

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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MOTHER'S KITCHEN LTD.,)
)
 Petitioner,)
)
 vs.) CASE NO. 97-4990
) 97-0365-GU
 FLORIDA PUBLIC UTILITIES COMPANY,)
)
 Respondent,)
)
 and)
)
 PUBLIC SERVICE COMMISSION,)
)
 Intervenor.)

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13 TRANSCRIPT OF PROCEEDINGS

14 VOLUME II

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The above and foregoing cause having come on to be heard before the Honorable Daniel M. Kilbride, on March 4, 1998, at the hour of nine o'clock a.m., in the Seminole County Services Building, Room 3024, 1101 East First Street, in the City of Sanford, County of Seminole, State of Florida, for the purpose of taking testimony in said cause.

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SUZETTE A. BRAGG

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CONTINUATION OF PROCEEDINGS1
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WHEREUPON:

ALFRED BYRD,

being first duly sworn by the Hearing Officer, was
examined and testified under oath as follows:

THE WITNESS: Yes.

THE COURT: Go ahead, counsel.

MS. COWDERY: Okay.

DIRECT EXAMINATION

BY MS. COWDERY:

Q Mr. Byrd, for the record, would you please
give your name and address.

A Alfred Byrd, Post Office Box 134, Apartment
96.

THE COURT: What city?

THE WITNESS: Sanford, Florida, 32772.

BY MS. COWDERY:

Q Mr. Byrd, were you a partner with a Mother's
Kitchen Restaurant, Mother's Kitchen Limited?

A Yes.

Q Do you have any independent recollection
about turning on the gas service at Florida Public
Utilities Company?

A Yes.

Q Does this come from your own recollection?

1 A I didn't quite understand you.

2 Q Is this something that you are remembering
3 yourself, you're sure you went down there and --

4 A Yeah, I went down there. When I was at the
5 other hearing, I didn't remember at the time, but I
6 went to the office to be for sure that I was down
7 there, so the lady told me that I did pay that.

8 Q But, do you remember going down there
9 without talking to anybody?

10 A I didn't talk to anybody, as far as I know.
11 I went down there and paid the bill for the gas to be
12 turned on.

13 Q All right. Do you have a memory of any of
14 the details, what happened when you went down there?

15 A No, ma'am. I don't. I really don't.

16 Q Why did you leave Mother's Kitchen?

17 A Well, the reason I left, when we first
18 started, they paid me \$350 a month -- I mean, a week.
19 I stayed there about four months. After them many
20 weeks, I didn't make anything. So, I left.

21 I wasn't making any money. My bills were
22 behind. Everything was behind. I had to borrow money
23 to go pay my rent. I had to get money to go pay to get
24 a haircut. So, I had to go. I couldn't -- I couldn't
25 stay there when I wasn't making anything.

1 Q Okay.

2 A What was the deal with the money, I don't
3 know. I can't tell you. Because I didn't have no
4 money.

5 Q Now, you had a deposition and at your
6 deposition, one of the papers that you brought with you
7 -- did you bring with you when you came to your
8 deposition, any calendar pages?

9 A Yeah. I brought all of my papers here.
10 I've got them here. All the papers I have.

11 Q Hang on. Is this one of the pages that you
12 brought with you today, this calendar page?

13 A Yes, I'm sure I brought this, too, because I
14 got it all in this here.

15 Q Did you prepare that? Did you write on that
16 document?

17 A I probably did. I probably did write on
18 this.

19 Q Do you see on --

20 MS. COWDERY: I'm going to have this marked
21 for identification.

22 MR. BROOKS: Your Honor, I object. He's
23 stating he probably did. There's no -- there was
24 hesitancy at the recognition of the thing and
25 there's no -- she gave no other basis for entering

1 it as evidence.

2 THE COURT: Well, it hasn't been offered
3 yet. We're just marking it for identification,
4 but --

5 MS. COWDERY: All right.

6 THE COURT: -- you need to lay a predicate
7 for it. I'll mark it for identification as
8 Respondent's Exhibit B, I believe.

9 (Respondent's Exhibit B was marked for
10 identification.)

11 BY MS. COWDERY:

12 Q Mr. Byrd, do you have with you your original
13 document that matches this document I have a copy of?

14 A Yes.

15 Q Do you have a copy of that?

16 A Yes, I'm sure I have it in this pouch here.

17 Q Do you want to check and see and look at
18 your original document?

19 A (Witness complies.)

20 Q Did you bring those documents with you today
21 under subpoena?

22 A Yes. This is the one here (indicating).

23 Q Did you prepare that? Did you write
24 anything on that document?

25 A Yes.

1 Q Are you sure?

2 A I'm sure.

3 Q All right. What did you write on that
4 document?

5 A Well, I wrote that -- I was getting my
6 social security check, so I wrote that date down and
7 the day that I left there was on the 29th.

8 Q Okay. When you say, the day that I left
9 there, what does that mean?

10 A The day that I walked out.

11 Q Of where?

12 A Of Mother's Kitchen.

13 Q Do you mean to say that's the last day you
14 worked there?

15 A That's the last day. That's the last day I
16 worked there.

17 Q Now, why did you write it down on the
18 calendar?

19 A Because I wanted to remember, because that's
20 the only way I -- I didn't have another book or
21 anything, so I just wrote on the calendar.

22 Q Did you at any time use that document for
23 any purpose? Did you bring it anywhere?

24 A I always kept it with me. That was all.

25 Q At any point were you -- did you have to go

1 down to the IRS for any reason?

2 A Yes. I went to the IRS in Maitland.

3 Q Why did --

4 A Because there was an issue to me with
5 \$39,000. And when I went there and they told me, that
6 was a fraud, because I couldn't make \$39,000 in four
7 months not to save my life, except if I was a dope man,
8 and I'm not a dope man.

9 Q You're talking about a 1099 Form from
10 Mother's Kitchen?

11 A Yes. They give it to me -- it was sent to
12 me in my mail, \$39,000, and I never made that kind of
13 money in a whole year, as I remember.

14 Q So, did you bring that document at that time
15 to the IRS with you?

16 A Yes. I went there in Maitland. We went
17 there.

18 Q So, you did not prepare this document for
19 anything having to do with this case?

20 A No.

21 Q You already had that?

22 A I already had that, yes.

23 MS. COWDERY: Thank you very much. I would
24 like to have that entered as an exhibit in the
25 record.

1 THE WITNESS: You mean that paper?

2 MS. COWDERY: Oh, yes. I'm asking the
3 Hearing Officer if he could do that, enter that.
4 You can keep your original.

5 THE COURT: Mr. Brooks, any objection?

6 MR. BROOKS: Sir?

7 THE COURT: Mr. Brooks?

8 MR. BROOKS: Is it to the calendar page that
9 she's referring?

10 MS. COWDERY: It is.

11 THE COURT: Yes.

12 MR. BROOKS: No objection, Your Honor.

13 THE COURT: Without objection, what had been
14 marked for identification as Respondent's Exhibit
15 B, is admitted in evidence as -- it will be 3,
16 Respondent's 3.

17 (Respondent's Exhibit 3 was admitted in
18 evidence.)

19 BY MS. COWDERY:

20 Q Mr. Byrd, during the time period that you
21 were employed at Mother's Kitchen or that you worked at
22 Mother's Kitchen, --

23 A Yes.

24 Q -- did you ever sign a check to pay a gas
25 bill?

1 A I cut -- I don't -- to tell you the truth,
2 it's been so long, I don't remember exactly what day
3 did I sign a check. I think they gave me a check. I
4 went down and paid the bill, because I went down -- I
5 forgot the time that I went, but I went to the lady in
6 the office there and asked her, did I come down and pay
7 that check, because the last time we was at the hearing
8 I didn't know.

9 But, I went there to the office to be for
10 sure that I paid that check, paid that amount of money.
11 So she said, yeah. And I said, well, that's good.

12 MS. COWDERY: Well, Mr. Byrd, I have a copy
13 of the check. I'd like to have this marked for
14 identification. It's Mother's Kitchen check
15 number 1131 in the amount of \$211.72, both the
16 front and the back. This is the best copy that we
17 can make.

18 THE COURT: I'll mark it for identification
19 as Respondent's Exhibit C.

20 (Respondent's Exhibit C was marked for
21 identification.)

22 BY MS. COWDERY:

23 Q Is that your signature on the check, sir?

24 A Yes.

25 Q To the best of your recollection, would that

1 be the check that you signed in order to pay \$211.72 to
2 Florida Public Gas Company?

3 A Yes.

4 MS. COWDERY: I'd like to have that entered
5 as an exhibit.

6 THE COURT: Any objection?

7 MR. BROOKS: Yes, sir. I sure do. Mr. Byrd
8 stated in response to Ms. Cowdery's answers that
9 he was down there and a lady -- his own
10 recollection concerning this particular item was
11 that he went down there and some mysterious lady
12 told him that he did this check.

13 Now, if Mr. Byrd did this check, Mr. Byrd's
14 recollection should be of doing this check and
15 since he's not giving -- he's not giving that
16 positive response in regards to this check, I
17 would object to it being entered into the record
18 as an evidentiary exhibit, because she has not
19 laid a proper predicate for it to be entered.

20 THE COURT: Respond?

21 MS. COWDERY: I think Mr. Byrd has
22 identified that that's his signature on the check.

23 THE COURT: He did.

24 MS. COWDERY: And he said, to the best of
25 his recollection, that that's that check he wrote

1 and I don't know what else there is to do than
2 that.

3 MR. BROOKS: Mr. Byrd is saying, I believe.

4 THE COURT: It's a check he wrote, but it
5 didn't refresh his memory as to whether he paid
6 it. So, I mean, if it's only offered for the
7 purpose that it's a check he wrote with a date of
8 July 24th, '96, --

9 MS. COWDERY: Okay.

10 THE COURT: -- I'll admit it for that
11 purpose.

12 MS. COWDERY: I need it to establish that on
13 July 24th, 1996, he was still employed by the
14 company and working at the company and I think
15 this goes to show that on that date, he was
16 writing the check to pay a bill for Mother's
17 Kitchen. So, for that purpose, I will enter it.
18 If he doesn't remember anything else, he doesn't.

19 THE COURT: All right. As far as his
20 testimony as far as whether he paid it or not,
21 you're right, I haven't heard enough that says he
22 remembered.

23 MS. COWDERY: All right.

24 THE COURT: But, did you have any objection
25 that this is an authentic copy of a check drawn

1 from the Mother's Kitchen account, check number
2 1131, dated 7/24/96 for \$211.72, payable to the
3 order of Florida Public Gas Company and signed by
4 Alfred Byrd?

5 MR. BROOKS: No, sir. I have no objection
6 to the wording on the document.

7 THE COURT: I mean, what happened to it, I
8 don't know yet. It hasn't been established, but
9 the document itself is admitted in evidence as
10 Respondent's Exhibit 4.

11 (Respondent's Exhibit 4 was admitted in
12 evidence.)

13 BY MS. COWDERY:

14 Q Mr. Byrd, where did the name Mother's
15 Kitchen Restaurant come from?

16 A Well, the name of Mother's Kitchen, when I
17 lived in New York, we meant Mrs. Bell's in Jersey and
18 we purchased that place, but she already had that name,
19 Mother's Kitchen. So, we just continued, carried the
20 name, after I lost everything, the house, the business
21 and everything.

22 Then we just continued to carry that name
23 and then we got together and decided we would use that
24 same name, and that's where it came from, Mother Bell.
25 I call it Mother Bell.

1 Q Did you previously own a restaurant for a
2 number of years in Sanford that was called --

3 A For 17-and-a-half years I owned Mother's
4 Kitchen on 13th Street.

5 Q So, you had established that name?

6 A I had established that name, yes.

7 Q You still work as a cook, do you not?

8 A Yes, I still work as a cook.

9 Q Where are you working right now?

10 A At the Marina Hotel where the Holiday Inn
11 used to be on the waterfront. I'm still a chef. I
12 work with a chef now, I'm not a chef there, but I work
13 with a chef.

14 Q So, you were bringing your expertise into
15 the business, is that right?

16 A Yes.

17 Q Now, when you had -- strike that.

18 Did you set up or did anyone else in
19 Mother's Kitchen set up any other utilities or banks or
20 any other things like that in --

21 A Like what now?

22 Q I'll start over.

23 When you were part of Mother's Kitchen, was
24 any other creditor account set up in the name of Alfred
25 Byrd, doing business as Mother's Kitchen?

1 A Not as I remember, was credit cards served
2 in my name. No, I don't. I don't remember that.

3 Q Not credit cards. Like let me show you a
4 document and I'll show you what I mean.

5 The Seminole National Bank account, do you
6 recall anything about a Seminole National Bank account
7 being set up for Mother's Kitchen?

8 A A checking account. This is it here. Mr.
9 Brooks and I went and set that up and no one could sign
10 a check but he and I. So, when after this was done
11 afterwards, I left the place, the restaurant, I went
12 and paid -- because some checks were written in my name
13 and signed and I didn't even know anything about it.

14 So, I went to the bank. They charged me \$26
15 and some change, I just remember the amount, and here
16 is the ones that I -- this is the bills that I closed
17 that checking account out after I left there.

18 Q What was the date that you closed out the
19 Mother's Kitchen checking account?

20 A It was 8/7.

21 Q Of what year?

22 A Of '96.

23 Q So that's 8/7 of '96?

24 A Right. I closed the checking account out
25 and it cost me \$26 and some change.

1 Q Now, do you remember whether or not the Bell
2 South bills were set up so that they would go to your
3 P.O. Box?

4 A Yes.

5 Q Was there an amount owed to Bell South by
6 Mother's Kitchen?

7 A After I left Mother's Kitchen, they
8 continued running Mother's Kitchen and they sent me a
9 bill for over \$1,000 and I wasn't even there.

10 Q Did you call Mr. Brooks about that bill?

11 A No, I didn't call him. I didn't contact
12 them at all about anything.

13 Q So, did you just pay it or what was --

14 A No, I haven't paid it. They sent me a bill
15 and just the establishment continued to keep running,
16 but I wasn't there. So, they ran it up to \$1,000, over
17 \$1,000. I got the bill, I guess, here.

18 So, they sent me a what you call it, a
19 credit thing, that it would be in the credit whatever
20 and then I would have to pay it, but I haven't had
21 money to pay that kind of a light bill, because I
22 didn't run the light bill up. Although it was in my
23 name, but I wasn't there in the establishment.

24 Q Now, Mr. Brooks (sic), the deposition we had
25 back in December of 1997, do you remember stating that

1 you had talked to Mr. Brooks about paying those? Do
2 you remember that at all?

3 A I never spoke to him about that, after I got
4 that bill. I never said anything to him. I never --

5 Q Is it possible, before you got that big
6 bill, you talked to him about it or you don't remember?

7 A No, because I closed that. I had them close
8 that account off. I asked them to take my name off.
9 But, I don't know why they didn't take my name off.

10 Q All right. Mr. Brooks (sic), I'm going to
11 just read to you from your deposition on page 46 and
12 starting with line four. Well, let's start with line
13 11, talking about Bell South bills, it's sort of in the
14 middle of a conversation.

15 So, question, "Okay. Just as other Bell
16 South bills did?" Twelve, answer, "Just as other Bell
17 South Bills" -- I'm sorry. Let me start up with line
18 eight.

19 Okay. Answer, "So I opened the letter and
20 that's what it was. I didn't open it just to find out
21 what it was. I opened the letter because it came to my
22 box."

23 Eleven, question, "Okay. Just as other Bell
24 South bills did?" Line 12, answer, "Just as other Bell
25 South Bills."

1 Question, "What did you do with those other
2 bills?" Answer, "I don't know. I'd have to go through
3 the house. I couldn't tell you whereabouts."

4 Question, "Okay. Did you pay them? Did you
5 give them to Mr. Brooks to pay?" Answer, "No, I didn't
6 give them to him to pay."

7 Question, "Why not?" Answer, "Because when
8 I called him recently at 300, I think 300-and-some-odd
9 dollars still got to be paid here and I haven't had the
10 money to pay."

11 Question, "Okay." Answer, "But I called
12 them, a couple of them recently called and talked with
13 them, but he told me, well, you got to pay them, you
14 know."

15 Do you remember that or you just don't
16 remember?

17 A I really don't remember calling them and
18 telling them about bills that I got from that, from
19 that telephone. I mean, from the lights or the
20 telephone. I never -- I don't -- because I never
21 contacted them anymore after this.

22 Q Okay. That's fine, sir.

23 A I never did contact them anymore.

24 Q Okay. Mr. Brooks, do you remember whether
25 or not Florida Power and Light was a creditor that had

1 an account set up in your name?

2 A Yeah. It was in my name, yeah.

3 Q Do you remember anything about who set up
4 that account, if you did it or if you did it with
5 anybody else or how it got set up?

6 A What I did, I borrowed \$1,000 and we set
7 that up. Mr. Brooks, I'm sure he helped me do that.
8 He helped me and showed me how. We set it up for their
9 account and that's all -- you know, then from there on
10 we went on from there.

11 Q So, did you feel like you were a part of
12 getting the business going?

13 A Yes, I feel like I was a part of it, which I
14 was. I didn't feel like it, I knew I was.

15 Q So having an account set up in your name was
16 not a surprising thing to you?

17 A In that it wasn't, because my name was on
18 everything, it seemed like. My name was on everything
19 and I didn't know.

20 I mean, I'm working and trying to work with
21 the business and knowing that my name -- I didn't know
22 my name was on -- say my name was on everything, and
23 then when I knew anything, after I left, then
24 everything just came right on me like this, bam.

25 MS. COWDERY: Okay. I have no further

1 questions.

2 THE COURT: Mr. Brooks, any questions?

3 MR. BROOKS: Yes, sir.

4 CROSS EXAMINATION

5 BY MR. BROOKS:

6 Q Mr. Byrd, do you recall having a
7 conversation with Eddie Hodges, Arthur Brooks and
8 myself in front of my mother's house in February or
9 March of '96?

10 A I don't exact -- I don't exact remember the
11 date, but we probably did. I know we had a few
12 meetings together, but I don't remember exact dates.

13 Q Do you recall such a meeting where we were
14 discussing coming up with monies to pay utilities, the
15 rent, the security deposits for the rent, that type of
16 thing?

17 A I remember something like that. Yes, we
18 did. We talked about that.

19 Q During the conversations that you can
20 remember when we had to -- when we had to put together
21 these sums of money, did you contribute any money to
22 those?

23 A No, I didn't have anything to contribute.

24 Q Why did you not have any funds to
25 contribute, Mr. Byrd?

1 A I just didn't have any. But you knew that I
2 didn't have any. You knew that I had no money.

3 Q Mr. Byrd, in December and January of 1997 --
4 '96, I'm sorry. December '95, January '96, is it not
5 true that the IRS was about to put you in jail?

6 MS. COWDERY: Objection.

7 THE WITNESS: Well, that -- but that wasn't
8 in Mother's Kitchen as to your place.

9 THE COURT: Wait. Just a moment. There's
10 an objection. Don't answer until I rule.

11 THE WITNESS: All right. Sorry.

12 THE COURT: Yes?

13 MS. COWDERY: I'm objecting as to being
14 outside the scope of direct. Any questions which
15 I had which were relating to IRS were just for the
16 purposes of asking, were these documents prepared
17 at a previous time, not the substance of why he
18 went to the IRS. It goes to timing. That's
19 something that the substance was outside the scope
20 of direct.

21 THE COURT: Where are you trying to go with
22 this?

23 MR. BROOKS: Sir, Ms. Cowdery's questions
24 concerning the IRS and Mr. Byrd go a lot further
25 than any trying to establish a document. She

1 asked Mr. Byrd if -- what agents told him. She
2 asked Mr. Byrd why he went there.

3 All of these things lead to -- lead to an
4 attempted -- an attempted showing that some
5 wrongdoing was done by the rest of the partnership
6 towards Mr. Byrd and my question goes to Mr.
7 Byrd's credibility. I have, I believe, --

8 THE COURT: Okay. That's fine. I'm going
9 to overrule the objection. You opened the door.
10 You may answer the question.

11 THE WITNESS: On that particular time, my
12 wife and I, if you want to go back, we borrowed, I
13 think, about \$60,000 with interest and everything,
14 because the IRS said that we owed them some money.
15 This is before I really dealt with Tony, any of
16 those people at all. I didn't even know them that
17 well.

18 So what happened, the fella that fixed my
19 papers, he took the money after 10 days, so they
20 foreclosed on my home and the restaurant. So, I
21 had to get out the best I could. I had to get on
22 the best I could. I couldn't do nothing else.
23 But, it wasn't involved with them. It was
24 involved with my wife and that's when she was
25 alive.

1 So when he filed, the IRS told them to file
2 the file and get out from under that. He filed,
3 but he kept the money. So, that's what happened
4 on that standpoint. Well, I hadn't got with them
5 at that particular time. But when they foreclosed
6 on me, they took my home and my business.

7 THE COURT: I understand. Next question?

8 BY MR. BROOKS:

9 Q Mr. Byrd, did not you and I contact the IRS
10 and the US Marshall's Office to prevent you from going
11 to jail?

12 A Yes, you did.

13 Q Did not I prepare your backdated taxes to
14 prevent you from owing the IRS anything?

15 A Yes.

16 Q So, our relationship was more personal than
17 what you said. You were saying you didn't know me --

18 A It was more personal --

19 Q -- you didn't know me that well.

20 A No, I didn't know you that well to the
21 extent of partnership, but as a businessman I figured
22 that, you know, I knew you that way. Because when all
23 this happened, my wife had died at that particular
24 time.

25 Q Mr. Byrd, how long have you known me? About

1 how long have you known me?

2 A I've known of you for quite a few years, but
3 to know you, I didn't know you until we got in the
4 business.

5 As a business partner, I didn't know you,
6 but I knew you as a person, as a way I thought we was
7 pretty good friends, which I'm not mad with you now.
8 But as a friend, yes, but as a businessman, no, I
9 didn't know you.

10 Q When you needed help with those things, did
11 I seek you out or did you seek me out?

12 A Well, I know I told you about this and then
13 you started working with me on that particular part of
14 the business on that IRS, but I don't see where the IRS
15 has got anything to do with Mother's Kitchen over on
16 Airport Boulevard.

17 Q Mr. Byrd, did not myself and Daniele loan
18 you \$2,500 to purchase an automobile?

19 A I paid you back, too. Yes.

20 Q But did we not do that?

21 A Yes, definitely. I'm not denying that.

22 Q All right, Mr. Byrd. Now, you stated that
23 at the time we were considering opening up this
24 business, you didn't contribute anything because you
25 didn't have any funds.

1 A No, I didn't have anything.

2 Q Okay. Now, on the 11th of March '96, did
3 not you and I personally go to the Department of
4 Revenue's Office in Maitland, Florida?

5 A Yes, I remember that.

6 Q On March 17th, 18th and 19th, 1996, did you
7 and I not go to the county services building for the
8 purpose of getting the county occupational license
9 squared away?

10 A Yes.

11 Q During that same time period, did not you
12 and I go to the county courthouse, Sanford, Florida, up
13 to the Registration of Fictitious Names Division to
14 check and see if that name, Mother's Kitchen's name was
15 registered to you?

16 A Yes.

17 Q And what did we find out?

18 A It wasn't registered to me, as I remember.

19 Q Now, Mr. Byrd, during those times in
20 obtaining those licenses with county services, the
21 city, with the state and -- I'm sorry, the State DOR,
22 all of these particular places, who went and paid for
23 those licenses?

24 A You took care of it.

25 Q When it came to the \$200 to take to the gas

1 company, who supplied the \$200 to take to the gas
2 company for the deposit?

3 A If I'm not mistaken, that \$200 came from
4 that \$1,000 that I borrowed.

5 Q Mr. Byrd, you just testified, under oath I
6 might add, that March 17th, 18th and 19th, we went and
7 obtained licenses. You testified under oath that you
8 had no funds to provide for that.

9 A The money that we borrowed, the \$1,000, I
10 didn't say I didn't have no -- I didn't have that --
11 all the money I had was the time we borrowed, I
12 borrowed \$1,000 from General Loan Company to pay for
13 the lights and, if I'm not mistaken, like I said, if
14 I'm not mistaken, I took \$200 from that and we went and
15 paid for the gas.

16 Q Do you know when you borrowed the money from
17 American General --

18 A No, but I got all the papers at the house.
19 I don't remember the date that I borrowed it.

20 MR. BROOKS: Might I approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. BROOKS:

23 Q We have here what's been entered as
24 Petitioner's 1, Mr. Byrd.

25 A Okay.

1 Q This is the loan statement from American
2 General.

3 A Right.

4 Q Would you read what this date of note says?

5 A Okay. It says 3/19/96.

6 Q Okay, sir. Now, and that's dated. Under
7 oath you testified a few minutes ago that during the
8 time that we were obtaining these licenses and other
9 items on the 17th, 18th and 19th of March, you
10 maintained that you had no funds to contribute to do
11 so.

12 This loan, this loan application shows or
13 this loan note shows that you were indeed the recipient
14 of \$1,000 for this loan. Now, if you were a recipient
15 of \$1,000 through this loan, why is it that on the 19th
16 you didn't have any money to contribute towards the
17 licenses and the other items?

18 A When I said I didn't have any money to
19 contribute to the business part or open that place up,
20 I did not. I did not have any money at that time.

21 I only had money when I borrowed the \$1,000
22 to turn the lights on and whatever little bit I had
23 left there, we used it, but I don't know exactly what
24 we used it for.

