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OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

November 16, 1992

SUBJECT: Comprehensive review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone & Telegraph Company, Docket No. 920260-TL

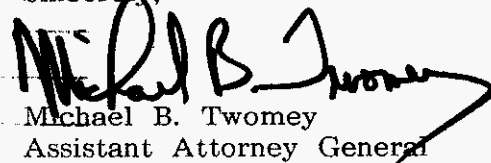
Mr. Steve Tribble
Director, Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

Dear Mr. Tribble:

Enclosed for filing in this proceeding are an original and 15 copies of the Direct Testimony and Exhibits of Michael R. Maloy, on behalf of the Attorney General, in the above-styled proceeding.

ACK ✓ General, in the above-styled proceeding.
AFS 3 Copies have been served in accordance with the attached Certificate of Service.

CAF Sincerely,


Michael B. Twomey
Assistant Attorney General

MBT/psw

Enclosure

SEC 1

WFS

GTS

DOCUMENT NUMBER-DATE

13481 NOV 16 1992

**CERTIFICATE OF SERVICE
DOCKET NO. 920260-TL**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 16th day of November, 1992.

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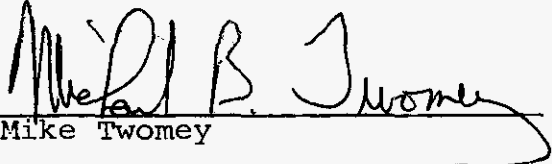
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Mike Twomey

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

TESTIMONY OF MIKE MALOY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 920260-TL

NOVEMBER 16, 1992

1 Q. PLEASE STATE YOUR NAME, AND POSITION.

2 A. MY NAME IS MICHAEL R. MALOY. I AM CURRENTLY AN
3 INSURANCE FRAUD INVESTIGATOR. I WAS PREVIOUSLY
4 EMPLOYED BY THE OFFICE OF THE ATTORNEY GENERAL AS CHIEF
5 INVESTIGATOR.

6
7 Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?

8 A. FOLLOWING MY GRADUATION FROM HIGH SCHOOL, I SERVED
9 APPROXIMATELY FOUR YEARS ACTIVE DUTY IN THE UNITED
10 STATES ARMY AS A HELICOPTER PILOT. I LEFT THE ARMY AT
11 THE RANK OF CHIEF WARRANT OFFICER. IN 1973 I WAS
12 EMPLOYED BY THE CORAL GABLES POLICE DEPARTMENT. I
13 SPENT APPROXIMATELY FOUR MONTHS IN UNIFORM PATROL,
14 AFTER WHICH I WAS PROMOTED TO DETECTIVE IN THE
15 NARCOTICS UNIT. I WORKED FOR APPROXIMATELY
16 THREE-AND-A-HALF YEARS DOING UNDERCOVER NARCOTICS
17 INVESTIGATIONS. I EARNED A BACHELOR'S DEGREE IN
18 ENGLISH LITERATURE FROM THE UNIVERSITY OF MIAMI IN
19 1976.

20
21 IN MAY OF 1977 I WAS EMPLOYED BY THE DIVISION OF
22 INSURANCE FRAUD, DEPARTMENT OF INSURANCE, STATE OF
23 FLORIDA AS A SPECIAL INVESTIGATOR. I HELD THAT
24 POSITION UNTIL 1979, WHEN I WAS PROMOTED TO
25 INVESTIGATIVE SUPERVISOR. I CONTINUED AS INVESTIGATIVE

1 SUPERVISOR FROM 1979 TO 1982 WHEN I WAS PROMOTED TO
2 CHIEF OF INVESTIGATIONS. IN 1986 I WAS PROMOTED TO
3 ASSISTANT DIRECTOR OF THE DIVISION OF INSURANCE FRAUD
4 AND HELD THAT POSITION UNTIL 1988. IN 1988 I WAS
5 EMPLOYED BY ALLSTATE INSURANCE COMPANY AS A SENIOR
6 STAFF REPRESENTATIVE.

7 IN AUGUST OF 1989 I WAS HIRED BY THE OFFICE OF THE
8 ATTORNEY GENERAL AS A FINANCIAL INVESTIGATOR WITH THE
9 RACKETEER INFLUENCED CORRUPT ORGANIZATION OR RICO
10 SECTION. IN SEPTEMBER OF 1992 I WAS PROMOTED TO CHIEF
11 INVESTIGATOR IN THE OFFICE OF THE ATTORNEY GENERAL. AS
12 MENTIONED EARLIER, I LEFT THE OFFICE OF THE ATTORNEY
13 GENERAL IN OCTOBER 1992 TO TAKE A POSITION AS A
14 CRIMINAL FRAUD INVESTIGATOR WITH AN INSURANCE COMPANY.
15 MY RESUME IS ATTACHED AS EXHIBIT 1 TO MY TESTIMONY.

16

17 Q. DURING THE COURSE OF YOUR LAW ENFORCEMENT CAREER, HAVE
18 YOU EVER BEEN INVOLVED IN THE INVESTIGATION OF COMPLEX
19 ORGANIZED CRIMES?

20 A. YES, I HAVE. THE FIRST LARGE COMPLEX CASE THAT I
21 INVESTIGATED WAS A MARIJUANA SMUGGLING RING. MY
22 PARTNER AND I WORKED ON THIS PARTICULAR INVESTIGATION
23 FOR ABOUT A YEAR. AS A RESULT OF OUR INVESTIGATION,
24 FIVE KEY PEOPLE IN THE SMUGGLING RING WERE ARRESTED AND

1 CONVICTED, AND 23 TONS OF MARIJUANA, NUMEROUS WEAPONS,
2 AND SEVERAL VEHICLES WERE SEIZED.

3

4 IN A SUBSEQUENT CASE, I WAS ASSIGNED TO THE US
5 ATTORNEY'S OFFICE AS LEAD AGENT IN THE INVESTIGATION OF
6 THE FINANCIAL FAILURE OF UNIVERSAL CASUALTY INSURANCE
7 COMPANY. THIS INVESTIGATION LASTED APPROXIMATELY
8 TWO-AND-A-HALF YEARS AND RESULTED IN THE INDICTMENT OF
9 THE PRESIDENT AND VICE-PRESIDENT OF THE COMPANY, WHO
10 WERE BOTH SUBSEQUENTLY CONVICTED AND SENTENCED TO
11 FEDERAL PRISON. DURING THE UNIVERSAL INSURANCE
12 INVESTIGATION, AND IN THE PREPARATION FOR TRIAL, WE HAD
13 TO REVIEW, ANALYZE AND DOCUMENT MORE THAN 100,000
14 EXHIBITS.

15

16 AFTER I WAS EMPLOYED BY THE OFFICE OF THE ATTORNEY
17 GENERAL, I CONDUCTED AN INVESTIGATION OF SOUTHERN BELL
18 TELEPHONE AND TELEGRAPH COMPANY INVOLVING ITS PAY
19 TELEPHONES AND ITS THEFT OF ABOUT A MILLION DOLLARS IN
20 COMMISSIONS FROM PRIVATE BUSINESSES AND VARIOUS
21 GOVERNMENTAL AGENCIES. THIS CASE ALSO INVOLVED THE
22 REVIEW AND ANALYSIS OF THOUSANDS OF DOCUMENTS OBTAINED
23 FROM SOUTHERN BELL. ULTIMATELY A SETTLEMENT WAS
24 REACHED IN THIS CASE REQUIRING SOUTHERN BELL TO PAY A

1 TOTAL OF ALMOST \$5 MILLION IN RESTITUTION, FINES AND
2 EXPENSES.

3

4 Q. IS THE SOUTHERN BELL PAY PHONE CASE COMPLETED NOW, AND,
5 IF SO, ARE YOU ABLE TO REVEAL INFORMATION FROM THE
6 FILES IN THAT CASE AS A RESULT OF IT BEING CLOSED?

7 A. YES, THAT CASE IS NOW CLOSED AND ITS FILES ARE NO
8 LONGER CLOSED TO PUBLIC ACCESS.

9

10 Q. DID YOU SUBSEQUENTLY BECOME INVOLVED IN ANY OTHER CASES
11 INVOLVING SOUTHERN BELL TELEPHONE AND TELEGRAPH
12 COMPANY?

13 A. YES, I DID. AS A RESULT OF A WITNESS WHO CAME FORWARD
14 IN AUGUST OF 1990, WE OPENED AN INVESTIGATION INTO
15 SOUTHERN BELL'S ALLEGED FALSIFICATION OF MAINTENANCE
16 RECORDS. THE MAINTENANCE RECORDS CASE HAS BEEN ONGOING
17 SINCE THAT TIME AND REMAINS OPEN NOTWITHSTANDING THE
18 RECENT SETTLEMENT IN THE CASE BETWEEN SOUTHERN BELL AND
19 THE OFFICE OF THE STATEWIDE PROSECUTOR.

20

21 Q. IF THE MAINTENANCE RECORDS CASE HAS BEEN SETTLED WHY
22 DOES IT REMAIN OPEN?

23 A. CERTAIN POSSIBLY FRAUDULENT BUSINESS PRACTICES OF
24 SOUTHERN BELL WERE INVESTIGATED BY THE TENTH STATEWIDE
25 GRAND JURY. ACCORDING TO THE FINAL REPORT OF THE TENTH

1 STATEWIDE GRAND JURY, WHICH WAS ISSUED SEPTEMBER, 1992,
2 AND A COPY OF WHICH IS ATTACHED TO MY TESTIMONY AS
3 EXHIBIT 2, THE PRIMARY FOCUS OF THE GRAND JURY'S
4 INVESTIGATION OF SOUTHERN BELL'S ALLEGED MISCONDUCT
5 INVOLVED FOUR MAJOR CATEGORIES:

6 (1) THE INTENTIONAL OVERBILLING OF CUSTOMERS GENERATED
7 BY THE FRAUDULENT "SALE" OF OPTIONAL SERVICES BY
8 COMPANY EMPLOYEES WHOSE PRIMARY RESPONSIBILITY WAS
9 SUPPOSED TO HAVE BEEN THE INSTALLATION AND REPAIR OF
10 TELEPHONES;

11 (2) THE INTENTIONAL FAILURE TO PAY THE FULL AMOUNT
12 OWED FOR ALLEGEDLY UNINTENTIONAL CUSTOMER OVERBILLINGS
13 DISCOVERED DURING THE COMPANY'S ANALYSIS OF SOME OF ITS
14 BILLING RECORDS;

15 (3) THE INTENTIONAL FAILURE TO PAY REQUIRED REBATES TO
16 COMPENSATE CUSTOMERS WHO INFORMED THE COMPANY THAT
17 THEIR TELEPHONE WAS OUT OF SERVICE; AND

18 (4) THE INTENTIONAL FAILURE TO PROPERLY REPORT TROUBLE
19 AND REPAIR INFORMATION TO THE PUBLIC SERVICE
20 COMMISSION.

21 AS REFLECTED IN THE STATEWIDE GRAND JURY'S FINAL
22 REPORT, ITS LEGAL ADVISOR, THE STATEWIDE PROSECUTOR,
23 NEGOTIATED A SETTLEMENT AGREEMENT WITH SOUTHERN BELL,
24 WHICH, AMONG OTHER THINGS, PROVIDES:

25 (1) COMPLETE RESTITUTION TO AFFECTED CUSTOMERS;

- 1 (2) SOUTHERN BELL'S CONTINUED COOPERATION WITH THE
2 STATE IN FURTHER INVESTIGATIONS;
- 3 (3) REVISED BILLING PRACTICES, FRAUD PREVENTION
4 PROCEDURES AND ETHICS TRAINING;
- 5 (4) A THREE-YEAR REVIEW PERIOD, INCLUDING PERIODIC
6 AUDITS AND COMPLIANCE MONITORING;
- 7 (5) SOUTHERN BELL FUNDING OF THE REVIEW PROGRAMS,
8 AUDITS, AND MONITORING; AND
- 9 (6) A PROHIBITION AGAINST INCLUDING ANY COSTS
10 ASSOCIATED WITH THE AGREEMENT IN THE RATE BASE OF THE
11 CUSTOMERS.

12 THE INVESTIGATION REMAINS OPEN BECAUSE SOUTHERN BELL
13 HAS AGREED, AS PART OF THE SETTLEMENT, TO BE PLACED
14 UNDER CONDITIONS SIMILAR TO PROBATION FOR A PERIOD OF
15 THREE YEARS. DURING THIS THREE-YEAR PERIOD, SOUTHERN
16 BELL COULD BE CHARGED WITH CRIMES RELATED TO THE
17 INVESTIGATION IF IT MATERIALLY VIOLATES THE AGREEMENT.
18 ADDITIONALLY, THE SETTLEMENT AGREEMENT DOES NOT
19 PRECLUDE INVESTIGATING AND ASSERTING CRIMINAL LIABILITY
20 AGAINST INDIVIDUAL EMPLOYEES OF SOUTHERN BELL FOR THEIR
21 ACTIONS IN CONNECTION WITH THE ABUSES DISCLOSED IN THIS
22 CASE. SINCE WE DO NOT KNOW WHAT IS GOING TO HAPPEN
23 DURING THE NEXT THREE YEARS WITH RESPECT TO THE
24 CORPORATION AND BECAUSE INDIVIDUAL EMPLOYEES MAY STILL
25 BE UNDER CRIMINAL INVESTIGATION, THE CASE MUST REMAIN

1 OPEN AND THE RECORDS IN THE CASE MUST REMAIN SEALED IF
2 THEIR DISCLOSURE WOULD IN ANY WAY COMPROMISE THE
3 CONTINUING INVESTIGATION.

4

5 Q. DOES THE CONTINUING INVESTIGATION LIMIT YOUR ABILITY TO
6 TESTIFY IN THIS DOCKET?

7 A. YES. BECAUSE THE INVESTIGATION IS CONTINUING AND
8 BECAUSE ITS RECORDS REMAIN CLOSED, MY TESTIMONY WILL
9 ONLY FOCUS ON THOSE THINGS SOUTHERN BELL IS ALREADY
10 AWARE OF OR THOSE DOCUMENTS IT HAS ALREADY PROVIDED IN
11 CONNECTION WITH THE INVESTIGATION. I WILL DISCUSS THE
12 STATEMENTS OF MANAGERS OF SOUTHERN BELL DURING MY
13 TESTIMONY, AND I WILL DISCUSS DOCUMENTARY EVIDENCE
14 VOLUNTARILY PRODUCED BY SOUTHERN BELL THAT TENDS TO
15 CORROBORATE THE SWORN STATEMENTS TAKEN FROM WITNESSES
16 DURING THE COURSE OF THIS INVESTIGATION.

17

18 Q. DO YOU UNDERSTAND THAT ANY INFORMATION THAT YOU FIRST
19 BECAME AWARE OF AFTER IT WAS PRESENTED TO THE GRAND
20 JURY CANNOT BE REVEALED HERE OR ANYWHERE ELSE?

21 A. YES, I DO.

22

23 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

24 A. IN ITS ADVISORY OPINION OF THE TENTH STATEWIDE GRAND
25 JURY, A COPY OF WHICH IS ATTACHED TO MY TESTIMONY AS

1 EXHIBIT 3, THE GRAND JURY "DETERMINED THAT SOUTHERN
2 BELL CREATED, PROMOTED, AND SUSTAINED AN ATMOSPHERE
3 THAT SERVED TO FOSTER AND REWARD CERTAIN FRAUDULENT
4 PRACTICES." IN THE FACE OF EVIDENCE OF CERTAIN OF
5 SOUTHERN BELL'S ACTIVITIES, THE GRAND JURY CAME TO
6 "BELIEVE THAT THE COMPANY COUNTENANCED THE CONCEPTION
7 OF A CULTURE THAT ALLOWED CORPORATE EXECUTIVES TO LOOK
8 THE OTHER WAY WHEN THE SPECTER OF CONSUMER FRAUD STARED
9 THEM IN THE FACE. "NOTWITHSTANDING THESE CONCLUSIONS,
10 THE GRAND JURY FOUND THAT THE IMMEDIATE POSITIVE IMPACT
11 OF THE SETTLEMENT EXCEEDED THE BEST RESULTS LIKELY TO
12 BE OBTAINED FROM PROTRACTED CRIMINAL LITIGATION AND
13 RECOMMENDED THE STATEWIDE PROSECUTOR ENTER INTO THE
14 SETTLEMENT WITH SOUTHERN BELL. THE STATEWIDE GRAND
15 JURY NOTED, HOWEVER, AT PAGE 2 OF ITS FINAL REPORT,
16 THAT THIS COMMISSION'S PRIMARY JURISDICTION RESULTED IN
17 SOUTHERN BELL MERELY BEING REQUIRED BY THE SETTLEMENT
18 AGREEMENT TO MAKE RESTITUTION TO ITS AGGRIEVED
19 CUSTOMERS AND THAT ANY PENALTY FOR ITS ALLEGED FALSE
20 REPAIR MAINTENANCE REPORTS WOULD HAVE TO COME FROM THIS
21 COMMISSION. SPECIFICALLY, THE GRAND JURY CONCLUDED:

22
23 IN CLOSING, IT MUST BE NOTED THAT THE PROPOSED
24 SETTLEMENT AGREEMENT DOES NOT CONTAIN ANY
25 "PUNISHMENT", PER SE, OF THE COMPANY FOR ITS

1 ALLEGED FAILURE TO PROPERLY REPORT TO THE PUBLIC
2 SERVICE COMMISSION ACTUAL REPAIR TIME FOR
3 RESTORATION OF TELEPHONE SERVICE TO CUSTOMERS
4 WHOSE TELEPHONES WERE OUT OF SERVICE. THIS ISSUE
5 WAS RAISED IN OUR INVESTIGATION, BUT WE HAVE BEEN
6 ADVISED THAT THE UNITED STATES SUPREME COURT'S
7 RULING H.J., INC., ET AL V. NORTHWESTERN BELL
8 TELEPHONE COMPANY, 112 S. CT. 2306 (1992), CASTS
9 DOUBT ON OUR ABILITY, OR THE ABILITY OF THE
10 CRIMINAL COURTS, TO DIRECTLY SANCTION THE COMPANY
11 FOR SUCH CONDUCT, IF IT IN FACT OCCURRED. WE
12 SPECIFICALLY NOTE, HOWEVER, THAT THE FLORIDA
13 PUBLIC SERVICE COMMISSION HAS BOTH THE
14 JURISDICTION AND CONCOMITANT DISCRETION TO IMPOSE
15 SEVERE MONETARY PENALTIES ON THE COMPANY IF IT
16 FINDS THAT THE COMPANY HAS FALSIFIED REPORTS
17 REQUIRED BY PSC RULES. WE THEREFORE STRONGLY
18 RECOMMEND THAT THE PUBLIC SERVICE COMMISSION, IN
19 CONJUNCTION WITH ITS PUBLICLY MANDATED
20 RESPONSIBILITY, INVESTIGATE THIS MATTER, EXERCISE
21 ITS PENAL AUTHORITY, AND TAKE INTO CONSIDERATION
22 THIS POSSIBLE FRAUDULENT CONDUCT ON THE PART OF
23 THE COMPANY IN DETERMINING AN APPROPRIATE RATE OF
24 RETURN.
25

1 THE PURPOSE OF MY TESTIMONY IS TO ASSIST THE COMMISSION
2 IN INVESTIGATING AND UNDERSTANDING THE ALLEGATIONS
3 CONCERNING SOUTHERN BELL'S FALSIFICATION OF MAINTENANCE
4 RECORDS BY SUGGESTING AREAS OF PERTINENT INQUIRY AND
5 PINPOINTING DOCUMENTS THEY MAY WISH TO REQUEST AND
6 ANALYZE. IN SHORT, I WILL DESCRIBE A NUMBER OF THE
7 FRAUDULENT SCHEMES SOUTHERN BELL EMPLOYEES UTILIZED TO
8 INTENTIONALLY OVERSTATE THEIR COMPANY'S COMPLIANCE WITH
9 HIGHLY IMPORTANT PSC QUALITY OF SERVICE INDICATORS,
10 WHILE SIMULTANEOUSLY DEPRIVING TELEPHONE CUSTOMERS OF
11 MONETARY REBATES THEY WERE ENTITLED TO PURSUANT TO PSC
12 RULE.

13
14 I WILL TESTIFY TO THE APPARENT WIDESPREAD GEOGRAPHIC
15 SCOPE OF THESE FRAUDULENT ACTIVITIES WITHIN SOUTHERN
16 BELL, AS WELL AS TO ITS APPARENT INCENTIVES FOR
17 COMMITTING THEM, AND SOUTHERN BELL MANAGEMENT'S
18 INEXPLICABLY LAX SECURITY SYSTEM WHICH FAILED TO FERRET
19 OUT AND STOP THE FRAUD. WITH RESPECT TO MANAGEMENT'S
20 ROLE IN THE FRAUDULENT ACTIVITIES, MY TESTIMONY WILL
21 SHOW THAT HIGH-LEVEL SOUTHERN BELL MANAGEMENT KNEW OF
22 AND COUNTENANCED THE FRAUDULENT ACTIVITIES AND WILL
23 REFUTE SOUTHERN BELL'S PUBLIC ASSERTIONS THAT THE FRAUD
24 WAS THE RESULT OF ONLY A FEW "BAD APPLES" WHO HAVE
25 SINCE BEEN DISMISSED.

1 LASTLY, MY TESTIMONY WILL DISCLOSE HOW SOUTHERN BELL
2 SERVICE TECHNICIANS FRAUDULENTLY ORDERED OPTIONAL
3 TELEPHONE SERVICES FOR CUSTOMERS, WHO WERE SUBSEQUENTLY
4 BILLED FOR THESE SERVICES, WITHOUT OBTAINING THEIR
5 CONSENT, OFTEN THROUGH THE OPERATION OF SO-CALLED
6 "BOILER ROOMS", HOW SOUTHERN BELL MANAGEMENT'S
7 "INCENTIVES" ENCOURAGED SUCH FRAUD, AND HOW SUCH SALES
8 ACTIVITIES BY REPAIR AND INSTALLATION PERSONNEL
9 NECESSARILY DEGRADED REPAIR AND INSTALLATION
10 ACTIVITIES, WHILE SIMULTANEOUSLY MISSTATING THE
11 ALLOCATION OF SERVICE TECHNICIAN TIME BETWEEN REGULATED
12 AND NON-REGULATED ACTIVITIES.

13

14 Q. CAN YOU PROVIDE US WITH A CHRONOLOGICAL SUMMARY OF YOUR
15 INVESTIGATION THAT PLACES A SPECIAL EMPHASIS ON YOUR
16 FINDINGS CONCERNING ALLEGATIONS OF FALSIFICATION OF
17 REPAIR RECORDS?

18 A. YES. TO DO SO, I HAVE PREPARED A CHRONOLOGICAL GRAPH
19 DEPICTING THE DATES OF KEY EVENTS DISCLOSED DURING THE
20 COURSE OF OUR INVESTIGATION. THIS GRAPH IS ATTACHED TO
21 MY TESTIMONY AS EXHIBIT 4. THE TOP ENTRY ON EXHIBIT 4
22 REFLECTS THE DATE OF THE PSC ORDER ENTERED AS A RESULT
23 OF SOUTHERN BELL'S LAST RATE CASE IN 1983. THE NEXT
24 ENTRY IN 1985 IS IMPORTANT BECAUSE IT DEMONSTRATES THE
25 LENGTHY TIME SPAN OF THIS FRAUD AND AN APPARENT MISSED

1 OPPORTUNITY ON THE PART OF THIS COMMISSION TO CATCH THE
2 FRAUD AND END IT. AS MAY BE SEEN FROM EXHIBIT 5,
3 ARTHUR W. TIFFORD, WHO WAS AN ATTORNEY ACTING ON BEHALF
4 OF A SOUTHERN BELL EMPLOYEE NAMED FRANK FALSETTI, ON
5 MARCH 5, 1985, WROTE THE UNITED STATES ATTORNEY'S
6 OFFICE AND THE FEDERAL BUREAU OF INVESTIGATION ("FBI")
7 "CONCERNING A VERY SERIOUS, WIDE-RANGE FRAUD WHICH VERY
8 WELL MIGHT EFFECT THE UNITED STATES GOVERNMENT SERVICES
9 SUBSCRIBED FROM SOUTHERN BELL TELEPHONE COMPANY, AND
10 DEFINITELY CONCERNS THE WIDE-RANGE OF THE CONSUMING
11 PUBLIC OF THE SAME SERVICES". AS REFLECTED BY
12 COMPOSITE EXHIBIT 6, MR. TIFFORD SPOKE TO AN FBI AGENT
13 REGARDING SOUTHERN BELL'S "FAILURE TO 'CREDIT BACK'
14 COSTS OF TROUBLED CALLS AND TROUBLED LINES, TO
15 CUSTOMERS". THE LETTERS ALSO REFLECT THAT TIFFORD
16 CLAIMED HIS CLIENT (FALSETTI) HAD DOCUMENTARY AND
17 COMPUTER PRINTOUTS INDICATING SOUTHERN BELL'S
18 VIOLATIONS. HOWEVER, AS SHOWN BY EXHIBIT 6 THE FBI
19 SUGGESTED THAT THE INFORMATION SHOULD BE REFERRED TO
20 THE FEDERAL COMMUNICATIONS COMMISSION ("FCC").

21
22 AS SHOWN BY EXHIBIT 7, MR. TIFFORD FILED A FORMAL
23 COMPLAINT REGARDING FALSETTI'S ALLEGATIONS WITH THE FCC
24 ON MAY 15, 1985, WHERE IT LANGUISHED UNTIL DECEMBER 5,
25 1986 (EXHIBIT 8) WHEN THE FCC DETERMINED IT HAD NO

1 JURISDICTION AND REFERRED THE COMPLAINT TO THE FLORIDA
2 PSC.

3
4 AS REFLECTED BY EXHIBIT 9, MR. ALAN TAYLOR OF THE PSC
5 STAFF APPARENTLY MET WITH MR. TIFFORD ON FEBRUARY 2,
6 1987 TO DISCUSS FALSETTI'S ALLEGATIONS. AS REFLECTED
7 BY TAYLOR'S LETTER, THE STAFF APPARENTLY WAS NOT FULLY
8 FAMILIAR WITH SOUTHERN BELL'S NEW COMPUTERIZED RECORDS
9 SYSTEM AND REQUIRED A "TUTORIAL" FROM SOUTHERN BELL ON
10 THE SYSTEM BEFORE BEING ABLE TO ADDRESS FALSETTI'S
11 ALLEGATIONS IN THE PSC STAFF'S NEXT EVALUATION OF
12 SOUTHERN BELL. DESPITE FALSETTI'S RATHER SPECIFIC
13 ALLEGATIONS, I AM NOT AWARE OF ANY EVIDENCE THAT THE
14 PSC STAFF EFFECTIVELY PURSUED THE ALLEGATIONS WHEN THE
15 PSC BECAME AWARE OF THEM IN LATE-1986.

