

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the Integrity of Southern Bell's Repair Service Activities and Reports.

DOCKET NO. 910163-TL

Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone & Telegraph Company

DOCKET NO. 910260-TL

COPY

DEPOSITION OF: C. L. CUTHBERTSON, JR., and C. J. SANDERS

TAKEN AT THE INSTANCE OF: Office of Public Counsel

DATE: Wednesday, June 17, 1992

TIME: Commenced at 8:30 a.m.  
Concluded at 1:00 p.m.

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REPORTED BY: JANE FAUROT  
Notary Public in and for the State of Florida at Large

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\* \* \* \* \*

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C. L. CUTHBERTSON, JR. and C. J. SANDERS  
 Direct Examination by Mr. Beck

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S T I P U L A T I O N S

1                   The following deposition of C. L. CUTHBERTSON,  
2  
3 JR., and C. J. SANDERS was taken on oral examination,  
4 pursuant to notice, for purposes of discovery, and for use  
5 as evidence, and for other uses and purposes as may be  
6 permitted by the applicable and governing rules. All  
7 objections, except as to the form of the question, are  
8 reserved until the final hearing in this cause; and reading  
9 and signing is not waived.

10                   \* \* \*

11           MR. BECK: My name is Charles Beck. I'm with the  
12 Office of Public Counsel, and I will be conducting the  
13 deposition today for our office. With me is Earl  
14 Poucher and Sue Richardson.

15           MR. ANTHONY: Harris Anthony, representing  
16 Southern Bell Telephone and Telegraph Company.

17           MS. GREEN: Angela Green on behalf of the  
18 Commission Staff. And with me today is Jean Wilson,  
19 and from our technical staff, Stan Greer and Terrill  
20 Booker.

21           MR. BECK: I didn't see the need for any  
22 stipulations, but if you want any, you know, it is up  
23 to you.

24           MR. ANTHONY: Well, we'll stipulate that it is to  
25 proper notice and that we won't waive reading and

1 signing. We won't go off the record without the  
2 consent of the witnesses, and save the objections,  
3 except as to the form of the question, and as to  
4 privilege, until the time of the hearings. If that is  
5 acceptable with everybody?

6 MR. BECK: Sure.

7 MS. GREEN: That's fine.

8 MR. BECK: And I think we agreed ahead of time  
9 that we are going to conduct this deposition as a  
10 panel. There may be times when I direct questions to  
11 one of the witnesses or the other, but we will take  
12 that as it comes.

13 MR. ANTHONY: And, Charlie, just one other thing  
14 for the record. Since some of the underlying  
15 information is subject to a motion for temporary  
16 protective order, we will keep the transcript on a  
17 confidential basis, and then Southern Bell will be  
18 filing a specified confidential request once we have  
19 the transcript, the line-by-line request.

20 Thereupon,

21 C. L. CUTHBERTSON

22 and

23 C. J. SANDERS

24 were called as witnesses, having been first duly sworn, were  
25 examined and testified as follows:

## DIRECT EXAMINATION

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BY MR. BECK:

Q Mr. Cuthbertson, could you tell me, are you employed by Southern Bell?

A (By Witness Cuthbertson) Yes, I am.

Q What is your position?

A I am General Manager-Human Resources.

Q What is the scope of your responsibilities in that position?

A I have responsibilities for the overall human resources functions in Florida and in Alabama.

Q What is encompassed by human resources?

A Human resources includes items such as employment, selections of employees for other jobs, responsibilities for certain things in the area of benefits, safety, labor relations, equal employment opportunity, the areas such as management discipline, those areas are my responsibility.

Q How long have you held that position?

A I have been in my present job since July of 1989, as far as my duties relate to Florida.

Q Is it different for Alabama?

A No. I answered the question that way because the Alabama duties were added in April of 1991.

Q What position did you hold with Southern Bell before that?

1           A     I held a similar position in the State of Georgia  
2 from 1985 up until I came to Florida in July of 1989.

3           Q     Mr. Sanders, what is your position with Southern  
4 Bell?

5           A     (By Witness Sanders) Vice President for  
6 Network-South Operations.

7           Q     What do South Operations encompass?

8           A     The State of Florida and Alabama from the  
9 standpoint of responsibility for outside plant engineering,  
10 construction, installation, maintenance and network center  
11 operations in the states of Florida and Alabama.

12          Q     Would all people who are employed by installation  
13 and maintenance centers in Florida come under your  
14 responsibility?

15          A     Yes, they would.

16          Q     How long have you held that position?

17          A     That particular position, since April of '91.

18          Q     What position did you hold before that?

19          A     From March of '91 until April of '91, I was Vice  
20 President for Network for Florida.

21          Q     Is that the same as your current job, except  
22 geographically more limited?

23          A     No, it's not. Under the network Florida job, I  
24 had both the engineering and planning operations, plus the  
25 other network operations I mentioned, and I didn't have the

1 State of Alabama.

2 Q Why did you hold that job for about two months?

3 A Because the Company was in the process of  
4 reorganizing. Earl Crittenden's (phonetic) retirement was  
5 announced, and I came down to replace Earl. And the next  
6 month or two the Company reorganized, and my  
7 responsibilities were changed and I picked up the state of  
8 Alabama.

9 Q What position did you have with Southern Bell  
10 before March of '91?

11 A I didn't have a position before March of '91 with  
12 Southern Bell.

13 Q With whom?

14 A South Central Bell. I was Vice President and  
15 Comptroller.

16 Q And did that encompass the five South Central Bell  
17 states?

18 A As Vice President and Comptroller, yes.

19 Q How long did you hold that position?

20 A You're testing me, but I think it was about a  
21 year.

22 Q What did you hold before that?

23 A I was Vice President for Network Provisioning in  
24 South Central Bell.

25 Q Is that similar to the job you held from March to



1 April in '91 in Southern Bell?

2 A No. The network provisioning job in South Central  
3 Bell was a job which included the engineering and planning,  
4 operation and construction for the five South Central Bell  
5 states.

6 Q How long have you been employed by Southern Bell  
7 or South Central Bell?

8 A Thirty-three years.

9 Q Has most of your experience been in network?

10 A The majority of the time I have been in network.

11 Q I wonder if I could direct both of your  
12 gentlemen's attention to the first document on the top here,  
13 which is a memorandum, Mr. Cuthbertson, from you.

14 MR. BECK: Could I have that marked for  
15 identification?

16 (Exhibit No. 1 marked for identification.)

17 BY MR. BECK:

18 Q Okay. This Exhibit No. 1 for identification  
19 consists of four page. And, Mr. Cuthbertson, the first page  
20 of Exhibit No. 1 for identification appears to be a memo  
21 sent from you to Ms. Becky Dunn.

22 A (By Witness Cuthbertson) Right.

23 Q Do you recognize this memo?

24 A Yes, I do.

25 Q Could you tell me who Becky Dunn is?

1 A She is Vice President of Human Resources.

2 Q Does she report to you?

3 A No, no, the opposite. She's the, like I say, the  
4 Vice President for Human Resources for the entire company.

5 Q By entire company, you mean BellSouth  
6 Telecommunications?

7 A Yes.

8 Q How many counterparts are there to yourself that  
9 report to Ms. Dunn?

10 A I do not report directly to Ms. Dunn. I report to  
11 Assistant Vice President for Human Resources, Howard Boone.

12 Q And does he in turn report to Ms. Dunn?

13 A Correct.

14 Q And was this memo sent on June 18th, 1991?

15 A I don't recall the exact date, but I am sure it  
16 was sent here that day.

17 Q Your memo discusses a discipline process that was  
18 anticipated for three categories of employees, is that  
19 correct?

20 A Correct.

21 Q Could you tell me, generally, what types of  
22 actions or omissions by employees formed the basis for this  
23 disciplinary process?

24 MR. ANTHONY: To the extent that that question  
25 calls for information that would be derived from the

1 privileged investigation conducted at Southern Bell, at  
2 legal counsel's request, I am going to object, that's  
3 privileged. To the extent Mr. Cuthbertson can answer  
4 the question to those parts not related to the  
5 privilege, he is free to answer.

6 MR. BECK: Okay. I am going to have a problem  
7 with that, Hank. I want full answers, unless you tell  
8 him, you direct him not to answer. I will take that as  
9 an objection that we can get -- go to the Commission  
10 with, but I don't want to get half an answer and know I  
11 am not getting the other half. In other words, I want  
12 to know when he has information responsive to my  
13 question that he is not going to provide.

14 MR. ANTHONY: Well, I don't mind his saying, if  
15 you don't mind, if, for example, he says, "I have  
16 certain information that is based on the investigation.  
17 I am not going to give you that," so that you will know  
18 there is some information out there. And then if he  
19 has other information that is responsive, I don't want  
20 to preclude you from getting that, that is not  
21 otherwise privileged, if that's agreeable with you.

22 MR. BECK: All right. Let's make it clear, then,  
23 so all of us are on the same wavelength. If I ask you  
24 a question, and you have any knowledge about the  
25 answer, but you think part of it may be based on

1 something that your attorney is going to direct you not  
2 to answer, I need to know that. So, if you are not  
3 answering something because it is something that he  
4 doesn't want you to disclose, you have to tell us that  
5 so that we can have the Commission and maybe a court  
6 ultimately review that. Is that agreeable to both of  
7 you?

8 MR. ANTHONY: Do you all understand?

9 WITNESS SANDERS: Yes, I think I do.

10 WITNESS CUTHBERTSON: We will have to try it as we  
11 go through.

12 MR. ANTHONY: And you all are going to have to --  
13 from the question, I can pretty well determine whether  
14 it is directed at the privileged information or not.  
15 But there are times that there may be additional  
16 information that you have. So, if you do, feel free to  
17 do it in the manner that we have just described.

18 BY MR. BECK: Could you repeat the question?

19 (Pending question read back by reporter.)

20 BY MR. BECK:

21 Q Mr. Cuthbertson, could you answer my question?

22 A (By Witness Cuthbertson) As far as the specific  
23 acts are concerned, I have no information other than what  
24 was contained in the information that we considered  
25 privileged.

1 Q So, you know what types of actions or omissions by  
2 your employees that formed the basis for this disciplinary  
3 process, is that correct?

4 A The knowledge that I have is restricted to the  
5 investigative material that was provided to me by the  
6 attorneys.

7 Q We need to make this very clear. You do have  
8 knowledge of the types of actions and omissions by employees  
9 of your company that formed the basis for this disciplinary  
10 process, is that correct?

11 A Yes, I do.

12 MR. BECK: Now, are you directing --

13 MR. ANTHONY: I am directing him not to reveal  
14 that information insofar as it is based on the  
15 investigation.

16 MR. BECK: So, notwithstanding he knows what these  
17 acts and omissions are, he is not going to tell us,  
18 based on your direction because they are derived from  
19 some investigation you may have conducted?

20 MR. ANTHONY: Because it is privileged  
21 information, his involvement is part of that privilege.  
22 And, therefore, it's not within the proper scope of  
23 discovery.

24 MR. BECK: Okay. And you are taking the position,  
25 then, that the actual facts themselves, or the actual

1 acts cannot be disclosed if he learned about them from  
2 some investigation you may have conducted?

3 MR. ANTHONY: That's correct.

4 BY MR. BECK:

5 Q Mr. Cuthbertson, your memo and the three attached  
6 pages describe three different levels of employees, if you  
7 would, that are going to be processed in particular ways, is  
8 that correct?

9 A (By Mr. Cuthbertson) Correct.

10 Q You have one process for craft employees, another  
11 process for Pay Grade 5 and below managers, and yet a third  
12 process for Pay Grade 6 and above managers, is that correct?

13 A That is correct.

14 Q Could you turn to the second page? This generally  
15 describes your disciplinary process for craft employees, is  
16 that correct?

17 A Correct.

18 Q And as I understand it, you had three people  
19 review information regarding craft employees, is that  
20 correct?

21 A Correct.

22 Q That is Dave Mower?

23 A Mower, Dave Mower.

24 Q Mower. Could you tell me who he is?

25 A Dave Mower is the Operations Manager for Human

1 Resources for the North Florida area.

2 Q The second person is Dwane Ward.

3 A Correct.

4 Q Who is he?

5 A Dwane Ward is the Operations Manager for Human

6 Resources for the Southeast Florida area.

7 Q And the third person is Mr. Henry Dawson?

8 A Henry Dawson, correct.

9 Q Who is he?

10 A Henry Dawson is Operations Manager on the

11 Headquarters Labor Relations staff.

12 Q How are these three persons selected to perform  
13 this function?

14 A I selected the three people based on their  
15 backgrounds and experience.

16 Q And what background and experience did you  
17 consider relevant or necessary for this process?

18 A Well, I wanted people that were familiar with  
19 labor relations issues, that were familiar with the  
20 disciplinary process, that had experience in dealing with  
21 the union. Quite frankly, there was also some practical  
22 considerations, in that Mower and Ward are both people in  
23 Florida and are readily available. We looked to try to get  
24 someone from outside the state, such as Dawson, that would  
25 be outside the immediate area of the state to make sure it

1 was an objective process.

2 Q Okay. Did they meet as a panel or in some other  
3 procedure?

4 A No, they met as a panel.

5 Q Do you recall what times they met?

6 A Mr. Beck, I can't give you exact dates, but it  
7 was, oh, in the summer, the time frame, I guess, August. I  
8 don't recall exactly.

9 Q And that is August of 1991?

10 A Correct.

11 Q Did you participate with them when they met as a  
12 panel?

13 A No, I didn't participate with them. I consulted  
14 with them a few times, but I really didn't participate in  
15 the process.

16 Q Did they meet at any other time other than that  
17 area around August 1991?

18 A They may have met sometime subsequent to that, but  
19 I am just not sure. I don't recall.

20 Q What were their responsibilities?

21 A Their responsibilities were to develop  
22 recommendations for any discipline that might be appropriate  
23 for non-management or craft employees.

24 Q For what?

25 A For information that was included in the



1     investigative material provided by the legal staff.

2           Q     Were any other sources of information used in any  
3 manner in this process?

4           A     To my knowledge, no.

5           Q     Did they issue a report or a written  
6 recommendation to you as a result of this process?

7           A     Yes. They developed a list of recommendations for  
8 the discipline of those that they felt merited discipline.

9           Q     Now, you say they reviewed an investigation  
10 provided by legal in August of 1991, is that right?

11          A     About that time frame.

12          Q     Were any subsequent reports or supplements to that  
13 report ever provided to the panel, or was the report  
14 essentially complete in August of '91?

15          A     I don't recall any subsequent reports. There may  
16 have been, but I don't recall.

17          Q     Do you recall whether that list of recommendations  
18 from this panel has been provided to us in response to a  
19 request for documents?

20               MR. ANTHONY: Charlie, let me interject. No, it  
21 hasn't been. No discipline of any craft employees has  
22 taken place, so there is nothing to provide to you.

23               MR. BECK: That wasn't my question.

24 BY MR. BECK:

25          Q     I understood, Mr. Cuthbertson, that there was a

1 list of recommendations that was developed from this panel.

2 A That's right. And what counsel is saying is that  
3 has not been provided to you.

4 MR. ANTHONY: As I said, that is because your  
5 request for production related to discipline that had  
6 been taken, and no craft employee has been disciplined.

7 MR. BECK: I would like to request that list that  
8 was completed by the panel as Late-filed No. 1. If it  
9 is agreeable with you, Hank, that I ask for late-filed  
10 exhibits, the same as a request for production of  
11 documents.

12 MR. ANTHONY: I will cooperate with you to the  
13 extent I can.

14 MR. BECK: And that we would get them in 30 days,  
15 or your response or your objection.

16 MR. ANTHONY: Yes. Okay. So you want the panel  
17 recommendation regarding craft discipline?

18 (Late-Filed Exhibit No. 1 identified.)

19 BY MR. BECK:

20 Q Mr. Cuthbertson, you believe it was about August  
21 of '91 when this list of recommendations we were discussing  
22 was produced by the panel?

23 A That's my recollection. I could be wrong, but  
24 that is what I recall at the moment.

25 Q Okay. And as I understand from comments of your

1 counsel, and correct me if I am wrong, that no disciplinary  
2 action has been taken against craft employees?

3 A Correct.

4 Q Why is that?

5 A We just haven't made the decision yet as to what  
6 we are going to do with craft employees.

7 Q So, the recommendations were made in August of  
8 '91, and it is all just pending at the moment?

9 A Correct.

10 Q Have there been any changes by yourself or other  
11 management employees that you know of regarding the list of  
12 recommended actions since August '91?

13 A Ask the question again.

14 Q As I understand it, in August of '91, and we have  
15 asked for this list, there is a list of names of persons  
16 that were recommended for disciplinary action in craft?

17 A Uh-huh.

18 Q Have there been any changes to the recommendations  
19 since that time?

20 A Not that I am aware of.

21 Q Are there any craft employees who you believe may  
22 or should be disciplined that are not on that list?

23 A I am not aware of any.

24 Q Why has the Company not decided, or why is it  
25 still pending, the action?

1           A     We simply have not made the decision what is the  
2 appropriate thing to do with the craft employees.

3           Q     When was the last time you discussed this with  
4 another person at Southern Bell?

5           A     Mr. Beck, I'm trying to recall, perhaps six weeks  
6 ago, but I can't be definite as to when I discussed it last.

7           Q     Do you recall with whom that was?

8           A     Yes, I had some discussions with counsel regarding  
9 this. I also had discussions, brief discussions, with Becky  
10 Dunn about this matter.

11          Q     And could you describe for me the gist of your  
12 conversation with Becky Dunn?

13          A     It was actually rather brief, just simply a matter  
14 that we still did not feel that we were in a position at  
15 this point to make a final decision regarding what we wanted  
16 to do with the craft employees. And we just decided that it  
17 is still a pending matter.

18          Q     Okay. And could you discuss why you felt you were  
19 not in a position to make that decision?

20          A     I guess part of the issue here is still some  
21 concern about if more information might be forthcoming. And  
22 so we have just simply decided we are not in a position to  
23 make a decision at this point.

24          Q     What type of additional information do you believe  
25 might be forthcoming?

1           A     I don't know.

2           Q     Well, I'm having trouble understanding this. I  
3 take from what you said that you decided to not go forward  
4 because more information might be forthcoming, but you don't  
5 have a basis for an expectation that more information might  
6 be coming?