25 Q Mr. Byrd, when you went in and made

1 application for this loan at American General Finance,
2 who took you there?

3 A You went with me.

4 Q Who went into the building with you?

5 A You.

6 Q Mr. Byrd, is it not true that Don Mealey
7 Chevrolet was hounding you about a \$550 check, returned
8 check from your personal account that was utilized to
9 pay for damage done to your car at that time?

10 A Yes.

11 Q Was it not true that there were private
12 investigators threatening action against you if that
13 check was not taken care of?

14 A I -- if I'm not -- I don't remember them was
15 at me or nothing, but I knew that they had called me,
16 because they did send me a letter about that check.

17 Q Were you not also, at that time, behind in
18 payments to Friedman's Jewelers?

19 A Yes.

20 Q Now, is it not true that when the time that
21 this loan was obtained, that you had been asking me
22 about -- or, I'm sorry. Strike that.

23 Is it not true at the time that this loan,
24 this particular loan was obtained, that you had been
25 discussing with me the need to get monies to take care

1 of some of those pressing deals?

2 A That's right.

3 Q Is it not true that when we went into
4 American General Finance and this loan was obtained for
5 you, is it not true that the monies from this loan went
6 to pay Friedman's Jewelers, pay Don Mealey Chevrolet
7 and you contributed \$330 of the remainder, you
8 contributed \$330 towards the deposit for the Florida
9 Power and Light Company?

10 A No, that wasn't so. I did not pay Don
11 Mealey any money out of that \$1,000. I paid 600 and I
12 just remember the money that I paid for the light bill
13 to be paid on at Mother's Kitchen, over \$600.

14 Q You paid over \$600 --

15 A That's right.

16 Q -- for the lights to be turned on --

17 A For the deposit for the lights to be turned
18 on. But, I did not pay Don Mealey one dime out of that
19 \$1,000.

20 Q You didn't pay Friedman's?

21 A No, I didn't. I don't remember -- I'm sure,
22 I was paying -- I get a social security check so I'd
23 take and do my best with whatever I'd get from my
24 social security check and pay my small bills.

25 Q Mr. Byrd, was there ever a check made out to

1 Friedman's Jewelers from the Mother's Kitchen account?

2 A I never seen it. I don't even have the
3 check.

4 MS. COWDERY: I'm going to object at this
5 point, because you get to a certain point in what
6 I see as being irrelevant, where I think it does
7 get to be prejudicial as confusing the issues and
8 bringing in unnecessary information to the issues
9 of the case and that's how I see it. I don't see
10 the source of any funds as having any direct
11 bearing on how an account is set up with the gas
12 company.

13 MR. BROOKS: Sir, what we have here is Ms.
14 Cowdery and her clients maintaining that the
15 account was intentionally set up in the name of
16 Alfred Byrd, doing business as Mother's Kitchen.
17 She even went to the point of coaching this man
18 prior to the opening of testimony here.

19 MS. COWDERY: Objection.

20 THE COURT: It goes to the phraseology. Go
21 ahead.

22 MR. BROOKS: She even -- concerning his
23 testimony towards that deposit. Mr. Byrd has sat
24 there and repeatedly, repeatedly, to questions
25 concerning this particular deposit as well as

1 other things, making statements about, they told
2 him he did, so he assumes that he did.

3 Now, for the Respondent -- for the
4 Petitioner, the Petitioner's only option is to
5 show that there was no way that this could have
6 happened other than the way that the Petitioner
7 has put forth here.

8 If he is going to sit here and testify about
9 what they told him, what they told him happened,
10 so he's making the wholesale assumption that
11 everything the Respondent says is true. So, our
12 right to go to credibility here, even to the point
13 of a payment to another place that he is now
14 denying that this money -- I went with this man to
15 get this money -- that this money went to, then
16 Petitioner has a right to show that that place
17 where the monies actually went exists and not only
18 did he use this money to pay it, but he also used
19 money from the company to pay it.

20 THE COURT: I appreciate where you're trying
21 to go and I think as far as credibility is
22 concerned, that you've elicited some testimony
23 there. But, to continue further out it's just too
24 far afield and I think we've gotten to the outer
25 limits. So, I'll sustain the objection.

1 MR. BROOKS: All right, sir.

2 THE COURT: Let's try to move ahead.

3 MR. BROOKS: All right, sir.

4 BY MR. BROOKS:

5 Q Mr. Byrd, you stated that in your deposition
6 of December 17th, you stated that, in response to the
7 question of whether or not you set up the Mother's
8 Kitchen account, you stated, "No, I didn't set up that
9 account. It was set up through, I'm sure, Mr. Brooks.
10 He handled most of the business part, the papers and
11 all of that."

12 A You did handle it, yes.

13 Q At the time that you said this at the
14 deposition, was that true?

15 A You and I went and set the banking account
16 by ourselves together with your little granddaughter.

17 Q I'm asking you, sir, concerning the gas
18 company account. This was a direct response to a
19 question of the gas company account.

20 A All right. I went there because when she
21 asked me before in the meeting --

22 Q Mr. Byrd, Mr. Byrd, I'm not asking you about
23 where you went. I'm asking you about what you said
24 under oath in deposition. You stated to the question
25 of the Mother's Kitchen account, you stated, "No, I

1 didn't set up that account. It was set up through, I'm
2 sure, Mr. Brooks. He handled most of the business
3 part, the papers and all of that."

4 Now, I'm asking you if that response on the
5 17th of -- that you gave on the 17th of December, under
6 oath at deposition, was true?

7 A At that --

8 MS. COWDERY: I'm going to object. It goes
9 a little fast for him here, but I don't see that
10 in the deposition. Maybe --

11 THE COURT: What's the page and line number,
12 please.

13 MR. BROOKS: Page 43, line numbers one and
14 two.

15 MS. COWDERY: Like I say, I don't see it.

16 MR. BROOKS: And so on.

17 THE COURT: Just a moment.

18 MS. COWDERY: Line one and two? Now, that's
19 referring to a Bell South bill on page 42,
20 starting on line 14 and 15. Now, here we have a
21 Bell South bill and it looks like it's dated
22 September 4th, 1996.

23 It continues on and goes to page 43 and Mr.
24 Byrd responds as to the Bell South account, no, I
25 didn't set up that account. That does not have to

1 do with Florida Public Utilities and I can show
2 you that.

3 MR. BROOKS: Judge, I'm sorry. That's my
4 mistake. I'm sorry. I made an error there.

5 BY MR. BROOKS:

6 Q Mr. Byrd, during this deposition on December
7 17th, 1996 or '97, did you not state on the record that
8 this account with the gas company was not set up by
9 you, that Mr. Brooks did it?

10 MS. COWDERY: I'm going to object. It's not
11 in here. That is a misleading statement. That is
12 not actually correct.

13 MR. BROOKS: I am certain, I am certain that
14 that is in there.

15 THE COURT: If it's in there --

16 MR. BROOKS: All right. All right. I'll
17 withdraw that.

18 THE COURT: All right.

19 BY MR. BROOKS:

20 Q Mr. Byrd, when you stated, they told me that
21 I set up the account so I must have did it, who is the
22 "they" you're referring to?

23 A I don't know. It was this lady's name. I
24 don't know her name, but she's in the front there
25 working in the office.

1 Q In what office, sir?

2 A In the gas company office. It's a black
3 lady.

4 Q What was the date that you went there, sir?

5 A I went there recently. I don't know the
6 date. I went there recently and asked her, I said,
7 now, after I told this lady, the lawyer, that I didn't
8 remember that, I said, let me go down and check and be
9 for sure, but I didn't remember the time I went there.

10 So, I went down there recently and she will
11 tell you -- I can't think of her name. I think it was
12 Diane or whatever her name is. And I asked her, I
13 said, did I come down and pay that \$200? She said,
14 yeah. I said, well, thank you, because I forgot I had
15 paid it.

16 Q You asked Diane and she told you you had
17 done it. Okay, sir.

18 Now, Mr. Byrd, did you make -- we will
19 assume for the moment that this check, you did attempt
20 to make a gas company payment with that.

21 Aside from this particular check, the one
22 that Ms. Cowdery showed you and they entered into
23 evidence there, what other payments did you make to the
24 gas company?

25 A I really don't remember my making of the

1 payment. I really don't remember, honest. I really
2 don't.

3 Q Between April of '96 and July of '96, how
4 many calls did you get from the gas company?

5 A They called and asked for me because my name
6 was on the records, so they had to call me and I -- I
7 didn't make no payments, because I never collected any
8 money.

9 Q No. Mr. Byrd, I'm not asking you about what
10 they had to do. I'm asking you what you did. How many
11 calls did you get from the gas company?

12 A I don't remember how many calls I got from
13 the gas company. I do not remember. I couldn't have
14 paid them anyway when I didn't handle no money, because
15 you all handled the money. I didn't handle the money.

16 Q Now, Mr. Byrd, you stated under oath that
17 you received a 1099, stating that you had made \$39,000.

18 A This is it right here (indicating).

19 Q Now, Mr. Byrd, do you understand the
20 difference between business revenue and personal
21 revenue?

22 A No, I don't understand it at all. All I
23 understood that you --

24 Q Would it surprise you, would it surprise you
25 to find out that Daniele Dow received a 1099 for

1 \$37,043, that Mr. Eddie Hodges received the same type
2 of document for \$34,692, only these individuals went
3 ahead and filed their income taxes the way they should
4 have?

5 MS. COWDERY: Okay. I need to object, just
6 because the irrelevance of this can be
7 prejudicial. We're trying -- because I've got the
8 rest of my case to put on. It's not -- it's just
9 not relevant. It goes to the subject matter of
10 taxes being paid and I certainly did not intend to
11 inquire about whether peoples' taxes had been
12 paid.

13 THE COURT: Well, he answered he doesn't
14 know the nature of the 1099. I think that covers
15 what -- let's move on from there.

16 BY MR. BROOKS:

17 Q Mr. Byrd, these bills you talk about you
18 keep getting, this Bell South bill, is it not true on
19 July the 9th, you went to the Bell South office and
20 told those people you were no longer a part of Mother's
21 Kitchen and you wanted your name taken off of this?

22 A I called them. I did not go to their
23 office.

24 Q Do you know a Debbie Ferrin (ph)?

25 A No, I don't.

1 Q Would it surprise you to find out that Bell
2 South did exactly as you requested, took your name off
3 of the account and reestablished the Mother's Kitchen
4 account absent your name, exactly the way it was set up
5 on the July 11th, '96, --

6 MS. COWDERY: Objection to the form of the
7 question. It's assuming facts that are not in
8 evidence.

9 MR. BROOKS: I was telling him, your honor,
10 if it would surprise him to find that out and the
11 reason --

12 MS. COWDERY: Is this a hypothetical?

13 MR. BROOKS: -- and the reason I'm ask --
14 yes. Yes.

15 BY MR. BROOKS:

16 Q Hypothetically, would it surprise you to
17 find that out?

18 A I know I didn't go to any office, but I
19 called and had them to cut it out of my name.

20 Q As a matter of fact, you went to each and
21 every utility, didn't you?

22 A I went to Mr. Spoulski at his office.

23 Q I asked you if you went to each and every
24 utility.

25 A I went down there to the gas company. I

1 told them about it. I wasn't there. take my name off.
2 I went to Mr. Spoulski out to the airport and told him
3 to take my name off of the lease and he said, you
4 didn't even sign the lease.

5 MR. BROOKS: Your Honor.

6 THE WITNESS: That's what he said.

7 MR. BROOKS: Would you instruct the witness
8 to answer the question directly? I asked him
9 about utilities. He's going on about Spoulski and
10 where he went.

11 THE COURT: Please listen carefully to the
12 question and just answer the question.

13 THE WITNESS: All right.

14 BY MR. BROOKS:

15 Q You went to each and every utility that had
16 to do with Mother's Kitchen and asked them to take your
17 name off of the partnership thing, did you not?

18 A No, I didn't go to Florida Power. I only
19 went to two people. The rest of them I called.

20 Q Well, when I say went, Mr. Byrd, whether you
21 called, went in person, you contacted them, did you
22 not?

23 A Yes, yes.

24 Q Each and every utility?

25 A Yes.

1 Q When you went to or you contacted Florida
2 Power and Light and you demanded they remove your name
3 from the Mother's Kitchen Limited partnership account
4 that was set up there, did not the lady tell you that
5 if she removed your name --

6 MS. COWDERY: Objection, that's not in -- no
7 facts like that are in evidence.

8 MR. BROOKS: Ma'am, he stated he went to the
9 place and requested the lights be changed and his
10 name withdrawn.

11 MS. COWDERY: Mr. Brooks is saying what
12 someone else said and attempting to introduce
13 facts into evidence that are not statements.

14 MR. BROOKS: I am asking Mr. Byrd --

15 THE COURT: You're clearly asking for
16 hearsay.

17 MR. BROOKS: All right, sir.

18 THE COURT: And the person, an employee of
19 that utility is not on the witness list. It's not
20 going to come in somewhere else.

21 MR. BROOKS: All right, sir. All right.

22 BY MR. BROOKS:

23 Q Mr. Byrd, how many times did you go to the
24 gas company and ask them to remove your name from the
25 account?

1 A One time, as I remember.

2 Q When was that?

3 A I told you, I don't know the exact date, but
4 right after I left there. I didn't mark the date down.
5 Right after I left the Mother's Kitchen, I went and
6 asked -- had told them to take my name off of the
7 account, because I wasn't there.

8 Q All right, Mr. Byrd. Assuming that this
9 calendar that you supplied Ms. Cowdery is correct.

10 A Yes.

11 Q You stated that the 29th was the day you
12 ceased to have anything to do with Mother's Kitchen and
13 you walked out.

14 A After I left there, I didn't have any
15 contact with Mother's Kitchen. It was after then that
16 I went and told them -- I don't know the exact date,
17 like I told you -- I went and told them to take my name
18 off.

19 Q But you said that when you went and told
20 them to take your name off, it was sometime shortly
21 after this date?

22 A It was shortly after that, yes.

23 Q So, that would have made it August?

24 A I don't quite get you.

25 Q You said shortly after this date, the 29th

1 of July. So, that only left two days in July.

2 A It was about a week. It was about a week or
3 so when I went and got all that straightened out.

4 Q So, that would have made it the first week
5 of August?

6 A I guess so. I don't remember the date, like
7 I said, but I know I went.

8 Q But, you're pretty sure it was about a week
9 ago (sic)?

10 A It was about a week after that.

11 Q A week after that?

12 A After. As a matter of fact, it was less
13 than that when I went to Mr. Spoulski.

14 Q Well, I'm asking about the gas company.

15 A Well, I went to the gas company after. I
16 went there and I told them about it.

17 Q And that was less than a week after the
18 29th, the day you left?

19 A If I'm not mistaken, it was.

20 Q So, when you say you went to them one time
21 to ask that the gas account, your name be removed from
22 any part of the gas account, then you're talking the
23 first week of August as having done that?

24 A I assume that. I don't remember the exact
25 date, like I told you, but I assume that they did take

1 my name off, so that's why I didn't bother with it
2 anymore.

3 Q Mr. Byrd, I'm trying to get a handle here on
4 this thing.

5 You left on the 29th of July. You're saying
6 that it was less than a week after you left that you
7 went to the gas company and told them to disconnect the
8 service.

9 A I would say, if I'm not mistaken like I
10 said, it probably was about a week.

11 Q Okay, sir. So if it was a week, it had to
12 be the first or second week of August, if --

13 A Well, I guess so, if you, you know, if you
14 figured that time out.

15 Q Now, Mr. Byrd, you said that you only went
16 to that gas company one time to do that.

17 A I asked them one time. I never went twice.

18 Q So when the gas company maintains that you
19 came into their office on the morning of September 13,
20 which is approximately 45 to 50 days after the 29th of
21 July, then they're wrong?

22 A I don't remember what time I went there. I
23 couldn't tell you the date. I couldn't tell you the
24 hour.

25 Q Was it more than a month?

1 A I can't tell you the minute.

2 Q Was it more than a month after?

3 A No, no. It was right after I left Mother's
4 Kitchen.

5 Q Okay. So, it was not a month after.

6 A I don't remember the hour. I know it -- I
7 don't think it was a month. I don't remember it being
8 that long.

9 Q Okay, sir. So if you do not remember it
10 being more than a month, then it would have had to have
11 been in August?

12 A Probably was.

13 Q So, the utility is wrong if they say that
14 you came in there on the morning of the 13th demanding
15 disconnection of service in your name?

16 A I don't know exactly. Like I told you, I
17 don't know exactly the time.

18 Q You're certain you only went to the utility
19 one time when you told them to disconnect the service?

20 A One time, and asked them to take my name
21 off, because I wasn't in a partnership there anymore
22 and I wasn't there no more.

23 Q And your testimony about this calendar is
24 correct?

25 A Yes.

1 Q And you're certain it was only a week or so
2 after the date on this calendar that you did that?

3 A Like I say, I don't remember the whole full
4 time. I don't remember that.

5 Q But, you do --

6 A I do -- I do remember I went down and had
7 them take it off and I don't know the date. I didn't
8 mark that down. But, I did go there and I did tell
9 them to take my name off of that gas account.

10 Q Mr. Byrd, if you went to or called, as you
11 say, Bell South, FPL, would the times that you called
12 those utilities have been about the same time that you
13 told these people to discontinue service?

14 A I do not know the exact time that I called
15 them, but I did call them.

16 Q General time frame?

17 A I can't give you a general time, because I
18 don't know with them.

19 Q So, you don't know whether it was in '96
20 that you did it or '97?

21 A Well, I had to do it right after I left
22 Mother's Kitchen, but the time that I did it, I don't
23 know the date.

24 Q All right, Mr. Byrd.

25 A But I did call them and tell them to take my

1 name off.

2 Q All right, Mr. Byrd. Mr. Byrd, now you say
3 or you were saying that the 29th of July was your last
4 day and that was the last time that you had anything to
5 do with us.

6 A That's right.

7 Q You didn't call us, you didn't try to
8 contact us, --

9 A No.

10 Q -- you didn't do nothing with us.

11 A No.

12 MR. BROOKS: May I approach, Your Honor?

13 THE COURT: Yes.

14 BY MR. BROOKS:

15 Q Mr. Byrd, I show you this offense report
16 that's dated 9/5/96. Have you ever seen this before?

17 A No, I don't remember seeing this before.
18 Not as I remember, I don't.

19 Q Okay, sir. Mr. Byrd, did there come a time
20 at Mother's Kitchen when the police were called out
21 there in your presence?

22 A Because I went to get my stuff out of there
23 that I left there, all my dishes, all my pots, all my
24 silverware, all my plates, and when I went to do it,
25 they had -- I had a key to the place, but they had

1 changed the alarm, so I stood there and the police was
2 there and that's the only time I went there to get my
3 stuff out of there.

4 Q Do you remember what date that was?

5 A No, I don't.

6 MR. BROOKS: Your Honor, I'd like to
7 introduce this as Petitioner's rebuttal. It's a
8 police report from the Sanford Police Department
9 showing Mr. Byrd surely did have contact with us
10 after July 29th.

11 MS. COWDERY: I will object. He doesn't
12 recognize it. It is not authenticated. And, of
13 course, I don't see the relevance, but it's
14 authenticated.

15 MR. BROOKS: Your Honor, the relevance --

16 THE COURT: He's never seen it before.

17 MR. BROOKS: I beg your pardon?

18 THE COURT: He's never seen it before.

19 MR. BROOKS: Mr. Byrd --

20 THE COURT: He's testified as to his
21 recollection about an incident in late September,
22 but as far as --

23 MR. BROOKS: Mr. Byrd maintained that he had
24 not had any contact with anyone from Mother's
25 Kitchen after July 29th. That report clearly

1 shows that Mr. Byrd did indeed have contact with
2 members of Mother's Kitchen after July 29th and
3 that's the --

4 THE COURT: Well, he just testified he was
5 there to get his pots and pans and utilities and
6 there was a police call.

7 THE WITNESS: He wasn't there, the police
8 was there.

9 THE COURT: He's testified to that. But, as
10 far as this document proving that, I mean, he has
11 no knowledge of this document, so I'll sustain the
12 objection.

13 BY MR. BROOKS:

14 Q Mr. Byrd, you never asked -- did you request
15 the police officer to --

16 A I went down to the police station and told
17 them what I wanted. They told me what to do, to take a
18 policeman with me. The police was with me at the time
19 I turned the key, but the alarm went off, because they
20 had changed the alarm.

21 I went to get my pots, all my pots, all my
22 dishes, all my silverware, all the stuff that I had
23 that I left there, a colored television. All that
24 stuff is still there, I reckon. I don't know. But, I
25 couldn't get it because the police said, well, sir, you

1 can't get it. So, that's -- so I left it. That's all
2 I did.

3 Q Mr. Byrd, at any time after that were you
4 present at Mother's Kitchen?

5 A Let me be for sure. I think, if I'm not
6 mistaken, it was twice, but I couldn't get there,
7 because the police told me that I couldn't go in there.

8 I don't remember the exact words that he
9 told me, but I know I went there to get my equipment
10 out of there, but I couldn't get it. But, to get in
11 contact with you people, I didn't even talk to you. I
12 didn't even see you.

13 Q No, I'm sure you didn't see me.

14 THE COURT: Okay, Mr. Brooks, can we move
15 on?

16 MR. BROOKS: Yes, sir.

17 BY MR. BROOKS:

18 Q All right, Mr. Byrd, just one more thing.

19 To the best of your recollection, you never
20 made any payments other than the reference to this
21 check for \$211 to Florida Public Utilities?

22 A I might have, but I don't remember did I
23 ever make any more payments. I don't remember that.

24 MR. BROOKS: No further questions.

25 THE COURT: Redirect?

1 MS. COWDERY: No. No redirect, Your Honor.

2 THE COURT: Is this witness released?

3 MS. COWDERY: This witness is released.

4 THE COURT: Thank you, sir. You're excused.

5 THE WITNESS: All right.

6 THE COURT: Let's take a short few minutes

7 here.

8 (Short recess.)

9 WHEREUPON:

10 DONALD MIDDLETON

11 being first duly sworn by the Hearing Officer, was

12 examined and testified under oath as follows:

13 THE WITNESS: I do.

14 THE COURT: Go ahead.

15 DIRECT EXAMINATION

16 BY MS. COWDERY:

17 Q Please state your name and business address.

18 A Donald Middleton, 830 West Sixth Street,
19 Sanford, Florida.

20 Q Are you currently employed by Florida Public
21 Utilities Company?

22 A Yes, I am.

23 Q Who many years have you worked for the
24 company?

25 A Four years.

1 Q And what is your position?

2 A Distribution superintendent.

3 Q How many years have you held that position?

4 A Four years.

5 Q What are your responsibilities in that
6 position?

7 A Oversee the daily operations of maintenance
8 and the operations of the field personnel, which
9 includes two I&M crews, four servicemen, systems op and
10 a flow-gas truck.

11 Q Are you Bill McDaniel's supervisor?

12 A Yes, I am.

13 Q How would you rate his abilities as a
14 serviceman?

15 A I would rate it excellent. Bill is very
16 methodical with his work. He is conscientious and he
17 is very well versed on trouble shooting on service
18 items and daily operations.

19 Q Mr. Middleton, did you have any involvement
20 in establishing the Mother's Kitchen gas account?

21 A Yes, I did.

22 Q I'd like to have marked for identification,
23 Florida Public Utilities Company Job Work Contract
24 Number 333192286, and ask you to take a look at that
25 and tell me if you recognize it?

1 A Yes, I do.

2 THE COURT: All right. We're going to mark
3 it for identification as Respondent's Exhibit D.

4 (Respondent's Exhibit D was marked for
5 identification.)

6 THE COURT: Go ahead.

7 BY MS. COWDERY:

8 Q Is that your signature in the middle of the
9 page?

10 A In the middle of the page. Yes, it is.

11 Q Okay. The workman's signature at the bottom
12 of the page, are you familiar with what those initials
13 are?

14 A Well, it's not really initials. That's the
15 way he writes this. Vinny Polizzi (ph) is the crew
16 chief of the I&M crew.

17 Q Do you also supervise him?

18 A Yes, I do.

19 Q What was the date that you first had contact
20 with Mother's Kitchen?

21 A 3/21/96.

22 Q Would you tell me how that contact was
23 initiated?

24 A I'm not sure if a phone call came into the
25 office earlier that day, how it came about I do not

1 know, but I was informed that they were requesting to
2 have service initiated the next day.

3 Q What did you do?

4 A Since our usual marketing rep was not
5 available, I went to the Mother's Kitchen to see what I
6 could do to get the account turned on.

7 Q Did you meet anybody there?

8 A Yes, I did.

9 Q To the best of your recollection, what
10 happened?

11 A When I went there, Mr. Byrd was there and he
12 introduced me to some other gentlemen, which I cannot
13 say who it was, but there were other gentlemen there
14 that I was introduced to.

15 Q What were they interested in?

16 A They was interested in getting the equipment
17 hooked up and that's what I was there for, to see what
18 it would take to get the equipment hooked up.

19 Q Did they have a time frame?

20 A Yes. They requested a turn on for the next
21 day.

22 Q What did you do?

23 A I investigated the fuel line, because I knew
24 it was a two-panel system, to see if the appropriate
25 regulators was there, if the equipment was set for

1 natural gas and what had to be done to get the account
2 turned on.