16
17 Q. WHAT QUALITY OF SERVICE REGULATIONS WAS FALSETTI
18 REFERRING TO AND WHAT WAS THEIR SIGNIFICANCE?

19 A. THE REGULATION IS RULE 25-4.070(3), F.A.C., WHICH
20 REQUIRES FLORIDA TELEPHONE COMPANIES TO RETURN TO
21 SERVICE WITHIN 24 HOURS AT LEAST 95% OF ALL CUSTOMER
22 TELEPHONES REPORTED OUT-OF-SERVICE.

23 ACCORDING TO RULE 25-4.070(1)(B), F.A.C., TELEPHONE
24 COMPANIES ARE TO GIVE CUSTOMERS A PRO RATA CREDIT ON
25 THEIR BILL FOR EACH DAY THEIR TELEPHONE IS OUT-OF-

1 SERVICE. THE SPECIFIC LANGUAGE OF THESE RULES IS
2 CONTAINED IN EXHIBIT 10 TO MY TESTIMONY.

3

4 Q. HOW SIGNIFICANT WAS THE FAILURE TO PAY CREDITS
5 ASSOCIATED WITH OUT-OF-SERVICE TELEPHONES?

6 A. THE DAILY PRO RATA CREDIT, DEPENDING UPON THE SERVICE
7 ZONE, WAS IN THE 30 CENT RANGE, BUT, MULTIPLIED TIMES A
8 NUMBER OF DAYS AND THOUSANDS OF CUSTOMERS, THE MONETARY
9 AMOUNT WAS NOT INSIGNIFICANT. HOWEVER, IT APPEARS THAT
10 THE PRIMARY MOTIVATION FOR FRAUDULENTLY REPORTING
11 REPAIR RECORDS WAS NOT TO SAVE MONEY, BUT TO MAKE THE
12 PSC THINK SOUTHERN BELL WAS MEETING THE PSC-MANDATED
13 QUALITY OF SERVICE STANDARDS.

14

15 Q. WHAT IS YOUR BASIS FOR CONCLUDING THIS WAS A PRIMARY
16 MOTIVATION FOR THE FRAUDULENT REPAIR RECORDS?

17 A. FIRST, I HAVE REVIEWED PSC TELEPHONE RATE ORDERS
18 INDICATING THAT THE PSC HAS HISTORICALLY VIEWED
19 COMPLIANCE WITH ITS MANDATORY QUALITY OF SERVICE
20 REQUIREMENTS AS ESSENTIAL PREREQUISITES THAT A COMPANY
21 WAS PROVIDING THE MINIMALLY ACCEPTABLE QUALITY OF
22 SERVICE DEMANDED BY THE STATUTES IN RETURN FOR
23 POSSESSING A MONOPOLY EXCHANGE. SECOND, I HAVE BEEN
24 TOLD BY A NUMBER OF INDIVIDUALS FAMILIAR WITH THE
25 UTILITY REGULATORY PROCESS THAT COMPLIANCE WITH THE

1 QUALITY OF SERVICE STANDARDS IS VIEWED AS ESSENTIAL IF
2 A COMPANY IS TO RECEIVE A RESPECTABLE RETURN ON ITS
3 EQUITY INVESTMENT FROM THE COMMISSION. LASTLY, AND
4 MOST IMPORTANTLY FROM THE PERSPECTIVE OF MOTIVE FOR
5 COMMITTING THE FRAUD, IS THE FACT THAT SOUTHERN BELL
6 ENDLESSLY REMINDED ITS MANAGERS AND CRAFT WORKERS THAT
7 ITS PROFITS AND THEIR SALARIES, WAGES AND POTENTIAL
8 BONUSES AND RAISES WERE INEXORABLY TIED TO THE
9 COMPANY'S ABILITY TO MEET OR EXCEED THE PSC'S CRITERIA.

10

11 Q. HOW MUCH EMPHASIS WAS PLACED ON ACHIEVING THAT
12 OBJECTIVE?

13 A. IT WAS A VERY, VERY HIGH PRIORITY FOR ALL THE
14 MAINTENANCE PEOPLE THAT I'VE SPOKEN WITH. HOWEVER,
15 THE PRIORITY WAS NOT NECESSARILY ON ACTUALLY
16 ACCOMPLISHING THE GOALS, BUT, RATHER, ON MAKING SURE
17 THAT WHAT WAS REPORTED TO THE PUBLIC SERVICE COMMISSION
18 INDICATED SOUTHERN BELL HAD ACCOMPLISHED THOSE GOALS.

19

20 Q. WHY WAS REPORTING THE ACCOMPLISHMENT OF THAT GOAL SO
21 IMPORTANT?

22 A. MEETING PSC QUALITY OF SERVICE REQUIREMENTS WAS
23 APPARENTLY ALWAYS IMPORTANT TO MANAGEMENT AND THAT FACT
24 WAS STRESSED TO EMPLOYEES; HOWEVER, THIS GOAL APPEARED
25 TO ACQUIRE EVEN GREATER IMPORTANCE TO MANAGEMENT AND

1 EMPLOYEES IN NOVEMBER OF 1988 WHEN THE PSC APPROVED A
2 UNIQUE FORM OF REGULATION FOR SOUTHERN BELL OFFERING IT
3 MONETARY OR ECONOMIC INCENTIVES IN RETURN FOR OPERATING
4 MORE EFFICIENTLY.

5
6 Q. HOW DO YOU UNDERSTAND THAT THIS NEW FORM OF REGULATION
7 WAS DIFFERENT FROM TRADITIONAL UTILITY REGULATION?

8 A. BRIEFLY, I HAVE BEEN TOLD THAT TRADITIONAL REGULATION
9 OFFERED A UTILITY AN OPPORTUNITY TO EARN A REASONABLE
10 PROFIT LEVEL WITH LITTLE REGARD TO WHETHER IT WAS
11 OPERATING EFFICIENTLY OR NOT. IN CONTRAST TO THIS, IT
12 WAS EXPLAINED TO ME THAT INCENTIVE REGULATION GAVE
13 SOUTHERN BELL AN OPPORTUNITY TO KEEP A PORTION OF
14 PROFITS ABOVE WHAT HAD TRADITIONALLY BEEN CONSIDERED
15 "REASONABLE" IN EXCHANGE FOR OPERATING MORE
16 EFFICIENTLY. IN SHORT, I UNDERSTAND IT TO MEAN THAT IF
17 SOUTHERN BELL COULD PROVIDE THE SAME OR A HIGHER LEVEL
18 OF TELEPHONE SERVICES WITH LOWER OPERATING EXPENSES, IT
19 COULD KEEP A PORTION OF THE SAVINGS FOR ITS EFFORTS.

20
21 AS A RESULT OF INCENTIVE REGULATION, MANAGERS AT
22 SOUTHERN BELL CAME TO BELIEVE EVEN MORE STRONGLY THAT
23 THEIR FAILURE TO MEET THOSE GOALS, THOSE OBJECTIVES,
24 COULD RESULT IN SOUTHERN BELL RECEIVING FEWER PROFITS,
25 WHICH COULD, IN TURN, AFFECT THEM PERSONALLY. IN ONE

1 INSTANCE I HAD A MANAGER TELL ME THAT HE WAS IN A
2 MEETING WHERE MANAGERS WERE TOLD THEIR JOBS DEPENDED ON
3 MEETING THOSE GOALS.

4
5 Q. YOU PREVIOUSLY INDICATED THAT SOUTHERN BELL PLACED
6 EMPHASIS ON REPORTING SUCCESSFUL COMPLIANCE WITH THE
7 PSC'S SERVICE OBJECTIVES VERSUS ACTUALLY COMPLYING WITH
8 THOSE OBJECTIVES. WHAT BASIS DO YOU HAVE FOR SAYING
9 THAT?

10 A. BESIDES THE COMMENTS I JUST RELATED, A MANAGER AT
11 SOUTHERN BELL PROVIDED SWORN TESTIMONY REGARDING
12 REPEATED REQUESTS MADE FOR ADDITIONAL MAINTENANCE
13 PERSONNEL. THE MANAGER'S SUPERIORS WERE TOLD THAT
14 WITHOUT RECEIVING THE ADDITIONAL MANPOWER, THEY WOULD
15 BE UNABLE TO MEET THEIR SERVICE OBJECTIVES FOR THE PSC.
16 IN SPITE OF THEIR REQUESTS, THE MANAGER SAID THAT
17 SOUTHERN BELL NOT ONLY DID NOT PROVIDE ADDITIONAL
18 MANPOWER, IN MANY INSTANCES THEY CUT THE EXISTING
19 MANPOWER LEVELS TO REDUCE OPERATING EXPENSES. THIS, IN
20 MY OPINION, WAS A CLEAR MESSAGE TO THE LOW-LEVEL
21 MANAGERS, THAT THE EMPHASIS THEN WAS THAT, NO MATTER
22 WHAT HAPPENED IN THE FIELD, THE PHONES WERE TO BE
23 REPORTED AS BEING FIXED WITHIN 24 HOURS EVEN IF THEY
24 WERE, IN FACT, NOT.

25

1 Q. BESIDES THE STATEMENTS OF SOUTHERN BELL EMPLOYEES, WHAT
2 EVIDENCE DID YOU FIND TO SUPPORT YOUR CONCLUSION THAT
3 SOUTHERN BELL REPAIR RECORDS WERE FRAUDULENTLY
4 REPORTED?

5 A. AS PART OF THE INVESTIGATION INTO THE REVIEW OF
6 MAINTENANCE RECORDS, WE FOUND LITERALLY THOUSANDS OF
7 INSTANCES WHERE TROUBLE REPORTS WERE CLEARLY
8 MANIPULATED TO SHOW THAT THE TELEPHONE WAS FIXED WITHIN
9 24 HOURS WHEN, IN FACT, IT WAS OUT OF SERVICE SOMETIMES
10 DAYS OR EVEN WEEKS BEFORE IT WAS FIXED.

11

12 Q. WOULD YOU PLEASE DESCRIBE THE METHODS SOUTHERN BELL
13 PERSONNEL UTILIZED IN FRAUDULENTLY REPORTING REPAIR
14 INFORMATION?

15 A. YES, BUT BEFORE I BEGIN IT MIGHT BE HELPFUL TO
16 UNDERSTAND THE TWO BASIC CATEGORIES OF FRAUDULENT
17 ACTIVITIES THAT WERE UTILIZED TO OBTAIN THE 95%
18 COMPLIANCE LEVEL. EXHIBIT 11 TO MY TESTIMONY DEPICTS A
19 SIMPLE FRACTION THAT TRANSLATES TO A PERCENTAGE. THE
20 NUMERATOR REFLECTS THE NUMBER OF REPORTED OUT-OF-
21 SERVICE TELEPHONES THAT WERE SUCCESSFULLY REPAIRED
22 WITHIN 24 HOURS OF BEING REPORTED, WHILE THE
23 DENOMINATOR REFLECTS THE TOTAL NUMBER OF TELEPHONES
24 REPORTED OUT-OF-SERVICE DURING THE PERIOD BEING
25 CONSIDERED. ASSUMING A FIXED DENOMINATOR, OR NUMBER OF

1 TELEPHONES REPORTED OUT-OF-SERVICE, THE ONLY WAY TO
2 "CORRECT" A DEFICIENT REPAIR PERCENTAGE RATE IS TO TAKE
3 STEPS TO INCREASE THE NUMERATOR SUFFICIENTLY TO PULL
4 THE PERCENTAGE RATE TO OR ABOVE 95%. SOUTHERN BELL
5 PERSONNEL UTILIZED A NUMBER OF FRAUDULENT METHODS TO
6 INFLATE THE NUMERATOR IN THE REPAIR RECORDS FRACTION
7 AND I WILL DESCRIBE THEM IN A MOMENT. WHEN EFFORTS TO
8 FRAUDULENTLY INCREASE THE NUMERATOR WERE INSUFFICIENT
9 TO REACH THE REPAIR COMPLIANCE LEVEL, SOUTHERN BELL
10 PERSONNEL WOULD OFTEN FRAUDULENTLY ENLARGE BOTH THE
11 DENOMINATOR AND NUMERATOR BY FALSELY CREATING OUT-OF-
12 SERVICE REPORTS AND THEN REPORTING THEM TIMELY
13 REPAIRED. THIS "BUILDING THE BASE" FRAUD MINIMIZED THE
14 IMPACT OF THE UNTIMELY REPAIRS AND, ACCORDINGLY,
15 INCREASED THE REPORTED PERCENTAGE RATE. SOUTHERN BELL
16 PERSONNEL HAD A NUMBER OF FRAUDULENT METHODS FOR
17 "BUILDING THE BASE".

18

19 Q. WHAT DID YOU NEXT DISCOVER THAT ADVERSELY AFFECTED
20 TELEPHONE REPAIR OPERATIONS?

21 A. IN SEPTEMBER OF 1987 SOUTHERN BELL IMPLEMENTED A
22 PROGRAM TO SELL OPTIONAL SERVICES, SUCH AS CALL
23 WAITING, CALL FORWARDING, SPEED DIALING, AND THOSE
24 TYPES OF SERVICES. THESE SERVICES WERE BEING SOLD, NOT
25 ONLY BY THE CUSTOMER SERVICE REPRESENTATIVES, WHO WOULD

1 NORMALLY OFFER AND TAKE ORDERS FOR SUCH SERVICES IN
2 THEIR JOBS AT SOUTHERN BELL'S BUSINESS OFFICES, BUT
3 ALSO, BY SERVICE TECHNICIANS WHOSE NORMAL JOB
4 RESPONSIBILITIES CENTERED ON INSTALLING AND REPAIRING
5 TELEPHONE EQUIPMENT IN THE FIELD.

6

7 Q. HOW WERE THE SERVICE TECHNICIANS SUPPOSED TO ENGAGE IN
8 SELLING OPTIONAL TELEPHONE SERVICES IF THEIR PRIMARY
9 JOBS WERE TO INSTALL AND REPAIR EQUIPMENT IN THE FIELD?

10

11 A. IT APPEARS THAT THE PUBLICLY ACKNOWLEDGED AND CONDONED
12 METHOD WAS FOR ALL SERVICE TECHNICIANS TO ATTEMPT TO
13 SELL OPTIONAL SERVICES TO SOUTHERN BELL CUSTOMERS
14 DURING THE COURSE OF REPAIR OR INSTALLATION ACTIVITIES.
15 ADDITIONALLY, SERVICE TECHNICIANS WERE ENCOURAGED TO
16 SELL OPTIONAL SERVICES TO FRIENDS AND NEIGHBORS ON
17 THEIR OWN TIME WHEN AWAY FROM THE JOB. IN FACT, WE
18 LEARNED THROUGH OUR INVESTIGATION, THAT NOT ONLY WERE
19 SERVICE TECHNICIANS SELLING THESE SERVICES WHILE IN THE
20 FIELD, THEY WERE ACTUALLY FORMING BOILER ROOM TYPE
21 OPERATIONS AND SOMETIMES SPENDING AS MUCH AS A FULL
22 EIGHT-HOUR SHIFT DOING NOTHING BUT TELEMARKETING,
23 MAKING PHONE CALLS TO CUSTOMER AFTER CUSTOMER AFTER
24 CUSTOMER IN ORDER TO SELL OPTIONAL SERVICES.

25

1 Q. WERE YOU EVER ABLE TO ASCERTAIN WHETHER THE SERVICE
2 TECHNICIANS' LABOR COSTS WERE BEING ALLOCATED TO THESE
3 SO-CALLED BOILER ROOM OPERATIONS OR IMPROPERLY TO
4 REPAIR AND INSTALLATION FIELD OPERATIONS?
5 A. I ASKED THAT QUESTION OF A NUMBER OF MANAGERS FROM
6 SOUTHERN BELL. THE MAJORITY OF THEM RESPONDED THAT
7 THEY DID NOT KNOW WHAT, IF ANY, CODE WAS USED TO
8 IDENTIFY THE TIME THAT SERVICE TECHNICIANS WERE DOING
9 SALES WORK. MANY, HOWEVER, BELIEVED THAT THE TIME HAD
10 BEEN REPORTED AS TIME SPENT ON THE MAINTENANCE OF
11 TELEPHONES.
12
13 Q. WHAT'S THE SIGNIFICANCE OF SERVICE TECHNICIANS
14 PERFORMING SALES FUNCTIONS? WAS THAT A DEPARTURE FROM
15 THE PRIOR PRACTICE?
16
17
18
19
20
21
22
23
24

1 A. YES. SOUTHERN BELL'S OPTIONAL SERVICES WERE NORMALLY
2 SOLD BY CRAFT PEOPLE WHOSE TITLE IS "CUSTOMER SERVICE
3 REPRESENTATIVES". AS I MENTIONED A MOMENT AGO, THESE
4 INDIVIDUALS WORK IN BUSINESS OFFICES AND ARE TRAINED TO
5 DEAL WITH CUSTOMERS OVER THE TELEPHONE. I BELIEVE THAT
6 THE THEORY BEHIND THE SALES PROGRAM AND USING SERVICE
7 TECHNICIANS WAS THAT EVERY TIME A SERVICE TECHNICIAN
8 COMES IN CONTACT WITH A CUSTOMER, THEY SHOULD USE THAT
9 OPPORTUNITY TO SELL OR TO OFFER OPTIONAL SERVICES. IN
10 THEORY, THAT'S PROBABLY A GOOD, SOUND MARKETING
11 PRACTICE ON THE PART OF ANY COMPANY; BUT IN ACTUALITY,
12 IN REALITY, THE PRACTICE WAS ABUSED BY SOUTHERN BELL.
13 INSTEAD OF JUST OFFERING A SERVICE, THEY ACTUALLY
14 CREATED THESE BOILER ROOMS WITH HIGH PRESSURE SALES
15 TACTICS AND PUT SO MUCH PRESSURE ON THE SERVICE
16 TECHNICIANS TO SELL TO ACHIEVE GOALS THAT MANY OF THEM
17 FELT THEY HAD TO FALSIFY THEIR SALES IN ORDER TO KEEP
18 THEIR JOBS. AND BY FALSIFYING THEIR SALES, WHAT I MEAN
19 IS THAT THERE WERE MANY INSTANCES WHERE SERVICE
20 TECHNICIANS, WHO WERE UNABLE TO LEGITIMATELY SELL THESE
21 OPTIONAL SERVICES, WOULD SIMPLY TAKE A LIST OF
22 SUBSCRIBERS, SOUTHERN BELL SUBSCRIBERS, AND GO DOWN THE
23 LIST AND ADD ON AN OPTIONAL SERVICE TO EACH ONE OF THE
24 SUBSCRIBERS WITHOUT THEIR KNOWLEDGE AND WITHOUT THEIR
25 CONSENT.

1 Q. I SEE. TO YOUR KNOWLEDGE, DID THE EXISTENCE OF THESE
2 BOILER ROOMS, AND THE PARTICIPATION OF SERVICE
3 TECHNICIANS, IMPACT THE ABILITY OF THE SERVICE
4 TECHNICIANS TO ACTUALLY INSTALL THE TELEPHONE EQUIPMENT
5 AND MAKE REPAIRS IN THE FIELD?

6 A. YES. ACCORDING TO THE MANAGERS THAT I SPOKE TO,
7 SOUTHERN BELL HAD ALREADY BEGUN CUTTING BACK ON
8 MAINTENANCE PERSONNEL AFTER ITS 1983 RATE CASE.
9 COMBINED WITH THE CUTBACKS IN PERSONNEL, THE FACT THAT
10 THEY ARE NOW TAKING MAINTENANCE PEOPLE, SERVICE
11 TECHNICIANS, OUT OF THE FIELD AND PUTTING THEM ON
12 TELEPHONES TO SELL SEVERELY RESTRICTED THE AMOUNT OF
13 MAINTENANCE AND INSTALLATION WORK THEY WERE ABLE TO DO.
14 AS A RESULT OF THE BOILER ROOMS, SOUTHERN BELL'S
15 ABILITY TO ACHIEVE THE PSC OBJECTIVES WAS FURTHER
16 HAMPERED.

17

18 Q. BY PSC OBJECTIVE, WHAT ARE YOU REFERRING TO?

19 A. I AM AGAIN REFERRING TO THE PUBLIC SERVICE COMMISSION'S
20 REQUIREMENT THAT 95% OF ALL OUT-OF-SERVICE TELEPHONES
21 BE RETURNED TO SERVICE WITHIN 24 HOURS.

22

23 Q. GOING BACK TO THE FRAUDULENT REPORTING OF THE
24 TELEPHONES BEING RETURNED TO SERVICE WITHIN 24 HOURS,
25 WHAT TYPES OF PROOF DO YOU HAVE OF THAT?

1 A. SOUTHERN BELL PROVIDED US WITH COPIES OF TROUBLE
2 REPORTS. THEY ARE CALLED "DLETH'S" OR "ETH'S". IT IS
3 MY UNDERSTANDING THAT "ETH" STANDS FOR EXTENDED TROUBLE
4 HISTORY AND THAT "DLETH" STANDS FOR DISPLAY LINE
5 EXTENDED TROUBLE HISTORY. IN REVIEWING THOSE
6 DOCUMENTS, WE DISCOVERED A NUMBER OF DIFFERENT WAYS IN
7 WHICH THE RESULTS WERE FALSIFIED.

8
9 Q. WOULD YOU PLEASE DESCRIBE THE VARIOUS WAYS SOUTHERN
10 BELL PERSONNEL FALSIFIED THE ETH AND DLETH TROUBLE
11 REPORTS?

12 A. SURE. THE ONE VERY SIMPLE METHOD OF FALSIFYING THEM
13 WAS SIMPLY TO BACK DATE THE "CLEAR" AND "CLOSED" TIMES
14 ON A TROUBLE REPORT. FOR INSTANCE, MR. SMITH CALLS IN
15 ON MONDAY, THE 1ST OF THE MONTH, AND REPORTS HIS
16 TELEPHONE OUT-OF-SERVICE. LOOKING AT THE TROUBLE
17 REPORT HISTORY, YOU COULD SEE THESE EVENTS LISTED IN
18 CHRONOLOGICAL ORDER AS THEY OCCURRED. THEN, FOR
19 INSTANCE, ON TUESDAY, THE 2ND OF THE MONTH, MR. SMITH
20 CALLS BACK AND SAYS: "MY PHONE IS STILL OUT OF ORDER,
21 I NEED IT FIXED RIGHT AWAY". ON WEDNESDAY, THE 3RD OF
22 THE MONTH, MR. SMITH CALLS BACK AGAIN AND SAYS: "I
23 MUST HAVE MY PHONE FIXED IMMEDIATELY, I HAVE AN ELDERLY
24 PERSON WITH A HEART CONDITION IN THE HOUSE, I HAVE TO
25 HAVE MY PHONE SERVICE OPERATING AS SOON AS POSSIBLE".

1 THEN, THE NEXT EVENT IN SEQUENCE ON THE TROUBLE REPORT
2 MIGHT BE A REFERENCE TO MONDAY, THE 1ST OF THE MONTH,
3 WHEN A SERVICE TECHNICIAN IS REPORTEDLY DISPATCHED, AND
4 MONDAY, THE 1ST OF THE MONTH, AGAIN, WHEN THE TROUBLE
5 IS REPORTED CLEARED AND CLOSED. WHEN THE COMPUTER
6 LOOKS AT THAT TROUBLE REPORT FOR PURPOSES OF
7 CONSTRUCTING A HISTORY OF PSC RULE COMPLIANCE, IT LOOKS
8 AT THE FINAL ENTRIES, THE FINAL CLEAR AND CLOSE ENTRIES
9 ON THE TROUBLE REPORT, AND IT PICKS UP THAT DATE AND
10 TIME AS THE TIME THE OUT-OF-SERVICE TELEPHONE WAS
11 REPAIRED.

12

13 Q. ARE THERE DOCUMENTS THAT THE COMMISSION COULD REQUEST
14 THAT WOULD REVEAL THIS TYPE OF FRAUDULENT ACTIVITY?

15 A. YES, THERE ARE.

16

17 Q. WHAT SHOULD THEY REQUEST?

18 A. THE PUBLIC SERVICE COMMISSION COULD REQUEST THAT
19 SOUTHERN BELL PROVIDE THEM WITH ETH'S OR DLETH'S FOR
20 ALL OUT-OF-SERVICE TROUBLE REPORTS SHOWING A CLOSING
21 TIME ON THE UPPER CENTER OF THE DOCUMENT WHICH IS MORE
22 THAN 12 HOURS AFTER THE DISPLAYED CLEARING TIME IN THE
23 BODY OF THE DOCUMENT. WHEN LOOKING AT AN ETH TROUBLE
24 REPORT, IN THE UPPER CENTER OF THE PAGE THERE'S A LINE
25 WHICH SAYS: CLOSED, EQUAL SIGN, FOLLOWED BY A SIX-DIGIT

1 DATE AND A FOUR-DIGIT TIME. THE TIME IS GIVEN IN
2 WHAT'S COMMONLY REFERRED TO AS MILITARY TIME, WHICH
3 USES A 24-HOUR CLOCK. WHEN I SAY THAT THE PUBLIC
4 SERVICE COMMISSION COULD ASK FOR THOSE ETH'S SHOWING A
5 CLOSING TIME IN THE UPPER CENTER, THAT'S THE CLOSING
6 TIME I'M REFERRING TO. AND I INDICATED THAT THEY
7 SHOULD ASK FOR THOSE TROUBLE REPORTS WHERE THE CLOSING
8 TIME IN THE UPPER CENTER IS MORE THAN 12 HOURS AFTER
9 THE DISPLAYED "CLEARING" TIME IN THE BODY OF THE
10 TROUBLE HISTORY. IF YOU LOOK AT A TROUBLE HISTORY,
11 USUALLY THE SECOND TO THE LAST OR SOMETIMES THE LAST
12 ENTRY WILL BE A DATE AND TIME, AN EMPLOYEE CODE NUMBER,
13 AND A STATUS OF "CCA". "CCA" IS THE ACRONYM USED BY
14 SOUTHERN BELL TO INDICATE THAT THE TROUBLE WAS CLEARED.
15 THAT'S THE LINE THAT I'M REFERRING TO WHEN I SAY THEY
16 SHOULD ASK FOR THOSE WHERE THERE'S A DIFFERENCE GREATER
17 THAN 12 HOURS.