7           A     If I knew where the more information was coming  
8 from, I would go get it. But since I don't know what there  
9 may be, I can't tell you what I would do.

10          Q     But if you don't expect any more information, why  
11 would you be waiting to take the discipline on the  
12 possibility that more information may be coming? It doesn't  
13 make sense to me. I am just trying to understand.

14          A     Well, any issue like this, there is always the  
15 chance that you may find additional information regarding  
16 people. And we simply want to be as sure as we can that we  
17 are doing the absolute right thing with the non-management  
18 employees.

19          Q     You don't have, or correct me if I am wrong, do  
20 you have any expectation that there will be additional  
21 information forthcoming?

22          A     I don't have anything specific that I am  
23 expecting, but I think I've got an obligation to try to be  
24 very sure that there is nothing else out there.

25          Q     Do you recall about or an order of magnitude of

1 how many people are on the recommended list that came from  
2 this craft panel?

3 A Mr. Beck, I will just have to make an estimate. I  
4 don't recall ever counting them, somewhere in the range of  
5 75 or 80 people. And that is purely an estimate based on my  
6 recollection of the list.

7 Q I understand. I am trying to get an order of  
8 magnitude, feeling for it.

9 Was the list or the report of this panel ever  
10 used, or to your knowledge used in any internal audits by  
11 the Company?

12 A Not that I am aware of.

13 Q Separate from the list, is there an actual report  
14 from the panel?

15 A No.

16 Q Could you describe for me what they produced,  
17 other than simply a list of employees, craft employees?

18 A They produced a list, the recommended discipline  
19 by this group, and there may have been in some cases a  
20 brief, some brief notes on the report giving their  
21 rationale. I am really unclear, right now, as to what was  
22 on there, but I think there may have been some notes in some  
23 cases.

24 MR. BECK: Hank, let me clarify our Late-Filed No.

25 1. I would like to ask for all documents produced by

1 or in conjunction with this panel, and that would  
2 include the notes that Mr. Cuthbertson just mentioned.

3 MR. ANTHONY: I will see what's there. To the  
4 extent it may contain, again, what we believe to be  
5 privileged information, we will not provide that. But  
6 anything else that is not privileged, we'll provide.

7 MR. BECK: I understand. But, you know, I am  
8 treating this as an equivalent to a request for  
9 production of documents.

10 MR. ANTHONY: I will file a response either with  
11 documents, or the objections, or both.

12 MR. BECK: Fine. I want to make it clear that the  
13 request does encompass that, and if you object, fine,  
14 just so you realize we are requesting that.

15 BY MR. BECK:

16 Q Did the panel produce any recommendations not  
17 relating to discipline?

18 A No.

19 Q Back to this page that we have been looking at, it  
20 said the recommendations of the group will be reviewed by  
21 Jerry Barnes and yourself, is that correct?

22 A Correct.

23 Q Who is Mr. Barnes?

24 A Jerry Barnes is the Assistant Vice President for  
25 Labor Relations for BellSouth Telecommunications.

1 Q And did you and Mr. Barnes, in fact, review the  
2 recommendations of the group?

3 A Yes, we have.

4 Q Okay. And when did you do that?

5 A Mr. Beck, I don't recall dates. It was sometime  
6 in the fall, but I don't remember. I just don't recall when  
7 we did that.

8 Q Did you have an actual meeting where you did that?

9 A Yes. He and I -- I'm trying to recall if we  
10 talked by telephone or if we actually had a meeting. And I  
11 don't remember. I know we discussed the matter, but I don't  
12 remember if it was a telephone meeting or if it was a  
13 face-to-face meeting.

14 Q Okay. And in this meeting, you know, be it by  
15 telephone or face-to-face, did you have the recommendations  
16 from the panel before you?

17 A Yes.

18 Q And I would gather you also had the investigation  
19 conducted by legal, also, or did you?

20 A No.

21 Q Did you have any other materials that you  
22 considered in reviewing the recommendations?

23 A No.

24 Q Did you prepare any written documents as a result  
25 of the meeting with Mr. Barnes?



1 A No.

2 Q Okay. What did your review culminate in? What  
3 was the result of your review?

4 A Our review process was really to talk about the --  
5 more or less in general terms what the panel had done. We  
6 made no attempt to review specific individual people or  
7 anything like that. We simply went over in a general nature  
8 the process that had been followed, and that was pretty much  
9 the extent of it. We looked at it, not on an individual  
10 basis, but on an overall basis.

11 Q And did you have any opinions in that regard about  
12 the overall basis of what had been done?

13 A Our conclusion at the time was that we would hold  
14 the matter in abeyance and not proceed with the  
15 recommendations at that point. And that was the situation  
16 at that time.

17 Q And why did you conclude that?

18 A Well, the same thing that I have mentioned  
19 earlier, some concern about what other information might  
20 become available at a subsequent time. And I guess an  
21 overriding concern about fairness to the people involved.

22 Q Fairness in what way?

23 A Well, making sure that if there was other  
24 information that it would be available to us before we made  
25 a decision to implement any discipline.

1 Q Back on the document, Item No. 4 says either  
2 yourself or Mr. Barnes would review with Ms. Dunn the  
3 general discipline situation. Did you do that?

4 A Yes, I did that.

5 Q Okay. Could you describe for me the discussions  
6 you had with Ms. Dunn about that?

7 A Essentially, it was just telling her what the  
8 panel had done, the panel had completed its work; that  
9 Barnes and I had talked about it, and that it was our  
10 conclusion at the moment to not proceed with implementing  
11 those recommendations, and she basically concurred with  
12 that.

13 Q Was this done orally or were there any memoranda  
14 related to that?

15 A No, it was strictly oral.

16 Q No. 5 says discipline recommendations will be made  
17 to the appropriate department representative. Did that ever  
18 occur?

19 A That has not occurred.

20 Q So basically the process stopped with the review  
21 by Ms. Dunn?

22 A That's right.

23 Q Do you have any feeling for when the process may  
24 go forward?

25 A No, I really don't.

1           Q     Well, what needs to be done in order for the  
2 process to go forward?

3           A     Well, we have to make two basic decisions here.  
4 One is do we feel we are at a point that we are going to  
5 stop waiting for any additional information. And then,  
6 secondly, do we want to implement these recommendations or  
7 not.

8           Q     Now, the recommendations, do they provide specific  
9 recommendations of the type of discipline for each specific  
10 employee?

11          A     That's correct.

12          Q     Could you tell me what the ranges of discipline or  
13 the type of actions recommended are?

14          A     The ranges of discipline for -- the recommended  
15 discipline for the craft employees ranges from a counseling  
16 entry in their records to -- I'm trying to recall if those  
17 recommendations may include some warning entries, I don't  
18 recall right now if they do or don't. But the discipline  
19 did not extend to anything more serious than a warning, if  
20 it did include that, and I just don't recall right now if it  
21 did.

22          Q     Are counseling entries in the person's personnel  
23 record a relatively low level type of discipline?

24          A     Yes, it is.

25          Q     Is that the lowest or is there any other type that

1 is lower than that?

2 A That is the lowest level of discipline that we  
3 have.

4 Q What are the consequences of receiving a  
5 counseling entry in a personnel record?

6 A Well, the purpose of a counseling entry is to make  
7 the person aware of whatever deficiency there might be so  
8 that there won't be a repeat of that.

9 Q And could you describe how a warning compares to  
10 that?

11 A Well, a warning is really a formal notice to a  
12 person that should this occur in the future there will be  
13 some penalty involved.

14 Q Would this be, then, a predicate to imposing a  
15 penalty at a later time, if there were a repeat?

16 A That's right.

17 Q Okay. Is a reprimand a higher level of discipline  
18 than a warning?

19 A We tend to -- I say "we," I will say I. I tend to  
20 equate reprimands and warning. I think reprimands may carry  
21 a little bit stronger connotation, but it is essentially  
22 used interchangeably.

23 Q In your management discipline, which we haven't  
24 gotten into yet, you do distinguish between warning and  
25 reprimands, do you not?

1           A     We use both words in the management discipline  
2 process. Sometimes we use warning; sometimes we use  
3 reprimand, but in my mind, they are essentially equivalent.

4           Q     Why would you use one rather than the other?

5           A     I think there is some cases where you are  
6 attempting to convey perhaps a bit of a stronger feeling,  
7 and you might use the word "reprimand." But, as far as a  
8 four-step discipline process, which our company uses, it  
9 would be interchangeable.

10          Q     And would a financial penalty be a level higher  
11 than either a warning or a reprimand?

12          A     Yes, it would.

13          Q     And to your recollection, there are no financial  
14 penalties recommended for craft employees?

15          A     That's correct.

16          Q     Would you have the ability to implement a  
17 financial penalty for a violation by craft employees?

18          A     The only ability we would have in that area for  
19 craft employees would be a suspension. Which means they  
20 cannot come to work for a certain period of time, and they  
21 are not paid for that period of time.

22          Q     You have implemented some, both reprimands and  
23 financial penalties for management employees, is that  
24 correct?

25          A     Correct.

1 Q In broad terms, why did you impose that type of  
2 discipline on management employees but not recommend any  
3 equivalent type of discipline on craft?

4 A The rationale for that is managers in this  
5 situation, I felt and the panel felt, had greater  
6 responsibility for what's going on in the office. And so  
7 there was a different discipline process, different forms of  
8 discipline were used because of the management having the  
9 greater responsibility.

10 Q Was there any feeling that the craft employees  
11 were simply following the directions of management?

12 MR. ANTHONY: I'm going to instruct the witness  
13 not to answer to the extent any of this is based on the  
14 investigation. To the extent he can answer it  
15 independent of that, he can answer it.

16 WITNESS CUTHBERTSON: Mr. Beck, I really can't  
17 answer, because I don't have information independent to  
18 the investigation that we consider privileged. So, I  
19 can't really answer that.

20 BY MR. BECK:

21 Q So you can't or you will not express an opinion  
22 about the relative culpability of management versus craft  
23 based upon your counsel's instructions?

24 A Correct.

25 Q But you do have such an opinion?

1 A Yes.

2 Q Okay. To your knowledge, would there be any  
3 management employee who can express such an opinion  
4 independent of the investigation your counsel refers to?

5 A Ask that again.

6 Q To your acknowledge, is there any management  
7 employee who can express an opinion on the relative  
8 culpability of management versus craft that could express  
9 such an opinion independent of the investigation that was  
10 conducted by legal?

11 A I really don't know.

12 Q At least you don't know of anybody who would?

13 A No.

14 Q Moving right along, let's go to the next page.  
15 The next page discusses the disciplinary process for Pay  
16 Grade 5 and below managers, is that correct?

17 A Correct.

18 Q Okay. And there was a panel of four persons for  
19 these employees, is that correct?

20 A Correct.

21 Q You were one of them?

22 A Correct.

23 Q Another person was Jesse Lamberth?

24 A Right.

25 Q Who is that person?

1           A     Jesse Lamberth at the time was Operations Manager,  
2 Personnel. I'm trying to recall the time his duties  
3 changed, and he had responsibilities for various personnel  
4 functions in Florida at the time this panel was convened.  
5 He is now retired.

6           Q     Do you know when he retired?

7           A     My recollection is November of '91.

8           Q     Another person on the panel is Sam Razor?

9           A     Razor.

10          Q     Razor. Could you tell me who he is?

11          A     Sam Razor is Assistant Vice President, Human  
12 Resources at headquarters.

13          Q     Headquarters in Atlanta?

14          A     Correct. His office is in Atlanta.

15          Q     Is he still in that position?

16          A     Yes.

17          Q     Okay. And the fourth person was Brenda Laird?

18          A     Correct.

19          Q     Could you tell me who she is?

20          A     Operations Manager of, once again, the office in  
21 Atlanta with headquarters responsibilities.

22          Q     In Human Resources?

23          A     Yes.

24          Q     Could you tell me how this panel of four was  
25 chosen?



1           A     Cuthbertson and Lamberth, once again, the  
2 practical nature of our being here, and following part of  
3 our duties.  Razor and Laird were included in a similar  
4 fashion that, as I explained about Henry Dawson on the other  
5 panel, was to provide people from outside Florida to ensure  
6 that there is an even higher degree of objectivity in making  
7 the decisions that were made.

8           Q     Okay.  Did the panel ever meet?

9           A     Yes.

10          Q     A number of times?

11          A     A number of times?  I don't recall, two, three  
12 times, something like that.  I don't recall exactly.

13          Q     Do you recall around when the first meeting  
14 occurred?

15          A     This panel also met in the August, I would think,  
16 August time frame.

17          Q     And then do you recall about subsequently when  
18 they met?

19          A     All of the panel meetings were fairly close  
20 together, August, September time frame.  There may have been  
21 some telephone consultations subsequent to that, but no  
22 subsequent meetings.

23          Q     Okay.  Could you describe for me what you did at  
24 the first meeting?

25          A     Well, we were, of course, asked by the legal staff

1 to do the job we were doing. We used the material that we  
2 had gotten from legal and reviewed the information available  
3 and then set about the process of coming up with discipline  
4 recommendations for the individuals.

5 Q Did you use any materials other than the  
6 investigation from legal?

7 A No.

8 Q Okay. So, I guess, during these meetings you  
9 discussed the investigation, is that correct?

10 A We discussed the materials that were available to  
11 us, yes.

12 Q Did you discuss specific acts or omissions by  
13 employees during the meetings to form a basis for a  
14 recommendation?

15 A Yes.

16 Q Okay. Could you tell me what specific acts and  
17 omissions were discussed that formed the basis for your  
18 recommendation?

19 MR. ANTHONY: I will instruct the witness not to  
20 respond to that question.

21 BY MR. BECK:

22 Q Did the panel produce any documents?

23 A Yes, the panel did produce a document.

24 Q Could you describe the document the panel  
25 produced?

1           A     The document that was produced by the panel  
2 consisted of names of individuals, the discipline  
3 recommended or if no discipline was recommended, and some  
4 brief rationale in some cases.

5           Q     Do you know whether that document has been  
6 provided to us in response to a document request?

7           A     That particular document has not been provided.

8           Q     Before I ask for that as Late-Filed Exhibit 2,  
9 were there any notes or other documents that were produced,  
10 either in conjunction with or related to the meeting of this  
11 panel?

12          A     No, no.

13               MR. BECK: Okay. As Late-filed Exhibit 2 I would  
14 like to request that document or any related documents  
15 that were produced as a result of this panel.

16               MR. ANTHONY: I will provide a response within the  
17 30 days.

18               (Late-Filed Exhibit 2 identified.)

19 BY MR. BECK:

20           Q     Okay. So, as you recall the document, it lists  
21 Pay Grade 5 and below managers, gives a recommended  
22 discipline and a brief rationale for the discipline?

23           A     I don't know if I would describe it as rationale.  
24 I know I did that earlier. It may be more -- it may be more  
25 in the form of some -- a brief summary of the information

1 that was gleaned from the investigative reports.

2 Q Okay. Did anything additional happen at the  
3 second or subsequent meetings of the panel?

4 A Anything happen like what?

5 Q I don't know, were there any other materials  
6 reviewed or discussions take place?

7 A No, not that I recall. It was pretty well focused  
8 on this subject.

9 Q Okay. Now, correct me if I am wrong. The only  
10 information used by the panel was the document from legal,  
11 is that correct?

12 A I would amend that by saying that there -- we may  
13 have checked, and I am unclear at what point this happened,  
14 we may have checked to see if there were any other entries  
15 in the personnel records of the people involved, involving  
16 other matters from other times, but other than that,  
17 nothing.

18 Q And all acts or omissions that form the basis for  
19 the recommended discipline were those contained in the  
20 investigation that you had in front of you?

21 A That's correct.

22 Q And then the panel produced this report you  
23 described, is that correct?

24 A Right.

25 Q What use was made of that report?

1           A     The use that was made of that report was when  
2 discipline was administered, the names were taken from that  
3 list and the discipline process itself began by using the  
4 names from that list.

5           Q     Okay. Item No. 3 on the document states that the  
6 recommendations from the panel would be presented to  
7 Ms. Dunn for concurrence, is that correct?

8           A     That's correct.

9           Q     Was that done?

10          A     Yes, it was.

11          Q     And what was Ms. Dunn's reaction to the  
12 recommendations?

13          A     She concurred in those recommendations.

14          Q     In total?

15          A     At that point, the answer to the question is yes.

16          Q     You had made a number of changes to the  
17 recommendations yourself, did you not, before it got to  
18 Ms. Dunn, or a few changes?

19          A     No, I don't recall making any.

20          Q     Weren't some changes made to the recommendations  
21 of the panel?

22          A     Some changes were made subsequent to this  
23 particular meeting with Ms. Dunn regarding the  
24 recommendations of the panel. There were some changes that  
25 were subsequently made, yes.

1 Q Okay. When were the recommendations presented to  
2 Ms. Dunn for concurrence?

3 A Mr. Beck, I want to think it was September. You  
4 know, it may have been October. It may have been the end of  
5 August. I don't know, but somewhere in that time frame. I  
6 just don't recall.

7 Q And No. 4 on the list says that, I guess, after  
8 Ms. Dunn concurred, those recommendations were forwarded to  
9 Mr. Sanders and Mr. Lacher, is that correct?

10 A I actually made the recommendations to  
11 Mr. Sanders; had some brief discussions with Mr. Lacher, but  
12 the recommendations actually were presented to Mr. Sanders.

13 Q Okay. What were your discussions with Mr. Lacher?

14 A Essentially, the discussions were rather limited,  
15 just going over the fact that the panel had completed the  
16 work, we did have the recommendations and described to him a  
17 little bit the process that we went through. But there was  
18 never any discussions with him regarding specific  
19 individuals.

20 Q He made no changes or expressed any specific  
21 recommendations to you about the recommendations?

22 A No, he didn't.

23 Q And so you presented the recommendations of the  
24 panel to Mr. Sanders?

25 A Correct.

1 Q Was that after Ms. Dunn's concurrence?

2 A Yes.

3 Q Mr. Sanders, prior to getting the recommendations  
4 from Mr. Cuthbertson, did you have any involvement  
5 whatsoever in the disciplinary process we have been  
6 discussing in the deposition?