3 Q What happened next?

4 A I checked the equipment and the gentlemen
5 there, I'm not sure who helped me, had to lift the
6 grill top off the range to check to make sure the
7 orifices was capped. I checked the fryer to make sure
8 it was for natural gas and to see what equipment had to
9 be used to connect the appliances. At that point, I
10 write up the job order as stated right here.

11 MS. COWDERY: Okay. I'd like to have this
12 job order entered into the record.

13 THE COURT: Any objection?

14 MR. BROOKS: No, sir.

15 THE COURT: With no objection, what had been
16 marked for identification as Petitioner's (sic)
17 Exhibit D is entered in evidence as Respondent's
18 Exhibit 5.

19 BY MS. COWDERY:

20 Q All right. Now, what happened next?

21 A At that point, I did tell Mr. Byrd and
22 whoever else was there, that to initiate the service,
23 that they had to get back to the office, because it was
24 getting close to quitting time. They had to get back
25 there to make their deposit or whatever else had to be

1 done to get the service turned on.

2 Q What happened?

3 A At that point, the job order was signed to
4 initiate the work by Mr. Byrd and, at that point, I had
5 the information I needed so, at that point, I left the
6 Kitchen, Mother's Kitchen, and I don't think it was
7 intended that way, but when I left, Mr. Byrd followed
8 me back to the office. He was behind me.

9 Q Do you know what he was driving?

10 A He was driving a red, it was either a Trans-
11 Am Firebird or a Camaro. It was a red sports car.

12 Q And that made an impression on you?

13 A Yes, it did. Him being an elderly gentleman
14 driving a car of that type.

15 Q What happened next?

16 A I arrived at the office and went on into the
17 office to my section. At that point, Mr. Byrd came
18 into the office and went to the front counter.

19 Q Did you see anyone else with him?

20 A No, I did not.

21 Q Where were you? Where did you go when you
22 got back to the office?

23 A When I go in through the front door, my
24 office faces the front door and I went to my desk which
25 faces the front door, so I did see Mr. Byrd come in the

1 front door by himself.

2 Q Now, if someone was out in the parking lot,
3 would you have seen that?

4 A No, I would not have seen it. But I did,
5 when Mr. Byrd walked out, I did walk out and look out
6 the window at his car and I did not see anybody else.

7 Q Would you please take a look at what's been
8 identified as Respondent's Exhibit 5 and tell me what
9 work this work order was authorizing you or someone to
10 do.

11 A The top part was, connect the Vulcan range,
12 which had an existing appliance regulator, and connect
13 the Vulcan fryer.

14 Q What does existing appliance regulator mean?

15 A Because it was a two-pound system, you had
16 to have a regulator to drop the pressure down to
17 operating pressure, which is seven inches.

18 So, you have to have that regulator on the
19 equipment before you can actually fire the equipment
20 off. So, I had to make sure that equipment was there
21 for them to do the work the next day.

22 Q Was there anything else that you were
23 authorized to do?

24 A Well, to connect feeder with -- I made a
25 note to either connect it with hard pipe or a flex

1 connector if it was cheaper to do it with a flex
2 connector, and I was going to leave that up to my I&M
3 crew to make that decision the next day.

4 Q Okay.

5 A Whichever was cheaper for the customer to do
6 the connection.

7 Q All right. Now, does that job order show
8 that work was done the next day?

9 A Yes. You'll note that date on 3/22/96, two
10 men incurred a half-hour of labor connecting equipment.
11 They did connect a Vulcan fryer, gave the serial
12 number. They connected the Vulcan oven/grill combo,
13 serial number.

14 And, they noted that the pilot flame was
15 weak on the oven and the restaurant equipment was to
16 check it and light it themselves, because it was a used
17 piece of equipment. I'm not sure who it was purchased
18 from, but it was left in their hands to do the repair
19 on the range at that time.

20 MS. COWDERY: All right. I'd like to have
21 marked for identification, two meter orders. I'd
22 like you to take a look at those.

23 THE COURT: This is a composite exhibit?

24 MS. COWDERY: It is two pages.

25 THE COURT: I'll mark it for identification

1 as Respondent's Exhibit E.

2 (Respondent's Exhibit E was marked for
3 identification.)

4 BY MS. COWDERY:

5 Q Do you recognize those documents?

6 A Yes, I do.

7 Q Did you prepare those documents?

8 A No, I did not. It was done by Roberta
9 Johnson over the printer.

10 Q Where did she get the information?

11 A The information came from the job order that
12 I submitted and this was done after a deposit was made
13 to initiate the service.

14 Q At any point -- well, tell me, there is
15 notations on those documents. What are those
16 handwritten notes on there?

17 A The work was done the next day and on the
18 first one, which is a service request, it is initiated
19 with the first job order that you gave me.

20 Q Okay.

21 A That is just simply a card that is generated
22 to go with the job order and what's on the back it's
23 filled out where they did connect the fryer, connected
24 the Vulcan oven and grill combo, and soap tested all
25 connections. You'll notice at the top corner it does

1 refer to the same job order number.

2 Q Okay.

3 A You'll notice it was done by the I&M crew,
4 which was a two-man crew that did it.

5 Q So, --

6 A And, it was done on 3/22 and they arrived at
7 8:40 and departed at 9:10 that morning, so we did the
8 work the following morning.

9 MS. COWDERY: Your Honor, I'd like to have
10 this entered as an exhibit. I do have the
11 original work orders if you think it would assist
12 the tribunal in reading any of that handwriting.
13 If you're interested, I can have these entered.

14 THE COURT: For that purpose, I don't think
15 it's necessary.

16 MS. COWDERY: Okay. That's fine.

17 THE COURT: Any objection to the documents?

18 MR. BROOKS: I would have, in light of his
19 testimony that the witness just gave concerning
20 the job order number and it being the same job
21 order, I note that on the job work contract the
22 number -- it looks like the number six has been
23 scratched out and 3331?

24 THE WITNESS: Yes. That is done for billing
25 purposes in the office after the job order comes

1 back.

2 MR. BROOKS: Okay.

3 MS. COWDERY: We don't need to --

4 THE WITNESS: The 331 designates how the
5 dollar amount is charged, which if you need a
6 better explanation, Darryl may have to explain it
7 to you.

8 MR. BROOKS: Sir, what I was going to was
9 the fact that it appears to be a six that was
10 scratched out here and there's 3331 written above
11 it and meter orders, I believe she said this was,
12 it shows a job order number of 592.

13 THE WITNESS: No, that should be a six. If
14 you look at the original card, hopefully the
15 original does show it better as a six on the
16 original service request card.

17 MS. COWDERY: This here (indicating)?

18 THE WITNESS: Yes.

19 THE COURT: Any other questions, Mr. Brooks,
20 about the documents?

21 MR. BROOKS: Well, unless they can show
22 where he said it shows better on the original
23 card, but I would object to the entry of this
24 document, because the witness is testifying that
25 it is -- it coincides with the job order and the

1 job order clearly has a 692286 with a six
2 scratched out and a 331 written over it and this
3 clearly shows to me job order number 592286.

4 So, it's making reference to a document,
5 it's making, if we go by the numbers, it's making
6 reference to a document that's not on the --

7 THE WITNESS: Well, I was looking at it and
8 I would say it's a 592286 --

9 THE COURT: Just a moment.

10 THE WITNESS: Oh, I'm sorry.

11 THE COURT: I understand. Ms. Cowdery, is
12 there further predicate?

13 MS. COWDERY: I think Mr. Middleton can
14 testify that he knows these two job orders
15 coincide with this work order. He handled the
16 matter.

17 BY MS. COWDERY:

18 Q Do you have anything to add, Mr. Middleton?

19 A No. I mean, this original job order is
20 matched or service request does match with this job
21 order.

22 I mean, yes, it is scratched out, but that
23 is for billing purposes. So, instead of me saying
24 that's a six or a five -- no, but this card does go
25 with this job order.

1 THE COURT: Anything else? Any other
2 questions about the document before I rule?

3 MR. BROOKS: Is Mr. Middleton's initial or
4 signature somewhere on these documents?

5 THE COURT: Well, you can ask him that
6 question.

7 THE WITNESS: On which document?

8 MR. BROOKS: On the --

9 THE WITNESS: On these?

10 MR. BROOKS: -- the meter --

11 THE WITNESS: No. No. These are done by
12 the field personnel. No.

13 MR. BROOKS: So, you didn't do any of these?

14 THE WITNESS: As far as the work goes?

15 MR. BROOKS: No, sir. The documents.

16 THE WITNESS: No, I did not do them. They
17 was generated in the office and at that point, I
18 give it to the field man to do with their
19 scheduled work for the next day.

20 MR. BROOKS: Sir, absent anything showing
21 that this 592286 is actually supposed to be this
22 thing with the 331 over where a six was scratched
23 out, unless they have the individual who actually
24 prepared this thing to testify that this is
25 supposed to go with this, then I object to these

1 being entered into evidence.

2 THE COURT: Respond?

3 MS. COWDERY: I think we've laid a
4 sufficient predicate.

5 BY MS. COWDERY:

6 Q Did you review these specific --

7 THE COURT: No, no, no.

8 MS. COWDERY: Okay.

9 THE COURT: Not the time to ask questions.

10 MS. COWDERY: Okay.

11 THE COURT: Respond specifically to the
12 objection now. This is the last opportunity to do
13 that and then I'm going to rule.

14 MS. COWDERY: Okay. I believe we've laid a
15 sufficient predicate that these are documents that
16 Mr. Middleton is aware of and in the normal course
17 of business, he utilizes these meter orders as
18 part of his job.

19 THE COURT: I think the discrepancy has been
20 properly explained. I'll overrule the objection
21 and let the document in evidence as Respondent's
22 Number 6.

23 (Respondent's Composite Exhibit 6 was
24 admitted in evidence.)

25 THE COURT: Continue.

1 BY MS. COWDERY:

2 Q Mr. Middleton, any time a gas account is
3 turned off and before service is reestablished, is a
4 meter test run on an existing account?

5 A Yes, it is.

6 Q Would you explain what a meter test is,
7 please?

8 A A meter test is done on an existing account.
9 That's an account that has already been turned on at
10 one time, has been in service.

11 At that point -- on a new account, we have
12 to do them on it, too. But, she's asking a meter test
13 once an account has been on, then turned off, and we go
14 back and turn the account back on. At that point, we
15 perform what we call a meter test.

16 That is where we clock the meter on the test
17 hand dial to make sure the fuel lines going into the
18 building supplying the equipment is gas tight.

19 Q Is that it?

20 A Well, that's the way we determine if there
21 is a leak on the system. If the test hand moves, we
22 know at that point there is a leak on the system. If
23 the test hand does not move on the up-hand swing, then
24 the system is considered gas tight, no leaks.

25 MS. COWDERY: Thank you, Mr. Middleton.

1 That's all I have.

2 THE COURT: Any cross examination?

3 MR. BROOKS: Yes, sir.

4 CROSS EXAMINATION

5 BY MR. BROOKS:

6 Q Mr. Middleton, on the work order, did you
7 list, did you personally list the equipment to be
8 hooked up on the job work contract where it says, plug
9 existing half-inch fuel line, connect Vulcan range,
10 connect Vulcan fryer, did you place those words on this
11 job order?

12 A Yes. That is my handwriting. Yes, I did.

13 Q Did you look at the equipment prior to doing
14 this?

15 A Prior to writing this statement?

16 Q Yes.

17 A Yes, I did. Because when I walked into the
18 restaurant, there was an open half-inch fuel line from
19 the previous owner.

20 Q When you were in the restaurant on the 21st,
21 there was a range and there was a fryer inside of the
22 restaurant?

23 A Yes, there was.

24 Q Now, you testified that you remember Mr.
25 Byrd following you to your office because of his red

1 sports car.

2 A Correct.

3 Q And you're certain this was on March 21st,
4 '96?

5 A It was.

6 Q So if Mr. Byrd, at that time, had a 1994
7 gray Camaro in --

8 MS. COWDERY: Objection to facts not in
9 evidence.

10 MR. BROOKS: All right. I'll withdraw the
11 question.

12 BY MR. BROOKS:

13 Q Did you participate in the preparation of a
14 document to a Mr. John Plesco of the Florida Public
15 Service Commission? It was a letter to Mr. Plesco from
16 Mr. Troy.

17 Did you supply Mr. Troy information for the
18 preparation of this letter to Mr. Plesco dated May 22,
19 1997?

20 MS. COWDERY: Could you show the witness a
21 copy of the letter, please? And do you have
22 another copy that I could look at, Mr. Brooks?

23 MR. BROOKS: A letter to Mr. Plesco, May 22,
24 '97.

25 THE COURT: Mr. Brooks, do you have a copy

1 for counsel?

2 MR. BROOKS: I'm sorry.

3 MS. COWDERY: This front page?

4 MR. BROOKS: Yes, the front page is all I'm
5 interested in on this thing, the date there.

6 MS. COWDERY: Okay.

7 THE WITNESS: This one, I do not believe I
8 furnished any information on this.

9 MR. BROOKS: Okay.

10 BY MR. BROOKS:

11 Q So, you did not -- you did not supply Mr.
12 Troy with any information from which he could have
13 concocted -- he could have made this letter?

14 A Not to my knowledge.

15 MR. BROOKS: All right, sir. I have no
16 further questions of this witness, Your Honor.

17 THE COURT: Anything else?

18 MS. COWDERY: No redirect.

19 THE COURT: Thank you, sir. You are
20 excused. Would you raise your right hand to be
21 sworn.

22 WHEREUPON:

23 DIANE KEITT

24 being first duly sworn by the Hearing Officer, was
25 examined and testified under oath as follows:

1 THE WITNESS: I do.

2 THE COURT: Go ahead.

3 DIRECT EXAMINATION

4 BY MS. COWDERY:

5 Q Would you please state your name and
6 business address.

7 A Diane Keitt, 830 West Sixth Street, Sanford,
8 Florida.

9 THE COURT: Would you spell your last name,
10 please, ma'am?

11 THE WITNESS: K-e-i-t-t.

12 BY MS. COWDERY:

13 Q Are you employed by Florida Public
14 Utilities?

15 A Yes, I am.

16 Q How many years have you worked for the
17 company?

18 A About 23.

19 Q What is your current position with the
20 company?

21 A Sanford Mid-Florida Division Office Manager.

22 Q What are your responsibilities in that
23 position?

24 A To supervise the office staff and the meter
25 reader and collect the money.

1 Q About how many people is that?

2 A Four.

3 Q Do you supervise Roberta Johnson?

4 A Yes, I do.

5 Q What does she do?

6 A She's a customer service rep.

7 Q You would recognize her initials?

8 A Yes, I would.

9 Q Do you remember Alfred Byrd coming into the
10 office to set up a gas account for Mother's Kitchen
11 Restaurant?

12 A Yes, I do.

13 Q Was anyone with him?

14 A No. He was by himself.

15 Q What time of day was it?

16 A It was late afternoon.

17 MS. COWDERY: I would like to have marked
18 for identification, the \$200 deposit receipt of
19 March 21st, 1996.

20 THE COURT: I'll mark the document for
21 identification as Respondent's Exhibit F.

22 (Respondent's Exhibit F was marked for
23 identification.)

24 BY MS. COWDERY:

25 Q Do you recognize this receipt?

1 A Yes, I do.

2 Q When was this receipt prepared?

3 A March the 21st of '96.

4 Q Was it prepared at the same time that Mr.
5 Byrd came in and set up the gas account?

6 A Yes, it was.

7 Q Did you assist Mr. Byrd?

8 A No, I did not.

9 Q Do you know who did?

10 A Roberta Johnson.

11 Q Are those her initials?

12 A Yes.

13 Q Is this the same type of deposit form that
14 you used at that time?

15 A Yes.

16 Q Now, where were you when Mr. Byrd came in
17 the office?

18 A I was sitting at my desk.

19 Q Where is that compared to where Mr. Byrd
20 was?

21 A He was at the counter, which my desk is
22 probably from that desk where I'm sitting now, whatever
23 distance that might be. But, I was sitting where I
24 could see the counter.

25 Q I'm afraid to guess for the record how long

1 that is.

2 THE COURT: Try it anyway.

3 MS. COWDERY: Twenty feet, about 20 feet,
4 something like that.

5 BY MS. COWDERY:

6 Q Does that sound about right?

7 A Okay.

8 MS. COWDERY: Let the record show I'm not
9 good with distances.

10 BY MS. COWDERY:

11 Q Where did the company get the information
12 which is on this receipt?

13 A This information was given to Roberta by Mr.
14 Byrd.

15 Q Would that be Mr. Byrd's social security
16 number there that's on the SS number line?

17 A Yes.

18 Q Why is a social security number asked for?

19 A That is used to identify a person if we have
20 to charge something off, that number is used so if
21 somebody has the same name, we can always look at the
22 social security number to distinguish one from the
23 other.

24 Q Did you see Mr. Byrd bring any documents
25 into the office with him?

1 A I did not see him with any papers in his
2 hand, no.

3 Q Ms. Keitt, if Mr. Byrd had brought in any
4 business documents for purposes of setting up the gas
5 account, would copies have been kept by the company of
6 those documents?

7 A Yes.

8 Q Where would they have been kept?

9 A They would be kept in our files under M for
10 Mother's Kitchen.

11 Q All right. So, alphabetically it's an
12 alphabetical file?

13 A Yes.

14 Q Do you keep other business documents from
15 other customers in the same kind of file?

16 A Yes.

17 Q Ms. Keitt, did you ever call Mother's
18 Kitchen regarding monies owed on the account?

19 A Yes, I did.

20 Q When would you do that, under what
21 circumstances?

22 A For returned checks and to avoid being
23 disconnected I would also call.

24 Q Did they have any returned checks?

25 A Yes, they did.

1 Q Do you remember how many they had?

2 A I believe it was two.

3 Q When you called about returned checks, what
4 would you say?

5 A I asked for the owner or the manager.

6 Q Then what would you tell them when you got
7 someone on the line?

8 A That I had a returned check and what the
9 amount of the check was, and that they needed to come
10 in and take care of the check, plus the check charge,
11 in cash, cashier's check or money order to avoid being
12 disconnected.

13 Q Where was the other situation you might
14 call?

15 A In order to, say if they got a cutoff
16 notice, in order to avoid being disconnected.

17 Q Did you call Mother's Kitchen for that
18 reason?

19 A Yes, I did.

20 Q When you called, because a notice of
21 disconnect had gone out, what were the circumstances?
22 What was the timing of the disconnect and the phone
23 call?

24 A I called, I believe it was like maybe three
25 days before and I got a promise to pay. And then, the

1 payment did not come in so I called again.

2 Q This is on one particular time?

3 A Yeah, one particular time.

4 Q And then you called back again?

5 A Yes.

6 Q Okay.

7 A And I was told that they would have someone
8 to call me. Mr. Brooks called me and said that he was
9 at the Federal Building in Orlando and he didn't know
10 whether he would get back in time, but what he would do
11 was call back to the restaurant and have them to bring
12 in whatever monies they had made, you know, up until
13 that point.

14 Q Do you remember calling any other times when
15 they had a notice of disconnect?

16 A I don't believe I did.

17 Q Is it possible that you called some other
18 times, but you don't remember?

19 A It's possible, but I don't remember.

20 Q Did you, upon occasion, call other
21 businesses when a notice of disconnect went out on
22 them?

23 A Yes, I have called other businesses.

24 Q Now, and again, what is the purpose of that
25 phone call?

- 1 A To avoid that customer being disconnected.
- 2 Q To give them a chance to pay?
- 3 A To come in and pay, right.
- 4 Q Did you ever call for that money after the
5 account had a disconnect?
- 6 A After the service was disconnected?
- 7 Q Yes, if it was --
- 8 A No.
- 9 Q Why not?
- 10 A The service is already off then. If I call
11 and you're not disconnected, I'm saving you \$31. But,
12 if the service is already off, you know, you have to
13 pay the \$31 connect fee.
- 14 Q It's too late, you're already off?
- 15 A Right.
- 16 Q When you called Mother's Kitchen about that
17 disconnect, the time you remember, --
- 18 A Uh-huh.
- 19 Q -- do you remember who you asked for?
- 20 A The owner or the manager.
- 21 Q Was that your general procedure?
- 22 A Yes.
- 23 MS. COWDERY: I'd like to have the deposit
24 receipt entered into the record.
- 25 THE COURT: Any objection?

1 MR. BROOKS: No, sir.

2 THE COURT: Then without objection, what I
3 have marked for identification as Respondent's
4 Exhibit F, is admitted in evidence as Respondent's
5 Exhibit 7.

6 (Respondent's Exhibit 7 was admitted in
7 evidence.)

8 BY MS. COWDERY:

9 Q Ms. Keitt, are you generally familiar with
10 the service time period when this account was active?

11 A Yes.

12 Q Do you remember that it extended about from
13 March through September?

14 A Yes.

15 Q Now, before the final September cutoff
16 incident, whatever we want to call it, before that time
17 period was service ever disconnected because Mr. Byrd
18 had requested it?

19 A No.

20 Q Did Mr. Byrd, before that last time period,
21 did he ever call and ask for service to be
22 disconnected?

23 A No.

24 Q I'd like to have marked for identification,
25 Florida Public Utilities Company receipt in the amount

1 of \$290 on August 12th, 1996, and ask you if you
2 recognize that?

3 A Yes, I do.

4 Q Are those your initials on it?

5 A Yes, they are.

6 THE COURT: The document has been marked for
7 identification as Respondent's Exhibit G.

8 (Respondent's Exhibit G was marked for
9 identification.

10 BY MS. COWDERY:

11 Q And did you prepare that document?

12 A Yes, I did.

13 Q Now, what do you remember about the day that
14 payment was made?

15 A The day this payment was made, Mr. Brooks
16 came in. He did not want to talk to me. He wanted to
17 talk to my supervisor.

18 So, he came into Dino's office and he
19 introduced himself to Dino as Daniel Dow. He proceeded
20 to tell Dino that he had his notice, the door knocker
21 that the collector puts on the door, and he did not
22 have enough money to cover everything. He proceeded to
23 tell Dino about the problems that was going on at the
24 restaurant.

25 Q Let me ask you something. About what time

1 was this?

2 A It was late afternoon, because it was --
3 Dino was back from lunch and I was back from lunch and
4 I don't get back from lunch until 2:00 o'clock, so it
5 was after that.

6 Q Now, what is this door hanger that you're
7 talking about? What is that?

8 A If the collector cuts the gas off, he puts
9 the door -- it has that the service has been
10 disconnected and some other things and it has the
11 amount that you owe on it.

12 Q So in this case, the service had been
13 disconnected?

14 A Right.

15 Q Before he came in?

16 A That's correct.

17 Q Did Mr. Brooks come in with anybody?

18 A Yes. He had a little girl with him.

19 Q Are you sure about this?

20 A Yes, I am. She -- I noticed it, because he
21 allowed her to run around in the office and there was
22 two chairs and I was thinking, you know, why don't he,
23 you know, make her sit down. But, she appeared to be
24 about three years old, something like three, four years
25 old.

1 Q And a little girl?

2 A Yes.

3 Q Now, what happened when Mr. Brooks went with
4 Dino, where did they go?

5 A In Dino's office.

6 Q Did you go into the office, too?

7 A Yes, I was there, was in at the door of
8 Dino's office.

9 Q Sitting or standing?

10 A I was standing.

11 Q What happened next?

12 A After he talked to Dino and Dino said that
13 he would allow him to pay what he had, and then he said
14 to change the address so the bills would come to the
15 restaurant instead of the post office box.

16 Q Who said that?

17 A That's what Mr. Brooks said.

18 Q Did he request that?

19 A Yes, he requested it.

20 Q What did Dino say?

21 A He asked me to change it and I was standing
22 in the door and I asked Roberta to pull up the account
23 and take the post office box off. She did at that
24 point and when she did it, she turned around and told
25 me it was done.

1 Q Now, then were you still in the doorway?

2 A Yes, I was still in the doorway.

3 Q Did Mr. Brooks say anything further about,
4 you know, why he wanted the address change for the
5 billing?

6 A He just said he wanted to get the bills at
7 the business instead of it going to the post office
8 box, I guess because of the problem with Mr. Byrd.

9 Q Did he say anything would be different?

10 A No.

11 Q When he was talking about the problems, what
12 kind of problems were they having with the billing?

13 A Well, he said that they were not getting the
14 bills. He said the bills was going to the post office
15 box, which was Mr. Byrd's post office box.

16 Q So, did he say anything about payments being
17 made on time?

18 A He said if they got the bills at the
19 restaurant that -- he told Dino he wouldn't have any
20 further problems with them being late, it would be paid
21 on time.

22 Q Now, at that date, on that August 12th
23 meeting, --

24 A Uh-huh.

25 Q -- he brought money with him?

1 A Yes.

2 Q Did he bring cash or a check?

3 A He had cash, because the little girl had
4 some of it in her hand.

5 Q Now, when did he -- did he pay that money?

6 A Yes.

7 Q Who did he give it to?

8 A He handed the money to Dino and Dino gave it
9 to me.

10 Q What did you do?

11 A I got a receipt pad and wrote him a receipt.
12 I wrote a receipt and --

13 Q Did you give it --

14 A Yes, I gave him his copy.

15 Q Now, during the course of this discussion,
16 did you hear anything said about deposits or a deposit
17 on the account?

18 A No, I did not.

19 Q Did you bring anything up about a deposit?
20 Did you talk to Mr. Brooks about a deposit?

21 A No, I did not.

22 Q All right. Now, what happened next?

23 A He got his receipt and he left and I took
24 the money and receipt to my desk to put in an order to
25 have the gas turned back on the next day.