18

19 Q. IF THEY ASK FOR THOSE AND RECEIVE EXAMPLES OF WHERE
20 THAT HAS OCCURRED, WHAT WILL THAT PROVE?

21 A. IF THEY RECEIVE ALL OF THOSE ETH'S, SOME OF THEM
22 CERTAINLY WILL BE LEGITIMATE AND NOT HAVE BEEN
23 FALSIFIED. THE REASON FOR ASKING FOR THOSE WHERE THE
24 CLOSE TIME IS GREATER THAN 12 HOURS BEYOND THE CLEAR
25 TIME IS THIS: IF, FOR INSTANCE, A TROUBLE REPORT IS

1 OPENED AT 8:00 A.M. ON MONDAY, AT 8:00 A.M. ON TUESDAY,
2 IF IT HAS NOT BEEN CLEARED, IT'S EXCEEDED THE 24-HOUR
3 TIME LIMIT. IN ORDER TO BACK UP THE CLEARING TIME TO
4 SHOW THAT IT WAS CLEARED WITHIN 24 HOURS, SOMEONE
5 ATTEMPTING TO ALTER THOSE RECORDS FICTITIOUSLY ON
6 TUESDAY MORNING NEEDS TO BACK UP THE TIME TO THE
7 PREVIOUS DAY. THE REASON BEING IS THE SERVICE
8 TECHNICIANS NORMALLY DO NOT WORK FROM 6:00 P.M. TO 8:00
9 A.M. THE FOLLOWING MORNING. THOSE ARE UNUSUAL HOURS
10 AND IT WOULD POSSIBLY ALERT SOMEBODY THAT THE RECORDS
11 WERE BEING FALSIFIED IF THEY SHOWED IT CLEARED AT 3:00
12 A.M. THAT'S WHY I SUGGEST THAT THE PSC ASK FOR THOSE
13 WITH A 12-HOUR DIFFERENCE.

14

15 Q. BUT HELP ME UNDERSTAND HOW YOU DISCOVERED THE SO-CALLED
16 BACKDATING IN YOUR INVESTIGATION. MY UNDERSTANDING IS
17 THAT YOU NOTICED THAT THE TROUBLE HISTORY ENTRIES,
18 ALTHOUGH THEY WERE SEQUENTIAL FROM THE TOP TO THE
19 BOTTOM OF THE PAGE, HAD CLEARING DATES AT THE END THAT
20 WERE CLEARLY OUT OF ORDER.

21 A. RIGHT.

22

23 Q. EXPLAIN THAT.

24 A. WHEN I SAID ASK FOR THOSE WHERE THE CLOSE DATE AND TIME
25 IS MORE THAN 12 HOURS FOLLOWING THE CLEAR DATE AND

1 TIME, THAT DOESN'T MEAN THAT YOU'RE ONLY GOING TO GET
2 ONES WHERE IT'S JUST 12-AND-A-HALF HOURS. YOU'RE ALSO
3 TO GOING TO GET SOME WHERE IT'S THREE-AND-A-HALF DAYS.
4 AND IN THOSE INSTANCES YOU LOOK AT THE OPENING TIME OF
5 THE TROUBLE REPORT, AND IT'S 8:00 A. M. ON THE 1ST, FOR
6 EXAMPLE. THE ACTUAL CLOSING TIME, WHICH IS THAT
7 CLOSING TIME WHICH APPEARS IN THE UPPER CENTER OF THE
8 ETH, THAT'S THE COMPUTER-GENERATED DATE AND TIME THAT
9 THE RECORD IS ACTUALLY CLOSED. THAT DATE AND TIME
10 CAN'T BE ALTERED OR FALSIFIED. IN MY EXAMPLE THE
11 TROUBLE REPORT IS OPENED ON THE 1ST AT 8:00 A. M. THE
12 ACTUAL COMPUTER-GENERATED CLOSING TIME, WE'LL SAY, IS
13 ON THE 4TH OF THE MONTH AT NOON. AND YET THE CLEARING
14 DATE AND TIME, WHICH IS ONE OF THOSE LAST ENTRIES IN
15 THE SEQUENCE ON THE TROUBLE HISTORY, IS GOING TO SHOW
16 THE 1ST OF THE MONTH AT 4:00 P.M.

17

18 Q. IF I UNDERSTAND YOUR TESTIMONY CORRECTLY, THE CLEARING
19 TIME AND DATE 4:00 P.M. ON THE 1ST, WHICH MEETS THE
20 24-HOUR REQUIREMENT, IS SEQUENTIALLY BEHIND ONE OR TWO
21 OTHER ENTRIES DATED THE 2ND AND THE 3RD; IS THAT
22 CORRECT?

23 A. YES. BUT TO BETTER UNDERSTAND THE TROUBLE REPORT AND
24 ITS VARIOUS DATES, LET'S LOOK AT EXHIBIT 12, WHICH IS
25 AN ACTUAL ETH REPORT THAT WE RECEIVED FROM SOUTHERN

1 BELL. ON THIS ETH REPORT IN THE TOP CENTER OF THE PAGE
2 IS THE STATEMENT "RECEIVED = 900819 1932", WHICH IS A
3 COMPUTER-GENERATED DATE/TIME GROUP STATING THAT THE
4 TROUBLE REPORT WAS RECEIVED ON AUGUST 19, 1990 AT 1932
5 HOURS ON THE 24-HOUR CLOCK OR 7:32 P.M. IMMEDIATELY
6 BELOW THE TROUBLE REPORT RECEIVE DATE/TIME GROUP IS A
7 COMPUTER-GENERATED TROUBLE REPORT "CLOSED" DATE, WHICH
8 IN THIS EXHIBIT STATES "CLOSED = 900824 1648", WHICH
9 MEANS THE REPORT WAS CLOSED ON THE COMPUTER ON AUGUST
10 24, 1990 AT 4:48 P.M. ACCORDING TO THE COMPUTER'S
11 INTERNAL CLOCK.

12
13 AS MAY BE SEEN ON THE SIXTH LINE FROM THE BOTTOM OF THE
14 FORM, ON AUGUST 21ST AT 5:30 P.M., THE CUSTOMER CALLED
15 BACK AND SAID IN THE NARRATIVE CODE "ASAP/CCO" WHICH
16 MEANS "AS SOON AS POSSIBLE, CAN'T CALL OUT", INDICATING
17 HIS TELEPHONE IS STILL OUT OF SERVICE. IT SHOULD BE
18 NOTED THAT THE CUSTOMER'S CALL IS TWO FULL DAYS AFTER
19 THE INITIAL REPORT WAS RECEIVED. DESPITE THE EVIDENCE
20 OF THE CUSTOMER SAYING THE TELEPHONE WAS STILL OUT-OF-
21 SERVICE ON THE 21ST, THE NEXT THREE LINES STATE THAT
22 THE LIGHTNING SHOT WAS REPAIRED AND THE TROUBLE CLEARED
23 AND CLOSED ON AUGUST 20TH AT 4:45 P.M. AUGUST 20TH AT
24 4:45 P.M. IS OBVIOUSLY WITHIN THE 24-HOUR TIME LIMIT
25 SINCE THE REPORT WAS INITIALLY RECEIVED ON THE 19TH AT

1 7:32. THIS REPORT CLEARLY SHOWS, ON ITS FACE, THAT THE
2 CLEAR AND CLOSE TIME WAS BACKED UP TO BE WITHIN THE
3 24-HOUR TIME PERIOD.

4

5 Q. YOU SAID THAT THE RECEIVED AND CLOSED DATE/TIME GROUPS
6 WERE COMPUTER-GENERATED AND COULD NOT BE CHANGED. HOW
7 DO YOU KNOW THAT?

8 A. I KNOW THAT FROM TESTIMONY FROM MANAGERS IN SOUTHERN
9 BELL'S COMPUTER SECTION.

10

11 Q. BUT ASIDE FROM THOSE TWO DATES AND TIMES, ISN'T IT TRUE
12 THAT THE OTHER DATES AND TIMES ARE MAINLY INPUT BY
13 SOUTHERN BELL EMPLOYEES?

14 A. THAT'S CORRECT FOR THE MOST PART.

15

16 Q. WHAT DO YOU MEAN?

17 A. THERE MAY BE SOME ENTRIES IN THE TROUBLE HISTORY THAT
18 ARE GENERATED BY A COMPUTER TESTING THE TELEPHONE LINE
19 THAT ARE INPUT BY COMPUTER RATHER THAN BY A PERSON.

20

21 Q. OKAY. AND IN THE COURSE OF YOUR INVESTIGATION, DID IT
22 BECAME APPARENT TO YOU FROM YOUR OBSERVATION OF THIS
23 FORM THAT THE CLEAR TIME, AS SHOWN, WAS AN
24 IMPOSSIBILITY?

25 A. YES. AGAIN, IT'S FALSE ON THE FACE OF IT.

1 Q. DID YOU RECEIVE ANY TESTIMONY FROM SOUTHERN BELL
2 EMPLOYEES INDICATING THAT THIS WAS ONE METHOD USED TO
3 FALSIFY REPAIR RECORDS?

4 A. YES, I DID. I RECEIVED SUCH TESTIMONY FROM A NUMBER OF
5 EMPLOYEES. I HAVE ALSO SHOWN REPORTS JUST LIKE THIS
6 ONE TO MOST OF THE MANAGERS THAT I TOOK STATEMENTS
7 FROM, AND, IN EVERY INSTANCE, THEY AGREED THAT THE
8 SEQUENCE OF DATES CLEARLY AND OBVIOUSLY INDICATED
9 FALSIFICATION ON THE REPORTS. THEY ALSO STATED THAT
10 HAD THEY SEEN THESE DATES IN REVIEWING DOCUMENTS, THEY
11 WOULD HAVE IMMEDIATELY SUSPECTED FALSIFICATION OF THE
12 MAINTENANCE RECORDS. I ASKED THEM IF THEY EVER LOOKED
13 FOR SUCH OUT-OF-SEQUENCE DATES ON THE REPORTS AND EVERY
14 ONE OF THEM SAID NO, THEY NEVER HAD.

15

16 Q. DID THEY GIVE A REASON WHY THEY HAD NOT?

17 A. NO.

18

19 Q. OKAY. WITH RESPECT TO THIS ONE METHOD OF FALSIFYING
20 REPAIR RECORDS, DO YOU AS A RESULT OF YOUR
21 INVESTIGATION, HAVE ANY INDICATION AS TO HOW WIDESPREAD
22 THE USE OF THIS METHOD WAS WITHIN SOUTHERN BELL'S
23 SERVICE TERRITORY?

24 A. I KNOW FROM MY REVIEW OF TROUBLE REPORT RECORDS FROM
25 THROUGHOUT THE STATE THAT THIS TYPE OF FALSIFICATION

1 WAS GOING ON IN MAINTENANCE CENTERS ALL OVER THE STATE
2 OF FLORIDA.

3

4 Q. TO YOUR KNOWLEDGE, HOW LONG HAD THIS TYPE OF
5 FALSIFICATION TAKEN PLACE IN SOUTHERN BELL'S
6 OPERATIONS?

7 A. THIS TYPE OF FALSIFICATION WENT ON FROM AS FAR BACK AS
8 I WAS ABLE TO GET ETH DOCUMENTS, WHICH I BELIEVE WAS
9 1985 TO 1991 OR LATE 1990.

10

11 Q. HOW WOULD THIS HAVE IMPACTED SOUTHERN BELL'S
12 REPORTING REQUIREMENTS?

13 A. WELL, OBVIOUSLY IN THE EXHIBIT WE WERE JUST LOOKING AT,
14 CLEARLY THAT TELEPHONE WAS NOT REPAIRED WITHIN 24
15 HOURS. AND YET WHEN THE COMPUTER LOOKED AT THIS RECORD
16 TO DETERMINE HOW IT SHOULD BE REPORTED, IT WOULD HAVE
17 SEEN THAT IT WAS CLEARED WITHIN 24 HOURS. IT WOULD
18 HAVE BEEN COUNTED AS ONE OF THOSE THAT WAS CLEARED -
19 ONE OF THOSE 95 PERCENT OF ALL TROUBLE REPORTS THAT ARE
20 OUT-OF-SERVICE AND CLEARED IN A TIMELY FASHION, AND YET
21 IT WASN'T.

22

23 Q. HOW SIGNIFICANT WAS THE FALSIFICATION OF JUST ONE
24 TROUBLE REPORT?

1 A. MUCH MORE SIGNIFICANT THAN IT WOULD APPEAR AT FIRST.
2 IF THIS TROUBLE REPORT HAD BEEN ACCURATELY REPORTED AS
3 NOT BEING CLEARED WITHIN 24 HOURS, IT WOULD HAVE TAKEN
4 19 ADDITIONAL OUT-OF-SERVICE TROUBLE REPORTS, ALL
5 TIMELY CLEARED, TO MAKE UP FOR IT. THIS RELATIONSHIP
6 MAY BE CLEARLY SEEN BY REFERRING BACK TO THE FRACTIONS
7 ON EXHIBIT 11.

8
9 THE MINIMUM NUMBER OF TOTAL OUT-OF-SERVICE TROUBLE
10 REPORTS NECESSARY TO SUPPORT ONE UNTIMELY REPORT AND
11 STILL MAINTAIN THE REQUIRED 95% TIMELY REPAIR
12 REQUIREMENT IS 20. THAT IS 19 DIVIDED BY 20 EQUALS
13 95%. TO MAINTAIN THE 95% FIGURE WITH JUST ONE MORE
14 UNTIMELY TROUBLE REPORT, SO THAT THE FRACTION IS NOW
15 $19/21$ OR 90.5%, REQUIRES AN ADDITIONAL 19 TROUBLE
16 REPORTS, ALL OF WHICH ARE TIMELY REPAIRED, TO ACHIEVE A
17 FRACTION OF $38/40$, OR 95%. THE CONSEQUENCES OF
18 ADDITIONAL UNTIMELY TROUBLE REPORTS WAS PARTICULARLY
19 DIFFICULT FOR SMALLER EXCHANGES.

20
21 Q. WHEN SOUTHERN BELL ACTUALLY HAD TO REPORT A CERTAIN
22 LEVEL OF MISSES, ARE YOU AWARE OF WHETHER ANYTHING WAS
23 DONE TO COME UP WITH AN ADDITIONAL 19 REPORTS TO MAKE
24 UP FOR THE UNTIMELY REPAIRS EVEN THOUGH THOSE
25 ADDITIONAL REPORTS MAY NOT HAVE BEEN VALID REPORTS?

1 A. YES. IT'S CALLED "BUILDING THE BASE", AND IT CAN BE
2 DONE A COUPLE OF DIFFERENT WAYS. ONE WAY USED IN
3 GAINESVILLE INVOLVED MANAGERS SITTING DOWN AT THE
4 COMPUTER WITH A TELEPHONE BOOK AND JUST PICKING NUMBERS
5 AT RANDOM. THEY THEN TYPED UP TROUBLE REPORTS IN THE
6 COMPUTER SHOWING THE TELEPHONES REPORTED OUT-OF-
7 SERVICE, AFTER WHICH THEY RAN A TEST ON EACH NUMBER,
8 WHICH CAME UP "TEST OKAY". THIS MEANT THERE WAS NO
9 TROUBLE, WHICH ALLOWED THEM TO CLOSE THE REPORT. THE
10 WHOLE PROCESS ONLY TOOK ABOUT THREE MINUTES, AND WHAT
11 THAT WOULD DO IS BUILD UP THE NUMBER OF REPORTED OUT OF
12 SERVICE REPORTS.

13

14 Q. WELL, DIDN'T THE COMPANY INVESTIGATE THAT THEMSELVES
15 AND FIND OUT ABOUT IT?

16 A. YES, THEY DID. AND IT SHOULD BE NOTED THAT BY AUGUST
17 OF 1990 - OR ACTUALLY SEPTEMBER, I THINK IT WAS, WHEN
18 THEY STARTED THEIR INVESTIGATION, SOME TEN MONTHS HAD
19 ALREADY GONE BY SINCE THE BEGINNING OF THE ATTORNEY
20 GENERAL'S INVESTIGATION OF SOUTHERN BELL FOR THEFT OF
21 PAY PHONE COMMISSIONS. IT WAS CERTAINLY
22 WELL-PUBLICIZED AND THEY WERE WELL AWARE OF OUR
23 INVESTIGATION AND OUR SCRUTINY OF THEIR BUSINESS
24 OPERATIONS AT LEAST IN THE PUBLIC COMMUNICATIONS
25 PORTION OF THEIR BUSINESS. AND PRIOR TO THAT, THEY HAD

1 AMPLE OPPORTUNITY TO HAVE DISCOVERED THIS THROUGH STAFF
2 REVIEWS WHICH REVEALED CLEARLY FRAUDULENT ACTIVITY
3 YEARS PRIOR TO THAT.

4

5 Q. ONCE SOUTHERN BELL BECAME AWARE OF THE "BASE BUILDING"
6 IN GAINESVILLE, HOW DID THEY REACT?

7 A. WHEN THEY BECAME AWARE OF THE FALSIFICATION OF RECORDS
8 IN GAINESVILLE, THE BUILDING OF THE BASE, THE MATTER
9 WAS OPENED FOR INVESTIGATION AND ASSIGNED TO A SOUTHERN
10 BELL SECURITY INVESTIGATOR, WHO WENT TO GAINESVILLE
11 AND "INVESTIGATED". BY INVESTIGATED, I MEAN HE
12 REVIEWED THE TROUBLE REPORTS FOR ONLY THE ONE-MONTH
13 PERIOD WHERE THEY HAD INITIALLY FOUND EVIDENCE OF
14 BUILDING THE BASE.

15

16 Q. AS A PROFESSIONAL INVESTIGATOR WHAT IS YOUR OPINION OF
17 SOUTHERN BELL'S SECURITY PERSONNEL ONLY LOOKING AT THE
18 ONE MONTH PERIOD?

19 A. MY REACTION IS THAT IF YOU KNOW IT'S GOING ON IN
20 SEPTEMBER, ISN'T THERE SOME LIKELIHOOD THAT IT WAS ALSO
21 GOING ON IN AUGUST AND POSSIBLY EVEN JULY AND JUNE AND
22 MAY AND APRIL, AND MAYBE EVEN FURTHER BACK THAN THAT?

23

24 Q. GIVEN YOUR REACTION, WHAT DID YOU DO?

1 A. MY FIRST REACTION WAS TO LOOK AT THE PREVIOUS MONTHS.
2 WHEN I DID, IT CONFIRMED THAT, IN FACT, BUILDING THE
3 BASE AND A NUMBER OF OTHER FALSIFICATION OF RECORD
4 SCHEMES WERE GOING ON IN GAINESVILLE FOR SOME MONTHS
5 PRIOR TO THE SINGLE MONTH INVESTIGATED BY SOUTHERN
6 BELL.

7

8 Q. AND YET THE SOUTHERN BELL INVESTIGATION IN GAINESVILLE
9 DID NOT GO BACK EVEN ONE MONTH?

10 A. NO, IT DID NOT. IT FOCUSSED ONLY ON WHAT THEY ALREADY
11 KNEW.

12

13 Q. DID YOU HAVE OCCASION TO TALK TO ANY OF THE PEOPLE
14 THAT WERE INVOLVED IN THE GAINESVILLE INVESTIGATION?

15 A. YES. I INTERVIEWED THE INVESTIGATOR ASSIGNED TO THAT
16 CASE.

17

18 Q. AND DID YOU ASK HIM WHY THEY DIDN'T GO BACK ANOTHER
19 MONTH?

20 A. YES, I DID; AND HE SAID THAT HE DIDN'T BECAUSE HE
21 WASN'T INSTRUCTED TO.

22

23 Q. SO DID HE TELL YOU THAT HE WAS ONLY SUPPOSED TO DO
24 SPECIFICALLY AND EXACTLY WHAT THEY TOLD HIM TO DO AND
25 HE DIDN'T HAVE THE DISCRETION TO GO ANY FURTHER?

1 A. HE SAID THAT IT WAS HIS UNDERSTANDING THAT WHEN HE WAS
2 ASSIGNED AN INVESTIGATION, HE WAS TO INVESTIGATE IT.
3 AND TO HIM THAT MEANT FOCUSING ON THE INITIAL
4 ALLEGATION ONLY, AND THAT HE WAS NOT TO EXPAND THAT
5 SCOPE OF INVESTIGATION UNLESS OTHERWISE TOLD TO.

6

7 Q. WERE YOU ABLE TO ASCERTAIN HOW FAR BACK "BUILDING THE
8 BASE" EXISTED IN GAINESVILLE?

9 A. AS I RECALL IT WENT BACK AT LEAST THREE MONTHS PRIOR TO
10 THE TIME THAT SOUTHERN BELL DISCOVERED IT.

11

12 Q. YOU SAID PREVIOUSLY THAT SOUTHERN BELL WAS AWARE OF
13 THESE ALLEGEDLY FRAUDULENT ACTIVITIES YEARS BEFORE THEY
14 DECIDED TO ACTUALLY DO AN INVESTIGATION IN GAINESVILLE,
15 CORRECT?

16 A. YES.

17

18 Q. WHAT'S THE BASIS FOR THAT STATEMENT?

19 A. IT'S A COMBINATION OF TESTIMONY FROM SOUTHERN BELL
20 EMPLOYEES; BUT MORE IMPORTANTLY, THERE'S ACTUAL WRITTEN
21 DOCUMENTATION OF THEIR DISCOVERY OF THE FALSIFICATION
22 OF RECORDS GOING AS FAR BACK AS, I BELIEVE, 1987 OR
23 1988. AND THAT WOULD BE IN THE STAFF REVIEWS THAT THEY
24 CONDUCT PERIODICALLY AROUND THE STATE.

25

1 Q. WERE YOU ABLE TO OBTAIN COPIES OF STAFF REVIEWS?

2 A. WITH SOME DIFFICULTY, YES. THE REASON I SAY WITH SOME
3 DIFFICULTY IS BECAUSE SOUTHERN BELL AND THE PEOPLE IN
4 THEIR REVIEW SECTION APPARENTLY HAD NO DOCUMENT
5 RETENTION PLAN PRIOR TO OUR INVESTIGATION; OR, IF THEY
6 DID, IT WAS NOT WIDELY IMPLEMENTED. AND, AS A RESULT,
7 THERE ARE APPARENTLY A NUMBER OF REPORTS THAT ARE
8 MISSING THAT SOUTHERN BELL WAS NOT ABLE TO LOCATE AND
9 PROVIDE TO US.

10

11 Q. CAN YOU GIVE US SOME EXAMPLES OF THE INFORMATION
12 CONTAINED IN SOME OF THE STAFF REVIEWS?

13 A. YES. IN FEBRUARY, 1988, HAMPTON BOOKER DID A STAFF
14 REVIEW OF THE MIAMI METRO MAINTENANCE CENTER. THE MOST
15 SIGNIFICANT PORTION OF THAT REPORT IS SECTION E, PART
16 3, WHICH LOOKS AT OUT OF SERVICE REPORTS STATUSED "TEST
17 OKAY".

18

19 Q. WHAT DOES THAT MEAN?

20 A. IT MEANS THAT THE REPORT IS INITIALLY STATUSED OUT OF
21 SERVICE RATHER THAN "AFFECTING SERVICE". AT SOME POINT
22 SUBSEQUENT TO OPENING THE TROUBLE REPORT, A TEST IS RUN
23 ON THE TELEPHONE AND THE TEST RESULTS SHOW THE
24 TELEPHONE TO BE OKAY, AND NOT OUT OF SERVICE. THE
25 EFFECT OF THIS TECHNIQUE IS ALSO TO "BUILD THE BASE".

1 IT'S NOT TO SAY THAT ALL OF THEM THAT ARE LIKE THAT,
2 ARE BUILDING THE BASE. CERTAINLY THEY'RE NOT. IT DOES
3 HAPPEN LEGITIMATELY THAT TELEPHONES GO OUT OF SERVICE
4 AND THEN FIX THEMSELVES. A COMMON PROBLEM IN SOUTH
5 FLORIDA IS THAT MOISTURE GETS IN THE LINES, WHICH THEN
6 CAUSES THE LINE TO SHORT OUT AND PLACES THE TELEPHONE
7 LEGITIMATELY OUT OF SERVICE. OFTEN, ONCE THE MOISTURE
8 DRIES UP, THE TELEPHONE COMES BACK ON. THIS EXAMPLE
9 WOULD BE A LEGITIMATE CASE OF A TELEPHONE BEING
10 CLASSIFIED AS OUT OF SERVICE AND LATER TESTING OKAY.

11

12 Q. OKAY. DID THE STAFF REVIEW OF THE MIAMI CENTER NOTE A
13 DIFFERING SITUATION?

14 A. YES, THE PROBLEM THAT WAS NOTED IN THIS STAFF REVIEW IS
15 THAT WHEN A TROUBLE REPORT IS STATUSED OUT OF SERVICE,
16 SOME COMPUTER TESTING IS DONE ON THAT TELEPHONE LINE.
17 THE COMPUTER TESTS THE LINE AND THEN ISSUES WHAT ARE
18 CALLED VER CODES, V-E-R. I WAS TOLD THAT V-E-R STANDS
19 FOR VERIFICATION CODES. THE VER CODES ARE APPARENTLY
20 FAIRLY RELIABLE AND SHOULD SUBSTANTIATE THE OUT OF
21 SERVICE STATUSING, BUT IN MANY OF THE MIAMI CASES THE
22 VER CODES DID NOT SUPPORT THE INITIAL OUT OF SERVICE
23 STATUS. IN OTHER WORDS, WHEN THE COMPUTER TESTED THE
24 LINE, THE VER CODES SHOWED THAT IT WAS NOT OUT OF
25 SERVICE, BUT RATHER THAT THERE WAS AN AFFECTING SERVICE

1 PROBLEM OR MAYBE THERE WAS NOTHING WRONG WITH THE LINE
2 AT ALL.

3

4 Q. WHAT IS THE SIGNIFICANCE OF HOW THESE REPORTS WERE
5 HANDLED?

6 A. WHEN THE VER CODE INDICATED THE LINE WAS OKAY OR MERELY
7 AFFECTING SERVICE, THE TELEPHONE TROUBLE REPORT SHOULD
8 NOT HAVE BEEN STATUSED OUT OF SERVICE. IT SHOULD HAVE
9 BEEN PROPERLY STATUSED AS EITHER AFFECTING SERVICE OR
10 OKAY. BUT INSTEAD, THE MAINTENANCE ADMINISTRATOR
11 STATUSED IT OUT OF SERVICE AND THEN LATER CHANGED IT TO
12 TEST OKAY.