7 A (By Witness Sanders) No, not to that point.

8 Q So your first involvement in this was the receipt  
9 of recommendations from Mr. Cuthbertson and the panel he was  
10 on?

11 A That's right.

12 Q Okay. What did you do once you received those  
13 recommendations?

14 A We discussed the recommendations, and I reviewed  
15 the results of the investigation, compared them to the  
16 recommendations made, decided whether I concurred in  
17 recommendations or not.

18 Q Okay. Now, you said, "we discussed them," you  
19 meant you and Mr. Cuthbertson?

20 A Charlie and I.

21 Q Okay. And then you compared the recommendations  
22 to what?

23 A I went back and reviewed the results of the  
24 investigation, compared the recommendations made on the  
25 individuals.

1 Q Okay. So, you read the entire recommendation from  
2 legal?

3 A The investigation, yes.

4 Q Did you review any other materials at all?

5 A No, I did not.

6 Q Okay. And as a result of your review of the  
7 recommendations and a review of the investigation, what did  
8 you do?

9 A After we had discussed any questions I had about  
10 it, I administered the discipline.

11 Q Okay. And could you tell me about what time frame  
12 this was in?

13 A Probably March, April time frame.

14 Q Originally this had been scheduled for an earlier  
15 time, had it not?

16 A We had discussions earlier, yes.

17 Q So, all the discipline was carried out in the  
18 March, April time frame?

19 A That is the approximate time frame, yes.

20 Q Now, the recommendations of the panel concerning  
21 craft employees has not been carried out, is that correct?

22 A That's right.

23 Q Why do you feel it was appropriate to carry out  
24 recommendations on management employees but not craft?

25 A I received the recommendations from the Human



1 Resources organization, and I carried them out. I have not  
2 received any recommendations on the non-management people at  
3 this point in time.

4 Q Have you seen the list of craft employees  
5 recommended for discipline?

6 A No, I have not.

7 Q And have you discussed that list with anybody?

8 A I have not seen the list, and I haven't discussed  
9 the list. I have discussed the question of the general  
10 discipline for craft employees and when I might get some  
11 information to administer discipline and what the  
12 recommendation might be.

13 Q Okay. Why do you feel it was, or do you feel it  
14 was appropriate to carry out discipline for management but  
15 not craft employees?

16 A I felt, based on the investigative material, that  
17 the recommendations were appropriate and it was timely to  
18 carry those out.

19 Q Okay. You received the recommendations in a time  
20 frame of about September of 1991?

21 A October, November, after the discussions were held  
22 and after they got to me. I don't remember the exact time  
23 frame, sometime October or November.

24 Q And the actual discipline began to be carried out  
25 in the March/April time frame?

1           A     That's right.

2           Q     What happened in the time frame between the time  
3 you received the recommendations and the actual  
4 administering of the discipline?

5           A     I read hundreds of pages of investigative reports,  
6 compared them to the discipline recommendations and had  
7 discussions with Charlie about individual cases.

8           Q     Okay. Did you discuss the matter with any other  
9 persons?

10          A     Not specific cases and discipline, no.

11          Q     So, before carrying out the discipline, the only  
12 person, I take it, that you discussed specific instances was  
13 Mr. Cuthbertson?

14          A     That's right.

15          Q     And then what process was followed in carrying out  
16 the discipline?

17          A     I administered the discipline in the appropriate  
18 cases and passed it down through the organization for the --  
19 to cascade through management to handle the discipline  
20 process.

21          Q     Was the employee's current operations manager the  
22 person who actually carried out the discipline?

23          A     Yes.

24          Q     And by carrying out that would be the person who  
25 would --

1           A     Sit down and discuss or advise the person of the  
2 discipline they would receive.

3           Q     Okay. So, you didn't personally carry out any of  
4 the discipline, or did you?

5           A     Yes, I did.

6           Q     Which did you personally carry out?

7           A     I personally carried out the discipline for those  
8 direct reports that I had.

9           Q     And I don't understand what that means.

10          A     The general managers that report to me.

11          Q     And what pay grade would general managers be?

12          A     Pay Grade 8.

13          Q     And has discipline been carried out for Pay Grade  
14 8?

15          A     Yes, it has.

16          Q     Is that the highest level of management that has  
17 been disciplined?

18          A     To my knowledge.

19          Q     When did you carry out the discipline for Pay  
20 Grade 8?

21          A     The March and April time frame.

22          Q     Would an entry be made in a personnel record on a  
23 Pay Grade 8?

24          A     Yes, it would.

25          Q     Have any of those been provided to us, if you

1 know?

2 A To my knowledge, they have not.

3 Q And could you tell me why not?

4 A Because they were not disciplined for the reasons  
5 asked for in the data request, is my understanding.

6 Q And how many Pay Grade 8s were disciplined?

7 A Let's see,

8 Q And you said they were disciplined for reasons  
9 other than those that we asked for?

10 A Yes.

11 Q What were the reasons they were disciplined?

12 A They were responsible for organizations and the  
13 operations of organizations over a period of time, which I  
14 felt inappropriate activities were taking place and were not  
15 dealt with in a timely manner. You can sum it up by saying  
16 they were on your watch managers during a period of time,  
17 and I felt that they had responsibility for their  
18 organizations and making sure that appropriate activities  
19 were taking place during that time. There was no indication  
20 of any wrongdoing by any of those people.

21 Q Well, by "wrongdoing," you mean personal  
22 involvement?

23 A Personal involvement.

24 Q Yet, there is an indication of responsibility  
25 because it happened in their organization?

1 A On their watch, yes.

2 Q Did you feel that these persons should have had  
3 controls in place that would have prevented the acts or  
4 omissions by employees under them?

5 A I felt over a period of time that they had  
6 opportunities to have identified some of the problems that  
7 were taking place.

8 Q Okay. Now, let me make it clear then, you felt  
9 that the discipline for these people wasn't requested by our  
10 request because it dealt with their management  
11 responsibility as opposed to personal involvement, or --

12 A That was my understanding.

13 Q And there are

14 A Yes.

15 Q Who are

16 A

17 Q Who is

18 A is the

19

20 Q How do you spell name?

21 A

22 Q Who is

23 A

24 Q And who is

25 A

1 Q What was the type of discipline giving to

2

3 A I believe was warned or reprimanded.

4 Q Were there any imposed?

5 A No.

6 Q Now, as I understand it, there would be an entry  
7 in Schedule B in personnel record, reflecting that?

8 A That's right.

9 Q Would there be any other written documentation  
10 related to it?

11 A No.

12 Q That would be the sole documentation about the  
13 actual discipline?

14 A That's right.

15 Q How would we find or discern what specific actions  
16 or responsibilities of were involved or connected to the  
17 disciplinary action?

18 A A review of the privileged information.

19 Q Any other basis at all?

20 A No.

21 Q Could you tell me what acts or omissions by  
22 formed the basis of his discipline?

23 MR. ANTHONY: And I am going to instruct the  
24 witness, to the extent that he stated that it relates  
25 to the privileged investigation, not to answer the

1 question. If there is anything beyond that, you can  
2 respond. I will allow him to answer the question.

3 WITNESS SANDERS: That was the information on  
4 which it was based.

5 BY MR. BECK:

6 Q So, you could answer my question, but you are not  
7 because counsel instructed you not to?

8 A Yes.

9 Q What was the discipline imposed on

10 A

11 Q So, received a higher form of punishment than  
12 did by getting a

13 A Yes.

14 Q What was the

15 A I do not recall.

16 Q Why did receive a more harsh type of  
17 discipline than

18 A Based on the information in the investigation.

19 Q Could you tell me what acts or omissions by  
20 formed the basis for discipline?

21 MR. ANTHONY: I will instruct the witness not to  
22 answer if it is based on the investigation.

23 BY MR. BECK:

24 Q Could you answer the question?

25 A It's based on the investigation, and I have the

1 information, but won't answer on the basis of counsel's  
2 advice.

3 Q And the

4 A Yes.

5 Q What type of discipline was imposed on

6 A Financial penalty and reprimand.

7 Q And could you tell me the acts or omissions by  
8 that formed the basis for disciplinary action?

9 MR. ANTHONY: The answer continues. To the extent  
10 it's based on the investigation, I will instruct the  
11 witness not to answer.

12 THE WITNESS: It's based on the investigation.

13 BY MR. BECK:

14 Q So, you could answer my question, but you are not  
15 going to because counsel told you not to?

16 A Yes.

17 Q Okay. Now where is presently  
18 employed?

19 A is the

20 Q of Network?

21 A Yes, Network Operations, to be precise.

22 Q Where is office?

23 A

24 Q Where does presently work?

25 A



1

2 Q That is present position?

3 A Yes.

4 Q

5 A is

6

7 Q Are of their positions similar, except  
8 different geographic areas?

9 A Yes, they are.

10 Q And they all report directly to you?

11 A Yes, they do.

12 Q And is there any other documentation whatsoever,  
13 other than the Schedule B entries and the internal  
14 investigation, that would provide information about the  
15 discipline or the basis for the discipline of any of these

16

17 A No, there is not.

18 Q Were there Pay Grade 7s who were discipline?

19 A Yes, there were.

20 Q How many?

21 A

22 Q And these disciplinary actions were taken in the  
23 March/April time frame?

24 A Yes.

25 Q And you did not provide us any documentation

1 concerning that, did you?

2 A For the same reasons that I stated earlier.

3 Q That your counsel felt that it was not responsive  
4 to what we asked?

5 A That is my understanding.

6 Q Did you discuss that with counsel?

7 A The documentation was provided to counsel.

8 Q Whose determination was it that this information  
9 was not responsive to the request?

10 A You will have to ask somebody else. I don't know.  
11 I was told it was not.

12 MR. ANTHONY: It was my decision.

13 BY MR. BECK:

14 Q And I guess the same would be for Pay Grade 6, as  
15 well. We haven't gotten to that yet?

16 A Yes.

17 Q But the information was provided for Pay Grade 5  
18 and below?

19 A The information was provided for anyone that would  
20 fit the criteria asked for on the request for data, is my  
21 understanding.

22 MR. BECK: Hank, as I understand it, then, we have  
23 the information for Pay Grade 5 and below but not for  
24 6, 7 and 8?

25 MR. ANTHONY: You have the information for people

1           who were disciplined for the reasons stated in your  
2           request for production. You don't have any of what Mr.  
3           Sanders described as the "on your watch" people,  
4           because they weren't disciplined for those reasons.

5           MR. BECK: We may disagree on whether that was  
6           appropriate or not, to not provide the documents.

7           MR. ANTHONY: You can always disagree.

8           MR. BECK: Hank, let's go on. There were Pay  
9           Grade 5 and below persons who were disciplined that you  
10          did not provide the information on, also, because you  
11          didn't feel it was responsive to our request?

12          MR. ANTHONY: I think there may have been a few  
13          Pay Grade 5s who were "on your watch" people.

14 BY MR. BECK:

15          Q     Mr. Sanders, you know who those persons are?

16          A     (By Witness Sanders) I don't know whether I  
17          recall all the names, but, yes, I do.

18          Q     Okay. I hate to do this, but we are going to do  
19          it one by one. You mentioned there were six persons in Pay  
20          Grade 7 who were disciplined, is that correct?

21          A     Yes.

22          Q     And this is all what you described as "on your  
23          watch" type responsibilities?

24          A     Yes.

25          Q     And it is because there were actions that occurred

1 within their departments that you felt that they should have  
2 prevented, or is there some other word?

3 A They should have, I guess, uncovered in a more  
4 timely manner.

5 Q Any other reason for their discipline?

6 A No, that was it.

7 Q It was their management responsibility?

8 A They were in charge of the operation, and I felt  
9 like over a period of time they should have been able to  
10 uncover some of the activities.

11 Q Okay. Could you give me one of the  
12 We are just going to go right down tell me  
13 who they were and what action was taken?

14 A I don't know as I remember all the actions. I  
15 think I can remember the names.

16 Q How do you spell his last name?

17 A

18 A (By Witness Cuthbertson)

19

20 Q Okay. And what is his current position?

21 A (By Witness Sanders) He is

22

23 Q And what was the discipline imposed?

24 A I don't recall specifically. At a minimum, it was  
25 a and it may have included a

1 I am just not -- I don't recall.

2 Q And were these actions that occurred in  
3 or that area?

4 A They were actions that occurred in, and uncovered  
5 as a result of the investigation in that area.

6 Q Okay. Could you give me the second name?

7 A

8 Q What is his position?

9 A He is the

10

11 Q And was that discipline for actions that occurred  
12 in the area?

13 A In his operations.

14 Q And what was the discipline imposed?

15 A It was at and may have included  
16 a I just don't recall.

17 Q Mr. Cuthbertson, do you recall for either of these  
18 two individuals?

19 A (By Witness Cuthbertson) was a  
20 was

21 Q Can you you give me a name?

22 A (By Witness Sanders)

23 A As we go, Mr. Cuthbertson, if Mr. Sanders doesn't  
24 know, could you answer the question, also?

25 A (By Mr. Cuthbertson) Sure.

- 1 Q How do you spell his last name?
- 2 A
- 3 Q And what is his position?
- 4 A He is a
- 5
- 6 Q Was this discipline in connection with actions  
7 that occurred within his area in
- 8 A Yes, within his operations.
- 9 Q Okay. And what was the discipline imposed?
- 10 A I believe his was a and a
- 11
- 12 Q Okay. Give me a name?
- 13 A
- 14 Q What is his position?
- 15 A He is a
- 16
- 17 Q Was this in connection with actions that occurred  
18 in his area in
- 19 A Yes, it was.
- 20 Q And what was the discipline imposed?
- 21 A and a
- 22 Q Can you give me a name?
- 23 A
- 24 Q Could you spell his last name?
- 25 A

1 A (By Witness Cuthbertson) No,

2 Q And his position is what?

3 A (By Witness Sanders) He is a

4

5 Q And was his discipline based upon actions that  
6 occurred in his area of

7 A Yes.

8 Q What was the discipline on him?

9 WITNESS SANDERS: Do you remember, Charlie? Was  
10 that a or a --

11 WITNESS CUTHBERTSON:

12 A (By Witness Sanders)

13 Q And who was the

14 A

15 Q What is his position?

16 A

17 Q Was this in connection with actions that occurred  
18 in

19 A Yes.

20 Q Was it also in connection with actions in other  
21 areas other than

22 A Yes.

23 Q Where was that?

24 A I don't recall all the other areas, but other  
25 areas in which had work.

1 Q What was the discipline imposed?

2 A I believe, was the penalty,  
3 There is one other I thought of as well. No. This was a  
4 Pay Grade 6, excuse me. You are on 7. I believe that is  
5 all the 7s.

6 MR. BECK: If it is all right with you, I would  
7 like to go through this, through 5 and then we'll take  
8 a break.

9 MS. ANTHONY: Fine.

10 WITNESS SANDERS: Wait a minute, let me give you  
11 one more 7.

12 BY MR. BECK:

13 Q What is his position?

14 WITNESS SANDERS: Do you know where he is, now,  
15 Charlie? is that  
16 right?

17 WITNESS CUTHBERTSON: I do not know his present  
18 position.

19 A (By Witness Sanders) I think he is in the  
20 I  
21 don't know which.

22 Q What was his prior position, if there was one?

23 A He was down in the

24

25 Q -- and he was in Network?



1 A Yes.

2 Q

3 A Yes.

4 Q What was the discipline imposed on him?

5 A I believe that was a and a

6

7 Q I am just going down the list of the people, and  
8 you have some -- and

9

Did  
10 geographic area?

11 A Well, the area was fluid on an organizational  
12 basis, so he was in the area.

13 Q Now, what I would like to do is ask you one  
14 question, because I suspect your counsel is going to object  
15 to it. I would like to ask you, for each of the Pay  
16 Grade 7s that you have just discussed, will you please tell  
17 me the acts or omissions by each of those people that  
18 resulted in their discipline?

19 MR. ANTHONY: To the extent that it is based on  
20 the privileged investigation, I am going to instruct  
21 the witness not to answer.

22 WITNESS SANDERS: I think I can answer that.  
23 There were no acts or anything that those people  
24 committed, other than what I said, which was they were  
25 "on your watch," and they did not in a timely fashion

1 identify some inappropriate things taking place in  
2 their organization. They personally were not involved  
3 in any misdeeds or anything.

4 BY MR. BECK:

5 Q Okay. But what were their specific omissions that  
6 they should have done?

7 A That's privileged information based on the  
8 investigation.

9 Q And you could answer for each of these seven  
10 persons what their specific omissions were, could you not?

11 A Yes.

12 Q And you are not going to answer that based on  
13 counsel's direction?

14 A That's right.

15 Q Okay. How many Pay Grade 6s were disciplined?

16 A There I recall.

17 Q Who is that?

18 A

19 Q What is his position?

20 A He is the

21 Q

22 A Yes.

23 Q What was the discipline imposed?

24 A

25 Q What were the first actions of that

1 formed the basis for his discipline?

2 MR. ANTHONY: Again, to the extent it is based on  
3 a privileged investigation, I will instruct the witness  
4 not to answer. If he has information other than  
5 that --

6 WITNESS SANDERS: I don't have information other  
7 than what was determined from the investigation,  
8 privileged.

9 BY MR. BECK:

10 Q Are there actual actions on his part, though?

11 A No, there are not.

12 Q Okay. Were there omissions on his part?

13 A Omissions.

14 Q Okay. Could you tell me what the omissions were  
15 that formed the basis of this discipline?

16 A No, I cannot, based on privileged information.

17 Q But you could tell me but for your counsel's  
18 instructions?

19 A Yes.

20 Q Okay. Any other Pay Grade 6s disciplined?

21 WITNESS SANDERS: Charlie, do you recall any other  
22 6s?

23 WITNESS CUTHBERTSON: What about

24 A (By Witness Sanderson) Yes, that's right.

25

1 Q What is his position?

2 A He is now

3

4 Q And was that also the position he occupied for the  
5 discipline?

6 A No, he was an

7

8 Q How is that different?

9 A He has the Previous

10 assignment he had the

11 Q What was the discipline imposed on

12 WITNESS SANDERS: Was that Do you

13 recall?

14 WITNESS CUTHBERTSON: I'm not sure. It was one or  
15 the other, and I do not know.

16 A (By Witness Sanders) I know it did not include  
17 any

18 Q Any other persons?

19 A I don't recall offhand any other 6s in there.

20 Q Okay. How about the Pay Grade 5s, that you did  
21 not identify to us, based on this idea that they were not  
22 personally committing acts?