1 Q Did you do an order for the gas to be turned
2 on the next day?

3 A Yes, I did an order for the gas to be turned
4 on.

5 Q Okay.

6 A And, I laid the receipt and the money on my
7 desk, I had it clipped together. I got to doing
8 something else and it was like, at the end of the day
9 and he had said he was coming back to --

10 Q Why was he coming back?

11 A To pay more money, because he didn't have
12 enough to cover what the charges were. He told Dino he
13 would --

14 Q How much extra was there, just generally,
15 ballpark, if you remember? Like, was it 500 or was it
16 20?

17 A I would -- I believe it was somewhere around
18 \$35, somewhere around there.

19 Q So what happened next?

20 A The two other cashiers had closed their box,
21 and I had my petty cash box, and I put it in my petty
22 cash box for safekeeping. Like, the receipt and the
23 money was clipped together and I put it in my box for
24 safekeeping, because if their box is closed, I don't go
25 in their box, their cash box.

1 Q Okay.

2 A And I was going to take it out the next
3 morning, because like I say, he said he was coming back
4 and I forgot about it and it was in my box.

5 Q Did he come back the next morning with the
6 additional money?

7 A No, he did not.

8 Q When did you remember the \$290?

9 A When the next day came and I was looking at
10 his account and I did not see the payment that I had
11 taken, that's when I realized that the 290 was still in
12 my box.

13 Q So, the next time that you remembered the
14 290 is when?

15 A When the next payment came.

16 Q Do you remember --

17 A It was at the end of the month.

18 Q At the end of the month?

19 A Uh-huh.

20 Q And what did you do?

21 A I took the 290 and just wrote one receipt
22 for the total of what was paid.

23 Q I want to just backtrack a minute.

24 When the payment came in from Mother's
25 Kitchen at the end of the month, do you remember who

1 brought it in?

2 A The payment at the end of the month?

3 Q Right.

4 A No, I don't.

5 Q When you got the payment, what did you do?
6 Did you write something down? Did you go to your
7 computer? What do you do when you get a payment in?

8 A If they don't have their bill, then we have
9 to look it up.

10 Q Do you remember what you did in this case?

11 A I had to have looked it up because, like I
12 said, then I didn't see the payment that Brooks had
13 made the day he came into Dino's office.

14 Q When you say you looked it up, what did you
15 look it up on ?

16 A On the computer.

17 Q So, you had some kind of screen in front of
18 you that showed the payments?

19 A Yes. Uh-huh.

20 Q So, when you saw that you were missing a
21 payment, is that --

22 A Right.

23 Q What did you do?

24 A I started to search, because I thought maybe
25 it was posted to the wrong account.

1 Then I remembered he was in and I had put it
2 in the petty cash box to give to one of the cashiers
3 the next day when he came back and I looked in my petty
4 cash box and it was still sitting there.

5 Q So, what did you do next?

6 A I took the receipt for the 290 and the other
7 receipt and just made one receipt.

8 MS. COWDERY: While we're here, let's have
9 this receipt of August 28th for \$521.72 marked for
10 identification.

11 THE COURT: I've marked the document for
12 identification as Respondent's Exhibit H.

13 (Respondent's Exhibit H was marked for
14 identification.)

15 BY MS. COWDERY:

16 Q Do you recognize this document, Ms. Keitt?

17 A Yes, I do.

18 Q Did you prepare it?

19 A Yes.

20 Q And those are your initials on it?

21 A Yes.

22 Q What is this receipt?

23 A This is a cash coupon, cash receipt.

24 Q Is this the receipt you made --

25 A Yes.

1 Q -- for the two combined amounts?

2 A Right.

3 Q All right. So, you made up this receipt.
4 Did the customer get a copy of this receipt?

5 A No, he did not.

6 Q What was the purpose of this receipt?

7 A The purpose of this receipt was so I could
8 post the payment to their account.

9 Q Now, why didn't you just post, go to your
10 computer and write down an 8/12 entry and an 8/28
11 entry, why didn't you do it on the computer in two
12 separate entries?

13 A Because as far as the date, you can't go
14 back and put in the date that you want it posted. It's
15 posted -- the dates are automatically in the system and
16 even if I had posted 290 and the other receipt, it
17 still would have showed it being paid 8/28. It would
18 not have showed as being paid 8/12 and then 8/28.

19 Q Why did you choose to do a combined payment
20 instead of writing down two separate amounts, even
21 knowing that it would both show up on the 28th?

22 A Because it was the same account and it would
23 show those payments as one day, the same day. It would
24 have still been the same amount.

25 Q Did the posting of the \$290 payment together

1 with the second payment on the same day, on August
2 28th, did that have any effect on any notices or bills
3 or anything that was mailed out to the customer?

4 A No, it did not.

5 Q It didn't cause a notice of disconnect?

6 A No.

7 Q It didn't cause a problem with credit?

8 A No.

9 Q It didn't show up as anymore overdue or
10 anything like that?

11 A No.

12 MS. COWDERY: I'd like to have this deposit
13 receipt entered as an exhibit and I can't remember
14 if I did the previous one. If I didn't, I'd like
15 to have that one entered.

16 THE COURT: Okay. You have not.

17 MS. COWDERY: All right. Then let's have
18 both of those.

19 THE COURT: All right. As to Respondent's
20 Exhibit G, the receipt dated August 13th, 1996,
21 any objection?

22 MR. BROOKS: Dated August 16th?

23 THE COURT: 13th.

24 MR. BROOKS: 13th. I don't have that one,
25 sir.

1 MS. COWDERY: I think that's the one that we
2 referred to as August the 12th, because that's
3 when it was paid and it was brought in, it was
4 stamped in the 13th.

5 THE COURT: The date stamp shows August
6 13th.

7 MS. COWDERY: Right, yes. That's fine.

8 THE COURT: Do you have that?

9 MR. BROOKS: Okay. Yes, sir.

10 THE COURT: Any objection?

11 MR. BROOKS: No, sir.

12 THE COURT: All right. Then without
13 objection, the document previously marked for
14 identification as Respondent's Exhibit G is
15 admitted in evidence as Respondent's 8.

16 (Respondent's Exhibit 8 was admitted in
17 evidence.)

18 THE COURT: The next one that has been
19 marked for identification as Respondent's Exhibit
20 H, any objection?

21 MR. BROOKS: Yes. With regard to this
22 particular receipt -- no, sir. No. No objection,
23 but I would ask that the Court take notice of the
24 fact that there has been a change on the day date
25 on this particular document.

1 THE COURT: The day date?

2 MR. BROOKS: On this date or on this
3 particular document where it's got 18, it looks
4 like 18/28 there for the date.

5 THE COURT: Uh-huh.

6 MR. BROOKS: The last eight in that figure,
7 from the looks of it, was changed from a six to an
8 eight.

9 THE COURT: You can inquire of the witness
10 about that if you wish, at this time. You can do
11 that right now.

12 MR. BROOKS: Ms. Keitt, this particular
13 document has a -- it looks like, for the date, it
14 has 18/28 and it looks like that last date was
15 changed from a six to an eight.

16 THE WITNESS: No, sir. It was not changed
17 from a six to an eight. When this was pulled, it
18 was not very clear and I went over it to make it
19 clear so it would be read. It was not changed.

20 MR. BROOKS: So, you altered, you altered
21 the original?

22 THE WITNESS: No, I did not alter. I went
23 to --

24 MR. BROOKS: You just said when it was
25 pulled, it wasn't clear, so you changed --

1 THE WITNESS: No. The eight was real light
2 and you couldn't -- and I went over it. I did not
3 alter it.

4 MR. BROOKS: Why is there an 18 in front of
5 the eight or the 28?

6 THE WITNESS: Now, I wouldn't say that's an
7 18. That's just a mark. I mean, there's not an
8 eighteenth month.

9 MR. BROOKS: For the record, sir, that
10 explanation is not at all sensible. Every other
11 character on this exhibit, every other character
12 on this exhibit bears no such overlay as that
13 eight does.

14 There's even another figure on the line of
15 address where it looks like an overlay has been
16 made over another number. I don't know about the
17 copy that they gave to you, but the copy that I'm
18 looking at clearly shows 18/28.

19 THE COURT: Well, that's your
20 interpretation. I see the mark in front of the
21 number eight for the month. Whether that's a one
22 or some other type of mark because of the copier,
23 I -- if that's your argument, you may do so. But
24 other than that, you have no objection?

25 MR. BROOKS: No, sir. As long as those

1 things are on -- those problems with that thing is
2 on the record.

3 THE COURT: It is. All right. I'm going to
4 admit the document in evidence as Respondent's
5 Exhibit 9.

6 (Respondent's Exhibit 9 was admitted in
7 evidence.)

8 BY MS. COWDERY:

9 Q Ms. Keitt, did Mr. Brooks or Mr. Johnson or
10 anyone from Mother's Kitchen, ever come in with the
11 lump sum payment, one payment at one time of \$521.72?

12 A No.

13 Q Did they ever come in with any lump sum
14 payment of \$500 or more for any reason?

15 A No.

16 Q They never came in saying they wanted to
17 establish a deposit?

18 A No.

19 Q Of any amount?

20 A No.

21 Q Other than that original \$200.

22 Did you ever tell Mr. Brooks that you were
23 setting up a new Mother's Kitchen account for him with
24 any money that he or anyone from Mother's Kitchen
25 brought in?

1 A No, I did not.

2 MS. COWDERY: Ms. Keitt, I'd like to have
3 you look at this document and I'd like to have it
4 marked for identification. It is another Florida
5 Public Utilities Company receipt. This one is
6 dated 9/12. It is in the amount of \$261.04.

7 THE COURT: I'm marking the document for
8 identification as Respondent's Exhibit I.

9 (Respondent's Exhibit I was marked for
10 identification.)

11 BY MS. COWDERY:

12 Q Do you recognize that document, Ms. Keitt?

13 A Yes, I do.

14 Q Did you prepare it?

15 A Yes.

16 Q And are those your initials?

17 A Yes.

18 Q Ms. Keitt, do you remember any of the events
19 surrounding the payment of the \$261.04 on the 12th?

20 A When this payment was made, the service had
21 been disconnected and I believe Harry Johnson brought
22 this payment in. This was paid and an order was put in
23 to turn the service back on the next day.

24 Q Other than Harry Johnson bringing that
25 amount in, do you recall talking to anybody else from

1 Mother's Kitchen that day?

2 A No.

3 Q Do you remember Harry Johnson calling you
4 the next morning at 8:00 o'clock in the morning and
5 asking you, you know, were you sending somebody out?

6 A Someone did call. I don't remember whether
7 it was Harry Johnson or not, but someone did call and
8 said that I had promised them it would be 8:00 o'clock,
9 and I don't promise times, because I can't give times.
10 I did tell him that I would put it down to get it our
11 first call, as soon as possible.

12 Q Is that what happened, to your recollection?

13 A Yes.

14 Q All right. Now, when we're talking about
15 the morning, are we talking about the next morning?

16 A Yes, the next morning.

17 Q Do you remember what date that was?

18 A That was the 13th, which I believe was on a
19 Friday.

20 Q Do you remember Alfred Byrd coming to the
21 Florida Public Utility office and asking for the gas to
22 be taken out of his name?

23 A Yes, I do.

24 Q Do you remember what date he did that?

25 A On the 13th.

1 Q Are you sure?

2 A Yes, I'm positive.

3 Q Do you know when he came in?

4 A It was, I would say, somewhere between 8:30
5 and 9:00.

6 Q Did you talk to him?

7 A Yes, I did.

8 Q What did he say?

9 A He asked to have the service disconnected.
10 He did not want the account in his name anymore.

11 Q What did you say?

12 A He wanted it disconnected that day. I asked
13 him if it would be okay if we would do it on Monday,
14 which would give the new people an opportunity to come
15 in and put their deposit on it, change the account in
16 whatever name they wanted it and he said that was fine.

17 Q Did you tell him anything else?

18 A No, I did not.

19 Q Do you remember if Mr. Byrd asked you
20 anything about the deposit?

21 A No, I don't remember. I don't believe he
22 did.

23 Q Now, this is the morning of the 13th. About
24 what time, just ballpark, did he leave the office?

25 A Between 8:30 and 9:00, because he didn't

1 stay that long.

2 Q All right. What did you do after he left?

3 A I called dispatch and asked them if the
4 serviceman had been to Mother's Kitchen and he was
5 enroute there and I asked him, would they have him to
6 tell someone at Mother's Kitchen to give me a call as
7 soon as possible.

8 Q At that point, do you remember if you knew
9 who the serviceman was?

10 A Yes.

11 Q Who was the serviceman on the job?

12 A Bill McDaniel.

13 Q What was the next thing that happened that
14 you are aware of?

15 A When Bill got there, he told someone that
16 they needed to call me and I got a call from Mr.
17 Brooks. I told him that Mr. Byrd had just left and he
18 wanted the service disconnected out of his name that
19 day.

20 But, I told him I would not turn it off,
21 which would give them a chance to come in and establish
22 an account, a new account.

23 Q At that point, did you talk to Mr. Brooks
24 about a deposit?

25 A I told him they needed a \$500 deposit.

1 Q How did you determine the amount of the
2 deposit?

3 A By what the usage had been there and we get
4 an average of two months bills for a deposit.

5 Q So, what you mean by that is --

6 A The bills were averaging around \$250 per
7 month.

8 Q All right. So, you add two of those months
9 together, basically?

10 A Yes.

11 Q And that's how you figure your deposit?

12 A Uh-huh.

13 Q Now, what did Mr. Brooks say?

14 A He started ranting and raving and yelling
15 and hung up the phone.

16 Q Did he say anything that you can remember
17 what he said?

18 A I believe he said he was going to call the
19 home office and --

20 Q Did he ask you for a telephone number or
21 anything, do you remember?

22 A No, he did not.

23 Q Now, what is the next thing that you did?

24 A I called Darryl to --

25 Q Darryl Troy?

1 A Darryl Troy.

2 Q Where was he located?

3 A West Palm Beach, the home office. To let
4 him know that he probably would be getting a call from
5 someone from Mother's Kitchen.

6 I told him that the service was turned off
7 for non pay and that Bill was there to turn it back on.
8 And, that the name that the account was under at that
9 time, they wanted it disconnected out of their name.

10 Q Do you remember if you told Darryl anything
11 else?

12 A I don't believe so.

13 Q Now, what's the next thing that you remember
14 that you were involved in that happened?

15 A Bill did call on the radio.

16 Q Called who?

17 A He called the office and he wanted to know
18 what to do. He informed me that there was a leak and
19 that -- he said that he wouldn't sign the job order.

20 Q Now, who said that?

21 A That's what Bill said.

22 Q What did Bill say?

23 A He could not get the job order signed, you
24 know, that they wanted the leak repaired. At that
25 point, I didn't know whether, you know, for him to

1 leave it off or what to do, so I called Darryl again.

2 Q What happened in that conversation?

3 A I explained to him what Bill had told me and
4 he said to tell him to go ahead and cut it off. He
5 said, we're cutting it off because of the leak, not
6 because the previous tenant wanted it off in their
7 name. It's being cut off because of the leak.

8 Q Do you remember him saying that to you? You
9 think he said that to you?

10 A Yes, he did say that.

11 Q From your own recollection?

12 A Yes, he did say that.

13 Q Then what happened next?

14 A I called Bill on the radio and told him to
15 turn the gas off and he filled out his paperwork and
16 that was -- then he left Mother's Kitchen.

17 Q Did anything happen later that day?

18 A Yes. Mr. Brooks came in and wanted the
19 money back, the 261.04.

20 Q Did you talk to him?

21 A Yes.

22 Q What did he say?

23 A He asked for the money back and I said I
24 could not give it back, because that was for gas that
25 you have already used.

1 Q What did he say?

2 A He said, you're not going to give me my
3 money back? And I said, no. At that point, he pulled
4 up a little cassette and said that I was being
5 recorded.

6 Q Did he say anything else?

7 A Then he walked out the door.

8 Q Did you say anything else?

9 A No. I started laughing. I didn't say
10 anything.

11 Q Ms. Keitt, are you now or have you ever been
12 a personal friend of Mr. Alfred Byrd?

13 A No, I haven't.

14 Q Did you take any actions with regard to
15 Mother's Kitchen because of any personal reasons
16 whatsoever?

17 A No.

18 MS. COWDERY: I have no further questions.

19 THE COURT: Cross?

20 MS. COWDERY: Oh, may I enter my last
21 exhibit into the record?

22 THE COURT: All right. Yes, let's do that.
23 Mr. Brooks, any objection to what has been marked
24 for identification as Respondent's Exhibit I?

25 MR. BROOKS: The \$261 --

1 THE COURT: Right.

2 MR. BROOKS: No, sir.

3 THE COURT: Without objection, the document
4 is admitted in evidence as Respondent's Exhibit
5 10.

6 (Respondent's Exhibit 10 was admitted in
7 evidence.)

8 THE COURT: Nothing, no other questions?

9 MS. COWDERY: No.

10 THE COURT: All right. Cross examine?

11 MR. BROOKS: Yes, sir.

12 CROSS EXAMINATION

13 BY MR. BROOKS:

14 Q Ms. Keitt, you testified that with respect
15 to the \$200 deposit receipt, I believe you testified
16 that the entry of the social security number was done
17 so that you would have something to distinguish one
18 from the other if there were customers with the same
19 names, this type of thing.

20 A Yes.

21 Q So, that was the sole purpose of putting the
22 social security number on there?

23 A The sole purpose of -- we do not use it to
24 identify you when you walk in, but it's used if we have
25 to charge off to distinguish if we have a customer by

1 the same name.

2 Q The entry by the name of that receipt, --

3 THE COURT: What exhibit are you referring
4 to?

5 MR. BROOKS: The \$200 deposit receipt.

6 MS. COWDERY: Seven, I think.

7 THE COURT: Could you use the exhibit
8 number, please?

9 MR. BROOKS: I thought you said that was
10 Respondent's --

11 THE COURT: Is that seven?

12 MR. BROOKS: Yes, Respondent's Number 7.

13 THE COURT: Okay.

14 BY MR. BROOKS:

15 Q Ms. Keitt, the entry by the name, is that
16 ordinarily the line that the name of the customer would
17 go on?

18 A Where it says "name"?

19 Q Yes.

20 A Yes.

21 Q From looking at this receipt, can you tell
22 me what characteristic of this receipt makes this
23 receipt show the gas company that the proper name for
24 this account was Mother's Kitchen, doing business --
25 Alfred Byrd, doing business as Mother's Kitchen?

1 A That's the information she was given by Mr.
2 Byrd. That's the way he wanted the account set up.

3 Q So, there was some other form that was
4 filled out to establish that?

5 A No, there was not any other forms filled
6 out.

7 Q So to your knowledge, there is no paperwork
8 anywhere that shows a request for this account to be
9 set up as Alfred Byrd, doing business as Mother's
10 Kitchen?

11 A That's the information that he gave to
12 Roberta.

13 Q No. I asked you, ma'am, if there was any
14 documents anywhere showing where that was requested?

15 A A written document, no.

16 Q And this receipt --

17 A It was just the information he gave her.

18 Q And this receipt that Ms. Cowdery showed to
19 you does not state Alfred Byrd doing business as
20 Mother's Kitchen, does it?

21 A It has Alfred Byrd.

22 Q It does not state, ma'am, the question was,
23 it does not state, Alfred Byrd, doing business as
24 Mother's Kitchen?

25 A No, it does not say d/b/a.

1 Q You also stated that if he had copies of --
2 if he had had copies of documents with him, they would
3 have been put underneath in our files, some type of
4 file, is that correct?

5 A No, I did not say underneath.

6 Q Well, they would have been put in some type
7 of file?

8 A That's correct.

9 Q And you searched and you found none?

10 A There was none, because Mr. Byrd did not
11 have any for the files.

12 Q Did you look in the files, ma'am?

13 A Yes.

14 Q When did you do that?

15 A When this case came up.

16 Q When the case came up?

17 A Uh-huh.

18 Q You looked into those files?

19 A Yes, sir.

20 Q Now, you stated that when you would call the
21 restaurant concerning the account that you would ask
22 for an owner or manager?

23 A That is correct.

24 Q You never asked for anyone by name?

25 A No, sir. I did not.

1 Q Never, no one by name?

2 A I never asked for anyone by name when I
3 called the business. I asked for the owner or the
4 manager.

5 Q And did individuals answering your call, did
6 they identify themselves as owner or manager?

7 A I don't remember.

8 Q In relation to this \$290 payment, the \$290
9 payment that you are asserting that I brought into your
10 office, you're certain that was on August 12th?

11 A Yes, sir.

12 Q And you're certain I brought it into your
13 office?

14 A Yes, sir.

15 Q As office manager, regarding the complaint
16 on this -- concerning this account, did you supply Mr.
17 Troy with information for the preparation of documents
18 for forwarding to the PSC?

19 A Repeat your question again.

20 Q In regards to the complaint that was filed
21 concerning this account, the preparation of documents
22 requested by the PSC, would you have assisted Mr. Troy
23 in the preparation of those documents?

24 A No, I didn't assist him. I would pull from
25 our files, but I didn't assist him.

1 Q So, he would not ask you about particular
2 incident occurring there at that Sanford office to say,
3 for an example, create a letter to respond to the PSC,
4 he would do it on his own volition?

5 MS. COWDERY: I'm going to object just
6 because, as I understand the proceeding here, Mr.
7 Brooks is talking about correspondence and
8 documents and information flow that was going on
9 before the 120.57 hearing was filed.

10 MR. BROOKS: Sir, I'm simply asking the
11 young lady if she would have supplied any
12 information and I put no time frame on it, so I
13 don't know how Ms. Cowdery drew that particular
14 conclusion.

15 Any response to us through notice to produce
16 or anything like this, I'm asking the young lady,
17 and it's truly within her venue as office manager
18 of that place. And since that office was dealing
19 with us, Mr. Troy was not present at that office,
20 so Mr. Troy had to get the information somewhere
21 to pass on to us, so my --

22 THE COURT: I understand. I understand.
23 I'm going to overrule the objection. You may
24 answer.

25 BY MR. BROOKS:

1 Q Did you, as office manager of the Sanford
2 office, supply Mr. Troy with any information to compile
3 the documents to respond to requests for them?

4 A I supplied him with information, yes.

5 Q In your direct testimony you made reference
6 to the fact that I supposedly introduced myself as
7 Daniel Dow to Mr. Kramski?

8 A No, I did not say that. I said you
9 introduced yourself as Daniel, not Daniele. You
10 introduced yourself as Daniel Dow.

11 Q Daniel Dow.

12 A Yes.

13 Q So, it is your assertion that when I walked
14 into your office, I walked straightaway past you, past
15 everybody else, to Mr. Kramski's office and introduced
16 myself as Daniele or Daniel, however you want to put
17 it, Dow?

18 A No, I did not say that.

19 I came up to the counter. You did not want
20 to talk to me. Then I took you into Dino's office. I
21 did not say you walked past anybody.

22 Q But, you are certain that I introduced
23 myself as Daniel Dow?

24 A Yes, sir. I am.

25 Q What were the contents of the conversation I

1 had with Dino as Daniel Dow?

2 A You said you were Daniel Dow. You shook
3 Dino's hand, introduced yourself as Daniel Dow, and you
4 took a seat and you proceeded to tell Dino about the
5 problems you were having with Mr. Byrd.

6 Q Ms. Keitt, is it not true, is it not true
7 that on July 11, 1996, I came into your office and you
8 demanded from me a \$500 security deposit and payment of
9 Mr. Byrd's past due account?

10 A That is not true.

11 Q Is it not true that upon talking to you, I
12 demanded to see the regional manager and that's when I
13 was taken to Mr. Dino Kramski?

14 A No, sir. That is not true.

15 Q Is it not true that in response to my
16 question about why a \$500 security deposit, you told me
17 that Mr. Byrd had a record with your company and I did
18 not?

19 A That is not true.

20 Q Is it not true that on July 11th, 1996, in
21 Mr. Kramski's office, the name Daniele Dow came up
22 because Daniele Dow has an account with Florida Public
23 Utilities for 700 Woodbury Place in Longwood, Florida?

24 A That is not true.

25 Q Not true that Daniele Dow does not have an

1 account -- does have a -- is it not true that Daniele
2 Dow has an account with Florida Public Utilities?

3 A I don't know whether Daniele Dow has an
4 account with Florida Public Utilities or not without
5 having the screen here to look it up.

6 Q And it is your testimony that when Daniele
7 Dow's name was mentioned in Mr. Kramski's office, it
8 was not for the purpose to show that a member of the
9 partnership had a record of account with Florida Public
10 Utilities?

11 MS. COWDERY: Objection to the form of the
12 question, because it's assuming that the name
13 Daniele Dow was brought up, and I don't recall
14 hearing --

15 MR. BROOKS: She stated it was, ma'am.

16 MS. COWDERY: Okay. Well, if I'm incorrect,
17 then carry on.

18 THE WITNESS: No, I did not say that. I
19 said, you introduced yourself as Daniel. I never
20 said anything about Daniele Dow.

21 MR. BROOKS: Daniel, Daniele, whatever.

22 MS. COWDERY: Okay.

23 BY MR. BROOKS:

24 Q Is it not true that that person, that name,
25 a person with that name, whether you want to pronounce

1 it Daniel or Daniele, a person with that name has a
2 record of account with Florida Public Utilities?

3 A I do not know.

4 Q Is it not true that the only reason that
5 name was used in the conversation with Mr. Kramski was
6 to show that one of the partners did have a record of
7 account with FPU?