13

14 Q. IS THE COMPUTER DIAGNOSTIC TEST THAT RESULTS IN THE VER
15 CODE DONE AT THE TIME THE TROUBLE IS REPORTED OR
16 IMMEDIATELY THEREAFTER?

17 A. THAT'S CORRECT.

18

19 Q. WHAT RESULTED FROM HANDLING TROUBLE REPORTS IN THIS
20 MANNER?

21 A. THE RESULT WAS BASE BUILDING AS IN GAINSEVILLE SO THAT
22 BOTH THE DENOMINATOR AND NUMERATOR OF THE FRACTION WERE
23 INCREASED SO THAT THE ADVERSE REPORTING CONSEQUENCES OF
24 UNTIMELY REPAIRS WERE DIMINISHED.

25

1 Q. WHAT SPECIFICALLY DID THE SOUTHERN BELL INVESTIGATOR
2 FIND?

3 A. IN HIS REVIEW IN 1988, HE LOOKED AT A SAMPLE OF 33
4 REPORTS AND FOUND 13 ERRORS OUT OF 33 REPORTS, WHICH IS
5 A 39 PERCENT ERROR RATE OR DEVIATION RATE AS THEY REFER
6 TO IT. THE NARRATIVE ON THAT PARTICULAR PART OF THE
7 REVIEW SAYS THAT: "ALL THE ERRORS NOTED WERE SCORED
8 OUT OF SERVICE. NEITHER THE NARRATIVE NOR THE VER
9 CODES COULD SUPPORT THE OUT OF SERVICE STATUS", WHICH
10 IS SAYING BASICALLY WHAT I JUST STATED.

11

12 Q. WHAT RECOMMENDATIONS DID THE STAFF REVIEW HAVE?

13 A. IN THE RECOMMENDATIONS PORTION OF THE MIAMI REVIEW IT
14 STATES: "OUT OF SERVICE STATUSING ON TEST OKAY
15 TROUBLES NEEDS TO BE REVIEWED IN THIS CSCC. THE
16 TROUBLES THAT SHOULD BE OUT OF SERVICE ALSO SHOULD BE
17 WATCHED ON A REGULAR BASIS TO ASSURE COMPLIANCE". SO
18 APPARENTLY, AT LEAST IN THE MIND OF THE REVIEWER IN
19 FEBRUARY OF 1988, THERE WAS A PROBLEM IN MIAMI METRO
20 WITH THAT TYPE OF REPORTING.

21

22 Q. WHAT IS SOUTHERN BELL'S STANDARD OPERATING PROCEDURE TO
23 ENSURE COMPLIANCE ONCE THE STAFF REVIEW IS DONE?

24 A. ACCORDING TO THE MANAGERS I SPOKE TO WHO DID THE STAFF
25 REVIEWS, IF THEY FOUND PROBLEMS THEY WOULD MEET WITH

1 THE MAINTENANCE CENTER MANAGERS AND CONDUCT WHAT THEY
2 CALLED A "FEEDBACK SESSION" OR A "FEEDBACK MEETING".
3 DURING THESE FEEDBACK MEETINGS, THE REVIEWERS WOULD
4 EXPLAIN THE ERRORS THAT THEY HAD FOUND DURING THE
5 REVIEW AND GIVE THE MAINTENANCE CENTER MANAGERS AN
6 OPPORTUNITY TO ASK QUESTIONS, GET A BETTER
7 UNDERSTANDING OF THE PROBLEM, AND DECIDE HOW THEY WOULD
8 FIX THE ERRORS. I ASKED THE STAFF REVIEW MANAGERS
9 WHOSE RESPONSIBILITY IT WAS TO CORRECT THE ERRORS NOTED
10 IN THEIR REVIEWS, AND THEY SAID IT WAS THE
11 RESPONSIBILITY OF THE MAINTENANCE CENTER MANAGERS. I
12 ASKED THE STAFF REVIEWERS WHO ELSE THEY REPORTED THEIR
13 FINDINGS TO, AND THEY SAID NO ONE OTHER THAN UPPER
14 MANAGEMENT IN THE MAINTENANCE CENTERS AND THE
15 FIFTH-LEVEL MANAGER OF NETWORK, WHICH IN THIS CASE WAS
16 LINDA ISENHOUR.

17

18 Q. WAS IT YOUR UNDERSTANDING, BASED ON THE TESTIMONY YOU
19 RECEIVED, THAT LINDA ISENHOUR RECEIVED THIS
20 INFORMATION?

21 A. YES. BASED ON THE STATEMENTS I HEARD, IT IS MY
22 UNDERSTANDING THAT LINDA ISENHOUR RECEIVED THIS
23 INFORMATION ON AT LEAST TWO, AND I BELIEVE THREE
24 OCCASIONS.

25

1 Q. NOW, THE 39 PERCENT ERROR RATE YOU SPOKE OF THE
2 INVESTIGATOR, BOOKER HAMPTON, FINDING IN MIAMI, COULD
3 THAT BE BASED ON LEGITIMATE ERRORS?

4 A. THEORETICALLY IT COULD BE, BUT IF I WAS RUNNING A
5 BUSINESS, I WOULD BE VERY CONCERNED IF I KNEW THAT MY
6 EMPLOYEES WERE MAKING MAJOR MISTAKES FOUR OUT OF TEN
7 TIMES.

8

9 Q. YOU MIGHT BE CONCERNED IF THE MISTAKES OF YOUR
10 EMPLOYEES RESULTED IN THE THEFT OR LOSS OF REVENUES OR
11 EQUIPMENT OR THE LOSS OF CUSTOMERS, BUT WOULD YOU BE SO
12 CONCERNED IF THOSE MISTAKES, THOSE FOUR OUT OF TEN,
13 SERVED TO THE ADVANTAGE OF YOUR COMPANY AND NOT TO ITS
14 DISADVANTAGE?

15 A. MAYBE NOT.

16

17 Q. AND ISN'T THAT THE CASE WITH RESPECT TO THESE REPORTS?
18 SOUTHERN BELL IS A MONOPOLY AND CAN'T LOSE CUSTOMERS TO
19 ANOTHER SUPPLIER AND NO LOSS OF MONEY OR PROPERTY WAS
20 APPARENTLY INVOLVED HERE. DIDN'T THE SO-CALLED
21 MISTAKES, IN FACT, ASSIST SOUTHERN BELL IN MEETING ITS
22 PSC SERVICE CRITERIA?

23 A. YES, THEY DID. THAT'S ABSOLUTELY CORRECT.

24

1 Q. IN FACT, DIDN'T THESE SO-CALLED BASE BUILDING MISTAKES
2 BENEFIT ALL SOUTHERN BELL PERSONNEL INVOLVED?

3 A. YES. THE MANAGERS AND OTHER SUPERVISORY PERSONNEL
4 COULD MEET THE STRINGENT PSC REPAIR CRITERIA DESPITE
5 THE LACK OF ADEQUATE STAFFING OR WHATEVER ELSE WAS
6 CAUSING THEM TO MISS THE GOALS, AND SOUTHERN BELL COULD
7 CONTINUE TO MEET ITS PSC REPORTING REQUIREMENTS, AT
8 LEAST ON PAPER, AND AT A REDUCED PERSONNEL COST
9 COMPARED TO THE STAFFING LEVELS ACTUALLY NECESSARY TO
10 TIMELY MAKE THE REPAIRS.

11

12 Q. ONCE THIS FALSIFICATION WAS OBSERVED, WAS IT CORRECTED?

13 A. APPARENTLY NOT. THE PROBLEMS WERE GIVEN BACK TO THE
14 MAINTENANCE CENTER MANAGERS IN THE FEEDBACK SESSIONS,
15 AND THE REVIEWERS SAID IT WAS THEIR POLICY TO GO BACK
16 TO THE SAME CENTER THREE TO SIX MONTHS LATER AND CHECK
17 AGAIN.

18

19 Q. YES. BUT DID THEY FOLLOW UP AND WAS CORRECTIVE ACTION
20 TAKEN?

21 A. SOME 15 MONTHS LATER, IN MAY OF 1989, ANOTHER STAFF
22 REVIEW WAS CONDUCTED OF THE MIAMI METRO MAINTENANCE
23 CENTER. THEN, THE SAME SECTION OF THE REVIEW REPORT,
24 SECTION E, PART 3, WHICH IS THE OUT-OF-SERVICE, TEST
25 OKAY, SECTION, SAMPLED 25 TROUBLE REPORTS AND ALL 25

1 WERE FOUND TO BE IN ERROR FOR A 100 PERCENT DEVIATION
2 RATE. SO, RATHER THAN IMPROVING, THE QUESTIONABLE
3 REPORTS DETERIORATED FROM 39 PERCENT IN 1988 TO 100
4 PERCENT IN 1989.

5
6 Q. AGAIN, THE 25 ERRONEOUSLY MADE REPORTS, WHICH WERE
7 APPARENTLY JUST A SAMPLE, WOULD ACTUALLY SERVE TO BUILD
8 THE BASE AND, THEREBY, MAKE SOUTHERN BELL'S REPAIR
9 COMPLIANCE APPEAR BETTER THAN IT WAS?

10 A. ABSOLUTELY.

11

12 Q. AND WAS SOUTHERN BELL'S MANAGEMENT AWARE OF THIS?

13 A. YES, THEY WERE.

14

15 Q. HOW DO YOU KNOW THAT?

16 A. THROUGH TESTIMONY FROM EMPLOYEES THAT I'VE SPOKEN TO
17 WHO DID STAFF REVIEWS.

18

19 Q. WAS IT YOUR UNDERSTANDING, BASED ON THE TESTIMONY YOU
20 RECEIVED, THAT LINDA ISENHOUR RECEIVED THIS
21 INFORMATION?

22 A. YES. BASED ON THE STATEMENTS I HEARD, IT IS MY
23 UNDERSTANDING THAT LINDA ISENHOUR RECEIVED THIS
24 INFORMATION ON AT LEAST TWO, AND I BELIEVE THREE
25 OCCASIONS.

1 Q. WERE THESE PROBLEMS SIMILAR IN NATURE TO THOSE FOUND IN
2 1988?

3 A. YES. THE FINDINGS OF THE 1989 MIAMI REVIEW WERE THAT
4 ALL OF THE 25 ERRORS WERE DUE TO TEST OKAY TROUBLES
5 THAT WERE AFFECTING SERVICE, BUT WHICH WERE SHOWN AS
6 OUT-OF-SERVICE. TROUBLES THAT ARE MERELY AFFECTING
7 SERVICE, BUT DO NOT STOP SERVICE, DO NOT HAVE TO BE
8 REPAIRED WITHIN 24 HOURS FOR PURPOSES OF PSC COMPLIANCE
9 REPORTING. SO, INSTEAD OF CREATING TROUBLE REPORTS OUT
10 OF THIN AIR AND THEN "FIXING" THEM AS WAS DONE IN
11 GAINESVILLE, THE MIAMI SCAM INVOLVED IMPROPERLY
12 CLASSIFYING" AFFECTING SERVICE REPORTS TO OUT-OF-
13 SERVICE REPORTS AND THEN "FIXING" OR BRINGING THEM BACK
14 IN SERVICE TO BUILD THE BASE.

15

16 Q. COULD YOU BE CLEARER? WHAT'S THE DIFFERENCE BETWEEN
17 "AFFECTING SERVICE" VERSUS "OUT-OF- SERVICE" TROUBLE
18 REPORTS?

19 A. SURE. "OUT-OF-SERVICE" IS CLASSIFIED AS ANY TIME YOU
20 CANNOT CALL OUT, YOU CANNOT BE CALLED, OR BOTH.

21

22 Q. WHAT DOES "AFFECTING SERVICE" MEAN?

23 A. "AFFECTING SERVICE" MEANS THAT YOU CAN STILL MAKE AND
24 RECEIVE TELEPHONE CALLS, BUT YOU HAVE DIFFICULTY IN
25 HEARING - FOR INSTANCE, FROM STATIC ON THE LINE. THAT

1 WOULD BE AN AFFECTING SERVICE TYPE OF TROUBLE REPORT.

2

3

4 Q. IF YOU HAVE AFFECTING SERVICE PROBLEMS, MUST THEY BE
5 REPAIRED WITHIN 24 HOURS FOR PSC REPORTING PURPOSES?

6 A. NO, THEY DO NOT HAVE TO BE REPAIRED WITHIN 24 HOURS. I
7 BELIEVE, HOWEVER, THAT ANOTHER PSC RULE REQUIRES THAT
8 AFFECTING SERVICE PROBLEMS MUST BE CLEARED WITHIN 72
9 HOURS.

10

11 Q. OKAY. SO IT'S ONLY THE OUT-OF-SERVICE TROUBLE REPORTS
12 THAT HAVE TO BE CORRECTED WITHIN 24 HOURS?

13 A. THAT IS CORRECT.

14

15 Q. DID THE 1989 STAFF REVIEW MAKE RECOMMENDATIONS WITH
16 RESPECT TO THIS PROBLEM?

17 A. YES. THERE'S A RECOMMENDATIONS SECTION UNDER SECTION
18 E, WHICH IS THE OUT-OF-SERVICE PORTION OF THE REVIEW.
19 THE RECOMMENDATIONS BY THE REVIEWER WERE: "THE MOST
20 PREVALENT PROBLEM WITH THE OUT-OF-SERVICE STATUSING IS
21 THE MAKING OF TEST OKAY TROUBLES OUT-OF-SERVICE. THESE
22 TROUBLES WERE NOT OUT-OF-SERVICE AND WERE SHOWN OUT-OF-
23 SERVICE TO OVERSTATE THE OUT-OF-SERVICE BASE, THEREBY
24 UNDERSTATING THE OUT-OF-SERVICE OVER 24-HOUR RESULT.

1 THIS PROCEDURE MUST BE STOPPED IF ANY MEANINGFUL
2 ANALYSIS IS TO BE ACCOMPLISHED."

3

4 Q. WHO WROTE THAT?

5 A. THIS WAS DONE BY THE STAFF REVIEW SECTION.

6

7 Q. AND WHAT YEAR WAS THIS?

8 A. 1989.

9

10 Q. 1989. AND DID YOU FIND OUT IF, IN FACT, AN
11 INVESTIGATION WAS DONE BY SECURITY OR ANYONE ELSE TO
12 FIND OUT JUST WHO WAS FALSIFYING THESE REPORTS AND WHY
13 IT WAS BEING DONE?

14 A. I ATTEMPTED TO FIND OUT ALL OF THOSE THINGS. BUT WHAT I
15 FOUND OUT WAS THAT NOTHING WAS DONE.

16

17 Q. DID ANYBODY EXPLAIN TO YOU WHY NOTHING WAS DONE?

18 A. THE EXPLANATION FROM THE STAFF REVIEW PEOPLE WAS THAT
19 THEIR JOB WAS TO DO A FEEDBACK AT THE END OF THEIR
20 REVIEW. THEY DID THAT FEEDBACK WITH THE MANAGERS OF
21 THE MAINTENANCE CENTER. IT WAS THEN UP TO THE MANAGERS
22 OF THE MAINTENANCE CENTER TO CORRECT THE PROBLEM.

23

1 Q. DOES THAT MAKE SENSE TO YOU GIVEN THE FACT THAT THE
2 MAINTENANCE CENTER MANAGERS WERE THE ONES RESPONSIBLE
3 FOR THE PROBLEMS?

4 A. NO, OF COURSE IT DOESN'T. I ASKED THE STAFF REVIEWERS
5 WHY, IF THE MANAGERS OF THE MAINTENANCE CENTER WERE THE
6 ONES FALSIFYING THE RECORDS OR GIVING ORDERS TO HAVE
7 THE RECORDS FALSIFIED, SOUTHERN BELL WOULD LEAVE IT UP
8 TO THEM TO CORRECT THE PROBLEM. THEY RESPONDED THAT IT
9 WAS NOT THEIR JOB TO REPORT IT TO ANYONE ELSE.

10

11 Q. THEY DID, IN FACT, REPORT IT TO THEIR SUPERVISOR,
12 DIDN'T THEY?

13 A. YES, AS I MENTIONED EARLIER, THE REPORT OF THE RECORDS
14 FALSIFICATION WENT AT LEAST AS HIGH AS LINDA ISENHOUR,
15 WHO WAS, I BELIEVE, A FIFTH-LEVEL MANAGER.

16

17 Q. HOW DO YOU KNOW THAT LINDA ISENHOUR WAS INFORMED?

18 A. I KNOW IT WENT UP TO HER BASED ON THE TESTIMONY OF
19 SHIRLEY PERRING AND, PERHAPS, HAMPTON BOOKER.

20

21 Q. SHIRLEY PERRING TOLD LINDA ISENHOUR ABOUT THE STAFF
22 REVIEWS AND THEIR ADVERSE FINDINGS?

23 A. YES.

24

1 Q. DID YOU RECEIVE INFORMATION ON A SUBSEQUENT REVIEW DONE
2 AT THE MIAMI METRO CENTER?

3 A. YES. AS WE HAVE DISCUSSED, WE HAD THE MIAMI METRO
4 OPERATIONAL REVIEWS FOR 1988 AND 1989. WE WERE ALSO
5 FORTUNATE ENOUGH TO GET THE STAFF REVIEW OF THE MIAMI
6 METRO MAINTENANCE CENTER FOR 1990. AND UNDER THE SAME
7 SECTION, SECTION E, PART 3, THEY SAMPLED 20 TROUBLE
8 REPORTS AND FOUND 20 DEVIATIONS FOR A 100 PERCENT ERROR
9 RATE. IN THEIR FINDINGS THE STAFF REVIEWERS NOTED:
10 "ALL 20 ERRORS RESULTED WHEN THE TROUBLE REPORTS WERE
11 CLOSED OUT. THE INITIAL VER CODES DID NOT INDICATE AN
12 OUT-OF-SERVICE CONDITION, AND NO TEST NARRATIVE WAS
13 PRESENT TO INDICATE AN OUT-OF-SERVICE CONDITION
14 EXISTED. ALL REPORTS WERE STATUSED OUT OF SERVICE AT
15 CLOSE BY THE MAINTENANCE ADMINISTRATOR WHO HANDLED THE
16 PAC FILE". THEY ALSO HAVE A SECTION CALLED SECTION E,
17 PART 4, WHICH IS OUT-OF- SERVICE STATUSING. HERE THE
18 TEST RESULTS INDICATE OUT-OF-SERVICE, BUT, DESPITE
19 THOSE INDICATIONS, THE TROUBLE REPORT IS STATUSED NOT
20 OUT-OF-SERVICE.

21

22 Q. WHAT RESULT DOES SUCH A STATUSING CHANGE HAVE WITH
23 RESPECT TO THE PSC REPORTING REQUIREMENTS?

24 A. THIS WOULD TEND TO REDUCE THE NUMBER OF POTENTIAL
25 MISSES BY CALLING AN OUT-OF-SERVICE REPORT, WHICH HAS

1 TO BE FIXED WITHIN 24 HOURS, AN AFFECTING SERVICE
2 REPORT, WHICH WOULD NOT HAVE TO BE FIXED WITHIN 24
3 HOURS. IN 1990 UNDER THAT CATEGORY THEY SAMPLED 60
4 REPORTS AND THEY FOUND 27 DEVIATIONS FOR A 45 PERCENT
5 ERROR RATE. AND ALSO IN THE 1990 MIAMI METRO REVIEW
6 UNDER THE HEADING OF OUT-OF- SERVICE STATUSING
7 RECOMMENDATIONS, THE REVIEWER SAID: "ADDITIONAL
8 TRAINING ON OUT-OF-SERVICE STATUSING AND TESTING
9 PROCEDURE NEEDS TO BE DONE IMMEDIATELY. EMPHASIS
10 SHOULD ALSO BE PLACED ON THE PAC FILE MA BECAUSE THIS
11 JOB IS ROTATED MONTHLY AND TEST OKAY WORK ITEMS ARE A
12 PART OF THIS JOB. ALL MA'S SHOULD BE PROVIDED WITH THE
13 OUT-OF-SERVICE JOB AID. SUPERVISORS SHOULD ALSO BE
14 FAMILIAR WITH THE OUT-OF-SERVICE VER CODES AND
15 STATUSING". IN EFFECT THEY'VE STATED THE SAME THING
16 THEY STATED THE YEAR BEFORE AND THE YEAR BEFORE THAT.
17 THEY FOUND THE SAME PROBLEM EVERY YEAR, THEY MADE THE
18 SAME RECOMMENDATIONS EVERY YEAR, AND THE SAME PROBLEM
19 CONTINUED YEAR AFTER YEAR.

20

21 Q. WHAT'S THE EARLIEST DATE THAT YOU'RE AWARE THAT SHIRLEY
22 PERRING MET WITH LINDA ISENHOUR TO TELL HER ABOUT THE
23 PROBLEMS THAT SHE SAW IN THESE STAFF REVIEWS CONCERNING
24 SOUTH FLORIDA MAINTENANCE OPERATIONS?

1 A. IT WOULD HAVE BEEN IN JUNE OF 1988, AND THAT WAS AS A
2 RESULT OF THE STAFF REVIEW CONDUCTED AT THE NORTH DADE
3 MAINTENANCE CENTER. IN THAT REVIEW UNDER THE "OUT OF
4 SERVICE, TEST OKAY" SECTION, SECTION E, PART 3 OF THE
5 REVIEW, THEY SAMPLED 25 REPORTS AND FOUND 21 ERRORS FOR
6 AN 84 PERCENT DEVIATION. THE REVIEWER NOTED IN THE
7 RECOMMENDATIONS PORTION OF HIS REPORT: "OUT-OF-
8 SERVICE STATUSING ON TEST OKAY TROUBLES NEEDS TO BE
9 REVIEWED IN THIS CSCC. THE OVERSTATING OF THE OUT-OF-
10 SERVICE BASE IN THIS CSCC IS HAVING A DRAMATIC IMPACT
11 ON THE OFFICIAL RESULTS IN THE OUT-OF-SERVICE OVER 24
12 HOURS, AND ANALYSIS WOULD BE IMPOSSIBLE". THAT WAS
13 FROM THE JUNE, 1988, STAFF REVIEW OF NORTH DADE.
14 SHIRLEY PERRING DID A COVER LETTER TO MANNY CARRENO,
15 WHO WAS THE MANAGER OF THE NORTH DADE MAINTENANCE
16 CENTER, FORWARDING THIS REPORT. SHIRLEY PERRING ALSO
17 TESTIFIED THAT SHE WAS SO CONCERNED ABOUT THIS
18 SITUATION, THAT SHE WENT TO LINDA ISENHOUR AND TOLD
19 HER ABOUT THE PROBLEMS THEY WERE HAVING IN SOUTH
20 FLORIDA.

21

22 Q. IN VIEW OF THE STAFF REVIEW AND SHIRLEY PERRING'S
23 EXPRESSION OF CONCERN, DID ANYONE CONTACT SECURITY OR
24 OPEN UP ANY KIND OF AN INVESTIGATION TO GET TO THE
25 BOTTOM OF THIS PROBLEM?

1 A. NO, NOT AT THAT TIME.

2

3 Q. YOU PREVIOUSLY TESTIFIED THAT YOU WERE AWARE OF
4 ALLEGATIONS MADE BY FRANK FALSETTI?

5 A. YES. AS I STATED PREVIOUSLY, FALSETTI INITIALLY MADE
6 HIS ALLEGATIONS ABOUT THE FALSIFICATION OF MAINTENANCE
7 RECORDS TO THE PSC THROUGH A SERIES OF COMMUNICATIONS
8 FROM HIS LAWYER TO THE U.S. ATTORNEY, THE FBI, AND THE
9 FCC WHICH WERE BEGUN IN 1985.

10

11 Q. ARE YOU AWARE OF ANY SUBSEQUENT COMMUNICATIONS FROM
12 FALSETTI REGARDING THE FALSIFICATION OF REPAIR RECORDS?

13

14 A. YES. IN JANUARY OF 1989, FRANK FALSETTI WROTE SOUTHERN
15 BELL MANAGEMENT AND COMMUNICATED ESSENTIALLY THE SAME
16 INFORMATION ABOUT THE FALSIFICATION THAT WAS IN THE
17 ORIGINAL LETTERS TO THE FBI AND U.S. ATTORNEY THAT CAME
18 TO THE ATTENTION OF THE PSC.

19

20 Q. WHAT HAPPENED TO FALSETTI'S LETTER TO SOUTHERN BELL'S
21 MANAGEMENT?

22 A. FALSETTI'S LETTER WAS TURNED OVER TO SOUTHERN BELL
23 SECURITY FOR INVESTIGATION, AND THE MATTER WAS ASSIGNED
24 TO AN INVESTIGATOR NAMED HARRY VAN GORDON. IN
25 APPROXIMATELY FEBRUARY OF 1989, HARRY VAN GORDON

1 INTERVIEWED LINDA ISENHOUR, WHO WAS THE GENERAL MANAGER
2 AT THAT TIME. HE ASKED HER ABOUT FRANK FALSETTI AND
3 HIS ALLEGATIONS. ISENHOUR'S RESPONSE WAS THAT,
4 "FALSETTI WAS NOT ACCEPTING NECESSARY CHANGES WITHIN
5 THE BUSINESS." SHE ALSO TOLD VAN GORDON THAT FALSETTI
6 "COULD BE DANGEROUS TO HIMSELF AND OTHERS." ACCORDING
7 TO VAN GORDON, LINDA ISENHOUR ASSURED HIM THAT TO HER
8 KNOWLEDGE, "THERE WAS NOTHING WRONG WITH ANY OF THE
9 MAINTENANCE CENTERS."

10

11 Q. DID VAN GORDON DO ANYTHING OTHER THAN TALK TO LINDA
12 ISENHOUR TO INVESTIGATE THE ALLEGATIONS MADE BY FRANK
13 FALSETTI?

14 A. NO. HE DID NOT, DESPITE THE FACT THERE WERE ANY NUMBER
15 OF DOCUMENTS WHICH HE COULD HAVE EXAMINED, AS WE DID
16 DURING OUR INVESTIGATION, WHICH WOULD HAVE
17 SUBSTANTIATED THE ALLEGATIONS MADE BY FALSETTI.