23 A (phonetic).

24 Q What is her current position?

25 A is the

1

2 Q That is present position?

3 A Yes.

4 Q And was that position for the discipline, as  
5 well?

6 A As I recall, it was.

7 Q What was the discipline imposed?

8 WITNESS SANDERS: Do you remember?

9 WITNESS CUTHBERTSON: I don't remember.

10 A (By Witness Sanders) I don't remember. You are  
11 getting too far along in the organization for me to recall  
12 right offhand.

13 Q Any other persons, Pay Grade 5 or below?

14 A There were others. I am trying to recall who they  
15 might have been.

16 WITNESS SANDERS: Do you recall some, Charlie?

17 WITNESS CUTHBERTSON:

18 A (By Witness Sanders)

19 Q What is his current position?

20 A He is the

21 area.

22 Q Is that the same position he occupied that formed  
23 the basis for the discipline?

24 A Yes.

25 Q And what was the discipline imposed?

1 A I don't remember.

2 WITNESS SANDERS: Do you remember?

3 WITNESS CUTHBERTSON: I do not.

4 Q Are there any others?

5 A (By Witness Sanders) I think there were. I just  
6 don't recall the names.

7 Q was there any discipline imposed on  
8 him?

9 A Yes, there was.

10 Q Okay. What is pay grade?

11 A He's a 5.

12 Q What is his position now?

13 A He is the  
14

15 Q And was that his position, too, that formed the  
16 basis for the discipline?

17 A Yes, it was.

18 Q What was the discipline imposed?

19 A I believe. I  
20 think you have that one.

21 Q And the reason we would have that is because there  
22 were actual acts as described in our request that formed  
23 part of the basis for the discipline?

24 A The discipline was based on the investigative  
25 material, and he was not disciplined as an on your watch

1 manager.

2 Q What would be not "on your watch manager"? I am  
3 trying to get the distinction.

4 A Well, the on your watch people had no -- there was  
5 no indication of any personal inappropriate actions or  
6 reasons for them to be disciplined, other than they were  
7 responsible for that particular area at that time.

8 Q Okay. And that is to be contrasted with persons  
9 who did have some personal actions?

10 A Based on the information in the investigation, I  
11 felt that there was some reason for discipline for

12 Q For personal actions on his behalf?

13 A Yes.

14 Q And could you tell me what those actions were?

15 MR. ANTHONY: I will instruct the witness not to  
16 answer.

17 BY MR. BECK:

18 Q Okay. You could answer but for your counsel's  
19 instruction?

20 A Yes.

21 Q Before we break, are there any persons who were  
22 managers at the time that the events occurred who either  
23 left the Company or were terminated by the Company so that  
24 disciplinary action couldn't be imposed?

25 A Ask that question again.

1 Q I am trying to identify persons who would have  
2 been disciplined but for the fact that they left the  
3 Company.

4 MR. ANTHONY: You're saying, just so I understand  
5 the question, they left the Company prior to the time  
6 discipline could have been imposed?

7 MR. BECK: Yes, or was imposed.

8 BY MR. BECK:

9 Q And let's say in the the March/April time frame.

10 A I didn't deal with any -- I didn't receive any  
11 recommendations on any discipline of anyone who was not a  
12 current employee, and I did not give consideration to that  
13 since I received no recommendation.

14 Q Okay. Mr. Cuthbertson, you were involved in both  
15 the recommendations for Pay Grade 5 and below, and for Pay  
16 Grade 6 and below, is that right?

17 A (By Witness Cuthbertson) Yes.

18 Q Were there any persons identified as a result of  
19 the panel meeting, these panels, for which discipline was  
20 not imposed because the person was no longer employed by the  
21 Company at the time discipline was imposed?

22 A I think to fully answer your question, I have to  
23 maybe go a little bit further than you asked. There could  
24 be two situations. There could be those persons that --  
25 which we were aware they were no longer with the Company.



1 We did not consider those people, so I can't say whether  
2 they would have been disciplined or not.

3 Q These are persons who were no longer with the  
4 Company at the time the panel met?

5 A That's right. And we were aware that they were no  
6 longer with the Company. In those situations, we just  
7 simply did not consider those people. There is the other  
8 situation of where people either left subsequently to the  
9 panel meeting, or people that the panel may not have been  
10 aware were no longer employees. So, there may have been  
11 some instances of where discipline was recommended, and it  
12 was not imposed because the people were no longer there.

13 Q And could you, to the best of your recollection,  
14 tell me who those people are that fit that category?

15 A The second category?

16 Q Yes.

17 A I simply do not recall.

18 Q Is the harshest form of discipline imposed a  
19 financial penalty? What I am heading towards, was anybody  
20 terminated?

21 A No, no one was terminated.

22 Q Okay. Now, I still would like to get an answer,  
23 though. Is the harshest form of penalty the financial  
24 penalty?

25 A Yes.

1 MR. BECK: Good time for a break.

2 (Brief recess.)

3 MR. BECK: Can we go back on?

4 I would like to ask for a Late-Filed Exhibit No.

5 3.

6 MR. ANTHONY: I'm surprised.

7 MR. BECK: Which is all Schedule B personnel  
8 entries on each of the Pay Grade 5, 6, 7 and 8 persons  
9 that haven't been previously provided, and that we have  
10 discussed so far, you know, both those we have  
11 discussed today and any others that the witnesses just  
12 may not have recalled.

13 MR. ANTHONY: We will provide that to you.

14 (Late-Filed Exhibit No. 3 identified.)

15 BY MR. BECK:

16 Q Mr. Cuthbertson, who conducted the investigation  
17 that has been discussed several times here?

18 A The investigation was conducted by the legal  
19 staff.

20 Q Well, who was the person in charge of actually  
21 overseeing the investigation?

22 A The contacts that I had were Mr. Anthony and Mr.  
23 Mr. Robert Beaty.

24 Q Was there not somebody from Security involved in  
25 overseeing the investigation?

1           A     There may have been, but my dealings were with the  
2                   I have named.

3           Q     Were statements taken from persons as a result of  
4 this investigation?

5           A     Yes.

6           Q     And I would assume, correct me if I am wrong, that  
7 the investigation had numerous statements from individuals,  
8 is that right?

9           MR. ANTHONY: You can answer that.

10          A     Yes.

11          Q     Were those statements taken by people in Security?

12          A     In some cases, yes; in some cases, no

13          MR. ANTHONY: Charlie, let me interject. Since  
14 this investigation was done under the control and  
15 direction of the Legal Department, it was all done in  
16 conjunction between the Legal Department and the  
17 Security Department.

18          MR. BECK: And where I am heading, is I want to  
19 get some information about Security's role in the  
20 investigation.

21          MR. ANTHONY: The reason I'm jumping in, is I'm  
22 not sure that these two individuals would be the people  
23 to -- you can ask them about it. I don't have any  
24 problem with that, but I'm not sure --

25          MR. BECK: Who would be the contact in Security

1           that we can ask about this? You don't have a head of  
2           Security that would be --

3           MR. ANTHONY: I was going to say it would be --  
4           for North Florida, it would be Jimmy Preau, and for  
5           South and Southeast Florida it would be Mario Martinez.

6 BY MR. BECK:

7           Q     Who do they report to?

8           A     (By Mr. Cuthbertson) Joe Schmidt (phonetic).

9           Q     And he is in --

10          MR. ANTHONY: Atlanta.

11          MR. BECK: So, these are the two folks in Florida  
12          that head up Security?

13          MR. ANTHONY: Yes, the General Security Managers  
14          for Florida.

15 BY MR. BECK:

16          Q     Mr. Cuthbertson, this is all, of course, to the  
17          extent you know. You said some of the statements in the  
18          investigation were conducted by Security and some were not,  
19          is that correct?

20          A     Yes, that's correct.

21          Q     Who were the Security persons that were involved  
22          in taking the statements from persons?

23          A     Mr. Beck, I don't recall who took statements. I  
24          just -- at the time, I just didn't concentrate on who took  
25          the individual statements, so I don't remember.

1 Q Okay. If they were not taken by Security, by whom  
2 were they taken?

3 A Attorneys.

4 Q It would be actually attorneys taking statements  
5 from persons?

6 A That's correct.

7 Q And who were the attorneys, that you recall?

8 A I don't recall. I don't recall the names.

9 Q Was part of the discipline imposed in this area  
10 based upon an investigation in Gainesville that was  
11 conducted by Security?

12 A The discipline that was imposed that you have been  
13 discussing today?

14 Q Yes.

15 A No, it was not based on the investigation in  
16 Gainesville, no.

17 Q Okay. And you are familiar with the investigation  
18 in Gainesville?

19 A Somewhat, yes.

20 Q And no discipline that we have talked about today  
21 has been imposed as a result of the Gainesville  
22 investigation?

23 A No.

24 Q Although some discipline was taken as a result of  
25 the Gainesville investigation, was it not?

1           A     I believe two people were disciplined as a result  
2 of the Gainesville situation. You know, it has been  
3 sometime ago, and I really don't recall all the details.

4           Q     Let me use the Gainesville as an example. Could  
5 you tell me how an investigation would get started, and who  
6 would be responsible for conducting it?

7           A     Usually a security investigation is started. Do  
8 you want me to just talk in general terms?

9           Q     General terms.

10          A     There would be an allegation from some source that  
11 there was some type of improper activity. And then as a  
12 result of that, that allegation, the matter would be  
13 referred to Security. And Security would then investigate  
14 the allegation.

15          Q     So, if there was an allegation, say, in the  
16 Network organization, would Network contact Security, or  
17 would they contact Human Resources?

18          A     Generally, they --

19          A     (By Witness Sanders) I can answer that for  
20 Network. Both.

21          A     (By Witness Cuthbertson) Yes, that would be my  
22 answer.

23          Q     And so in Network, for example, Mr. Sanders, you  
24 would contact human resources and then jointly contact  
25 Security to get an investigation?

1 A (By Witness Sanders) Yes.

2 Q Who has authority to initiate or to call upon  
3 Security to do an investigation?

4 A Any manager.

5 Q Any pay grade level?

6 A Yes.

7 Q And would Security be required to do an  
8 investigation after being contacted by any manager?

9 A I can give you a general. They would try to  
10 investigate the information and make a determination as to  
11 whether or not they thought there was information which  
12 justified an investigation. But they could do that for any  
13 manager that requested it or, in fact, they could do that  
14 for any employee that requested it, that had information and  
15 passed it to Security.

16 Q What are your procedures for the involvement of  
17 Human Resources in such an investigation?

18 A (By Witness Cuthbertson) Human Resources'  
19 involvement could be prior to the investigation. Someone  
20 could come to us with some information, or we could  
21 determine information that we would refer to Security and  
22 ask for an investigation. Then subsequent to the  
23 investigation, the Human Resources involvement concerns the  
24 making of discipline recommendations, if any are necessary,  
25 as a result of that investigation.

1 Q Okay. Now, specifically, in the Gainesville  
2 investigation, what was the role of Human Resources?

3 A The role of Human Resources in the Gainesville  
4 investigation was after-the-fact involvement -- I don't  
5 recall anything prior to -- was trying to determine what was  
6 the proper discipline in the Gainesville situation, or if  
7 any was justified.

8 Q So Human Resources wasn't involved in the actual  
9 procurement of an investigation?

10 A No, not in the original investigation. I do need  
11 -- I think I should add one thing here. Subsequent to that  
12 actual investigation in Gainesville, Human Resources was  
13 involved in interviewing some of the managers in Gainesville  
14 subsequent to the Security investigation in an effort to  
15 determine some additional information.

16 Q Could you elaborate on that? What the additional  
17 information was you were trying to obtain?

18 A The Security investigation was inconclusive as far  
19 as who was responsible for whatever activity there might  
20 have been there. So, subsequent to the Security  
21 investigation, we made a further attempt to determine any  
22 information that some of the managers in Gainesville might  
23 have.

24 Q And you did this by interviewing, or people in  
25 your Department interviewing managers from Gainesville?



1           A     In this case, I and the general managers of the  
2 Department went to Gainesville and conducted some interviews  
3 personally.

4           Q     Who was the General Manager of the Department?

5           A     Randy Perry.

6           Q     And could you give me an idea of the time frame  
7 that this was done?

8           A     I would guess February or March of '91.

9           Q     Did you take any notes or statements from persons  
10 in that investigation or in the interviews?

11          A     Yes, I made some brief notes regarding the people  
12 that we had talked with.

13          Q     Okay. Did you write any report or have a report  
14 written?

15          A     No, I didn't write a report. I simply kept some  
16 notes.

17          Q     And what did you use that information for?

18          A     I really never used it for anything, other than  
19 the fact that I put it in my files. The information did not  
20 place us in a position to take any action based on it, so  
21 there was really no use beyond that for it.

22          Q     But discipline was ultimately taken in the  
23 Gainesville investigation?

24          A     Yes, but the discipline that was taken in the  
25 Gainesville situation, as I recall, involved the type of

1 thing that Mr. Sanders discussed earlier, that the manager  
2 of that operation had not discovered wrongdoing. And we  
3 felt like the investigation did show that there was some  
4 improper activity, but we couldn't determine who did it.

5 Q Who did you interview?

6 A I interviewed Mr. Swilley. I interviewed  
7 Mr. House. Mr. Beck, I don't recall the names of all the  
8 people in Gainesville that we talked to right now. There  
9 were other people that we interviewed.

10 Q And would the only written memorialization of the  
11 interviews be the notes that you took?

12 A Yes.

13 Q And did Mr. Perry, if you know, did he take any  
14 notes?

15 A Mr. Perry did not take notes. I took the only  
16 notes that were taken.

17 Q And there are no other written documents connected  
18 with those interviews?

19 A No.

20 MR. BECK: I'm writing down exhibit -- Late-Filed  
21 No. 4.

22 MR. ANTHONY: I wasn't sure if we had given it to  
23 you or not. That is why I thought we had.

24 MR. BECK: Let me hold off on that. I'm not going  
25 to identify this as an exhibit at the present time.

1 WITNESS CUTHBERTSON: Yes, these are the notes.

2 BY MR. BECK:

3 Q These are the notes you were referring to?

4 A (By Witness Cuthbertson) Yes, these are the  
5 notes.

6 Q Okay. Do you have any practices or procedures  
7 which would describe the relationship between Human  
8 Resources and Security with respect to investigations?

9 A None that I recall, no.

10 Q You don't have any practices and procedures that  
11 deal with Security investigations?

12 A Well, your question was as far as our relationship  
13 with them?

14 Q Right.

15 A I am sure we have practices that relate to  
16 Security investigations.

17 MR. BECK: Hank, as Late-Filed No. 4, just because  
18 we are here, and it is a question that is being raised,  
19 I would like to ask for your practices and procedures  
20 that concern the initiation of investigations by  
21 Security.

22 MR. ANTHONY: Initiation of investigations.

23 MR. BECK: And also in that, also for conducting  
24 internal audits, as well. And that is both initiating  
25 and conducting investigations or internal audits,

1 either one.

2 MR. ANTHONY: Or both.

3 MR. BECK: You said it, not I.

4 MR. ANTHONY: I'm just trying to help you. I was  
5 going to give both, so what the heck. I'm a great guy.

6 MR. BECK: And I would also like any practices or  
7 procedures that deal with the relationship between  
8 Security -- Security and internal auditors, their  
9 relationship with Legal.

10 MR. ANTHONY: Between Security and Legal and  
11 internal auditors and Legal?

12 MR. BECK: Yes.

13 MR. ANTHONY: All right.

14 MR. BECK: And that would be Late-Filed No. 4.

15 (Late-Filed Exhibit No. 4 marked for identified.)

16 BY MR. BECK:

17 Q Mr. Cuthbertson, did you have any communications  
18 with either Mr. Preau or Mr. Martinez concerning the subject  
19 matter of the investigation conducted by Legal?

20 A I'm sure at some point -- well, I don't recall any  
21 specific conversations. It would seem reasonable to me at  
22 some points or the other I probably talked to one or both of  
23 those gentlemen. But I don't recall anything specific.

24 Q To your knowledge, do you have any memos or  
25 written documentation relating to such communications?

1 A No, I don't recall anything.

2 Q Were any officer-level persons disciplined as a  
3 result of this investigation that was conducted?

4 A To my knowledge, no.

5 Q The Pay Grade 8 was the highest level?

6 A To my knowledge.

7 Q Okay. Why do you qualify your answer like that?  
8 You wouldn't know if an officer had been disciplined?

9 A Correct.

10 Q Who would know?

11 A I suppose it would depend on the officer of the  
12 department. If there had been officer discipline, Ms. Dunn  
13 would be aware of it.

14 Q Even if it went to, say, the President of the  
15 Company, would she know about it?

16 A I can't answer that.

17 MR. BECK: Late-filed 5, and I would like the  
18 name, position and discipline imposed on any employee  
19 above Pay Grade 8 related to the investigation.

20 MR. ANTHONY: Name, position and discipline  
21 imposed on anybody above Pay Grade 8.

22 (Late-filed Exhibit 5 marked for identification.)

23 BY MR. BECK:

24 Q And, Mr. Sanders, are you aware of any such  
25 discipline?

1           A     (By Witness Sanders) No, but I would not be  
2 unless it was applied to me.

3           Q     Were you brought -- I mean your time frame of your  
4 coming to Florida it seems very close to the time that the  
5 disciplinary process was taking place. Was there any  
6 relationship to your coming here and that?

7           A     I came to Florida because Earl Crittenden was  
8 retiring.

9           Q     Okay.

10          A     And he retired, as I recall, the end of April.  
11 And there was no discipline taking place during that time.  
12 The investigation was going on, but, you know, I have no  
13 knowledge of any considerations at all that would link me  
14 with that. It was simply that Earl, I believe, was 65 years  
15 old and he retired.

16          Q     Was that a mandatory retirement for Mr.  
17 Crittenden?

18          A     Yes, it is.

19          Q     What pay grade was Mr. Crittenden?

20          A     He is an officer. And I don't remember all the  
21 different levels of officers.

22          Q     Was he the same as yours?

23          A     Yes, same level as I am.

24          Q     What pay grade are you?

25          A     I have no idea. I get 2, 3 and 4s, and I don't

1 recall.

