THOSE EXPENSES OVER $50,000.00?
A I WOULD HAVE TO LOOK BACK ON THE 2004 TO TELL YOU HOW MUCH THEY WERE. I JUST KNOW THERE WERE SEVERAL CHECKS.
Q WELL, OTHER THAN THIS $50,000.00 CHECK THAT SHOWS BEING DEPOSITED INTO ARTHUR VEREEN CONSTRUCTION, DO YOU HAVE ANY OTHER BASIS FOR THE ADDITIONAL AMOUNT OF THE $7,562 THAT YOU'RE CHARGING TO MY CLIENT?
A THE ONLY BASIS I HAVE IS WHAT THE CPA THAT DID THEIR TAX RETURN TOLD ME THEY WERE INFORMED AT THEIR OFFICE.
Q I'M NOT ASKING YOU WHAT ANYBODY --
A I'M TELLING YOU WHAT I THOUGHT.
Q I DON'T WANT YOU TO TELL ME WHAT ANYBODY SAID. I KNOW THAT THIS CAME FROM THEIR RECORDS, BUT OTHER THAN THIS PIECE OF PAPER, THESE TWO PIECES OF PAPER, EXCLUDING ANYTHING THAT ANOTHER ACCOUNTANT MIGHT HAVE SAID TO YOU, OTHER THAN THESE TWO PIECES OF PAPER, HAVE YOU CHECKED THE BOOKS AND RECORDS, THE DEPOSITS, THE CHECKS... I THOUGHT YOU

HAD OF PARK PLACE PROPERTIES, PARKWAY OFFICES, ARTHUR VEREEN CONSTRUCTION AND A&E. DID YOU FIND ANOTHER DEPOSIT THAT YOU BELIEVE SHOULD HAVE GONE INTO A&E FOR $7,250 IN ANY OF THOSE OTHER ACCOUNTS?

A I WOULD HAVE TO LOOK BACK. THERE IS SOME ACTIVITY ON PARK PLACE THAT WAS ASSOCIATED WITH THAT. I WOULD PROBABLY HAVE TO PULL THAT GENERAL LEDGER TO ANSWER THAT QUESTION.

Q PLEASE FEEL FREE.

A I DON'T REMEMBER THAT EXHIBIT.

OFF THE RECORD.

MR. DURANT: YOUR HONOR, IF IT WILL SIMPLIFY MATTERS, THE PLAINTIFF WILL STIPULATE TO THE REMOVAL OF $17,426.00 AND WE WILL ALSO STIPULATE TO THE REMOVAL OF THE $7,562.00 BECAUSE IT IS DIFFERENT THAN THE $50,000.00 DEPOSIT THAT WAS PUT INTO ANOTHER ACCOUNT BECAUSE THIS MONEY DIDN'T COME IN OUR ACCOUNT.

JUDGE HOWE: VERY GOOD. THANK YOU, MR. DURANT.

Q MAYBE WE CAN WHITTLE THIS DOWN A LITTLE BIT MORE. LET ME PROCEED ON THEN. COULD I HAVE YOU PLEASE,

MA'AM, WE'RE STILL IN 2004 AND I'M GOING TO LOOK AT YOUR LINE ITEM 4 ON YOUR SPREADSHEET.

A TAB 4.

Q YES, MA'AM. WHICH IS ENTITLED, "JOHN HANCOCK, WAYNE'S LIFE INSURANCE." AND ON YOUR SPREADSHEET AS I INTERPRET IT... AS YOUR SPREADSHEET READS, IT APPEARS THAT A&E'S POSITION IS THAT MR. VEREEN OWES $3,601.50 FOR LIFE INSURANCE PREMIUMS A&E PAID TO JOHN HANCOCK ON MR. VEREEN LIFE, IS THAT CORRECT?

A THAT'S CORRECT.

Q NOW, THE BACKUP FOR THAT, AS I UNDERSTOOD, IS BEHIND YOUR TAB 4 IN YOUR NOTEBOOK?

A CORRECT.

Q AND A BACKUP THAT YOU HAVE UNDER TAB 4 IS A LISTING TYPE LIST SHOWING DRAFTS FROM JUNE 1ST '04 TO DECEMBER 1ST '04 FROM THE A&E, CAROLINA FIRST ACCOUNT THAT ADDS UP TO THAT $3,601.50, CORRECT?

A CORRECT.

Q NOW, YOU WENT AND YOU VERIFIED THAT, DIDN'T YOU, ON THE BANK ACCOUNTS FROM JUNE THROUGH DECEMBER OF 2004, AND THAT IN FACT, THERE WERE DRAFTS OUT OF THE CAROLINA FIRST ACCOUNT TO JOHN HANCOCK FOR THOSE PREMIUMS, DIDN'T YOU?

A NO. ONCE I VERIFIED IT AND FOUND OUT THEY WERE