18

19 Q. WELL, IS IT TRUE THAT MR. FALSETTI WOULDN'T PROVIDE VAN
20 GORDON WITH ANY DOCUMENTS?

21 A. THAT IS APPARENTLY TRUE, BUT ALL THE DOCUMENTS WERE IN
22 THE POSSESSION OF SOUTHERN BELL. IN FACT, HARRY VAN
23 GORDON AND THE OTHER INVESTIGATORS I'VE SPOKEN TO
24 DURING THIS INVESTIGATION ALL STATED THAT THEY HAD FULL

1 ACCESS TO ANYTHING THAT THEY WANTED FROM WITHIN THE
2 COMPANY.

3

4 Q. SO THEY COULD HAVE ASKED FOR DOCUMENTS AND COULD HAVE
5 INTERVIEWED PEOPLE AT THE MAINTENANCE CENTERS?

6 A. ABSOLUTELY. THEY COULD HAVE INTERVIEWED PEOPLE AND
7 THEY COULD HAVE OBTAINED DOCUMENTS.

8

9 Q. TO THIS POINT, ARE YOU AWARE OF WHETHER THE SOUTHERN
10 BELL INVESTIGATORS INTERVIEWED ANYONE AT A MAINTENANCE
11 CENTER?

12 A. NO, THEY DID NOT.

13

14 Q. DID THEY LOOK AT A SINGLE DOCUMENT REGARDING FALSETTI'S
15 ALLEGATIONS OR THE COMMENTS OR RECOMMENDATIONS OF THE
16 STAFF REVIEWS OF THE MIAMI MAINTENANCE CENTER?

17 A. NO.

18

19 Q. DID THEY LOOK AT STAFF REVIEWS?

20 A. NO.

21

22 Q. DID THEY LOOK AT ANYTHING?

23 A. NO.

24

1 Q. AND IS IT CORRECT THAT MR. VAN GORDON'S EXPLANATION FOR
2 NOT LOOKING AT ANYTHING WAS THAT HE HAD TALKED TO LINDA
3 ISENHOUR COUPLED WITH THE FACT THAT MR. FALSETTI WASN'T
4 WILLING TO PROVIDE HIM WITH DOCUMENTATION?

5 A. THAT'S CORRECT. BASED ON THE FACT THAT FALSETTI WOULD
6 NOT GIVE HIM ANY ORIGINAL DOCUMENTS AND THE FACT THAT
7 LINDA ISENHOUR TOLD HIM THERE WAS NOTHING WRONG WITH
8 ANY OF THE MAINTENANCE CENTERS, HE CLOSED HIS
9 INVESTIGATION.

10

11 Q. WHAT IF LINDA ISENHOUR OR ANOTHER SOUTHERN BELL MANAGER
12 HAD TOLD VAN GORDON TO INVESTIGATE, WHAT WOULD HE HAVE
13 DONE?

14 A. I ASKED HIM THAT QUESTION, AND HE SAID, SPECIFICALLY,
15 THAT HE WOULD HAVE PURSUED THE INVESTIGATION AND
16 UNDOUBTEDLY WOULD HAVE FOUND WHAT WE FOUND. THAT WAS
17 HIS OPINION AT ANY RATE.

18

19 Q. BASED ON YOUR INTERVIEW WITH MR. VAN GORDON, DO YOU
20 BELIEVE THAT HE WAS CAPABLE OF FINDING THE SAME THINGS
21 THAT YOU FOUND DURING YOUR INVESTIGATION?

22 A. YES, MOST DEFINITELY. VAN GORDON DESCRIBED AN
23 INVESTIGATION TO ME THAT HE CONDUCTED OF A NUMBER OF
24 COMPUTER HACKERS AROUND THE COUNTRY - IN FACT, AROUND
25 THE CONTINENT. IT WAS A VERY COMPLEX, COMPLICATED

1 INVESTIGATION, AND YET HE WAS THE LEAD INVESTIGATOR.
2 AS HE DESCRIBED IT TO ME, AFTER A LENGTHY
3 INVESTIGATION, HE WAS ABLE TO CRACK THE CASE AND GET
4 SEVERAL PEOPLE ARRESTED.

5

6 Q. WOULD YOU SAY THAT PARTICULAR INVESTIGATION WAS AT
7 LEAST AS COMPLEX AS THIS ONE?

8 A. I WOULD SAY IT WAS MUCH MORE COMPLEX THAN THIS ONE.

9

10 Q. YOU PREVIOUSLY MENTIONED A STAFF REVIEW THAT TOOK PLACE
11 IN MAY OF 1989, IS THAT CORRECT?

12 A. THAT'S CORRECT.

13

14 Q. AND THAT WOULD HAVE BEEN A FEW MONTHS AFTER MR. VAN
15 GORDON TALKED TO LINDA ISENHOUR?

16 A. THAT'S CORRECT.

17

18 Q. WOULD YOU PLEASE DESCRIBE THE RESULTS OF THAT STAFF
19 REVIEW?

20 A. THERE WAS SOME CONFUSION AND QUESTION AS TO WHO
21 ACTUALLY DID THAT STAFF REVIEW, AND THE REASON FOR THE
22 CONFUSION WAS THAT WE WERE ONLY GIVEN PIECES OF THE
23 COMPLETE STAFF REVIEW. IN GOING BACK AND TALKING TO
24 THE PEOPLE WHO WERE INVOLVED IN STAFF REVIEWS AT THAT
25 TIME, IT WAS HAMPTON BOOKER'S BEST RECOLLECTION THAT HE

1 PROBABLY CONDUCTED THAT REVIEW. BOOKER SAID THAT IF HE
2 HAD CONDUCTED THE REVIEW, HE WOULD HAVE NOTIFIED HIS
3 SUPERVISOR OF THE RESULTS.

4

5 Q. IS IT CORRECT THAT THIS STAFF REVIEW ALSO FOUND THE
6 SAME PROBLEM WITH BUILDING THE BASE CONTINUING IN SOUTH
7 FLORIDA?

8 A. YES.

9

10 Q. AM I CORRECT IN UNDERSTANDING THAT ACCORDING TO THE
11 TESTIMONY YOU RECEIVED, THERE WAS INFORMATION RECEIVED
12 BY LINDA ISENHOUR IN JUNE OF 1988 THAT THERE WERE
13 PROBLEMS REGARDING INTENTIONAL BUILDING OF THE BASE IN
14 SOUTH FLORIDA?

15 A. YES.

16

17 Q. WAS THIS INFORMATION RECEIVED BY LINDA ISENHOUR PRIOR
18 TO FRANK FALSETTI'S ALLEGATIONS?

19 A. YES. SHE NOT ONLY RECEIVED INFORMATION PRIOR TO
20 FALSETTI'S ALLEGATIONS, SHE RECEIVED FALSETTI'S
21 ALLEGATIONS, SHE RECEIVED SIMILAR INFORMATION A FEW
22 MONTHS AFTER FALSETTI'S ALLEGATIONS IN MAY OF 1989,
23 AND, FINALLY, SHE RECEIVED ESSENTIALLY THE SAME
24 INFORMATION AGAIN IN AUGUST, 1990 WHEN THE NORTH DADE
25 STAFF REVIEW WAS DONE. FURTHERMORE, IN THE 1990 STAFF

1 REVIEW UNDER SECTION E, PART 3, THEY SAMPLED 50 TROUBLE
2 REPORTS AND FOUND 39 ERRORS FOR A 78 PERCENT DEVIATION
3 RATE.

4

5 Q. WERE THERE ANY COMMENTS OR RECOMMENDATIONS IN THIS
6 STAFF REVIEW?

7 A. YES. I FOUND IT ESPECIALLY INTERESTING TO NOTE THAT IN
8 THE FINDINGS OF THAT REVIEW IT SAYS: "ALL OF THESE
9 REPORTS WERE CLOSED BETWEEN AUGUST 30TH, 1990, TO
10 AUGUST 31ST, 1990. ALL BUT TWO WERE DONE BY THE SAME
11 MA", WHICH REFERS TO THE MAINTENANCE ADMINISTRATOR. IN
12 THE RECOMMENDATIONS PORTION OF THAT REVIEW IT SAYS:
13 "OUT-OF-SERVICE STATUSING OF TROUBLE REPORTS CLOSED TO
14 TEST OKAY NEEDS TO BE ADDRESSED. THIS CAN BE DONE
15 UNDER SPECIFIED GUIDELINES. THE REPORTS SAMPLED DID
16 NOT MEET THESE GUIDELINES AND WERE SCORED AS SUCH TO
17 HELP MEET AN OBJECTIVE IN JEOPARDY OF BEING MISSED".

18

19 Q. DOES THE TIMING OF THE IMPROPERLY CLOSED REPORTS BEING
20 CLOSED TO THE END OF THE MONTH HAVE ANY SIGNIFICANCE?

21 A. YES. THE REPORTS FOR PURPOSES OF PSC REPORTING WERE
22 BASED ON CALENDAR MONTHS AND WHETHER A GIVEN
23 MAINTENANCE CENTER WAS CLOSE TO MISSING THE REQUIREMENT
24 WOULD BECOME MORE OBVIOUS AT THE END OF THE MONTH.
25 LIKewise, THE TIME AVAILABLE FOR "CORRECTING" THE

1 DEFICIENCY WAS LIMITED TO WHAT REMAINED OF THE MONTH.
2 ALTHOUGH IT IS NOT THE ONLY PLACE INVESTIGATORS SHOULD
3 LOOK, REVIEWING THE END OF THE MONTH FOR ANY REPORTING
4 "BLIPS" SHOULD HAVE BEEN AN OBVIOUS START FOR ANY
5 REVIEW OR INVESTIGATION.

6

7 Q. COULD YOU INFER FROM THE FACTS THAT THESE REPORTS WERE
8 ALL CLOSED ON THE LAST TWO DAYS OF THE MONTH, THAT IT
9 WAS DONE AT THE LAST MINUTE TO MEET REPORTING
10 REQUIREMENTS?

11 A. YES, YOU COULD. IN FACT, I ASKED THE PEOPLE INVOLVED
12 IN THAT STAFF REVIEW ABOUT THAT, AND THEY SAID THAT
13 WHEN THEY SAW THAT ALL OF THOSE REPORTS HAD BEEN CLOSED
14 IN THAT ONE, TWO-DAY PERIOD RIGHT AT THE END OF THE
15 MONTH, IT WAS OBVIOUS TO THEM THAT THEY HAD BEEN
16 FALSIFIED IN ORDER TO MEET THE PSC OBJECTIVE. THEY
17 ALSO SAID THAT THEY WOULD ROUTINELY LOOK FOR END OF THE
18 MONTH BLIPS TO DISCOVER ANY FALSIFICATION IN RECORDS.
19 WHEN I ASKED THEM: "WELL, WHAT IF SOMEONE IN A
20 MAINTENANCE CENTER WERE FALSIFYING THE RECORDS DURING
21 THE MIDDLE OF THE MONTH?" AND THEY SAID: "WELL, THEY
22 PROBABLY WOULDN'T HAVE SPOTTED THAT BECAUSE THEY ONLY
23 LOOK AT THE LAST TWO DAYS OF THE MONTH".

24

1 Q. IGNORING THE FACT THAT A BLIP ANY PLACE IN THE MONTH
2 SHOULD BE SUSPECT?
3 A. YES.
4
5 Q. WAS THERE ANY SOUTHERN BELL MANAGERIAL RESPONSE TO THIS
6 LAST STAFF REVIEW IN 1990?
7 A. YES. THE RESULTS OF THE STAFF REVIEW INCLUDING THE
8 RECOMMENDATIONS THAT I JUST READ WERE GIVEN BACK TO THE
9 MANAGERS AT THAT MAINTENANCE CENTER IN A FEEDBACK
10 SESSION. LINDA ISENHOUR WAS PRESENT AT THAT SESSION
11 AND AFTER HEARING THAT THE TROUBLE REPORTS WERE
12 IMPROPERLY SCORED IN ORDER TO MEET AN OBJECTIVE IN
13 JEOPARDY OF BEING MISSED, SHE THEN OPENED AN
14 INVESTIGATION TO DETERMINE IF FALSIFIED REPORTS WERE
15 BEING USED TO MEET THE PSC OBJECTIVE.
16
17 Q. AND THIS WAS IN 1990?
18 A. YES, IN SEPTEMBER OF 1990.
19
20 Q. GOING BACK TO APPROXIMATELY TWO YEARS EARLIER IN THE
21 FALL OF 1988, ARE YOU AWARE OF WHETHER SHIRLEY PERRING
22 HAD OCCASION TO MEET WITH HER SUPERVISOR CONCERNING THE
23 FINDINGS THAT SHE HAD SEEN IN SOUTH FLORIDA?
24 A. YES, SHE MET WITH ROBERT RUPE, WHO WAS THE OPERATIONS
25 MANAGER FOR THE STAFF SECTION AND SHE STATED THAT SHE

1 AND RUPE THEN WENT TO THE NORTH DADE MAINTENANCE CENTER
2 OPERATIONS MANAGER, A MAN NAMED JACK SELLERS. DURING
3 THAT MEETING, SHIRLEY PERRING RECALLS ROBERT RUPE
4 TELLING JACK SELLERS, "YOU'RE CHEATING ON REPAIR
5 RECORDS."

6

7 Q. DID YOU ALSO HAVE OCCASION TO TALK DIRECTLY TO ROBERT
8 RUPE TO VERIFY WHETHER, IN FACT, HE HAD THE SAME
9 RECOLLECTION OF THE CONVERSATION WITH JACK SELLERS?

10 A. YES, I DID. HE STATED THAT HE HAD A VAGUE RECOLLECTION
11 OF A MEETING WITH SELLERS, BUT THAT HE COULDN'T
12 RECALL SPECIFICS OR THE TOPIC OF CONVERSATION. HE
13 ADDED HOWEVER, THAT IF SHIRLEY PERRING SAID HE HAD TOLD
14 SELLERS HE WAS CHEATING, THEN HE HAD.

15

16 Q. IS IT CORRECT THEN THAT DURING THE COURSE OF YOUR
17 INVESTIGATION, YOU DISCOVERED THAT IN 1988 LINDA
18 ISENHOUR, SHIRLEY PERRING, ROBERT RUPE, JACK SELLERS
19 AND HAMPTON BOOKER WERE ALL AWARE OF THE STRONG
20 LIKELIHOOD THAT THERE WAS, "CHEATING" GOING ON RELATED
21 TO REPAIR RECORDS?

22 A. YES. THAT IS CORRECT.

23

24 Q. AND BASED ON YOUR INVESTIGATION, DID YOU DISCOVER
25 WHETHER OR NOT SOUTHERN BELL DID ANYTHING IN 1988 TO

1 UNCOVER THE CAUSE OF THE REPAIR RECORDS FRAUD AND TO
2 CORRECT THE SITUATION?

3 A. AS FAR AS I COULD DETERMINE, THEY DID NOTHING TO
4 INVESTIGATE OR FERRET OUT ANY VIOLATIONS OR
5 FALSIFICATION OF REPAIR RECORDS IN 1988. AND, IN FACT,
6 THE PROBLEM AS NOTED IN THE STAFF REVIEWS GOT
7 PROGRESSIVELY WORSE EACH YEAR FROM 1988 TO 1990. THE
8 ONLY THING THEY APPEARED TO DO WAS MAINTAIN THE STATUS
9 QUO, WHICH WAS TO CONTINUE TO REFER THE STAFF REVIEW
10 RESULTS TO THE MAINTENANCE CENTERS FOR THE PEOPLE IN
11 THE MAINTENANCE CENTERS TO DEAL WITH IT AS THEY SAW
12 FIT. OBVIOUSLY THAT SYSTEM DID NOT WORK SINCE THE
13 FALSIFICATION NOT ONLY DID NOT STOP, BUT CONTINUED TO
14 GET WORSE.

15

16 Q. DO YOU UNDERSTAND WHY THE FALSIFICATION CONTINUED AND
17 WHY NOTHING WAS DONE TO STOP IT FOR SO LONG?

18 A. I DO NOT. NO ONE WAS ADEQUATELY ABLE TO EXPLAIN TO ME
19 WHY THIS INFORMATION THAT THEY HAD - THE TOP LEVEL
20 MANAGERS HAD - IN 1988 WAS NOT PROVIDED TO SECURITY SO
21 THAT A TRUE INVESTIGATION COULD OCCUR AT A TIME WHEN
22 IT'S OBVIOUS MANAGEMENT KNEW ABOUT IT.

23

24 Q. IT WOULD APPEAR THAT SOUTHERN BELL MAINTENANCE
25 PERSONNEL COULD HAVE JUST ASKED FOR MORE PERSONNEL TO

1 WORK IN THE MAINTENANCE CENTERS IF THEY WERE UNABLE TO
2 ACHIEVE THEIR OBJECTIVES. WHAT MOTIVATION WOULD THEY
3 HAVE FOR CONSTANTLY FALSIFYING THEIR REPAIR RECORDS AS
4 OPPOSED TO MERELY REQUESTING ADEQUATE PERSONNEL?
5 A. WELL, THAT'S AN INTERESTING QUESTION. IT APPEARS THAT
6 SOUTHERN BELL DID HAVE AN ECONOMIC MOTIVATION FOR NOT
7 HIRING ADDITIONAL REPAIR OR MAINTENANCE CENTER
8 PERSONNEL. THE REASON, OR AT LEAST ONE REASON, IS THAT
9 SOUTHERN BELL, IN ITS 1983 RATE CASE, WAS GRANTED IN
10 ITS RATES REVENUES ASSOCIATED WITH THE SALARIES OR
11 WAGES AND FULL BENEFITS FOR A CERTAIN LEVEL OF REPAIR
12 AND MAINTENANCE PERSONNEL. NOW, ACCORDING TO TESTIMONY
13 I RECEIVED AND DOCUMENTS OBTAINED FROM SOUTHERN BELL,
14 AFTER THE 1983 RATE CASE THE COMPANY SYSTEMATICALLY
15 BEGAN DECREASING THE NUMBER OF EMPLOYEES IN MAINTENANCE
16 CENTERS WHO DID REPAIR WORK. WHEN THEY DECREASED THE
17 NUMBER OF MAINTENANCE WORKERS, THEY, OF COURSE, NO
18 LONGER HAD TO PAY THOSE SALARIES OR BENEFITS BECAUSE
19 THOSE POSITIONS NO LONGER EXISTED. SOUTHERN BELL,
20 HOWEVER, WAS STILL GETTING FULL SALARY AND BENEFITS FOR
21 THE LARGER NUMBER OF EMPLOYEES AND COULD DIRECT THOSE
22 SAVINGS TO PROFITS.
23

1 Q. SO HIRING ADDITIONAL MAINTENANCE EMPLOYEES TO MEET THE
2 PSC'S QUALITY OF SERVICE OBJECTIVES WOULD HAVE REDUCED
3 PROFITS?

4 A. YES, OF COURSE IT WOULD HAVE. TO THE EXTENT THAT IT
5 OCCURRED, THE FALSIFICATION OF REPAIR RECORDS NOT ONLY
6 GAVE THE APPEARANCE OF MEETING THE PSC'S OBJECTIVES, IT
7 ALSO SAVED MONEY. ADDITIONALLY, THERE WAS THE
8 POSSIBILITY THAT HIRING ADDITIONAL WORKERS COULD HAVE
9 FORCED SOUTHERN BELL INTO A RATE CASE, WHICH COULD
10 HAVE, IN TURN, RESULTED IN THEM GETTING A LOWER ALLOWED
11 RETURN ON THEIR EQUITY INVESTMENT.

12

13 Q. WHAT DO YOU BASE THAT STATEMENT ON?

14 A. I AM AWARE THAT INFLATION RATES, MONEY RATES GENERALLY,
15 AND THE COST OF EQUITY MONEY BEGAN FALLING AFTER
16 SOUTHERN BELL HAD ITS RATE CASE IN 1983.

17

18 Q. DID YOU HAVE OCCASION TO REVIEW PUBLIC SERVICE
19 COMMISSION DOCUMENTS REGARDING COMPLAINTS FROM
20 CUSTOMERS?

21 A. YES, I DID. I AND SEVERAL OTHER INVESTIGATORS WENT
22 THROUGH THOUSANDS AND THOUSANDS OF COMPLAINTS MADE TO
23 THE PUBLIC SERVICE COMMISSION BY SUBSCRIBERS OF
24 SOUTHERN BELL FROM ALL OVER THE STATE, AND I SELECTED
25 THOSE WHERE IT APPEARED THAT THE COMPLAINT WAS FOUNDED

1 ON A PREMISE THAT THE TELEPHONE WAS ACTUALLY OUT- OF-
2 SERVICE FOR A SIGNIFICANT PERIOD OF TIME, THAT IS WELL
3 OVER 24 HOURS. AND AFTER OBTAINING COPIES OF THOSE
4 COMPLAINTS, I ASKED SOUTHERN BELL TO PROVIDE ME WITH
5 THE ETH FOR THOSE TELEPHONE NUMBERS DURING THE PERIOD
6 OF TIME THAT THE COMPLAINT HAD BEEN MADE. AND WHEN I
7 RECEIVED THE ETH'S, OR IN SOME INSTANCES A DLETH, I
8 COMPARED THE NARRATIVE IN THE COMPLAINT MADE BY THE
9 SUBSCRIBER TO THE PUBLIC SERVICE COMMISSION WITH THE
10 RECORDED EVENTS ON THE TROUBLE HISTORY ITSELF, AND I
11 FOUND MAJOR DISCREPANCIES.

12

13 Q. DID THE INFORMATION YOU FOUND AS A RESULT OF SEARCHING
14 THROUGH THE PUBLIC SERVICE COMMISSION'S PUBLIC
15 COMPLAINT RECORDS TEND TO CORROBORATE THE ALLEGATIONS
16 MADE BY FRANK FALSETTI TO THE FEDERAL AGENCIES IN
17 MARCH, 1985, WHICH WERE FORWARDED TO THE FLORIDA PSC IN
18 LATE-1985, AND THE ALLEGATIONS IN HIS LETTER TO
19 SOUTHERN BELL MANAGEMENT IN JANUARY OF 1989?

20 A. YES, IT DID. CLEARLY I HAD SUBSCRIBERS COMPLAINING TO
21 THE PSC THAT THEIR PHONE WAS OUT FOR THREE, FOUR, FIVE,
22 SIX DAYS SOMETIMES AND THEY WANTED THEIR TELEPHONES
23 FIXED RIGHT AWAY. AND YET WHEN I LOOKED AT THE ETH AND
24 THE DLETH CORRESPONDING TO THESE CUSTOMER COMPLAINTS,
25 IT WOULD SHOW THAT THE TELEPHONES WERE REPORTED OUT-

1 OF-SERVICE AND THEN CLEARED AND CLOSED WITHIN 24 HOURS.
2 HOWEVER, THERE WERE THOSE SAME DISCREPANCIES THAT I
3 PREVIOUSLY POINTED OUT IN THE EXHIBIT 11 WHERE THERE
4 WERE INCONSISTENCIES BETWEEN THE DATE AND TIMES THAT
5 APPEARED ON THE ENTRIES AND THE SEQUENCE IN WHICH THEY
6 APPEARED.

7

8 Q. WAS THIS COMPARISON OF COMPLAINTS TO THE TROUBLE REPORT
9 RECORDS SOMETHING THAT SOUTHERN BELL OR ANYONE ELSE
10 COULD HAVE DONE?

11 A. YES. ANYONE WITH ACCESS TO SOUTHERN BELL'S RECORDS AND
12 THE CUSTOMER COMPLAINTS TO THE PSC COULD HAVE
13 DETERMINED THE REPAIR RECORDS WERE BEING FALSIFIED AT
14 ANY TIME OVER AT LEAST THE LAST FIVE YEARS.

15

16 Q. THAT WOULD BE IF THEY WERE AWARE OF THE ALLEGATIONS AND
17 THEY CHOSE TO INVESTIGATE THOSE ALLEGATIONS?

18 A. ABSOLUTELY.

19

20 Q. ARE YOU AWARE OF WHETHER THE PSC'S CONSUMER AFFAIRS
21 DIVISION FORWARDS COPIES OF CUSTOMERS' COMPLAINTS TO
22 THE UTILITIES THAT ARE INVOLVED?

23 A. YES. IT IS MY UNDERSTANDING THAT THE PSC'S CONSUMER
24 AFFAIRS PERSONNEL FORWARD COPIES OF ALL COMPLAINTS TO
25 THE INVOLVED UTILITY.

1 Q. IF THAT IS CORRECT, SOUTHERN BELL WOULD HAVE BEEN IN
2 POSSESSION OF COPIES OF ALL OF ITS CUSTOMERS'
3 COMPLAINTS AND LIKELY WOULD HAVE MISLED THE PSC IN ITS
4 RESPONSES TO THOSE COMPLAINTS IF THE COMPLAINT INVOLVED
5 A TROUBLE REPORT THAT HAD BEEN FALSIFIED AT THE
6 MAINTENANCE CENTER, WOULDN'T IT?

7 A. YES, IT PROBABLY WOULD HAVE.
8

9 Q. NOW, WE'VE DISCUSSED STAFF REVIEWS THAT OCCURRED DURING
10 THE TIME FRAME AROUND 1988. WAS THERE ANYTHING GOING
11 ON IN THAT PERIOD AROUND 1988 THAT YOU ARE AWARE OF
12 THAT WOULD HAVE HAD ANY POSSIBLE IMPACT ON SOUTHERN
13 BELL'S RATE OF RETURN?

14 A. YES. IT IS MY UNDERSTANDING THAT SOUTHERN BELL
15 UNDERWENT A RATE REVIEW AT THE PSC THAT RESULTED IN THE
16 PSC GIVING IT A NEW FORM OF INCENTIVE RATEMAKING ON
17 NOVEMBER 15TH OF 1988.
18

19 Q. COULD THIS RATE REVIEW AND THE POSSIBILITY OF BEING
20 GRANTED INCENTIVE RATEMAKING PROVIDED A MOTIVE FOR THE
21 RECORDS FALSIFICATION?