8 A No, because I'm sure that's where Dino had -
9 - he would have had me look up the account. But, it
10 was Daniel Dow and there was nothing ever said.

11 Q Dow, no doubt, Dow, D-o-w, D-a-n-i-e-l or D-
12 a-n-i-e-l-e, neither of those two names show having an
13 account with Florida Public Utilities?

14 MS. COWDERY: Objection, because that's been
15 asked and answered a number of times now. The
16 witness s . she doesn't --

17 MR. BROOKS: She keeps saying, ma'am,
18 Daniel.

19 THE COURT: Okay.

20 MS. COWDERY: She said she doesn't know.

21 THE COURT: I think she's answered the
22 question. She's not aware of an account under
23 either name.

24 BY MR. BROOKS:

25 Q Ma'am, you stated that -- you stated that on

1 that particular day, you reached me and I was supposed
2 to be in the Federal Building in Orlando, is that
3 correct?

4 A That's what you told me.

5 Q Is that correct?

6 A That's what you told me.

7 Q And you reached me?

8 A You called me.

9 MS. COWDERY: For the record, Mr. Brooks,
10 what date are we talking about here?

11 MR. BROOKS: She -- I believe she maintained
12 that this occurred on August 12, ma'am. This
13 whole scenario that she's giving right here, she
14 maintains that it happened on August 12.

15 MS. COWDERY: Okay. Well, may I -- I was
16 thinking your question was referring to July 11th
17 and I'm not sure if the witness knew which date
18 your last question referred to. You said, on this
19 date.

20 MR. BROOKS: She knows what day she
21 testified that I was supposed to be at the Federal
22 Building, ma'am. I don't think she had any
23 problem with that.

24 THE COURT: Well, I do. If you're going to
25 ask the question, you need to -- which date is it?

1 MR. BROOKS: She testified -- I'm asking
2 about what she testified to. She testified August
3 12th that I was supposed to be in the Federal
4 Building in Orlando and called you.

5 THE WITNESS: No, I did not say that.

6 BY MR. BROOKS:

7 Q Okay, ma'am. What is the testimony with
8 regards to this Federal Building you brought up?

9 A The Federal -- the day that the \$160 payment
10 was made, that was on July the 11th. That is the day
11 that you told me you was at the Federal Building.

12 When the payment was brought in, both of the
13 customer service reps knew that I had called you and
14 they knew what the circumstances were. When the
15 payment was brought in, she turned around and told me
16 that that's Mother's Kitchen and they paid \$160.

17 MR. BROOKS: I hesitate to ask the Court to
18 have read back her testimony, but all of these
19 remarks that this woman made were concerning a
20 \$290 payment on August 12, wherein she talked
21 about Daniele Dow.

22 She talked about -- Ms. Cowdery asked
23 her, did Mr. Brooks say anything further to you?
24 She talked about money and receipt on her desk and
25 an extra charge of \$35 that was left. All of this

1 centers around, was supposed to have centered
2 around this \$290 payment.

3 Now she's going to a \$160 payment. So,
4 I think --

5 MS. COWDERY: That's for July 11th, Mr.
6 Brooks.

7 MR. BROOKS: I understand that, ma'am. I
8 understand that.

9 MS. COWDERY: Well, okay.

10 MR. BROOKS: But, the items, the questions
11 that I am asking her and the remarks that she gave
12 in response to your question were centered around
13 a \$290 payment and my being in the Federal
14 Building and talking about coming back in there in
15 the late afternoon with additional funds, okay.
16 Now, --

17 THE COURT: Mr. Brooks, the witness is
18 confused. Be specific as to your questions. What
19 date are you talking about?

20 MR. BROOKS: All right. All right. I'll go
21 over this again, sir. I don't --

22 BY MR. BROOKS:

23 Q On July 11th, 1996 -- on July 11, 1996, is
24 it your testimony, I did not come into the Sanford
25 office?

1 A I do not remember you coming in on July the
2 11th, no.

3 Q On July 11th, 1996, I had no conversations
4 with Dino Kramski or you?

5 A As far as I remember, no, you did not.

6 Q On July 11th, 1996, at no time were you
7 given 520-some-odd dollars?

8 A No, sir.

9 Q And it's your testimony that the only time
10 that you saw me in your office was when \$290 was
11 brought in there on August 12th?

12 A I did not say that was the only time you was
13 in the office, no.

14 Q Whatever times was --

15 A You came back --

16 Q -- was I in the office.

17 A -- to get -- for me to give you money back.
18 You was in there then, but I did not say that was --

19 Q What date was that, ma'am?

20 A That was the 13th of September and you could
21 have been in there one other time, but I don't
22 remember. But, I know you were there when you went in
23 Dino's office. I know you was there then and I know
24 you was there when you came to get the money back.

25 Q So, it's August 12th, 13th of September and

1 maybe one other time, you don't remember?

2 A That's possible, but I don't remember.

3 Q But it was on August 12th that I supposedly
4 gave you some monies and was supposed to bring back
5 additional monies?

6 A No. It was August 12th that you gave money
7 to Dino and he gave it to me and you were coming back
8 with the balance.

9 Q Do you have a document or a billing
10 statement that would show what that balance was
11 supposed to be?

12 A No, I don't.

13 MR. BROOKS: Your Honor, the witness has
14 testified that she did not speak to me, I did not
15 come into that office on July 11th, and at this
16 point, at this point I would like to offer as
17 rebuttal evidence, the tape recording that was
18 brought up earlier.

19 THE COURT: The time that you produced it to
20 the witness?

21 MR. BROOKS: No, sir.

22 THE COURT: Was the witness aware that you
23 were taping?

24 MR. BROOKS: Yes, sir.

25 THE COURT: When did she --

1 MR. BROOKS: Or, let me put it this way.
2 When I called her office, the party answering the
3 phone, I told them that I was calling for Ms.
4 Keitt and to make sure that they informed her that
5 the line was being recorded. Yes, sir. That's
6 clearly shown on the tape.

7 THE COURT: This is a tape recording of a
8 telephone conversation, not your presence with her
9 in the office?

10 MR. BROOKS: No, sir. It goes directly to
11 this July 11 issue and it is of a telephone
12 conversation between Ms. Keitt and I from Orlando,
13 Florida.

14 THE COURT: Ms. Cowdery?

15 MS. COWDERY: I believe this is the tape
16 that was already questioned here earlier today and
17 it was ruled upon as being inadmissible evidence.

18 MR. BROOKS: He reserved --

19 THE COURT: Uh-huh.

20 MS. COWDERY: Is it the same tape?

21 MR. BROOKS: He reserved his ruling on it,
22 ma'am. He did not rule. He said that we would
23 approach it at the time when ms. Keitt got on the
24 stand and she, her account was not the same as
25 mine of that day.

1 MS. COWDERY: Okay. Well, I'm going to
2 object very strongly, because that was part of
3 discovery that I had requested, as I had said
4 before. That I have had absolutely no opportunity
5 to review it, even though it was requested back in
6 December as part of the subpoena. It's something
7 we haven't even questioned the witness on, at this
8 point, as to her knowledge.

9 Like I said, I don't know about the legality
10 of taping without knowledge and I've never -- I've
11 just never even heard about it. I have no way of,
12 you know, authenticating or being prepared for my
13 case on it.

14 THE COURT: I have that problem. The other
15 problem is you're trying to use it for impeachment
16 purposes and my recollection is the witness'
17 testimony is that she received a telephone call
18 from you on July 11th.

19 MR. BROOKS: No, sir. She -- her testimony
20 regarding my supposedly coming back in there with
21 additional money and my being at a building in
22 Orlando, Florida, she directs towards August 12th.

23 THE COURT: No, that's not my recollection.
24 She's been consistent in saying that you called
25 from Orlando on July 11th. That you came to the

1 office and paid \$290 on August 12th. That's the
2 testimony.

3 MR. BROOKS: Your Honor, --

4 THE COURT: You need to check your notes,
5 but that's my recollection. If the purpose of the
6 tape is to show that you called her from Orlando
7 on July 11th, she said that.

8 MR. BROOKS: This -- no, sir. It's not just
9 to show that I called her. It's to show the
10 content of the conversations we were having.

11 The tape clearly shows that this security
12 deposit is that this lady is talking about
13 occurred on July 11th, not on August 12, as she --
14 this 290 -- this \$290 payment on August 12 had
15 nothing at all to do with the payments and the
16 demands made on July 11th.

17 THE COURT: But, your statement as far as
18 the recording -- his concern that an employee
19 other than Ms. Keitt answered the phone and you
20 told that employee that you were recording the
21 conversation?

22 MR. BROOKS: Yes, sir. I did.

23 THE COURT: And your statement is that you
24 did not ask Ms. Keitt, you did not inform her
25 specifically that you were recording the

1 conversation and received her permission?

2 MR. BROOKS: The reason that the statement
3 was made to the employee answering the phone, the
4 first woman answering the phone --

5 THE COURT: Well, it doesn't matter. My
6 question to you is, when Ms. Keitt came to the
7 phone, did you inform her that you were recording
8 the conversation and ask her permission?

9 MR. BROOKS: Ms. Keitt came on the line,
10 sir, yelling my name. I did not get a chance to
11 get a word in edgewise through the first minute of
12 this particular tape.

13 THE COURT: All right. Yes or no. My
14 question is very simple, yes or no.

15 MR. BROOKS: I could not. I could not,
16 because the lady was talking, sir.

17 THE COURT: That's an explanation and you
18 can -- but, the answer is, no?

19 MR. BROOKS: If immediately when she came on
20 there talking, if I was able to tell her that it
21 was being recorded, yes, sir, the answer is, no.

22 THE COURT: And the reason for that is
23 because she came on and talked and then is there
24 any further explanation as far as you advising her
25 about the conversation?

1 MR. BROOKS: I finally did try to get a word
2 in with this lady. She was yelling at me about
3 Dino said and not caring about Mr. Byrd and stuff
4 like this and I was not -- the tape would -- the
5 tape would speak for itself.

6 THE COURT: Any other, as far as the
7 discovery response to the objection, because of
8 failure to provide discovery? And, I think you
9 did so in writing, as far as your explanation
10 about that. Any further response to Ms. Cowdery's
11 objection because of failure to produce the
12 discovery?

13 MR. BROOKS: Ms. Cowdery, that issue was
14 addressed with Ms. Cowdery twice. Once when we
15 had -- when we were under the impression that the
16 tape, along with the other tapes, had been
17 destroyed.

18 As soon as we found that this particular
19 tape was not destroyed, we informed Ms. Cowdery
20 and affidavits were even supplied concerning the
21 circumstances around these tapes. Ms. Cowdery was
22 informed that as soon as I had an opportunity to
23 copy the tape, she would be furnished with a copy
24 of the tape.

25 Unfortunately, at the time that the thing

1 was found, it was near a weekend leading up to us
2 being here today. So, if I had over-nighted it to
3 Ms. Cowdery, Ms. Cowdery would have been here and
4 the tape would have been there. So, I brought it
5 in here with their copies into this court today
6 with me.

7 THE COURT: Any further response?

8 MS. CONDERY: I don't have any further
9 response.

10 THE COURT: I'm going to sustain the
11 objection on failure to provide discovery, but
12 also on, I believe it's a violation of federal law
13 to tape recording without both parties' consent.
14 Any additional questions for the witness?

15 BY MR. BROOKS:

16 Q Ms. Keitt, with regards to this \$290
17 payment, --

18 A Uh-huh.

19 Q -- you stated that -- you stated that the
20 money was placed in your cash box.

21 A That's correct.

22 Q Did you keep records showing entry and exits
23 of funds from your cash box?

24 A Yes, I do.

25 Q Is there a record showing \$290 going into

1 that cash box?

2 A That did not go into my petty cash fund. It
3 just went in the box for safekeeping. So, there would
4 be no entry for that.

5 Q My question to you was, is there a record of
6 the entry of funds in and out of your cash box? You
7 said, yes, sir.

8 My next question to you is, is there a
9 record of this \$290 going in and out of your box?

10 A That -- there is no entry for money going in
11 and out of the box as far as putting in the 290. That
12 was put in the box for safekeeping, it was not money
13 placed in my petty cash fund.

14 Q Do you go into your petty cash box daily?

15 A No. Not necessarily, no.

16 Q Weekly?

17 A It's whenever someone needs money out of the
18 fund. That's when I -- I don't go in the box every
19 day. There's no need to, no.

20 Q I believe you stated that you placed the
21 money and a receipt on the table or your desk?

22 A On my desk.

23 Q Okay. And then you -- then you later placed
24 the money and the receipt into the petty cash box?

25 A In my box, yes.

1 Q When you took it out of your box, what
2 happened to that receipt?

3 A I wrote one receipt for the two payments.

4 Q Ma'am, you said that when the money went
5 into the box, you had the money and the receipt that
6 you placed into the box.

7 A That's correct.

8 Q My question to you is what happened to the
9 receipt that was along with the money when you placed
10 it in the box?

11 A When I took it out of the box, it was still
12 there. When I wrote the one receipt for both payments,
13 I threw that receipt away.

14 Q What about -- you also, in response to Ms.
15 Cowdery, was talking about the inability on your
16 computer system to go back two days, in response to
17 entering it, backdating it and entering the 290 payment
18 on the date on which it was made.

19 Does that also hold true for advancing
20 dates?

21 A I don't understand your question.

22 Q Why wasn't an entry made on the record of
23 account of the \$290 for August 12th?

24 A I did not feel that it was necessary,
25 because it did not cause -- have any effect as far as

1 you getting any notice or anything on that account, so
2 I did not feel, at that time, it was necessary.

3 Q So, you did not -- you did not feel that it
4 was necessary to post it on August 12th?

5 A I could not post it on August 12th on the
6 28th of August. It could not -- the dates come up in
7 the system automatically and I think I understand what
8 you're now saying about advance dates. No, you cannot
9 advance the date for a payment.

10 Q So, in regards to the \$521.72 receipt, the
11 only documents or are there any documents to support
12 your claim about how this receipt came about?

13 A No more than what I say. There's no
14 document, no written document, no.

15 Q What about this receipt makes it different
16 from any of these other receipts that would let you
17 know that this is an in-house receipt?

18 A There's nothing that will let you know that
19 that's an in-house receipt.

20 Q So, if we took these receipts in accordance
21 with the administrative rules governing your utility,
22 if we took these receipts and we put these receipts in
23 order in which the payments were made, then the only
24 record, the only record there would be would be the one
25 that would show \$290 payment, then a \$521 payment?

1 A No, you would not show -- have, because you
2 did not pay 521.

3 Q But the receipt shows we did. It shows
4 \$521, not divided, not separated, \$521.72 cash payment,
5 all at one time.

6 You contend that the 290 receipt, which is
7 also present, --

8 A Uh-huh.

9 Q -- somehow or another, was combined with
10 another figure to come up with this \$521?

11 A That's correct. The 290 plus the next
12 payment you made.

13 Q So, ma'am, my question to you is, anybody
14 not associated with this case went into your office and
15 asked to see the receipt on this account would look at
16 these receipts and see a record of a \$290 payment and a
17 \$521 payment?

18 A No, they would not. They would only see the
19 \$521.71, because there's not a 290 receipt.

20 MR. BROOKS: Your Honor, might I approach?

21 THE COURT: Yes.

22 BY MR. BROOKS:

23 Q I show you here, ma'am, this document that's
24 a customer history. Are you familiar with this
25 document?

1 A Yes, I am.

2 MR. BROOKS: This is the only copy that I
3 have with me, but it's something that you
4 provided.

5 BY MR. BROOKS:

6 Q All right, ma'am. And you're familiar with
7 that document?

8 A Yes, I am.

9 Q Did you have to generate this document?

10 A I don't know, because Darryl could have
11 generated that.

12 Q In what way are you familiar with this
13 document?

14 A I look at those documents daily.

15 Q All right, ma'am. Can you show me on this
16 payment record of this account where there's a payment
17 of \$290?

18 A There is none.

19 THE COURT: What account is that referring
20 to?

21 MR. BROOKS: I'm sorry, sir. The Mother's
22 Kitchen account.

23 THE COURT: Is that -- you have to ask the
24 witness that. You can't tell me that.

25 MR. BROOKS: I'm sorry. I'm sorry, sir.

1 BY MR. BROOKS:

2 Q On this document, what does this document
3 show at the top heading for that document?

4 A Alfred Byrd.

5 Q And what else?

6 A 1744 Airport Boulevard, Sanford, Florida,
7 d/b/a Mother's Kitchen, P.O. Box 134.

8 Q Okay. And, what is the title at the very
9 top of the page?

10 A It says, "Customer Transaction History".

11 Q Okay, ma'am. On this particular document,
12 can you show where it shows that you received \$290?

13 A It does not.

14 Q Can you show where on this particular
15 document, where it would show that any other payment
16 was received with combined with \$290, would equate to
17 \$521?

18 A Not without a calculator and all that, no.

19 MR. BROOKS: Your Honor, I'd like to have
20 this entered as Petitioner's Exhibit --

21 THE COURT: Any objection?

22 MS. COWDERY: I don't think so. That's one
23 of ours. No objection.

24 THE COURT: I think the next numbered
25 exhibit is Petitioner's 7.

1 MR. BROOKS: Is it eight?

2 MS. COWDERY: I think it's seven.

3 THE COURT: The last exhibit I have is the
4 receipts --

5 MR. BROOKS: Yes. Yes, sir. Yes, sir.
6 Sorry.

7 THE COURT: Okay. Without objection, the
8 document's admitted in evidence as Petitioner's
9 Exhibit 7.

10 (Petitioner's Exhibit 7 was admitted in
11 evidence.)

12 BY MR. BROOKS:

13 Q Ms. Keitt, on the 13th of September, 1996,
14 you -- is it your recollection that the serviceman at
15 Mother's Kitchen told you over the phone that there was
16 a leak there at the restaurant?

17 A I don't remember whether it was over the
18 phone or on the radio.

19 Q Ms. Keitt, you stated that on -- with
20 regards to your testimony you centered around August
21 12th, one of the things that was brought up was I was
22 supposed to have told you to change the address on the
23 account?

24 A That's correct.

25 Q Ms. Keitt, can you explain to me why your

1 office would change the address on the account of
2 someone who was not the owner of the account?

3 A We would change an address. It's a name
4 that we would not change. But, if you come in and you
5 say, I'm responsible and I'll be sure that the bills
6 are paid, yes, we would change the address.

7 Q Even though, even though you're maintaining
8 the account is in someone else's name?

9 A Yes, we would still change the address.

10 Q So what you're telling me, ma'am, is
11 hypothetically, if Winn Dixie had an account with
12 Florida Public Utilities and I walked in there one day
13 and said, I want you to change Winn Dixie's account
14 mailing address, you would change it?

15 A Winn Dixie don't do things like that so, no,
16 Winn Dixie, no.

17 Q Have you ever done that for any other
18 account?

19 A Changed a mailing address?

20 Q That somebody other than what you considered
21 to be the owner of the account was requesting?

22 A Yes, we have.

23 Q For a party that was not considered to be
24 the owner of the account?

25 A Yes, we have.

1 Q How many times?

2 A I don't know.

3 Q When?

4 A I don't know.

5 Q You don't know when, you don't know how many
6 times, --

7 A No, I don't.

8 Q -- but you do know you've done it before?

9 A Yes, I do know we've done it before.

10 Q Did you ever contact Mr. Byrd concerning the
11 change of address?

12 A No, I did not.

13 Q Did you ever receive payments on this
14 account from Mr. Byrd other than the \$211 check that
15 was returned?

16 A I don't remember.

17 Q When your serviceman was preparing to leave
18 Mother's Kitchen on the 13th, he contacted you, is that
19 correct?

20 A I don't remember. I talked to him. I don't
21 know whether it was when he was preparing to leave your
22 place or not.

23 Q Did you talk to him while he was still at
24 Mother's Kitchen?

25 A I can't say whether he was still at Mother's

1 Kitchen or out in his truck, but yes, I did talk to
2 him, but I don't know whether he was still at your
3 place.

4 Q Was there a time when he told you that he
5 had red tagged the range at Mother's Kitchen?

6 A Yes, he told me that the range had been red
7 tagged.

8 Q How did he do that?

9 A I don't understand your question.

10 Q Was it by telephone, radio, how did he do
11 it?

12 A I don't remember if it was by telephone or
13 radio.

14 Q Did he say when he told you that whether he
15 was still at Mother's Kitchen or he had left?

16 A He did not say.

17 Q Did you make the decision for the serviceman
18 to turn the gas off to the entire restaurant at
19 Mother's Kitchen on the 13th?

20 A No, I did not.

21 Q Did you convey that decision to him?

22 A Yes, I did.

23 Q And the decision came from who?

24 A Mr. Troy.

25 Q Did the serviceman tell you at that time

1 that there was still serviceable equipment present in
2 the restaurant?

3 A I don't remember if he did or not.

4 Q Is it company policy or is it permissible
5 under the Florida Administrative Code to shut off the
6 fuel supply to an entire facility, because one piece of
7 equipment is inoperative?

8 MS. COWDERY: Objection, it's calling for a
9 legal conclusion from the witness.

10 MR. BROOKS: I'm asking her if it's her
11 policy.

12 THE COURT: No, you're asking her to
13 interpret Florida Administrative Code and she
14 hasn't been shown to have any knowledge of it.

15 MR. BROOKS: Okay, sir. All right, sir.

16 BY MR. BROOKS:

17 Q Is it standard practice with your office, in
18 which you are the office manager, to cut off the entire
19 gas supply for an entire facility when there is one
20 piece of defective equipment and other pieces that are
21 serviceable?

22 A You're asking me a question that I don't
23 have the answer to. That's not my department. That's
24 service.

25 Q When you stated that I came into your

1 office, I believe you said on the 13th, and asked for
2 money back did I state to you that I wanted my money
3 back or that I wanted every dollar that the partnership
4 that Mother's Kitchen had paid on that account?

5 A I don't remember.

6 Q But, you do remember me coming in there
7 asking for money, correct?

8 A Yes, I do.

9 Q Have you ever seen at your office -- strike
10 that.

11 Did you have occasion to talk to Bill
12 McDaniel when he returned to the office from Mother's
13 Kitchen Restaurant?

14 A No, I did not. Who said he returned to the
15 office? They go about their other work. He did not
16 return to the office from Mother's Kitchen.

17 Q Not even that evening when he came in off
18 the road?

19 A They do not report to the office.

20 Q Okay. Any of the paperwork concerning what
21 he did at Mother's Kitchen Restaurant, did you see any
22 of that after the 13th?

23 A Yes, I did.

24 Q In that paperwork, did you see a job order
25 unsigned by me?

1 A No, there was not a job order.

2 Q Was there any job order talking about the
3 equipment at Mother's Kitchen in any of Mr. McDaniel's
4 paperwork?

5 A No, there was not a job order.

6 MR. BROOKS: No further questions, Your
7 Honor.

8 THE COURT: Redirect?

9 MS. COWDERY: One second.

10 REDIRECT EXAMINATION

11 BY MS. COWDERY:

12 Q When the address on the Mother's Kitchen
13 account was changed from the P.O. Box, what address was
14 it changed to?

15 A He asked that we change it to the service
16 address, which was 1744 Airport. He wanted to get it
17 at the restaurant.

18 MS. COWDERY: I have no further questions.

19 THE COURT: All right. Can this witness be
20 released?

21 MS. COWDERY: This witness may be released.

22 THE COURT: No questions from Mr. Keating?

23 MS. COWDERY: Oh, wait a minute.

24 MR. KEATING: No.

25 THE COURT: No? Thank you, ma'am. All

1 right. Let's go off the record for a couple
2 minutes.

3 (Off-the-record discussion.)

4 THE COURT: We'll have the Respondent call
5 one additional witness and then we will adjourn
6 for the evening and I'll say more at the end.

7 MS. COWDERY: All right. Now, we're all
8 set.

9 THE COURT: Come up here and have a seat,
10 please. Would you raise your right hand to be
11 sworn.

12 WHEREUPON:

13
14 being first duly sworn by the Hearing Officer, was
15 examined and testified under oath as follows:

16 THE WITNESS: I do.

17 THE COURT: Go ahead.

18 DIRECT EXAMINATION

19 BY MS. COWDERY:

20 Q Would you please state your name and
21 business address for the record.

22 A William Robert McDaniel. I'm employed at
23 830 West Sixth Street.

24 Q What is your position with the utility?

25 A Service Technician A.

1 Q What are your job responsibilities?

2 A Turn ons, turn offs, appliance repairs, fuel
3 line installation, appliance installation, locates.

4 Q What kind of training have you had?

5 A Numerous classes from all gas installation,
6 piping, service repairs, all the appliance repairs,
7 anything required to get an A position.

8 Q How long have you worked at FPUC?

9 A Eleven years, going on 11 years.

10 MS. COWDERY: I would like to have marked
11 for identification, a job work contract dated
12 6/3/90. I would like you to look at that, Mr.
13 McDaniel.

14 THE COURT: I will mark the document for
15 identification as Respondent's Exhibit J.

16 (Respondent's Exhibit J was marked for
17 identification.