2 Q Is there such a thing as a Pay Grade 9?

3 A You get into unspecified levels, and I don't know.

4 Q Mr. Cuthbertson, do you know?

5 A (By Witness Cuthbertson) I have virtually no  
6 knowledge of pay treatment above Pay Grade 8.

7 Q And would there be any pay grade associated with  
8 your position? I mean, you are senior to Pay Grade 8?

9 A No. My position?

10 Q Yes.

11 A Yes, there would be a pay grade associated with my  
12 position.

13 Q Okay. And it would be above Pay Grade 8, wouldn't  
14 it?

15 A No.

16 Q Yours is Pay Grade 8?

17 A No. Mine is a Pay Grade 7.

18 Q Okay. Mr. Sanders, are you above Pay Grade 8?

19 A (By Witness Sanders) Yes. I'm an officer, I just  
20 don't know what that level is.

21 Q So, in your opinion, you are being brought in to  
22 replace Mr. Crittenden and that is independent of the  
23 investigation?

24 A Yes.

25 Q And the reason you can say that is because he had

1 a mandatory retirement?

2 MR. ANTHONY: When you say "mandatory," you mean  
3 because he reached mandatory retirement age?

4 MR. BECK: Age, yes, that is what I meant.

5 MR. ANTHONY: Yes.

6 BY MR. BECK:

7 Q Who do you report to?

8 A (By Mr. Sanders) I report to the President, Group  
9 President for Network and Technology, for the Network and  
10 Technology Group.

11 Q And who is that?

12 A Bill Ferguson.

13 Q And is that the same person that Crittenden  
14 reported to?

15 A No, it is not.

16 Q Who did Mr. Crittenden report to?

17 A He reported to the Executive Vice President of  
18 Network for Southern Bell.

19 Q And who was that?

20 A Dick Snelling (phonetic).

21 Q And is the different reporting the result of  
22 reorganization?

23 A Yes, it is.

24 Q Mr. Snelling is retired, also?

25 A Yes, he has.



1 Q Did he reach age 65 and have to retire?

2 A I don't know.

3 Q Who would know if any discipline has been taken on  
4 Mr. Snelling?

5 A Becky Dunn, as the officer in charge of Human  
6 Resources, and, obviously, Mr. Snelling's boss would have  
7 known that.

8 Q And who would be Mr. Snelling's boss?

9 A Frank Skinner.

10 Q Is the discipline of all management employees  
11 completed, to your knowledge?

12 A Yes.

13 Q You don't expect any further actions other than  
14 those provided in documents or discussed today?

15 A Several people have appealed that I have not met  
16 with at this point in time, and it could be changed based on  
17 that appeal.

18 Q Who were the persons who have appealed?

19 A Several. I don't know; somewhere, you know, in  
20 the range of 20 or so. I don't recall all the names.

21 Q How about of the Pay Grade 7s?

22 A All of the Pay Grade 7s felt like they had  
23 committed nothing that indicated they should be disciplined.  
24 And there were no appeals, other than just the discussions  
25 we had at the time I administered the discipline.

1 Q Okay. In other words, you directly administered  
2 the discipline to the Pay Grade 7s?

3 A Yes, I did.

4 Q And they all felt like it wasn't appropriate?

5 A Yes.

6 Q But none of them were going to appeal the  
7 discipline?

8 A Well, I'm the appeal point, so we had the  
9 discussions with them.

10 Q Had the discipline and the appeal in one session?

11 A That's right.

12 Q There is no other recourse for them?

13 A That's right.

14 Q Okay. How about Pay Grade 6, you mentioned  
15 people.

16 A Let's see, who did I say?

17 Q

18 A Nothing other than the discussions I had with  
19 those individuals, and they denied any wrongdoing or any  
20 responsibility for wrongdoing that might have taken place.

21 Q Let me return to the Pay Grade 7s for a moment.  
22 You indicated, I believe, that had  
23 imposed,  
24 is that right?

25 A Yes.

1 Q Why did you choose to impose  
2 on them but not the

3 A Upon my review of the investigative information  
4 and the data and discussions with Charlie.

5 Q Okay. What discussions did you have -- by  
6 "Charlie," you mean Mr. Cuthbertson?

7 A His recommendation on any discipline plus my  
8 review of the investigation.

9 ~~Q Did the discipline imposed on the Pay Grade 7~~  
10 persons exactly parallel the recommendations you received  
11 from Mr. Cuthbertson?

12 A I don't recall offhand. We discussed several. We  
13 discussed each case, and I don't remember whether we changed  
14 one or not. But we finally ended up in an agreement and  
15 proceeded.

16 Q Okay. What were the specific acts or omissions by  
17 that you thought warranted a  
18

19 MR. ANTHONY: To the extent it is based on the  
20 investigation, I am going to instruct the witness not  
21 to answer.

22 WITNESS SANDERS: I know but I cannot respond,  
23 based on the privileged information.

24 BY MR. BECK:

25 Q Okay. Mr. Cuthbertson, do you know who ordered

1 the investigation that was conducted by Legal?

2 A (By Witness Cuthbertson) Who ordered the  
3 investigation?

4 Q Yes.

5 A No, I don't know.

6 Q Were you involved in getting Security to be  
7 involved in the investigation?

8 A No, I wasn't.

9 ~~MR. BECK: Mr. Anthony, do you know?~~

10 MR. ANTHONY; Yes, I do. I'm not going to tell  
11 you.

12 BY MR. BECK:

13 Q Mr. Sanders, do you know?

14 A (By Witness Sanders) No, I do not.

15 MR. BECK: As a Late-Filed Exhibit 6, I would like  
16 all written documentation that relates to the  
17 initiation of the investigation, and included in that  
18 any documentation related to the approval of an  
19 investigation.

20 (Late-Filed Deposition Exhibit 6 identified.)

21 BY MR. BECK:

22 Q Mr. Sanders, did you have any conversations with  
23 Mr. Crittenden about the subject matter of the  
24 investigation?

25 A (By Witness Sanders) Only to the effect that when

1 I arrived on the scene he advised me that an investigation  
2 was going on, and that was the extent of our discussion.

3 Q Did you discuss any of the acts or omissions that  
4 were involved in the investigation?

5 A No, I did not.

6 Q Okay. This is for both of you. Do you have in  
7 your possession any documentation of any wrongful acts of  
8 responsibility for managing any groups who committed  
9 wrongful acts on the part of a former employee by the name  
10 of Earl Poucher?

11 MR. ANTHONY: To the extent it is based on the  
12 investigation privilege, I am going to instruct them  
13 not to answer. If they have anything independent of  
14 that, then they are free to answer.

15 WITNESS SANDERS: I don't have any.

16 WITNESS CUTHBERTSON: I am not aware of anything.

17 BY MR. BECK:

18 Q So, you are answering straight out that you don't  
19 have anything?

20 A (Witness Cuthbertson) I am answering I am not  
21 aware of anything. I would add that there is always the  
22 possibility of files existing of which I am not aware.

23 Q We realize that. We just asked to the extent you  
24 are aware.

25 Mr. Cuthbertson, five on this first document, on

1 the last page?

2 A (By Witness Cuthbertson) When you say first  
3 document --

4 Q The first four pages, the last page. Exhibit  
5 Number 1, I don't think we actually went through what it  
6 says on here, and I wanted to go through that. You had a  
7 panel, a separate panel that reviewed Pay Grade 6 and above?

8 A Correct.

9 Q Why was there a separate panel for Pay Grade 6 and  
10 above and Pay Grade 5 and above?

11 A I suppose a part of it was a recognition of level,  
12 that since we were talking about higher rated managers in  
13 the business, that we would use a different group and would  
14 include in there the Vice President of Human Resources.  
15 That was, as I recall, our rationale for having a separate  
16 panel.

17 Q And did you produce any documentation about the  
18 recommendations of the panel? Was there a written  
19 recommendation that was ultimately forwarded to Mr. Sanders?

20 A If you are talking about a formal report; no,  
21 there was no normal report prepared for those people.

22 Q And you mentioned for Pay Grade 5 and below there  
23 was a document produced, and we have asked for that?

24 A Yes.

25 Q There is no comparable document for Pay Grade 6

1 and above?

2 A Mr. Beck, I am taking a minute to try to recall  
3 exactly what form this took.

4 A (By Witness Sanders) There was a -- Charlie,  
5 there was a name and a recommended penalty, as I recall, and  
6 a general comment about the penalty.

7 A (By Witness Cuthbertson) Yes, I think there  
8 was --

9 A (By Witness Sanders) As I recall, that is what  
10 you and I looked at.

11 A (By Witness Cuthbertson) Yes, there may have been  
12 a one or two-page handwritten note that I had made listing  
13 the names of those people.

14 MR. BECK: As Late-Filed Exhibit 7, could we get  
15 that document which is the results of the Pay Grade 6  
16 and above panel.

17 (Late-Filed Deposition Exhibit No. 7 identified.)

18 BY MR. BECK: Any other documentation you can  
19 think of that resulted from that panel's existence?

20 BY MR. ANTHONY: Not that I recall, no.

21 BY MR. BECK:

22 Q Underneath, not the next document in your stack,  
23 which we are not going to ask any questions about, but  
24 underneath that there is a pretty good size stack of  
25 Schedule Bs, or Forms Bs, I guess you'd call it. I was

1 wondering if we could have that marked as an exhibit.

2 (Deposition Exhibit No. 2 marked for  
3 identification.)

4 BY MR. BECK:

5 Q Mr. Cuthbertson, do you see the first Form B in  
6 this package for

7 A (By Mr. Cuthbertson) Yes.

8 Q Okay. There is no title or location given on this  
9 form, is there?

10 A No.

11 Q Do you know what title and location would be?

12 A I do not know.

13 Q You see there appears to be a fax notation, Page 2  
14 of 13 on on the upper right-hand corner?

15 A Yes.

16 Q Okay. And if you will go sequentially through  
17 these, you will see there is a series of them in sequence?

18 A Okay.

19 Q And for each one of them there is no title or  
20 location. Does a review of all 12 of those give you or help  
21 refresh your recollection of the area for these people?

22 A It would appear that at least a couple of these  
23 people are in in the  
24 area.

25 Q That would be is that what



1                            is?

2            A     No,                    consists of --

3            A     (By Witness Sanders)

4    area.

5            Q     Okay. And you see on                    form there  
6 are initials, held by?

7            A     Yes.

8            Q     And that same initial, I believe, is on each one  
9 of these 12? Okay. Do you know whose initials those are?

10           A     It looks like Bob Sattazahn. I can't read it.

11           Q     Okay.

12           A     I believe that last one is an "S," and I believe  
13 he would have been the one that would have held the  
14 discussions.

15           Q     Now, help me. These are Pay Grade 5 and below  
16 managers, are they not?

17           A     Yes.

18           Q     Okay. And these would have been the persons that  
19 the panel recommended, and it was ultimately approved, Mr.  
20 Cuthbertson, by yourself and Ms. Dunn for recommendation?

21           A     (By Witness Cuthbertson) Correct.

22           Q     And take me through, if you would, the actual  
23 process that led up to Mr. Sattazahn imposing this  
24 discipline.

25           A     Following the panel recommendation, the review

1 with Ms. Dunn, those recommendations were then presented by  
2 myself to Mr. Sanders. And then the discipline for the pay  
3 grades, the managers, Pay Grades 5 and below were, for the  
4 most part, handled by their operations manager and a  
5 representative from Human Resources.

6 Q Did the operations manager have any discretion in  
7 changing the discipline?

8 A No.

9 Q It was determined then at what, by yourself?

10 A (By Witness Sanders) Yes.

11 Q Okay. And, Mr. Sanders, did you review each of  
12 these disciplinary actions before it was forwarded to the  
13 operations manager?

14 A Yes.

15 Q And you approved them?

16 A Yes.

17 Q And then they simply, at that point, were  
18 performing a ministerial act of imposing what you directed  
19 them to impose?

20 A Yes.

21 Q So, actually, all of these were determined by you  
22 that we just looked at?

23 A Yes.

24 Q Okay. And that would generally be true of all the  
25 Pay Grade 5 and below?

1 A Yes.

2 Q Okay. Now, this is for both of you. Could you  
3 tell me the acts or omissions of each of the people that  
4 appear to be under Mr. what the acts or omissions  
5 were that formed the basis of their discipline?

6 MR. ANTHONY: Can I correct your question? I  
7 think that is to all three of us. I'm going to  
8 instruct the witnesses not to answer to the extent that  
9 is it based on the underlying privileged investigation.

10 BY MR. BECK:

11 Q And you both could answer my question but for your  
12 counsel's direction, is that right?

13 A (By Witness Cuthbertson) Correct.

14 A (By Witness Sanders) Yes.

15 Q And then we have another series of faxes starting  
16 at, it says 2 and goes through, what appears to be all  
17 for Mr. Sanders, are you familiar with these?

18 A Yes, I am.

19 Q Are these all the disciplinary actions taken on  
20 Pay Grade 5 and below in the area?

21 A Yes.

22 Q And could you tell me the acts or omissions by  
23 these persons that formed the basis for the discipline  
24 action reflected in these entries?

25 A I know, but I cannot respond based on the

1 privileged information.

2 MR. ANTHONY: I am going to instruct the witness  
3 not to answer, unless he was already aware.

4 BY MR. BECK:

5 Q And, Mr. Sanders, the earlier ones that reflected  
6 are those all of the persons in  
7 Florida that received, in Pay Grade 5 and below that  
8 received discipline?

9 A (By Witness Sanders) I don't have a list of all  
10 the names, so I would assume so, based on the request for  
11 data that you received them all.

12 Q The next person listed is a but there  
13 is no title or location, nor date, nor held by. Do either  
14 of you know why there is no date and held by for

15 A (By Witness Sanders) Yes. This appealed the  
16 discipline. I met with discussed that, and this is a  
17 -- the results of my decisions at that time, after  
18 discussions with And I assume at this point in time it  
19 has not been covered with is the reason it's not dated.

20 Q What did you and discuss?

21 A We discussed concerns about the discipline.

22 Q What did tell you?

23 A Basically, didn't do anything wrong.

24 Q What had been accused of doing?

25 MR. ANTHONY: I'm going to instruct the witness

1 not to answer that.

2 BY MR. BECK:

3 Q Go ahead, Mr. Sanders.

4 A I can't answer that based on the privileged  
5 information.

6 Q Okay. felt had done nothing wrong?

7 A That's right.

8 Q Could you tell me the specific acts or omissions  
9 that denied doing?

10 MR. ANTHONY: I am going to instruct the witness  
11 not to answer that.

12 BY MR. BECK:

13 Q You could answer that but for your counsel's  
14 instruction?

15 A Yes.

16 Q What else did you discuss?

17 A That was it.

18 Q What do you intend to do as a result of your  
19 meeting?

20 A I intend to have this entry covered with

21 Q In other words, you are going to impose the  
22 discipline that is reflected in this entry?

23 A Yes.

24 Q Where is now, or where is employed?

25 A I believe is in

1           one. I believe it is

2           Q     There are a host of Schedule Bs here. Could you  
3 look at each one of them? And when you are through looking  
4 at them, I am going to ask you about the acts or omissions  
5 that formed the basis for the discipline that is imposed.  
6 And what I am going to do is ask you to go through to the  
7 end of this, but not including where the Form B ends. At  
8 the very end there is another typewritten page.

9           MR. ANTHONY: Charlie, the file that I have I  
10           don't believe had that. Is that --

11           MR. BECK: Okay. Just go through the Schedule Bs.

12           Can we go off the record for a moment?

13           (Off the record briefly).

14           MR. BECK: Back on the record.

15 BY MR. BECK:

16           Q     Mr. Sanders, have you reviewed the Schedules Bs  
17 that I referred to?

18           A     (By Witness Sanders) Yes.

19           Q     And for each of them, could you tell me the acts  
20 or omissions of each of these employees upon which the  
21 discipline is based?

22           MR. ANTHONY: I'm going to instruct the witness,  
23 to the extent that information is based on the  
24 privileged investigation, not to answer the question.

25 BY MR. BECK:

1 Q Okay. Will you answer the question now?

2 A (By Witness Sanders) I know the answer, but I  
3 cannot answer based on privileged information.

4 Q Let me go through one or two questions about a few  
5 of these. There is some of them with the titles and  
6 locations missing.

7 A I believe

8 Q Well, let me do this. Based upon our  
9 ~~conversations off the record about you are going to identify~~  
10 the location of persons and all of these will be on a list,  
11 you will give us where they are?

12 MR. ANTHONY: Yes. Now, there is off chance that  
13 some of them may have moved from time, for example,  
14 this is dated March 10th '92, but I will give you the  
15 current location.

16 MR. BECK: Well, that is the purpose of the  
17 question, so we can depose them.

18 BY MR. BECK:

19 Q On the form for it appears that  
20 something was covered up on the sheet.

21 A (By Witness Sanders) I don't have any knowledge  
22 of that.

23 A (By Witness Cuthbertson) Nor do I.

24 Q For there is no dates or held  
25 by entries?

1 A Who was that again?

2 Q

3 A (By Witness Sanders) As I recall, that is the  
4 same reason as I gave you awhile ago. That was one of the  
5 appeals. And I have reviewed that, and that is the entry.  
6 I don't see him right offhand, but I believe that is the  
7 case.

8 Q And, Mr. Sanders, you met with or  
9 did you?

10 A I believe I did. I met with quite a few people.

11 A (By Witness Cuthbertson) I don't know. This  
12 particular one on I do not know why it's not  
13 dated and why there is no held by initials on there. I  
14 don't know.

15 Q Mr. Sanders, you don't recall, either?

16 A (By Witness Sanders) I met with quite a few  
17 people. I met with some in I don't remember  
18 whether was one of those or not.

19 Q If you go about four down, there is  
20 where we have similar circumstances, where there is no date  
21 or held by. Do you know why?

22 A No, I don't know why.

23 Q Now, there was an internal investigation in  
24 where some of these are referred to. Is this  
25 discipline as a result of an investigation by Legal or the



1 one that was not done by Legal?

2 A The only discipline I administered was based on  
3 the investigation done by Legal.

4 Q And so there is an investigation separate and  
5 apart from the one that has been provided to us that was  
6 done by Security?