22 A. AS I UNDERSTAND IT, THE INCENTIVE RATEMAKING DIDN'T
23 LIMIT SOUTHERN BELL TO A SO-CALLED REASONABLE RATE OF
24 RETURN THAT IT HAD BEEN RECEIVING UNDER TRADITIONAL
25 RATEMAKING. ALSO THIS PROGRAM GAVE THEM AN INCENTIVE

1 TO EARN MORE BY BEING MORE EFFICIENT, WHICH
2 THEORETICALLY WOULD INVOLVE THEM FURTHER REDUCING THE
3 NUMBER OF EMPLOYEES. SO IT COULD HELP EXPLAIN THE
4 REDUCTION IN THE NUMBER OF EMPLOYEES. ADDITIONALLY,
5 BASED ON TESTIMONY I RECEIVED, THE EMPLOYEES OF
6 SOUTHERN BELL WERE UNDER THE IMPRESSION THAT THEIR
7 EFFICIENCY IN REPORTING REPAIRS BEING FIXED WITHIN 24
8 HOURS WAS AN IMPORTANT INDICATOR OF WHETHER OR NOT THE
9 COMPANY WOULD RECEIVE RATE INCREASES. THEREFORE, THE
10 INCENTIVE PROGRAM THAT WAS, IN FACT, ADOPTED IN
11 NOVEMBER OF 1988 COULD HAVE BEEN ONE POSSIBLE
12 MOTIVATION FOR TOP-LEVEL MANAGERS TO AVOID MAKING ANY
13 ISSUE OF THE FACT THAT THEY WERE AWARE OF ALLEGATIONS
14 CONCERNING REPAIR FRAUD IN 1988. AS AN INVESTIGATOR,
15 ONE OF THE THINGS I'M ALWAYS CONCERNED WITH IS THE
16 MOTIVE OF THE ALLEGED PERPETRATOR OF A CRIME. HERE WAS
17 ONE EXAMPLE OF A VERY STRONG POSSIBLE ECONOMIC MOTIVE.
18 AND IT'S CERTAINLY WORTHY OF STRONG CONSIDERATION,
19 ESPECIALLY GIVEN THE FACT OF ALL OF THE INSTANCES IN
20 1988 OF TOP-LEVEL MANAGEMENT BECOMING AWARE OF THE
21 FRAUD, EVEN TO THE EXTENT THAT ONE TOP-LEVEL MANAGER,
22 ROBERT RUPE, SAID TO ANOTHER ONE, THE NORTH DADE
23 OPERATIONS MANAGER, JACK SELLERS, THAT YOU'RE
24 CHEATING. AND EVEN THOUGH HE SAID THAT TO HIM IN 1988,
25 NOTHING HAPPENED, NO INVESTIGATION WAS DONE. AND

1 THERE'S PROBABLY A VERY GOOD REASON THERE WAS NO
2 INVESTIGATION DONE, BECAUSE THAT WOULD HAVE GENERATED
3 PUBLICITY. THE COMPANY WOULD HAVE BEEN FORCED, ONCE
4 THEY REALLY FOUND OUT WHAT HAD HAPPENED, TO GO BACK
5 AND TELL THE PSC THAT THEY HAD BEEN MISREPORTING THINGS
6 FOR THE PAST SEVERAL YEARS. THAT WOULD HAVE BEEN A
7 HUGE EMBARRASSMENT TO THE COMPANY, AND IT MAY WELL HAVE
8 JEOPARDIZED THEIR INCENTIVE SITUATION, WHICH WAS
9 APPROVED IN 1988.

10

11 Q. DID ANYTHING ELSE OCCUR AFTER 1988 THAT INDICATED TO
12 YOU THAT THE COMPANY WAS CONTINUING TO DEVELOP
13 ADDITIONAL METHODS THAT WOULD HELP THEM ACHIEVE THE 95
14 PERCENT INDEX?

15 A. YES. DURING THE COURSE OF MY INVESTIGATION, I LEARNED
16 THAT THE COMPANY USES A STATUS ON ITS TROUBLE REPORTS
17 REFERRED TO AS CON, WHICH IS AN ACRONYM, WHICH STANDS
18 FOR CARRIED OVER-NO. A CON REPORT IS ONE WHICH IS
19 EXCLUDED FROM THE 95 PERCENT PSC INDEX. AND THE REASON
20 FOR ITS EXCLUSION IS THE SUBSCRIBER UPON REPORTING HIS
21 TROUBLE REPORT, HIS OUT-OF-SERVICE TELEPHONE, SAYS TO
22 THE TELEPHONE COMPANY: "DON'T COME TODAY, DON'T COME
23 TOMORROW, BECAUSE I WON'T BE HOME. YOU'LL HAVE TO COME
24 THREE DAYS FROM NOW TO FIX IT". WELL, UNDER THOSE
25 CIRCUMSTANCES IT'S LEGITIMATE FOR THE TELEPHONE

1 COMPANY, SOUTHERN BELL, TO EXCLUDE THAT REPORT SINCE IT
2 WAS NOT THEIR FAULT THAT THE PHONE WASN'T FIXED WITHIN
3 24 HOURS. IT'S THE CUSTOMER'S FAULT. THE CUSTOMER
4 CHOSE NOT TO HAVE HIS PHONE FIXED WITHIN 24 HOURS.
5 AND UNDER THOSE CONDITIONS SOUTHERN BELL WOULD STATUS
6 THE TROUBLE REPORT CON. OBVIOUSLY, IN MY OPINION,
7 THIS CON STATUS WAS AN EXCELLENT MEDIUM FOR CHANGING
8 THE RESULTS, FALSIFYING THE RESULTS OF THEIR ABILITY TO
9 REPAIR PHONES WITHIN 24 HOURS. SO I WENT BACK AND DID
10 AN ANALYSIS OF ALL THE CON REPORTS GOING ALL THE WAY
11 BACK TO 1985. AND WHAT I DISCOVERED WAS THAT IN
12 JANUARY OF 1989 THE NUMBER OF CON REPORTS INCREASED BY
13 ALMOST 300 PERCENT. STATEWIDE THE FIGURES WENT FROM
14 SOMEWHERE AROUND 6,000 CON REPORTS IN 1988 UP TO A
15 LITTLE LESS THAN 16,000 IN 1989.

16

17 Q. AND WHAT MONTH DID YOU REQUEST ALL THOSE CON REPORTS?

18 A. WE REQUESTED THEM IN LATE NOVEMBER OF 1991. AND I
19 ASKED FOR ALL THE CON REPORTS IN THE STATE OF FLORIDA
20 SINCE 1985, AND DIDN'T RECEIVE THOSE DOCUMENTS UNTIL
21 SOMETIME IN LATE JANUARY, 1992. I LATER LEARNED THAT
22 WITHIN JUST A FEW WEEKS AFTER MY REQUEST FOR THE CON
23 REPORTS, SOUTHERN BELL PUT OUT A MEMO STATING THAT,
24 EFFECTIVE JANUARY 1ST, 1992, THEY WOULD DISCONTINUE THE
25 USE OF CON CODES.

1 Q. WERE THERE ANY OTHER SIGNIFICANT INSTANCES OF POSSIBLE
2 FRAUD THAT YOU BECAME AWARE OF DURING THE
3 INVESTIGATION?

4 A. WELL, ONE OTHER THAT I CAN RECALL INVOLVED A STATEMENT
5 I RECEIVED FROM BOB FECHT, WHO WAS A SOUTHERN BELL
6 STAFF REVIEWER IN THE SUMMER OF 1989. HE RECEIVED
7 POSSIBLE EVIDENCE OF FRAUD INVOLVING 1200 CODES. 1200
8 CODES INDICATE A PROBLEM WITH THE INSIDE WIRE. WHEN
9 THERE'S A PROBLEM WITH INSIDE WIRE AND IT'S FIXED, IT
10 DOESN'T REALLY MATTER HOW LONG IT TOOK TO FIX IT AS FAR
11 AS THE PSC INDEX IS CONCERNED BECAUSE IT'S AN
12 EXCLUSION FROM THAT INDEX. WE HAD TESTIMONY FROM A
13 SOUTHERN BELL EMPLOYEE, WHO TOLD US, THAT WHENEVER THEY
14 RECEIVED A PSC COMPLAINT REGARDING A REPAIR THAT HAD
15 TAKEN MORE THAN 24 HOURS, THEY WERE TO MAKE SURE THAT
16 IT WAS REPORTED AS AN INSIDE WIRE PROBLEM. NOW, I WAS
17 NEVER ABLE TO VERIFY WITH ABSOLUTE CERTAINTY WHETHER OR
18 NOT THE INSIDE WIRE CODES WERE ABUSED; HOWEVER, BOB
19 FECHT DID HAVE POSSIBLE EVIDENCE OF THAT KIND OF FRAUD
20 IN THE SUMMER OF 1989. HE AND OPERATIONS MANAGER T.C.
21 TAYLOR AND A MAN NAMED PAUL WHITE ATTENDED A MEETING
22 WITH ANOTHER OPERATIONS MANAGER NAMED GENE DAVIS TO
23 TELL HIM ABOUT THE PROBLEM THEY HAD DISCOVERED. WE
24 WERE UNABLE TO ASCERTAIN EXACTLY WHAT THAT POSSIBLE
25 PROBLEM WAS BECAUSE EVERYONE WE SPOKE TO THAT WAS A

1 MANAGER AT SOUTHERN BELL TOLD US THEY DIDN'T KEEP ANY
2 WRITTEN RECORDS OF IT, THEY DIDN'T DO ANY FOLLOW-UP ON
3 IT, THEY JUST DIDN'T DO ANYTHING TO FIND OUT LATER ON
4 WHETHER IT WAS FIXED. NOW, THIS POINTS UP A PROBLEM
5 OBVIOUSLY IN COMPLETING THIS ASPECT OF THE
6 INVESTIGATION. IT ALSO POINTS UP THE FACT THAT FOR ONE
7 REASON OR ANOTHER SOUTHERN BELL DIDN'T CHOOSE TO MAKE A
8 WRITTEN RECORD OF THESE ALLEGATIONS OF POSSIBLE FRAUD.

9
10

11 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

12 A. YES IT DOES.

MICHAEL R. MALOY
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EDUCATION:

Bachelor of Arts, 1976
Major: English Literature
University of Miami
Coral Gables, Florida

EMPLOYMENT HISTORY:

Florida Attorney General 1989 to Present
Chief Investigator
from September, 1992 to Present

Financial Investigator, R.I.C.O. Section
from August, 1989 to September, 1992

Allstate Insurance Company 1988 - 1989
Senior Staff Representative

Division of Insurance Fraud 1977 - 1988
Florida Department of Insurance

Assistant Director from 1986 to 1988

Chief of Investigations from 1982 to 1986

Investigator Supervisor from 1979 to 1982

Special Investigator from 1977 to 1979

Coral Gables, Florida Police Department 1973 - 1977
Narcotics Detective / Police Officer

MILITARY:

Chief Warrant Officer, U. S. Army 1967 - 1970
Helicopter Pilot, South Vietnam

AWARDS:

Outstanding Law Enforcement Award July 28, 1988
Presented by United States Attorney
for the investigation of Universal
Casualty Insurance Company.

SAMPLING OF MAJOR INVESTIGATIONS

R.I.C.O. INVESTIGATION---SEARS, ROEBUCK AND COMPANY

In June of 1992, I initiated an investigation of Sears, Roebuck and Company in Florida, and their alleged use of a quota system which forced employees to sell unnecessary parts or service in their automotive centers. In September, 1992, that investigation resulted in an out-of-court settlement in which Sears agreed to pay more than \$2,500,000.00 in restitution to its customers plus investigative costs to the Office of the Florida Attorney General.

R.I.C.O. INVESTIGATION---MAJOR TELECOMMUNICATIONS COMPANY

In 1991, while working as an investigator with the R.I.C.O. Section of the Florida Attorney General's Office, an Assistant Attorney General and I initiated an investigation concerning the alleged multi-million dollar racketeering activity of a major telecommunications company in the southeastern United States. In order to pursue the alleged criminal activity I was assigned to work full time with the Office of the Statewide Prosecutor. As lead investigator I have been responsible for reviewing, analyzing, and summarizing thousands of documents: locating, interviewing, and taking sworn testimony from numerous witnesses: and testifying about the results of my investigation. This investigation is still pending.

R.I.C.O. INVESTIGATION---SOUTHERN BELL TELEPHONE COMPANY

In 1989 and 1990, I was assigned to work full-time on the investigation of Southern Bell and the theft of more than \$1,000,000 in revenue commissions owed to private businesses, cities, counties, and state and federal agencies. The investigation required the review of multi-million dollar fiscal reports, analysis of complex computer generated reports of public communications revenue, and the review of more than 5000 financial contracts. At the conclusion of my investigation Southern Bell settled the Civil R.I.C.O. violations out of court, and paid approximately five (5) million dollars in fines, penalties, and restitution.

\$16,000,000 FRAUD / EMBEZZLEMENT INVESTIGATION---UNIVERSAL CASUALTY INSURANCE COMPANY

In 1984 I initiated and was the lead case agent in the investigation of the failure of Universal Casualty Insurance Company and Jose and Carlos Pina, the two brothers who owned and operated Universal and thirty-one (31) other Florida corporations. Beginning in 1985, I presented the results of my

investigation to the Federal Grand Jury. The investigation of Universal Casualty required an analysis of balance sheets, income statements, general ledgers, and other financial documentation. This included the review and analysis of more than 100,000 checks and wire transfers of funds. The investigation revealed the theft of 16 million dollars and an ultimate loss of more than 60 million dollars to the citizens of Florida; the Grand Jury indictment charged Jose and Carlos Pina with numerous counts of Tax Fraud and related crimes, and both subjects were ultimately sentenced to terms in federal prison.

CORRUPTION / ARSON / FRAUD INVESTIGATION---ALBERTO SAN PEDRO

In 1983 I initiated, organized, staffed, and directed the South Florida Insurance Fraud Task Force whose members included the Florida Insurance Fraud Division, Metro-Dade Police Department, City of Miami Police and Fire Departments, City of Hialeah Police Department, and the Dade County State Attorney's Office. The Task Force investigations resulted in the arrests and convictions of numerous doctors, lawyers, and other professionals in Dade and Broward counties. The Task Force investigation of 19 arson fires in Dade and Broward ultimately led to the full scale corruption investigation of ALBERTO SAN PEDRO.

FINANCIAL INVESTIGATION---INSURANCE AGENT / AGENCY

In 1977 I conducted an investigation of the Robert E. Martin Insurance Agency. During this investigation I traced more than \$1,000,000 in stolen money through 14 different bank accounts, two (2) insurance agencies, and two (2) finance companies. Based on my investigation, Robert E. Martin was arrested and convicted of 329 counts of fraud, theft, and forgery.

MAJOR NARCOTICS INVESTIGATION---JOSE ALVERO-CRUZ

Beginning on January 31, 1976, with the seizure of 46,000 pounds of marijuana, I was one of two agents assigned to investigate a major narcotics smuggler. The results of our investigation were presented to a Federal Grand Jury in Miami and resulted in the seizure of large quantities of narcotics, the seizure of numerous vehicles and weapons, and the arrest and conviction of five (5) narcotics traffickers. It led to subsequent investigations which ultimately resulted in the arrest and conviction of JOSE ALVERO-CRUZ and JOSE ANTONIO FERNANDEZ, who at the time, were operating the largest marijuana smuggling ring in South Florida.

ADDENDUM TO THE
RESUME OF:

MICHAEL R. MALOY

Teaching Experience

- "Institute on Organized Crime"
Metropolitan Dade County Police Department
Miami, Florida
Faculty Instructor on the topic of Insurance Fraud
and Organized Crime.
- "Basic Law Enforcement Academy"
Miami, Florida
Instructor on the topic of The Investigation and Prosecution
of Insurance Fraud.
- "Insurance Fraud Seminar for Prosecutors and Police Officers"
Project Coordinator and Staff Instructor
Responsible for organizing and conducting regional
seminars for Police Detectives and Prosecutors
throughout the State of Florida.
- "Arson for Profit" Seminar (two weeks) hosted by State Farm,
Chicago, Illinois.
Attendee and Guest Lecturer on the topic of Insurance Fraud
in the State of Florida.
- "F.B.I. Seminar on Arson and Organized Crime"
Palm Beach County, Broward County, and Dade County, Florida
Guest Lecturer on the topic of Arson and Insurance Fraud.
- "State Farm Insurance Company Agents College"
Winter Haven, Florida
Guest Lecturer on the topic of Insurance Fraud---Recognition
and Investigation of Suspicious Claims.
- "Allstate Insurance Company Adjusters' In-Service Training"
Ft. Lauderdale, Florida
Instructor on the topic of Insurance Fraud---Recognition
and Investigation of Suspicious Claims.
- State of Florida, Division of Insurance Fraud
Training Coordinator for all Division personnel in all
aspects of the investigation of Insurance Fraud.

EXHIBIT
MRM-2

IN THE SUPREME COURT OF THE STATE OF FLORIDA

JANUARY TERM, 1991

CASE NUMBER 78,035

FILED *- Sealed*
9-16-92
Sid J. White, Clerk
Supreme Court of Florida
By: *[Signature]*
Deputy Clerk

FINAL REPORT OF THE TENTH STATEWIDE GRAND JURY

SEPTEMBER, 1992

A TRUE COPY.
Attest:
SID J. WHITE, Clerk
Supreme Court of Florida
By: *[Signature]*
Deputy Clerk

FINAL REPORT OF THE TENTH STATEWIDE GRAND JURY

SEPTEMBER, 1992

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I. INTRODUCTION

The Tenth Statewide Grand Jury was impaneled on July 30, 1991, and was seated in Orlando, Florida. The Grand Jury has convened almost monthly to investigate allegations of multi-circuit, organized crime throughout the State. The Grand Jury's original term expired after twelve months, but was extended to October 30, 1992. The Grand Jury is adjourning one month early, subject to recall, if necessary.

The purpose of this Report is to record for posterity the work and recommendations of this Grand Jury, with the hope that its collective voice will be heard and that the citizens of this State will benefit from its efforts.

II. SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

We embarked upon our investigation of Southern Bell at the beginning of our term. During the course of the investigation, we heard testimony from numerous witnesses, including former and current Southern Bell employees who held positions ranging from craft level workers to Company officers. We have also had the opportunity to examine a multitude of company documents.

The primary focus of our investigation concerned allegations of company misconduct in four major categories: (1) the intentional overbilling of customers generated by the fraudulent "sale" of optional services by Company employees whose primary responsibility was supposed to have been the installation and repair of telephones; (2) the intentional failure to pay the full amount owed for allegedly unintentional customer overbillings discovered during the Company's analysis of some of its billing records; (3) the intentional failure to pay required rebates to compensate customers who informed the Company that their telephone was out of service; and (4) the intentional failure to properly report trouble and repair information to the Public Service Commission.

Our Legal Adviser, the Statewide Prosecutor, has negotiated a settlement agreement with the Company, in the nature of a pre-trial diversion opportunity, which calls for, among other things:

- complete and expeditious restitution to affected customers;
- cooperation with the State in any investigations arising out of these matters;
- implementation of revised billing practices, fraud preventative procedures, and ethics training;
- a three year review period, subjecting the Company to periodic audits and compliance monitoring;
- funding by the Company of the review program, audits, and monitoring;

- discretion to void the agreement and pursue prosecution vested in the Statewide Prosecutor;
- funding provided by the Company to support prosecution of these allegations, if necessary;
- no restrictions on the prerogative of the Statewide Prosecutor to investigate any other allegations of Company fraud, and to prosecute where appropriate;
- a prohibition against including any costs associated with the agreement in the rate base of the customers.

In our Advisory Opinion, issued this date, we recommended that the Statewide Prosecutor proceed with the settlement of this investigation because we believe it to be in the best interest of the people of this State. The agreement will provide the Company with the opportunity to reform the negative aspects of the corporate environment. However, it will not exonerate the Company for repayment of its debts to our society. We are hopeful that the Company will prove itself worthy of this unique and beneficial opportunity.

In closing, it must be noted that the proposed settlement agreement does not contain any "punishment", per se, of the Company for its alleged failure to properly report to the Public Service Commission actual repair time for restoration of telephone service to customers whose telephones were out of service. This issue was raised in our investigation, but we have been advised that the United States Supreme Court's ruling H.J., Inc., et al v. Northwestern Bell Telephone Company, 112 S. Ct. 2306 (1992), casts doubt on our ability, or the ability of the criminal courts, to directly sanction the Company for such conduct, if it in fact occurred. We specifically note, however, that the Florida Public Service Commission has both the jurisdiction and concomitant discretion to impose severe monetary penalties on the Company if it finds that the Company has falsified reports required by PSC rules. We therefore strongly recommend that the Public Service Commission, in conjunction with its publicly mandated responsibility, investigate this matter, exercise its penal authority, and take into consideration this possible fraudulent conduct on the part of the Company in determining an appropriate rate of return.

III. REGULATING UTILITIES

Our investigation of Southern Bell led us to an inquiry into some of the regulatory activities of the Florida Public Service Commission, and the rules and statutes governing this function.

We wish to make it clear that time constraints did not afford us the opportunity to fully investigate every issue brought before us, but we heard sufficient testimony to convince us that changes must be made in this process to protect the utility consumers of this State and to renew the faith of the people in its government.

The recommendations we have proposed are addressed to the Florida Legislature and the Public Service Commission. We hope these recommendations will be given serious consideration.

A. Ex Parte Communications

In January of this year, we issued an Interim Report entitled, "Regulating Utilities - Recommendations to Enhance The Integrity of the Process." This report discussed the necessity for strict rules and laws prohibiting ex parte communications with Public Service Commissioners and Commission staff by utility representatives on regulatory matters. We noted that communication to a judge by an interested party, concerning an issue to be decided by that judge, is prohibited in American courts of law unless all interested parties have an opportunity to be present during the communication. Such communication is considered improper because it gives an unfair advantage to the party with the most access to the judge. Since the members of the Commission have responsibilities equivalent to that of a judge, we proposed a strict prohibition against all forms of ex parte communication in our interim report.

We note with some dismay that the State Legislature has not yet enacted any of our proposals. An amendment to the ex parte section of Chapter 350 of the Florida Statutes, though not as efficacious as our suggestions, was passed by the State House of Representatives, but it did not come to a vote in the Senate. We urge the Legislature to allocate time during its next session to consider and pass the recommendations contained in our Interim Report.

B. Prohibitions on Employment of Commissioners

Immediately after resigning, a former Public Service Commissioner recently accepted a lucrative position with an affiliate of one of the utilities he used to regulate. News reports indicated that his starting salary was twice that of his Commission salary. It appears that nothing restricted the ability of that utility from courting the Commissioner during the regulatory process, and nothing prevented the Commissioner from seeking such employment during his tenure on the Commission. Coupled with the almost unfettered ability to discuss regulatory matters with Commissioners and Commission staff, the existence of such relationships creates an appearance of impropriety the Commission can ill afford to bear.

We are therefore concerned that the Legislature failed to enact another necessary reform in the many sessions held this year: a law prohibiting Public Service Commissioners from accepting employment with the utilities regulated by the Commission.

A contract made pursuant to a telephonic sales call:

1. Shall be reduced to writing and signed by the consumer.
2. Shall comply with all other applicable laws and rules.
3. Shall match the description of goods or services principally used in the telephone solicitations.
4. Shall contain the name, address, and telephone of the seller, the total price of the contract, and a detailed description of the goods or services being sold.
5. Shall contain, in bold, conspicuous type, immediately preceding the signature, the following statement:

"You are not obligated to pay any money unless you sign this contract and return it to the seller."
6. May not exclude from its terms any oral or written representations made by the telephone solicitor to the consumer in connection with the transaction."

The Telemarketing Act further protects the consumers of this State by requiring a statement of consumer rights, providing a three day right of rescission, entitlement to full refund if the Act is violated, and payment of costs of cancellation by the seller. The Act also provides for criminal penalties when deception is used in connection with an offer to sell.

Requiring utilities to obtain and maintain written authorizations from customers is an easy method to prevent fraud by corporate deception. Detection of such fraud should not be the sole responsibility of the customer. Many customers, perhaps hundreds of thousands of them, would not know they were paying too much for phone service unless they read their phone bill each month in microscopic detail, assuming they received a detailed bill each month. A customer told that the bill for monthly basic service will be, for example, \$20 per month, but not told \$8 of that monthly fee is for optional services, will in all probability pay the written bill each month without a quibble. After all, that was the price quoted by the telephone company representative and the bill matches the price. If the company only itemizes these costs in a yearly billing summary, and the customer does not read the summary, the customer can easily be given the false impression that the bill contains only mandatory charges.

The Legislature has an obligation to prevent victimization of all the citizens of this State. If the Public Service Commission does

not implement similar consumer protection requirements for the utility activities it regulates, then the Legislature should strike the exemptions in Sections 501.212 and 501.604, Florida Statutes, and subject utilities to the standards of fair trade practice outlined in the statute.

D. Cost Allocation Procedures

Southern Bell, like other providers of local telephone service, is a regulated utility. In exchange for being regulated by a government entity, that portion of the business which is regulated is allowed to charge certain specified amounts to its customers for the regulated telephone service it provides. If a utility is unable to achieve the minimal level of return to which the PSC decides it is entitled, the company can ask the Commission to approve an increase in the amount customers pay for regulated telephone service. All of the expenses incurred in the provision of regulated telephone service are passed directly on to the customers, including the salaries and benefits of all employees during the time those employees are working on a regulated activity.

By Public Service Commission Rule, the amount of time employees spend on unregulated activities is supposed to be deducted from the amount paid by customers of regulated telephone service. Thus, there arises a question of "cost allocation." The utility must accurately allocate costs so that customers of regulated telephone services are not subsidizing the cost of unregulated activities. The PSC is charged with the responsibility of monitoring and regulating the cost allocation process.

This question arose in the context of our inquiry regarding the sale of certain unregulated optional services by installation and repair personnel (regulated). We reached no conclusion as to whether the cost allocation process is currently being misused, but we determined that the opportunity and temptation to move salary and benefit allocations to the regulated side of a utility appeared to be great. While not a matter in which we hold a great deal of expertise, we have considered the implications of a failure to accurately allocate costs and believe that better methods of detection and enforcement must be implemented to prevent the unlawful subsidy of the unregulated side of the utility by the regulated side.

We therefore recommend that the PSC initiate quarterly unannounced spot reviews and a complete audit and regulatory review of the cost allocation process on an annual basis. The audits should, at a bare minimum, follow the generally accepted auditing standards established by the Auditing Standards Board of the American Institute of Public Accountants.

As we understand it, a complete audit of regulated utility cost allocation practices is only likely to occur during a rate hearing, although some cost and revenue information is provided every four years. However, a complete rate hearing is sometimes held less frequently. More than eight years passed between Southern Bell's last rate case and the current rate case filed this year. Therefore, it is currently possible for a utility to avoid a complete independent audit for an undetermined number of years.

In addition, the PSC should develop its own cost allocation manual to provide specific formulas for allocating regulated and unregulated costs, rather than relying on the Federal Communications Commission's (FCC) cost allocation manual, which concerns telephone services involving more than one state. Although it may be appropriate to use that manual for the specific intended purpose, applying it to an intrastate issue can sometimes lead to a rule that is, at best, difficult to explain. For example, according to the FCC manual, a Southern Bell repair and installation worker must spend at least 15 minutes on activities related to an unregulated service before being required to allocate any time to that activity. This means such an employee could solicit the sale of an unregulated activity for 14 minutes with each customer he comes in contact with each day without allocating one minute of his time to the unregulated activity. This results in the evil sought to be avoided by proper cost allocation: subsidy of profit making activity by regulated activity.