18 BY MS. COWDERY:

19 Q Do you recognize that document?

20 A Yes, I do.

21 Q Is that your name in the middle of the page,
22 ordered by?

23 A Yes, it is.

24 Q Who is the workman's signature at the
25 bottom?

1 A That's my signature.

2 Q Did you prepare this document?

3 A Yes, I did.

4 Q Now, do you know who ordered and signed that
5 work order?

6 A Mr. Byrd signed it. Who ordered it, I -- I
7 wouldn't know who ordered it.

8 Q Do you recall if he signed it in your
9 presence?

10 A Yes, he did.

11 Q What work did you do on June 3rd?

12 A When I arrived there, the pilot oven was out
13 and they could not keep it lit. So, I decided that the
14 pilot was dirty, it needed cleaning. I cleaned the
15 pilot. I lit and cycled the appliance and made sure
16 that it worked properly.

17 Q Was this a new oven or a used oven?

18 A This is a used oven.

19 Q Just in very general terms, can you give an
20 estimate about how old, very general?

21 A I'd say 15 to 20 years old.

22 Q Now, is this the same oven that you worked
23 on at Mother's Kitchen in September?

24 A Yes, it is.

25 MS. COWDERY: All right. Mr. McDaniel --

1 well, first let me -- I would like to have that
2 job work contract entered into evidence.

3 THE COURT: Any objection?

4 MR. BROOKS: Is Ms. Cowdery -- if the copy
5 that Ms. Cowdery is going to put into evidence, if
6 it is clearer than this, I have no objection, but
7 you can't even read the writing on this, so I
8 don't know what I would be --

9 MS. COWDERY: Well, I have the original.
10 It's a blue carbon, which I can enter into
11 evidence.

12 THE COURT: Can you read the writing any
13 better?

14 MS. COWDERY: Excuse me?

15 THE COURT: Is the writing any clearer?

16 MS. COWDERY: Oh, yes, because it's the
17 original. I'm just trying to not destroy the
18 documents. I can show Mr. Brooks.

19 THE COURT: Please do.

20 MS. COWDERY: That's the best we can enter.

21 MR. BROOKS: No, sir. I have no objection
22 to this.

23 THE COURT: Thank you.

24 MS. COWDERY: Would you like me to enter
25 that in the record as the original or is looking

1 at it sufficient or would you like me to enter it
2 into the --

3 THE COURT: Is the handwritten entry, is
4 that relevant?

5 MS. COWDERY: It may be. It depends on the
6 position of -- we could leave it out for now.

7 THE COURT: Well, it certainly is a little
8 clearer. I can read it.

9 MS. COWDERY: I don't think it will become
10 terribly relevant.

11 THE COURT: Perhaps we should put it in.

12 MS. COWDERY: That's okay.

13 THE COURT: Any objection if we put the --
14 well, it's actually the carbon copy, which is the
15 only --

16 MS. COWDERY: Right.

17 THE COURT: -- original document left,
18 correct?

19 MS. COWDERY: Correct.

20 THE COURT: Any objection to that?

21 MR. BROOKS: No, sir.

22 THE COURT: Then the original carbon of what
23 had been copied and marked for identification as
24 Respondent's Exhibit J is admitted in evidence as
25 Respondent's Exhibit 11.

1 (Respondent's Exhibit 11 was admitted in
2 evidence.)

3 BY MS. COWDERY:

4 Q Mr. McDaniel, did you go to the Mother's
5 Kitchen Restaurant on September 13th?

6 A Yes, I did.

7 Q What was the purpose of going there?

8 A It was a turn on call. SONP turn on.

9 Q Make sure you speak clearly for the court
10 reporter. What was the purpose of going there?

11 A That's the SONP turn on.

12 Q What is S-O-N-P?

13 A It's a form that they use for a -- it was
14 off for non pay.

15 Q To your best recollection, about what time
16 did you leave the office?

17 A Somewhere between 8:30 to 9:00 o'clock, I
18 can only say. I start at 8:30, so I'd have to say at
19 least by 9:00 o'clock I did or 8:15 -- 8:45, I mean.

20 Q Do you recall where you went first that day?

21 A My first call would have been Mother's
22 Kitchen.

23 Q Did you get any instructions from Diane
24 Keitt about the Mother's Kitchen account before you
25 left?

1 A As I was heading to Mother's Kitchen, she
2 radioed me that I had to tell any person there at the
3 time she didn't say anybody's name, she just said that
4 they would need to call the office.

5 Q What happened when you got to the
6 restaurant?

7 A When I stopped at the restaurant, I parked
8 in front of the meter set, which was about 20 feet from
9 the door. I knocked on the door and somebody answered
10 the door. There was three persons in the building at
11 the time when I entered the building.

12 Q Was there anybody outside when you got
13 there?

14 A Nobody was outside when I entered.

15 Q Are you sure about that?

16 A I am positive.

17 Q What happened when you opened the door and
18 went in?

19 A Somebody introduced -- let me in, said come
20 on in. I said, I'm here to turn the gas on and you
21 need to call the office.

22 Q Did you say anything else you can think of?

23 A No.

24 Q Then what did you do?

25 A I said I needed to see -- oh, I did say

1 something. I did said, I need to see the gas
2 appliances.

3 Q And what did you do?

4 A After I told him he needed to call Diane at
5 the office, I went ahead and made my inspection of the
6 appliances to make sure there was no open lines, that
7 the pilots in all the appliances would be safe. And
8 then, I went outside and started my test.

9 Q What test is that?

10 A We do a meter test. When an account is
11 turned off, before you can turn it back on, you have to
12 run a meter test or a minometer test.

13 Q What does that show you?

14 A This will show me, when you start the test,
15 if there's any consumption in the building with
16 everything being off, that there is the possibility of
17 a leak.

18 Q Did you then do that?

19 A At this time, we were running the test and
20 at the time, within a minute and a half, almost two
21 minutes, there shows a leak.

22 Q Tell me, when you said "we", you mean
23 yourself?

24 A Myself.

25 Q How did you know there was a leak? What did

1 you look at?

2 A On different types of meters there will be
3 different size dials from quarter-foot, half-foot to
4 one-foot. Each one would be a time limit that you
5 would watch the dial and in that time, if it shows any
6 consumption, the dial will move and then there is a
7 leak somewhere.

8 Q Is that the meter that's in place or do you
9 bring something?

10 A That is the meter that is in place on some
11 accounts.

12 Q What about Mother's Kitchen?

13 A At this account there was a quarter-foot
14 dial and that's where the five-minute test is required.

15 Q Did you have to put anything on it, any
16 gadget?

17 A No.

18 Q You just looked at the meter?

19 A Yes, ma'am.

20 Q What did you do next?

21 A I went in, I noticed there was a leak. I
22 actually will mark it again to see if, you know,
23 something just might go wrong, but within another
24 minute it showed more consumption. So then, I proceed
25 to go inside to see if I could find it.

- 1 Q Okay.
- 2 A So, I go back into the building.
- 3 Q And what happened?
- 4 A At this time, I tell them that I found a
5 leak. There's a leak on the system. And then --
- 6 Q Who did you talk to?
- 7 A Actually, I was talking to Mr. Brooks.
- 8 Q What was Mr. Brooks doing at the time?
- 9 A He was on the phone.
- 10 Q Did he acknowledge you in any way?
- 11 A Yes, he did. I think he said, a leak, what
12 do you mean there's a leak?
- 13 Q How did he do that if he was talking on the
14 phone?
- 15 A He stopped for a second and he answered me.
- 16 Q What else did he say?
- 17 A Well, when he was talking by the phone, I
18 started to proceed to find where it might be.
- 19 Q Find where the leak might be?
- 20 A Yes, ma'am.
- 21 Q So the only thing Mr. Brooks told you at
22 that point is how could there be a leak?
- 23 A Yeah, while he was talking to somebody else.
- 24 Q Okay. Now, at this point, is Mr. Brooks the
25 only one in the kitchen?

1 A I think there was somebody else in the
2 kitchen and there was an elderly lady in the kitchen.
3 Another young man and an elderly lady.

4 Q Did they take an interest in what was going
5 on?

6 A Not right at the moment. I think at the
7 time, Mr. Brooks was the only one that really was in
8 probably my area.

9 Q Now, what did you do next?

10 A I proceeded to look at the fryer and soap
11 the gas connections, which were flexible connectors on
12 both of these units.

13 Q Did you say you started by looking at the
14 fryer?

15 A Yes, ma'am.

16 Q Next I go to the flex connector, because
17 both of them are side by side. I remember soaping that
18 and in that time, you could get an odor of natural gas,
19 in which the account has. So, I --

20 Q Was that on the oven or on the fryer?

21 A It was on the range then.

22 Q All right. And then, what did you do next?

23 A To where I thought it was -- I determined
24 that I thought it was on the range and in the area that
25 I thought it was is a cover plate and the cover plate

1 has to be removed to see any of the fittings or any of
2 the dials or anything of that oven.

3 Q What did you do then?

4 A I did take off those two knobs, I took two
5 screws loose and the cover plate comes off. Then I
6 soaped the fittings and the connectors in that area.

7 Q Do you have a special kind of soap that you
8 use?

9 A It's what we call leak solution. It's a
10 soap-type fluid that -- we mix it up and it's used to
11 detect --

12 Q What did you find in this case?

13 A I found on the pilot adjustment screw that
14 goes to the safety valve, it was leaking out a screw.
15 There's a screw there. The adjustment screw had
16 bubbles coming out in that area.

17 Q Now, did you try to tighten the threads?

18 A I did try to tighten it up, but this screw,
19 if you do tighten it all the way, it's the type of
20 screw that will shut the gas off completely to the oven
21 safety.

22 Q So, is there any way that you can fix this
23 problem by tightening the screw down?

24 A This one, you would not.

25 Q Because what would happen if you would

1 tighten the screw down?

2 A If you tighten it down, then you shut off
3 the flow to the pilot safety valve.

4 Q Are there other screws in an oven that can
5 get loose and have to be tightened?

6 A Not that should be loosened, that I would
7 say could go wrong.

8 Q And this can certainly -- strike that.

9 Okay. Now, at this point, had you made any
10 decision on whether or not you'd have to replace a part
11 or not replace a part?

12 A For the sloppiness and the tightness of the
13 screw, I would say that the part had to be replaced.

14 Q Why would that be?

15 A Because screwing it all the way in, which it
16 would not, even if you locked it in there, it was
17 bubbling. And, when the screw was all the way out to
18 let the gas flow through the safety valve, then it
19 would leak twice as much.

20 Q So, if you didn't replace it --

21 A We would always have a leak.

22 Q Is that considered an unsafe condition?

23 A Yes, ma'am.

24 Q All right. Now, what did you do next?

25 A I explained, I think actually I showed them

1 actually where the leak was. Mr. Brooks was still on
2 the phone. He pointed to another gentleman. He came
3 over there and he looked at the area where I was
4 working on the range and I showed him where that was.

5 Q What was --

6 A He asked me then, what would I -- what has
7 to be done or -- actually he said first, there couldn't
8 be any, because we did so much work there before that
9 there shouldn't be anything there.

10 Q Any leak you mean?

11 A Yeah. That the appliances were new and we
12 just did so much work for that. But, it ended up being
13 for the fryer only is what --

14 Q So, previous work wasn't on that particular
15 adjustment screw?

16 A Not on that particular adjustment, no.

17 Q Now, Mr. Brooks was on the phone. Did you
18 hear him talking to anyone or did you hear how his
19 attitude was?

20 A Yeah, he was upset.

21 Q All right. Now, what happened next after
22 you showed somebody where the leak was?

23 A This is when I was telling Mr. Brooks what
24 would actually have to be done. Either he has to sign
25 a job order for the repair or we would have to

1 disconnect, red tag the appliance to make it safe.

2 Q Was he still on the phone?

3 A Yes, he was.

4 Q How did he communicate with you then?

5 A He would put it down. He would say
6 something to me at the same time. And then he would
7 say something to them like, now your man just found a
8 leak and I would -- you know, he was upset.

9 Q Was he yelling?

10 A Yes, he was.

11 Q All right. Now, I want you to tell us in as
12 much detail as you can, what you told Mr. Brooks.

13 A I said that if he wanted the appliance
14 repaired, he'd have to sign a job order or we'd have to
15 disconnect it and red tag it to make it safe.

16 If he signs the job order, we will repair
17 it, but we might not have the part to replace it, we
18 might have to order it.

19 At that time, he said that he wasn't going
20 to sign anything. And then, so I commenced to go
21 outside to disconnect and red tag it.

22 Q How did you do that?

23 A Well, I went outside. I did the hazardous
24 condition. I got a red tag and I came in with a cap
25 and a plug. That's a flexible connector. I took it

1 right loose, the flexible connector right at the elbow
2 coming out of the unit and capped it off and plugged
3 the unit off.

4 Q Okay.

5 A I fill out the red tag. I fill out a
6 hazardous condition. And, I ask Mr. Brooks to sign.

7 Q What did he say?

8 A He refused to sign.

9 Q Did you explain anything to him or attempt
10 to explain anything to him about the hazardous
11 condition report and what it meant?

12 A I told him that these are just things saying
13 that we're trying to eliminate the company's -- to show
14 the company that we're not going to be responsible if
15 anything happens after we do this. We did not repair
16 it. We just make it safe by disconnecting and red
17 tagging it.

18 Q Did he say anything?

19 A He said he wasn't going to sign anything.
20 And he said something of the sort that, okay, we're
21 going to lose this. We've got all this to cook or
22 something like that. And then, we're going to lose
23 this and then we'll end up suing them. That was the
24 last I -- I remember going, turning, putting the
25 hazardous condition, the red tag on the range, and I

1 walked outside.

2 Q But, you heard him say just, he'd sue the
3 company?

4 A Yes, he would. Or, we'd take them to court
5 and sue them.

6 MS. COWDERY: I have a copy to be identified
7 as the report of hazardous condition or corrective
8 action required, for identification.

9 THE COURT: I'm marking the document for
10 identification as Respondent's Exhibit K.

11 (Respondent's Exhibit K was marked for
12 identification.)

13 BY MS. COWDERY:

14 Q Mr. McDaniel, do you recognize this report?

15 A Yes, I do.

16 Q Is this the very same report you were just
17 talking about, filling out at Mother's Kitchen?

18 A Yes, it is.

19 Q Did you fill this out?

20 A Yes, ma'am.

21 Q Did you write everything on here that we see
22 on here when you were at Mother's Kitchen or did some
23 of it happen later?

24 A No, I wrote up this as always. I wrote
25 everything on here at Mother's Kitchen.

1 Q So, at Mother's Kitchen it said, when you
2 left a copy there it said, left copy on range, customer
3 would not sign?

4 A Yes, ma'am.

5 Q Okay. Now, after you -- now, where did you
6 say you put this hazardous condition report?

7 A Right on the range top, right on the burner
8 top.

9 Q Now, did you do anything else before you
10 left?

11 A The fryer had to be lit.

12 Q Why did the fryer have to be lit?

13 A Because it would be the only other appliance
14 and it has to be checked for safety to make sure that
15 it works properly.

16 Q And did it work properly?

17 A Yes, ma'am.

18 Q So, what did you do?

19 A I walked out the door.

20 Q What happened next?

21 A I was getting ready to leave in the truck
22 when I was -- when somebody called me on the radio, the
23 office did.

24 Q What did they say?

25 A They told me to turn the meter off and lock

1 it.

2 Q And did you do that?

3 A Yes, ma'am.

4 Q Then what did you do?

5 A Doing this, I have to write up one more card
6 in the truck and I have to code the card in the truck,
7 and I left.

8 Q Did you go back to Mother's Kitchen and tell
9 them anything?

10 A Yes, ma'am. I did. I told them the meter
11 was off and locked before I left.

12 Q Okay. Mr. McDaniel, did you, at any time
13 when you were at Mother's Kitchen, do anything along
14 the lines of going to the oven and lighting a match to
15 find a leak?

16 A No, ma'am.

17 Q Why not?

18 A It would be an unsafe practice.

19 Q Would you ever do that?

20 A No, ma'am.

21 MS. COWDERY: I'm sorry. Just one minute to
22 see if I've got everything here.

23 THE COURT: All right. Go ahead.

24 BY MS. COWDERY:

25 Q Mr. McDaniel, when you went into Mother's

1 Kitchen initially and you told Mr. Brooks or somebody
2 that they needed to call your office, do you remember
3 if they called the office?

4 A They called the office.

5 Q Are you sure about that?

6 A Yeah. Yes, I am.

7 Q Do you know how they got the phone number?

8 A I gave it to them.

9 Q Do you remember that yourself?

10 A Yes, ma'am.

11 Q You gave them the phone number?

12 A Yes, 'am.

13 Q When did that occur?

14 A Right when I went in the door. That was
15 after I told him he had to call the office, that was
16 the first thing he asked me, do you know the phone
17 number there.

18 Q And then he called right away?

19 A Yes, ma'am. He was on the phone when I came
20 back in.

21 Q Do you know if he was still on the phone to
22 Diane or if he was now talking to Mr. Troy?

23 A At that time, I wouldn't know. I wouldn't
24 know which one it was.

25 Q Okay. Mr. McDaniel, I'm just not sure if I

1 asked this question, so I'm going to ask it again.

2 At some point, did you talk to Diane to tell
3 her anything about the situation or did you -- let me
4 rephrase that.

5 At any time while you were at Mother's
6 Kitchen, did you talk to Diane?

7 A When I was doing the meter test.

8 Q Tell me about that.

9 A When I was doing the meter test, somebody
10 called on the phone -- I mean, on my radio and it was
11 Diane from the office. She asked me if there was a
12 problem at the account and I told her, well, I just had
13 found a leak.

14 Q Do you know why she called you?

15 A No.

16 Q Did she say anything to you after that?

17 A No.

18 Q Anything else you said to her?

19 A No.

20 MS. COWDERY: I have no further questions.

21 THE COURT: Cross examine?

22 MR. BROOKS: Yes, sir.

23 CROSS EXAMINATION

24 BY MR. BROOKS:

25 Q Mr. McDaniel, routinely when you go out to

1 do a reconnect, does the office manager call you at the
2 site and ask you if there were problems at the site?

3 A Sometimes.

4 Q Is that a standard practice?

5 A They might call any time. The radio can go
6 any time, you know.

7 Q Did it seem strange to you that she would
8 call you at that point and ask you if there was a
9 problem at the account?

10 A No.

11 Q It did not.

12 You stated that you gave someone the phone
13 number for them to call the office after you told them
14 Diane wanted someone to call, is that correct?

15 A That's correct.

16 Q Who did you give the number to?

17 A I gave the number to you.

18 Q To me?

19 A Yes, I did.

20 Q Mr. McDaniel, you stated that when you came
21 in there, when you came into, I believe you said it was
22 a -- you stated when you came into the kitchen area,
23 the area of the range, you said, and correct me if I'm
24 wrong here, you said something to the effect that, I
25 was the only one in your area?

1 A You were actually -- there was nobody right
2 at the range with me. You were standing around, I
3 guess there's a shelf there or so and you were
4 preparing meat and you had a phone.

5 Q You were in the kitchen area, is that
6 correct?

7 A The kitchen, I was standing --

8 Q In front of a gas-operated range, correct?

9 A When I told you to call?

10 Q Yes, sir.

11 A I wasn't standing right in front of the
12 range, no. The range was to my back. I was facing you
13 and you were standing on the other side of this counter
14 or table when I told you about the phone call.

15 Q And I was on the telephone?

16 A You were going to call. You asked me what
17 the number was and I told --

18 Q No, sir. I asked you if I was on the
19 telephone when you did that.

20 A No.

21 Q So, after you told me that, I got on the
22 telephone?

23 A I guess you were going to get on the phone.
24 You asked me the phone number and I told you what the
25 phone number was.

1 Q Was I going to or did you actually see me
2 get on the telephone?

3 A Not right at that moment.

4 Q So, when you were responding to that
5 question about whether I called Diane when you came in
6 and you said for someone to call Diane, you don't know
7 if I called her or not, do you?

8 A When I went back out to the truck, she was
9 calling -- when she told me at the meter test, she
10 called me and she was talking to you. So, that's what
11 I assumed, she was talking to you.

12 Q You assumed that?

13 A Yes, I did.

14 Q You don't know that?

15 A I do not know that.

16 Q She was the one who asked for the meter
17 test?

18 A No, no.

19 Q This pilot screw that you make reference
20 to, --

21 A Right.

22 Q -- the pilot adjustment screw, you stated
23 that if that screw is screwed in to the point to where
24 this leak you found stopped, it would shut off the gas
25 supply?

1 A You will not have no gas to the oven safety
2 valve.

3 Q To the oven safety valve?

4 A The oven safety valve that's down on the
5 bottom compartment, which is by the burner.

6 Q So, by tightening that screw down, you kill
7 the gas going to the --

8 A Safety --

9 Q -- safety valve?

10 A You will not have no pilot. You will not
11 get the pilot to the oven to work.

12 Q There would be no pilot light, no oven?

13 A Right.

14 Q Would there still be a leak?

15 A Yes, there was, on that particular valve.

16 Q Did you tighten it all the way down?

17 A Yes, I did.

18 Q Sir, how long were you at Mother's Kitchen
19 on this particular call?

20 A An hour.

21 Q Is that the -- is that a normal time for
22 that type of function, turning on the --

23 A On a commercial account. It will take a
24 little bit more on a residential. It depends on how
25 many appliances are on a commercial account and if you

1 don't have to disconnect or red tag anything, because
2 of the amount of paperwork.

3 Q So, the fact that you had to red tag --

4 A Disconnect it, physically disconnect it, --

5 Q -- and disconnect it and stuff --

6 A -- red tag it.

7 Q -- is what accounted for the hour, for your
8 being there for an hour?

9 A And plus explain, probably, things to you.

10 Q You're saying you explained things to me.

11 At the time that you were doing all of this,
12 you testified that I was still on the phone, is that
13 correct?

14 I believe you said that I would take the
15 phone from my ear, talk to you, and then go back to
16 talking on the phone, is that correct?

17 A From the time I told you to call somebody,
18 you were on the phone until I left.

19 Q But, I was still conversing with you while
20 on the phone, conversing with you about the pilot light
21 and about the range having the leak?

22 A Yes, sir.

23 Q There was no problems with the fryer, is
24 that correct?

25 A No, sir.

1 Q And once you capped, I believe you said you
2 capped the lines to the range?

3 A Yes, sir.

4 Q Once you capped those, the range posed no
5 problem, did it?

6 A No. It was safe. Safe condition.

7 Q So, with the range being capped, there was
8 no hazardous condition with that fryer, was there?

9 A No, the fryer was okay.

10 Q The fryer was then a serviceable piece of
11 equipment that would function with the gas supply going
12 to it?

13 A Yes, sir.

14 Q When you started to leave the facility, the
15 fryer, in fact, was functioning?

16 A Yes, sir.

17 Q And you were preparing to go to your next
18 call?

19 A Yes, sir.

20 Q So, as an expert and in your opinion, there
21 was absolutely no need for the gas service to be cut
22 off to that facility?

23 A Not from my point of view, no.

24 Q And it was Ms. Keitt who contacted you and
25 told you to turn everything off?

1 A She was in the office, yes. She was the one
2 that was on the radio.

3 MR. BROOKS: Nothing further, Your Honor.

4 THE COURT: Redirect?

5 MS. COWDERY: I have a couple of questions.

6 REDIRECT EXAMINATION

7 BY MS. COWDERY:

8 Q Mr. McDaniel, at one point you said that
9 when Diane Keitt called you, you assumed she was
10 talking to Brooks. What do you mean by that?

11 A Well, I just figured he was on the phone and
12 that she called at the time and that they were talking
13 together to see if there was a problem.

14 Q So, you felt like she had talked to somebody
15 from the Kitchen and she called to find out --

16 A Right.

17 Q -- and get your side of it, as it were?

18 A Right. Yes.

19 Q Is that correct?

20 A Yes.

21 Q Mr. Brooks asked you a question, that there
22 would be, because the fryer was working and the oven
23 was capped off, there would be no need to turn off the
24 gas and you said, not from my point of view. What do
25 you mean, from your point of view?

1 A For company procedures, as long as I have
2 one appliance working and everything else is safe, that
3 I could leave the account on.

4 Q Okay. From the point of safety of the
5 appliances as to how you have left those appliances?

6 A Yes, ma'am.

7 Q That doesn't take into consideration any
8 other orders you might get regarding the account?

9 A No, ma'am.

10 MS. COWDERY: Okay. Nothing further.

11 THE COURT: Anything else?

12 MR. BROOKS: Yes, sir. One.

13 REXCROSS EXAMINATION

14 BY MR. BROOKS:

15 Q Mr. McDaniel, in regarding what Ms. Cowdery
16 asked you concerning your conversation with Keitt, did
17 Diane Keitt tell you she was on the phone with me?

18 A Not that I can remember.

19 Q Did Diane Keitt tell you that she had talked
20 with somebody at Mother's Kitchen when she asked if
21 there was a problem?

22 A I don't remember.

23 MR. BROOKS: Nothing further, Your Honor.

24 THE COURT: May this witness be released?

25 MS. COWDERY: This witness may be released.

1 THE COURT: Thank you. I appreciate your
2 patience today.

3 All right. Unfortunately, we're not going
4 to be able to conclude this matter this evening.
5 We still have three to go. But, so we will be
6 adjourning.

7 As we discussed off the record, no
8 additional discovery and it does not affect
9 rebuttal. I'll call all the parties as soon as I
10 get back to my office on Friday and we'll see if
11 we can find a date as soon as possible.

12 Anything else we need to do before we
13 adjourn?

14 MS. COWDERY: Let me make sure I've got my
15 exhibits. I've lost my list. Is it cheating to
16 ask you if all my exhibits are in?