7 A I have no idea. I was not involved in any other  
8 investigation other than this one.

9 MR. ANTHONY: I'm confused by your question,

10 Charlie.

11 MR. BECK: We have been provided an investigation  
12 conducted by Security in Gainesville in the fall of  
13 '90, I believe, or that ballpark.

14 MR. ANTHONY: Right.

15 MR. BECK: And my question is, is this discipline  
16 based upon --

17 MR. ANTHONY: I understood that part. Then you  
18 said something about there being another investigation.

19 MR. BECK: The one you are claiming privilege on.

20 MR. ANTHONY: Okay. I just want to make sure you  
21 didn't think there was a third investigation.

22 MR. BECK: No.

23 BY MR. BECK:

24 Q Let me ask this. Mr. Sanders, are you familiar  
25 with the investigation conducted by Security in Gainesville?

1 A (By Witness Sanders) I am not.

2 Q Mr. Cuthbertson, are you?

3 A (By Witness Cuthbertson) Yes.

4 Q Okay.

5 A (By Witness Sanders) Just to comment on these  
6 that are not dated and all?

7 Q Yes.

8 A I met with people over in Gainesville as a result  
9 of this investigation. But I just think these didn't get  
10 initialed in the record because there was no change based on  
11 my discussions with those people.

12 Q So, Mr. Sanders, you believe these entries  
13 accurately reflect actual discipline imposed even though not  
14 signed?

15 A Yes.

16 Q Okay. Now, Mr. Cuthbertson.

17 A (By Witness Cuthbertson) Yes.

18 Q Back to the investigation. You are familiar with  
19 the investigation by Security in Gainesville that was  
20 conducted in or around the fall of 1990?

21 A Yes, I am.

22 Q And you are familiar with these disciplinary  
23 actions taken on the people employed in Gainesville?

24 A Yes, I am.

25 Q Are the acts or omissions that formed the basis

1 for these disciplinary actions different than the acts or  
2 omissions disclosed in the Security investigation of  
3 Gainesville which you provided to us?

4 MR. ANTHONY: To the extent that question calls  
5 for him to distinguish between one investigation and  
6 the other, he can talk about what the basis for the  
7 Gainesville discipline was. I'm not going to -- I'm  
8 going to instruct him not to answer that question, so  
9 far as it asks him to compare that to what the  
10 privileged investigation revealed.

11 MR. BECK: Well, how can he compare them if you  
12 don't let him --

13 MR. ANTHONY: He can talk about what any  
14 discipline might have been taken for in the Gainesville  
15 investigation, to the extent that is the same or  
16 different than what may have come out of the privileged  
17 investigation. I am not going to allow him to compare  
18 the two.

19 BY MR. BECK:

20 Q Now, would you answer that?

21 A (By Witness Cuthbertson) Let me try to answer it.  
22 I believe I can answer what you are driving at. The entries  
23 to which you refer are based on information from the  
24 privileged investigation as opposed to the prior  
25 investigation.

1           Q     All right. The Security investigation, not the  
2 privileged ones, disclosed certain acts or omissions by  
3 employees. For example, it discloses or provides  
4 information that some employees may have gone through the  
5 phone book alphabetically and called and had entries for out  
6 of service based on simply going through the phone book.  
7 Are you familiar with that?

8           A     Yes.

9           Q     Okay. Now, are these disciplinary actions based  
10 on those acts or omissions that are described in the  
11 investigation we have?

12                   MR. ANTHONY: I'm sorry?

13 BY MR. BECK:

14           Q     Are the disciplinary actions based on facts,  
15 actions or omissions disclosed in the investigation we have?  
16 In other words, you are not basing -- let me retrace.

17           A     (By Witness Sanders) The answer to that is, no.

18           Q     Okay. Certain things happened, or you believe  
19 happened. You don't base discipline based upon an  
20 investigation. It is based upon what the investigation  
21 reveals, right?

22           A     (By Witness Cuthbertson) Okay.

23           Q     And the investigation you have provided us reveals  
24 certain acts or omissions. And my question is, is the  
25 discipline based on those acts or omissions or some others?

1 MR. ANTHONY: You are talking about the  
2 investigation on the B form entries that we have just  
3 been going through?

4 MR. BECK: Yes.

5 MR. CUTHBERTSON:

6 MR. BECK: Yes.

7 WITNESS CUTHBERTSON: The B forms for and  
8 are not based on information from the  
9 investigation that has been provided to you under  
10 discovery.

11 BY MR. BECK:

12 Q Okay. In other words, it is based on different  
13 acts or omissions than those we know about from the  
14 investigation you provided us?

15 A (By Witness Cuthbertson) It is based on  
16 information in the privileged investigation.

17 Q And that would apply to all the people in  
18 not just In other words,  
19 we have quite a few people in this package from

20 A (By Witness Sanders) Yes.

21 Q Your answer would be the same with respect to all  
22 of them in

23 A Yes.

24 MR. BECK: I would like to have marked for  
25 identification -- I can do this either way, either

1 collectively or separately -- probably separately is  
2 the better way to go -- the next three. One starts  
3 with will be 4, and  
4 will be 5.

5 (Deposition Exhibit Nos. 3, 4 and 5 marked for  
6 identification.)

7 BY MR. BECK:

8 Q I would like to ask either of you, with respect to  
9 Exhibit 3, are you familiar with this? And, if so, what is  
10 it?

11 A (Witness Sanders) Yes, I am familiar with it.

12 Q Okay.

13 A It is a list of employees and the recommendations  
14 as to the discipline they would receive.

15 Q Do you know who prepared this document?

16 A You will have to answer that one.

17 A (By Witness Cuthbertson) I prepared it.

18 Q Are these the results of the Pay Grade 5 and below  
19 panel?

20 A Exhibit 3, yes.

21 Q Okay. And it's not total, but this is part of the  
22 results?

23 A Part of the results, correct.

24 Q And whose handwritten notes are there?

25 A Those handwritten notes are mine.

1 Q And what do they reflect?

2 A They reflect the discipline to be applied.

3 Q And if you could take a minute and look at these,  
4 I want to ask you whether the discipline applied is  
5 accurately reflected in this document?

6 A Taking into account there are a number of people  
7 and my memory may not be perfect, as far as I know, this is  
8 the discipline that was actually applied.

9 Q Okay. Now, the comments, the written-in comments  
10 go all to financial penalties, is that correct?

11 A That's correct.

12 Q Could you generally describe what "not eligible  
13 for IIA" means?

14 A IIA stands for individual incentive award. Based  
15 on their performance some managers are eligible for awards,  
16 others are not. And the comments here reflect how we are  
17 going to apply the financial penalty.

18 Q So, for example, wherever it says "not eligible  
19 for IIA," that means they received no award, even though  
20 eligible for one?

21 A That's right. In those instances, the person,  
22 their financial penalty included being declared ineligible  
23 for an IIA.

24 Q Now the "base increase," is base salary?

25 A Base salary, correct.

1 Q And if it says, "No base increase," does that mean  
2 they received --

3 A They received no base increase.

4 Q For one year?

5 A Right.

6 Q And what year would that be beginning?

7 A The common anniversary date for salary treatment  
8 is March 1.

9 Q And so for these individuals, where it says, "No  
10 base increase," it would be March 1, 1992 they did not  
11 receive an increase, but others did?

12 A Correct.

13 Q Okay. Now, as an example, at the bottom of the  
14 first page of Exhibit 3, it says,  
15 what would that mean?

16 A That means that he could not receive an IIA, but  
17 he could receive an increase in his base pay. And that

18

19 Q Okay. Generally, what would a base increase be,  
20 otherwise, if there were no penalty imposed? Would it be a  
21 percentage?

22 A There is a maximum base increase. And as I  
23 recall, for this year for Pay Grade 3 managers, it was  
24 \$1,500. So, this would mean that he would, in this case, he  
25 would receive a \$1,500 base increase which would be the



1 amount that other people in that pay grade received.

2 Q Okay. Then what was the purpose of having it  
3 listed here as base plus 1,500 if that was the maximum  
4 allowable?

5 A It was simply to try to keep some sort of records  
6 of what type of discipline we were applying. In other  
7 words, we are saying here that what Mr. Sanders had agreed  
8 to was this person could go ahead and receive a base --  
9 their base increase of \$1,500.

10 Q Now, if under the comment section, there is no  
11 comment, does that mean they simply received either  
12 counseling, or warning, or a reprimand?

13 A Correct.

14 Q With no financial penalty?

15 A Right.

16 Q Okay. And, for example, the third page has  
17 has that means he received  
18 a base increase of 1,900, he being a Pay Grade 5?

19 A Correct.

20 Q Okay. And what was the maximum allowable for a  
21 Pay Grade 5?

22 A I believe it was \$1,900.

23 Q Okay. So for for example, his total  
24 financial penalty was not being eligible for the incentive  
25 award?

1 A Right.

2 Q Okay. On Exhibit 4, is this also the results of  
3 the panel for Pay Grade 5 and below?

4 A Yes.

5 Q Do you see for under comments, it  
6 says, "See sheet"?

7 A That was a note that was made to locate the  
8 person. It is just strictly a location note.

9 Q being one of the more senior managers?

10 A Right.

11 Q Okay. Now, there are actually lines written  
12 through a and on the first page of  
13 Exhibit 4. Do you know why that is? That is simply trying  
14 to locate them or did they not receive any discipline?

15 A It was a part of a location effort, yes.

16 Q Okay. A few pages in, under under  
17 under there is a comment, "No longer."  
18 Does that "No longer," mean a location item again?

19 A I would have to answer that with an assumption. I  
20 assume that that means he is no longer at that location, or  
21 he is no longer -- perhaps no longer with the Company. I  
22 just don't know.

23 Q Okay. The second to the last page in Exhibit 4  
24 under who is a Pay Grade 3, it says  
25 And I was wondering how that could be, if

1 1,500 was the maximum for Pay Grade 3?

2 A This could happen if you had a person that was not  
3 at the position rate for their particular job. They would  
4 then be eligible for a greater increase because they had not  
5 reached the top of the position rate for that job. And I  
6 would assume that is what happened in her case.

7 Q Okay. Just generally about the incentive award,  
8 you said that an employee's eligibility for the incentive  
9 award is based on their performance?

10 A Correct.

11 Q What determines the performance? Is it key  
12 service results, the key service results indicator?

13 A Generally, the incentive award is based on their  
14 overall contribution to the business. That would include  
15 the results area for which they might be responsible.

16 Q Okay. Could you tell me what the key service  
17 results indicator is?

18 A Key service results indicator.

19 Q Are you familiar with that term?

20 A (By Witness Sanders) That is KSRI.

21 A (By Witness Cuthbertson) Oh. Once we get into  
22 acronyms, we don't always remember what they are. Key  
23 service indicators, thank you.

24 Key service indicators are those results areas  
25 that the Company has identified as being of particular

1 significance. And the management team incentive awards are  
2 tied back to key service indicators.

3 Q Okay. So would the employee's rating on the KSRI  
4 determine their eligibility for the IIA?

5 A Not necessarily.

6 Q What would determine eligibility for the incentive  
7 award?

8 A Well, to be eligible for an individual incentive  
9 award a person has to be rated a major contributor to the  
10 business on their appraisal. And then they are looked at  
11 along with those other people in their pay grade, in their  
12 organization, as to their overall contribution to the  
13 business.

14 Q Okay. So, would that be a subjective evaluation  
15 by a superior about whether they were a key contributor to  
16 to the business?

17 A That's right.

18 Q And is KSRI one of those things that would help  
19 somebody make that determination or is that separate?

20 A Well, if part of their duties included  
21 responsibility for results that are reflected by the KSRI's,  
22 then I would think that as a supervisor you would take that  
23 into consideration.

24 Q Mr. Sanders, do you have anything to add to that?

25 A (By Witness Sanders) That is basically it. It is

1 looking at their job and their job responsibilities and  
2 their boss' analysis of their performance for the previous  
3 year and their contribution.

4 Q Okay. So the importance of KSRI for determining  
5 for whether a person is eligible for the IIA, depends on  
6 that person's job?

7 A That's right.

8 Q Okay.

9 ~~A KSRI's are more indicative of team awards than the~~  
10 Company issues, not the individual awards.

11 Q Okay. Are team awards awarded also for the year  
12 beginning March 1st, '92?

13 A Sometime around that time. I've forgotten exactly  
14 when they are awarded.

15 Q Did any of these disciplinary actions affect team  
16 awards or eligibility for team awards?

17 A No.

18 Q So, a person who was not eligible for the IIA  
19 could have received a team award?

20 A That is correct.

21 Q I'm not sure if I asked this, but on Exhibit 5 is  
22 that also one of the reports from the Pay Grade 5 and below  
23 panel that we discussed earlier?

24 A Yes. I have not labelled my exhibits, and so I  
25 keep looking to make sure. Yes; yes, it is.

1 Q And for all of these, 3, 4 and 5, to the best of  
2 your recollection here today, do the disciplinary actions  
3 reflected there reflect what actually occurred?

4 A (By Witness Cuthbertson) Yes.

5 MR. BECK: I would like to have another exhibit  
6 marked. This is No. 6. This is the one that starts  
7 off with, "Mr. Charlie."

8 (Exhibit Number 6 marked for identification.)

9 MR. ANTHONY: Well, for the record, I'm just going  
10 to -- I know what the answer is going to be, but I feel  
11 like I need to make it. Some of this material, the  
12 handwritten material is privileged material that was  
13 provided to Public Counsel inadvertently in response to  
14 the discovery request. And I will renew my request  
15 that it be returned to the Company, the handwritten  
16 material.

17 MR. BECK: For the record, Mr. Anthony sent me a  
18 letter about two weeks ago asking for the return of  
19 these documents, I guess, everything under the  
20 typewritten page. And we have responded to him this  
21 past Monday, stating our opinion that, first of all,  
22 the documents are not privileged; and second of all,  
23 even if they were privileged, that the privilege has  
24 been waived. And so we are going to go forward with  
25 them.

1 MS. GREEN: Let me speak up and state for the  
2 record that to my knowledge the document in question is  
3 not on file at this time with the Public Service  
4 Commission, nor in the possession of any of its Staff.

5 MR. ANTHONY: I believe that is correct. When  
6 Staff had a "me too" document request, it was not  
7 provided because by then the inadvertent delivery to  
8 Public Counsel had been discovered.

9 BY MR. BECK:

10 Q Mr. Cuthbertson, I take it that the letter to --  
11 it starts off with, "Mr. Charlie," is to you?

12 A (By Witness Cuthbertson) That is correct.

13 Q Could you tell me who wrote this?

14 A This was sent to me by Ms. Phillips.

15 Q Who is Ms. Phillips?

16 A She is secretary to Mr. Sanders.

17 Q Okay. There is handwriting at the bottom of the  
18 page. Is that your handwriting?

19 A That is my handwriting.

20 Q What do the names listed on the bottom of the  
21 first page reflect?

22 A Those are additional names that contacted our --  
23 at least, I was advised by either Mr. Sanders or Ms.  
24 Phillips that they had contacted his office wanting to have  
25 their entry reviewed.

1 Q

2

3

4

5

6 A (By Witness Sanders) No. There have been some  
7 more.

8 Q More since the time this document was prepared?

9 A Yes.

10 Q Okay. Do either of you know when this document --  
11 well, was it prepared on March 12th?

12 A (By Witness Cuthbertson) The document was sent to  
13 me on or about March 12th.

14 Q Okay. So, the persons listed here would have been  
15 notified that they were going to be disciplined prior to  
16 that time, is that right?

17 A Correct.

18 Q Do you know when persons began to be notified that  
19 they were about to be disciplined, or were people given a  
20 warning?

21 A (By Witness Sanders) These people had already  
22 been disciplined, I suspect.

23 Q Okay. And following the cover page, there is a  
24 number of handwritten pages that Mr. Anthony has referred to  
25 that he said he wants returned because it is privileged in



1 his opinion?

2 MR. ANTHONY: Yes.

3 BY MR. BECK:

4 Q Who wrote these pages?

5 A (By Witness Cuthbertson) This is my handwriting.

6 Q Okay. It is your handwriting on all of these up  
7 until the typewritten letter at the end?

8 A Yes. Up until the typewritten letter, yes.

9 ~~Q And did you prepare these documents to respond to~~  
10 the request that was sent by Mr. Sanders' secretary for more  
11 information on each of these persons?

12 A Yes, I did.

13 Q Were these notes for you or for Mr. Sanders to  
14 use?

15 A These notes were prepared for Mr. Sanders' use.

16 Q Okay. In other words, this was your response to  
17 the request reflected on the typewritten page?

18 A Correct.

19 Q

20

21

22

23 MR. ANTHONY: I am going to instruct the witness  
24 not to answer any questions about the handwritten  
25 material of this exhibit, any of the questions.

1           MR. BECK: I am going to ask the questions and you  
2           just repeat, you know, repeat the answer if that is  
3           what it says.

4 BY MR. BECK:

5           Q

6

7

8           MR. ANTHONY: Instruct the witness not to answer  
9           the question.

10          MR. BECK: And all of these instructions are based  
11          on your --

12          MR. ANTHONY: It's privileged, but I'm just using  
13          shorthand at this point.

14          MR. BECK: Well, that's good. Just so I  
15          understand.

16 BY MR. BECK:

17          Q

18

19

20          is?

21          MR. ANTHONY: Instruct the witness not to answer  
22          the question based on the privilege.

23 BY MR. BECK:

24          Q

25

1 MR. ANTHONY: I am going to instruct the witness  
2 not to answer, unless he has any independent knowledge  
3 beyond the investigation.

4 WITNESS CUTHBERTSON: I have no knowledge of  
5 outside the privileged material.

6 BY MR. BECK:

7 Q Okay. Besides the claim of privilege, could you  
8 tell me whether there is an employee at Southern Bell whose  
9 name is

10 A Today?

11 Q Yes.

12 A I do not know a person named  
13 There are some 18,000 or 19,000 employees in Florida. I'm  
14 sorry, I don't know the name.

15 MR. BECK: Let's go off the record briefly.

16 (Off the record briefly.)