We therefore strongly recommend that the PSC develop its own guidelines tailored to the specific needs of this State. The formation of a Task Force comprised of consumer advocates, regulated utilities and Commission staff, with public hearings throughout the State, would generate the most fair and effective cost allocation procedures.

E. Rate of Return

The National Association of Regulatory Utility Commissioners recently compared three methods of calculating rate of return and, as a result, reached the conclusion that "utilities were both less risky and more profitable investments than the average non-regulated corporation".

Section 364.03 (1), Florida Statutes, states that the regulated portion of utility companies, "... may not be denied a reasonable rate of return." We understand that what is reasonable to one expert hired by a regulated utility may be entirely unreasonable to an expert hired by a consumer advocacy group. It is all very subjective. The PSC has to take that subjective standard and apply it to the real world. We realize that is a very difficult task.

It is our belief that regulated companies should have the right to a rate of return similar to a non-regulated company of equal risk. In other words, a risky business venture should have the right to a much higher rate of return than a relatively safe venture like the exclusive provision of certain basic telephone services to all of the people in a given geographic region who are in need of that service.

We suggest that the Public Service Commission appoint a Blue Ribbon panel of experts selected by consumer advocates, including but not limited to the Public Counsel, regulated utilities and PSC staff to develop specific economic parameters to eliminate some of the subjectivity inherent in the current ratemaking process. For example, the group may wish to consider the possibility of tying, in some way, the maximum rate of return for relatively low risk regulated utilities to the interest rate of long term United States Treasury Bonds, taking into account the economic circumstances at the time the rate is set.

We have learned that several years can elapse before a rate of return is changed. This regulatory gap fails to provide for rapid changes in economic circumstances, such as a decline in interest rates and inflation. Basing the rate of return on a selected, easily measurable economic parameter, or an average of several such parameters, would make it easier to revise the rate of return on a yearly basis if economic circumstances warrant it.

We realize that any definitive recommendation in this regard is beyond the scope and expertise of this Grand Jury. We merely wish to point out that it is an area worthy of close scrutiny and vigorous debate in a public forum.

IV. GANG AND GANG-RELATED ACTIVITY

The Statewide Grand Jury also embarked upon an investigation of gangs and gang-related activity in the State of Florida.

The results of our work can be found in the Indictments listed in the attached chart as SWGJ Case Numbers 1 and 1A. These charges represent the first known occasion that the Street Terrorism Act and the Racketeering Act were joined together in one prosecution in Florida to dismantle a criminal gang involved in everything from narcotics trafficking to arson. It has been reported to us that the gang, known as the 34th Street Players, has not re-formed or resurfaced since the incarceration of the defendants on these charges.

During the course of this investigation, we conducted a survey to identify the magnitude of the gang problem in the State. Our examination, conducted with the assistance of State and local Law Enforcement agencies, revealed that no central repository exists

for the collection and exchange of information concerning gangs and gang-related activity. Thus, the results of statewide intelligence gathering techniques were pieced together to obtain the best possible picture of gang activity in the State. The results of this survey are outlined in our Interim Report #2, issued in January, entitled: "Gangs and Gang-Related Activity: Recommendations to Assist Law Enforcement."

This Grand Jury recommended the establishment of a statewide youth and street gang computer data base with a requirement of mandatory reporting of such data from all law enforcement agencies. We noted that the Street Terrorism Enforcement and Prevention Act of 1990 originally established such a database, but the funding portion of the bill was later deleted. We strongly urge the Legislature to invest the necessary funds in the future of this State.

We are disheartened by the total lack of interest demonstrated by the Legislature in this matter. Without an accurate accounting of the impact of gangs on the criminal justice system, necessary reforms in criminal laws cannot be made, nor can adequate funding formulas for law enforcement be produced. We urge the Legislature to be more far-sighted in this regard.

V. ADMINISTRATIVE RECOMMENDATIONS

The Grand Jury is vested with enormous power, and with it a profound responsibility. It has an intimidating and deterrent effect on those who violate the law. It also has the power and duty to protect the innocent against prosecution. The responsibilities of the Grand Jury are truly awesome.

The Statewide Grand Jury is a unique organization from a number of standpoints that require special consideration. The Statewide Grand Jury, impanelled by the Florida Supreme Court, is made up of citizens from all corners of the State. Jurors must travel many miles to and from the court site for each session. For us, this has almost been monthly, for a period of fifteen months. Sessions have lasted from two to three days, and the average day's work is in excess of the typical eight hour day. Because the location is far from home, Grand Jurors are "sequestered" from their families, homes, and occupations during the length of the sessions.

This is not a voluntary service. Jurors are chosen by the court and must serve or face contempt charges.

Given the unique nature of the logistics and practicalities of our existence, we have discussed a number of areas where consideration should be given to treat Statewide Grand Jurors in a more equitable manner.

A. Insurance Coverage

Currently, no accident or accidental death insurance is provided for Jurors, as they are not considered employees or agents of the State. Jurors must then rely on their own insurance coverage in the event of an emergency or jury related injury. However, since the jurors are chosen from a cross-section of the population, it is possible that many do not have any, or adequate, insurance protection of their own. Also, since the service is mandatory, rather than elective, as in certain employment situations, the State should provide insurance for accidental injury or death of Grand Jurors travelling for and attending Grand Jury sessions.

Moreover, it appears to us that Grand Jurors have no protection from law suit for their actions and would have to stand the expense of their own defense should they be sued for allegedly exceeding their authority. While the prosecutor who advised the Grand Jury in a particular matter would be covered by the State's Risk Management Policy, it appears that Grand Jurors would not.

We ask the Legislature to consider our concerns and make the appropriate provision for protection of Statewide Grand Jurors in these matters.

B. Grand Juror Fees

The current fee of \$10 per day for Statewide Grand Jurors is woefully inadequate. It amounts to approximately one-third of the minimum wage for the average work day, and does not take into account the extraordinary conditions of our service.

Our service, as distinguished from petit jury service, often results in expenses not considered in the setting of the fee structure: long distance telephone calls to communicate with family and to maintain ties to jobs; kennel costs for the care of animals; the purchase of special travel items, ranging from toiletries to suitcases, and so forth. These matters have apparently been ignored in the decision making process.

It is obvious that the State is in dire financial circumstances. It is also obvious, however, that the criminal justice system could not function without individual citizens discharging their civic duty to act as fair and impartial jurors. While no one can be fired for jury duty, there appears to be no restriction on the ability of an employer to withhold salary dollars during the affected time periods. Further, self-employed business people may experience lost opportunities that could have an adverse economic impact on their livelihoods for years to come. Citizens facing such economic hardship are unlikely to pay complete attention to the matters before them, and may choose to expedite

the proceedings at the expense of the rights of others. While we have successfully guarded against such a travesty, in part based on the considerations afforded by the Legal Adviser and her staff in response to our needs, we do not know when this unconscionable possibility might reach fruition.

We have learned that the Federal Grand Jury fee is \$40 per day. We urge the Legislature to consider parity in this matter.

VI. CONCLUSION AND ACKNOWLEDGEMENTS

The remainder of the work of this Grand Jury is summarized in the attached schedule of cases.


We are particularly gratified that one of our cases went to trial during our term, resulting in the convictions of two law enforcement professionals who deliberately subverted the criminal justice system through perjury and subornation of perjury. We are proud to have been a part of bringing them to justice.

Service as a member of the Tenth Statewide Grand Jury has been an education in citizenship, the likes of which cannot be taught in the classroom. It has been a unique and memorable experience and we are proud to have made this contribution to our State.

We wish to thank the following individuals and their respective offices for assisting us in the performance of our responsibilities:

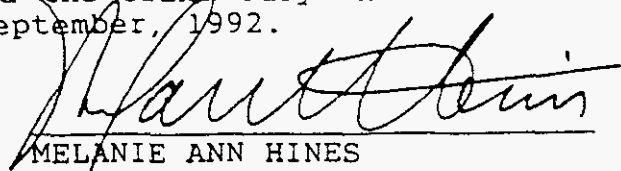
The Honorable Frederick Pfeiffer, Presiding Judge
The Honorable Richard Conrad, Alternate Presiding Judge
The Honorable Fran Carlton, Circuit Court Clerk
Richard Sletten, Orange County Court Administrator
Lt. Doug Huffman, Orange County Sheriff's Office
Commissioner Tim Moore, Florida Department of Law Enforcement

Respectfully submitted to the Honorable Frederick Pfeiffer, Presiding Judge, this 16th day of September, 1992.



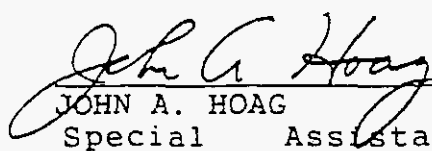
Herman A. Robandt
Foreperson
Tenth Statewide Grand Jury
of Florida

I, MELANIE ANN HINES, Legal Adviser, Tenth Statewide Grand Jury, for the State of Florida, hereby certify that I, as authorized and required by law, have advised the Grand Jury which returned this report this 16th day of September, 1992.



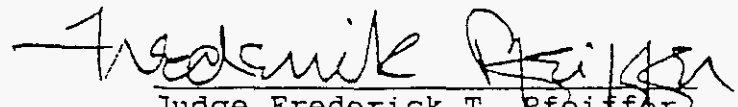
MELANIE ANN HINES
Statewide Prosecutor
Statewide Grand Jury Legal Adviser

I, JOHN A. HOAG, Legal Adviser, Tenth Statewide Grand Jury, for the State of Florida, hereby certify that I, as authorized and required by law, have advised the Grand Jury which returned this report this 16th day of September, 1992, with regard to the matters contained in section III.



JOHN A. HOAG
Special Assistant Statewide
Prosecutor
Statewide Grand Jury Legal Adviser

The foregoing report was returned before me in open court this 16th day of September, 1992, and is hereby sealed until further order of the Court on motion by the Legal Adviser.



Judge Frederick T. Pfeiffer
Presiding Judge
Tenth Statewide Grand Jury

TENTH SAGJ FINAL REPORT

SAGJ CASE #	OSAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
1	91-12-SFB	JULIO RODRIGUEZ	Racketeering; Trafficking in Cocaine in Excess of 400 grams; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Sale, Purchase or Delivery of a Controlled Substance-2 cts; Trafficking in Cocaine in Excess of 28 grams but less than 200 grams (2 cts); Total counts-7.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	WILLIAM BARRIOS	Racketeering; Trafficking in Cocaine in Excess of 400 grams; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Trafficking in Cocaine in Excess of 28 grams but less than 200 grams; Total counts-4.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	CARLOS FERNANDEZ	Racketeering; Sale, Purchase or Delivery of a Controlled Substance-9 cts; Total counts-10.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	DAVID NADAL	Racketeering; Trafficking in Cocaine in Excess of Excess of 400 grams-4 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-3 cts; Total counts-8.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	ROBERTO RODRIGUEZ	Racketeering; Trafficking in Cocaine in Excess of 400 grams-2 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-2 cts; Burglary of a Structure; Grand Theft; Total counts-7.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	ANTHONY SMITH	Racketeering; Trafficking in Cocaine in Excess of 400 grams-2 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-2 cts; Burglary of a Structure; Grand Theft; Total counts-7.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.

TENTH SAGJ FINAL REPORT					
SAGJ CASE #	CBAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
1	91-12-SFB	NELSON VEGA	Racketeering; Trafficking in Cocaine in Excess of 400 grams-2 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-2 cts; Total counts-5.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	MODESTO ELIAS	Racketeering; Trafficking in Cocaine in Excess of 400 Grams; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Total counts-3.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	ELISEO MONTIJO	Racketeering; Sale, Purchase or Delivery of a Controlled Substance-3 cts; Total counts-4.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1	91-12-SFB	JULIO TERZAGO	Racketeering; Trafficking in Cocaine in Excess of 400 grams; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Total counts-3.	Dade	Indictment issued 9/12/91. Status conference 10/2/91.
1-A	91-12-SFB	JULIO RODRIGUEZ	Racketeering; Trafficking in Cocaine in Excess of 400 grams; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Sale, Purchase or Delivery of a Controlled Substance-2 cts; Trafficking in Cocaine in Excess of 28 grams but less than 200 grams-2 cts; Total counts-7.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	WILLIAM BARRIOS	Racketeering; Trafficking in Cocaine in Excess of 400 grams; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Trafficking in Cocaine in Excess of 28 grams but less than 200 grams; Sale of Cocaine; Trafficking in Cocaine; Total counts-6.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	CARLOS FERNANDEZ	Racketeering; Sale, Purchase or Delivery of a Controlled Substance-9 cts; Total counts-10.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.



TENTH SAGJ FINAL REPORT					
SAGJ CASE #	OSAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
1-A	91-12-SFB	DAVID NADAL	Racketeering; Trafficking in Cocaine in Excess of Excess of 400 grams-4 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-3 cts; Possession of Cocaine; Total counts-9.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	ROBERTO RODRIGUEZ	Racketeering; Trafficking in Cocaine in Excess of 400 grams-2 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-2 cts; Burglary of a Structure; Grand Theft-2 cts; Armed Robbery; Conspiracy to Commit Armed Robbery; Total counts-10.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	ANTHONY SMITH	Racketeering; Trafficking in Cocaine in Excess of 400 grams-2 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-2 cts; Burglary of a Structure; Grand Theft; Armed Robbery; Conspiracy to Commit Armed Robbery; Total counts-9.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	NELSON VEGA	Racketeering; Trafficking in Cocaine in Excess of 400 grams-2 cts; Conspiracy to Traffic in Cocaine in Excess of 400 grams-2 cts; Total counts-5.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	MODESTO ELIAS	Racketeering; Trafficking in Cocaine in Excess of 400 Grams; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Total counts-3.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	ELISEO MONTIJO	Racketeering; Sale, Purchase of Delivery of a Controlled Substance-3 cts; Total counts-4.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.

TENTH SAGJ FINAL REPORT

SAGJ CASE #	CBAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
1-A	91-12-SFB	JULIO TERZACO	Racketeering; Conspiracy to Traffic in Cocaine in Excess of 400 grams; Trafficking in Cocaine in Excess of 400 grams; Total counts-3.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
1-A	91-12-SFB	RONALD BAKER	Racketeering; Armed Robbery; Conspiracy to Commit Armed Robbery; Total counts-3.	Dade	Superseding Indictment issued 11/14/91. Status conference 10/2/91.
2	90-59-WFB	CHARLES C. AMOS	Racketeering; Grand Theft-Second Degree-4 cts; Grand Theft First Degree-4 cts; Organized Fraud. Total counts-9.	Pinellas	Indictment issued 11/14/91. Trial set 01/19/93.
2	90-59-WFB	JOHN H. FESSENDEN	Racketeering; Grand Theft-First Degree-6 cts; Grand Theft-Second Degree; Organized Fraud. Total counts-9.	Pinellas	Indictment issued 11/14/91. Trial set 01/19/93.
2-A	90-59-WFB	CHARLES C. AMOS	Racketeering; Grand Theft-Second Degree-4 cts; Grand Theft-First Degree-7 cts; Organized Fraud; Total counts-13.	Pinellas	Superseding Indictment issued 05/13/92. Trial set 01/19/93.
2-A	90-59-WFB	JOHN H. FESSENDEN	Racketeering; Grand Theft-First Degree-7 cts; Grand Theft-Second Degree; Organized Fraud. Total counts-8.	Pinellas	Superseding Indictment issued 05/13/92. Trial set 01/19/93.
3	91-16-NFB	DAVID L. SANDERS	Conspiracy to Commit Perjury; Subornation of Perjury-3 cts; Total counts-4.	Bay	Indictment issued 11/14/91. Guilty Verdict-3 cts; 1 ct. Subornation dismissed; 6 months County Jail; 5 years probation; Costs motion set for October 1992.

TENTH SAGJ FINAL REPORT					
SAGJ CASE #	CBAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
3	91-16-NFB	TOMMY LEE CARTER	Conspiracy to Commit Perjury; Subornation of Perjury-3 cts; Total counts-4.	Bay	Indictment issued 11/14/91. Guilty Verdict-3 cts; 1 ct. Subornation dismissed; 6 months County Jail; 5 years probation; Costs motion set for October 1992.
4	91-93-WFB	ALAN ROSS	Conspiracy to Traffic in Cocaine; Murder in the First Degree; Conspiracy to Commit First Degree Murder; Total counts-3.	Broward	Indictment issued 12/11/91; Trial set 10/19/92.
4	91-93-WFB	RAMON DESFOSSE	Conspiracy to Traffic in Cocaine; Murder in the First Degree; Conspiracy to Commit First Degree Murder; Attempted Murder; Armed Robbery; Total counts-5.	Broward	Indictment issued 12/11/91; Trial set 10/19/92.
4	91-93-WFB	ALLAIN STRONG	Conspiracy to Traffic in Cocaine; Murder in the First Degree; Conspiracy to Commit First Degree Murder; Attempted Murder; Armed Robbery; Total counts-5.	Broward	Indictment issued 12/11/91; Trial set 10/19/92.
4	91-93-WFB	JAMES ALLARDYCE	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Indictment issued 12/11/91; Trial set 10/19/92.
4	91-93-WFB	(SEALED)	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Indictment issued 12/11/91; Fugitive.
4	91-93-WFB	(SEALED)	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Indictment issued 12/11/91; Fugitive.
4	91-93-WFB	THOMAS M. PRITCHETT	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Indictment issued 12/11/91; Trial set 10/19/92.

TENTH SAGJ FINAL REPORT

SAGJ CASE #	CBAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
4	91-93-WFB	GEORGE ALEXANDER	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Indictment issued 12/11/91; Trial set 10/19/92.
4-A	91-93-WFB	ALAN ROSS	Conspiracy to Traffic in Cocaine; Murder in the First Degree; Conspiracy to Commit First Degree Murder; Total counts-3.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.
4-A	91-93-WFB	RAMON DESROSSE	Conspiracy to Traffic in Cocaine; Murder in the First Degree; Conspiracy to Commit First Degree Murder; Attempted Murder; Armed Robbery; Total counts-5.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.
4-A	91-93-WFB	ALLAIN STRONG	Conspiracy to Traffic in Cocaine; Murder in the First Degree; Conspiracy to Commit First Degree Murder; Attempted Murder; Armed Robbery; Total counts-5.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.
4-A	91-93-WFB	JAMES ALLARDYCE	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.
4-A	91-93-WFB	 <i>Sealed</i>	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.
4-A	91-93-WFB	 <i>Sealed</i>	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.
4-A	91-93-WFB	THOMAS M. PRITCHETT	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.

TENTH SAGJ FINAL REPORT

SAGJ CASE #	OSAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
4-A	91-93-WFB	GEORGE ALEXANDER	Conspiracy to Traffic in Cocaine; Total counts-1.	Broward	Superseding Indictment issued 01/14/92. Trial set 10/19/92.
5	91-96-SFB	(SEALED)	Racketeering; Trafficking in Marijuana in Excess of 2,000 pounds, but less than 10,000 pounds; Conspiracy to Traffic in Marijuana in Excess of 2,000 pounds, but less than 10,000 pounds; Total counts-3.	Broward	Indictment issued 12/11/91. Fugitive.
5	91-96-SFB	(SEALED)	Racketeering; Trafficking in Marijuana in Excess of 2,000 pounds, but less than 10,000 pounds; Conspiracy to Traffic in Marijuana in Excess of 2,000 pounds, but less than 10,000 pounds; Total counts-3.	Broward	Indictment issued 12/11/91. Fugitive.
6	91-103-CFB	CAROL H. CUINN	Fraudulent Representations as Socially or Economically Disadvantaged Business Enterprise; Conspiracy to Commit Fraudulent Representations as Socially or Economically Disadvantaged Business Enterprise; Total counts 2.	Seminole	Indictment issued 1-14-92. Charges dismissed 9/11/92. To be refiled by Information.
	91-103-CFB	EDWARD T. CUINN, JR.	Conspiracy to Commit Fraudulent Representations as Socially or Economically Disadvantaged Business Enterprise; Total counts-1.	Seminole	Indictment issued 1/14/92. Trial date set November 17, 1992.
6	91-103-CFB	SUE BELL	Conspiracy to Commit Fraudulent Representations as Socially or Economically Disadvantaged Business Enterprise; Total counts-1.	Seminole	Indictment issued 1/14/92. Trial date set November 17, 1992.
7	91-92-WFB	BYRON R. WALKER	Racketeering; Conspiracy to Commit Racketeering; Organized Fraud; Grand Theft-12 cts; Total counts-15.	Pinellas	Indictment issued 2/12/92. Pre-trial hearing set 10/26/92.

TENTH SAGJ FINAL REPORT					
SAGJ CASE #	OSAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
7	91-92-WFB	JOYCE A. HUNTER	Racketeering; Conspiracy to Commit Racketeering; Organized Fraud; Grand Theft-12 cts; Total counts-15.	Pinellas	Indictment issued 2/12/92. Pre-trial hearing set 10/26/92.
7	91-92-WFB	GRAHAM C. TUCKER	Racketeering; Conspiracy to Commit Racketeering; Organized Fraud; Grand Theft-12 cts; Total counts-15.	Pinellas	Indictment issued 2/12/92. Pre-trial hearing set 10/26/92.
7	91-92-WFB	MARY W. TUCKER	Racketeering; Conspiracy to Commit Racketeering; Organized Fraud; Grand Theft-12 cts; Total counts-15.	Pinellas	Indictment issued 2/12/92. Pre-trial hearing set 10/26/92.
8	91-66-SFB	JAMES RAY TRAINA	Murder in the First Degree; Armed Burglary; Armed Robbery; Total counts-3.	Broward	Indictment issued 2/13/92. Trial set for October 19, 1992.
8	91-66-SFB	KERRY JAY CARBONELL	Murder in the First Degree; Armed Burglary; Total counts-2.	Broward	Indictment issued 2/13/92. Defendant deceased 8/21/92.
9	91-14-SFB	RICARDO GOLDMAN	Racketeering-1 ct; Grand Theft-2nd Degree-4 cts; Grand Theft-3rd Degree-20; Forgery-35 cts; Uttering a Forged Document-33 cts; Total counts-93.	Dade	Indictment issued 3/17/92. Trial set for October 19, 1992.
10	91-67-WFB	ROBERT S. BASHA	Criminal Usury-1 ct; Burglary-1 ct; Kidnapping-2 cts; Extortion-1 ct; Total counts-5.	Broward	Indictment issued 6/11/92. In Federal custody; trial to be set at a later date.
10	91-67-WFB	RAYMOND J. BASHA	Criminal Usury-1 ct.	Broward	Indictment issued 6/11/92. In Federal custody; trial to be set at a later date.

TENTH SAGJ FINAL REPORT

SAGJ CASE #	CBAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
10	91-67-WFB	MICHAEL V. MONAHAN	Criminal Usury-1 ct; Burglary-1 ct; Kidnapping-2 cts; Extortion-1 ct; Total counts-5.	Broward	Indictment issued 6/11/92. In Federal custody; trial to be set at a later date.
11	92-240-SFB	SEALED	Racketeering-1 ct; Conspiracy to Commit Racketeering-1 ct; Armed Kidnapping-3 cts; Conspiracy to Kidnap-2 cts; Armed Robbery-5 cts; Armed Burglary-4 cts; Grand Theft-5 cts; Falsely Personating an Officer-2 cts; Conspiracy to Commit Armed Robbery-4 cts; Attempted Armed Robbery-1 ct; Burglary of a Structure-2 cts; Conspiracy to Commit Burglary-2 cts; Total counts-32.	Dade	Indictment issued 9/16/92.
11	92-240-SFB	SEALED	Racketeering-1 ct; Conspiracy to Commit Racketeering-1 ct; Armed Kidnapping-3 cts; Conspiracy to Kidnap-2 cts; Unlawful Possession of a Firearm-1 ct; Falsely Personating an Officer-3 cts; Armed Robbery-7 cts; Armed Burglary-4 cts; Grand Theft-5 cts; Attempted Armed Robbery-1 ct; Conspiracy to Commit Armed Robbery-5 cts; Burglary of a Structure-2 cts; Conspiracy to Commit Burglary-2 cts; Total counts-37.	Dade	Indictment issued 9/16/92.
11	92-240-SFB	SEALED	Racketeering-1 ct; Conspiracy to Commit Racketeering-1 ct; Conspiracy to Kidnap-1 ct; Armed Robbery-1 ct; Conspiracy to Commit Armed Robbery-1 ct; Total counts-5.	Dade	Indictment issued 9/16/92.

TENTH SAGJ FINAL REPORT

SAGJ CASE #	OBAP CASE #	DEFENDANT	CHARGE	VENUE	DISPOSITION
11	92-240-SFB	SEALED	Racketeering-1 ct; Conspiracy to Commit Racketeering-1 ct; Dealing In Stolen Property-1 ct; Burglary of a Structure-2 cts; Conspiracy to Commit Burglary-2 cts; Grand Theft-2 cts; Total counts-9.	Dade	Indictment issued 9/16/92.

EXHIBIT
MRM-3

IN THE SUPREME COURT OF THE STATE OF FLORIDA

JANUARY TERM, 1991

CASE NUMBER 78,035

FILED - *Sealed*
9-16-92
Sid J. White, Clerk
Supreme Court of Florida
By: *Michael Williams*
Deputy Clerk

Advisory Opinion
of the
Tenth Statewide Grand Jury
SWP Case Number 91-7-NFB

A TRUE COPY.
Attest:
SID J. WHITE, Clerk
Supreme Court of Florida
by: *Michael Williams*
Deputy Clerk

In July of 1991, the Tenth Statewide Grand Jury embarked upon an investigation of possible fraudulent business practices by Southern Bell Telephone and Telegraph Company (the "Company") and its employees. Our inquiry focused on allegations of misconduct in four major categories: (1) the intentional overbilling of customers through the fraudulent "sale" of optional telephone services by Company employees whose primary responsibility was the installation and repair of telephones; (2) the intentional failure to repay customers for overbillings which the Company discovered during its own analysis of some of its billing records; (3) the intentional failure to pay required compensatory rebates for non-working telephone service to customers who notified the Company that their telephone was out of service; and (4) the intentional failure of the Company to properly report trouble and repair information to the Public Service Commission (the "Commission").

During the course of this detailed investigation, numerous witnesses testified, including former and current Company employees, ranging from craft level workers to executive officers. Also during this investigation a multitude of Company documents were examined and analyzed.