17 THE COURT: Just two questions I have as far
18 as exhibits are concerned. My last exhibit is
19 Number 11, which is the job work contract. A
20 report of hazardous condition --

21 MS. COWDERY: Is the report of hazardous
22 condition entered?

23 THE COURT: No.

24 MS. COWDERY: I would like to move the
25 hazardous condition in, please.

1 THE COURT: Mr. Brooks, any objection to the
2 report of hazardous condition being admitted in
3 evidence?

4 MR. BROOKS: No, sir.

5 THE COURT: Without objection, what had been
6 marked for identification as Respondent's Exhibit
7 A is admitted in evidence as Respondent's Exhibit
8 12.

9 (Respondent's Exhibit 12 was admitted in
10 evidence.)

11 THE COURT: The court reporter has asked me
12 to ask you, is anyone going to order this part of
13 the transcript at this time?

14 MS. COWDERY: Oh, yes. That was a yes.

15 THE COURT: That was a yes? Okay. I didn't
16 see it. Anything else we need to do before we
17 recess?

18 MR. BROOKS: Sir?

19 THE COURT: Yes.

20 MR. BROOKS: I'm sorry, sir. Sir, we would
21 like to order a copy of the transcript.

22 THE COURT: The Respondent said they would
23 pay for it or ordered it initially? You're
24 entitled to a copy, but you've got to pay for it.
25 Do you want to talk about who's going to pay for

1 it and how much? Who made the initial order?

2 MS. COWDERY: I'm ordering it.

3 THE COURT: You're ordering it. Okay. So,
4 the Respondent's ordering it, so if you want a
5 copy, --

6 MS. COWDERY: Talk to the court reporter and
7 see how she wants to --

8 THE COURT: -- talk to the court reporter
9 after we're off the record. Anything else?

10 MR. BROOKS: No.

11 MS. COWDERY: No.

12 THE COURT: If there's nothing further, then
13 thank you very much.

14 (Hearing concluded at 7:30 p.m.)
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25

C E R T I F I C A T E

1
2 THE STATE OF FLORIDA,)
3 COUNTY OF SEMINOLE,)
4

5 I, Suzette A. Bragg, Notary Public, State of
6 Florida at Large,

7 DO HEREBY CERTIFY that the above entitled
8 and numbered cause was heard as hereinabove set out;
9 that I was authorized to and did transcribe the
10 proceedings of said hearing, and that the foregoing and
11 annexed pages, numbered 1 through 345, inclusive,
12 comprise a true and correct transcription of the
13 proceedings in said cause.

14 I FURTHER CERTIFY that I am not related to
15 or employed by any of the parties or their counsel, nor
16 have I any financial interest in the outcome of this
17 action.

18 IN WITNESS WHEREOF, I have hereunto
19 subscribed my name and affixed my seal, this 23rd day
20 of March, 1998.

21
22 
23 Suzette A. Bragg, Notary Public,
24 State of Florida at Large
25 Commission Expires: February 21, 2001



Suzette A. Bragg
MY COMMISSION # 00618578 EXPIRES
February 21, 2001
BONDED THRU TROY PAIR REBURANCE, INC.

MOTHER'S KITCHEN LTD.
1744 WEST AIRPORT BLVD.
SANFORD, FLORIDA 32771

MAILING ADDRESS: POST OFFICE BOX 1363 SANFORD, FLORIDA 32772

FLORIDA PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BLVD.
TALLAHASSEE, FLORIDA 32399-0850

RE: COMPLAINT AGAINST THE FLORIDA PUBLIC UTILITIES COMPANY:

ATTN: MR. DOUG MARTIN:

DEAR SIR:

THIS LETTER IS A FOLLOW UP TO THE TELEPHONIC CONVERSATION WE HAD ON 9/17/96 DURING WHICH IT BECAME OBVIOUS THAT MY ATTEMPT TO EXPLAIN THE NATURE OF THE COMPLAINT WAS CONFUSING TO YOU; AS PROMISED HERE IS THE BASIS FOR MY COMPLAINT:

1). IN MARCH 1996 MEMBERS OF OUR GROUP WENT TO FLORIDA PUBLIC UTILITIES TO HAVE GAS SERVICE STARTED AT OUR PLACE OF BUSINESS.

MR. ANTHONY BROOKS TOOK TWO HUNDRED DOLLARS AS SECURITY DEPOSIT AND GAVE IT TO THE COMPANY EMPLOYEE.

2). SERVICE WAS COMMENCED.

3). IN JULY 1996 THE COMPANY IMPROPERLY AND MALICIOUSLY TURNED THE SERVICE OFF AT THE REQUEST OF ALFRED BYRD STATING THAT MR. BYRD HAD THE RIGHT TO DO SO.

4). UPON OUR CONTACT WITH THE OFFICE IN JULY 96 TO HAVE SERVICE RESTORED INDIVIDUALS IDENTIFYING THEMSELVES AS DINO DIVISION MANAGER AND DIANE OFFICE MANAGER STATED THEIR POSITION WAS THAT ALFRED BYRD HAD THE RIGHT TO TURN THE GAS OFF.

THAT WE WOULD HAVE TO OPEN ANOTHER ACCOUNT AND PAY ANOTHER SECURITY DEPOSIT.

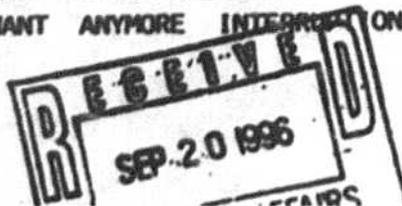
DIANE STATED WHEN WE SAID WE WOULD OPEN ANOTHER ACCOUNT THAT WE WOULD HAVE TO PAY \$500.00 PLUS PAY MR. BYRD'S BILL AND PAY FOR A BAD CHECK MR. BYRD HAD GIVEN THEM.

WHEN WE OBJECTED TO THIS ATTEMPT AT EXTORTION FOR MR. BYRD'S BENEFIT AND THE COMPANY'S BENEFIT AND TOLD THEM WE WOULD DO ONE OR THE OTHER BUT NOT BOTH.

DIANE AND DINO THEN SAID THEY WOULD ALLOW SERVICE TO REMAIN IN THE COMPANY'S NAME AS IT WAS IF WE PAID FOR MR. BYRD'S BAD CHECK AND PAID ON HIS BACK BILL SINCE IT WAS IN MOTHER'S KITCHEN NAME.

WE AGREED AND TOLD THEM WE DID NOT WANT ANYMORE INTERRUPTIONS ON MR. BYRD'S SAY SO IF WE PAID.

5). THE COMPANY THEN DID THE FOLLOWING:



R-A/R-1

- (A). TOOK MONEY DIRECTLY FROM MR. BROOKS FOR A BAD CHECK PRESENTED BY MR. BYRD AND DIRECTED MR. BROOKS FUNDS DIRECTLY TOWARDS THAT END.
(B). TOOK MONEY DIRECTLY FROM MR. BROOKS AND HIS ASSOCIATES AND DIRECTED IT TOWARD MR. BYRD'S PAST DUE AMOUNTS.

BY DOING SO THE COMPANY ACKNOWLEDGED MOTHER'S KITCHEN RIGHT TO THE ACCOUNT, OR IN THE ALTERNATIVE COMMITTED FRAUD BY TAKING MR. BROOKS AND ASSOCIATES MONEY AND ILLEGALLY PAID ANOTHER PERSON'S BILL WITH IT.

(C). THE SERVICE WAS RESTORED.

6). ON AUGUST 12, 1996 THE COMPANY CAME BACK OUT AND DISCONNECTED SERVICE FOR WHAT IT CLAIM TO BE PAST DUE AMOUNTS SUPPOSINGLY HAVING NOTHING TO DO WITH MR. BYRD.

7). ACCORDINGLY THE COMPANY WAS PAID THE AMOUNT IT CLAIM WAS PAST DUE AND ASKED TO RESTORE SERVICE. THEY PROMISED TO RESTORE SERVICE ON AUGUST 13, 1996 AFTER TAKING \$261.00 FROM MR. BROOKS' ASSOCIATES.

8). HOWEVER AFTER TAKING THE MONEY THEY ASSERTED MR. BYRD HAD BEEN BACK THERE AND THEY WOULD HAVE TO DISCONNECT SERVICE EVEN IF THEY RESTORED IT BECAUSE MR. BYRD WAS DEMANDING IT.

THE SERVICE TECH WHICH WAS STANDING THEIR LISTENING TO ARGUMENTS; WHO SUPPOSEDLY HAD COME TO TURN THE GAS ON, WAS INSIDE OF OUR STOVE'S CONTROL PANELS WITHOUT THE GAS BEING ON.

9). AS HE HEARD US DISCUSSING CALLING THE HEADQUARTERS AND A LAWYER HE DEPARTED THE BUILDING RETURNING APPROXIMATELY FIVE MINUTES LATER FOOLED AROUND WITH THE STOVE AND SAID HE WAS GOING OUT TO TURN THE GAS ON NOW.

HE CAME BACK INSIDE AND PROCLAIMED A GAS LEAK ON THE STOVE. WHEN ASKED WHERE HE SAID HE WAS GOING TO CHECK. HE THEN PLACE A SOLUTION IN AN AREA WHERE HE HAD BEEN FOR APPROXIMATELY THIRTY MINUTES WHILE THE TELEPHONE CONVERSATIONS WERE GOING BACK AND FORTH BETWEEN THE OFFICE AND US. HE PROCLAIMED THE LEAK WAS ON A CONTROL KNOB INSIDE OF THE STOVE IN THE AREA HE HAD BEEN ALL THE WHILE.

NOTE: THE KNOB IN QUESTION IS WITHIN THE STOVE AND REQUIRE SOME DISASSEMBLY TO GET AT. IT IS A CONTROL NEITHER MANAGEMENT OR EMPLOYEES EVER BOTHER. THE LAST INDIVIDUALS TO SERVICE THE STOVE WAS FLORIDA PUBLIC UTILITIES FOR WHICH WE PAID THEM \$200.00 PLUS DOLLARS.

NO OTHER TECH WHO CAME TO TURN THE GAS ON OR OFF EVER WENT INTO THE STOVE TO DO SO. THE STOVE DID NOT LEAK PRIOR TO TURN OFF AND PUBLIC UTILITIES EMPLOYEES BOTHERING IT.

THE EMPLOYEE THEN PROCLAIMED EVEN IF THEY TOLD HIM TO TURN THE GAS BACK ON NOW, HE WOULD JUST HAVE TO TURN IT OFF AGAIN BECAUSE OF THE LEAK.

HE WAS TOLD TO FIX IT AND WE WOULD PAY WHATEVER THE COST TO REPAIR IT AND ARGUE ABOUT THE CAUSE LATER.

HE STOOD THERE AND SAID IF HE DID REPAIR IT; HE STILL WOULD NOT BE ABLE TO TURN THE GAS BACK ON UNTIL DTANE SAID SO.

10). DIANE WAS CALLED AND STATED THEY WOULD NOT BE ABLE TO TURN THE GAS BACK ON IN ANY CASE BECAUSE MR. BYRD DID NOT WANT IT ON.
(COMPLETE DETAILS OF THE OCCURENCES ARE WITHIN THE ATTACHMENT AFFIXED HERETO).

THIS COMPLAINT IS TWO PART:

A. THE COMPANY IMPROPERLY DENIED DIRECTED FUNDS PAID THEM FOR SERVICE BY FORCING US TO PAY FOR ANOTHER CUSTOMER'S ACCOUNT.

OR:

PARTICIPATED IN AN EXTORTION OR FRAUD ACTIVITY TO ASSIST MR. BYRD'S INTEREST AND THEIR OWN.

OR:

MALICIOUSLY AND INTENTIONALLY DENIED SERVICE TO A CUSTOMER.

AND

B. THE COMPANY'S EMPLOYEES WITH INTENT TO DO HARM TO THE BUSINESS ALLIED WITH MR. BYRD AND DAMAGED BUSINESS PROPERTY AS PRETEXT TO REFUSAL TO PROVIDE SERVICE IN AN EFFORT TO COVER THEIR PRIOR WRONGFUL ACTS.

AS PROOF OF THIS THE BUSINESS WOULD OFFER THE FOLLOWING:

WITNESS: HARRY O. JOHNSON- AARON WILLIAMS- LEONARD BROOKS- ALICE DEMPS ALONG WITH ANTHONY BROOKS— WHO ALL WILL TESTIFY THE TECH DID NOT TURN THE GAS ON TO THE BUSINESS UNTIL HE HAD WENT INTO THE INSIDE OF THE STOVE; SOMETHING HE HAD NO REASON TO DO IN JUST TURNING THE GAS BACK ON AND SOMETHING NO OTHER TECH HAD DONE PRIOR TO TURNING THE GAS ON OR OFF.

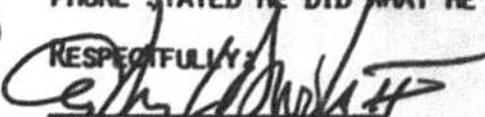
WITNESS: ANTHONY BROOKS- ARTHUR BROOKS- LEONARD BROOKS- EDDIE HODGES HARRY O. JOHNSON- HOWARD BROOKS- TONEY MILLER— WHO ALL WILL TESTIFY THAT ANTHONY BROOKS PAID THE TWO HUNDRED DOLLARS SECURITY DEPOSIT TO HAVE THE SERVICE TURNED ON. THAT PAYMENTS ON ALL ASPECTS OF THE ACCOUNT EXCEPT FOR THE BAD CHECK GIVEN BY MR. BYRD WHEN HE WAS GIVEN \$300.00 CASH TO MAKE PAYMENT AND CHOSE TO TAKE THE CASH AND GIVE A BAD CHECK INSTEAD WAS PROVIDED BY OR PAID BY ANTHONY BROOKS. AS WELL AS TO DIFFERENT PERSONAL KNOWLEDGE OF THE FACTS AS RELATED BY MR. BROOKS TO THE GAS COMPANY AS WELL AS TO YOU.

THE COMPANY'S OWN RECORDS WHICH PRESENT UNDISPUTABLE PROOF OF THE COMPANY'S WRONGFUL ACTS IN THAT THEY TOOK FUNDS FROM MR. BROOKS, MR. HODGES AND DIRECTED THEM TOWARDS THE EXISTING ACCOUNT WHICH THEY MAINTAIN TO BE MR. BYRD'S AND YET TURNED THE SERVICE ON FOR THE BUSINESS ANYWAY.

WITNESS: KEVIN SPOLSKI OWNER OF THE BUILDING AND ANTHONY BROOKS WHO

DURING A TELEPHONE CONVERSATION WITH DINO DIVISION MANAGER OVER SPEAKERPHONE STATED HE DID WHAT HE DID BECAUSE HE FELT SORRY FOR MR. BYRD.

RESPECTFULLY:


ANTHONY BROOKS

**STATE OF FLORIDA
DEPARTMENT OF LABOR & EMPLOYMENT SECURITY
WORKERS' COMPENSATION DIVISION
COMPLIANCE UNIT**

NOTICE AND PENALTY ASSESSMENT ORDER

Employer ALFRED BYRD, Daniel Dow, EDDIE HODGES, DBA Mother's
 (Legal Name and DBA/AKA) KITCHEN
 Principal ALFRED BYRD
 Business Address 1744 WEST AIRPORT BLVD, SANFORD FL 32771
 Telephone # (407) 321-8822 Facsimile # NDNE
 Social Security # 265-40-7824 Federal ID # APPLD
 Job Site Location 1744 WEST AIRPORT BLVD, SANFORD FL 32771

The Division of Workers' Compensation has determined that the above named employer is in violation of the Florida Workers' Compensation laws for its failure to secure workers' compensation insurance coverage for all employees. Accordingly, the Division of Workers' Compensation hereby provides NOTICE to the above named employer of the assessment of an administrative penalty pursuant to §440.107 Florida Statutes.

THE EMPLOYER IS HEREBY ASSESSED A PENALTY IN THE AMOUNT OF ONE THOUSAND DOLLARS (\$1,000.00)

The employer is ordered to remit \$1,000.00, payable to the Workers' Compensation Administration Trust Fund, to the Division of Workers' Compensation Compliance, 400 W. Robinson Street, Room 601, Orlando, Florida 32801, within 30 days of receipt of this Notice.

Pursuant to §440.107(3), Florida Statutes, if the Division determines that twice the amount the employer would have paid in premiums during the period it failed to secure workers' compensation coverage is greater than \$1,000.00, the employer may be assessed an additional penalty equal to the difference between twice the amount of the unpaid premium and \$1,000.00.

In addition, the above named employer is ordered to immediately secure workers' compensation coverage for all employees. Failure to immediately secure workers' compensation coverage may subject the above named employer to felony charges, an emergency stop work order, a \$100 per day administrative penalty, and an injunction enjoining the conduct of all the employer's business operations in the State of Florida.

SEE REVERSE FOR NOTICE OF EMPLOYER'S RIGHTS AND RESPONSIBILITIES

EMPLOYER:

Name Anthony L. Brooks II Title MANAGER
 Signature Anthony L. Brooks II Date 5/8/96 Time 10:35 AM

INVESTIGATOR:

Name CAROLYN MARTIN Phone (407) 245-0896 EXT 116
 City/District ORLANDO/IV Suncom 344 0896 EXT 116
 Signature Carolyn Martin Date 5/8/96 Time 10:35 AM

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
 Division of Hotels and Restaurants
 LEGAL NOTICE
 FOOD SERVICE INSPECTION REPORT

CONTROL NUMBER		
Year	File Number	Index
69	3454	R

Page _____ of _____

OWNER <i>Alfred Byrd</i>	BUSINESS <i>Mother's Kitchen</i>	INSPECTION DATE AND TIME <i>10/10/96 2:40P</i>	
ADDRESS <i>1744 W. Airport Blvd.</i>		RESTAURANT <input type="checkbox"/> General <input checked="" type="checkbox"/> Eating	NUMBER OF SEATS <i>24</i>
CITY <i>Dayton</i>	ZIP CODE (OPTIONAL) <i>32221</i>	<input type="checkbox"/> Catering	<input type="checkbox"/> Mobile Food Dispensing Vehicle
<input checked="" type="checkbox"/> Violations in the operation of your establishment must be corrected by the NEXT ROUTINE INSPECTION.		<input type="checkbox"/> Temporary	<input type="checkbox"/> Theme Park Food Cart
<input type="checkbox"/> WARNING: Violations in the operation of your establishment must be corrected by:		<input type="checkbox"/> REQUEST FOR HEARING: Failure to comply with previous inspections. You may be issued a Notice To Show Cause why sanctions should not be assessed against your license.	
<input type="checkbox"/> EMERGENCY NOTICE TO SHOW CAUSE: This is a Notice To Show Cause for the emergency order of suspension of license due to a severe and immediate threat to the public.			

NOTE: ITEMS IN RED ARE OF CRITICAL CONCERN AND MUST BE CORRECTED IMMEDIATELY.

SOURCE

- 01a Approved source
- 01b Wholesome, sound condition
- 02 Original container: properly labeled

PHF TEMPERATURE CONTROL

- 03a Cold food at proper temperatures during storage, display, service, transport, and cold holding
- 03b Hot food at proper temperatures
- 03c Foods properly cooled/reheated
- 03d Foods properly cooled

FOOD TEMPERATURES	
Cooled temperatures at violation	
Type of Food	Temperature

- 04 Facilities to maintain product temperature
- 05 Thermometers provided and conspicuously placed
- 06 Potentially hazardous food properly thawed
- 07 Unwrapped or potentially hazardous food not re-served
- 08a Food protection during storage, preparation, display, service, transportation
- 08b
- 09 Foods handled with minimum contact
- 10 In use food dispensing utensils properly stored

PERSONNEL

- 11 Personnel with infections restricted
- 12a Hands washed and clean, good hygienic practices (observed)
- 12b Proper hygienic practices, eating/drinking/smoking (evidence)
- 13 Clean clothes, hair restraints

FOOD EQUIPMENT AND UTENSILS

- 14 Food contact surfaces designed, constructed, maintained, installed, located
- 15 Non-food contact surfaces designed, constructed, maintained, installed, located
- 16 Dishwashing facilities designed, constructed, operated 1. wash 2. rinse 3. sanitize
- 17 Thermometers, gauges, test kits provided
- 18 Pre-flushed, scraped, soaked
- 19 Wash, rinse water clean, proper temperature
- 20a Sanitizing concentration ppm
- 20b Sanitizing temperature °F
- 21 Wiping cloths clean, used properly, stored
- 22 Food contact surfaces of equipment and utensils clean
- 23 Non-food contact surfaces clean
- 24 Storage/handling of clean equipment, utensils

SINGLE SERVICE ARTICLES

- 25 Single service items properly stored, handled, disposed
- 26 Single service articles not re-used

WATER AND SEWERAGE / PLUMBING

- 27 Water source safe, hot and cold under pressure
- 28 Sewage and waste water disposed properly
- 29 Plumbing installed and maintained
- 30 Cross-connection, back siphonage, backflow

HANDWASHING FACILITIES

- 31 Handwashing sinks installed, located, accessible
- 32 Restrooms with self-closing doors, fixtures operate properly, facility clean, supplied with handsoap, disposable towels or hand drying devices, tissue, covered waste receptacles

GARBAGE AND REFUSE DISPOSAL

- 33 Containers covered, adequate number, insect and rodent proof, emptied at proper intervals, clean
- 34 Outside storage area clean, enclosure properly constructed

INSECT AND RODENT CONTROL

- 35a Presence of insects/rodents: Animals prohibited
- 35b Outer openings protected from insects, rodent proof

FLOORS, WALLS AND CEILINGS

- 36 Floors properly constructed, clean, drained, covered
- 37 Walls, ceilings, and attached equipment, constructed, clean
- 38 Lighting provided as required. Fixtures shielded
- 39 Rooms and equipment - vented as required

OTHER AREAS

- 40 Employee lockers provided and used, clean
- 41a Toxic items properly stored
- 41b Toxic signs labeled and used properly
- 42 Premises maintained, free of litter, unnecessary articles. Cleaning and maintenance equipment properly stored. Kitchen restricted to authorized personnel
- 43 Complete separation from living/sleeping area, laundry
- 44 Clean and soiled linen segregated and properly stored

SAFETY

- 45 Fire extinguishers proper and sufficient
- 46 Lifting system adequate, good repair
- 47 Electrical wiring adequate, good repair
- 48 Gas appliances properly installed, maintained
- 49 Flammable/combustible materials properly stored

GENERAL

- 50 Current license properly displayed
- 51 Other conditions-sanitary and safe operation
- 52 False/inflating statements-published or advertised relating to food/beverage
- 53 Food management certification valid
- 53a Employee training validation
- 54 Florida Clean Indoor Air Act
- 55 Automatic Gravity Notice
- 56 Copy of Chapter 508, Florida Statutes, available

INFORMATION

- 57 Hospitality Education Program information provided

ADDITIONAL COMMENTS ON ATTACHED COMMENT SHEET

I acknowledge receipt of this inspection form and comments

REMEMBER: Your license expires 1/1/

RECIPIENT'S NAME (PLEASE PRINT) <i>X Alfred Byrd</i>	TITLE <i>AWICET</i>	INSPECTOR'S NAME (PLEASE PRINT) <i>W.D. Wilson</i>	TITLE <i>Sant Safety of...</i>
RECIPIENT'S SIGNATURE <i>Alfred Byrd</i>		INSPECTOR'S SIGNATURE <i>W.D. Wilson</i>	
ESTABLISHMENT TELEPHONE <i>()</i>	DATE <i>10/10/96</i>	TIME <i>2:50</i>	OFFICE TELEPHONE <i>(407) 2450770</i>
			DATE <i>10/10/96</i>

11/10/96 - 11/10/96

COMMENTS SHEET

Addendum to BPR 22-005, 22-014 or 22-015. For additional comments to the Lodging, Food Service Inspection or Call Back Reinspection Reports.

- Check on current ownership. Check on request from City
- ③ Fire suppression system in need of recertification.
- ⑥ Correct three pot sink dishwash process (across in order) as noted.