17 BY MR. BECK:

18 Q

19 A Okay.

20 Q

21

22

23

24 MR. ANTHONY: I am going to instruct the witness  
25 not to answer based on the privilege.

1 BY MR. BECK:

2 Q

3

4 A Yes.

5 Q

6

7 MR. ANTHONY: I will instruct the witness not to  
8 answer.

9 BY MR. BECK:

10 Q

11

12

13 A Yes.

14 Q Could you tell me that individual's name?

15 MR. ANTHONY: I am going to instruct the witness  
16 not to answer.

17 BY MR. BECK:

18 Q

19

20 A Yes.

21 Q

22

23 MR. ANTHONY: I am going to instruct the witness  
24 not to answer.

25 BY MR. BECK:

1 Q

2

3

4 A Yes.

5 Q

6 MR. ANTHONY: I am going to instruct the witness  
7 not to answer.

8 BY MR. BECK:

9 Q Do you see the bottom of the page?

10 A Yes.

11 Q

12 A Right.

13 Q

14 MR. ANTHONY: To the extent that his knowledge is  
15 based on the investigation, I am going to instruct him  
16 not to answer. If he knows independently who may  
17 be, he can answer that question.

18 WITNESS CUTHBERTSON: I have no knowledge  
19 independent of the investigation of a Mr. or Ms.

20 BY MR. BECK:

21 Q Okay. Do you know whether you have a person named  
22 who has worked in installation and maintenance centers?

23 A I have no idea.

24 Q

25

1 that?

2 A Yes.

3 Q

4

5 MR. ANTHONY: I am going to instruct the witness  
6 not to answer.

7 BY MR. BECK:

8 Q

9 ~~A Yes.~~

10 Q

11

12 A Yes.

13 Q Could you tell me who that person is?

14 MR. ANTHONY: Instruct the witness not to answer.

15 BY MR. BECK:

16 Q

17

18 MR. ANTHONY: Where are you, Charlie?

19

20

21

22

23

24 BY MR. BECK:

25 Q Could you tell me who that person is?

1 MR. ANTHONY: To the extent it is based on the  
2 investigation, I am instructing the witness not to  
3 answer it. If he knows independently, he can tell you  
4 who she is, or he is.

5 WITNESS CUTHBERTSON: Mr. Beck, may I provide an  
6 answer?

7 MR. BECK: Yes.

8 WITNESS CUTHBERTSON: Geer refers to Hilda Geer,  
9 ~~whom I know independently of the investigation to be~~  
10 Operations Manager, Human Resources for South Florida.

11 BY MR. BECK:

12 Q Thank you. It's worth all the effort.

13 MR. ANTHONY: See how cooperative we are.

14 BY MR. BECK:

15 Q

16

17

18 MR. ANTHONY: To the extent he knows  
19 independently, he can. If it is based upon the  
20 investigation, I am going to instruct him not to  
21 answer.

22 WITNESS CUTHBERTSON: I have no knowledge of a  
23 person by the name of except through the  
24 investigation.

25 BY MR. BECK:

1 Q Mr. Sanders, all of these I have been asking  
2 Mr. Cuthbertson, do you know who any of these people are  
3 that I've been asking about?

4 MR. ANTHONY: To the extent that he knows  
5 independently, he can answer.

6 MR. BECK: Okay.

7 WITNESS SANDERS: No.

8 BY MR. BECK:

9 Q

10 A (By Witness Cuthbertson) Right.

11 Q

12

13 A Yes.

14 Q Could you please give me the names of those  
15 individuals?

16 MR. ANTHONY: I'm going to instruct the witness  
17 not to answer that question.

18 BY MR. BECK:

19 Q

20

21

22 A Yes.

23 Q

24 MR. ANTHONY: I am going to instruct the witness  
25 not to answer.



1 BY MR. BECK:

2 Q

3 A Yes.

4 Q

5

6 A Right.

7 Q Could you tell me the names of those eight people?

8 MR. ANTHONY: I am going to instruct the witness

9 not to answer.

10 BY MR. BECK:

11 Q

12

13 A Yes.

14 Q Could you describe that incident for me?

15 MR. ANTHONY: I am going to instruct the witness

16 not to answer.

17 BY MR. BECK:

18 Q Mr. Sanders, the next page on this is a letter to

19 you with a copy to Mr. Cuthbertson from Do

20 you see that?

21 A (By Witness Sanders) Yes.

22 Q Was disciplined?

23 A Yes.

24 Q Okay. And this is a letter to you, I guess,

25 protesting the discipline?

1 A Yes.

2 Q Her letter starts off saything that, "Today I met  
3 with F. R. Knowles and M. D. Ward." Do you see that?

4 A Yes.

5 Q Who are those persons?

6 A Floyd Knowles is the Operations Manager for the  
7 Fort Pierce area. Ward is the Human Resources Manager for  
8 that area.

9 Q And do you know what their meeting was about?

10 A To administer the discipline.

11 Q Okay. So, they were the ones who actually  
12 administered the discipline to

13 A Yes.

14 Q And she was --

15 A Protesting.

16 Q Protesting that. Okay.

17 Okay. The very last page --

18 MR. BECK: Just for the record, Hank, I believe  
19 you are not claiming that this letter is privileged?

20 MR. ANTHONY: That's correct.

21 MR. BECK: At the very back of this, there is one  
22 more page, and that is Mr. Cuthbertson's notes.

23 MR. ANTHONY: And I claim that to be privileged.

24 MR. BECK: Okay.

25 BY MR. BECK:

1 Q And, Mr. Cuthbertson, are these your notes at the  
2 very last page?

3 A (By Witness Cuthbertson) Yes, they are.

4 Q And that is a continuation of your response to the  
5 letter that starts off Exhibit 6?

6 A Yes, it is.

7 Q

8

9

10 A Yes.

11 Q

12 MR. ANTHONY: To the extent you have independent  
13 knowledge of who that person might be, you can answer.  
14 But to the extent you know who this Taylor or Maxfield  
15 is based on the investigation, I will instruct you not  
16 to answer.

17 WITNESS CUTHBERTSON: The only knowledge I have of  
18 those people is as a result of the information from the  
19 investigation. So, I wouldn't be able to answer.

20 BY MR. BECK:

21 Q And do you know any persons named and  
22 who worked or have worked in positions associated  
23 with installation and maintenance service?

24 A (By Witness Cuthbertson) I do not have knowledge  
25 independent of the investigation of such people.

1 MR. ANTHONY: Could we go off for a second?

2 (Off the record briefly)

3 MR. BECK: Can we have another exhibit marked.

4 (Deposition Exhibit No. 7 marked for

5 identification.)

6 BY MR. BECK:

7 Q

8

9

10 A (By Witness Cuthbertson) Yes, I did.

11 Q

12

13

14 A That's right.

15 Q

16

17

18 A Correct.

19 Q

20

21

22 A

23

24 (Off the record briefly.)

25 MR. ANTHONY: This is privileged. It was provided

1           inadvertently.

2           MR. BECK: Uh-oh.

3           MR. ANTHONY: I'm sorry. I sent you the wrong  
4 record. Unfortunately, and I didn't realize what this  
5 list represented, but this also contains information  
6 that is based upon the privileged investigation and was  
7 mistakenly provided to Public Counsel, and to the Staff  
8 as well.

9           MS. GREEN: Staff has this index.

10          MR. ANTHONY: And so I am going to make the same  
11 request now of Public Counsel, and now to you, Angela,  
12 since it was inadvertently provided, if we can get this  
13 document returned?

14          MR. BECK: And, Hank, obviously, my answer is the  
15 same as I have answered on the other document, the same  
16 thing.

17          MS. GREEN: Now that this has been brought to my  
18 attention, if it has, in fact, been filed at the  
19 Commission, which I do not know, if it has, my position  
20 would be that I can't return it to you. Once you have  
21 filed it there, it has become a public record.

22          MR. ANTHONY: Okay. I will be sending a letter  
23 similar to the other one to both of you, and you can  
24 respond accordingly.

25          MR. BECK: Okay.

1 MR. ANTHONY: And so, then, to the extent that the  
2 question is related to the information on this  
3 document, other than the names of people who filed  
4 appeals with Mr. Sanders, I am going to instruct the  
5 witness not to respond.

6 MR. BECK: Okay. Let me go ahead and ask the  
7 questions, anyhow.

8 BY MR. BECK:

9 Q

10  
11 A Right.

12 Q

13 MR. ANTHONY: I am going to instruct the witness  
14 not to answer on the grounds that it is derived from  
15 the privileged investigation.

16 BY MR. BECK:

17 Q

18  
19  
20  
21 MR. ANTHONY: Mr. Cuthbertson, you can tell Mr.  
22 Beck about the names to the left, if those are people  
23 who have filed appeals to Mr. Sanders. To the extent  
24 their names or any other names on this are based only  
25 on the investigation, then I am going to instruct you

1 not to answer the question.

2

3

4

5 BY MR. BECK:

6 Q And each person that is listed underneath there,  
7 you could tell me why their names are there, but you are not  
8 going to on counsel's instructions?

9 A (By Witness Cuthbertson) Yes. I have no  
10 knowledge of those people other than knowledge I derived  
11 from the priviledged material.

12 Q But you could answer my question but for counsel's  
13 instructions?

14 A That is correct.

15 A (By Witness Sanders) I need to add one more thing  
16 to the record.

17 Q Sure.

18 A On the Pay Grade 7 there was one more Pay Grade 7  
19 that I disciplined based on the "on your watch," and that  
20 was

21 Q Sir, could you spell his last name?

22 A

23 Q Okay. What is his position?

24 A He is the I  
25 think. Anyway,

1 Q Was his discipline based upon his position as  
2 that?

3 A No.

4 Q What was it based on?

5 A

6 I guess that is  
7 the one.

8 Q And what was the discipline taken?

9 A It was a

10 Q Thank you.

11 Skip that big one, we're not going to use that at  
12 all, and go to the next item which talks about sales related  
13 discipline. It is Page 1 of 6,  
14 areas.

15 MR. BECK: Could we have that identified?

16 (Deposition Exhibit No. 8 marked for  
17 identification.)

18 BY MR. BECK:

19 Q It starts with Do you have Exhibit  
20 8, Mr. Cuthbertson?

21 A (By Witness Cuthbertson) Yes, I do.

22 Q Could you turn to the second page? It appears  
23 that an entry that would have been numbered 4 has been  
24 deleted from this page. Could you tell me what that entry  
25 was, and why it was deleted from this page?



1 A I have no idea.

2 Q Are there any others missing on this page or on  
3 the next page?

4 A I really don't know.

5 MR. BECK: As Late-Filed No. 8, I would like the  
6 missing entries.

7 MR. ANTHONY: That is assuming there are any  
8 missing entries.

9 MR. BECK: Well, there is 1, 2, 3 on the first  
10 page and there's a big blank.

11 MR. ANTHONY: I just don't know if there are or  
12 not. If there is a missing entry, and it was removed  
13 for some reason that it shouldn't have been removed,  
14 I'll supply it to you. If it was removed for some  
15 other reason that we think is a valid reason, I will  
16 tell you why and what we know about it.

17 MR. BECK: And let me tell you what I think. I  
18 mean, obviously, I could be wrong. It appears to me  
19 you may have deleted these because you believed it  
20 wasn't responsive to our request. And if that is the  
21 reason it has been deleted, now I am asking for it this  
22 time, as we just want it because it is an entry on a  
23 document that clearly is relevant.

24 MR. ANTHONY: If that is the reason, and that is  
25 your request, I will provide it to you.

1 MR. BECK: Okay. Maybe you have some other reason  
2 you want to object.

3 MR. ANTHONY: I just don't know. If there was  
4 something deleted, and if so, what.

5 MR. BECK: Okay. That is the missing entries on  
6 Exhibit 8, the request.

7 MR. ANTHONY: Right.

8 (Late-Filed Deposition Exhibit 8 identified.)

9 MR. BECK: Could we have the next one marked,  
10 which is North Florida Special Study.

11 (Deposition Exhibit No. 9 marked for  
12 identification.)

13 BY MR. BECK:

14 Q Mr. Cuthbertson -- first of all, let me back up.  
15 Are you familiar with Exhibit No. 8? No. 9 appears somewhat  
16 similar. Are you familiar with these exhibits?

17 A (By Witness Cuthbertson) Vaguely.

18 Q How are you familiar with them?

19 A I am familiar with them from the standpoint that  
20 members of my organization put these together, but I am not  
21 personally familiar with the details of them.

22 Q Mr. Sanders, are you familiar with Exhibit 8?

23 A (By Witness Sanders) No, I am not.

24 Q In Exhibit 9, Mr. Cuthbertson, it appears that  
25 there are two entries missing on the first page and then --

1 well, it appears there are three, No. 1, 2 and 4 on the  
2 first page, and there may be some missing on the second.  
3 And I was wondering if you knew what they were?

4 A I have no idea.

5 MR. BECK: Could we make Late-Filed 9 the same as  
6 8, except for Exhibit 9. You noticed that we worked  
7 this out so the late-filed matched the exhibit.

8 MR. ANTHONY: Incredibly well planned, I might  
9 add.

10 (Late-Filed Exhibit No. 9 identified.)

11 MR. BECK: The next one is the -- it's like  
12 Exhibit 8, it's for the Southeast/South Florida Areas  
13 Special Study Sales Related Discipline, but this one is  
14 Page 1 of 2 and 2 of 2. It's different from Exhibit 8,  
15 even though it has the same starting point, or even  
16 though it has a similar title. It starts off with

17

18 (Deposition Exhibit 10 marked for identification.)

19 BY MR. BECK:

20 Q And, Mr. Cuthbertson, like Exhibit 8 and 9, are  
21 these documents that were prepared in your --

22 A (By Witness Cuthbertson) I do not seem to have  
23 that one. I will check.

24 Q Do you recognize this as something that was  
25 prepared by your organization related to sales related

1 discipline?

2 A Yes.

3 Q And on Page 2 of 2, do you see where it appears to  
4 be a No. 5 that is missing?

5 A Yes, I see that.

6 Q Okay. Do you know what that is?

7 A I have no idea.

8 MR. BECK: As Exhibit Late-Filed No. 10, if we can  
9 get any missing entries on Exhibit 10?

10 MR. ANTHONY: The same basis as 8 and 9, yes.

11 (Late-Filed Deposition Exhibit 10 identified.)

12 MR. BECK: Let's have the exhibit, the next one  
13 that starts with

14 (Deposition Exhibit No. 11 marked for  
15 identification.)

16 BY MR. BECK:

17 Q Mr. Cuthbertson, do you have this document that  
18 starts off with Form B on No.

19 (Off the record.)

20 Do you have Exhibit 11? This is Exhibit 11.

21 A Yes, I have it.

22 Q Okay. And it starts off with a Form B for  
23 is that correct?

24 A Right.

25 Q And the next page appears to be notes, is that

1 correct?

2 A Correct.

3 Q Are these the notes that you referred to earlier  
4 today in the deposition about the notes that you took when  
5 you and Mr. Perry went to Gainesville to interview?

6 A Yes.

7 Q Those are them?

8 A That's correct.

9 Q Okay. And the first page, then, reflects some  
10 discipline that was imposed on as a result of  
11 the actions and omissions described in the report, is that  
12 correct?

13 A Correct.

14 Q And also received discipline as a  
15 result of your other investigation that is being claimed  
16 privileged, is that correct?

17 A That is correct.

18 Q Okay. So, as I understand it, and correct me, we  
19 have here the discipline of related to the acts  
20 and omissions that are reflected in the Security  
21 investigation. The other one is based on other acts and  
22 omissions other than these, is that right?

23 A That's correct. Could I consult with counsel for  
24 a moment?

25 Q Sure.

1 (Off the record briefly.)

2 WITNESS CUTHBERTSON: Thank you for the time. Ask  
3 it again, please.

4 (Pending question read back by reporter.)

5 WITNESS CUTHBERTSON: Correct.

6 MR. BECK: Okay. We have another document. These  
7 are some handwritten notes dated April 10th, 1992.

8 (Deposition Exhibit No. 12 marked for  
9 identification.)

10 BY MR. BECK:

11 Q Mr. Cuthbertson, do you recognize Exhibit 12?

12 A Pardon?

13 Q Do you recognize Exhibit 12?

14 A Yes.

15 Q Is this your handwriting?

16 A Yes, it is.

17 Q Okay. And these are notes that you made about  
18 certain people who were protesting their discipline, is that  
19 correct?

20 A That is correct.

21 Q Could you go to the fourth page. Do you see this  
22 starts with . at the top?

23 A Right.

24 Q And do you see this, a little above the middle, it  
25 says,

1

2 A Right.

3 Q Could you tell me who those two employees are?

4 MR. ANTHONY: Just one second, Mr. Cuthbertson.

5 Why don't we take a one-minute break.

6 (Off the record briefly.)

7 MR. ANTHONY: Let's go back on the record.

8 It appears that Exhibit 12 may also contain  
9 information that is privileged based on the  
10 investigation and was inadvertently provided to Public  
11 Counsel and the Staff. It was provided to you, Angela,  
12 I believe.

13 MS. GREEN: I have no knowledge at this time.

14 MR. ANTHONY: All right. It may have been  
15 provided to the Staff inadvertently, as well. And to  
16 the extent it contains privileged information, it  
17 shouldn't have been provided, and I would repeat the  
18 request I have made previously with regard to the other  
19 two documents, that it be returned. And I assume your  
20 answer is the same as the other two documents.

21 MR. BECK: Yes, let's go ahead.

22 MR. ANTHONY: And as I said, on the other Exhibit  
23 No. 7, I will be sending a letter to you about that.

24 MS. GREEN: Staff would go on record with the same  
25 response. To the extent it has already been filed with

1 the Commission, we will refuse to return it.

2 MR. ANTHONY: With that having been placed on the  
3 record, then, could you repeat the question, Mr. Beck?

4 MR. BECK: Yes.

5 BY MR. BECK:

6 Q Mr. Cuthbertson, who are the two employees that  
7 are referred to here in the notes?

8 MR. ANTHONY: I am going to instruct the witness  
9 not to answer based on -- to the extent that it is  
10 based on the privileged investigation.

11 WITNESS CUTHBERTSON: I must just decline  
12 answering the question, because I have no knowledge of  
13 these two persons independent of the privileged  
14 material.