After careful deliberation of the evidence produced, we have determined that Southern Bell created, promoted, and sustained an atmosphere that served to foster and reward certain fraudulent practices. As one example: The Company established an extensive sales incentive program that included such prizes as cruises and appliances, which amounted to an engraved invitation for both craft employees and management alike to commit fraud on unsuspecting and defenseless customers by "selling" them services they did not need or want. The program was rife with overt pressure on employees to produce sales, but contained no provisions for verification of actual sales activity. By this and similar actions, we believe that the Company countenanced the conception of a culture that allowed corporate executives to look the other way when the specter of consumer fraud stared them in the face.

The individuals currently in charge of the Company have become aware of our investigation and they have promised to eliminate the Company's suspect sales and refund practices, many of which were uncovered as a direct result of our inquiry. We are gratified by their repentant and responsible attitude, which has been reflected in the recent implementation of revised sales practices, refund programs, and an emphasis on ethics training for all employees.

The Company has requested that the Statewide Prosecutor, this body's Legal Adviser, resolve our investigation short of criminal prosecution of the Company. As a result, the Tenth Statewide Grand Jury has considered a proposed settlement agreement between the Company and the Office of Statewide Prosecution.

In the proposed settlement agreement, Southern Bell agrees not to engage in the aforementioned suspect practices. The Company is required to make expeditious and complete restitution of millions of dollars to customers. Over the next three years, the Company must implement specifically outlined reforms, while at the same time funding its own supervision during a "review period" which is in the nature of probation. This supervision involves periodic, independent audits by a major accounting firm and monitoring of the reforms by the Office of Statewide Prosecution. The Company is specifically prohibited from passing any of the associated costs along to the customers in the rate making process before the Public Service Commission. Further, the Company is required to assist the Office of Statewide Prosecution in any investigation arising out of these matters. In exchange, the Office of Statewide Prosecution will not seek criminal charges against the Company from this body and will not pursue criminal action against the Company regarding the aforementioned allegations, if the Company fully complies with the terms and conditions of the agreement. However, the Office of Statewide Prosecution maintains discretion to void the agreement and prosecute the Company if the Company does not comply. The Office may, of course, seek to prosecute the Company for any violations of the law discovered at a later date concerning activities not covered in our investigation, or for any criminal activity committed after the signing of the agreement.

In its consideration of the proposed settlement agreement, the Tenth Statewide Grand Jury weighed the extremely complex and time-consuming nature of a criminal prosecution alleging numerous instances of fraud by a huge corporation and its impact on an already overburdened court system. The Grand Jury has determined that the immediate positive impact of this settlement outweighs any perceived benefit of protracted criminal litigation, which even under optimal conditions is unlikely to produce a better result for the citizens of the State of Florida.

We do not condone the Company's activities, nor exonerate the Company from responsibility. We agree, instead, to withhold judgment, giving the Company ample incentive and opportunity to remedy the suspect practices. Because we believe the terms and conditions negotiated by the Statewide Prosecutor are carefully structured in the best interest of the people of this State, we recommend that the Office of Statewide Prosecution enter into the proposed settlement agreement, and we ratify the same if all things are substantially as they have been represented to this Grand Jury.

Respectfully submitted to the Honorable Frederick T. Pfeiffer,
Presiding Judge, and to Melanie Ann Hines, Statewide Prosecutor and
Statewide Grand Jury Legal Adviser, this 16th day of September,
1992.

Herman A. Robandt
Herman A. Robandt
Foreperson
Tenth Statewide Grand Jury
of Florida

Received in Open Court by the Honorable Frederick T. Pfeiffer this
16th of September, 1992, but sealed until further order of the
Court on motion of the Legal Adviser.

Frederick T. Pfeiffer
Frederick T. Pfeiffer
Presiding Judge
Tenth Statewide Grand Jury
of Florida

CHRONOLOGICAL SUMMARY OF KEY DATES

1983	SOUTHERN BELL RATE CASE
MAR, 1985	TIFFORD/FALSETTI FALSIFICATION ALLEGATIONS TO FBI, U.S. ATTORNEY AND FCC.
DEC, 1986	FCC REJECTION OF TIFFORD/FALSETTI COMPLAINT AND REFERRAL TO FLORIDA PSC
FEB, 1987	PSC STAFF LETTER TO TIFFORD
SEP, 1987	SALE OF OPTIONAL SERVICES BY MAINTENANCE PERSONNEL
FALL, 1987	SOUTHERN BELL IMPLEMENTS CAT TROUBLE SYSTEM
JAN, 1988	FALSETTI ALLEGATIONS DIRECTLY TO SOUTHERN BELL MANAGEMENT
FEB, 1988	HAMPTON BOOKER STAFF REVIEW OF MIAMI METRO
JUN, 1988	SHIRLEY PERRING REPORTS STAFF REVIEW RESULTS TO LINDA ISENHOUR
FALL, 1988	PERRING/RUPE TELL SELLERS "YOU'RE CHEATING ON REPAIR RECORDS"
NOV, 1988	PSC APPROVAL OF INCENTIVE RATEMAKING
JAN, 1989	"CON" REPORTS INCREASE BY OVER 300%
FEB, 1989	ISENHOUR INTERVIEWED BY VAN GORDON
MAY, 1989	SECOND STAFF REVIEW OF MIAMI METRO/RESULTS TO ISENHOUR
AUG, 1990	STAFF REVIEW OF NORTH DADE RESULTS IN LINDA ISENHOUR INITIATING AN "INVESTIGATION"
SEP, 1990	BEGINNING OF SOUTHERN BELL'S INVESTIGATION OF GAINESVILLE CENTER
NOV, 1991	ATTORNEY GENERAL REQUESTS "CON" RECORDS
JAN, 1992	SOUTHERN BELL DISCONTINUES USE OF "CON" CODES

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

IN REPLY, PLEASE REFER TO
FILE NO.

POST OFFICE BOX 592418, AMF
MIAMI INTERNATIONAL AIRPORT
MIAMI, FLORIDA 33159
MARCH 29, 1985

ARTHUR W. TIFFORD, ESQ.
1531 NORTHWEST 15th STREET
MIAMI, FLORIDA 33130

EXHIBIT

MRM-6

DEAR SIR:

THIS WILL CONFIRM A CONVERSATION BETWEEN MR. TIFFORD AND SPECIAL AGENT (SA) KENNETH F. POTTER, FORT LAUDERDALE, FLORIDA OFFICE OF THE FEDERAL BUREAU OF INVESTIGATION (FBI), ON MARCH 21, 1985. MR. TIFFORD BRIEFLY DISCUSSED FACTS AND CIRCUMSTANCES INVOLVING A COMPLAINT BY A CLIENT OF HIS WHO HAS CONTENDED A POTENTIAL FRAUDULENT PROGRAM CURRENTLY BEING EMPLOYED BY SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY (SBT&TC), WHICH INVOLVES A FAILURE TO "CREDIT BACK" COSTS OF TROUBLED CALLS AND TROUBLED LINES, TO CUSTOMERS OF SBT&TC. MR. TIFFORD'S CLIENT, AN EMPLOYEE OF SBT&TC, CLAIMS TO HAVE DOCUMENTARY AND COMPUTER PRINT OUT INFORMATION INDICATING SBT&TC IS VIOLATIVE OF REGULATORY CONTROLS PERTAINING TO SUCH "CREDIT BACK" COST REQUIREMENTS.

IT IS BELIEVED THAT THE INFORMATION BY MR. TIFFORD AND HIS CLIENT SHOULD BE REFERRED TO THAT AGENCY HAVING REGULATORY CONTROL OVER SBT&TC, TO WIT: THE COMMON CARRIER DIVISION OF THE FEDERAL COMMUNICATIONS COMMISSION (FCC), IN WASHINGTON, D.C. PURSUANT TO THAT, THIS OFFICE HAS CONTACTED MS. MARGARET WOOD, ASSISTANT CHIEF, COMMON CARRIER DIVISION, IN WASHINGTON, D.C. MS. WOOD ADVISED THAT COMPLAINTS SHOULD BE REFERRED TO MR. GREGORY WEISS, CHIEF, FORMAL COMPLAINT SECTION, COMMON CARRIER DIVISION, FCC, WASHINGTON, D.C. 20554, AND THAT MR. WEISS OR MS. WOOD MAY BE CONTACTED THROUGH TELEPHONE NUMBER 202/632-4890. MS. WOOD FURTHER RELATED THAT SPECIFIC INFORMATION RELATIVE TO COMPLAINTS, FORMAL OR INFORMAL, TO THE FCC MAY BE LOCATED IN SECTIONS 1.7161.735, OF THE CODE OF FEDERAL REGULATIONS (CFR).

VERY TRULY YOURS,

JOSEPH V. CORLESS
SPECIAL AGENT IN CHARGE

BY:
THOMAS W. RUPPRATH
SUPERVISORY SPECIAL AGENT

ARTHUR W. TIFFORD
ATTORNEY AT LAW
1531 NORTHWEST 15th STREET ROAD
MIAMI, FLORIDA 33125
TELEPHONE (305) 324-4104



MAY 15, 1985

CATHLEEN COLLINS
CHIEF OF ENFORCEMENT DIVISION
FCC COMPLAINTS
COMMON CAUSE BUREAU
1919 M. STREET, N.W.
WASHINGTON, D.C. 20554

RE: FRAUD AGAINST THE GOVERNMENT;
FRAUD AGAINST THE PUBLIC-CONSUMER'S
OF SOUTHERN BELL TELEPHONE COMPANY
SERVICES

DEAR MS. COLLINS:

PLEASE CONSIDER THE ENCLOSED TO BE A FORMAL COMPLAINT RELATIVE TO THIS MATTER.
IF YOU HAVE ANY QUESTIONS PLEASE CONTACT THE UNDERSIGNED.

VERY TRULY YOURS,

ARTHUR W. TIFFORD

AWT/JM
ENCLOSURES

CERTIFIED MAIL NO. 406585610
RETURN RECEIPT REQUESTED

ARTHUR W. TIFFORD
ATTORNEY AT LAW
1531 NORTHWEST 15th STREET ROAD
MIAMI, FLORIDA 33125
TELEPHONE (305) 324-4104

AUGUST 29, 1985

CATHLEEN COLLINS
CHIEF OF ENFORCEMENT DIVISION
FCC COMPLAINTS
COMMON CAUSE BUREAU
1919 M. STREET, N.W.
WASHINGTON, D.C. 20554

RE: MY LTR OF MAY 15, 1985
FRAUD AGAINST GOVERNMENT;
FRAUD AGAINST THE PUBLIC-CONSUMERS
OF SOUTHERN BELL TELEPHONE COMPANY
SERVICES:

DEAR MS. COLLINS:

ENCLOSED IS A COPY OF MY LETTER OF MAY 15, 1985 TOGETHER WITH THE ENCLOSURES WHICH WAS RECEIVED BY YOUR OFFICE MAY 22, 1985 PURSUANT TO A COPY OF THE ENCLOSED CERTIFIED MAIL RECEIPT.

AS OF THIS DATE WE HAVE NOT HAD ANY RESPONSE TO THE COMPLAINT FILED. WOULD YOU PLEASE ADVISE THE UNDERSIGNED OF THE PROGRESS ON THIS MATTER.

VERY TRULY YOURS,

ARTHUR W. TIFFORD

AWT/JM
ENCLOSURES

CERTIFIED MAIL NO. 406585672
RETURN RECEIPT REQUESTED

BLIND cc: FRANK FALSETTI
(WITHOUT ENCLOSURES)

ARTHUR W. TIFFORD
ATTORNEY AT LAW
1385 NORTHWEST 15th STREET
MIAMI, FLORIDA 33125
TELEPHONE (305) 545-7822

NOVEMBER 17, 1986

CERT. MAIL NO. P149640947
RETURN RECEIPT REQ.

MS. CATHLEEN COLLINS
CHIEF OF ENFORCEMENT DIVISION
FCC COMPLAINTS
COMMON CAUSE BUREAU
1919 M STREET, N.W.
WASHINGTON, D.C. 20054

RE: MY LETTERS OF MAY 15, 1985 AND
AUGUST 29, 1985

DEAR MS. COLLINS:

ON MAY 15, 1985, I WROTE TO YOU ENCLOSING INFORMATION AND DOCUMENTS RELATING TO A FORMAL COMPLAINT AGAINST THE SOUTHERN BELL TELEPHONE COMPANY. I AGAIN WROTE ON AUGUST 29, 1985 AND SPOKE WITH MR. WEISS AND MS. JOHNSON ON OR ABOUT DECEMBER 5, 1985.

AS I UNDERSTAND THE STATUS OF THE COMPLAINT, IT WAS DOCKETED IN THE FORMAL COMPLAINT SECTION BUT NO ACTION HAS AS YET BEEN TAKEN.

I HAVE READ THE APPLICABLE REGULATIONS AS SET FORTH AT 47 CFR 1.721. THE ENCLOSED MATERIAL PROVIDED ALL THE NECESSARY INFORMATION.

THIS IS NOT A SITUATION WHERE WE HAVE AN INDIVIDUAL SEEKING DAMAGES. WHAT IS ALLEGED IS A SERIOUS, WIDE-RANGE FRAUD WHICH AFFECTS ALL CUSTOMERS OF SOUTHERN BELL TELEPHONE COMPANY. SPECIFICALLY, IT IS ALLEGED THAT THE COMPANY IS FAILING TO "CREDIT-BACK" COSTS OF TROUBLED CALLS AND TROUBLED LINES IN VIOLATION OF REGULATORY CONTROLS PERTAINING TO SUCH "CREDIT BACK" COST REQUIREMENTS.

IN THE EVENT THE FORMER COMMUNICATION CANNOT BE ACTED UPON, I AM ENCLOSING A SUPPLEMENTAL COMPLAINT. AS AGREED TO BY YOU I HAVE SUBSTITUTED MY NAME AS THE COMPLAINANT IN ORDER TO PRESERVE THE ANONYMITY OF THE PROVIDER OF THE INFORMATION.

THANK YOU FOR YOUR ATTENTION TO THIS MATTER.

VERY TRULY YOURS,

ARTHUR W. TIFFORD, P.A.

BY: ARTHUR W. TIFFORD

AWT/JM
ENCLOSURES

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
DECEMBER 9, 1986

EXHIBIT

MRM-8

IN REPLY
REFER TO:

63203
IC-87-00802

MR. ARTHUR W. TIFFORD, P.A.
1385 NORTHWEST 15th STREET
MIAMI, FLORIDA 33125

DEAR MR. TIFFORD:

THIS IS IN RESPONSE TO YOUR NOVEMBER 17, 1986 COMPLAINT AGAINST SOUTHERN BELL TELEPHONE COMPANY, WHICH WAS RECEIVED IN THIS OFFICE ON NOVEMBER 20, 1986.

DURING A TELEPHONE CONVERSATION ON NOVEMBER 24, 1986, YOU WERE ADVISED BY MS. DEBBIE LERNER, A STAFF ATTORNEY IN THE FORMAL COMPLAINTS BRANCH, THAT YOUR COMPLAINT FAILS TO ALLEGE ANY BASIS FOR ASSERTION OF THIS COMMISSION'S JURISDICTION WHICH IS LIMITED TO INTERSTATE MATTERS INVOLVING ALLEGED VIOLATION OF SPECIFIC PROVISIONS OF THE COMMUNICATIONS ACT. INSTEAD, THE COMPLAINT APPEARS TO RAISE A QUESTION WITH REGARD TO PROPER CREDITING OF LOCAL CALLS AND, CONSEQUENTLY, SHOULD BE ADDRESSED TO THE FLORIDA PUBLIC SERVICE COMMISSION.

IN AN EFFORT TO ASSIST YOU, WE ARE TAKING THE LIBERTY OF FORWARDING YOUR COMPLAINT TO YOUR STATE COMMISSION AT THE ADDRESS SHOWN BELOW FOR ITS REVIEW AND APPROPRIATE ACTION.

MR. ARTHUR W. TIFFORD, P.A.

I TRUST THAT THE FOREGOING INFORMATION, ALONG WITH THE ACTION TAKEN, ADDRESSES YOUR CONCERNS.

SINCERELY,

SUSAN I. WEST, CARRIER ANALYST
INFORMAL COMPLAINTS AND PUBLIC
INQUIRIES BRANCH
ENFORCEMENT DIVISION
COMMON CARRIER BUREAU

CC: FLORIDA PUBLIC SERVICE COMMISSION
101 EAST GAINES STREET
FLETCHER BUILDING
TALLAHASSEE, FLORIDA 32301

State of Florida

Commissioners:
JOHN F. MARKS, III, CHAIRMAN
BERNARD L. (JERRY) GUNTER
JOHN T. HERNDON
PATIE NICHOLS
MICHAEL MCK. WILSON



DIVISION OF COMMUNICATIONS
DIRECTOR, WALTER D'HAESELEER
(904) 488-1280

Public Service Commission



February 12, 1987

Arthur W. Tifford, P.A.
Attorney at Law
1385 North West 15th Street
Miami, FL. 33125

Dear Mr. Tifford:

Confirming our meeting of February 2, 1987 concerning the alleged alteration of records by Southern Bell management employees. As we discussed, the best approach for us to take, absent testimony from persons with first hand knowledge, is to make sure our staff fully understands the capabilities of the data bases used for control of out of service reports. With additional training we expect to have the tools necessary to discover any abuses of Southern Bell's trouble reporting system.

At my request Southern Bell is in the process of arranging a Commission staff tutorial. Our task will then be easier since we already know what we will be looking for in our next Southern Bell evaluation. A time and place for the evaluation has not yet been established, however, I will notify you of our findings at its conclusion.

I hope, considering your clients request for anonymity, that this has been responsive to your complaint. Please feel free to call on me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "J.A. Taylor".

J.A. Taylor, Chief
Bureau of Service Evaluation

JAT/tp (0368C)

cc: B. Bailey, 0-113

(2) To ensure a uniform treatment of the various grades and classes of service on a statewide basis, each telephone utility not presently in compliance shall establish as a goal the attainment of the following objectives:

(a) The minimum grade of service offered shall not exceed a maximum of four (4) main stations per circuit.

(b) This minimum grade of service offering beyond the base rate area, where offered, shall be provided at that company's prescribed rates for such service without the application of mileage or zone charges.

(c) Accordingly, each affected telephone company shall, as economic considerations permit, undertake such expansion of its plant and revisions to its tariff as may be necessary to realize these objectives within (5) years from the effective date of these rules. The utility may regroup subscribers in such manner as may be necessary to carry out the provisions of this rule but it shall not deny service to any existing subscriber.

(3) During the interim period required for compliance with the above, the presently prescribed maximum of five (5) main stations per line for multi-party service shall apply.

Specific Authority: 364.20, F.S.

Law Implemented: 364.03, 364.15, F.S.

History: Revised 12/1/68, Amended 3/31/76, formerly 25-4.68.

25-4.069 Maintenance of Plant & Equipment.

(1) Each telephone utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate and continuous service at all times.

(2) Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and adequate service performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise induction, crosstalk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.03, 364.15, F.S.

History: Revised 12/1/68, amended 12/13/82, 9/30/85, formerly 25-4.69, Amended 4/16/90.

25-4.070 Customer Trouble Reports.

(1) Each telephone utility shall make all reasonable efforts to minimize the extent and duration of trouble conditions that disrupt or affect customer telephone service. Trouble reports will be classified as to their severity on a service interruption (synonymous with out-of-service or OOS) or service affecting (synonymous with non-out-of-service or non-OOS) basis. Service interruption reports shall not be downgraded to a service affecting report, however, a service affecting report shall be upgraded to a service interruption if changing trouble conditions so indicate.

(a) Companies shall make every reasonable attempt to restore service on the same day that the interruption is reported to the serving repair center.

(b) In the event a subscriber's service is interrupted otherwise than by negligence or willful act of the subscriber and it remains out of service in excess of 24 hours after being reported to the company, an appropriate adjustment or refund shall be made to the subscriber automatically, pursuant to Rule 25-4.110 (Customer Billing). Service interruption time will be computed on a continuous basis, Sundays and holidays included. Also, if the company finds that it is the customer's responsibility to correct the trouble, it must notify or attempt to notify the customer within 24 hours after the trouble was reported.

(c) If service is discontinued in error by the telephone company, the service shall be restored without undue delay, and clarification made with the subscriber to verify that service is restored and in satisfactory working condition.

(2) Sundays and Holidays: (a) Except for emergency services, i.e., military, medical, police, fire, etc., Companies are not required to provide normal repair service on Sundays. Where any repair action involves a Sunday or holiday, that period shall be excepted when computing service objectives, but not refunds for OOS conditions.

(b) Service interruptions occurring on a holiday not contiguous to Sunday will be treated as in (2) (a) of this rule. For holidays contiguous to a Sunday or another holiday, sufficient repair forces shall be scheduled so that repairs can be made if requested by a subscriber.

(3) Service Objectives:

(a) Service Interruption: Restoration of interrupted service shall be scheduled to insure at least 95 percent shall be cleared within 24 hours of report in each exchange as measured on a monthly basis. For any exchange failing to meet this objective, the company shall provide an explanation with its periodic report to the Commission.

(b) Service Affecting: Clearing of service affecting trouble reports shall be scheduled to insure at least 95 percent of such reports are cleared within 72 hours of report in each exchange as measured on a monthly basis.

(4) Priority shall be given to service interruptions which affect public health and safety that are reported to and verified by the company and such service interruptions shall be corrected as promptly as possible on an emergency basis.

(5) Each telephone company shall maintain an accurate record of trouble reports made by its customers and shall establish as its objective the maintenance of service at a level such that the rate of all initial customer trouble reports (trouble index) in each exchange will not exceed six (6) reports per 100 telephone access lines when measured on a monthly basis. (6) Margin of Error: When the monthly trouble index exceeds the prescribed level for that exchange by two (2) or more reported troubles per one-hundred (100) telephone access lines, the company shall investigate such situation and take corrective action.

(7) Repeat Trouble: Each telephone company shall establish procedures to insure the prompt investigation and correction of repeat trouble reports such that the percentage of repeat troubles will not exceed 20 percent of the total initial customer reports in each exchange when measured on a monthly basis. A repeat trouble report is another report involving the same item of plant within thirty days of the initial report.

(8) The service objectives of this rule will not apply to subsequent customer reports (not to be confused with repeat trouble reports), emergency situations, i.e., acts-of-GOD or unavoidable casualties where at least 10 percent of an exchange is out of service, or those reported troubles which are beyond the control of the telephone company.

(9) Reporting Criteria - Each company shall periodically report data as specified in 25-4.185, Periodic Reports.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.03, 364.17, 364.18, F.S.

History: Revised 12/1/68, Amended 3/31/76. (formerly 25-4.70), Amended 6/25/90.

25-4.071 Adequacy of Service.

(1) Each telephone utility shall furnish local and toll central office switching service on a twenty-four (24) hour basis each day of the year in all exchanges.

(2) Usage studies, including operator intercept, recorded announcement, directory assistance, repair and business office services shall be made and records maintained to the extent and frequency necessary to determine that sufficient equipment is provided during the average busy season busy hour, that an adequate operating force is provided to meet the prescribed answering time requirements of

CALCULATION OF PERCENTAGE OF OUT-OF-SERVICE TIMELY REPAIRED

1.	TOTAL # OF TROUBLE REPORTS CLEARED IN 24 HOURS	-----	= PERCENTAGE
	TOTAL # OF TROUBLE REPORTS RECEIVED		TIMELY CLEARED
2.	19	-- = 95%	
	20		
3.	19	-- = 90.5%	
	21		
4.	38	-- = 95%	
	40		
5.	57	-- = 95%	
	60		

TN = 3052502308

**ETH **

RECEIVED = 900819 1932

LN = VONGKHAMPHRA, DETH

CLEARED = 900020 1645

OSUD =

TST = 0000

RPH = 0811

CLOSED = 900024 1640

SWK = 0000

RSL = 0000

TYP = 0295

DIS = 0411

CAS = 0320

TROUBLE REPORTS AND STATUSES

DTR = 900019 1932	COM = 900020 1700	RSA = 200			
CATEGORY = 1	VER = 21				
NAR = CCO AIRO	A B		3052502300		
DATE & TIME = 900019 1932	EC = 0280	STATUS = PSM	RTE = 00000000	WP = NWP	RSLT-CDE = 7104
DATE & TIME = 900019 1934	EC = 0299	STATUS = PSH	RTE = 00000299	WP = NWP	RSLT-CDE = 3776
NAR = 180AV21C4T100-299,460-499E32M					
DATE & TIME = 900019 1934	EC = 0299	STATUS = PDO	RTE = 00000301	WP = SCR	RSLT-CDE = 0120
NAR = *COS* VER 21 -GROUND- AUTO SCR					
DATE & TIME = 900020 1209	EC = 0043	STATUS = PDS	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
NAR = *COS* VER21/HARD GRD-AUTO SCR-BSY					
DATE & TIME = 900020 1303	EC = 0220	STATUS = DPO	RTE = 50900220	WP = DO	RSLT-CDE = 6448
DATE & TIME = 900020 1410	EC = 0220	STATUS = RMR	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
NAR = NO GD SP WJ					
DATE & TIME = 900020 1410	EC = 0220	STATUS = PDF	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
NAR = NO GD SP WJ					
DATE & TIME = 900020 1643	EC = 0022	STATUS = PDF	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
DATE & TIME = 900020 1501	EC = 0022	STATUS = PDF	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
DATE & TIME = 900020 1504	EC = 0022	STATUS = PDF	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
DATE & TIME = 900020 1512	EC = 0015	STATUS = PDF	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
DATE & TIME = 900020 1527	EC = 0015	STATUS = PDF	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
DATE & TIME = 900020 1542	EC = 0022	STATUS = PDF	RTE = 00000300	WP = NWP	RSLT-CDE = 6448
DATE & TIME = 900020 1600	EC = 0023	STATUS = PDM	RTE = 00000400	WP = SCR	RSLT-CDE = 6448
NAR = *COS* NO SPRS					
DATE & TIME = 900020 1611	EC = 0022	STATUS = DPO	RTE = 57900811	WP = DO	RSLT-CDE = 6448
DTR = 900021 1730	COM = 900021 1739	RSA = 208			
CATEGORY = 6	VER = LU				
NAR = ASAP/CCO AIRO A B					
DATE & TIME = 900020 1645	EC = 0011	STATUS = CCA	RTE = 00000022	WP = CRO	RSLT-CDE = 6448
DATE & TIME = 900020 1645	EC = 0022	STATUS = CLO	RTE = 00000022	WP = NWP	RSLT-CDE = 6448
NAR = LIGHTNING SHOT REPRD					
			/CTTFW312		