Alfred Byrd / Daniele M. Dow

x-Carley G. West

H. K. Wilcox

192860

00/0000192860



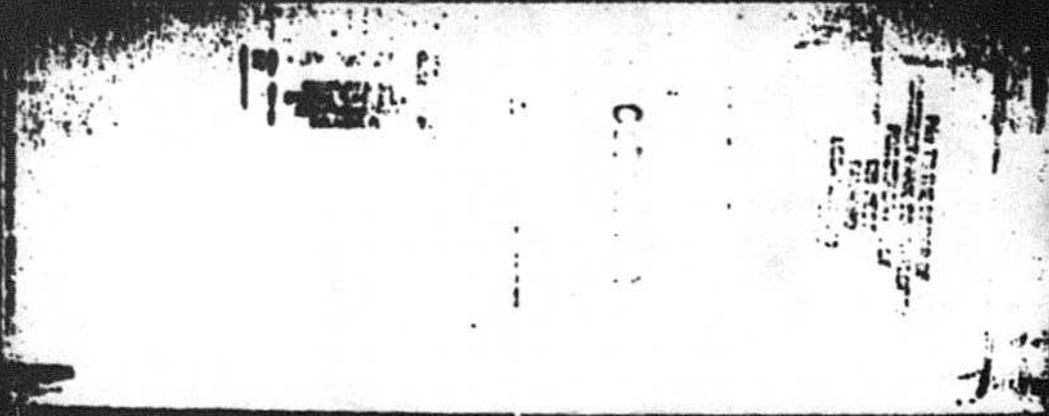
MOTHER'S KITCHEN
1144 W. AIRPORT BLVD
DAWSON, FL 32771
PH 407-321-6882

7-24-96
\$211.74
DOLLARS

FL. Public Gas Co.
Two hundred and eleven dollars and 74/100

for gas [redacted] [redacted]

L. Boyd



Rec/R-4
3-4-98

2

00 0131 0725 2 1744 AIRPORT BLVD SANFORD FL 61555 040993 MO

METER ORDER

ROUTE		FOLD		SERVICE ADDRESS		SERVICE TOWN		METER NO		DATE SET		TO				
025. A TRANSACTION DATA						NAME - ADDRESS DATA										
DATE ORDER		DATE WANTED		TAGGED BY		NAME (23)		C/O NAME (23)								
3/21/96		3/22/96		JOHNOO		ALFRED BYRD		DBA MOTHERS KITCHEN								
ORDER TYPE		TIME TAKEN		SERVICE ADDRESS (23)		MAILING ADDRESS (23)										
121-TURN ON ACCOUNT		16:50:27		1744 AIRPORT BLVD		P O BOX 134										
IN AM				SERVICE TOWN-STATE (17)		CITY		MAILING TOWN-STATE (17)		CITY						
				SANFORD FL		32771		SANFORD FL		32771						
TOWNS	RATE	CL	MT	ST	POC	ROUTE	FOLD	T	ALL EQUIP	ALL SVC CHG	TRANSFER	ADJ TO	REC'D	TIME	CE	PHONE
30	211	3	5													321-8822
OL	METER NUMBER	METER RMT	MTW	IN	MADE	IN	SIZE	CHALS	READING	DATE	BY	MD	REF	PRE-REF	TRD	EST
11	6555				P.F.A.				1243							
APP																
LOCAL SEC.																
S.E.P.																
METER TRF 93516																
<input type="checkbox"/> COMP <input type="checkbox"/> FIELD CHG <input type="checkbox"/> HOT COMP <input type="checkbox"/> CODE																

P CODE	APPL. NAME	MPG BY	MODEL NO.	SERIAL NO.	DATE INSTALLED

POSITION	J.O.P.	
	TO DEPT.	
	<input type="checkbox"/> REMOVE <input type="checkbox"/> SUPV	<input type="checkbox"/> PARTS <input type="checkbox"/> P.O. - GAS <input type="checkbox"/> OTHER
central equipment working on own briddles work n.c. flyer works n.c.	CHECK 1 / ONE ONLY	
	<input type="checkbox"/> SET METER-ON <input type="checkbox"/> FIT / CHANGE-ON <input type="checkbox"/> REMOVE ON METER <input checked="" type="checkbox"/> TURN ON <input type="checkbox"/> FIELD ON	<input type="checkbox"/> SET METER-OFF <input type="checkbox"/> FIT / CHANGE-OFF <input type="checkbox"/> REMOVE OFF METER <input type="checkbox"/> TURN OFF
	CHECK ALL THAT APPLY	
	<input type="checkbox"/> LOCK ORDER <input type="checkbox"/> GASKET SEALED <input type="checkbox"/> GLASS SHELL SEALED <input type="checkbox"/> BRASS PLUGGED <input type="checkbox"/> HOSE PLUGGED	<input type="checkbox"/> REMOVE REGULATOR <input type="checkbox"/> LAST METER <input type="checkbox"/> CHECK APPL. SAFETY <input type="checkbox"/> METER TEST P.A. <input type="checkbox"/> MANDATORY TEST CO.

TYPED & ACCT. NO. <input type="checkbox"/> TAGGED	MTR. <input type="checkbox"/> OFF <input type="checkbox"/> ON APPL. <input type="checkbox"/> OFF <input type="checkbox"/> ON	BY: <i>[Signature]</i>	DATE: 3-22-96	APP. NO.: 910 DEP. NO.: 1010	TEST DURATION: 15 MINUTES
--	---	------------------------	---------------	---------------------------------	---------------------------

Request for Admissions "7"

R-4

FLORIDA PUBLIC UTILITIES CO.

NO. 3331
92286

DATE PROMISED 3/22/96

JOB-WORK CONTRACT

CHARGE AMOUNT/BASE

ACCOUNT NO.

LAST NAME BYRD FIRST NAME - MIDDLE INITIAL ALFRED

DELIVERY ADDRESS 1744 W. AIRPORT BLYD

TOWN (DO NOT R.F.) SANFORD

CITY - MAILING P.O. BOX 134

STATE FL

ZIP CODE 32772

C/O NAME ALFRED BYRD

TELEPHONE NO. 321-321-8582

MAILING ADDRESS P.O. BOX 134 SANFORD, FL

803-321-8582

DESCRIPTION OF WORK TO BE DONE PLUG EXISTING 1/2" FUEL LINE

CHARGE ACCOUNT NO. 143.9160.391

CONNECT VULCAN RANGE (EXISTING APPL. REGULATOR)

CONNECT VULCAN FRYER (" " ")

RANGE - 1/2" HARD PIPE OR FLEX CONNECTOR IF CHEAPER

THESEY AUTHORIZED THE FLORIDA PUBLIC UTILITIES COMPANY TO PERFORM THE WORK AS SPECIFIED ABOVE AND AGREE TO PAY SAID COMPANY FOR SAID WORK ON THE COMPLETION THEREOF AT SUCH TIME AS THE BILL IS PRESENTED BY SAID COMPANY.

DATE ORDERED 3/21/96

ORDERED BY D. Maddox

CUSTOMER SIGNATURE Alfred Byrd

QTY	SIZE	DESCRIPTION	UNIT	AMOUNT
2	1/2 x 4 FT	APPL CONNECTOR 17-100	TR/18	37.36
2	1/2 ACI	MOOLE 13-3320		.90
1	3/4 x 1/2	REGULING COUPLING 13-3350	1/2 R	1.02
1	305-3 1/2"	REGULATOR 17-1120		23.02

DATE	TIME	MEN	HOURS	RATE	AMOUNT
3-22-96	8:10	2	1 1/2		56.00

DESCRIPTION	AMOUNT
TOTAL MATERIAL COST	\$ 62.30
MATERIALS	62.30
LABOR	56.00
SALES TAX	8.29
TOTAL COST	\$ 126.59

THIS IS NOT A BILL - AN INVOICE WILL BE MAILED TO YOU

REPORT OF WORKMAN: CONNECT Vulcan fryer S/N 46110366
39 CONNECTED vulcan oven Griddle comb
S/N 856928A Vulcan oven Pilot weak flame
RESTAURANT equipment TO ch + lite

THE WORK SPECIFIED ON THIS CONTRACT WAS COMPLETED AND LEFT IN A SATISFACTORY CONDITION. NOTICE AND AGREEMENT TO AN EXACT COPY OF THE PAPER YOU SIGN.

CUSTOMER'S SIGNATURE: Alfred Byrd DATE: 3-22-96
 WORKMAN'S SIGNATURE: [Signature] DATE: 3-22-96

R-5
3-4-98
7AB

00 0131 0725 2 1744 AIRPORT BLVD

SANFORD FL

61555 040993 SR

ROUTE | FIELD | SERVICE ADDRESS | SERVICE TOWN | METER NO | DATE SET | YA

DATE ORDER 3/21/98				DATE WANTED 3/22/98				TAKEN BY JOHNOO				NAME (ES) ALFRED BYRD				C/O NAME (ES)							
ORDER TYPE SERVICE REQUEST				TIME TAKEN 16:51:43				SERVICE ADDRESS (ES) 1744 AIRPORT BLVD				MAILING ADDRESS (ES) P O BOX 134				DBA MOTHERS KITCHEN							
JWO 592286				CONNECT FRYER				SERVICE TOWN-STATE (TS) SANFORD FL				MAILING TOWN-STATE (TS) SANFORD FL				DP IS 32771							
TOWN		RATE		CL.		M.V.		BY		FEE		ROUTE		FIELD		Y		METER NO		DATE SET		YA	
30		211		3		5												321-8822					
METER NUMBER		METER RATE		METER TYPE		METER MAKE		METER SIZE		METER DIALS		METER READING		METER DATE		METER BY		METER TEST		METER FIELD		METER YR	
LOCAL MISC.		METER GAS		METER TEST		METER FIELD		METER YR		METER DATE		METER BY		METER TEST		METER FIELD		METER YR		METER DATE		METER YA	

METER ORDER

REV 1-93

APP. CODE	APPL. NAME	INST. BY	MODEL NO.	SERIAL NO.	DATE INSTALLED

CONDITION FOUND

TO DEPT.

SERVICE PARTS I-12

SUPPLY FLD - GAS OTHER

DISPOSITION

(CONNECTED) FRYER SN 4611031039

CONNECTED VULCAN oven + broiler combo

SN 856928A

SOPP TESTED CONNECTIONS

NOTED:

GEN ACCT. NO.	RED TAGGED	DATE	BY
1734/6039	<input type="checkbox"/>	3-22-98	[Signature]

TEST DURATION: _____ MINUTES

Request for Admissions "7"
Page 1 of 2

2 pages
R-6
3-4-98
TAB

FL PUBLIC SERVICE UTILTY PAY: 504-487-0504 FAX: 504-487-0504

DOCKET NO. 970365-GU
DATE: AUGUST 28 1997

(B)

R-1/R-9
3-4-98

EDP LOCAL OFFICE CO

ACCOUNT NUMBER 013107252

CASH - MVO - CHECK

NAME Matthew Kufcher

ADDRESS 1744 W. Girard Blvd

LE POST 200.00 BILL

CITY Alfred Bld

SERVICE CHARGE BILL

HOME PHONE 204-134 WORK PHONE _____

SSN 26-40-224

TOTAL 200.00

PREPARED BY [Signature] DATE 3-21-98

SEE REVERSE SIDE FOR DETAILS

SEE REVERSE SIDE FOR DETAILS

FLORIDA PUBLIC UTILITIES COMPANY

ACCOUNT NUMBER

0113110172521

CASH

M/O

CHECK

REFERENCE #

NAME

ADDRESS

CITY

ZIP

PREPARED BY

DATE

OFFICIAL VALIDATION REQUIRED

OTHER

MERCHANDISE/JOBBER

DEPOSIT

UTILITY

TOTAL

PAID
NOV 13 1998
FLORIDA PUBLIC UTILITIES CO.

290.00

1290.00

~~RS~~ R-8
3-4 98
DAB

FLORIDA PUBLIC UTILITIES COMPANY

ACCOUNT NUMBER

01131.01725.21

CASH M/O CHECK

REFERENCE #

NAME

Mothers Kitchen

ADDRESS

8

CITY

ZIP

PREPARED BY

AK

DATE

18/28

OFFICIAL VALIDATION REQUIRED

OTHER					
PAID					
NO 2.8					
RECEIVED					
UTILITY	5	2	1	7	2
TOTAL	5	2	1	7	2

FLORIDA PUBLIC UTILITIES COMPANY

ACCOUNT NUMBER
0131.072521

CASH M/O CHECK

REFERENCE #

NAME Mother Kitchen

OTHER

ADDRESS

P ~~RE~~ MERCHANDISE/JOBBING

CITY

ZIP

SEP 12 1961
FLORIDA PUBLIC UTILITIES CO.
UTILITY

PREPARED BY *[Signature]* DATE 9/12

1261.04

OFFICIAL VALIDATION REQUIRED

TOTAL
1261.04

4-10-4

J.

FLORIDA PUBLIC UTILITIES CO.

NO. *131-02-52*
607337

JOB-WORK CONTRACT

DATE PROMISED _____
CHARGE AMOUNT/BASE \$ _____

ACCOUNT NO. _____

LAST NAME *Byrd* FIRST NAME - MIDDLE INITIAL *AIT*

DELIVERY ADDRESS *17411 Airways Dr.* TOWN (DO NOT R.F.) _____

CITY - MAILING *Sealand* STATE *Fl.* ZIP CODE *3371*

C/O NAME *DPA Nicholas Ardler* TELEPHONE NO. *521-5322*

MAILING ADDRESS *PO Box 134*

DESCRIPTION OF WORK TO BE DONE *11... Power* CHARGE ACCOUNT NO. *123456789*

Work done at site of...

... Volcano ... 7872-05 ... 856874

... left ...

THEBY AUTHORIZES THE FLORIDA PUBLIC UTILITIES COMPANY TO PERFORM THE WORK AS SPECIFIED ABOVE, AND AGREE TO PAY SAID COMPANY FOR SAID WORK ON THE COMPLETION THEREOF AT SUCH TIME AS THE BILL IS PRESENTED BY SAID COMPANY.

DATE ORDERED *5-2-90* ORDERED BY *L. ...* CUSTOMER SIGNATURE *[Signature]*

MATERIALS				
CITY	SIZE	DESCRIPTION	QTY	AMOUNT

LABOR						TOTAL MATERIAL COST	\$
DATE	TIME	MEN	HOURS	RATE	AMOUNT	SUMMARY OF COST	
<i>5-2-90</i>	<i>5:00</i>	<i>1</i>	<i>2</i>			DESCRIPTION AMOUNT	
						MATERIALS	
						LABOR <i>30.00</i>	
						SALES TAX	
TOTAL LABOR						TOTAL COST	\$ <i>30.00</i>

THIS IS NOT A BILL - AN INVOICE WILL BE MAILED TO YOU

REPORT OF WORKMAN:

... To small to let ...

... let ...

... cust. never called back

to order parts, bill labor. 05

9/2/90

THE WORK SPECIFIED ON THIS CONTRACT WAS COMPLETED AND LISTED IN A SUFFICIENT MANNER.

CUSTOMER'S SIGNATURE: *[Signature]* DATE: *6-3-90*

WORKMAN'S SIGNATURE: *R.M.2* DATE: *6-3-90*

FLORIDA PUBLIC UTILITIES COMPANY

REPORT OF HAZARDOUS CONDITION OR CORRECTIVE ACTION REQUIRED

I. Tenant: Name _____ Phone # _____
 Address _____
 Owner: Name Mortimer Kistchen Phone # _____
 Address 1111 Airport Blvd
 Copy mailed to owner Date: _____ By: _____

Check Appropriate Item:

The condition described below presents an immediate hazard as defined by the 1992 edition of the National Fuel Gas Code and the 1991 edition of the Southern Building Code Congress' Standard Gas Code. The gas service had to be disconnected to the affected appliance(s) or to your residence to eliminate a potential hazard.

The condition described below requires corrective action be taken to comply with the provisions of the 1992 edition of the National Fuel Gas Code and the 1991 edition of the Southern Building Code Congress' Standard Gas Code. The gas service has been left on but action must be taken, within _____ at the deficiencies listed below or service to the affected appliance(s) will be discontinued. If corrective action cannot be verified, your gas service will be turned off at the meter and locked until such time that the corrective action can be verified.

We realize that your appliance may have operated in its present condition for many years without problems. However, to insure your safety, we recognize it is our responsibility to notify you in writing and take appropriate action when a hazardous or potentially hazardous condition exists.

Florida Public Utilities Company does not perform water line related plumbing, venting or relief valve repairs. We suggest you contact a plumbing or roofing contractor if you are in need of this type of repair. If you need additional assistance, please contact our local Sales Office at 334-1072 and a Sales Representative will endeavor to assist you as much as possible.

Please contact Florida Public Utilities Company when the condition has been corrected. Service will be restored or the corrective action verified to prevent the unnecessary interruption of your service.

II. New Account Replacement or New Appliance Existing Appliance
 Appliance See Receipt MFG VULCAN Model # 13 FL-AM

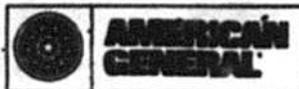
Description of condition or violation found Loose gas valve on Gas Range with adjustment screw for cover A lot

Corrective action required for service restoration or containment
Have unit serviced to repair gas leak on Gas Range
Check Pilot Adjusting screw (See reverse side for sketch)

Customer signature [Signature] Date notified 9-13-86

Employee signature B. MR [Signature] Time 10:00 AM

[Signature]



COPY

ACCOUNT NUMBER 3356455	TYPE E	DATE FINANCE CHARGE BEGINS TO ACCRUE IF DIFFERENT FROM DATE OF NOTE					NOTE	
BORROWER(S) NAME AND ADDRESS ALFRED BYRD 400 LOCUST AVE APT 96 SANFORD, FL 32771			PAYEE (WE, US, OUR) AMERICAN GENERAL FINANCE OF AMERICA INC 1544 S FRENCH AVE SANFORD, FL 32771-3307					
Date of Note 03/19/96	First Payment Due Date 05/01/96	Other Payments Due on Same Date of Each Month.	Final Payment Due Date 04/01/97	Amount of First Payment \$ 120.87	Amount of Balloon Payment \$ NONE	Amount of Monthly Payment \$ 110.00	Total Number of Payments 12	Term of Loan in Months 12

ITEMIZATION OF AMOUNT FINANCED

1. \$ <u>1049.70</u> AMOUNT PAID TO YOU OR ON YOUR BEHALF	→	\$ _____ TO
2. \$ <u>NONE</u> PAID ON PRIOR ACCOUNT WITH LENDER		\$ _____
3. \$ <u>NONE</u> PREMIUM TO LIFE INSURANCE CO. (Joint Coverage)		\$ _____
4. \$ <u>15.31</u> PREMIUM TO LIFE INSURANCE CO. (Single Coverage)		\$ _____
5. \$ <u>NONE</u> PREMIUM TO DISABILITY INSURANCE CO. (Joint Coverage)		\$ _____
6. \$ <u>NONE</u> PREMIUM TO DISABILITY INSURANCE CO. (Single Coverage)		\$ _____
7. \$ <u>25.00</u> PREMIUM TO PROPERTY INSURANCE CO. \$ <u>1000.00</u> Amount of Coverage		\$ _____
8. \$ <u>NONE</u> PREMIUM TO PHYSICAL DAMAGE INSURANCE CO.		\$ _____
9. \$ <u>NONE</u> PAID TO PUBLIC OFFICIALS FOR CERTIFICATE OF TITLE FEES		\$ _____
10. \$ <u>NONE</u> PAID TO PUBLIC OFFICIALS FOR RECORDING AND RELEASING FEES		\$ _____
11. \$ <u>4.20</u> DOCUMENTARY EXCISE TAX		\$ _____
12. \$ <u>NONE</u> APPRAISER FOR APPRAISAL FEE PAID TO _____		\$ <u>1049.70</u> YOU
13. \$ <u>NONE</u> TITLE EXAM FEE/TITLE INSURANCE PAID TO _____		
14. \$ <u>NONE</u> TAXES PAID TO GOV. AGENCY		
15. \$ <u>25.00</u> NON-FILING INSURANCE		
16. \$ <u>1119.21</u> AMOUNT FINANCED (SUM OF LINES 1 THRU 15)		
17. \$ <u>211.66</u> FINANCE CHARGE (17a+17b) →	17a. \$ <u>29.85</u> % AGREED RATE OF CHARGE	
	17b. \$ <u>10.00</u> INVESTIGATION FEE (PREPAID FINANCE CHARGE)	
18. \$ <u>31.43</u> % ANNUAL PERCENTAGE RATE	17b. \$ <u>201.66</u> INTEREST	
19. \$ <u>1330.87</u> TOTAL OF PAYMENTS	20. \$ <u>1129.21</u> PRINCIPAL AMOUNT OF LOAN (16 + 17a)	

JUL 05 PAID 96

AMERICAN GENERAL FINANCE INC. ALTAMONTE SPRINGS, FL

NOTE

In this Note, the words, you, yours and your mean each and all of those who signed it as a Borrower. The words we, us and our mean Payee (Creditor).

TERMS OF REPAYMENT: To repay your loan, you promise to pay us the Principal Loan Amount (Principal) shown above plus interest at the Agreed Rate of Charge shown above to be paid on the unpaid principal balances as of each installment due date. The Total of the Principal Loan Amount (Principal) and such scheduled interest is to be repaid in monthly installments. You promise to pay the first installment on the First Payment Due Date shown above and all other installments on the same day of each following month until the Final Payment Due Date.

PAYMENT: When we receive a payment on the loan, we will apply it first to any return check charge then to accrued unpaid interest and then to the principal balance. You may make payment in advance of a scheduled date in any amount at any time.

AMOUNT OF INTEREST: The amount shown above as the interest is computed on scheduled unpaid principal balances that are outstanding from time to time. Such amount is equal to the interest actually collected from you if you repaid the loan to us according to the terms of this Note. If you prepay all or part of the loan to us, the Amount of Interest will be less. However, if you do not make payments of monthly installments to us on each scheduled due date, the Amount of Interest will be greater than that shown.

PREPAYMENT: You may make payments of principal in advance of a scheduled due date at any time. When you make a prepayment, you will tell us in a letter that you are doing so. We will use your prepayments to reduce the amount of principal that you owe under this Note. If you make a partial prepayment, there will be no delays in the due date or changes in the amounts of your monthly payments unless we agree in writing to those delays or changes. You understand that there will be no refund of the Prepaid Finance Charge, and that such charge is fully earned by us on the Date of Note.

RETURN CHECK CHARGE: In the event that you make a payment under this Note by check and your check is returned to us unpaid from your depository account, you agree to pay an additional returned check charge which may not exceed the greater of the amount charged to us by the depository institution or \$ 20.00 .

SIGNATURE: You have signed this Note on the Date of Note in the presence of the person(s) identifying themselves below as witnesses.

2. \$ 15.31 PREMIUM TO LIFE INSURANCE CO. (Single Coverage)
 5. \$ NONE PREMIUM TO DISABILITY INSURANCE CO. (Joint Coverage)
 6. \$ NONE PREMIUM TO DISABILITY INSURANCE CO. (Single Coverage)
 7. \$ 25.00 PREMIUM TO PROPERTY INSURANCE CO. \$ 1000.00 Amount of Coverage
 8. \$ NONE PREMIUM TO PHYSICAL DAMAGE INSURANCE CO.
 9. \$ NONE PAID TO PUBLIC OFFICIALS FOR CERTIFICATE OF TITLE FEES
 10. \$ NONE PAID TO PUBLIC OFFICIALS FOR RECORDING AND RELEASING FEES
 11. \$ 4.20 DOCUMENTARY EXCISE TAX
 12. \$ NONE APPRAISER FOR APPRAISAL FEE PAID TO _____
 13. \$ NONE TITLE EXAM FEE/TITLE INSURANCE PAID TO _____
 14. \$ NONE TAXES PAID TO GOV. AGENCY
 15. \$ 25.00 NON-FILING INSURANCE
 16. \$ 1119.21 AMOUNT FINANCED (SUM OF LINES 1 THRU 15)
 17. \$ 211.66 FINANCE CHARGE (17a + 17b) → 17a. \$ 29.85 % AGREED RATE OF CHARGE
 18. \$ 31.43 % ANNUAL PERCENTAGE RATE 17b. \$ 10.00 INVESTIGATION FEE (PREPAID FINANCE CHARGE)
 19. \$ 1330.87 TOTAL OF PAYMENTS 17c. \$ 201.66 INTEREST
 20. \$ 1129.21 PRINCIPAL AMOUNT OF LOAN (16 + 17a)

\$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ 1049.70 YOU

JUL 10 5 PAID 96
 AMERICAN GENERAL FINANCE INC.
 ALTAMONTE SPRINGS, FL

NOTE

In this Note, the words, you, yours and your mean each and all of those who signed it as a Borrower. The words we, us and our mean Payee (Creditor).

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PAYMENT: When we receive a payment on the loan, we will apply it first to any return check charge then to accrued unpaid interest and then to the principal balance. You may make payment in advance of a scheduled date in any amount at any time.

AMOUNT OF INTEREST: The amount shown above as the interest is computed on scheduled unpaid principal balances that are outstanding from time to time. Such amount is equal to the interest actually collected from you if you repaid the loan to us according to the terms of this Note. If you prepay all or part of the loan to us, the Amount of Interest will be less. However, if you do not make payments of monthly installments to us on each scheduled due date, the Amount of Interest will be greater than that shown.

PREPAYMENT: You may make payments of principal in advance of a scheduled due date at any time. When you make a prepayment, you will tell us in a letter that you are doing so. We will use your prepayments to reduce the amount of principal that you owe under this Note. If you make a partial prepayment, there will be no delays in the due date or changes in the amounts of your monthly payments unless we agree in writing to those delays or changes. You understand that there will be no refund of the Prepaid Finance Charge, and that such charge is fully earned by us on the Date of Note.

RETURN CHECK CHARGE: In the event that you make a payment under this Note by check and your check is returned to us unpaid from your depository account, you agree to pay an additional returned check charge which may not exceed the greater of the amount charged to us by the depository institution or \$ 20.00 .

SIGNATURE: You have signed this Note on the Date of Note in the presence of the person(s) identifying themselves below as witnesses.

NOTICE: The following NOTICE applies if you were referred to us by a seller of consumer goods or services and a substantial portion of the proceeds of this loan is used for the purchase of consumer goods from that seller:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

COPY RECEIVED: You acknowledge receipt of a completely filled-in copy of this Note and a copy of the Federal Disclosure Statement on a separate sheet.

Witness: _____

 Witness: _____

 Witness: _____

L.S. (Seal)
 SIGNATURE OF PRINCIPAL BORROWER
 L.S. (Seal)
 SIGNATURE OF OTHER BORROWER
 L.S. (Seal)
 SIGNATURE OF OTHER BORROWER

SEE REVERSE SIDE FOR ADDITIONAL IMPORTANT TERMS

P1
 3-4-98
 E