15 BY MR. BECK:

16 Q But for the instructions of your counsel, you  
17 could answer my question, is that correct?

18 A (By Witness Cuthbertson) Yes.

19 Q Okay. You have two more pages, then where it  
20 talks about who wants to appeal?

21 A Yes.

22 Q And further underneath there, it says, "Three  
23 people say he told them to do improper things"?

24 A Yes.

25 Q Do you see that?



1 A Yes.

2 Q Could you tell me who those three people are?

3 MR. ANTHONY: I am going to instruct the witness  
4 not to answer to the extent it is based on the  
5 privileged investigation.

6 BY MR. BECK:

7 Q Okay. Do you see the bottom of the page where it  
8 says,

9  
10 A Yes.

11 Q Could you tell me what that problem is?

12 MR. ANTHONY: To the extent it is based on the  
13 privileged investigation, I am going to instruct the  
14 witness not to answer.

15 BY MR. BECK:

16 Q Could you answer?

17 A I can answer that -- I can partially answer that  
18 question based on some independent knowledge.

19 MR. ANTHONY: Okay, if you can do that; that's  
20 fine.

21 A (By Witness Cuthbertson) One of the problems that  
22 I saw, and I made this note, was that a procedure that had  
23 been utilized in Gainesville of where employees were  
24 instructed to call, simply referred to it as the back room,  
25 purely because that is where the supervisor was. They had

1 to get approval from the supervisor on closing out certain  
2 troubles. And the perception of the employees was that  
3 there was something improper about that activity, when there  
4 may or may not have been.

5 Q But I take it from your notes that you thought it  
6 was a real problem?

7 A I thought it was a perception problem. I do not  
8 know whether it's a real problem or not.

9 Q On the next page, under

10 A Yes.

11 Q On the left side of the first paragraph, there is  
12 some notes that say, "Named by two MAs and two FTs." Do you  
13 see that?

14 A Yes.

15 Q I take it MA means maintenance administrator?

16 A That's correct.

17 Q And FT is field technician?

18 A Facility technician.

19 Q Facility technician. Could you tell me who those  
20 two MAs and two FTs are that you refer to there?

21 MR. ANTHONY: To the extent that knowledge is  
22 based on the privileged investigation I am going to  
23 instruct the witness not to answer.

24 BY MR. BECK:

25 Q Could you answer?

1           A     I decline to answer the question because I have no  
2 knowledge independent of the privileged material.

3           Q     And on the next page, under                   do you  
4 see where it says, "Two employees who name him," and so  
5 forth?

6           A     Yes.

7           Q     Could you tell me who those two employees are?

8           MR. ANTHONY: To the extent that is based on the  
9 investigation, I am going to instruct him not to  
10 answer.

11           WITNESS CUTHBERTSON: My answer is the same as on  
12 the others.

13 BY MR. BECK:

14           Q     And on the next page, still under                   it  
15 mentions two MAs, do you see that?

16           A     Yes.

17           Q     Are those the same two employees that you referred  
18 to on the previous page?

19           MR. ANTHONY: To the extent that -- you thought  
20 you would sneak that one by -- it's based on the  
21 investigation, I am going to instruct him not to  
22 answer.

23           WITNESS CUTHBERTSON: My answer is the same as  
24 before.

25 BY MR. BECK:

1 Q Could you tell me who they are, though, those two  
2 MAs?

3 MR. ANTHONY: I am going to instruct him not to  
4 answer.

5 BY MR. BECK:

6 Q Will you go a few more pages to

7 A Yes.

8 Q Okay. And if you go down the page, it says,  
9 "Three people said he told them to do improper things," and  
10 it goes on?

11 A Yes.

12 Q Okay. Could you tell me who those three people  
13 are?

14 MR. ANTHONY: I am going to instruct him not to  
15 answer to the extent it is based on the investigation.

16 WITNESS CUTHBERTSON: I have no knowledge of those  
17 people independent of the investigation.

18 BY MR. BECK:

19 Q So, you could answer my question but for counsel's  
20 instruction?

21 A Yes.

22 Q Who is

23 MR. ANTHONY: Don't answer the question.

24 WITNESS CUTHBERTSON: I must decline to answer  
25 that question based on the fact I have no knowledge of

1           that individual independent of the investigation.

2 BY MR. BECK:

3           Q     Okay. You could answer it but for counsel?

4           A     Yes.

5           MR. ANTHONY: I am going to instruct him, again,  
6           not to answer that.

7 BY MR. BECK:

8           Q     It refers to a           incident. Do you see that  
9           there?

10          A     Yes.

11          Q     Could you tell me what that was?

12          MR. ANTHONY: To the extent it is based on his  
13          knowledge of the investigation, and to the extent he  
14          will let me read the document before he answers so I  
15          can decide whether to instruct him or not, I would  
16          appreciate it.

17 BY MR. BECK:

18          Q     Okay. You are not answering because of counsel?

19          A     Yes. And I have no knowledge of the incident  
20          independent of the investigation.

21          Q     Okay. Next page,           again. Do you see  
22          this in the margin, it says, "Two MAs name him as one in  
23          back room who said back up times or use exclude codes," do  
24          you see that?

25          A     Yes.

1 Q Could you tell me who the two MAS are?

2 MR. ANTHONY: To the extent it is based on the  
3 investigation, I am going to instruct him not to  
4 answer.

5 BY MR. BECK:

6 Q Mr. Cuthbertson?

7 A I cannot answer.

8 Q Okay. Because of Counsel's instruction?

9 A Yes.

10 Q Otherwise, you could?

11 A Yes.

12 Q Okay. The next page, under and going  
13 down, there is a number of times where there is something  
14 said and then there appears to be a name. For example,  
15 under 12-A, "Implied that out of service over 24 hours, MA  
16 should use excluded codes, like 41D," and it says  
17 Do you see that?

18 A Yes.

19 Q Is the name of the person who said that?

20 MR. ANTHONY: To the extent that is based on the  
21 investigation, I am going to instruct him not to  
22 answer.

23 WITNESS CUTHBERTSON: My answer would be the same  
24 as to the other question.

25 BY MR. BECK:

1 Q Do you know a Southern Bell employee named

2 A I do not.

3 Q Would you know but for, with access to the  
4 privileged, claimed privileged investigation? I mean, are  
5 you saying there is no employee named

6 A I have no knowledge of a person named  
7 independent of the investigation.

8 Q Okay. And do you see where it says,

9 -- I guess that's 410?

10 A Yes.

11 Q Improperly.

12 A Yes.

13 Q Could you tell me who is?

14 MR. ANTHONY: To the extent it is based on the  
15 investigation, I am going to instruct him not to  
16 answer.

17 WITNESS CUTHBERTSON: My answer would be the same.

18 BY MR. BECK:

19 Q Okay. And the next page, still under

20 A Okay.

21 Q Do you see where it says,

22 about two-thirds of the way down?

23 A Yes.

24 Q Who is

25 MR. ANTHONY: To the extent that your knowledge is

1 derived only from the investigation, I'm going to  
2 instruct you not to answer that. If you know  
3 independently, you can answer.

4 WITNESS CUTHBERTSON: I do know independent of the  
5 investigation that is a supervisor in  
6

7 BY MR. BECK:

8 Q In what area? In the installation and maintenance  
9 center?

10 A I'm not sure where he is working right now. I  
11 don't recall that, but I simply know he is a manager in  
12

13 Q And and do you know who  
14 they are?

15 MR. ANTHONY: Same instruction, if you know  
16 independently, you can answer. If it is derived from  
17 the investigation, I am instructing you not to answer.

18 WITNESS CUTHBERTSON: I do know independently that  
19 they are supervisors in

20 BY MR. BECK:

21 Q You know that from your trip down there on the  
22 internal investigation, is that right?

23 A That's correct.

24 Q Okay. The next page. Do you know somebody named  
25 who works in



1 A No, I know no one named who works in

2

3 Q Okay. On the next page, under it  
4 says,

5 MR. ANTHONY: If you have independent knowledge of  
6 who Hilda is, you can answer whatever questions Mr.  
7 Beck has about her.

8 BY MR. BECK:

9 Q Who is the Hilda you are referring to there?

10 A Hilda is Hilda Geer, Operations Manager,  
11 Personnel, in South Florida.

12 Q What do your notes mean there about, "Talked to  
13 Hilda"? I mean, who talked to Hilda? What does the note  
14 mean?

15 A That means I talked to Hilda.

16 Q Okay. And what did you talk to her about?

17 A Hilda, Ms. Geer, called me and said that this  
18 individual shown above, claimed that we  
19 had, essentially, made an error in identifying him as  
20 someone who was deserving of discipline. That it was a case  
21 of mistaken identity.

22 Q Okay. And did you call her to try to find out  
23 whether it was a case of mistaken identity or she called  
24 you?

25 A No, she called me to report that that is what

1           said.

2           Q     Okay. And did you conclude that that was correct?

3           A     Subsequent to this, we did conclude that that was  
4 correct. And the entry in                    record was removed.

5           Q     Okay. Because the                    that was referred to in  
6 statements was really a

7           A     That is what we assumed.

8           Q     Okay. Could you tell me who                    is?

9           MR. ANTHONY:    To the extent that the witness has  
10 knowledge independent of the investigation, he can  
11 answer. Otherwise, I am instructing him not to answer  
12 the question.

13                         WITNESS CUTHBERTSON:  I have no knowledge of  
14   independent of the investigation, so I  
15 must decline to answer your question.

16 BY MR. BECK:

17           Q     You could answer but for the instruction?

18           A     Yes.

19           Q     Do you know a Southern Bell employee named

20

21                         MR. ANTHONY:  To the extent that you know of any  
22 such person based on the investigation, I am  
23 instructing you not to answer. If you have independent  
24 knowledge, you can respond.

25                         WITNESS CUTHBERTSON:  I happen to personally know

1 an employee name to the Company.

2 BY MR. BECK:

3 Q

4 A No, it is not

5 Q

6 A Yes.

7 Q Who is the you know?

8 A I know personally an employee named

9 who works in

10 Q Do you know whether there is a

11 that works for the Company?

12 A I must decline to answer your question, because I

13 have no knowledge of that person independent of the

14 investigation which we consider to be privileged.

15 Q Okay. You can tell me about but not

16 A Yes.

17 (Off the record briefly.)

18 MR. BECK: Can we have this marked as --

19 THE REPORTER: No. 13.

20 (Deposition Exhibit No. 13 marked for

21 identification.)

22 BY MR. BECK:

23 Q Are either of you familiar with Exhibit 13 for

24 identification?

25 A (By Witness Cuthbertson) Yes.

1 Q Mr. Cuthbertson, what is that?

2 A This is a listing of those people who received  
3 what we referred to earlier as a financial penalty.

4 Q Is this all Pay Grade 5 and below who received a  
5 financial penalty?

6 A Yes, Pay Grade 5 and below.

7 Q These are divided into more serious and less  
8 serious, is that right?

9 A Correct.

10 Q How did you decide which were more serious and  
11 which were less serious?

12 MR. ANTHONY: If you can describe in general  
13 terms without getting into the knowledge that you  
14 gained from the investigation, you can answer. To the  
15 extent it requires knowledge gained from the  
16 investigation, I am instructing you not to answer.

17 WITNESS CUTHBERTSON: I have no knowledge of their  
18 activities independent of the privileged investigation.

19 BY MR. BECK:

20 Q Could you tell me the acts -- no, let me ask this  
21 first. We only have three people under more serious and  
22 everybody else is under less serious, is that correct?

23 A Correct.

24 Q Okay. For the more serious ones, could you tell  
25 me the acts or omissions by those three persons that led to

1 their being put in that classification?

2 MR. ANTHONY: To the extent it's based on the  
3 investigation, I am instructing you not to answer that  
4 question, Mr. Cuthbertson.

5 WITNESS CUTHBERTSON: I cannot answer your  
6 question based on the advice of counsel.

7 BY MR. BECK:

8 Q But you could but for his instructions?

9 A Yes.

10 Q Okay. Now, under Mr. who is the first  
11 one listed under more serious, do you see there is a number  
12 of 800 under base, and it is crossed out and there is zero  
13 in its place?

14 A Yes.

15 Q What does that mean? Did he gets zero or 800?

16 A He got zero.

17 Q Okay. Was the 800 the recommendation of the  
18 panel, or, I guess, I am trying to get the background. Why  
19 was there an 800? Why was it crossed out and replaced with  
20 zero?

21 A I am trying to recall the series of events. The  
22 panel originally recommended a form of discipline other than  
23 a financial penalty.

24 Q Okay.

25 A Subsequent to that, the concept was developed of

1 utilizing a financial penalty as a form of discipline. And  
2 so this was the original, once that had been decided, this  
3 was a proposal that I had put together. Then as it was  
4 discussed with Mr. Sanders, we ended up doing what is shown  
5 in the handwritten notes as opposed to the typed.

6 Q Now, you say the panel itself originally had no  
7 financial penalties for any of these people?

8 A Correct.

9 Q And that the concept was then, or subsequently  
10 developed, of imposing financial penalties as a concept?

11 A That's right.

12 Q How did that occur?

13 A When I say there was no financial penalty, what I  
14 am referring to is this type of discipline that you see here  
15 was not a part of the original recommendation. The original  
16 recommendation consisted of suspensions for some people,  
17 which would have been a financial penalty, because they  
18 would not have received pay for the time they were off the  
19 payroll. But subsequent to that, I developed this idea of  
20 instead of suspensions for these people, let's simply use  
21 the salary system to impose a financial penalty of some type  
22 on them. And that is what you see here, is my original  
23 recommendation, and then crossed through with what we  
24 ultimately decided to do.

25 Q Why did you think the system of using the salary

1 system was preferable to using suspensions?

2 A (Witness Sanders) I think I can answer that,  
3 Charlie. These people were managing operations from the  
4 standpoint of the future of the organization and their  
5 management responsibilities. I preferred to penalize them  
6 the equivalent of the suspension through the pay plan,  
7 rather than have them out of a job for a week or two weeks  
8 on a suspended basis because of the future impact that would  
9 have on their ability to manage the job.

10 Q Okay. Any other reasons?

11 A That is it.

12 Q Okay. Are either of you familiar with any  
13 internal audits? And let me list four for you. There is  
14 one on LMOS, one on the KSRI, one on MOOSA and one on PSC  
15 Schedule 11. Are either of you familiar with either of  
16 those four internal audits?

17 A (By Witness Cuthbertson) I am not familiar with  
18 them.

19 A (By Witness Sanders) I am familiar to the extent  
20 I know audits have been made. And I may have seen some of  
21 those, I just don't recall right now. But I know, for  
22 example, an audit was made on KSRI's. There have been  
23 several audits, as a matter of fact, back through the years.  
24 And the others you mentioned were what?

25 Q MOOSA.

1           A     I may have seen the audit on MOOSA. I'm not sure  
2 about that one.

3           Q     How about the PSC Schedule 11 audit?

4           A     If I have seen an audit on it, I don't recall.

5           Q     And the last one was LMOS?

6           A     There have been audits made on LMOS in the past.  
7 I don't know which particular one. And I have seen some.  
8 And I may have seen one, I just don't remember.

9           Q     Were any of these audits taken into consideration  
10 in any way, shape or form in the disciplinary actions and  
11 procedures that were followed that we have been discussing  
12 today?

13          A     (By Witness Cuthbertson) No.

14          A     (By Witness Sanders) No.

15               MR. BECK: Let's go off the record.

16               (Off the record briefly.)

17               MR. BECK: Could we have an exhibit marked Exhibit  
18 14, which has a cover letter from Nancy White to  
19 myself, dated June 16th, 1992.

20               (Deposition Exhibit No. 14 marked for identification.)

21 BY MR. BECK:

22          Q     Mr. Sanders, have you had a chance to look through  
23 each one of these Form Bs that are contained in Exhibit 14?

24          A     (By Witness Sanders) Yes, I have.

25          Q     And you are familiar, are you not, with the



1 actions or omissions that form the basis for this  
2 discipline, are you not?

3 A Yes, I am.

4 Q Okay. I would like you to tell me for each one of  
5 these what are the acts or omissions that form the basis for  
6 the disciplinary action.

7 MR. ANTHONY: And I will instruct the witness, as  
8 I did previously, not to answer the question for each  
9 one of these, insofar as it is based on the underlying  
10 privileged investigation.

11 WITNESS SANDERS: To my knowledge it's based under  
12 the privileged information.

13 BY MR. BECK:

14 Q So, you could answer this question but for your  
15 counsel's instruction?

16 A Yes, I could.

17 MR. BECK: That is all we have. I think Staff may  
18 have a few, but thank you very much. It's been a long  
19 day.

20 MS. GREEN: Staff has no questions for these  
21 witnesses.

22 MR. ANTHONY: Let me, before we go off the  
23 record. Mr. Beck has handed out some of these  
24 documents today, two in particular that I am concerned  
25 about, Exhibit 12 and Exhibit 7 that Southern Bell

1 believes are still privileged. And, Ms. Green, you  
2 stated that to the extent they are already filed with  
3 the Commission, you would not return them, but you have  
4 copies here that may or may not have been filed. Can I  
5 get those back?

6 MR. BECK: We will give all the extra copies to  
7 you and you can take them with you.

8 MS. GREEN: Yes, Staff will return those.


9 MR. ANTHONY: Thank you.

10 (The deposition was concluded at 1:00 p.m.)  
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## 1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA )

3 COUNTY OF LEON )

4 I, JANE FAUROT, Court Reporter, Notary Public in  
5 and for the State of Florida at Large:6 DO HEREBY CERTIFY that the foregoing proceedings  
7 was taken before me at the time and place therein  
8 designated; that before testimony was taken the  
9 witness/witnesses were duly sworn; that my shorthand notes  
10 were thereafter reduced to typewriting; and the foregoing  
11 pages numbered 1 through 155 are a true and correct record  
12 of the proceedings.13 I FURTHER CERTIFY that I am not a relative,  
14 employee, attorney or counsel of any of the parties, nor  
15 relative or employee of such attorney or counsel, or  
16 financially interested in the foregoing action.17 WITNESS MY HAND AND SEAL this 29<sup>th</sup> day of June,  
18 1992, in the City of Tallahassee, County of Leon, State of  
19 Florida.20  
21   
22 JANE FAUROT, Court Reporter  
23 Notary Public in and for the  
24 State of Florida at Large

24 My Commission Expires: July 16, 1993

25